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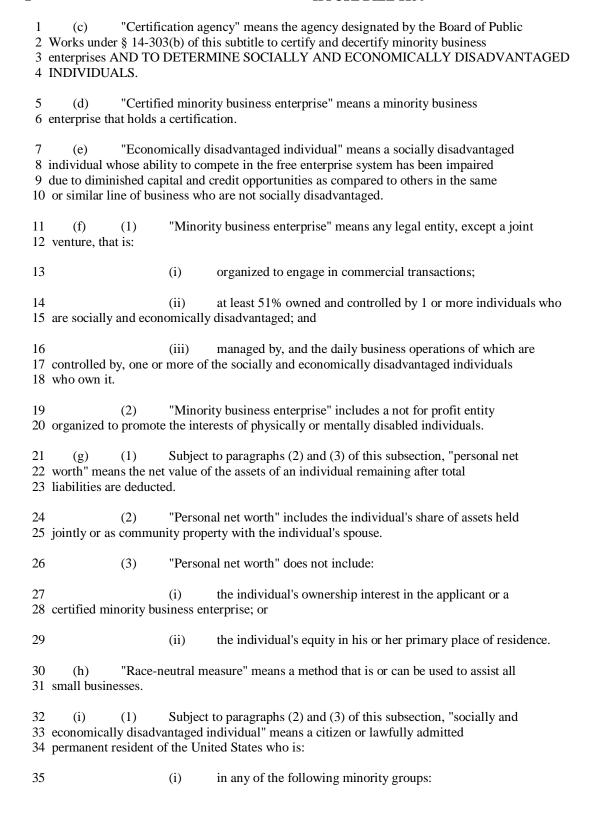
By: Delegates Glassman and Edwards

Introduced and read first time: February 8, 2002 Assigned to: Commerce and Government Matters

A BILL ENTITLED

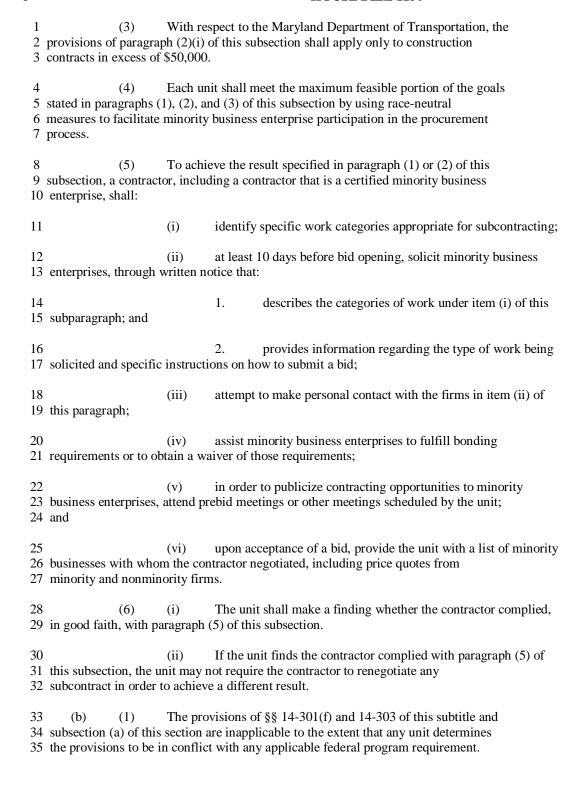
1	A TAT		•
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- 2 Procurement Minority Business Preference Socially and Economically Disadvantaged Individuals
- 4 FOR the purpose of altering the criteria for certification as a minority business
- 5 enterprise by including certain individuals in a certain definition; requiring the
- 6 Board of Public Works to adopt certain regulations that include certain
- 7 provisions for determining that an individual is socially and economically
- 8 disadvantaged; and generally relating to the certification of socially and
- 9 economically disadvantaged individuals.
- 10 BY repealing and reenacting, with amendments,
- 11 Article State Finance and Procurement
- 12 Section 14-301 and 14-303
- 13 Annotated Code of Maryland
- 14 (2001 Replacement Volume)
- 15 BY repealing and reenacting, without amendments,
- 16 Article State Finance and Procurement
- 17 Section 14-302
- 18 Annotated Code of Maryland
- 19 (2001 Replacement Volume)
- 20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 21 MARYLAND, That the Laws of Maryland read as follows:
- 22 Article State Finance and Procurement
- 23 14-301.
- 24 (a) In this subtitle the following words have the meanings indicated.
- 25 (b) "Certification" means the determination that a legal entity is a minority
- 26 business enterprise for the purposes of this subtitle.

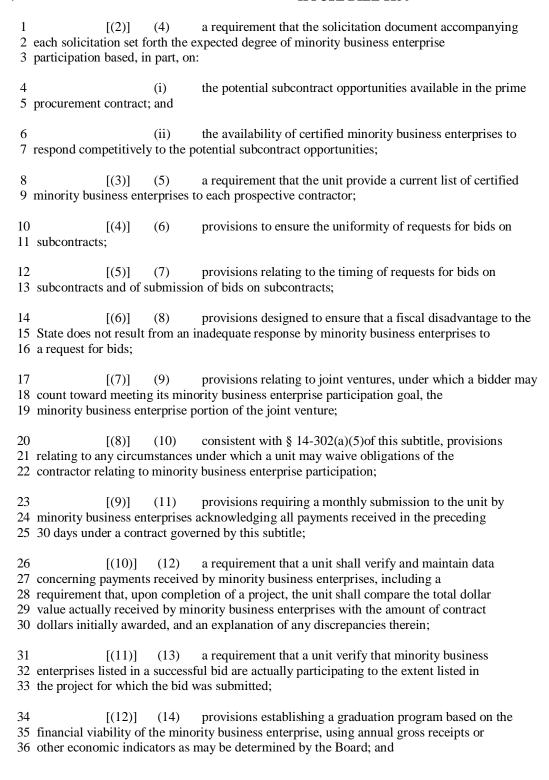


1 2	1. African American - an individual having origins in any of the black racial groups of Africa;
5 6 7 8 9	2. American Indian/Native American - an individual having origins in any of the original peoples of North America and who is a documented member of a North American tribe, band, or otherwise has a special relationship with the United States or a state through treaty, agreement, or some other form of recognition. This includes an individual who claims to be an American Indian/Native American and who is regarded as such by the American Indian/Native American community of which the individual claims to be a part, but does not include an individual of Eskimo or Aleutian origin;
	3. Asian - an individual having origins in the Far East, Southeast Asia, or the Indian subcontinent, and who is regarded as such by the community of which the person claims to be a part;
	4. Hispanic - an individual of Mexican, Puerto Rican, Cuban Central or South American, or other Spanish culture or origin, regardless of race, and who is regarded as such by the community of which the person claims to be a part;
19	5. physically or mentally disabled - an individual who has ar impairment that substantially limits one or more major life activity, who is regarded generally by the community as having such a disability, and whose disability has substantially limited his or her ability to engage in competitive business; or
	6. women - a woman, regardless of race or ethnicity, unless she is also a member of an ethnic or racial minority group and elects that category in lieu of the gender category; or
24 25	(ii) otherwise found by the certification agency to be a socially and economically disadvantaged individual.
	(2) There is a rebuttable presumption that an individual who is a member of a minority group under paragraph (1)(i) of this subsection is socially and economically disadvantaged.
29 30	(3) An individual whose personal net worth exceeds \$750,000 may not be found to be economically disadvantaged.
31	(j) "Socially disadvantaged individual" means:
34	(1) an individual who has been subjected to racial or ethnic prejudice or cultural bias within American society because of membership in a group and without regard to individual qualities[. Social disadvantage must stem from circumstances beyond the control of the individual];
	(2) AN INDIVIDUAL, INCLUDING A NONMINORITY MALE, WHO HAS SUFFERED SOCIAL DISADVANTAGE BECAUSE OF LONG-TERM RESIDENCE IN AN ENVIRONMENT ISOLATED FROM THE MAINSTREAM OF AMERICAN SOCIETY; OR

	(3) AN INDIVIDUAL WHO HAS SUFFERED SOCIAL DISADVANTAGE DUE TO CAUSES NOT COMMON TO INDIVIDUALS WHO ARE NOT SOCIALLY DISADVANTAGED.
4	14-302.
7	(a) (1) Except for leases of real property and except as provided in paragraphs (2) and (3) of this subsection, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve the following results:
11	(i) a minimum of 7% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as African American-owned businesses;
15	(ii) a minimum of 10% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as women-owned businesses; and
	(iii) an overall minimum of 25% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from all certified minority business enterprises.
	(2) (i) Except as provided in paragraph (3) of this subsection, in procurement for construction, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve the following results:
25	1. a minimum of 7% of the unit's total dollar value of construction contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as African American-owned businesses;
29	2. a minimum of 10% of the unit's total dollar value of construction contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as women-owned businesses; and
	3. an overall minimum of 25% of the unit's total dollar value of construction contracts is to be made directly or indirectly from all certified minority business enterprises.
34	(ii) The unit shall:
35 36	1. consider the practical severability of the construction projects; and
37 38	2. implement a program that will enable the unit to evaluate each contract to determine the appropriateness of the goal.



1 2	(2) The determination under this subsection shall be included with the report required under § 14-305 of this subtitle.
3	14-303.
	(a) (1) In accordance with Title 10, Subtitle 1 of the State Government Article, the Board shall adopt regulations consistent with the purposes of this Division II to carry out the requirements of this subtitle.
9	(2) The regulations shall establish procedures to be followed by units, prospective contractors, and successful bidders or offerors to maximize notice to, and the opportunity to participate in the procurement process by, a broad range of minority business enterprises.
11	(b) These regulations shall include:
	(1) provisions designating one agency to certify and decertify minority business enterprises for all units through a single process that meets applicable federal requirements;
17	(2) PROVISIONS ESTABLISHING THE ELEMENTS NEEDED FOR A DETERMINATION THAT AN INDIVIDUAL, NOT PRESUMED UNDER § 14-301 OF THIS ARTICLE TO BE SOCIALLY AND ECONOMICALLY DISADVANTAGED, IS SOCIALLY AND ECONOMICALLY DISADVANTAGED, INCLUDING THE FOLLOWING:
19 20	(I) 1. LONG-TERM RESIDENCE IN AN ENVIRONMENT ISOLATED FROM THE MAINSTREAM OF AMERICAN SOCIETY; OR
21 22	2. OTHER SIMILAR CAUSE NOT COMMON TO INDIVIDUALS WHO ARE NOT SOCIALLY DISADVANTAGED;
23 24	(II) PERSONAL EXPERIENCES OF SUBSTANTIAL AND CHRONIC SOCIAL DISADVANTAGE IN AMERICAN SOCIETY; AND
25 26	(III) NEGATIVE IMPACT ON ENTRY OR ADVANCEMENT IN THE BUSINESS WORLD BECAUSE OF THE DISADVANTAGE, INCLUDING:
27 28	1. DENIAL OF EQUAL ACCESS TO INSTITUTIONS OF HIGHER EDUCATION AND VOCATIONAL TRAINING;
29 30	2. UNEQUAL TREATMENT IN HIRING, PROMOTIONS, AND OTHER ASPECTS OF PROFESSIONAL ADVANCEMENT; AND
31	3. UNEQUAL ACCESS TO CREDIT OR CAPITAL;
34	(3) ESTABLISHING THE ELEMENTS NEEDED FOR A DETERMINATION THAT AN INDIVIDUAL IS ECONOMICALLY DISADVANTAGED INCLUDING REQUIREMENTS THAT INDIVIDUALS CLAIMING ECONOMIC DISADVANTAGE SUBMIT PERSONAL STATEMENTS OF NET WORTH;



- 1 [(13)] (15) other provisions that the Board considers necessary or
- 2 appropriate to encourage participation by minority business enterprises and to
- 3 protect the integrity of the procurement process.
- 4 (c) The regulations adopted under this section shall specify that a unit may
- 5 not allow a business to participate as if it were a certified minority business
- 6 enterprise if the business's certification is pending.
- 7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 8 October 1, 2002.