
By: ~~Delegate Sophocleus~~ Delegates Sophocleus, Benson, Boutin, Bromwell, Costa, Donoghue, Elliott, Goldwater, Hammen, Haynes, Hubbard, Kach, Mandel, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks, Pendergrass, Redmer, Rosenberg, Rudolph, Smigiel, V. Turner, and Weldon

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CHAPTER _____

1 AN ACT concerning

2 **Procurement - ~~Exceptions~~ Exemptions - Maryland Developmental**
3 **Disabilities Administration**

4 FOR the purpose of excluding certain procurements by the Developmental
5 Disabilities Administration of the Department of Health and Mental Hygiene
6 from certain ~~procurement~~ requirements of the procurement law; requiring the
7 ~~Administration to continue to attempt to achieve certain goals providing that~~
8 certain provisions of the minority business enterprise law apply to certain
9 procurements by the Administration; requiring procurements by certain entities
10 to promote certain purposes; and generally relating to procurements by the
11 ~~Developmental Disabilities Administration~~ exemptions from certain provisions
12 of the procurement law.

13 BY repealing and reenacting, with amendments,
14 Article - State Finance and Procurement
15 Section 11-203(a) and (b)(1) and (2)
16 Annotated Code of Maryland
17 (2001 Replacement Volume and 2002 Supplement)

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

1 **Article - State Finance and Procurement**

2 11-203.

3 (a) Except as provided in subsection (b) of this section, this Division II does
4 not apply to:

5 (1) procurement by:

6 (i) the Blind Industries and Services of Maryland;

7 (ii) the Maryland State Arts Council, for the support of the arts;

8 (iii) the Maryland Health and Higher Educational Facilities
9 Authority, if no State money is to be spent on a procurement contract;10 (iv) the Maryland Higher Education Supplemental Loan Authority,
11 if no State money is to be spent on a procurement contract;12 (v) the Maryland Industrial Training Program or the Partnership
13 for Workforce Quality Program in the Department of Business and Economic
14 Development, for training services or programs for new or expanding businesses or
15 industries or businesses or industries in transition;16 (vi) the Maryland Food Center Authority, to the extent the
17 Authority is exempt under Title 13, Subtitle 1 of Article 41 of the Code;18 (vii) the Maryland Public Broadcasting Commission, for services of
19 artists for educational and cultural television productions;20 (viii) public institutions of higher education, for cultural,
21 entertainment, and intercollegiate athletic procurement contracts;22 (ix) the Maryland State Planning Council on Developmental
23 Disabilities, for services to support demonstration, pilot, and training programs;

24 (x) the Maryland Automobile Insurance Fund;

25 (xi) the Maryland Historical Trust for:

26 1. surveying and evaluating architecturally, archeologically,
27 historically, or culturally significant properties; and28 2. other than as to architectural services, preparing historic
29 preservation planning documents and educational material;30 (xii) the University of Maryland, for University College Overseas
31 Programs, if the University adopts regulations that:32 1. establish policies and procedures governing procurement
33 for University College Overseas Programs; and

1 2. promote the purposes stated in § 11-201(a) of this subtitle;

2 (xiii) St. Mary's College of Maryland;

3 (xiv) the Department of Business and Economic Development, for
4 negotiating and entering into private sector cooperative marketing projects that
5 directly enhance promotion of Maryland and the tourism industry where there will be
6 a private sector contribution to the project if not less than 50% of the total cost of the
7 project, if the project is reviewed by the Attorney General and approved by the
8 Secretary of Business and Economic Development or the Secretary's designee;

9 (xv) the Forvm for Rural Maryland;

10 (xvi) the Maryland State Lottery Agency, for negotiating and
11 entering into private sector cooperative marketing projects that directly enhance
12 promotion of the Maryland State Lottery and its products, if the cooperative
13 marketing project:

14 1. provides a substantive promotional or marketing value
15 that the lottery determines acceptable in exchange for advertising or other
16 promotional activities provided by the lottery;

17 2. does not involve the advertising or other promotion of
18 alcohol or tobacco products; and

19 3. is reviewed by the Attorney General and approved by the
20 Maryland Lottery Director or the Director's designee; [and]

21 (xvii) the Maryland Health Insurance Plan established under Title
22 14, Subtitle 5 of the Insurance Article; AND

23 (XVIII) THE MARYLAND DEVELOPMENTAL DISABILITIES
24 ADMINISTRATION OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR
25 ~~SERVICES THAT DIRECTLY BENEFIT INDIVIDUALS WITH DISABILITIES IN~~
26 ~~COMMUNITY-BASED PROGRAMS EXCEPT THAT THE ADMINISTRATION SHALL~~
27 ~~ATTEMPT TO ACHIEVE THE GOALS AND COMPLY WITH THE REPORTING~~
28 ~~REQUIREMENTS OF TITLE 14, SUBTITLE 3 OF THIS ARTICLE~~ FAMILY AND INDIVIDUAL
29 SUPPORT SERVICES, AND INDIVIDUAL FAMILY CARE SERVICES, AS THOSE TERMS
30 ARE DEFINED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE IN
31 REGULATION;

32 (2) procurement by a unit from:

33 (i) another unit;

34 (ii) a political subdivision of the State;

35 (iii) an agency of a political subdivision of the State;

1 (iv) a government, including the government of another state, of the
2 United States, or of another country;

3 (v) an agency or political subdivision of a government; or

4 (vi) a bistate, multistate, bicounty, or multicounty governmental
5 agency; or

6 (3) procurement in support of enterprise activities for the purpose of:

7 (i) direct resale; or

8 (ii) remanufacture and subsequent resale.

9 (b) (1) (I) The following provisions of this Division II apply to each
10 procurement enumerated in subsection (a) of this section:

11 [(i)] 1. § 11-205 of this subtitle ("Fraud in procurement");

12 [(ii)] 2. § 12-204 of this article ("Board approval for designated
13 contracts");

14 [(iii)] 3. Title 12, Subtitle 2 of this article ("Supervision of Capital
15 Expenditures and Real Property Leases");

16 [(iv)] 4. § 13-219 of this article ("Required clauses -
17 Nondiscrimination clause");

18 [(v)] 5. § 13-221 of this article ("Disclosures to Secretary of
19 State");

20 [(vi)] 6. Title 16 of this article ("Debarment of Contractors"); and

21 [(vii)] 7. Title 17 of this article ("Special Provisions - State and
22 Local Subdivisions").

23 (II) TITLE 14, SUBTITLE 3 OF THIS ARTICLE APPLIES TO A
24 PROCUREMENT BY THE MARYLAND DEVELOPMENTAL DISABILITIES
25 ADMINISTRATION OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE EXEMPT
26 UNDER SUBSECTION (A)(1)(XVIII) OF THIS SECTION.

27 (2) A procurement by an entity listed in subsection (a)(1)(i) through
28 [(xv)] (XVIII) of this section shall be made under procedures that promote the
29 purposes stated in § 11-201(a) of this subtitle.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2003.

