Unofficial Copy P2

2004 Regular Session 4lr0818 CF 4lr1508

By: Senators Grosfeld and Jones

Introduced and read first time: February 5, 2004

Assigned to: Education, Health, and Environmental Affairs

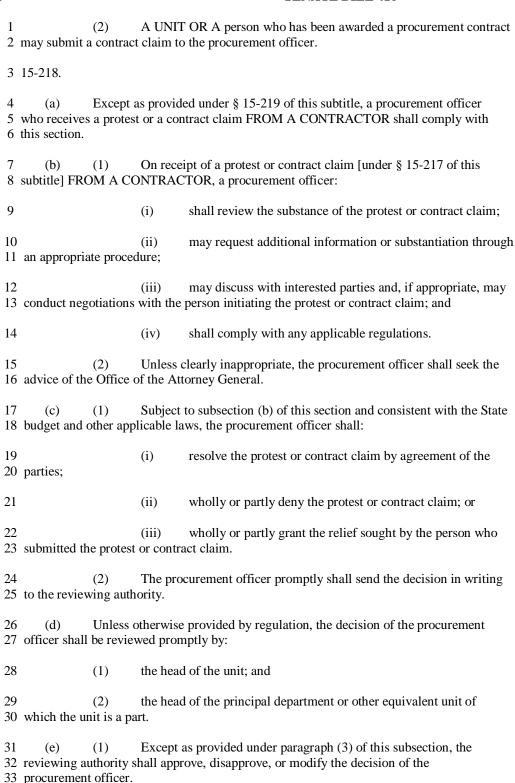
A BILL ENTITLED

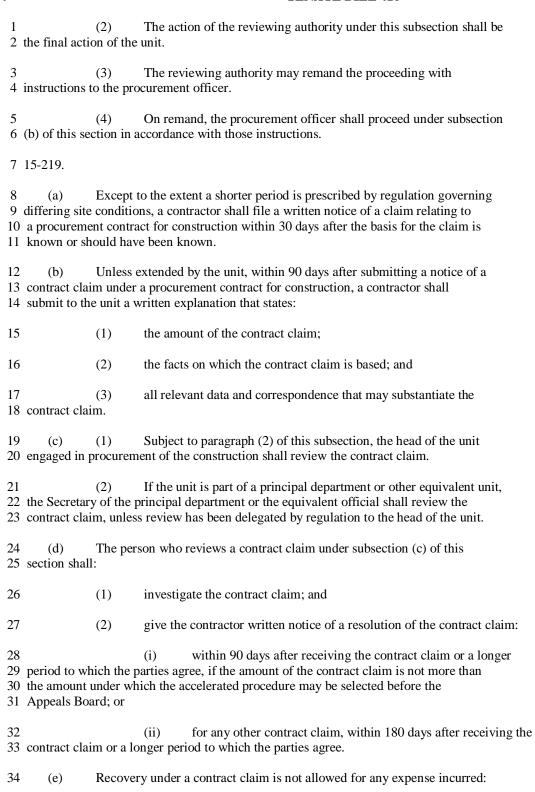
1 AN ACT concerning

2 **Procurement - Board of Contract Appeals - Jurisdiction over State Claims**

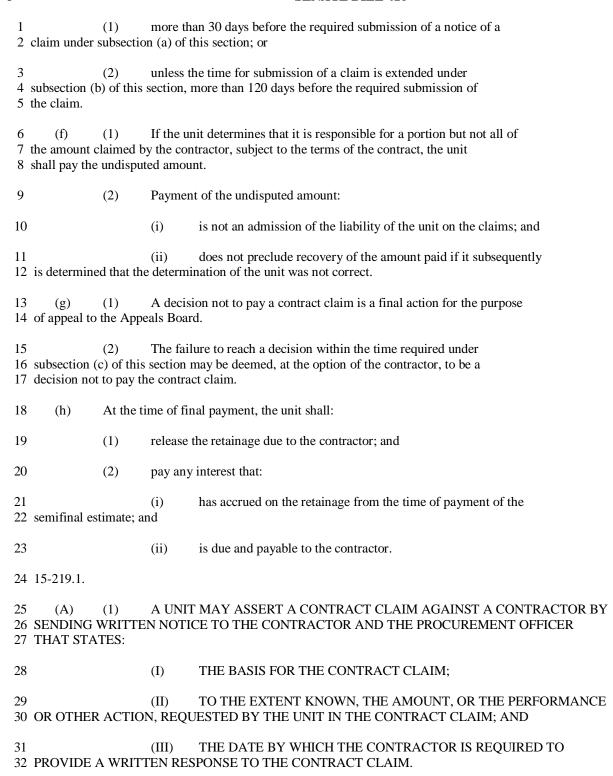
- 3 FOR the purpose of authorizing an interested party to appeal a final action on a
- procurement contract claim made by a State agency to the State Board of 4
- 5 Contract Appeals; altering the jurisdiction of the Appeals Board; clarifying that
- 6 certain claims procedures for a procurement contract apply only to a claim by a
- 7 contractor; establishing certain contract claims procedures for a State contract
- 8 claim; requiring a State contract claim to include certain information; requiring
- the procurement officer to review a State contract claim; authorizing the 9
- procurement officer to request additional information or to discuss or negotiate 10 a State contract claim with the State agency or the contractor; requiring the 11
- procurement officer to prepare a proposed decision on a State contract claim 12
- 13 under certain circumstances; requiring a procurement officer to include certain
- 14 information and the supporting rationale in a proposed decision; providing for 15
- review of a proposed decision by certain persons under certain circumstances;
- 16 authorizing a reviewing authority to approve, disapprove, or modify a proposed
- 17 decision; establishing that approval, disapproval, or modification of a proposed
- 18 decision by the reviewing authority constitutes the final action of the State
- 19 agency on the contract claim; authorizing a reviewing authority to remand with
- 20 instructions a disapproved proposed decision to the procurement officer;
- authorizing the award of interest to a State agency under a procurement 21
- 22 contract claim; and generally relating to the authority of the State Board of
- 23 Contract Appeals over a procurement contract claim made by a State agency.
- 24 BY repealing and reenacting, without amendments,
- Article State Finance and Procurement 25
- Section 15-201, 15-215(b), and 15-219 26
- 27 Annotated Code of Maryland
- (2001 Replacement Volume and 2003 Supplement) 28
- 29 BY repealing and reenacting, with amendments,
- 30 Article - State Finance and Procurement
- 31 Section 15-211, 15-217(a), 15-218, 15-220(a), and 15-222(a) and (b)
- 32 Annotated Code of Maryland

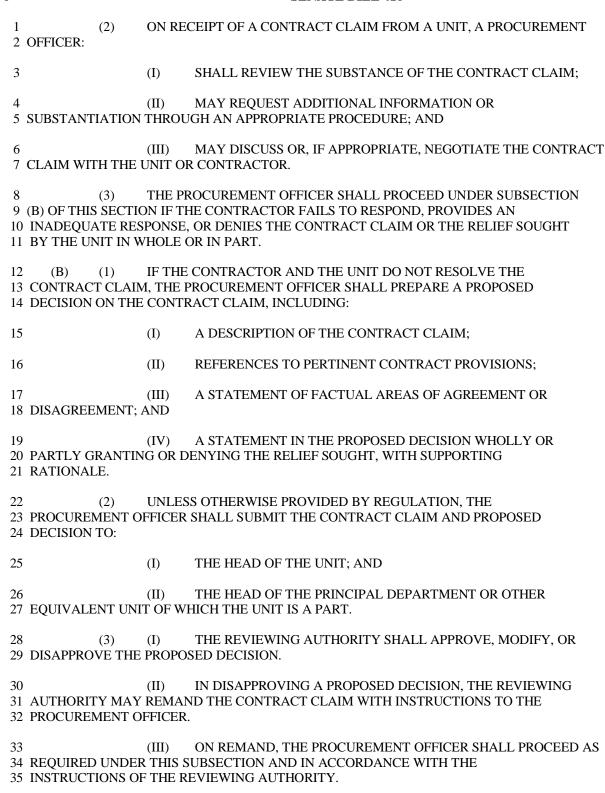
1	(2001 Replacement Volume and 2003 Supplement)			
2 3 4 5 6	BY adding to Article - State Finance and Procurement Section 15-219.1 Annotated Code of Maryland (2001 Replacement Volume and 2003 Supplement)			
7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 8 MARYLAND, That the Laws of Maryland read as follows:				
9				Article - State Finance and Procurement
10	15-201.			
11 12	In this subtitle, "Appeals Board" means the Maryland State Board of Contract Appeals.			
13	15-211.			
14 15	(a) The Appeals Board shall have jurisdiction to hear and decide all appeals arising from the final action of a unit:			
16		(1)	on a pro	test relating to the formation of a procurement contract; or
17 18		(2) m BY A	except f CONTR	for a contract claim relating to a lease of real property, on a ACTOR OR A UNIT concerning:
19			(i)	breach;
20			(ii)	performance;
21			(iii)	modification; or
22			(iv)	termination.
23	(b) A decision of the Appeals Board is final, subject to any judicial review.			
24	15-215.			
25 26	(b) contract.	(1)	"Contra	ct claim" means a claim that relates to a procurement
27 28	(2) "Contract claim" includes a claim about the performance, breach, modification, or termination of the procurement contract.			
29	15-217.			
30 31	(a) (1) A prospective bidder or offeror, a bidder, or an offeror may submit protest to the procurement officer.			





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- 1 (4) THE DECISION OF THE REVIEWING AUTHORITY IS THE FINAL 2 ACTION OF THE UNIT.
- 3 15-220.
- 4 (a) Except for a contract claim related to a lease for real property, a bidder or 5 offeror, a prospective bidder or offeror, A UNIT, or a contractor may appeal the final
- 6 action of a unit to the Appeals Board.
- 7 15-222.
- 8 (a) Notwithstanding any provision of a procurement contract, the Appeals
- 9 Board may award interest on money that the Appeals Board determines to be due to
- 10 the UNIT OR THE contractor under a contract claim.
- 11 (b) Subject to paragraph (2) of this subsection, interest may accrue from
- 12 a day that the Appeals Board determines to be fair and reasonable after hearing all
- 13 the facts until the day of the decision by the Appeals Board.
- 14 (2) Interest may not accrue before the procurement officer receives a
- 15 contract claim from the UNIT OR THE contractor.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 17 October 1, 2004.