
By: **Senator Della**

Introduced and read first time: February 5, 1998

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Debarment - Labor Law Offenses**

3 FOR the purpose of establishing the civil liability for violation of a labor and/or
4 employment statute as grounds for debarment from participating in certain
5 contracts under the General Procurement Law.

6 BY repealing and reenacting, with amendments,
7 Article - State Finance and Procurement
8 Section 16-203
9 Annotated Code of Maryland
10 (1995 Replacement Volume and 1997 Supplement)

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

13 **Article - State Finance and Procurement**

14 16-203.

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

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

20 (i) a criminal offense incident to obtaining, attempting to obtain, or
21 performing a public or private contract, except as provided in § 16-202; or

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

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

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

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

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

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

11 (7) BEEN FOUND CIVILLY LIABLE FOR A VIOLATION OF A LABOR AND
12 EMPLOYMENT STATUTE OF THE STATE, ANOTHER STATE, OR THE UNITED STATES,
13 INCLUDING BUT NOT LIMITED TO THE NATIONAL LABOR RELATIONS ACT, AS
14 AMENDED, TITLE VII OF THE CIVIL RIGHTS ACTS, AS AMENDED, THE AMERICANS
15 WITH DISABILITIES ACT, THE AGE DISCRIMINATION AND EMPLOYMENT ACT, THE
16 DAVIS-BACON ACT, THE FAMILY AND MEDICAL LEAVE ACT, THE FAIR LABOR
17 STANDARDS ACT, AND STATE AND LOCAL DISCRIMINATION LAWS.

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

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

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

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

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

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

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

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

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 1998.