

Chapter 429

(House Bill 980)

AN ACT concerning

Prince George’s County – Public Ethics – ~~Definition of Application~~ Payments and Transfer and Zone Intensification Requests

PG 416-21

FOR the purpose of ~~altering a certain definition of “application” to exclude participation in adopting and approving a certain amendment to a countywide zoning map in Prince George’s County for a certain purpose~~ exempting a member of the Prince George’s County Council from the prohibition against voting or participating in a proceeding regarding a countywide zoning map amendment under certain circumstances; providing for the application of certain provisions of this Act; prohibiting the Prince George’s County Planning Board from recommending, and the District Council in Prince George’s County from approving, a certain request in adopting and approving a countywide zoning map amendment, subject to a certain exception; requiring that a member’s treasurer, a continuing political committee, or a slate to which the member belongs or belonged return a certain payment or transfer and provide a certain notice in a certain manner; providing for the termination of this Act; and generally relating to public ethics and Prince George’s County.

BY repealing and reenacting, without amendments,
Article – General Provisions
Section ~~5-833(a), (i), (j), and (k)~~ 5-833
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
Article – General Provisions
Section ~~5-833(d)~~ 5-835
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

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

Article – General Provisions

5-833.

(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:

(i) as to a corporation described in paragraph (1) of this subsection, its officers, directors, and majority stockholders who are engaged in substantive activities pertaining specifically to land development in Prince George’s County as a regular part of their ongoing business activities;

(ii) as to a partnership or limited partnership described in paragraph (1) of this subsection, its general partners and limited partners who are engaged in substantive activities pertaining specifically to land development in Prince George’s County as a regular part of their ongoing business activities; and

(iii) as to a joint venture described in paragraph (1) of this subsection, the principal members of the joint venture who are engaged in substantive activities pertaining specifically to land development in Prince George’s County as a regular part of their ongoing business activities.

(c) (1) “Applicant” means an individual or a business entity that is:

(i) a title owner or contract purchaser of land that is the subject of an application;

(ii) a trustee that has an interest in land that is the subject of an application, excluding a trustee described in a mortgage or deed of trust; or

(iii) a holder of at least a 5% interest in a business entity that has an interest in land that is the subject of an application but only if:

1. the holder of at least a 5% interest has substantive involvement in directing the affairs of the business entity with an interest in the land that is the subject of an application with specific regard to the disposition of that land; or

2. the holder of at least a 5% interest is engaged in substantive activities specifically pertaining to land development in Prince George's County as a regular part of the business 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) ~~(1)~~ "Application" means:

~~{1}~~ ~~(1)~~ an application for:

~~{i}~~ ~~(i)~~ a zoning map amendment;

- ~~{(ii)}~~ ~~2~~ a special exception;
- ~~{(iii)}~~ ~~3~~ a departure from design standards;
- ~~{(iv)}~~ ~~4~~ a revision to a special exception site plan;
- ~~{(v)}~~ ~~5~~ an expansion of a legal nonconforming use;
- ~~{(vi)}~~ ~~6~~ a revision to a legal nonconforming use site plan; or
- ~~{(vii)}~~ ~~7~~ a request for a variance from the zoning ordinance;

~~{(2)}~~ ~~(H)~~ an application to approve:

- ~~{(i)}~~ ~~1~~ a comprehensive design plan;
- ~~{(ii)}~~ ~~2~~ a conceptual site plan; or
- ~~{(iii)}~~ ~~3~~ a specific design plan; or

~~{(3)}~~ ~~(H)~~ participation in adopting and approving an area master plan or sectional map amendment by appearance at a public hearing, filing a statement in the official record, or other similar communication to a member of the County Council or the Planning Board, where the intent is to intensify the zoning category applicable to the land of the applicant.

~~(2) "APPLICATION" DOES NOT INCLUDE PARTICIPATION IN ADOPTING AND APPROVING A COUNTYWIDE ZONING MAP AMENDMENT THAT IS RECOMMENDED BY THE PLANNING BOARD AND APPROVED BY THE DISTRICT COUNCIL, WHERE THE INTENT IS TO IMPLEMENT AN APPROVED GENERAL PLAN BY REPEALING AND REPLACING ALL ZONING CATEGORIES APPLICABLE TO LAND IN PRINCE GEORGE'S COUNTY.~~

(e) "Business entity" means:

- (1) a corporation;*
- (2) a general partnership;*
- (3) a joint venture;*
- (4) a limited liability company;*
- (5) a limited partnership; or*

(6) a sole proprietorship.

(f) “Candidate” means a candidate for election to the County Council who becomes a member.

(g) “Continuing political committee” means a committee specifically created to promote the candidacy of a member running for any elective office.

(h) “Contributor” means a person or business entity that makes a payment.

(i) “County Council” means the County Council of Prince George’s County.

(j) “County Executive” means the County Executive of Prince George’s County.

(k) “District Council” means the County Council of Prince George’s County sitting as the District Council for the Prince George’s County portion of the Maryland–Washington Regional District.

(l) “Member” includes any candidate or person duly elected or appointed who takes the oath of office as a member of the County Council for Prince George’s County and who thereby serves on the District 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.

5-835.

(a) An applicant or agent of the applicant may not make a payment to a member, or a slate that includes a member, 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.

(2) A member is not subject to the requirements of paragraph (1) of this subsection if:

(i) 1. a transfer to the member’s treasurer, a continuing political committee, or a slate to which the member belongs or belonged during the 36-month period before the filing of the application was made by a political action committee to which an applicant or agent had made a payment;

[(ii)] 2. the applicant or agent made the payment to the political action committee without any intent to subvert the purposes of this subtitle;

[(iii)] 3. the applicant’s or agent’s payment to the political action committee, and the political action committee’s transfer, are disclosed in an affidavit; and

[(iv)] 4. the transfer is returned to the political action committee by the member, or the payment is returned to the applicant or agent by the political action committee; OR

(II) THE PROCEEDING IN WHICH THE MEMBER PARTICIPATES IS PART OF A COUNTYWIDE ZONING MAP AMENDMENT THAT IS RECOMMENDED BY THE PLANNING BOARD, WHERE THE INTENT IS TO IMPLEMENT AN APPROVED GENERAL PLAN BY REPEALING AND REPLACING ALL ZONING CATEGORIES APPLICABLE TO LAND IN PRINCE GEORGE’S COUNTY.

(c) (1) After an application is filed, the applicant shall file an affidavit under oath:

(i) 1. stating to the best of the applicant's information, knowledge, and belief that during the 36-month period before the filing of the application and during the pendency of the application, the applicant has not made any 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; or

2. if any such payment was made, disclosing the name of the member to whose treasurer or continuing political committee, or slate to which the member belongs or belonged during the 36-month period before the filing of the application, the payment was made;

(ii) 1. stating to the best of the applicant's information, knowledge, and belief that during the 36-month period before the filing of the application and during the pendency of the application, the applicant has not solicited any person or business entity 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; or

2. if any such solicited payment was made, disclosing the name of the member to whose treasurer or continuing political committee, or slate to which the member belongs or belonged during the 36-month period before the filing of the application, the payment was made; and

(iii) 1. stating to the best of the applicant's information, knowledge, and belief that during the 36-month period before the filing of the application and during the pendency of the application, a member of the applicant's household has not made 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; or

2. if any such payment was made, disclosing the name of the member to whose treasurer or continuing political committee, or slate to which the member belongs or belonged during the 36-month period before the filing of the application, the payment was made.

(2) The affidavit shall be filed at least 30 calendar days before consideration of the application by the District Council.

(3) A supplemental affidavit shall be filed whenever a payment is made after the original affidavit was filed.

(4) (i) An applicant is not required to make any representations in the affidavit pertaining to the actions of anyone other than that applicant.

(ii) Anyone with authority to act on behalf of and bind a business entity may execute an affidavit on behalf of the business entity.

(5) The only disclosures required under the affidavit are those involving individuals or business entities that would be subject to this subtitle.

(d) (1) An agent shall file an affidavit in an application only if:

(i) the agent has acted on behalf of the applicant with regard to the specific application; and

(ii) during the 36-month period before the filing of the application and during the pendency of the application, and after becoming an agent of the applicant:

1. the agent has made a payment to a member, 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; or

2. 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:

(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.

(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 Prince George's County or State Central Committee of a political party, even if the Central Committee supports a candidate.

(3) A person may not make a payment in violation of this part.

(f) An applicant or agent may not take any action, directly or indirectly, with the intent to circumvent the intent of this part.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) This section applies during the period when the District Council of Prince George's County is adopting and approving a countywide zoning map amendment for Prince George's County.

(b) Except on a demonstration of error in the public record after a public hearing, the Prince George's County Planning Board may not recommend, and the District Council may not approve, any request made by or on behalf of any person for zone intensification that differs substantially from the applicable zoning category or classification recommended in the Proposed Guide to New Zones adopted by the District Council on July 16, 2019, under Council Resolution 27-2.

(c) If a member, as defined in § 5-833 of the General Provisions Article, receives a payment or transfer from any applicant, agent, or entity that files an affidavit under § 5-835(c) of the General Provisions Article and requests a zone intensification that differs substantially from the applicable zoning category or classification recommended in the Proposed Guide to New Zones, the member's treasurer, continuing political committee, or the slate to which the member belongs or belonged must:

(1) return the payment or transfer; and

(2) make note in the public record of the returned payment or transfer before the adoption of the countywide zoning map amendment.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021. It shall remain effective for a period of 1 year and 6 months and, at the end of December 31, 2022, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.