

HOUSE BILL 1210

C2, P2, Q1

(11r2245)

ENROLLED BILL
— *Economic Matters/Finance* —

Introduced by **The Speaker**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Corporate Diversity – Board, Executive Leadership, and Mission**

3 FOR the purpose of prohibiting an entity from qualifying for certain State benefits unless
4 certain criteria relating to underrepresented communities are met; requiring the
5 Department of Commerce and the Office of Small, Minority, and Women Business
6 Affairs to develop, ~~maintain, and publicly post a certain Scorecard~~ and maintain a
7 certain report; requiring the Department and the Office to ~~promulgate~~ adopt
8 regulations to carry out this Act; requiring a certain entity to include certain
9 diversity data in a certain annual report; declaring the intent of the General
10 Assembly; providing for a delayed effective date; providing for the application of this
11 Act; making the provisions of this Act severable; defining certain terms; and
12 generally relating to corporate boards and underrepresented communities.

13 BY adding to
14 Article – Business Regulation

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.

Italics indicate opposite chamber/conference committee amendments.



1 Section 19–106
2 Annotated Code of Maryland
3 (2015 Replacement Volume and 2020 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – Tax – Property
6 Section 11–101
7 Annotated Code of Maryland
8 (2019 Replacement Volume and 2020 Supplement)

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

11 **Article – Business Regulation**

12 **19–106.**

13 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

15 (2) “ENTITY” MEANS:

16 (I) A COMMERCIAL ENTERPRISE OR BUSINESS THAT IS IN GOOD
17 STANDING WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION AND IS:

18 1. INCORPORATED IN THE STATE; OR

19 2. REGISTERED TO DO BUSINESS IN THE STATE; OR

20 (II) A CORPORATION, FOUNDATION, SCHOOL, HOSPITAL, OR
21 OTHER LEGAL ENTITY FOR WHICH NONE OF THE NET EARNINGS INURE TO THE
22 BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL HOLDING AN INTEREST IN
23 THE ENTITY.

24 (3) “STATE BENEFIT” MEANS:

25 (I) STATE CAPITAL GRANT FUNDING TOTALING \$1,000,000 OR
26 MORE IN A SINGLE FISCAL YEAR;

27 (II) STATE TAX CREDITS TOTALING \$1,000,000 OR MORE IN A
28 SINGLE FISCAL YEAR; OR

29 (III) THE RECEIPT OF A STATE CONTRACT WITH A TOTAL VALUE
30 OF \$1,000,000 OR MORE.

1 **(4) "STATE CONTRACT" MEANS A CONTRACT THAT:**

2 **(I) RESULTED FROM A COMPETITIVE PROCUREMENT PROCESS;**

3 **AND**

4 **(II) IS NOT FEDERALLY FUNDED IN ANY WAY.**

5 **~~(4)~~ (5) "UNDERREPRESENTED COMMUNITY" MEANS A COMMUNITY**
6 **WHOSE MEMBERS SELF-IDENTIFY:**

7 **(I) AS BLACK, AFRICAN AMERICAN, HISPANIC, LATINO,**
8 **ASIAN, PACIFIC ISLANDER, NATIVE AMERICAN, NATIVE HAWAIIAN, OR ALASKA**
9 **NATIVE; OR**

10 **(II) WITH ONE OR MORE OF THE RACIAL OR ETHNIC GROUPS**
11 **LISTED IN ITEM (I) OF THIS PARAGRAPH.**

12 **(B) THIS SECTION DOES NOT APPLY TO:**

13 **(1) A SOLE PROPRIETOR;**

14 **(2) A LIMITED LIABILITY COMPANY OWNED BY A SINGLE MEMBER; ~~OR~~**

15 **(3) A PRIVATELY HELD COMPANY IF AT LEAST 75% OF THE COMPANY'S**
16 **SHAREHOLDERS ARE FAMILY MEMBERS; OR**

17 **(4) AN ENTITY THAT:**

18 **(I) HAS AN ANNUAL OPERATING BUDGET OR ANNUAL SALES**
19 **LESS THAN \$5,000,000; AND**

20 **(II) DOES NOT QUALIFY FOR A STATE BENEFIT.**

21 **~~(B)~~ (C) AN ENTITY MAY NOT QUALIFY FOR A STATE BENEFIT UNLESS THE**
22 **ENTITY IS ABLE TO DEMONSTRATE:**

23 **(1) MEMBERSHIP OF UNDERREPRESENTED COMMUNITIES IN THE**
24 **ENTITY'S BOARD OR EXECUTIVE LEADERSHIP; OR**

25 **(2) SUPPORT FOR UNDERREPRESENTED COMMUNITIES IN THE**
26 **ENTITY'S MISSION.**

27 **~~(C)~~ (D) THE DEPARTMENT OF COMMERCE AND THE OFFICE OF SMALL,**
28 **MINORITY, AND WOMEN BUSINESS AFFAIRS SHALL:**

1 the number of female board members and the total number of members on the person's
2 board of directors.

3 **(D) IF THE PERSON SUBMITTING THE REPORT IS AN ENTITY THAT IS**
4 **SUBJECT TO § 19-106 OF THE BUSINESS REGULATION ARTICLE, THE REPORT**
5 **SHALL INCLUDE THE DIVERSITY DATA REQUIRED BY THE REGULATIONS**
6 ~~PROMULGATED~~ **ADOPTED BY THE DEPARTMENT OF COMMERCE AND THE OFFICE**
7 **OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS UNDER § 19-106 OF THE**
8 **BUSINESS REGULATION ARTICLE.**

9 **[(d)] (E)** On or before December 31, 2019, the Department shall adopt
10 regulations on the granting of exemptions from the reporting requirement under this
11 section.

12 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General
13 Assembly that, if an entity receives a State benefit that is intended to be disbursed over
14 more than 1 year, only the amount that will be disbursed in 1 fiscal year shall count toward
15 the \$1,000,000 threshold in a single fiscal year established under § 19-106 of the Business
16 Regulation Article as enacted by Section 1 of this Act.

17 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That it is the intent of the
18 General Assembly that an entity that proposes to locate within a tax increment financing
19 district or enter into a payment in lieu of taxes agreement with a local jurisdiction first
20 demonstrate the membership of underrepresented communities in the entity's board or
21 executive leadership or support for underrepresented communities in the entity's mission.

22 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall be construed
23 to apply only prospectively and may not be applied or interpreted to have any effect on or
24 application to any State contracts or grants applied for or awarded, tax credits applied for,
25 claimed, or awarded, or tax credit certificates applied for or approved before the effective
26 date of this Act.

27 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That, if any provision of this Act
28 or the application thereof to any person or circumstance is held invalid for any reason in a
29 court of competent jurisdiction, the invalidity does not affect other provisions or any other
30 application of this Act that can be given effect without the invalid provision or application,
31 and for this purpose the provisions of this Act are declared severable.

32 SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 July 1, 2022.