

# HOUSE BILL 1113

P2, G2

3lr0840

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By: **Delegate Bohanan**

Introduced and read first time: February 8, 2013

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Disclosure Requirements and Penalties**

3 FOR the purpose of making it a misdemeanor, subject to a certain penalty, for a  
4 procurement officer to disclose to certain persons certain information regarding  
5 a procurement; establishing a certain penalty for a procurement officer who  
6 discloses to certain persons certain information regarding a procurement;  
7 establishing certain penalties for persons that make certain offers or promises  
8 to or solicit or obtain certain information from certain procurement officials;  
9 requiring a procurement officer to disclose certain information to the  
10 procurement officer's supervisor; establishing a certain penalty for a  
11 procurement officer who fails to disclose certain information under a certain  
12 provision of this Act; establishing a certain penalty for a former official or  
13 employee of State government or a former member of the General Assembly  
14 who engages in certain activities related to certain procurement matters; and  
15 generally relating to disclosure requirements and penalties relating to  
16 procurement.

17 BY repealing and reenacting, with amendments,  
18 Article – State Finance and Procurement  
19 Section 13–202(a) and 13–211  
20 Annotated Code of Maryland  
21 (2009 Replacement Volume and 2012 Supplement)

22 BY adding to  
23 Article – State Finance and Procurement  
24 Section 13–211.1  
25 Annotated Code of Maryland  
26 (2009 Replacement Volume and 2012 Supplement)

27 BY repealing and reenacting, with amendments,  
28 Article – State Government

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 15–504(d)  
2 Annotated Code of Maryland  
3 (2009 Replacement Volume and 2012 Supplement)

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

6 **Article – State Finance and Procurement**

7 13–202.

8 (a) **(1)** After a solicitation is issued and until a recommendation is made  
9 by a procurement officer, a procurement officer may disclose to a person outside the  
10 Executive Department only:

11 **[(1)] (I)** whether a decision has been made regarding a solicitation;  
12 and

13 **[(2)] (II)** information that is available to the public under §§ 10–611  
14 through 10–628 of the State Government Article.

15 **(2) IF A PROCUREMENT OFFICER DISCLOSES INFORMATION THAT**  
16 **THE PROCUREMENT OFFICER IS NOT AUTHORIZED TO DISCLOSE UNDER**  
17 **PARAGRAPH (1) OF THIS SUBSECTION, THE PROCUREMENT OFFICER IS:**

18 **(I) GUILTY OF A MISDEMEANOR AND ON CONVICTION IS**  
19 **SUBJECT TO A FINE NOT LESS THAN \$100,000 OR IMPRISONMENT NOT**  
20 **EXCEEDING 5 YEARS OR BOTH; AND**

21 **(II) SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$50,000**  
22 **FOR EACH VIOLATION.**

23 13–211.

24 (a) In this section, “procurement official” means a procurement officer or an  
25 individual who participates in the drafting of specifications for procurement.

26 (b) During the conduct of a procurement, a competing contractor, or any  
27 officer, employee, representative, agent, or consultant of any competing contractor,  
28 may not knowingly:

29 (1) make any offer or promise of future employment or business  
30 opportunity to, or engage in any discussion of future employment or business  
31 opportunity with, any procurement official of the agency conducting the procurement;

1 (2) offer, give, or promise to offer or give any money, gratuity, or other  
2 thing of value to any procurement official of the agency conducting the procurement;  
3 or

4 (3) solicit or obtain from any officer or employee of an agency  
5 conducting the procurement, before the award of a contract, any proprietary or source  
6 selection information regarding the procurement.

7 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
8 SUBSECTION, A PERSON THAT VIOLATES THIS SECTION IS SUBJECT TO A CIVIL  
9 PENALTY NOT EXCEEDING \$500,000 FOR EACH VIOLATION.

10 (2) AN INDIVIDUAL WHO VIOLATES THIS SECTION IS SUBJECT TO  
11 A CIVIL PENALTY NOT EXCEEDING \$50,000 FOR EACH VIOLATION.

12 **13-211.1.**

13 (A) A PROCUREMENT OFFICER PROMPTLY SHALL DISCLOSE TO THE  
14 PROCUREMENT OFFICER'S SUPERVISOR IF A COMPETING CONTRACTOR, OR ANY  
15 OFFICER, EMPLOYEE, REPRESENTATIVE, AGENT, OR CONSULTANT OF ANY  
16 COMPETING CONTRACTOR, MAKES ANY OFFER OR PROMISE OF FUTURE  
17 EMPLOYMENT OR BUSINESS OPPORTUNITY TO, OR ENGAGES IN ANY DISCUSSION  
18 OF FUTURE EMPLOYMENT OR BUSINESS OPPORTUNITY WITH, THE  
19 PROCUREMENT OFFICER DURING THE CONDUCT OF A PROCUREMENT.

20 (B) AN INDIVIDUAL WHO VIOLATES THIS SECTION IS SUBJECT TO A  
21 CIVIL PENALTY NOT EXCEEDING \$50,000 FOR EACH VIOLATION.

22 **Article – State Government**

23 **15-504.**

24 (d) (1) Except for a former member of the General Assembly, who shall be  
25 subject to the restrictions provided under paragraph (2) of this subsection, a former  
26 official or employee may not assist or represent a party, other than the State, in a  
27 case, contract, or other specific matter for compensation if:

28 (i) the matter involves State government; and

29 (ii) the former official or employee participated significantly in  
30 the matter as an official or employee.

31 (2) (i) Except as provided in subparagraph (ii) of this paragraph,  
32 until the conclusion of the next regular session that begins after the member leaves

1 office, a former member of the General Assembly may not assist or represent another  
2 party for compensation in a matter that is the subject of legislative action.

3 (ii) The limitation under subparagraph (i) of this paragraph on  
4 representation by a former member of the General Assembly does not apply to the  
5 former member's representation of a municipal corporation, county, or State  
6 governmental entity.

7 **(3) (I) THIS PARAGRAPH APPLIES ONLY IF A VIOLATION OF**  
8 **THIS SUBSECTION INVOLVES A PROCUREMENT MATTER.**

9 **(II) A FORMER OFFICIAL OR EMPLOYEE WHO VIOLATES**  
10 **PARAGRAPH (1) OF THIS SUBSECTION OR A FORMER MEMBER OF THE GENERAL**  
11 **ASSEMBLY WHO VIOLATES PARAGRAPH (2) OF THIS SUBSECTION IS SUBJECT TO**  
12 **A CIVIL PENALTY NOT EXCEEDING \$50,000 FOR EACH VIOLATION PLUS TWICE**  
13 **THE AMOUNT OF COMPENSATION THAT THE INDIVIDUAL RECEIVED AS A RESULT**  
14 **OF THE PROHIBITED CONDUCT.**

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2013.