**Unofficial Copy** 2001 Regular Session P2 11r1911 By: Senator Stone Introduced and read first time: February 2, 2001 Assigned to: Economic and Environmental Affairs Committee Report: Favorable Senate action: Adopted Read second time: March 8, 2001 CHAPTER 1 AN ACT concerning 2 Procurement - University System of Maryland - Construction Contracts -3 **Applicability of Retainage and Prompt Payment Requirements** FOR the purpose of making applicable to the University System of Maryland certain 4 provisions limiting and regulating the retainage that may be specified in a 5 procurement contract for construction under certain circumstances; making 6 7 applicable to the University System of Maryland certain provisions relating to the prompt payment of subcontractors at any tier; providing for the application 8 of this Act; and generally relating to the University System of Maryland 9 10 procurement contracts for construction and prompt payment and retainage 11 issues. 12 BY repealing and reenacting, with amendments, Article - State Finance and Procurement 13 14 Section 11-203(e) 15 Annotated Code of Maryland (1995 Replacement Volume and 2000 Supplement) 16 17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

**Article - State Finance and Procurement** 

In this subsection the following words have the meanings

18 MARYLAND, That the Laws of Maryland read as follows:

(i)

19

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20 11-203.

22 indicated.

(e)

(1)

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1 2	(ii) University System of Maryla		of Regen	ts" means the Board of Regents of the
3	(iii)	"Unive	rsity" mea	ans the University System of Maryland.
4 5	(2) Excep not apply to the University S			ded in this subsection, this Division II does
8		the Universe, Executi	ersity and ve, and L	by the University shall comply with the policies approved by the Board of Public egislative Review Committee of the of the Education Article.
	\ /			for services or capital improvements with a view and approval of the Board of
15		appropria	ds \$500,00 te agencie	view of a contract for services or capital 00 the Board of Public Works may es, including the Department of f General Services.
17	(4) The U	niversity's	policies	shall:
18 19	(i) supplies and services in acco			extent practicable, require the purchasing of 4, Subtitle 1 of this article; and
	(ii) Department of General Serv engineering services.			poses of the regulations adopted by the procurement of architectural and
23 24	(5) (i) following provisions of Divi			ed in paragraph (7) of this subsection, the e apply to the University:
25		1.	§ 11-20	5 of this subtitle ("Fraud in procurement");
26 27	facts");	2.	§ 11-20.	5.1 of this subtitle ("Falsification of material
28 29	Nondiscrimination clause");	3.	§ 13-21	9 of this article ("Required clauses -
30		4.	§ 13-22	5 OF THIS ARTICLE ("RETAINAGE");
31 32	Participation");	[4.]	5.	Title 14, Subtitle 3 of this article ("Minority Business
33 34	Contract Administration"): [	[5.]	6.	Title 15, Subtitle 1 of this article ("Procurement

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1 2	OF PAYMENTS; NOTI		7. ON NON		6 OF THIS ARTICLE ("POLICY ESTABLISHED; TIMING ENT; DISPUTES; APPEALS"); AND				
3			[6.]	8.	Title 16 of this article ("Debarment of Contractors").				
	(ii policies adopted in accordanc or voidable in accordanc	dance	with this	subsection	violates the provisions of this subsection or ion, the procurement contract is void § 11-204 of this subtitle.				
	(6) (i) contract claims related to July 1, 1999.				of Contract Appeals shall have authority over awarded by the University before				
12	(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.								
14	(7) Pa	aragrap	raphs (3), (4), and (5) of this subsection do not apply to:						
15	(i)	)	procuren	nent by the	the University from:				
16			1.	another	unit;				
17			2.	a politic	eal subdivision of the State;				
18			3.	an agenc	cy of a political subdivision of the State;				
-	19 4. a government, including the government of another state, 20 of the United States, or of another country;								
21			5.	an agenc	cy or political subdivision of a government; or				
22 23	governmental agency; o		6.	a bistate	e, multistate, bicounty, or multicounty				
24 25	(ii activities for the purpose		procuren	nent by th	the University in support of enterprise				
26			1.	direct re	esale;				
27			2.	remanuf	facture and subsequent resale; or				
28			3.	procurer	ment by the University for overseas programs.				
	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed only prospectively and may not be applied or interpreted to have any effect on or application to any contracts entered into before the effective date of this Act.								
32 33	SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2001.								