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By: Delegates Patterson, Taylor, Benson, Bobo, Branch, Burns, C. Davis, D. Davis, Fulton, Griffith, Healey, Heller, Hixson, Holmes, Howard, Hubbard, Jones, Marriott, Menes, Murray, Niemann, Oaks, Proctor, Ramirez, Rawlings, Ross, F. Turner, and Vaughn Introduced and read first time: February 26, 2003

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 Procurement - Minority Business Enterprises - Personal Net Worth 3 Requirements

4 FOR the purpose of prohibiting, under certain circumstances, the decertification of a

- 5 minority business enterprise that is controlled to a certain extent by an
- 6 individual whose personal net worth exceeds a certain dollar amount; requiring
- 7 certain regulations adopted by the Board of Public Works establishing a
- 8 graduation program for minority business enterprises to take into account a
- 9 certain prohibition on decertification under certain circumstances; providing for
- 10 the application of this Act; and generally relating to minority business
- 11 enterprises.

12 BY repealing and reenacting, with amendments,

- 13 Article State Finance and Procurement
- 14 Section 14-301(i) and 14-303(b)(12)
- 15 Annotated Code of Maryland
- 16 (2001 Replacement Volume and 2002 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

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

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Article - State Finance and Procurement

- 20 14-301.
- 21 (i) (1) Subject to paragraphs (2) and (3) of this subsection, "socially and
- 22 economically disadvantaged individual" means a citizen or lawfully admitted
- 23 permanent resident of the United States who is:
- 24

(i) in any of the following minority groups:

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1 African American - an individual having origins in any of 1. 2 the black racial groups of Africa; 3 2. American Indian/Native American - an individual having 4 origins in any of the original peoples of North America and who is a documented 5 member of a North American tribe, band, or otherwise has a special relationship with 6 the United States or a state through treaty, agreement, or some other form of 7 recognition. This includes an individual who claims to be an American Indian/Native 8 American and who is regarded as such by the American Indian/Native American 9 community of which the individual claims to be a part, but does not include an 10 individual of Eskimo or Aleutian origin; 11 3. Asian - an individual having origins in the Far East, 12 Southeast Asia, or the Indian subcontinent, and who is regarded as such by the 13 community of which the person claims to be a part; 14 4. Hispanic - an individual of Mexican, Puerto Rican, Cuban, 15 Central or South American, or other Spanish culture or origin, regardless of race, and 16 who is regarded as such by the community of which the person claims to be a part; 17 physically or mentally disabled - an individual who has an 5. 18 impairment that substantially limits one or more major life activity, who is regarded 19 generally by the community as having such a disability, and whose disability has 20 substantially limited his or her ability to engage in competitive business; or 21 6. women - a woman, regardless of race or ethnicity, unless 22 she is also a member of an ethnic or racial minority group and elects that category in 23 lieu of the gender category; or 24 (ii) otherwise found by the certification agency to be a socially and 25 economically disadvantaged individual. 26 There is a rebuttable presumption that an individual who is a (2)27 member of a minority group under paragraph (1)(i) of this subsection is socially and 28 economically disadvantaged. [An] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS 29 (3)(I) 30 PARAGRAPH, AN individual whose personal net worth exceeds \$750,000 may not be 31 found to be economically disadvantaged. 32 IF SUBSEQUENT TO CERTIFICATION OF AN ENTITY AS A (II) 33 MINORITY BUSINESS ENTERPRISE, AN INDIVIDUAL WHO CONTROLS AT LEAST 51% OF 34 THE ENTITY ACCRUES A PERSONAL NET WORTH THAT EXCEEDS \$750,000, THE 35 MINORITY BUSINESS ENTERPRISE MAY NOT BE DECERTIFIED UNTIL: 36 3 YEARS AFTER THE INDIVIDUAL ACCRUES A PERSONAL 1. 37 NET WORTH THAT EXCEEDS \$750,000; OR

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12.THE EXPIRATION OF THE TERM AND ANY RENEWAL2PERIOD OF ANY CONTRACT TO WHICH THE MINORITY BUSINESS ENTERPRISE IS A3PARTY.

4 14-303.

5 (b) These regulations shall include:

6 (12) SUBJECT TO THE REQUIREMENTS OF § 14-301(I)(3)(II) OF THIS

7 SUBTITLE, provisions establishing a graduation program based on the financial

8 viability of the minority business enterprise, using annual gross receipts or other

9 economic indicators as may be determined by the Board; and

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be

11 construed to apply retroactively and shall be applied to and interpreted to affect any

12 individual or minority business enterprise of which the individual controls at least

13 51% that would be subject to the provisions of 14-301(i)(3) on or after July 1, 2001.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect 15 October 1, 2003.

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