

SENATE BILL 610

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SB 457/99 - EEA

2002 Regular Session  
2lr2552

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By: **Senator Della**

Introduced and read first time: February 1, 2002

Assigned to: Education, Health, and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Debarment**

3 FOR the purpose of altering the grounds for the Board of Public Works to determine  
4 that a person may be subject to 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 (2001 Replacement Volume)

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.

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

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

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

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

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

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

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

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

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
36 October 1, 2002.