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By: **Senator Della**

Introduced and read first time: February 5, 1998

Assigned to: Economic and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 11, 1998

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CHAPTER \_\_\_\_\_

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~~ altering the grounds for the Board of Public  
5 Works to determine that a person may be subject to debarment from  
6 participating in certain contracts under the General Procurement Law.

7 BY repealing and reenacting, with amendments,  
8 Article - State Finance and Procurement  
9 Section 16-203  
10 Annotated Code of Maryland  
11 (1995 Replacement Volume and 1997 Supplement)

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

14 **Article - State Finance and Procurement**

15 16-203.

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

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

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

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

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

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

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

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

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

17 ~~(7) BEEN FOUND CIVILLY LIABLE FOR A VIOLATION OF A LABOR AND~~  
18 ~~EMPLOYMENT STATUTE OF THE STATE, ANOTHER STATE, OR THE UNITED STATES,~~  
19 ~~INCLUDING BUT NOT LIMITED TO THE NATIONAL LABOR RELATIONS ACT, AS~~  
20 ~~AMENDED, TITLE VII OF THE CIVIL RIGHTS ACTS, AS AMENDED, THE AMERICANS~~  
21 ~~WITH DISABILITIES ACT, THE AGE DISCRIMINATION AND EMPLOYMENT ACT, THE~~  
22 ~~DAVIS BACON ACT, THE FAMILY AND MEDICAL LEAVE ACT, THE FAIR LABOR~~  
23 ~~STANDARDS ACT, AND STATE AND LOCAL DISCRIMINATION LAWS.~~

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

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

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

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

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

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

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

7 (4) for any other cause that the Board determines to be so serious as to  
8 affect the integrity of the procurement process, INCLUDING A PATTERN OF  
9 VIOLATIONS BY THE PERSON OF FEDERAL OR STATE LABOR LAWS, CIVIL RIGHTS  
10 LAWS, OR ENVIRONMENTAL PROTECTION LAWS.

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