
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 Vaughn, Hurson, Hammen, Bates, Boutin, Bromwell, Costa, Donoghue, Elliott, Goldwater, Haynes, Mandel, McDonough, Morhaim, Nathan-Pulliam, Pendergrass, Redmer, Rosenberg, Rudolph, Smigiel, V. Turner, and Weldon~~**

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Committee Report: Favorable with amendments
House action: Adopted
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CHAPTER _____

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 continued participation, in certain program and contract goals, of certain~~
11 ~~minority business enterprises that are controlled by individuals whose personal~~
12 ~~net worth exceeds a certain dollar amount; requiring the certification agency to~~
13 ~~conduct a certain study and to submit a certain report on or before a certain~~
14 ~~date; providing for the application of this Act; and generally relating to minority~~
15 ~~business enterprises.~~

16 BY repealing and reenacting, ~~with~~ without amendments,
17 Article - State Finance and Procurement
18 Section 14-301(i) and 14-303(b)(12)
19 Annotated Code of Maryland

1 (2001 Replacement Volume and 2002 Supplement)

2 BY adding to

3 Article - State Finance and Procurement

4 Section 14-302(a)(7)

5 Annotated Code of Maryland

6 (2001 Replacement Volume and 2002 Supplement)

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

9 **Article - State Finance and Procurement**

10 14-301.

11 (i) (1) Subject to paragraphs (2) and (3) of this subsection, "socially and
12 economically disadvantaged individual" means a citizen or lawfully admitted
13 permanent resident of the United States who is:

14 (i) in any of the following minority groups:

15 1. African American - an individual having origins in any of
16 the black racial groups of Africa;

17 2. American Indian/Native American - an individual having
18 origins in any of the original peoples of North America and who is a documented
19 member of a North American tribe, band, or otherwise has a special relationship with
20 the United States or a state through treaty, agreement, or some other form of
21 recognition. This includes an individual who claims to be an American Indian/Native
22 American and who is regarded as such by the American Indian/Native American
23 community of which the individual claims to be a part, but does not include an
24 individual of Eskimo or Aleutian origin;

25 3. Asian - an individual having origins in the Far East,
26 Southeast Asia, or the Indian subcontinent, and who is regarded as such by the
27 community of which the person claims to be a part;

28 4. Hispanic - an individual of Mexican, Puerto Rican, Cuban,
29 Central or South American, or other Spanish culture or origin, regardless of race, and
30 who is regarded as such by the community of which the person claims to be a part;

31 5. physically or mentally disabled - an individual who has an
32 impairment that substantially limits one or more major life activity, who is regarded
33 generally by the community as having such a disability, and whose disability has
34 substantially limited his or her ability to engage in competitive business; or

35 6. women - a woman, regardless of race or ethnicity, unless
36 she is also a member of an ethnic or racial minority group and elects that category in
37 lieu of the gender category; or

1 (ii) otherwise found by the certification agency to be a socially and
2 economically disadvantaged individual.

3 (2) There is a rebuttable presumption that an individual who is a
4 member of a minority group under paragraph (1)(i) of this subsection is socially and
5 economically disadvantaged.

6 (3) ~~(I) [An] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS~~
7 ~~PARAGRAPH, AN An~~ individual whose personal net worth exceeds \$750,000 may not
8 be found to be economically disadvantaged.

9 ~~(II) IF SUBSEQUENT TO CERTIFICATION OF AN ENTITY AS A~~
10 ~~MINORITY BUSINESS ENTERPRISE, AN INDIVIDUAL WHO CONTROLS AT LEAST 51% OF~~
11 ~~THE ENTITY ACCRUES A PERSONAL NET WORTH THAT EXCEEDS \$750,000, THE~~
12 ~~MINORITY BUSINESS ENTERPRISE MAY NOT BE DECERTIFIED UNTIL:~~

13 ~~1. 3 YEARS AFTER THE INDIVIDUAL ACCRUES A PERSONAL~~
14 ~~NET WORTH THAT EXCEEDS \$750,000; OR~~

15 ~~2. THE EXPIRATION OF THE TERM AND ANY RENEWAL~~
16 ~~PERIOD OF ANY CONTRACT TO WHICH THE MINORITY BUSINESS ENTERPRISE IS A~~
17 ~~PARTY.~~

18 14-302.

19 (a) (7) IF, DURING THE PERFORMANCE OF A CONTRACT BY A CONTRACTOR
20 OR SUBCONTRACTOR THAT IS A CERTIFIED MINORITY BUSINESS ENTERPRISE, THE
21 CERTIFIED MINORITY BUSINESS ENTERPRISE BECOMES INELIGIBLE TO
22 PARTICIPATE IN THE MINORITY BUSINESS ENTERPRISE PROGRAM BECAUSE THE
23 OWNER OF THE MINORITY BUSINESS ENTERPRISE EXCEEDS THE PERSONAL NET
24 WORTH LIMIT SET FORTH IN § 14-301(I)(3) OF THIS SUBTITLE, THE PARTICIPATION OF
25 THAT MINORITY BUSINESS ENTERPRISE ON THAT CONTRACT SHALL CONTINUE TO
26 BE COUNTED TOWARD THE GOALS OF THE CONTRACT AND THE UNIT.

27 14-303.

28 (b) These regulations shall include:

29 (12) ~~SUBJECT TO THE REQUIREMENTS OF § 14-301(I)(3)(II) OF THIS~~
30 ~~SUBTITLE~~, provisions establishing a graduation program based on the financial
31 viability of the minority business enterprise, using annual gross receipts or other
32 economic indicators as may be determined by the Board; and

33 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be~~
34 ~~construed to apply retroactively and shall be applied to and interpreted to affect any~~
35 ~~individual or minority business enterprise of which the individual controls at least~~
36 ~~51% that would be subject to the provisions of § 14-301(i)(3) on or after July 1, 2001.~~

37 SECTION 2. AND BE IT FURTHER ENACTED, That the certification agency
38 shall:

1 (a) Conduct a study to determine whether:

2 (1) Under current economic conditions, it continues to be appropriate to
3 prohibit a finding that an individual whose personal net worth exceeds \$750,000 is
4 economically disadvantaged; and

5 (2) It is appropriate to establish a transition period of a specific duration
6 between the date on which an individual's personal net worth exceeds \$750,000 and
7 the date on which decertification occurs under the State Finance and Procurement
8 Article; and

9 (b) On or before January 1, 2004, in accordance with § 2-1246 of the State
10 Government Article, report its findings to the House Health and Government
11 Operations Committee and the Senate Education, Health, and Environmental Affairs
12 Committee.

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