

SENATE BILL 669

P2

4lr2233
CF HB 796

By: **Senators Ramirez, Astle, Benson, King, Manno, Muse, Pugh, and Rosapepe**

Introduced and read first time: January 31, 2014

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2014

CHAPTER _____

1 AN ACT concerning

2 **Procurement – Debarment – Violations of Law**

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

9 BY repealing and reenacting, with amendments,
10 Article – State Finance and Procurement
11 Section 16–203
12 Annotated Code of Maryland
13 (2009 Replacement Volume and 2013 Supplement)

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

16 **Article – State Finance and Procurement**

17 16–203.

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.



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

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

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

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

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

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

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

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

20 **(6) BEEN CONVICTED OF A VIOLATION OF § 7201, § 7203, § 7205, §**
 21 **7206, OR § 7207 OF THE INTERNAL REVENUE CODE;**

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

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

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

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

29 **2. THE CONVICTION BECAME A FINAL CONVICTION;**
 30 **OR**

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

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

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

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

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

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.