

INTRODUCED _____
PUBLIC HEARING _____
COUNCIL ACTION _____
EXECUTIVE ACTION _____
EFFECTIVE DATE _____

County Council of Howard County, Maryland

2015 Legislative Session

Legislative Day No. 2

Bill No. 5-2015

Introduced by: The Chairperson

AN ACT to alter the definition of “employee” for purposes of the Howard County Public Ethics Law; to exclude certain mutual funds from the definition of “interest”; to clarify the retention period for certain filings; providing that certain subpoenas may be sent by certified mail and may be judicially enforced; eliminating a requirement that a request be made before a certain notice is provided; making technical corrections; and generally relating to the Howard County Public Ethics Law.

Introduced and read first time _____, 2015. Ordered posted and hearing scheduled.

By order _____
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2015 and concluded on _____, 2015.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 2015 and Passed, Passed with amendments, _____ Failed _____.

By order _____
Jessica Feldmark, Administrator

Approved by the County Executive _____, 2015

Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the
2 Howard County Code is amended as follows:

3 By amending:

4 Title 22 - General Provisions

5 Subtitle 2. - Howard County Public Ethics Law

6 Section 22.202. - Definitions.

7 (g) Employee.

8 (h) Financial interest.

9 Section 22.203. - Administration.

10 (i)

11 (q)

12 Section 22.206. - Financial disclosure statements.

13 (g) Candidates to be Elected Officials.

14 (h) Public Record.

15 (i) Retention Requirements.

16

17 **Title 22 - General Provisions**

18 **Subtitle 2. - Howard County Public Ethics Law**

19 Section 22.202. - Definitions.

20 In this subtitle, the following terms have the meanings indicated:

21 (g)(1) Employee means an individual who is employed by the County or the Howard

22 County Library, **INCLUDING A CONTINGENT EMPLOYEE.**

23 (2) Employee does not include an elected local official.

24 (3) Employee does not include an employee of:

25 (i) The offices of the sheriff, state's attorney, register of wills, or the clerk

26 of the court;

27 (ii) The County health department; or

1 (iii) The County department of social services.

2 **(4) EMPLOYEE DOES NOT INCLUDE A CONTRACTUAL EMPLOYEE, UNLESS THE**
3 **CONTRACTUAL EMPLOYEE IS SUBJECT TO THIS SUBTITLE BY THE TERMS OF A**
4 **CONTRACT.**

5 (h) Financial interest means:

6 (1) Ownership of any interest as the result of which the owner has received,
7 within the past three years, or is presently receiving, or in the future is entitled to receive,
8 more than \$1,000.00 per year; or

9 (2) Ownership, or the ownership of securities of any kind representing or
10 convertible into ownership, of more than 3 percent of a business entity by a County
11 official or employee, or the spouse of an official or employee.

12 (i)(1) Gift means the transfer of anything of economic value, regardless of the form,
13 without adequate and lawful consideration.

14 (2) Gift does not include a political campaign contribution regulated under the
15 Elections Article of the Annotated Code of Maryland or any other provision of State or
16 local law regulating the conduct of elections or the receipt of political campaign
17 contributions.

18 (j) Immediate family means a spouse and dependent children.

19 (k)(1) Interest means a legal or equitable economic interest, whether or not subject to an
20 encumbrance or a condition, that is owned or held, in whole or in part, jointly or
21 severally, directly or indirectly.

22 (2) For purposes of section 22.204 of this subtitle, "interest" includes any interest
23 held at any time during the reporting period.

1 (3) Interest does not include:

2 (i) An interest held in the capacity of a personal agent, custodian,
3 fiduciary, or personal representative, trustee, unless the holder has an equitable
4 interest in the subject matter;

5 (ii) An interest in a time or demand deposit in a financial institution;

6 (iii) An interest in an insurance policy, endowment policy or annuity
7 contract under which an insurer promises to pay a fixed amount of money either
8 in a lump sum or periodically for life or a specified period;

9 (iv) A common trust fund or a trust which forms part of a pension or profit
10 sharing plan which has more than 25 participants and which has been determined
11 by the internal revenue service to be a qualified trust under the Internal Revenue
12 Code; [[or]]

13 (v) A college savings plan under the Internal Revenue Code; OR

14 **(VI) A MUTUAL FUND THAT IS PUBLICLY TRADED ON A NATIONAL SCALE**
15 **UNLESS THE MUTUAL FUND IS COMPOSED PRIMARILY OF HOLDINGS OF STOCKS**
16 **AND INTERESTS IN A SPECIFIC SECTOR OR AREA THAT IS REGULATED BY THE**
17 **DEPARTMENT IN WHICH THE INDIVIDUAL IS EMPLOYED.**

18

19 **Section 22.203. - Administration.**

20 (i) [[The Commission, or an office designated by the Commission, shall retain as a
21 public record all forms submitted by any person under this subtitle for at least four years
22 after receipt by the Commission.]] The Commission shall keep on file the minutes of its
23 proceedings in accordance with State of Maryland's Open Meetings Act. **THE**

1 COMMISSION, OR AN OFFICE DESIGNATED BY THE COMMISSION, SHALL RETAIN AS A
2 PUBLIC RECORD ALL FORMS SUBMITTED BY ANY PERSON UNDER THIS SUBTITLE FOR
3 THE LONGER OF:

4 (1) FOUR YEARS AFTER RECEIPT; OR

5 (2) IF THE PERSON IS AN ELECTED OFFICIAL, THE ENTIRETY OF THE PERSON'S
6 TERM.

7 (q)(1) The Executive Secretary OR A DESIGNEE, on behalf of the Commission, may issue
8 subpoenas:

9 (i) For the attendance of witnesses to testify; or

10 (ii) To produce DOCUMENTS AND OTHER evidence relevant and necessary
11 to the administration and enforcement of this subtitle.

12 (2) A subpoena shall be served by [[delivering]] HAND-DELIVERING OR MAILING
13 BY CERTIFIED MAIL a copy either to the person named or to an agent authorized by
14 appointment or by law to receive service for the person named.

15 (3) A SUBPOENA MAY BE JUDICIALLY ENFORCED.

16

17 **Section 22.206. - Financial disclosure statements.**

18 (g) Candidates to be Elected Officials.

19 (1) Except an official or employee who has filed a financial disclosure statement
20 under another provision of this section for the reporting period, a candidate to be an
21 elected official shall file a financial disclosure statement each year beginning with the
22 year in which the certificate of candidacy is filed through the year of the election.

1 (2)(I) A candidate to be an elected official shall file a statement required under
2 this section:

3 [(i)] a. In the year the certificate of candidacy is filed, no later [[that]]
4 THAN the filing of the certificate of candidacy;

5 [(ii)] b. In the year of the election, on or before the earlier of April 30 or
6 the last day for the withdrawal of candidacy; and

7 [(iii)] c. In all other years for which a statement is required, on or before
8 April 30.

9 (II) **THE INITIAL FINANCIAL DISCLOSURE STATEMENT SHALL INCLUDE**
10 **THE PRECEDING CALENDAR YEAR THROUGH THE DATE OF THE CERTIFICATE OF**
11 **CANDIDACY FILED WITH THE BOARD OF ELECTIONS FOR HOWARD COUNTY.**

12 (3) A candidate to be an elected official:

13 (i) May file the statement required under subsection (g)(2)(i) of this
14 section with the County Board of [[Election Supervisors]] **ELECTIONS** with the
15 certificate of candidacy or with the Commission prior to filing the certificate of
16 candidacy; and

17 (ii) Shall file the statements required under subsections (g)(2)(ii) and (iii)
18 of this section with the Commission.

19 (4) If a candidate fails to file a statement required by this section after written
20 notice is provided by the County Board of [[Election Supervisors]] **ELECTIONS** at least
21 20 days before the last day for the withdrawal of candidacy, the candidate is deemed to
22 have withdrawn the candidacy.

1 (5) The County Board of ~~[[Election Supervisors]]~~ **ELECTIONS** may not accept any
2 certificate of candidacy unless a statement required under this section has been filed in
3 proper form.

4 (6) Within 30 days of the receipt of a statement required under this section, the
5 County Board of ~~[[Election Supervisors]]~~ **ELECTIONS** shall forward the statement to the
6 Commission, or an office designated by the Commission.

7 (h) Public Record.

8 (1) The Commission, or an office designated by the Commission, shall maintain
9 all financial disclosure statements filed under this section.

10 (2) The Commission, or an office designated by the Commission, shall make
11 financial disclosure statements available during normal office hours, for examination and
12 copying by the public subject to reasonable fees and administrative procedures
13 established by the County.

14 (3) If an individual examines or copies a financial disclosure statement, the
15 Commission or the office designated by the Commission shall record:

16 (i) The name and home address of the individual reviewing or copying the
17 statement; and

18 (ii) The name of the person whose financial disclosure statement was
19 examined or copied.

20 (4) ~~[[Upon request by the individual whose financial disclosure statement was~~
21 ~~examined or copied, the]]~~ **THE** Commission, or the office designated by the Commission,
22 shall provide the official or employee with a copy of the name and home address of the
23 person who reviewed the official's or employee's financial disclosure statement.

1 (5) A financial disclosure statement required by this subtitle shall not be used in
2 any way for, or be made available for commercial purposes.

3 (i) Retention Requirements. The Commission, or the office designated by the
4 Commission, shall retain financial disclosure statements for [[four years from the date of
5 receipt]] **THE LONGER OF:**

6 **(1) FOUR YEARS AFTER RECEIPT; OR**

7 **(2) IF THE PERSON IS AN ELECTED OFFICIAL, THE ENTIRETY OF THE PERSON'S**
8 **TERM.**

9
10 *Section 2. And Be It Further Enacted by the County Council of Howard County,*
11 *Maryland, that this Act shall become effective 61 days after its enactment.*