

Expedited Bill No. 27-09
Concerning: Ethics – Amendments
Revised: 3-16-10 Draft No. 5
Introduced: June 16, 2009
Enacted: March 16, 2010
Executive: March 26, 2010
Effective: April 1, 2010
Sunset Date: None
Ch. 5, Laws of Mont. Co. 2010

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the Ethics Commission

AN EXPEDITED ACT to:

- (1) amend the County ethics law to conform to a State Ethics Commission requirement; and
- (2) clarify and update other provisions of the County ethics law.

By amending

Montgomery County Code

Chapter 19A, Ethics

Sections 19A-4, 19A-8, 19A-10, 19A-12, 19A-16, 19A-17, 19A-18, ~~[[19A-23,]]~~ 19A-27, ~~[[and]]~~ 19A-28, 19A-29, and 19A-32

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

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

25 unit investment trust) regulated by the Securities and Exchange
26 Commission, in which the investor does not control the
27 purchase or sale of the individual securities the fund holds.

28 * * *

29 **19A-8. Waivers.**

30 * * *

31 (f) Each waiver request must:

32 (1) be in writing;

33 (2) be signed under oath by the public employee who applies for
34 the waiver;

35 (3) disclose all material facts;

36 (4) show how the employee meets the applicable waiver standard,
37 and

38 (5) include a statement from the public employee's agency head (or
39 the Chief Administrative Officer if the employee is not
40 supervised by an agency head) indicating whether the agency
41 head concurs with the waiver request.

42 [(f)] (g) The Commission must disclose to the public any waiver request that
43 it grants[.] and, on request of any person, must disclose the underlying
44 waiver request and any statement filed under subsection (f)(5) from
45 the employee's agency head or the Chief Administrative Officer. If
46 the Commission denies a request for a waiver [is denied], the
47 Commission may publish its response as an advisory opinion under
48 Section 19A-7(b). But the identity of any public employee who
49 applies for a waiver must be kept confidential until the waiver is

50 granted. The Commission may reveal the identity of any public
51 employee who applies for a waiver that is not granted if:

52 * * *

53 (h) After giving the public employee notice and an opportunity to
54 respond, the Commission may revoke any waiver if it finds that the
55 public employee who applied for the waiver did not disclose a
56 material fact in the waiver request.

57 [(g)] (i) * * *

58 [(h)] (j) * * *

59 **19A-10. Complaint; Adjudicatory Hearing.**

60 * * *

61 (m) If the Commission finds a violation of this Chapter or Sections 2-109,
62 11B-51 or 11B- 52(a), the Commission may:

- 63 (1) seek injunctive relief under Section 19A-27;
- 64 (2) proceed under Section 19A-28;
- 65 (3) seek recovery under Section 19A-29;
- 66 (4) seek the imposition of disciplinary action by appropriate public
67 employees under Section 19A-30;
- 68 (5) order the subject of the complaint to stop any violation; [[and]]
- 69 (6) issue a public or private reprimand, and
- 70 (7) impose a fine which does not exceed \$1000.

71 * * *

72 **19A-12. Restrictions on other employment and business ownership.**

73 (a) *General restrictions.*

74 * * *

100 if otherwise required to report it, and return the gift to the donor or
101 transfer the gift to the County. If the unacceptable gift is a perishable
102 item, the employee, instead of transferring the gift to the County, may
103 transfer it to a charitable or educational organization that can make
104 timely and effective use of the gift, so long as the employee is not an
105 officer, director, trustee, partner, or employee of the receiving
106 organization.

107 **19A-17. Who must file a financial disclosure [statements] statement.**

108 * * *

109 (b) The following persons must file a confidential financial disclosure
110 statement under oath:

111 * * *

112 [(6) any non-merit public employee (except temporary consultants
113 and special legal counsel) paid at a rate above the minimum pay
114 for pay grade 20, as adjusted from time to time under
115 subsection 33-11(b), or the comparable pay grade if the general
116 salary schedule is revised;]

117 [(7)] (6)* * *

118 [(8)] (7)* * *

119 (c) In designating public employees to file public or confidential financial
120 disclosure statements under subsection (a)(4) or (b)[(7)](6), the
121 Executive should include those employees who have substantial
122 responsibility for one or more of the following functions;

123 * * *

124 **19A-18. Financial disclosure statement; procedures.**

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* * *

(e) (1) * * *

(D) The Chief Administrative Officer may designate the head of a County agency to review a statement. A director of a County agency or the Chief Administrative Officer may designate the deputy director of the agency or the chief of a division of the agency to review a statement. The designator ~~[[should]]~~ must inform the Commission of the delegation. The designee is subject to the same rules of confidentiality as the designator.

(2) After certifying that each part of the statement has been ~~[reviewed]~~ completed and that, on the basis of the information reported, there is no conflict of interest or potential conflict of interest with the filer's official duties, the agency director or Chief Administrative Officer must forward [it] the statement to the Commission within 30 days after receiving it. The agency director or the Chief Administrative Officer may retain a copy of the statement for one year after forwarding it to the Commission. If asked by an agency director, the Chief Administrative Officer, the County Executive, a Council member, or the filer of the statement, the Commission must review any statement within 120 days after receiving it.

* * *

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

150 statement:

151 (1) within 15 days after the employee begins employment in a
152 position covered by Section 19A-17, covering the current
153 calendar year up to the date of filing and, unless the employee
154 has already filed a statement for the previous year, the previous
155 calendar year; and

156 * * *

157 **[[19A-23. How and when to register as lobbyist.**

158 * * *

159 (c) A lobbyist must [register separately] file an annual registration form
160 and pay any annual registration fee for each employer.]]

161 * * *

162 **19A-27. [Petition for injunctive] Injunctive or other relief; cease and desist**
163 **orders; voiding official actions.**

164 * * *

165 (d) Except as expressly provided otherwise, any remedy specified in this
166 Article may be invoked regardless of whether the Commission has
167 found, after holding a hearing under Section 19A-10(c), that a public
168 employee violated this Chapter.

169 **19A-28. Penalties.**

170 (a) Unless otherwise indicated, any violation of this Chapter or
171 regulations adopted under it, or any violation of an order of the
172 Commission, is a class A violation.

173 (b) The County Executive may authorize Commission staff or another
174 County employee to issue a citation for any violation.

175 **19A-29. Civil recovery.**

176 (a) The County may recover damages, property, and the value of anything
177 received by any person in a transaction that violates:

- 178 (1) Article III of this Chapter;
179 (2) Article XII of Chapter 11B; or
180 (3) Section 2-109.

181 (b) The County may use a setoff, attachment, garnishment, or any other
182 appropriate legal action or proceeding to recover any amount or
183 property due.

184 * * *

185 **19A-32. Removal for failure to file financial disclosure statement; fine.**

186 (a) If a public employee does not file a complete financial disclosure
187 statement when required to under Section 19A-18, the Chief
188 Administrative Officer (for employees in the Executive branch) or the
189 County Council staff director (for employees in the legislative branch)
190 may remove the employee from employment with a County agency or
191 from membership on a board, commission or similar body, paid or
192 unpaid. Before an employee is removed for failing to file a financial
193 disclosure statement, the County Attorney must give the employee 30
194 days notice of the proposed removal. The Chief Administrative
195 Officer and the Council staff director must not remove an employee if
196 the employee files the required complete financial disclosure
197 statement within the time specified in the notice. This Section does
198 not apply to an elected public ~~[[employees]]~~ employee.

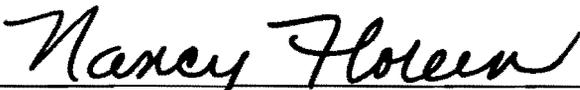
199 (b) In addition to any action taken under subsection (a), the Commission

200 may impose a fine of \$2 per day, up to a maximum of \$250, against
201 any person who does not file a complete financial disclosure statement
202 on or before the date it is due. Within 30 days after a fine is imposed
203 under this subsection, the person against whom the fine is assessed
204 may file a written request with the Commission to reduce or waive the
205 fine for good cause.

206 **Sec. 2. Expedited Effective Date.** The Council declares that this Act
207 is necessary for the immediate protection of the public interest. This Act takes
208 effect on April 1, 2010. The amendment to Section 19A-10 made in Section 1 of
209 this Act applies to any complaint filed after this Act takes effect.

210 *Approved:*

211

212  3/17/10
Nancy Floreen, President, County Council Date

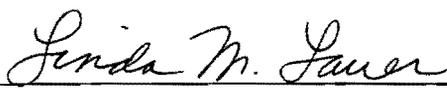
213 *Approved:*

214

215  3/20/10
Isiah Leggett, County Executive Date

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

217

218  3/29/10
Linda M. Lauer, Clerk of the Council Date