

HOUSE BILL 1210

C2, P2, Q1

1lr2245

By: **The Speaker**

Introduced and read first time: February 8, 2021

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2021

CHAPTER _____

1 AN ACT concerning

2 **Corporate Diversity – Board, Executive Leadership, and Mission**

3 FOR the purpose of prohibiting an entity from qualifying for certain State benefits unless
4 certain criteria relating to underrepresented communities are met; requiring the
5 Department of Commerce and the Office of Small, Minority, and Women Business
6 Affairs to develop, maintain, and publicly post a certain Scorecard; requiring the
7 Department and the Office to ~~promulgate~~ adopt regulations to carry out this Act;
8 requiring a certain entity to include certain diversity data in a certain annual report;
9 declaring the intent of the General Assembly; providing for a delayed effective date;
10 providing for the application of this Act; making the provisions of this Act severable;
11 defining certain terms; and generally relating to corporate boards and
12 underrepresented communities.

13 BY adding to

14 Article – Business Regulation

15 Section 19–106

16 Annotated Code of Maryland

17 (2015 Replacement Volume and 2020 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – Tax – Property

20 Section 11–101

21 Annotated Code of Maryland

22 (2019 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Business Regulation**

4 **19–106.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (2) “ENTITY” MEANS:

8 (I) A COMMERCIAL ENTERPRISE OR BUSINESS THAT IS IN GOOD
9 STANDING WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION AND IS:

10 1. INCORPORATED IN THE STATE; OR

11 2. REGISTERED TO DO BUSINESS IN THE STATE; OR

12 (II) A CORPORATION, FOUNDATION, SCHOOL, HOSPITAL, OR
13 OTHER LEGAL ENTITY FOR WHICH NONE OF THE NET EARNINGS INURE TO THE
14 BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL HOLDING AN INTEREST IN
15 THE ENTITY.

16 (3) “STATE BENEFIT” MEANS:

17 (I) STATE CAPITAL GRANT FUNDING TOTALING \$1,000,000 OR
18 MORE IN A SINGLE FISCAL YEAR;

19 (II) STATE TAX CREDITS TOTALING \$1,000,000 OR MORE IN A
20 SINGLE FISCAL YEAR; OR

21 (III) THE RECEIPT OF A STATE CONTRACT WITH A TOTAL VALUE
22 OF \$1,000,000 OR MORE.

23 (4) “STATE CONTRACT” MEANS A CONTRACT THAT:

24 (I) RESULTED FROM A COMPETITIVE PROCUREMENT PROCESS;
25 AND

26 (II) IS NOT FEDERALLY FUNDED IN ANY WAY.

27 ~~(4)~~ (5) “UNDERREPRESENTED COMMUNITY” MEANS A COMMUNITY
28 WHOSE MEMBERS SELF-IDENTIFY AS BLACK, AFRICAN AMERICAN, HISPANIC,
29 LATINO, ASIAN, PACIFIC ISLANDER, NATIVE AMERICAN, NATIVE HAWAIIAN, OR

1 ALASKA NATIVE.

2 (B) THIS SECTION DOES NOT APPLY TO A SOLE PROPRIETOR.

3 ~~(B)~~ (C) AN ENTITY MAY NOT QUALIFY FOR A STATE BENEFIT UNLESS THE
4 ENTITY IS ABLE TO DEMONSTRATE:

5 (1) MEMBERSHIP OF UNDERREPRESENTED COMMUNITIES IN THE
6 ENTITY'S BOARD OR EXECUTIVE LEADERSHIP; OR

7 (2) SUPPORT FOR UNDERREPRESENTED COMMUNITIES IN THE
8 ENTITY'S MISSION.

9 ~~(C)~~ (D) THE DEPARTMENT OF COMMERCE AND THE OFFICE OF SMALL,
10 MINORITY, AND WOMEN BUSINESS AFFAIRS SHALL:

11 (1) DEVELOP, MAINTAIN, AND POST PUBLICLY A STATE EQUITY
12 SCORECARD THAT COMPILES DIVERSITY DATA FOR EACH ENTITY ON:

13 (I) THE MEMBERSHIP OF UNDERREPRESENTED COMMUNITIES
14 IN THE ENTITY'S BOARD OR EXECUTIVE LEADERSHIP; AND

15 (II) THE SUPPORT OF UNDERREPRESENTED COMMUNITIES IN
16 THE ENTITY'S MISSION; AND

17 (2) ~~PROMULGATE~~ ADOPT REGULATIONS TO CARRY OUT THIS
18 SECTION, INCLUDING DIRECTIVES FOR STATE AGENCIES AND ENTITIES TO COMPLY
19 WITH THE REQUIREMENTS IN THIS SECTION.

20 Article – Tax – Property

21 11–101.

22 (a) On or before April 15 of each year, a person shall submit an annual report to
23 the Department if:

24 (1) the person is a business trust, statutory trust, domestic corporation,
25 limited liability company, limited liability partnership, or limited partnership;

26 (2) the person is a foreign corporation, foreign statutory trust, foreign
27 limited liability company, foreign limited liability partnership, or foreign limited
28 partnership registered or qualified to do business in the State; or

29 (3) the person owns or during the preceding calendar year owned property
30 that is subject to property tax.

1 (b) The report shall:

2 (1) be in the form that the Department requires;

3 (2) be under oath as the Department requires; and

4 (3) contain the information that the Department requires.

5 (c) (1) This subsection does not apply to a privately held company if at least
6 75% of the company's shareholders are family members.

7 (2) If the person submitting the report is a tax-exempt, domestic nonstock
8 corporation with an operating budget exceeding \$5,000,000, or a domestic stock corporation
9 with total sales exceeding \$5,000,000, the report required by the Department shall include
10 the number of female board members and the total number of members on the person's
11 board of directors.

12 **(D) IF THE PERSON SUBMITTING THE REPORT IS AN ENTITY THAT IS**
13 **SUBJECT TO § 19-106 OF THE BUSINESS REGULATION ARTICLE, THE REPORT**
14 **SHALL INCLUDE THE DIVERSITY DATA REQUIRED BY THE REGULATIONS**
15 **~~PROMULGATED~~ ADOPTED BY THE DEPARTMENT OF COMMERCE AND THE OFFICE**
16 **OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS UNDER § 19-106 OF THE**
17 **BUSINESS REGULATION ARTICLE.**

18 **[(d)] (E)** On or before December 31, 2019, the Department shall adopt
19 regulations on the granting of exemptions from the reporting requirement under this
20 section.

21 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General
22 Assembly that, if an entity receives a State benefit that is intended to be disbursed over
23 more than 1 year, only the amount that will be disbursed in 1 fiscal year shall count toward
24 the \$1,000,000 threshold in a single fiscal year established under § 19-106 of the Business
25 Regulation Article as enacted by Section 1 of this Act.

26 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That it is the intent of the
27 General Assembly that an entity that proposes to locate within a tax increment financing
28 district or enter into a payment in lieu of taxes agreement with a local jurisdiction first
29 demonstrate the membership of underrepresented communities in the entity's board or
30 executive leadership or support for underrepresented communities in the entity's mission.

31 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall be construed
32 to apply only prospectively and may not be applied or interpreted to have any effect on or
33 application to any State contracts or grants applied for or awarded, tax credits applied for,
34 claimed, or awarded, or tax credit certificates applied for or approved before the effective
35 date of this Act.

1 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That, if any provision of this Act
2 or the application thereof to any person or circumstance is held invalid for any reason in a
3 court of competent jurisdiction, the invalidity does not affect other provisions or any other
4 application of this Act that can be given effect without the invalid provision or application,
5 and for this purpose the provisions of this Act are declared severable.

6 SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2022.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.