

SENATE BILL 251

P2

8lr2168
CF HB 858

By: **Senator Conway**

Introduced and read first time: January 19, 2018

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted

Read second time: February 6, 2018

CHAPTER _____

1 AN ACT concerning

2 **Minority Business Enterprises – Required Regulations – Liquidated Damages**
3 **Prohibition**

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

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

15 BY repealing and reenacting, with amendments,
16 Article – State Finance and Procurement
17 Section 14–303(b)(6)
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2017 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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:

Governor.

President of the Senate.

Speaker of the House of Delegates.