REGULATORY BOARDS AND COMMISSIONS ETHICS ACT
Act 96 of 2014

AN ACT to establish supplemental conflict of interest standards for members of regulatory bodies in the department of licensing and regulatory affairs; to require disclosure of certain interests; to provide grounds for removal of members of regulatory bodies; to provide a process for raising and determining possible conflicts of interest; and to provide for voiding certain actions taken in violation of this act.

History: 2014, Act 96, Eff. July 1, 2014.

The People of the State of Michigan enact:

15.481 Short title; definitions.

Sec. 1. (1) This act shall be known and may be cited as the "regulatory boards and commissions ethics act".

(2) As used in this act:

(a) "Board" means a board, commission, committee, or subcommittee in the department that has authority in regulatory actions concerning private individuals or entities.

(b) "Department" means the department of licensing and regulatory affairs.

(c) "Immediate family member" means a grandparent, parent, parent-in-law, stepparent, sibling, spouse, child, or stepchild.

History: 2014, Act 96, Eff. July 1, 2014.

15.482 Standards in addition to other standard of conduct or disclosure requirement.

Sec. 2. In addition to any other standard of conduct or disclosure requirement that may apply to a member or designated alternate member of a board, each member or designated alternate shall comply with the standards set forth in this act.

History: 2014, Act 96, Eff. July 1, 2014.

15.483 Board member; duties; prohibited conduct.

Sec. 3. (1) A board member shall do all of the following:

(a) Disclose to the board and the director of the department any pecuniary, contractual, business, employment, or personal interest that the board member may have in a contract, grant, loan, or a regulatory, enforcement, or disciplinary matter before the board. Disclosure is also required if a spouse, child, or stepchild of a board member is a director, officer, direct or indirect shareholder, or employee of an entity under consideration for a contract, grant, or loan or is the subject of a regulatory, enforcement, or disciplinary action before the board. A board member shall make a written disclosure of the conflict to the board unless the board member verbally discloses the conflict at a meeting of the board and the disclosure is included in the official minutes of the meeting.

(b) Refrain from participating in any discussion, directly or indirectly, with other board members regarding a matter before the board if the board member has a direct or indirect interest described in subdivision (a).

(c) Abstain from voting on any motion or resolution relating to a matter in which the board member has a direct or indirect interest described in subdivision (a).

(d) Use state resources, property, and funds under the board member's official care and control judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures and not for personal gain or benefit.

(2) A board member shall refrain from all of the following:

(a) Divulging to an unauthorized person any confidential information acquired in the course of the member's service on the board before the time prescribed or authorized for release to the public.

(b) Representing his or her personal opinion as that of the board or the department.

(c) Soliciting or accepting a gift or loan of money, goods, services, or other thing of value for the benefit of a person or organization other than this state that could reasonably be expected to influence the manner in which the board member performs official duties.

(d) Engaging in a business transaction in which the board member may profit from his or her official position or authority as a board member or benefit financially from confidential information that the board member obtained or may obtain incident to the board membership.

(e) Rendering services for a private or public interest if that service is incompatible or in conflict with the discharge of the board member's official duties at the time the services are rendered.

(f) Participating in his or her official capacity as a board member in negotiating or executing contracts, making loans, granting subsidies, fixing rates, issuing permits or certificates, or other regulation or

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supervision relating to a business entity in which the board member or an immediate family member of the board member has a pecuniary or personal interest, other than a 2% or smaller interest in a publicly traded company.

History: 2014, Act 96, Eff. July 1, 2014.

15.484 Board member or immediate family member with interest in matter; adoption in violation of conflict of interest; requirements.

Sec. 4. A contract, grant, or loan that a board enters into with or awards to a board member or an immediate family member of a board member with an interest in the matter is adopted in violation of conflict of interest standards and is voidable at the option of the department unless the affected board member complies with all of the following:

(a) Except as expressly permitted by applicable law, the affected board member has abstained from participating in the discussion or vote on the matter.

(b) The affected board member immediately upon knowledge or discovery discloses the pecuniary, contractual, business, employment, or personal interest in the contract, grant, or loan in the manner required by this act and other applicable law.

History: 2014, Act 96, Eff. July 1, 2014.

15.485 Undisclosed interest or conflict of interest; referral to board of ethics; review by director or designee; reconsideration of action.

Sec. 5. (1) A person who has reason to believe that a board member has failed to disclose an interest described in section 3(1)(a) or has an interest that is not required to be disclosed but that would have a tendency to affect the ability of the member to render an impartial decision on a matter may request, not later than 1 year after the board takes any action on the matter, that the director of the department or his or her designee consider the issue of a conflict of interest as to that matter. The director or his or her designee shall investigate the matter and decide the issue of whether or not the board member has an undisclosed interest described in section 3(1)(a) or has another conflict of interest sufficient to raise a reasonable doubt as to whether the board member could render an impartial decision. The director or his or her designee may refer the matter to the board of ethics created in section 3 of 1973 PA 196, MCL 15.343, at his or her discretion.

(2) If the director or his or her designee determines under subsection (1) that a board member has an undisclosed interest or a conflict of interest that is sufficient to raise a reasonable doubt as to whether the board member could render an impartial decision, the department shall review the action to determine if that board member cast a deciding vote in any action the board took regarding the matter in which there is a reasonable doubt of the board member's ability to have rendered an impartial decision. If the action did not depend on the vote of that board member, the action of the board stands. If that board member was the deciding vote in an action regarding the matter, the board shall reconsider the action without the participation of the board member who was found to have an interest that was sufficient to raise a reasonable doubt as to whether he or she could have rendered an impartial decision.

History: 2014, Act 96, Eff. July 1, 2014.

15.486 Conflict with existing ethics laws.

Sec. 6. This act is intended to supplement existing ethics laws, and if there is a conflict, the following laws prevail:

(a) Section 10 of article IV of the state constitution of 1963.

(b) 1978 PA 566, MCL 15.181 to 15.185.

(c) 1968 PA 318, MCL 15.301 to 15.310.

(d) 1968 PA 317, MCL 15.321 to 15.330.

(e) 1973 PA 196, MCL 15.341 to 15.348.

History: 2014, Act 96, Eff. July 1, 2014.

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