

Clerk's Note: Effective date corrected to be October 30, 2015.

Bill No. 39-14
Concerning: Ethics – Amendments
Revised: July 21, 2015 Draft No. 7
Introduced: July 29, 2014
Enacted: July 21, 2015
Executive: July 31, 2015
Effective: October 30, 2015
Sunset Date: None
Ch. 38, Laws of Mont. Co. 2015

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the Ethics Commission

AN ACT to:

- (1) revise certain provisions of the County ethics law governing financial disclosure and solicitation and acceptance of gifts to meet certain requirements of state law; and
- (2) generally update and amend the County ethics law.

By amending

Montgomery County Code
Chapter 19A, Ethics
Sections 19A-4, 19A-11, 19A-14, 19A-16, 19A-17, 19A-18, 19A-19, and 19A-20

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

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Revenue Code; [and] or

(5) an interest in a mutual fund, exchange-traded fund, closed-end fund, or unit investment trust [(including a closed-end fund and a unit investment trust) regulated by the Securities and Exchange Commission, in which the investor does not control the purchase or sale of the individual securities the fund holds] that:

(A) [[is publicly traded on a national scale unless the mutual fund is composed primarily of holdings of stocks and interests in a specific sector or area that is regulated by the individual's governmental unit]] has more than 25 participants;

(B) is regulated by the Securities and Exchange Commission; and

(C) the investor does not control the purchase [[of]] or sale of the individual securities held by the fund.

* * *

(o) Restricted donor means a person or [[organization]] business that:

(1) is registered or must register as a lobbyist under Section 19A-21;

(2) does business with the County agency with which the public employee is affiliated;

(3) is engaged in an activity regulated or controlled by the County agency with which the public employee is affiliated; or

(4) has a financial interest that may be substantially and materially affected in a manner distinguishable from the public generally by the performance or nonperformance of the public employee's duties.

[[o]] (p) Year means calendar year.

55 **19A-11. Participation of public employees.**

56 (a) *Prohibitions.* Unless permitted by a waiver, a public employee must not
 57 participate in:

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59 (2) any matter if the public employee knows or reasonably should
 60 know that any party to the matter is:

61 (A) any business in which the public employee has an economic
 62 interest or is an officer, director, trustee, partner, or
 63 employee;

64 (B) any business in which a relative has an economic interest, if
 65 the public employee knows about the interest;

66 (C) any business with which the public employee has an active
 67 application, is negotiating, or has any arrangement [[about]]
 68 for prospective employment;

69 (D) any business that is considering an application from,
 70 negotiating with, [[a relative]] or has an arrangement with a
 71 relative about prospective employment, if the public
 72 employee knows about the application, negotiations, or the
 73 arrangement;

74 * * *

75 (c) *Thresholds.* In this section, interest or economic interest [[only includes]]
 76 means:

77 (1) any source of income, direct or indirect, if the employee:

78 (A) received more than \$1,000 from that source of income in
 79 any of the last 3 years;

80 (B) is currently receiving more than \$1,000 per year from that
 81 source of income~~[[:]]~~; or

- 82 (C) is entitled to receive at least \$1,000 in any year in the future
- 83 from that source of income;
- 84 (2) a business in which the public employee or a relative owns more
- 85 than 3 percent;
- 86 (3) securities that represent ownership or can be converted into
- 87 ownership of more than 3 percent of a business; ~~[[and]]~~ or
- 88 (4) any other economic interest worth more than \$1,000.

89 **19A-14. Misuse of prestige of office; harassment; improper influence.**

90 (a) Unless expressly authorized by regulation or as may be permitted under
91 Section 19A-16, [[A]] a public employee must not intentionally use the
92 prestige of office for private gain or the gain of another. Performing usual
93 and customary constituent services, without additional compensation, is
94 not prohibited by this subsection.

95 * * *

96 **19A-16. Soliciting or accepting gifts.**

97 (a) [[A]] Except as permitted by Subsection (b) or by Commission
98 regulation, a public employee must not solicit [a] any gift to the employee
99 or for another person from a restricted donor or another public employee.
100 [[to the employee or another person or organization]] In addition, a public
101 employee must not solicit a gift from any person to the employee or
102 another person:

- 103 ~~[[~~(1) from any business or person who:
 - 104 (A) is registered or must register as a lobbyist;
 - 105 (B) does business with the County agency with which the public
 - 106 employee is affiliated; or
 - 107 (C) is, or owns or operates a business that is, regulated by the
 - 108 County agency with which the public employee is affiliated;

- 109 (2) during official work hours, or at a County agency, or from any
- 110 other public employee who is supervised directly or indirectly by
- 111 the public employee;
- 112 (3) while wearing all or part of an official uniform of a County agency,
- 113 or while otherwise identifiable as a public employee;
- 114 (4) for the employee's own benefit, unless the Ethics Commission
- 115 approves the solicitation; or
- 116 (5) with the intent of affecting or offering to affect any action by a
- 117 County agency]]
- 118 (1) during official work hours, or at a County agency;
- 119 (2) while wearing all or part of an official uniform of a County agency,
- 120 or while otherwise identifiable as a public employee; or
- 121 (3) with the intent of affecting or offering to affect any action by a
- 122 County agency.

123 [(b) However, a public employee may solicit a gift:

- 124 (1) from public employees during official work hours, or at a County
- 125 agency, for a charitable drive that is approved by the County
- 126 Executive or (for public employees of the legislative branch) the
- 127 President of the Council, when the solicitation is part of the public
- 128 employee's official duties;
- 129 (2) from any person to a charitable organization, as defined in the state
- 130 law regulating public charities, or a municipality, if the public
- 131 employee does not solicit gifts primarily from those persons who
- 132 do business with or are regulated by the county agency with which
- 133 the public employee is affiliated, or from other employees who are
- 134 supervised directly or indirectly by the public employee;
- 135 (3) from any person, during official work hours, while identifiable as

136 a public employee, or at a County agency, for the benefit of a
 137 County agency or a nonprofit organization formally cooperating
 138 on a program with a County agency if the solicitation is authorized
 139 by the County Executive or (for public employees of the legislative
 140 branch) the President of the Council in an order printed in the
 141 County Register that designates:

- 142 (A) the public employee authorized to solicit the gift;
 - 143 (B) the purpose for which the gift is sought;
 - 144 (C) the manner in which the gift may be solicited;
 - 145 (D) the persons or class of persons from whom gifts may be
 146 solicited; and
 - 147 (E) the type of gifts that may be solicited;
- 148 (4) while wearing all or part of a uniform of the corporation, to a
 149 nonprofit fire or rescue corporation of which the public employee
 150 is a member; or
- 151 (5) from any person to a charitable organization, as defined in the state
 152 law regulating public charities, while identifiable as an elected
 153 official, if the employee lists in a supplement to each annual
 154 financial disclosure statement each organization to which the
 155 employee solicited a contribution during that year.]

156 (b) [[A public employee must not directly solicit or facilitate the solicitation
 157 of a gift, on behalf of another person, from an individual regulated
 158 lobbyist]] A public employee may solicit a gift:

- 159 (1) from a public employee for a charitable drive that is approved by
 160 the County Executive or (for public employees of the legislative
 161 branch) the President of the Council, when the solicitation is part
 162 of the public employee's official duties;

- 163 (2) from any person to a charitable organization, as defined in the state
164 law regulating public charities, or a municipality, if the public
165 employee does not solicit gifts primarily from a restricted donor or
166 from other employees who are supervised directly or indirectly by
167 the public employee;
- 168 (3) from any person, during official work hours, while identifiable as
169 a public employee, or at a County agency, for the benefit of a
170 County agency or a nonprofit organization formally cooperating
171 on a program with a County agency if the solicitation is authorized
172 by the County Executive or (for public employees of the legislative
173 branch) the President of the Council in an order printed in the
174 County Register that designates:
- 175 (A) the public employee authorized to solicit the gift;
176 (B) the purpose for which the gift is sought;
177 (C) the manner in which the gift may be solicited;
178 (D) the persons or class of persons from whom gifts may be
179 solicited; and
180 (E) the type of gifts that may be solicited;
- 181 (4) while wearing all or part of a uniform of the corporation, to a
182 nonprofit fire or rescue corporation of which the public employee
183 is a member; or
- 184 (5) from any person to a charitable organization, as defined in the state
185 law regulating public charities, while identifiable as an elected
186 official, if the employee lists in a supplement to each annual
187 financial disclosure statement each organization to which the
188 employee solicited a contribution during that year.
- 189 (c) A public employee must not knowingly accept a direct or indirect gift

190 from [[any individual or organization that the public employee knows or
191 reasonably should know:

192 (1) is registered, or must register, as a lobbyist on a matter that is or
193 could be considered by the County agency with which the public
194 employee is affiliated;

195 (2) does or seeks to do business, regardless of amount, with the County
196 agency with which the public employee is affiliated;

197 (3) owns or operates a business that is regulated by the County agency
198 with which the public employee is affiliated; or

199 (4) has an identifiable economic interest that is different from that of
200 the general public, which the public employee may substantially
201 affect in performing the public employee's official duties]] a
202 restricted donor.

203 (d) Subsection (c) does not apply to:

204 (1) meals and beverages consumed in the presence of the restricted
205 donor or sponsoring entity at a function attended by at least 20
206 persons or, if fewer than 20 persons attend, meals and beverages
207 consumed in the presence of the restricted donor or sponsoring
208 entity which do not exceed \$50 in value from the same source in
209 any calendar year;

210 (2) ceremonial gifts or awards [with a resale] that have insignificant
211 monetary value [of \$100 or less, if the gift or award commemorates
212 an event or achievement associated with the public employee];

213 (3) [items of personal property, other than cash, worth less than \$10;]
214 unsolicited gifts of nominal value that do not exceed \$20 in cost,
215 or trivial items of informational value;

216 (4) reasonable expenses for food, travel, lodging, and scheduled

- 217 entertainment of the public employee, given in return for the public
 218 employee's participation in a panel or speaking at a meeting;
- 219 (5) ~~[[gifts]]~~ a gift to an elected official, [or that official's designee who
 220 is assigned to represent the official at an event included in this
 221 paragraph,] if the gift:
- 222 (A) is a courtesy extended to the office; and
- 223 (B) consists of tickets or free admission for the [employee and
 224 one guest] elected official and one guest to attend a
 225 charitable, cultural, [civic, labor, trade, sports,] civic, labor
 226 trade, or political event attended by at least 20 participants,
 227 including meals and beverages served at the event; and
- 228 (C) is provided by the person sponsoring the event.
- 229 (6) any item that is solely informational or of an advertising nature,
 230 including a book, report, periodical, or pamphlet, if the resale value
 231 of the item is [~~\$25~~] \$20 or less;
- 232 (7) gifts from a relative;
- 233 (8) honoraria [or awards for achievement] for speaking to or
 234 participating in a meeting if the offering of the honorarium is not
 235 related to the employee's official position and is unsolicited; or
- 236 (9) a specific gift or class of gifts which the Commission exempts from
 237 this Section after finding in writing that accepting the gift or class
 238 of gifts is not detrimental to the impartial conduct of the business
 239 of a County agency.
- 240 (e) Subsection (c) does not apply to unsolicited gifts to a County agency.
- 241 (f) A public employee who receives a gift that the public employee must not
 242 accept under this Section must report the gift to the Commission, if
 243 otherwise required to report it, and return the gift to the donor or transfer

244 the gift to the County. [If the unacceptable gift is a perishable item, the
 245 employee, instead of transferring the gift to the County, may transfer it to
 246 a charitable or educational organization that can make timely and
 247 effective use of the gift, so long as the employee is not an officer, director,
 248 trustee, partner, or employee of the receiving organization.] If the
 249 unacceptable gift is a perishable item, the employee, instead of
 250 transferring the gift to the County, may transfer it to a charitable or
 251 educational organization that can make timely and effective use of the
 252 gift, so long as the employee is not an officer, director, trustee, partner, or
 253 employee of the receiving organization.

254 **19A-17. Who must file a financial disclosure statement.**

255 [(a)] The following persons must file a public financial disclosure statement
 256 under oath:

257 [(1)] (a) each incumbent and candidate for:

258 [(A)] (1) County Executive; and

259 [(B)] (2) County Council;

260 [(2)] (b) the following public employees:

261 [(A)](1) Chief Administrative Officer and any Deputy or Assistant Chief
 262 Administrative Officer;

263 [(B)](2) special assistants to the County Executive;

264 [(C)](3) director and deputy director of each department, principal office,
 265 and office in the County government;

266 [(D) any officer holding a position designated by law as a non-
 267 merit position;]

268 (4) any officer holding a position designated by law as a non-merit
 269 position;

270 (5) each Hearing Examiner in the Office of Zoning and Administrative

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- Hearings;
- ~~[(E)]~~ ~~[[5]]~~ (6) members of the County Board of Appeals;
 - (7) ~~[(F)]~~ members of the Commission; and ~~[[6]]~~ members of the Commission;
 - (8) each member of the Fire and Emergency Services Commission, Board of License Commissioners, Revenue Authority, and Housing Opportunities Commission;
 - (9) ~~[(G)]~~ ~~[[7]]~~ members of the Merit System Protection Board;
 - (10) ~~[[8]]~~ the Council Administrator and the Deputy Council Administrator, if any;
 - (11) ~~[[9]]~~ each Senior Legislative Analyst, Legislative Analyst, Senior Legislative Attorney, and Legislative Attorney for the County Council;
 - (12) ~~[[10]]~~ the Legislative Information Officer for the County Council;
 - (13) ~~[[11]]~~ each Senior Legislative Analyst and Legislative Analyst in the Office of Legislative Oversight;
 - (14) ~~[[12]]~~ each Legislative Senior Aide III for the County Council;
 - (15) ~~[[13]]~~ the Inspector General and the deputy Inspector General; and
 - (16) ~~[(3)]~~ ~~[[14]]~~ any person who is appointed to serve in an acting capacity in any position listed in the preceding paragraphs while the position is vacant; and
- (c) the following public employees, if not already required to file under this Section:
- (1) any public employee in the Management Leadership Service;
 - (2) any paid member of any board, commission, or committee of

298 County government, and any other member of a board,
 299 commission, or committee of County government who the Chief
 300 Administrative Officer designates; and

301 (3) any other public employee in the Executive branch of County
 302 government designated by the Chief Administrative Officer, and
 303 any public employee in the legislative branch of County
 304 government designated by the Council Administrator.

305 [(4) any other public employee in the Executive branch, or in the
 306 Revenue Authority, Board of License Commissioners, or Housing
 307 Opportunities Commission, including any person listed in
 308 subsection (b), who the County Executive designates by regulation
 309 issued under method (2) after finding that filing a public financial
 310 disclosure statement will promote trust and confidence in County
 311 government;]

312 [(5) any other public employee in the legislative branch including the
 313 County Board of Appeals, and in the Merit System Protection
 314 Board, including any person listed in subsection (b), who the
 315 Council designates by resolution after finding that filing a public
 316 financial disclosure statement will promote trust and confidence in
 317 County government; and]

318 [(6) the members of a board, commission, committee, or similar body
 319 in the Executive branch, or of the Revenue Authority, Board of
 320 License Commissioners, or Housing Opportunities Commission,
 321 which the County Executive designates by regulation issued under
 322 Method (2) or any public employee in the legislative branch,
 323 including the County Board of Appeals, and in the Merit System
 324 Protection Board, who the Council designates by resolution, after

325 finding that filing a limited public financial disclosure statement
326 will promote trust and confidence in County government. The
327 financial disclosure required under this paragraph must be limited
328 to information concerning any economic interest or gift that may
329 create a conflict between the employee or member's personal
330 interests and official duties. The Commission must adopt a
331 regulation specifying the information that must be disclosed. A
332 public employee who files a limited public financial disclosure
333 statement under this paragraph must also file a confidential
334 financial disclosure statement if required to do so under subsection
335 (b). A public employee need not file a limited public financial
336 disclosure statement under this paragraph if the employee already
337 is required to file a public financial disclosure statement.]

338 [(b) The following persons must file a confidential financial disclosure
339 statement under oath:

- 340 (1) Assistant Chief Administrative Officers;
- 341 (2) attorneys in the Office of the County Attorney;
- 342 (3) Hearing Examiners;
- 343 (4) Members of the Fire and Emergency Services Commission;
- 344 (5) paid members of any board, commission, committee, or authority
345 of County government, including members of the Board of
346 License Commissioners, the Revenue Authority, and the Housing
347 Opportunities Commission;
- 348 (6) any public employee in the Executive branch, or in the Revenue
349 Authority, Board of License Commissioners, or Housing
350 Opportunities Commission, who the County Executive designates
351 by regulation issued under method (2) after finding that filing a

352 confidential financial disclosure statement will promote trust and
 353 confidence in County government; and
 354 (7) any public employee in the legislative branch including the County
 355 Board of Appeals, and in the Merit System Protection Board, who
 356 the Council designates by resolution after finding that filing a
 357 confidential financial disclosure statement will promote trust and
 358 confidence in County government.]

359 [(c)] (d) In designating other public employees to file [public or confidential]
 360 financial disclosure statements [under subsection (a)(4) or (b)(6)], the
 361 [Executive should] Chief Administrative Officer and Council
 362 Administrator respectively [[must]] should include those employees
 363 [who have substantial responsibility for one or more of the following
 364 functions] whose duties and responsibilities are likely to substantially
 365 affect private interests and require significant participation through
 366 decision or the exercise of significant judgment, and without substantial
 367 supervision and review, in taking a government action regarding:

- 368 (1) contracting or procurement;
 369 (2) administering grants or subsidies;
 370 (3) land use, planning and zoning;
 371 (4) regulating, licensing, or inspecting any business;
 372 (5) other decisions with significant economic impact; and
 373 (6) law enforcement[; and
 374 (7) controlling access to confidential information].

375 [(d)] The Executive and Council, respectively, must annually review the list of
 376 employees designated under subsections (a)(4), (a)(5), (a)(6), (b)(7), and
 377 (b)(8) for compliance with the purposes of this Article.]

378 **19A-18. Financial disclosure statement; procedures.**

406 statement, the Board must forward the statement to the Commission to be
407 retained under this Chapter.]

- 408 [(e) (1) (A) Any person required to file under subsection 19A-17(b)
409 must file a financial disclosure statement under oath with
410 each director of a County agency with which the person was
411 affiliated during the reporting period. Any person required
412 to file under subsection 19A-17(b) who is not supervised by
413 a director must file a financial disclosure statement under
414 oath with the Chief Administrative Officer.
- 415 (B) The statement must be filed by April 15 for the previous
416 year.
- 417 (C) The director or the Chief Administrative Officer must
418 review the statement to see if:
- 419 (i) the answers are complete;
 - 420 (ii) there is any conflict of interest with the person's
421 official duties; and
 - 422 (iii) there is any potential conflict of interest.
- 423 (D) The Chief Administrative Officer may designate the head of
424 a County agency to review a statement. A director of a
425 County agency or the Chief Administrative Officer may
426 designate the deputy director of the agency or the chief of a
427 division of the agency to review a statement. The designator
428 must inform the Commission of the delegation. The
429 designee is subject to the same rules of confidentiality as the
430 designator.
- 431 (2) After certifying that each part of the statement has been completed
432 and that, on the basis of the information reported, there is no

433 conflict of interest or potential conflict of interest with the filer's
 434 official duties, the agency director or Chief Administrative Officer
 435 must forward the statement to the Commission within 30 days after
 436 receiving it. The agency director or the Chief Administrative
 437 Officer may retain a copy of the statement for one year after
 438 forwarding it to the Commission. If asked by an agency director,
 439 the Chief Administrative Officer, the County Executive, a Council
 440 member, or the filer of the statement, the Commission must review
 441 any statement within 120 days after receiving it.

442 (3) The Commission, the Chief Administrative Officer, the County
 443 Executive, a member of the County Council, the County Attorney,
 444 the Director of the Office of Legislative Oversight, the filer of the
 445 statement, or their designees, may review a statement at any time.
 446 A designee must be appointed in writing and is subject to the same
 447 rules of confidentiality as the designating party.

448 (4) Any confidential financial disclosure statement filed under this
 449 Chapter must not be made available to the public for examination.
 450 The Commission must retain each statement for 6 years. After the
 451 6-year period expires, the Commission must destroy each
 452 statement unless the Commission determines that the statement is
 453 needed to resolve an investigation or complaint.]

454 [(f) Each public employee required to file an annual financial disclosure
 455 statement under Section 19A-17 must also file a financial disclosure
 456 statement:

457 (1) within 15 days after the employee begins employment in a position
 458 covered by Section 19A-17, covering the current calendar year up
 459 to the date of filing and, unless the employee has already filed a

- 460 statement for the previous year, the previous calendar year; and
461 (2) before the employee leaves a position covered by Section 19A-17,
462 unless the employee has taken another position covered by Section
463 19A-17. The Director of Finance must not issue an employee's
464 final paycheck until the employee has filed a statement required by
465 this paragraph. Any statement filed under this paragraph must be
466 treated and reviewed as if it were an annual statement, except that
467 it need only report on the period after the employee's last previous
468 annual statement, if any.]
- 469 [(g) The Commission must make available each statement filed under
470 subsection 19A-17(a) for examination and copying during normal office
471 hours. The Commission may charge reasonable fees and adopt
472 procedures for examining and copying statements.]
- 473 [(h) The Commission must provide forms for filing financial disclosure
474 statements. Forms should be made available no later than January 1 each
475 year.]
- 476 [(i) A person must not use any financial disclosure statement required under
477 this Chapter for commercial purposes.]
- 478 [(j) A financial disclosure statement is filed under oath if the person signs a
479 declaration that the financial disclosure statement is made under the
480 penalties of perjury.]
- 481 (a) Each public employee required to file a public financial disclosure
482 statement under Section 19A-17 must file a financial disclosure statement
483 in the system established by the Chief Administrative Officer under
484 subsection (h):
- 485 (1) by April 15 of each year if that person was a filer at the end of the
486 previous calendar year, covering the year just ended or;

- 487 (2) within 15 days after a public employee begins employment in a
488 position covered by Section 19A-17, covering the prior year and
489 the current year up to the date of filing;
- 490 (3) before an employee leaves a position covered by Section 19A-17,
491 unless the employee has taken another position covered by Section
492 19A-17. The Director of Finance must not issue an employee's
493 final paycheck until the employee has filed a statement required by
494 this paragraph. Any statement filed under this paragraph must
495 cover the period since the employee's last filed statement;
- 496 (4) before the Council confirms the appointment of any person
497 nominated by the County Executive to hold any office listed in
498 subsection 19A-17(b), covering the prior year and the current year
499 up to the date of filing. Any person required to file a report under
500 this paragraph need not file a report under paragraph (2) unless 90
501 days has passed since the filing of the report under this paragraph;
502 and
- 503 (5) as part of the application for a Council-appointed office listed in
504 subsection 19A-17(b), covering the prior year and the current year
505 up to the date of filing. Any person required to file a report under
506 this paragraph need not file a report under paragraph (2) unless 90
507 days has passed since the filing of the report under this paragraph.
- 508 (b) Each candidate for an office listed in subsection 19A-17(a) must file with
509 the County Board of Elections a financial disclosure statement covering
510 the prior year and the current year up to the date of filing the candidate's
511 certificate of candidacy. The statement must be filed with the certificate
512 of candidacy or certificate of nomination. The County Board of Elections
513 must not accept a certificate of candidacy or certificate of nomination

514 unless a financial disclosure statement in proper form has been filed. If a
 515 statement has been filed under subsection (a), then the statement required
 516 by this subsection need only cover the current year up to the date of filing
 517 the certificate of candidacy or nomination.

518 (c) If at the end of a calendar year in which a candidacy is pending and no
 519 election has occurred, the candidate must file a financial disclosure
 520 statement with the County Board of Elections covering the year just
 521 ended. The statement must be filed on or before the last day to withdraw
 522 a candidacy. The County Board of Elections must notify each candidate
 523 of this obligation to file the financial disclosure statement at least 20 days
 524 before the last day to withdraw a candidacy. If the candidate does not file
 525 a timely statement under this subparagraph, the candidacy is withdrawn
 526 by operation of law.

527 (d) The County Board of Elections must not accept a certificate of candidacy
 528 or certificate of nomination unless the candidate has filed a financial
 529 disclosure statement in proper form.

530 (e) (1) (A) Any person, other than a candidate for elective office, who
 531 is required to file under Section 19A-17, must file a financial
 532 disclosure statement in an electronic system set up to
 533 receive and administer financial disclosure reports. The
 534 filer must certify that each statement was made to the best
 535 of the filer's knowledge and belief.

536 (B) The Chief Administrative Officer must review each
 537 statement for filers in the Executive Branch, and the Council
 538 Administrator must review each statement for each filer in
 539 the Legislative Branch, to see if []:

540 (i)] the answers are complete[]; and

541 (ii) there are conflicts or potential conflict of interests
 542 with the filer's official duties]]].

543 (C) [[For each filer who is an incumbent under Section 19A-
 544 17(a), the Chief Administrative Officer must review each
 545 statement for the position of County Executive and the
 546 Council Administrator must review each statement for each
 547 member of the County Council.

548 (D)]] For departments and offices in the Executive Branch, the
 549 Chief Administrative Officer may designate the head of a
 550 department or office to review a statement. For offices of
 551 the Legislative Branch, the Council Administrator may
 552 designate the head of an office to review a statement. A
 553 director of a County department or office or the Chief
 554 Administrative Officer or the Council Administrator, as
 555 appropriate, may designate the deputy director of the
 556 department or the chief of a division to review a statement.
 557 Each designation must be reported to the Chief
 558 Administrative Officer or the Council Administrator, as
 559 appropriate, and to the Commission. The reviewer may
 560 seek the advice of public employees familiar with the filer's
 561 official responsibilities, including the filer's supervisor, in
 562 evaluating the report under subparagraph (B).

563 (2) Each reviewer must certify within 30 days that the statement has
 564 been completed [[and, on the basis of the information reported,
 565 there is no known conflict of interest or potential conflict of interest
 566 with the filer's official duties. If a reviewer cannot so certify or
 567 has identified a conflict of interest or potential conflict of interest,

568 the reviewer must immediately notify the Commission and the
569 Chief Administrative Officer for an employee of the Executive
570 Branch and the Council Administrator for an employee of the
571 legislative branch that the reviewer is unable to certify the
572 statement]].

573 (f) The Commission must make available each statement filed under this
574 Article for examination and copying during normal office hours. The
575 Commission may charge reasonable fees and adopt procedures to
576 examine and copy statements.

577 (g) The Commission must make available the electronic form for filing
578 annual financial disclosure statements by the first business day of each
579 calendar year.

580 (h) The Chief Administrative Officer must establish and maintain an
581 electronic system to facilitate filing of and public access to financial
582 disclosure statements required under this Article. Any electronic system
583 must report[[, current to within one business day,]] an accurate list of each
584 public employee required to file a statement under Section 19A-17,
585 whether the employee is required to file under subsections 19A-17(a),
586 (b), or (c), and include the employee's position, necessary contact
587 information, the reviewer, and whether the report is an initial, annual, or
588 final report. This list [[must]] should be current and correspond to
589 personnel records and records of memberships in boards, committees and
590 commissions. Any electronic system must be able to generate reports
591 upon request of the Chief Administrative Officer, the Council
592 Administrator, or the Commission detailing who is required to file and
593 the current state of compliance by public employees with financial
594 disclosure filing and review requirements under this Article. The County

595 Executive must annually, or more frequently as requested, provide the list
 596 of employees designated to file financial disclosure reports to the
 597 Council. The Commission must make all necessary accommodations for
 598 any person who does not have access to the electronic system.

599 (i) A person must not use any financial disclosure statement required under
 600 this Chapter for commercial purposes.

601 (j) The Commission must retain each financial disclosure statement filed
 602 under this Article for 4 years. For each filer filing under subsection 19A-
 603 17(a), the retention period must be at least 6 years[[, after which each
 604 record must be archived]].

605 **19A-19. Content of financial disclosure statement.**

606 [The financial disclosure statement required under Section 19A-17 must
 607 disclose the following information about the filer for the previous year:]

608 [(a) all economic interests in any real property, including leasehold interests
 609 and interests in oil, gas, or mineral royalties or leases, if the property is
 610 located in Montgomery County, Prince George's County, Howard
 611 County, or Frederick County, Maryland; the District of Columbia; or
 612 Fairfax County or Loudoun County, Virginia. The filer must specify:

- 613 (1) the nature of each property, and its location by street address,
 614 mailing address, or legal description;
 615 (2) the nature and extent of the interest held, and any applicable
 616 conditions and encumbrances;
 617 (3) how, when, and from whom the interest was acquired;
 618 (4) the nature and amount of the consideration given in exchange for
 619 the interest. If the interest was not acquired by purchase, the filer
 620 must provide the fair market value of the interest when it was
 621 acquired;

- 622 (5) if an interest was transferred during the previous year:
- 623 (A) the interest transferred;
- 624 (B) the nature and amount of the consideration received; and
- 625 (C) to whom the interest was transferred; and
- 626 (6) the name of any other person with an interest in the property;]
- 627 [(b) all economic interests in any business. In this subsection, business does
- 628 not include an agency or instrumentality of federal, state, County, or local
- 629 government. The filer must specify:
- 630 (1) the name of the business. If the business is a corporation, the filer
- 631 must list the stock exchange (if any) on which the corporation's
- 632 securities are traded and the corporation's trading symbol. If
- 633 securities of the business are not publicly traded, the filer must list
- 634 the address of the business' principal office;
- 635 (2) the nature and value of the interest held, and any applicable
- 636 conditions and encumbrances. The filer must specify what
- 637 percentage of the business the filer owns, if the filer knows the
- 638 percentage; and
- 639 (3) if an interest was acquired or transferred during the previous year,
- 640 the filer must describe the interest acquired or transferred, the
- 641 nature and amount of the consideration and, if known, the name of
- 642 the other person or business in the transaction;]
- 643 [(c) each source of income from an economic interest that is not disclosed
- 644 elsewhere, from which the filer received or was entitled to receive \$500
- 645 or more during the previous year. The filer must specify:
- 646 (1) the name, and the address of the principal office or residence, of
- 647 the source;
- 648 (2) the type of income; and

- 649 (3) the amount of income by category:
- 650 (A) \$500 to \$5,000; or
- 651 (B) over \$5,000.
- 652 (4) (A) If the source and the filer have a confidential relationship,
- 653 the filer need not report the information required under
- 654 paragraph (1) unless the source:
- 655 (i) is registered or must register as a lobbyist on a matter
- 656 that is or could be considered by the County agency
- 657 with which the filer is affiliated;
- 658 (ii) does business with the County agency with which the
- 659 filer is affiliated;
- 660 (iii) owns or operates a business that is regulated by the
- 661 County agency with which the filer is affiliated; or
- 662 (iv) has an economic interest that is different from the
- 663 public interest, which the filer may substantially
- 664 affect in performing the filer's official duties.
- 665 (B) The Commission must designate only one person to review
- 666 this information. If the reviewer finds a reasonable basis to
- 667 believe that a violation of this Chapter, or Sections 2-109,
- 668 11B-51 or 11B-52(a), has occurred, the entire Commission
- 669 may review the information.
- 670 (C) Confidential relationship means a relationship between two
- 671 persons that creates a privilege against testifying under state
- 672 law;]
- 673 [(d) (1) each gift given to the filer, to a member of the filer's immediate
- 674 family, or to any other person at the filer's direction, during the
- 675 previous year if the donor of the gift:

- 676 (A) is registered, or must register, as a lobbyist on a matter that
677 is or could be considered by the County agency with which
678 the filer is affiliated;
- 679 (B) does business with the County agency with which the filer
680 is affiliated; or
- 681 (C) owns or operates a business that is regulated by the County
682 agency with which the filer is affiliated.
- 683 (2) The filer must specify:
- 684 (A) the nature of each gift;
- 685 (B) the value of each gift by category:
- 686 (i) \$50 or under;
- 687 (ii) \$51 to \$100;
- 688 (iii) \$101 to \$500; or
- 689 (iv) over \$500; and
- 690 (C) the person who gave the gift or directed, either directly or
691 indirectly, that the gift be given.
- 692 (3) The filer need not report the following gifts on any part of the
693 financial disclosure statement:
- 694 (A) a gift to the filer with a value of less than \$50, unless the
695 same person gave the filer, members of the filer's immediate
696 family, another person at the filer's direction, or any
697 combination of them, gifts totaling more than \$100 during
698 the previous year;
- 699 (B) a gift to a member of the filer's immediate family with a
700 value of less than \$100, unless the same person gave the
701 filer, members of the filer's immediate family, another
702 person at the filer's direction, or any combination of them,

- 703 gifts totaling more than \$100 during the previous year;
- 704 (C) a gift received under Section 19A-16(d)(5), unless the gift
- 705 is admission to a cultural or sports event valued at \$50 or
- 706 more;
- 707 (D) a gift from a relative of the filer, or a gift to a relative by the
- 708 filer, unless:
 - 709 (i) the value of all gifts from the same relative exceeds
 - 710 \$100, and
 - 711 (ii) the relative:
 - 712 (a) is registered, or must register, as a lobbyist on
 - 713 a matter that is or could be considered by the
 - 714 County agency with which the filer is
 - 715 affiliated;
 - 716 (b) does business with the County agency with
 - 717 which the filer is affiliated; or
 - 718 (c) owns or operates a business that is regulated
 - 719 by the County agency with which the filer is
 - 720 affiliated; or
 - 721 (E) a political contribution governed by state law;]
- 722 [(e) (1) all offices, including any directorship, trusteeship, or partnership,
- 723 held at any time during the previous year in any business that:
 - 724 (A) is doing business with or is regulated by a County agency;
 - 725 (B) has an office in the County; or
 - 726 (C) to the filer's knowledge, has an interest in real property
 - 727 located in the County.
- 728 (2) The filer must specify:
 - 729 (A) the name, and the address of the principal office, of each

- 730 business; and
- 731 (B) the title and nature of each office;]
- 732 [(f) all liabilities over \$500 owed at any time during the previous year by the
- 733 filer, except a debt owed to a relative. The filer need not report any debt
- 734 less than \$5000 owed on a consumer credit card account. The filer need
- 735 not report a debt over \$5000 owed on a consumer credit card account
- 736 unless the debt is owed for more than 90 days. A consumer credit card
- 737 account is an open-ended credit card account used to obtain money,
- 738 property, or services for personal, family, or household purposes. The
- 739 filer must specify:
- 740 (1) to whom the liability is owed;
- 741 (2) the amount owed at the end of the year;
- 742 (3) the terms of payment of the liability;
- 743 (4) how much the principal amount of the liability increased or
- 744 decreased during the year; and
- 745 (5) any security given for the liability;]
- 746 [(g) all debts over \$500 owed to the filer at any time during the previous year,
- 747 except a debt owed by a relative. The filer must specify:
- 748 (1) the debtor;
- 749 (2) the amount of the debt at the end of the year;
- 750 (3) the terms of payment of the debt;
- 751 (4) how much the principal amount of the debt increased or decreased
- 752 during the year; and
- 753 (5) any security given for the debt;]
- 754 [(h) a list of all members of the filer's immediate family who are employed in
- 755 any capacity by a County agency; and]
- 756 [(i) any other interest or information that the filer wants to disclose to carry

- 757 out the purposes of this Chapter.]
- 758 [(j) If the filer is required to file under paragraph 19A-17(a)(1), the filer must
- 759 list the amount and issuer of each bond or other security owned during
- 760 the previous year that was issued by the County, any bi-county agency
- 761 with jurisdiction in the County, and any city or town in the County.]
- 762 [(k) If the filer is required to identify any person or business, the filer must
- 763 designate, if known, whether that person or business has done business
- 764 or expects to do business with, or is regulated by, a County agency.]
- 765 [(l) In this Section and Section 19A-20, interest means any interest held at
- 766 any time during the previous year.]
- 767 [(m) If a filer is required to report any amount or value, including the value of
- 768 any property, under this Section, except subsections (c) and (d), the filer
- 769 may specify the amount or value by category:
- 770 (1) \$1000 or less;
- 771 (2) over \$1000.]
- 772 (a) Each financial disclosure statement filed under Section 19A-17(a) must
- 773 disclose the following:
- 774 (1) Interests in real property.
- 775 (A) The statement must identify each interest in real property,
- 776 regardless of the property's location.
- 777 (B) For each interest in real property, the statement must
- 778 include:
- 779 (i) the nature of the property, and the location by street
- 780 address, mailing address, or legal description of the
- 781 property;
- 782 (ii) the nature and extent of the interest held, including
- 783 any condition or encumbrance on the interest;

- 784 (iii) the date when, the manner in which, and the identity
785 of the person from whom the interest was acquired;
- 786 (iv) the nature and amount of the consideration given in
787 exchange for the interest or, if the interest was
788 acquired other than by purchase, the fair market value
789 of the interest when it was acquired;
- 790 (v) if any interest was transferred, in whole or in part, at
791 any time during the reporting period, a description of
792 the interest transferred, the nature and amount of the
793 consideration received for the interest, and the
794 identity of each person to whom the interest was
795 transferred; and
- 796 (vi) the identity of any other person with an interest in the
797 property.
- 798 (2) *Interests in corporations, partnerships or other businesses.*
- 799 (A) The statement must list each interest in any corporation,
800 partnership, limited liability partnership, limited liability
801 corporation, sole proprietorship, or other business.
- 802 (B) For each interest reported, the statement must specify:
- 803 (i) the name and, unless the interest is traded publicly on
804 a national exchange, the address of the principal
805 office of the corporation, partnership, limited liability
806 partnership, limited liability corporation, sole
807 proprietorship, or other business;
- 808 (ii) the nature and amount of the interest held, including
809 any condition or encumbrance on the interest;
- 810 (iii) for any interest transferred, in whole or in part, at any

811 time during the reporting period, a description of the
 812 interest transferred, the nature and amount of the
 813 consideration received for the interest, and, if known,
 814 the identity of the person to whom the interest was
 815 transferred; and

816 (iv) for any interest acquired during the reporting period:
 817 (1) the date when, the manner in which, and the
 818 identity of the person from whom the interest
 819 was acquired; and
 820 (2) the nature and amount of the consideration
 821 given in exchange for the interest or, if the
 822 interest was acquired other than by purchase,
 823 the fair market value of the interest when it
 824 was acquired.

825 (C) A filer may satisfy the requirement to report the amount of
 826 the interest held under subparagraph (B)(ii) by reporting,
 827 instead of a dollar amount:

828 (i) for an equity interest in a corporation, the number of
 829 shares held and, unless the corporation's stock is
 830 publicly traded, the percentage of equity interest
 831 held; or

832 (ii) for an equity interest in a partnership, the percentage
 833 of equity interest held.

834 [(D) For purposes of subparagraph (B)(i), the filer need not
 835 report the address of any publicly held company.]]

836 (3) The Commission may, by method 2 regulation, permit a filer to
 837 satisfy the requirement to report the amount of consideration paid

838 or received for an interest in real property, a corporation,
 839 partnership, or other business by identifying a category of values
 840 established in the regulation.

841 (4) Gifts.

842 (A) The statement must list each gift valued at more than \$20 or
 843 any series of gifts totaling \$100 or more received during the
 844 reporting period from or on behalf of, directly or indirectly,
 845 [[any one person who does business with the County]] a
 846 restricted donor.

847 (B) For each gift listed, the statement must specify:

848 (i) the nature and value of the gift; and

849 (ii) the identity of the person from whom, or on behalf of
 850 whom, directly or indirectly, the gift was received.

851 [[4]] (5) Employment with, or interests in, entities doing business
 852 with the County.

853 (A) The statement must identify each office, directorship, and
 854 salaried employment by the filer or member of the filer's
 855 immediate family held at any time during the reporting
 856 period with any entity doing business with the County.

857 (B) For each position listed under this Section, the statement
 858 must include:

859 (i) the name and address of the principal office of the
 860 business entity;

861 (ii) the title and nature of the office, directorship, or
 862 salaried employment held, and the date it started; and

863 (iii) the name of each County agency with which the
 864 entity is involved, indicated by identifying one or

865 more of the three categories of "doing business", as
 866 defined in Section 19A-4(e).

867 ~~[[5]]~~ (6) Indebtedness to entities doing business with the County.

868 (A) The statement must identify each liability, other than a retail
 869 credit account to any person doing business with the
 870 County owed at any time during the reporting period by:

871 (i) the filer; or
 872 (ii) a member of the filer's immediate family if the filer
 873 was involved in the transaction giving rise to the
 874 liability.

875 (B) For each liability reported under this paragraph, the
 876 statement must specify:

877 (i) the identity of the person to whom the liability was
 878 owed, and the date the liability was incurred;
 879 (ii) the amount of the liability owed at the end of the
 880 reporting period;
 881 (iii) the terms of payment of the liability, and the extent to
 882 which the principal amount of the liability was
 883 increased or reduced during the year; and
 884 (iv) the security, if any, given for the liability.

885 ~~[[6]]~~ (7) Employment with the County. The statement must identify
 886 each immediate family member of the filer employed by the
 887 County in any capacity at any time during the reporting period.

888 ~~[[7]]~~ (8) Sources of earned income.

889 (A) The statement must list the name and address of each
 890 employer of the filer, other than the County Government, or
 891 a member of the filer's immediate family, and each business

892 entity of which the filer or a member of the filer's immediate
 893 family was a sole or partial owner and from which the filer
 894 or member of the filer's immediate family received earned
 895 income at any time during the reporting period. [[The
 896 statement must include the source of each fee for services
 897 provided by the filer during the reporting period. However,
 898 a filer need not include any information with respect to any
 899 person for whom services were provided by any firm or
 900 association of which the filer was a member, partner, or
 901 employee unless the filer was directly involved in providing
 902 those services]].

903 (B) The filer need not disclose a minor child's employment or
 904 business ownership if the agency [[that employs]] with
 905 which the filer is affiliated does not regulate, exercise
 906 authority over, or contract with the place of employment or
 907 business entity of the minor child.

908 (C) If a source of earned income and the filer have a confidential
 909 relationship which creates a privilege against testifying
 910 under state law, the filer need not report the identity of the
 911 source unless the source:

912 (i) is registered or must register as a lobbyist on a matter
 913 that is or could be considered by the County agency
 914 with which the filer is affiliated;

915 (ii) does business with the County agency with which the
 916 filer is affiliated;

917 (iii) owns or operates a business that is regulated by the
 918 County agency with which the filer is affiliated; or

919 (iv) has an economic interest that is different from the
 920 public interest, which the filer may substantially
 921 affect in performing the filer's official duties,
 922 in which case the identity of the source must be disclosed
 923 confidentially to the Commission in a manner prescribed by
 924 the Commission.

925 ~~[(8)]~~ (9) The statement may also include any additional interest or
 926 information that the filer wishes to disclose.

927 (b) For the purposes of subsections (a)(1) and (a)(2), the following interests
 928 must be treated as the interests of the filer of the statement:

929 (1) an interest held by a member of the filer's immediate family;

930 (2) an interest held by a relative of the filer, if the filer, at any time
 931 during the reporting period, directly or indirectly controlled the
 932 interest;

933 (3) an interest held by a business entity in which the filer held a 30%
 934 or greater interest at any time during the reporting period; or

935 ~~[(3)]~~ (4) an interest held by a trust or estate in which, at any time
 936 during the reporting period:

937 (A) the filer held a reversionary interest or was a beneficiary; or

938 (B) if a revocable trust, the filer was a settlor.

939 (c) Each statement filed under ~~[[Section]]~~ Sections 19A-17(b) and 19A-17(c)
 940 must disclose all information required to be disclosed under subsection
 941 (a). However, the filer need not specify the nature or amount of
 942 consideration given in exchange for an interest or the fair market value of
 943 an interest. For a debt, the filer need only disclose the information
 944 required under subsection (a) ~~[(5)]~~ (6)(A).

945 ~~[(d)]~~ Each statement filed under Section 19A-17(c) must disclose the

946 information required in subsection (a)(3) with respect to gifts and must
 947 disclose the information otherwise required in subsection (a) only with
 948 respect to any interest, compensated position, or liability that may create
 949 a conflict under Section 19A-11 or is prohibited under Section 19A-12.]]

950 **[19A-20. Interests attributable to filers.]**

951 [Under section 19A-19, the following must be reported as an economic interest
 952 of the filer:

- 953 (a) any economic interest held by a member of the filer's immediate family;
- 954 (b) any economic interest held by a relative of the filer, if:
- 955 (1) the interest was controlled by the filer, directly or indirectly, at any
 956 time during the previous year; and
- 957 (2) the interest could be affected by an action or a failure to act by the
 958 filer in the performance of official duties;
- 959 (c) any economic interest in real property held by a business in which the
 960 filer owns an interest, if the property is located in Montgomery County,
 961 Prince George's County, Howard County, or Frederick County,
 962 Maryland; the District of Columbia; or Fairfax County or Loudoun
 963 County, Virginia; and if the filer's prorated interest in the real property
 964 has a market value of more than \$1,000. If the securities of the business
 965 are publicly traded, the filer need not report the interest in the real
 966 property; and
- 967 (d) any economic interest held by a trust, except a common trust fund, if the
 968 filer:
- 969 (1) holds an income interest of more than \$1,000;
- 970 (2) holds a reversionary interest of more than \$1,000; or
- 971 (3) is a trustor or beneficiary of a revocable trust.]

972 **19A-20. [[Certifications regarding conflicts of interest]] Reserved.**

- 973 [(a) In addition to any other requirement of this Article, each person who files
974 a financial disclosure statement under Section 19A-17 must certify that,
975 to the best of the filer's knowledge, neither the filer nor the filer's
976 immediate family or relatives have any interest, including any liability,
977 that may create a conflict of interest under Section 19A-11 or 19A-12. If
978 a filer is unable to so certify, the filer must separately identify, in the
979 manner required by the Commission, any interest that may create a
980 conflict of interest under Section 19A-11 or 19A-12.
- 981 (b) The annual certification filed under subsection (a) must be filed by April
982 15 of each year with the filer's financial disclosure statement.
- 983 (c) If the economic interests of a filer, including those of an immediate family
984 member or relative, have changed since the filer's last filed certification
985 such that a conflict of interest may be created under Section 19A-11 or
986 19A-12, or if the filer or an immediate family member received a
987 reportable gift from any person doing business with the filer's County
988 agency or department, the filer must, within 5 days after the event or when
989 the filer knew or should have known about the change, amend the
990 certification filed under subsection (a) and identify each possible conflict
991 or gift.]]
- 992

993

994 *Approved:*

995 George Leventhal 7/23/15
George Leventhal, President, County Council Date

996 *Approved:*

997 Isiah Leggett July 31, 2015
Isiah Leggett, County Executive Date

998 *This is a correct copy of Council action.*

999 Linda M. Lauer Aug. 5, 2015
Linda M. Lauer, Clerk of the Council Date