

# SENATE BILL 109

P2  
HB 195/16 – HGO

7lr1575  
CF 7lr2029

---

By: **Senator Conway**

Introduced and read first time: January 13, 2017

Assigned to: Education, Health, and Environmental Affairs

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Prohibitions on Participation**

3 FOR the purpose of providing that certain prohibitions on participation in procurement  
4 apply only for a certain period of time following the issuance of an invitation for bids  
5 or a request for proposals; providing that certain prohibitions on participation in  
6 procurement do not apply to certain invitations for bids or requests for proposals;  
7 and generally relating to the prohibitions on participation in procurement.

8 BY repealing and reenacting, with amendments,  
9 Article – State Finance and Procurement  
10 Section 13–212.1  
11 Annotated Code of Maryland  
12 (2015 Replacement Volume and 2016 Supplement)

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

15 **Article – State Finance and Procurement**

16 13–212.1.

17 (a) **[An] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, AN**  
18 individual who assists an executive unit in the drafting of specifications, an invitation for  
19 bids, a request for proposals for a procurement, or the selection or award made in response  
20 to an invitation for bids or a request for proposals, or a person that employs the individual  
21 **DURING THE PERIOD OF ASSISTANCE**, may not:

22 (1) submit a bid or proposal for that procurement; or

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (2) assist or represent another person, directly or indirectly, who is  
2 submitting a bid or proposal for that procurement.

3           (b) For purposes of subsection (a) of this section, assisting in the drafting of  
4 specifications, an invitation for bids, or a request for proposals for a procurement does not  
5 include:

6           (1) providing descriptive literature, such as catalogue sheets, brochures,  
7 technical data sheets, or standard specification “samples”, whether requested by an  
8 executive unit or provided unsolicited;

9           (2) submitting written or oral comments on a specification prepared by an  
10 executive unit or on a solicitation for a bid or proposal when comments are solicited from  
11 two or more persons as part of a request for information or a prebid or preproposal process;

12           (3) providing specifications for a sole source procurement made in  
13 accordance with § 13–107 of this article;

14           (4) providing architectural and engineering services for:

15                   (i) programming, master planning, or other project planning  
16 services; or

17                   (ii) the design of a construction project if:

18                           1. the design services do not involve lead or prime design  
19 responsibilities or construction phase responsibilities on behalf of the State; and

20                           2. A. the anticipated value of the procurement contract at  
21 the time of advertisement is at least \$2,500,000 and not more than \$100,000,000; or

22                                   B. regardless of the amount of the procurement contract, the  
23 payment to the individual or person for the design services does not exceed \$500,000; or

24           (5) for a procurement of health, human, social, or educational services,  
25 comments solicited from two or more persons as part of a request for information, including  
26 written or oral comments on a draft specification, an invitation for bids, or a request for  
27 proposals.

28           (c) A unit that receives comments as described in subsection (b)(2) and (5) of this  
29 section shall retain:

30           (1) any written comments; and

31           (2) a record of any oral comments.

1           **(D) (1) THE PROHIBITIONS ESTABLISHED UNDER SUBSECTION (A) OF**  
2 **THIS SECTION APPLY FROM THE DATE OF ISSUANCE OF THE FIRST INVITATION FOR**  
3 **BIDS OR REQUEST FOR PROPOSALS FOR WHICH THE SPECIFICATIONS WERE**  
4 **INITIALLY DRAFTED UNTIL THE LATER OF:**

5                   **(I) 2 YEARS FROM THE DATE OF ISSUANCE; OR**

6                   **(II) THE SELECTION OR AWARD OF A PROCUREMENT CONTRACT**  
7 **IN RESPONSE TO THE ISSUANCE OF THE INVITATION FOR BIDS OR REQUEST FOR**  
8 **PROPOSALS OR A REISSUANCE OF THE INVITATION FOR BIDS OR REQUEST FOR**  
9 **PROPOSALS FOR WHICH THE SPECIFICATIONS WERE INITIALLY DRAFTED.**

10           **(2) THE PROHIBITIONS ESTABLISHED UNDER SUBSECTION (A) OF**  
11 **THIS SECTION DO NOT APPLY TO A SUBSEQUENT INVITATION FOR BIDS OR REQUEST**  
12 **FOR PROPOSALS FOR WHICH THE SPECIFICATIONS ARE REUSED AFTER THE INITIAL**  
13 **PROHIBITION IS NO LONGER APPLICABLE IN ACCORDANCE WITH PARAGRAPH (1) OF**  
14 **THIS SUBSECTION.**

15           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2017.