

SENATE BILL 164

G2, G1

7lr1346

By: **Senators Brochin and Salling**

Introduced and read first time: January 17, 2017

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore County – Ethics – Prohibitions and Requirements Regarding**
3 **Payments During Pendency of Zoning Applications**

4 FOR the purpose of prohibiting applicants, agents of applicants, and immediate family
5 members of the applicants and agents from making a payment to a member or the
6 County Executive of Baltimore County or a certain slate during the pendency of the
7 application; prohibiting a member from voting or participating in any way in the
8 proceeding on an application under certain circumstances; providing that a member
9 is not subject to the requirements of certain provisions of this Act under certain
10 circumstances; requiring the applicant to file a certain affidavit under oath after the
11 application is filed; requiring that the affidavit be filed at least a certain number of
12 days before consideration of the application by the County Council of Baltimore
13 County; requiring that a supplemental affidavit be filed whenever a payment is made
14 after the original affidavit was filed; providing that an applicant is not required to
15 make certain representations in the affidavit; authorizing anyone with authority to
16 act on behalf of and bind a business entity to execute an affidavit on behalf of the
17 business entity; providing that the only disclosures required under the affidavit are
18 those involving certain individuals or business entities; requiring an agent to file an
19 affidavit in an application only under certain circumstances; requiring an agent,
20 under certain circumstances, to disclose in the affidavit a payment made before
21 becoming an agent; providing that, except under certain circumstances, certain
22 persons are subject to this Act under certain circumstances; prohibiting applicants,
23 agents, and immediate family members of the applicants and agents from taking any
24 action, directly or indirectly, with the intent to circumvent the intent of this Act;
25 defining certain terms; providing for a delayed effective date; and generally relating
26 to ethics in Baltimore County.

27 BY adding to

28 Article – General Provisions

29 Section 5–865 and 5–866 to be under the new part “Part X. Special Provisions for
30 Baltimore County”

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2014 Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – General Provisions

5–863. RESERVED.

5–864. RESERVED.

PART X. SPECIAL PROVISIONS FOR BALTIMORE COUNTY.

5–865.

**(A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.**

**(B) (1) “AGENT” MEANS AN INDIVIDUAL OR A BUSINESS ENTITY HIRED OR
RETAINED BY AN APPLICANT FOR ANY PURPOSE RELATING TO THE LAND THAT IS
THE SUBJECT OF AN APPLICATION IF THE INDIVIDUAL OR BUSINESS ENTITY IS:**

(I) AN ACCOUNTANT;

(II) AN ATTORNEY;

(III) AN ARCHITECT;

(IV) AN ENGINEER;

(V) A LAND USE CONSULTANT;

(VI) AN ECONOMIC CONSULTANT;

(VII) A REAL ESTATE AGENT;

(VIII) A REAL ESTATE BROKER;

(IX) A TRAFFIC CONSULTANT; OR

(X) A TRAFFIC ENGINEER.

(2) “AGENT” INCLUDES:

1 **(I) AS TO A CORPORATION DESCRIBED IN PARAGRAPH (1) OF**
2 **THIS SUBSECTION, ITS OFFICERS, DIRECTORS, AND MAJORITY STOCKHOLDERS WHO**
3 **ARE ENGAGED IN SUBSTANTIVE ACTIVITIES RELATING SPECIFICALLY TO LAND**
4 **DEVELOPMENT IN BALTIMORE COUNTY AS A REGULAR PART OF THEIR ONGOING**
5 **BUSINESS ACTIVITIES;**

6 **(II) AS TO A PARTNERSHIP OR LIMITED PARTNERSHIP**
7 **DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, ITS GENERAL PARTNERS AND**
8 **LIMITED PARTNERS WHO ARE ENGAGED IN SUBSTANTIVE ACTIVITIES RELATING**
9 **SPECIFICALLY TO LAND DEVELOPMENT IN BALTIMORE COUNTY AS A REGULAR**
10 **PART OF THEIR ONGOING BUSINESS ACTIVITIES; AND**

11 **(III) AS TO A JOINT VENTURE DESCRIBED IN PARAGRAPH (1) OF**
12 **THIS SUBSECTION, THE PRINCIPAL MEMBERS OF THE JOINT VENTURE WHO ARE**
13 **ENGAGED IN SUBSTANTIVE ACTIVITIES RELATING SPECIFICALLY TO LAND**
14 **DEVELOPMENT IN BALTIMORE COUNTY AS A REGULAR PART OF THEIR ONGOING**
15 **BUSINESS ACTIVITIES.**

16 **(C) (1) “APPLICANT” MEANS AN INDIVIDUAL OR A BUSINESS ENTITY**
17 **THAT IS:**

18 **(I) A TITLE OWNER OR CONTRACT PURCHASER OF LAND THAT**
19 **IS THE SUBJECT OF AN APPLICATION;**

20 **(II) A TRUSTEE THAT HAS AN INTEREST IN LAND THAT IS THE**
21 **SUBJECT OF AN APPLICATION, EXCLUDING A TRUSTEE DESCRIBED IN A MORTGAGE**
22 **OR DEED OF TRUST; OR**

23 **(III) A HOLDER OF AT LEAST A 5% INTEREST IN A BUSINESS**
24 **ENTITY THAT HAS AN INTEREST IN LAND THAT IS THE SUBJECT OF AN APPLICATION,**
25 **BUT ONLY IF:**

26 **1. THE HOLDER OF AT LEAST A 5% INTEREST HAS**
27 **SUBSTANTIVE INVOLVEMENT IN DIRECTING THE AFFAIRS OF THE BUSINESS ENTITY**
28 **WITH AN INTEREST IN THE LAND THAT IS THE SUBJECT OF AN APPLICATION WITH**
29 **SPECIFIC REGARD TO THE DISPOSITION OF THAT LAND; OR**

30 **2. THE HOLDER OF AT LEAST A 5% INTEREST IS**
31 **ENGAGED IN SUBSTANTIVE ACTIVITIES SPECIFICALLY PERTAINING TO LAND**
32 **DEVELOPMENT IN BALTIMORE COUNTY AS A REGULAR PART OF THE BUSINESS**
33 **ENTITY’S ONGOING BUSINESS ACTIVITIES.**

(2) "APPLICANT" INCLUDES:

(I) ANY BUSINESS ENTITY IN WHICH A PERSON DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION HOLDS AT LEAST A 5% INTEREST; AND

(II) THE DIRECTORS AND OFFICERS OF A CORPORATION THAT ACTUALLY HOLDS TITLE TO THE LAND OR IS A CONTRACT PURCHASER OF THE LAND THAT IS THE SUBJECT OF AN APPLICATION.

(3) "APPLICANT" DOES NOT INCLUDE:

(I) A FINANCIAL INSTITUTION THAT HAS LOANED MONEY OR EXTENDED FINANCING FOR THE ACQUISITION, DEVELOPMENT, OR CONSTRUCTION OF IMPROVEMENTS ON ANY LAND THAT IS THE SUBJECT OF AN APPLICATION;

(II) A MUNICIPAL CORPORATION OR PUBLIC CORPORATION;

(III) A PUBLIC AUTHORITY;

(IV) A PUBLIC UTILITY REGULATED BY THE PUBLIC SERVICE COMMISSION IN ANY INSTANCE WHERE THE UTILITY IS ENGAGED IN OR CONDUCTING REGULATED ACTIVITIES THAT HAVE BEEN APPROVED BY THE PUBLIC SERVICE COMMISSION OR ARE ALLOWED UNDER DIVISION I OF THE PUBLIC UTILITIES ARTICLE; OR

(V) THE DIRECTORS AND OFFICERS OF ANY ENTITY THAT DOES NOT HOLD TITLE TO THE LAND OR IS NOT THE CONTRACT PURCHASER OF THE LAND THAT IS THE SUBJECT OF AN APPLICATION.

(D) "APPLICATION" MEANS:

(1) AN APPLICATION FOR:

(I) A ZONING MAP AMENDMENT;

(II) A SPECIAL EXCEPTION;

(III) A DEPARTURE FROM DESIGN STANDARDS;

(IV) A REVISION TO A SPECIAL EXCEPTION SITE PLAN;

(V) AN EXPANSION OF A LEGAL NONCONFORMING USE;

1 (VI) A REVISION TO A LEGAL NONCONFORMING USE SITE PLAN;
2 OR

3 (VII) A REQUEST FOR A VARIANCE FROM THE ZONING
4 ORDINANCE;

5 (2) AN APPLICATION TO APPROVE:

6 (I) A COMPREHENSIVE DESIGN PLAN;

7 (II) A CONCEPTUAL SITE PLAN;

8 (III) A SPECIFIC DESIGN PLAN; OR

9 (IV) A PLANNED URBAN DEVELOPMENT; OR

10 (3) PARTICIPATION IN ADOPTING AND APPROVING AN AREA MASTER
11 PLAN OR SECTIONAL MAP AMENDMENT BY APPEARANCE AT A PUBLIC HEARING,
12 FILING A STATEMENT IN THE OFFICIAL RECORD, OR OTHER SIMILAR
13 COMMUNICATION TO A MEMBER OF THE COUNTY COUNCIL, WHERE THE INTENT IS
14 TO INTENSIFY THE ZONING CATEGORY APPLICABLE TO THE LAND OF THE
15 APPLICANT.

16 (E) "BUSINESS ENTITY" MEANS:

17 (1) A CORPORATION;

18 (2) A GENERAL PARTNERSHIP;

19 (3) A JOINT VENTURE;

20 (4) A LIMITED LIABILITY COMPANY;

21 (5) A LIMITED PARTNERSHIP; OR

22 (6) A SOLE PROPRIETORSHIP.

23 (F) "CANDIDATE" MEANS A CANDIDATE FOR ELECTION TO THE COUNTY
24 COUNCIL WHO BECOMES A MEMBER.

25 (G) "CONTINUING POLITICAL COMMITTEE" MEANS A COMMITTEE
26 SPECIFICALLY CREATED TO PROMOTE THE CANDIDACY OF A MEMBER RUNNING FOR
27 ANY ELECTIVE OFFICE.

(H) "CONTRIBUTOR" MEANS A PERSON OR BUSINESS ENTITY THAT MAKES A PAYMENT.

(I) "COUNTY COUNCIL" MEANS THE COUNTY COUNCIL OF BALTIMORE COUNTY.

(J) "COUNTY EXECUTIVE" MEANS THE COUNTY EXECUTIVE OF BALTIMORE COUNTY.

(K) "IMMEDIATE FAMILY MEMBER" MEANS:

(1) A SPOUSE;

(2) A CHILD;

(3) A STEPCHILD;

(4) A PARENT;

(5) A SIBLING; OR

(6) A GRANDPARENT.

(L) "MEMBER" INCLUDES ANY CANDIDATE OR PERSON DULY ELECTED OR APPOINTED WHO TAKES THE OATH OF OFFICE AS A MEMBER OF THE COUNTY COUNCIL.

(M) "PAYMENT" MEANS A PAYMENT OR CONTRIBUTION OF MONEY OR PROPERTY OR THE INCURRING OF A LIABILITY OR PROMISE OF ANYTHING OF VALUE TO A TREASURER OF A CANDIDATE, A CANDIDATE'S CONTINUING POLITICAL COMMITTEE, OR A SLATE TO WHICH THE CANDIDATE BELONGS.

(N) (1) "PENDENCY OF THE APPLICATION" MEANS THE TIME BETWEEN THE ACCEPTANCE OF A FILING OF AN APPLICATION BY THE APPROPRIATE AGENCY AND EXPIRATION OF THE TIME UNDER WHICH AN APPEAL ON THE APPLICATION MAY BE TAKEN.

(2) "PENDENCY OF THE APPLICATION" DOES NOT INCLUDE A PERIOD DURING WHICH:

(I) ACTION ON THE APPLICATION IS UNDER JUDICIAL REVIEW;
OR

(II) JUDICIAL REVIEW MAY BE REQUESTED.

(O) "POLITICAL ACTION COMMITTEE" MEANS A POLITICAL COMMITTEE THAT IS NOT:

(1) A POLITICAL PARTY;

(2) A CENTRAL COMMITTEE;

(3) A SLATE; OR

(4) A POLITICAL COMMITTEE ORGANIZED AND OPERATED BY, AND SOLELY ON BEHALF OF, AN INDIVIDUAL RUNNING FOR ANY ELECTIVE OFFICE OR A SLATE.

(P) "SLATE" MEANS A GROUP, COMBINATION, OR ORGANIZATION OF CANDIDATES CREATED UNDER THE ELECTION LAW ARTICLE.

(Q) (1) "TREASURER" HAS THE MEANING STATED IN § 1-101 OF THE ELECTION LAW ARTICLE.

(2) "TREASURER" INCLUDES A SUBTREASURER.

5-866.

(A) AN APPLICANT OR AGENT OF THE APPLICANT, OR AN IMMEDIATE FAMILY MEMBER OF AN APPLICANT OR AGENT OF THE APPLICANT, MAY NOT MAKE A PAYMENT TO A MEMBER OR THE COUNTY EXECUTIVE, OR A SLATE THAT INCLUDES A MEMBER OR THE COUNTY EXECUTIVE, DURING THE PENDENCY OF THE APPLICATION.

(B) (1) AFTER AN APPLICATION HAS BEEN FILED, A MEMBER MAY NOT VOTE OR PARTICIPATE IN ANY WAY IN THE PROCEEDING ON THE APPLICATION IF THE MEMBER'S TREASURER OR CONTINUING POLITICAL COMMITTEE OR A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36-MONTH PERIOD BEFORE THE FILING OF THE APPLICATION RECEIVED A PAYMENT DURING THE 36-MONTH PERIOD BEFORE THE FILING OF THE APPLICATION OR DURING THE PENDENCY OF THE APPLICATION FROM ANY OF THE APPLICANTS OR THE AGENTS OF THE APPLICANTS, OR THE IMMEDIATE FAMILY MEMBERS OF ANY OF THE APPLICANTS OR AGENTS OF THE APPLICANTS.

1 **(2) A MEMBER IS NOT SUBJECT TO THE REQUIREMENTS OF**
2 **PARAGRAPH (1) OF THIS SUBSECTION IF:**

3 **(I) A TRANSFER TO THE MEMBER'S TREASURER, A CONTINUING**
4 **POLITICAL COMMITTEE, OR A SLATE TO WHICH THE MEMBER BELONGS OR**
5 **BELONGED DURING THE 36-MONTH PERIOD BEFORE THE FILING OF THE**
6 **APPLICATION WAS MADE BY A POLITICAL ACTION COMMITTEE TO WHICH AN**
7 **APPLICANT OR AGENT, OR IMMEDIATE FAMILY MEMBER OF AN APPLICANT OR**
8 **AGENT, HAD MADE A PAYMENT;**

9 **(II) THE APPLICANT, AGENT, OR IMMEDIATE FAMILY MEMBER**
10 **MADE THE PAYMENT TO THE POLITICAL ACTION COMMITTEE WITHOUT ANY INTENT**
11 **TO SUBVERT THE PURPOSES OF THIS SUBTITLE;**

12 **(III) THE APPLICANT'S, AGENT'S, OR IMMEDIATE FAMILY**
13 **MEMBER'S PAYMENT TO THE POLITICAL ACTION COMMITTEE AND THE POLITICAL**
14 **ACTION COMMITTEE'S TRANSFER ARE DISCLOSED IN AN AFFIDAVIT; AND**

15 **(IV) THE TRANSFER IS RETURNED TO THE POLITICAL ACTION**
16 **COMMITTEE BY THE MEMBER, OR THE PAYMENT IS RETURNED TO THE APPLICANT,**
17 **AGENT, OR IMMEDIATE FAMILY MEMBER BY THE POLITICAL ACTION COMMITTEE.**

18 **(C) (1) AFTER AN APPLICATION IS FILED, THE APPLICANT SHALL FILE AN**
19 **AFFIDAVIT UNDER OATH:**

20 **(I) 1. STATING TO THE BEST OF THE APPLICANT'S**
21 **INFORMATION, KNOWLEDGE, AND BELIEF THAT DURING THE 36-MONTH PERIOD**
22 **BEFORE THE FILING OF THE APPLICATION AND DURING THE PENDENCY OF THE**
23 **APPLICATION, THE APPLICANT OR AN IMMEDIATE FAMILY MEMBER OF THE**
24 **APPLICANT HAS NOT MADE ANY PAYMENT TO A MEMBER'S TREASURER, A MEMBER'S**
25 **CONTINUING POLITICAL COMMITTEE, OR A SLATE TO WHICH THE MEMBER BELONGS**
26 **OR BELONGED DURING THE 36-MONTH PERIOD BEFORE THE FILING OF THE**
27 **APPLICATION; OR**

28 **2. IF ANY SUCH PAYMENT WAS MADE, DISCLOSING THE**
29 **NAME OF THE MEMBER TO WHOSE TREASURER OR CONTINUING POLITICAL**
30 **COMMITTEE OR SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING**
31 **THE 36-MONTH PERIOD BEFORE THE FILING OF THE APPLICATION THE PAYMENT**
32 **WAS MADE; AND**

33 **(II) 1. STATING TO THE BEST OF THE APPLICANT'S**
34 **INFORMATION, KNOWLEDGE, AND BELIEF THAT DURING THE 36-MONTH PERIOD**
35 **BEFORE THE FILING OF THE APPLICATION AND DURING THE PENDENCY OF THE**

1 APPLICATION, THE APPLICANT OR AN IMMEDIATE FAMILY MEMBER OF THE
2 APPLICANT HAS NOT SOLICITED ANY PERSON OR BUSINESS ENTITY TO MAKE A
3 PAYMENT TO A MEMBER'S TREASURER, A MEMBER'S CONTINUING POLITICAL
4 COMMITTEE, OR A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING
5 THE 36-MONTH PERIOD BEFORE THE FILING OF THE APPLICATION; OR

6 2. IF ANY SUCH SOLICITED PAYMENT WAS MADE,
7 DISCLOSING THE NAME OF THE MEMBER TO WHOSE TREASURER OR CONTINUING
8 POLITICAL COMMITTEE OR SLATE TO WHICH THE MEMBER BELONGS OR BELONGED
9 DURING THE 36-MONTH PERIOD BEFORE THE FILING OF THE APPLICATION THE
10 PAYMENT WAS MADE.

11 (2) THE AFFIDAVIT SHALL BE FILED AT LEAST 30 CALENDAR DAYS
12 BEFORE CONSIDERATION OF THE APPLICATION BY THE COUNTY COUNCIL.

13 (3) A SUPPLEMENTAL AFFIDAVIT SHALL BE FILED WHENEVER A
14 PAYMENT IS MADE AFTER THE ORIGINAL AFFIDAVIT WAS FILED.

15 (4) (I) AN APPLICANT IS NOT REQUIRED TO MAKE ANY
16 REPRESENTATIONS IN THE AFFIDAVIT RELATING TO THE ACTIONS OF ANYONE
17 OTHER THAN THAT APPLICANT OR AN IMMEDIATE FAMILY MEMBER OF THE
18 APPLICANT.

19 (II) ANYONE WITH AUTHORITY TO ACT ON BEHALF OF AND BIND
20 A BUSINESS ENTITY MAY EXECUTE AN AFFIDAVIT ON BEHALF OF THE BUSINESS
21 ENTITY.

22 (5) THE ONLY DISCLOSURES REQUIRED UNDER THE AFFIDAVIT ARE
23 THOSE INVOLVING INDIVIDUALS OR BUSINESS ENTITIES THAT WOULD BE SUBJECT
24 TO THIS PART.

25 (D) (1) AN AGENT SHALL FILE AN AFFIDAVIT IN AN APPLICATION ONLY IF:

26 (I) THE AGENT HAS ACTED ON BEHALF OF THE APPLICANT
27 WITH REGARD TO THE SPECIFIC APPLICATION; AND

28 (II) DURING THE 36-MONTH PERIOD BEFORE THE FILING OF
29 THE APPLICATION AND DURING THE PENDENCY OF THE APPLICATION AND AFTER
30 BECOMING AN AGENT OF THE APPLICANT:

31 1. THE AGENT OR AN IMMEDIATE FAMILY MEMBER OF
32 THE AGENT HAS MADE A PAYMENT TO A MEMBER, A MEMBER'S CONTINUING
33 POLITICAL COMMITTEE, OR A SLATE TO WHICH THE MEMBER BELONGS OR

BELONGED DURING THE 36-MONTH PERIOD BEFORE THE FILING OF THE APPLICATION; OR

2. THE AGENT OR AN IMMEDIATE FAMILY MEMBER OF THE AGENT HAS SOLICITED ANY PERSON TO MAKE A PAYMENT TO A MEMBER'S TREASURER, A MEMBER'S CONTINUING POLITICAL COMMITTEE, OR A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36-MONTH PERIOD BEFORE THE FILING OF THE APPLICATION.

(2) NOTWITHSTANDING PARAGRAPH (1)(II) OF THIS SUBSECTION, AN AGENT SHALL DISCLOSE IN THE AFFIDAVIT A PAYMENT MADE BEFORE BECOMING AN AGENT IF THE AGENT OR AN IMMEDIATE FAMILY MEMBER OF THE AGENT:

(I) MADE THE PAYMENT BY PREARRANGEMENT OR IN COORDINATION WITH ONE OR MORE APPLICANTS; OR

(II) ACTED AS AN AGENT AS TO ANY OTHER APPLICATION FILED DURING THE 36-MONTH PERIOD BEFORE THE FILING OF THE APPLICATION.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A CONTRIBUTOR, A MEMBER, OR A POLITICAL ACTION COMMITTEE IS SUBJECT TO THIS PART IF A PAYMENT IS MADE BY THE CONTRIBUTOR OR A TRANSFER IS MADE BY THE POLITICAL ACTION COMMITTEE TO:

(I) THE CANDIDATE;

(II) THE CANDIDATE'S CONTINUING POLITICAL COMMITTEE; OR

(III) A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36-MONTH PERIOD BEFORE THE FILING OF THE APPLICATION.

(2) THIS PART DOES NOT APPLY TO:

(I) ANY TRANSFER TO THE CONTINUING POLITICAL COMMITTEE OF A MEMBER BY THE CONTINUING POLITICAL COMMITTEE OF ANOTHER INDIVIDUAL RUNNING FOR ELECTIVE OFFICE; OR

(II) A PAYMENT OR TRANSFER TO THE BALTIMORE COUNTY OR STATE CENTRAL COMMITTEE OF A POLITICAL PARTY, EVEN IF THE CENTRAL COMMITTEE SUPPORTS A CANDIDATE.

(3) (I) A PERSON MAY NOT MAKE A PAYMENT IN VIOLATION OF THIS PART.

1 **(II) IF A PAYMENT IS MADE IN VIOLATION OF THIS PART, THE**
2 **PAYMENT SHALL BE RETURNED TO THE PERSON WHO MADE THE PAYMENT.**

3 **(F) AN APPLICANT, AGENT, OR AN IMMEDIATE FAMILY MEMBER OF THE**
4 **APPLICANT OR AGENT MAY NOT TAKE ANY ACTION, DIRECTLY OR INDIRECTLY, WITH**
5 **THE INTENT TO CIRCUMVENT THE INTENT OF THIS PART.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 January 1, 2019.