

Chapter 538

(Senate Bill 549)

AN ACT concerning

Small Business Reserve Program – Definition of Small Business – Revision

FOR the purpose of altering the definition of “small business” under the Small Business Reserve Program under the State procurement law; including small businesses that meet either the limitation on employees employed by the business or the limitation on gross sales of the business under the Small Business Reserve Program; requiring the Department of General Services to report to certain committees of the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Small Business Reserve Program.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 14–501(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–501(c)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

Preamble

WHEREAS, Maryland small businesses are an integral component and driving force for job creation and economic security; and

WHEREAS, The Maryland Small Business Reserve Program plays a key role in supporting Maryland small businesses, creating a forum for fostering increased competitive opportunities for growth; and

WHEREAS, The Maryland Small Business Reserve Program is also an important race-neutral program intended to reduce the impact of discrimination against minority- and women-owned businesses, especially those businesses seeking to become prime contractors, and to promote the development of competitive and economically viable minority- and women-owned businesses; and

WHEREAS, Increasing opportunities for more small business through increased participation in the Small Business Reserve Program is in the best interest of Maryland; and

WHEREAS, In order to meet its objectives, the structure, composition, and requirements of participation in the Small Business Reserve Program must be accessible and fair, and structured to create a fair competitive environment for all potential program participants; now, therefore,

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

Article – State Finance and Procurement

14–501.

- (a) In this subtitle the following words have the meanings indicated.
- (c) “Small business” means:
 - (1) a certified minority business enterprise, as defined in § 14–301 of this title, that meets the criteria specified under paragraph (2) of this subsection; or
 - (2) a business, other than a broker, that meets the following criteria:
 - (i) the business is independently owned and operated;
 - (ii) the business is not a subsidiary of another business;
 - (iii) the business is not dominant in its field of operation; **AND**
 - (iv) **1. A.** the wholesale operations of the business did not employ more than 50 persons[, and the gross sales of the business did not exceed an average of \$4,000,000] in its most recently completed 3 fiscal years;
 - [(v)] B.** the retail operations of the business did not employ more than 25 persons[, and the gross sales of the business did not exceed an average of \$3,000,000] in its most recently completed 3 fiscal years;
 - [(vi)] C.** the manufacturing operations of the business did not employ more than 100 persons[, and the gross sales of the business did not exceed an average of \$2,000,000] in its most recently completed 3 fiscal years;

[(vii)] **D.** the service operations of the business did not employ more than 100 persons[, and the gross sales of the business did not exceed an average of \$10,000,000] in its most recently completed 3 fiscal years;

[(viii)] **E.** the construction operations of the business did not employ more than 50 persons[, and the gross sales of the business did not exceed an average of \$7,000,000] in its most recently completed 3 fiscal years; and

[(ix)] **F.** the architectural and engineering services of the business did not employ more than 100 persons[, and the gross sales of the business did not exceed an average of \$4,500,000] in its most recently completed 3 fiscal years;
OR

2. A. THE GROSS SALES OF THE WHOLESALE OPERATIONS OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$4,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS;

B. THE GROSS SALES OF THE RETAIL OPERATIONS OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$3,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS;

C. THE GROSS SALES OF THE MANUFACTURING OPERATIONS OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$2,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS;

D. THE GROSS SALES OF THE SERVICE OPERATIONS OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$10,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS;

E. THE GROSS SALES OF THE CONSTRUCTION OPERATIONS OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$7,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS; AND

F. THE GROSS SALES OF THE ARCHITECTURAL AND ENGINEERING SERVICES OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$4,500,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the Department of General Services, in consultation with the Governor's Office of Minority Affairs and the Maryland Department of Transportation, shall study the Small Business Reserve Program to evaluate the Program's structure, composition, and requirements for participation and its impact and shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2-1246 of the State Government Article.

~~on the implementation of this Act and the effect of this Act on small business participation in the Small Business Reserve Program~~ *recommendations concerning the changes enacted by this Act to the requirements for participation in the Program, including the Program's financial and employment guidelines, and additional legislation to implement any recommended changes.*

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012. It shall remain effective for a period of 2 years and, at the end of September 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 22, 2012.