

Chapter 795

(House Bill 1210)

AN ACT concerning

Corporate Diversity – Board, Executive Leadership, and Mission

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

BY adding to

Article – Business Regulation

Section 19–106

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section 11–101

Annotated Code of Maryland

(2019 Replacement Volume and 2020 Supplement)

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

Article – Business Regulation**19–106.**

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

(2) “ENTITY” MEANS:

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

1. INCORPORATED IN THE STATE; OR
2. REGISTERED TO DO BUSINESS IN THE STATE; OR

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

(3) “STATE BENEFIT” MEANS:

- (I) STATE CAPITAL GRANT FUNDING TOTALING \$1,000,000 OR MORE IN A SINGLE FISCAL YEAR;
- (II) STATE TAX CREDITS TOTALING \$1,000,000 OR MORE IN A SINGLE FISCAL YEAR; OR
- (III) THE RECEIPT OF A STATE CONTRACT WITH A TOTAL VALUE OF \$1,000,000 OR MORE.

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

- (I) RESULTED FROM A COMPETITIVE PROCUREMENT PROCESS;
- AND
- (II) IS NOT FEDERALLY FUNDED IN ANY WAY.

~~(4)~~ (5) “UNDERREPRESENTED COMMUNITY” MEANS A COMMUNITY WHOSE MEMBERS SELF-IDENTIFY:

(I) AS BLACK, AFRICAN AMERICAN, HISPANIC, LATINO, ASIAN, PACIFIC ISLANDER, NATIVE AMERICAN, NATIVE HAWAIIAN, OR ALASKA NATIVE; OR

(II) WITH ONE OR MORE OF THE RACIAL OR ETHNIC GROUPS LISTED IN ITEM (I) OF THIS PARAGRAPH.

(B) THIS SECTION DOES NOT APPLY TO:

- (1) A SOLE PROPRIETOR;
- (2) A LIMITED LIABILITY COMPANY OWNED BY A SINGLE MEMBER; ~~OR~~

(3) A PRIVATELY HELD COMPANY IF AT LEAST 75% OF THE COMPANY'S SHAREHOLDERS ARE FAMILY MEMBERS; OR

(4) AN ENTITY THAT:

(I) HAS AN ANNUAL OPERATING BUDGET OR ANNUAL SALES LESS THAN \$5,000,000; AND

(II) DOES NOT QUALIFY FOR A STATE BENEFIT.

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

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

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

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

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

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

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

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

Article – Tax – Property

11-101.

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

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

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

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

(b) The report shall:

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

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

(3) contain the information that the Department requires.

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

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

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

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

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

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

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

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

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

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.