

Chapter 481

(House Bill 858)

AN ACT concerning

Minority Business Enterprises – Required Regulations – Liquidated Damages Prohibition

FOR the purpose of requiring regulations adopted by the Board of Public Works to include a certain provision prohibiting a unit from assessing liquidated damages for certain contracts for which a certain minority business enterprise was named on a certain schedule or named on a certain schedule and qualified based on a certain code; providing that existing obligations or contract rights may not be impaired by this Act; and generally relating to minority business enterprises and liquidated damages.

BY repealing and reenacting, without amendments,
 Article – State Finance and Procurement
 Section 14–303(a)(1)(i)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,
 Article – State Finance and Procurement
 Section 14–303(b)(6)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2017 Supplement)

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

Article – State Finance and Procurement

14–303.

(a) (1) (i) In accordance with Title 10, Subtitle 1 of the State Government Article, the Board shall adopt regulations consistent with the purposes of this Division II to carry out the requirements of this subtitle.

(b) These regulations shall include:

(6) **(I)** a requirement that all contracts containing minority business enterprise participation goals shall contain a liquidated damages provision that applies in the event that the contractor fails to comply in good faith with the provisions of this subtitle or the pertinent terms of the applicable contract; **AND**

(II) A PROVISION THAT PROHIBITS A UNIT FROM ASSESSING LIQUIDATED DAMAGES FOR AN INDEFINITE DELIVERY CONTRACT OR AN INDEFINITE PERFORMANCE CONTRACT IF A UNIT FAILS TO REQUEST THE PERFORMANCE OR DELIVERY OF A TASK FOR WHICH:

1. A MINORITY BUSINESS ENTERPRISE SUBCONTRACTOR WAS NAMED ON THE PARTICIPATION SCHEDULE; OR

2. A MINORITY BUSINESS ENTERPRISE SUBCONTRACTOR WAS NAMED ON THE PARTICIPATION SCHEDULE AND QUALIFIED BASED ON THE SUBCONTRACTOR'S EXISTING NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM CODE;

SECTION 2. AND BE IT FURTHER ENACTED, That a presently existing obligation or contract right may not be impaired in any way by this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

Approved by the Governor, May 8, 2018.