

# HOUSE BILL 326

P2

9lr0765  
CF 9lr2234

---

By: **Delegates Weir, Burns, Holmes, McConkey, Minnick, Nathan-Pulliam,  
and Olszewski**

Introduced and read first time: January 30, 2009

Assigned to: Health and Government Operations

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Minority Business Enterprises – Retention of Certification**  
3 **and Status and Participation in the Minority Business Enterprise Program**

4 FOR the purpose of authorizing the certification agency for the minority business  
5 enterprise (MBE) program to allow, for a certain period of time, a minority  
6 business enterprise that graduates from the MBE program to retain its  
7 certification number and participate in the MBE program as if it were a  
8 certified minority business enterprise; and generally relating to the authority of  
9 the certification agency for the MBE program to allow certain businesses to  
10 retain a certain certification and status and participate in the minority business  
11 enterprise program.

12 BY repealing and reenacting, without amendments,  
13 Article – State Finance and Procurement  
14 Section 14–301(a), (b), (c), and (d) and 14–303(b)(1) and (12) and (c)  
15 Annotated Code of Maryland  
16 (2006 Replacement Volume and 2008 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – State Finance and Procurement  
19 Section 14–304  
20 Annotated Code of Maryland  
21 (2006 Replacement Volume and 2008 Supplement)

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

24 **Article – State Finance and Procurement**

25 14–301.

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) In this subtitle the following words have the meanings indicated.

2 (b) “Certification” means the determination that a legal entity is a minority  
3 business enterprise for the purposes of this subtitle.

4 (c) “Certification agency” means the agency designated by the Board of  
5 Public Works under § 14–303(b) of this subtitle to certify and decertify minority  
6 business enterprises.

7 (d) “Certified minority business enterprise” means a minority business  
8 enterprise that holds a certification.

9 14–303.

10 (b) These regulations shall include:

11 (1) provisions designating one agency to certify and decertify minority  
12 business enterprises for all units through a single process that meets applicable  
13 federal requirements;

14 (12) provisions establishing a graduation program based on the  
15 financial viability of the minority business enterprise, using annual gross receipts or  
16 other economic indicators as may be determined by the Board;

17 (c) The regulations adopted under this section shall specify that a unit may  
18 not allow a business to participate as if it were a certified minority business enterprise  
19 if the business’s certification is pending.

20 14–304.

21 (a) (1) The certification agency shall develop and maintain a directory of  
22 all certified minority business enterprises.

23 (2) The directory shall be accessible to the public through the Internet.

24 (3) For each minority business enterprise included in the directory,  
25 the certification agency shall include the following information:

26 (i) all contract information available to the certification agency  
27 for the minority business enterprise;

28 (ii) the certification number and minority status of the minority  
29 business enterprise;

30 (iii) contact information for up to three professional references  
31 for the minority business enterprise; and

1 (iv) any other information the certification agency considers  
2 necessary or appropriate to encourage participation in the procurement process by  
3 minority business enterprises.

4 (4) The certification agency shall:

5 (i) update the directory at least monthly; and

6 (ii) identify as recently certified in the directory each minority  
7 business enterprise that has obtained certification during the calendar year.

8 **(B) NOTWITHSTANDING OTHER PROVISIONS OF THIS SUBTITLE, FOR 3**  
9 **YEARS FOLLOWING A DETERMINATION BY THE CERTIFICATION AGENCY THAT A**  
10 **MINORITY BUSINESS ENTERPRISE HAS ACHIEVED VIABILITY AND SATISFIED THE**  
11 **CRITERIA TO GRADUATE FROM THE MINORITY BUSINESS ENTERPRISE**  
12 **PROGRAM IN ACCORDANCE WITH THE ECONOMIC INDICATORS ESTABLISHED BY**  
13 **THE BOARD, THE CERTIFICATION AGENCY NONETHELESS MAY ALLOW THE**  
14 **BUSINESS:**

15 **(1) TO RETAIN ITS CERTIFICATION NUMBER AND MINORITY**  
16 **STATUS; AND**

17 **(2) TO PARTICIPATE IN THE MINORITY BUSINESS ENTERPRISE**  
18 **PROGRAM AS IF IT WERE A CERTIFIED MINORITY BUSINESS ENTERPRISE.**

19 **[(b)](C)** In the same manner and with the same fees as provided by law in  
20 civil cases, in a matter regarding the decertification of a certified minority business  
21 enterprise, the certification agency may:

22 (1) subpoena witnesses;

23 (2) administer oaths; and

24 (3) compel the production of records, books, papers, and other  
25 documents.

26 **[(c)](D)** If a person fails to comply with a subpoena issued under subsection  
27 **[(b)](C)** of this section, or fails to produce documents or other evidence, on petition of  
28 the certification agency, a court of competent jurisdiction may pass an order directing  
29 compliance with the subpoena or compelling the production of documents or other  
30 evidence.

31 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect  
32 October 1, 2009.