

Chapter 189

(Senate Bill 669)

AN ACT concerning

Procurement – Debarment – Violations of Law

FOR the purpose of providing that a person may be debarred from entering into a contract with the State if the person, or a certain other person connected to the person, has been convicted of a violation of certain provisions of federal law or State law or, under certain circumstances, has been found to have willfully or knowingly violated certain provisions of State law; and generally relating to debarment from State contracts.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 16–203
Annotated Code of Maryland
(2009 Replacement Volume and 2013 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

16–203.

(a) A person may be debarred from entering into a contract with the State if the person, an officer, partner, controlling stockholder or principal of that person, or any other person substantially involved in that person's contracting activities has:

(1) been convicted under the laws of the State, another state or the United States of:

(i) a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract, except as provided in § 16–202 of this subtitle; or

(ii) fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;

(2) been convicted of a criminal violation of an antitrust statute of the State, another state, or the United States;

(3) been convicted of a violation of the Racketeer Influenced and Corrupt Organization Act, or the Mail Fraud Act, for acts in connection with the submission of bids or proposals for a public or private contract;

(4) been convicted of a violation of § 14–308 of this article;

(5) been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction under any of the laws or statutes described in items (1), (2), (3), or (4) of this subsection;

(6) BEEN CONVICTED OF A VIOLATION OF § 7201, § 7203, § 7205, § 7206, OR § 7207 OF THE INTERNAL REVENUE CODE;

(7) BEEN CONVICTED OF A VIOLATION OF 18 U.S.C. § 286, § 287, OR § 371;

(8) BEEN CONVICTED OF A VIOLATION OF TITLE 13, SUBTITLE 7 OR SUBTITLE 10 OF THE TAX – GENERAL ARTICLE;

(9) BEEN FOUND TO HAVE WILLFULLY OR KNOWINGLY VIOLATED TITLE 17, SUBTITLE 2 OR TITLE 18 OF THIS ARTICLE IF:

(I) 1. THE FINDING WAS MADE BY A COURT; AND

**2. ~~THE CONVICTION BECAME A FINAL CONVICTION~~
DECISION OF THE COURT BECAME FINAL; OR**

(II) 1. THE FINDING WAS MADE IN A CONTESTED CASE UNDER THE ADMINISTRATIVE PROCEDURE ACT; AND

2. THE FINDING WAS NOT OVERTURNED ON JUDICIAL REVIEW;

(10) BEEN FOUND TO HAVE WILLFULLY OR KNOWINGLY VIOLATED TITLE 3, SUBTITLE 3, SUBTITLE 4, OR SUBTITLE 5 OR TITLE 5 OF THE LABOR AND EMPLOYMENT ARTICLE IF:

(I) 1. THE FINDING WAS MADE BY A COURT; AND

**2. ~~THE CONVICTION BECAME A FINAL CONVICTION~~
DECISION OF THE COURT BECAME FINAL; OR**

(II) 1. THE FINDING WAS MADE IN A CONTESTED CASE UNDER THE ADMINISTRATIVE PROCEDURE ACT; AND

2. THE FINDING WAS NOT OVERTURNED ON JUDICIAL REVIEW;

[(6)] (11) been found civilly liable under an antitrust statute of the State, another state, or the United States for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or

[(7)] (12) been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of this article with regard to a public or private contract.

(b) A person may be debarred from entering into a contract with the State if, during the course of an official investigation or other proceedings, the person, an officer, partner, controlling stockholder or principal of that person, or any other person substantially involved in that person's contracting activities has admitted, in writing or under oath, an act or omission that constitutes grounds for conviction or liability under any law or statute described in subsection (a) of this section.

(c) A person may be debarred from entering into a contract with the State if the person, an officer, partner, controlling stockholder or principal of that person, or any other person substantially involved in that person's contracting activities has been debarred from federal contracts under the Federal Acquisition Regulations, as provided in 48 C.F.R. Chapter 1.

(d) A person may be debarred from entering into a contract with the State:

(1) if the Board finds that the person was established or operates in a manner designed to evade the application of this title or to defeat the purpose of this title;

(2) if the person is a successor, assignee, subsidiary, or affiliate of a person who is debarred or suspended;

(3) for one of the following violations of a contract provision if the Board believes it to be serious enough to justify debarment:

(i) the deliberate failure, without good cause, to perform in accordance with the specifications, or within the time limit, provided in a contract; or

(ii) within the preceding 5 years, the failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, unless the failure to perform or unsatisfactory performance was caused by acts beyond the control of the person;

(4) if the person is a competing contractor, or any officer, employee, representative, agent, or consultant of any competing contractor who violates § 13–211 of this article; or

(5) for any other cause that the Board determines to be so serious as to affect the integrity of the procurement process.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.

Approved by the Governor, April 14, 2014.