

# HOUSE BILL 1383

P2, F3

4r2951  
CF 4r0585

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By: **Howard County Delegation**

Introduced and read first time: February 9, 2024

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Howard County Board of Education – Liquidated Damages – Policy and**  
3 **Requirements**

4 **Ho. Co. 3–24**

5 FOR the purpose of requiring the Howard County Board of Education, on or before a certain  
6 date, to publish a policy concerning the inclusion and use of liquidated damages  
7 provisions in procurement contracts; requiring certain student transportation  
8 procurement contracts to include a liquidated damages clause consistent with the  
9 policy, subject to a certain exception; requiring certain documentation of a decision  
10 not to pursue certain liquidated damages under certain circumstances; and generally  
11 relating to Howard County Board of Education procurements and liquidated  
12 damages provisions.

13 BY adding to  
14 Article – Education  
15 Section 4–142  
16 Annotated Code of Maryland  
17 (2022 Replacement Volume and 2023 Supplement)

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

20 **Article – Education**

21 **4–142.**

22 **(A) IN THIS SECTION, “LIQUIDATED DAMAGES” MEANS DAMAGES IN AN**  
23 **AMOUNT DESIGNATED BY THE PARTIES TO A CONTRACT THAT THE INJURED PARTY**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 IS ELIGIBLE TO COLLECT AS COMPENSATION FOR A SPECIFIC BREACH OF THE  
2 CONTRACT.

3 (B) THIS SECTION APPLIES ONLY IN HOWARD COUNTY.

4 (C) (1) ON OR BEFORE JANUARY 1, 2025, THE HOWARD COUNTY BOARD  
5 OF EDUCATION SHALL PUBLISH A POLICY CONCERNING THE INCLUSION AND USE OF  
6 LIQUIDATED DAMAGES PROVISIONS IN PROCUREMENT CONTRACTS FOR GOODS AND  
7 SERVICES, INCLUDING TRANSPORTATION SERVICES FOR STUDENTS.

8 (2) THE POLICY SHALL INCLUDE THE FOLLOWING ELEMENTS:

9 (I) GUIDANCE ON WHEN TO INCLUDE LIQUIDATED DAMAGES  
10 PROVISIONS IN PROCUREMENT CONTRACTS, INCLUDING:

11 1. INSTANCES WHERE LIQUIDATED DAMAGES  
12 PROVISIONS ARE REQUIRED BY LAW; AND

13 2. CONDITIONS WHERE LIQUIDATED DAMAGES  
14 PROVISIONS ARE RECOMMENDED TO PROTECT STATE, COUNTY, OR HOWARD  
15 COUNTY BOARD OF EDUCATION INTERESTS;

16 (II) GUIDANCE FOR DRAFTING LIQUIDATED DAMAGES  
17 PROVISIONS, INCLUDING REQUIRED OR RECOMMENDED METHODS FOR  
18 CALCULATING THE AMOUNT TO BE ASSESSED;

19 (III) A DRAFT PLAN FOR RESPONDING TO DEFICIENCIES IN A  
20 CONTRACTOR'S PERFORMANCE THAT MAY TRIGGER A LIQUIDATED DAMAGES  
21 PROVISION, REVIEWED BY LEGAL COUNSEL FOR THE HOWARD COUNTY BOARD OF  
22 EDUCATION; AND

23 (IV) A PROCESS TO DOCUMENT A DECISION TO PURSUE OR NOT  
24 PURSUE LIQUIDATED DAMAGES.

25 (3) THE HOWARD COUNTY BOARD OF EDUCATION MAY PROPOSE  
26 ALTERNATIVE ELEMENTS BASED ON CONTRACT TYPE.

27 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
28 EACH STUDENT TRANSPORTATION PROCUREMENT CONTRACT ENTERED INTO BY  
29 THE HOWARD COUNTY BOARD OF EDUCATION AND VALUED AT \$1,000,000 OR MORE  
30 SHALL INCLUDE A LIQUIDATED DAMAGES CLAUSE CONSISTENT WITH THE POLICY  
31 ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION.

1           **(2) THE HOWARD COUNTY BOARD OF EDUCATION MAY DECIDE NOT**  
2 **TO INCLUDE IN A CONTRACT A LIQUIDATED DAMAGES CLAUSE ON APPROVAL OF THE**  
3 **DECISION BY A VOTE OF THE BOARD OF EDUCATION.**

4           **(E) IF THE HOWARD COUNTY BOARD OF EDUCATION DECIDES NOT TO**  
5 **PURSUE LIQUIDATED DAMAGES WHEN A SPECIFIED BREACH ASSOCIATED WITH A**  
6 **LIQUIDATED DAMAGES PROVISION HAS OCCURRED, THE BOARD OF EDUCATION**  
7 **SHALL:**

8           **(1) DOCUMENT THE APPROVAL OF THE DECISION BY A VOTE OF THE**  
9 **BOARD OF EDUCATION; AND**

10           **(2) MAINTAIN DOCUMENTATION ON THE REASON THE BOARD OF**  
11 **EDUCATION DECIDED NOT TO PURSUE LIQUIDATED DAMAGES.**

12           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
13 1, 2024.