SENATE BILL 487

Unofficial Copy P2

ENROLLED BILL

2001 Regular Session (1lr1911)

-- Economic and Environmental Affairs/Commerce and Government Matters --

Introduced by Senator Stone

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, ____M.

President.

CHAPTER____

1 AN ACT concerning

2 Procurement - University System of Maryland - Construction Contracts 3 - Applicability of Retainage and Prompt Payment Requirements

4 FOR the purpose of making applicable to the University System of Maryland certain

5 provisions limiting and regulating the retainage that may be specified in a

6 procurement contract for construction under certain circumstances; making

7 applicable to the University System of Maryland certain provisions relating to

8 the prompt payment of subcontractors at any tier; providing for the application

9 of this Act; and generally relating to the University System of Maryland

10 procurement contracts for construction and prompt payment and retainage

11 issues expanding the list in the State procurement system provisions of law that

12 apply to a procurement contract by the University System of Maryland to include

13 provisions of law concerning retainage and prompt payment of subcontractors in

14 procurement contracts for construction; and generally relating to certain State

15 procurement system provisions of law applicable to the University System of

16 <u>Maryland</u>.

17 BY repealing and reenacting, with amendments,

5

- 1 Article - State Finance and Procurement

- Section 11-203(e) Annotated Code of Maryland (1995 Replacement Volume and 2000 Supplement) 2 3 4

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

6	MARYLAND, That the Laws of Maryland read as follows:						
7	7	Artic	le - State Finance and Procurement				
8	3 11-203.						
9 10	9 (e) (1) (i) 0 indicated.	In thi	s subsection the following words have the meanings				
11 12	1 (ii 2 University System of Ma		rd of Regents" means the Board of Regents of the				
13	3 (ii	i) "Univ	versity" means the University System of Maryland.				
14 15	4 (2) Ex 5 not apply to the Univers		rwise provided in this subsection, this Division II does of Maryland.				
18	(3) (i) A procurement by the University shall comply with the policies and procedures developed by the University and approved by the Board of Public Works and the Administrative, Executive, and Legislative Review Committee of the General Assembly in accordance with § 12-112 of the Education Article.						
	(y contract for services or capital improvements with a quire the review and approval of the Board of				
25	4 improvements with a va5 request the comments of	f the appropr	In its review of a contract for services or capital eds \$500,000 the Board of Public Works may iate agencies, including the Department of partment of General Services.				
27	7 (4) Th	ne University	y's policies shall:				
28 29			e maximum extent practicable, require the purchasing of with Title 14, Subtitle 1 of this article; and				
	-		ote the purposes of the regulations adopted by the erning the procurement of architectural and				
33 34	- (-) ()		pt as provided in paragraph (7) of this subsection, the of this article apply to the University:				
35	5	1.	§ 11-205 of this subtitle ("Fraud in procurement");				

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1 2	facts");	2.	§ 11-20	5.1 of this subtitle ("Falsification of material		
3 4	Nondiscrimination clause");	3.	§ 13-21	9 of this article ("Required clauses -		
5		4.	§ 13-22	5 OF THIS ARTICLE ("RETAINAGE");		
6 7	Participation");	[4.]	5.	Title 14, Subtitle 3 of this article ("Minority Business		
8 9	Contract Administration"); [[5.] [and]	6.	Title 15, Subtitle 1 of this article ("Procurement		
				26 OF THIS ARTICLE (" POLICY ESTABLISHED; TIMING ÆNT; DISPUTES; APPEALS <u><i>PROMPT PAYMENT</i></u>		
13		[6.]	8.	Title 16 of this article ("Debarment of Contractors").		
	(ii) If a procurement violates the provisions of this subsection or policies adopted in accordance with this subsection, the procurement contract is void or voidable in accordance with the provisions of § 11-204 of this subtitle.					
	(6) (i) The State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by the University before July 1, 1999.					
22	(ii) At the election of the Board of Regents and subject to the approval of the Board of Public Works, the State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by the University after June 30, 1999.					
24	(7) Parag	Paragraphs (3), (4), and (5) of this subsection do not apply to:				
25	(i)	procure	ement by	the University from:		
26		1.	another	unit;		
27		2.	a politio	cal subdivision of the State;		
28		3.	an agen	cy of a political subdivision of the State;		
29 30	4. a government, including the government of another state, of the United States, or of another country;					
31		5.	an agen	cy or political subdivision of a government; or		
32 33	governmental agency; or	6.	a bistate	e, multistate, bicounty, or multicounty		

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1 2 activitie	(ii) s for the purpose of:	procurement by the University in support of enterprise			
3		1.	direct resale;		
4		2.	remanufacture and subsequent resale; or		
5		3.	procurement by the University for overseas programs.		
6 SE	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be				

7 construed only prospectively and may not be applied or interpreted to have any effect
 8 on or application to any contracts entered into before the effective date of this Act.

9 SECTION 3. <u>2.</u> AND BE IT FURTHER ENACTED, That this Act shall take 10 effect October 1, 2001.

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