

SENATE BILL 122

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P2

2003 Regular Session
(3r1247)

ENROLLED BILL

-- Education, Health, and Environmental Affairs/Health and Government Operations --

Introduced by **Senator Della**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Procurement - Debarment - Violations of Law**

3 FOR the purpose of ~~allowing a person to be debarred~~ authorizing the debarment of a
4 person from entering into a contract with the State if the person has ~~engaged in~~
5 ~~a pattern of violations of federal or State labor laws, civil rights laws, or~~
6 ~~environmental protection laws~~ been criminally convicted of, or found civilly
7 liable for, a certain number of violations of certain laws or has committed certain
8 violations of certain laws and been subject to certain findings of civil liability;
9 and generally relating to certain grounds for debarment from entering into
10 contracts with the State.

11 BY repealing and reenacting, with amendments,
12 Article - State Finance and Procurement
13 Section 16-203
14 Annotated Code of Maryland
15 (2001 Replacement Volume and 2002 Supplement)

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

3 **Article - State Finance and Procurement**

4 16-203.

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

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

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

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

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

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

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

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

23 (6) been found civilly liable under an antitrust statute of the State,
24 another state, or the United States for acts or omissions in connection with the
25 submission of bids or proposals for a public or private contract.

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

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

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

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 Board
4 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
10 beyond the control of the person; [or]

11 (4) WITHIN THE PRECEDING 5 YEARS, IF THE PERSON HAS ENGAGED IN
12 A PATTERN OF VIOLATIONS OF FEDERAL OR STATE LABOR LAWS, CIVIL RIGHTS
13 LAWS, OR ENVIRONMENTAL PROTECTION LAWS BEEN CRIMINALLY CONVICTED OF,
14 OR FOUND CIVILLY LIABLE FOR, AT LEAST TWO VIOLATIONS OF ANY FEDERAL OR
15 MARYLAND:

16 (I) LABOR LAW, IF THE VIOLATIONS SIGNIFICANTLY IMPACT THE
17 HEALTH OR SAFETY OF WORKERS;

18 (II) CIVIL RIGHTS LAW; OR

19 (III) ENVIRONMENTAL PROTECTION LAW, IF THE VIOLATIONS
20 SIGNIFICANTLY IMPACT THE HEALTH OR SAFETY OF WORKERS OR MEMBERS OF THE
21 GENERAL PUBLIC; OR

22 (5) IF WITHIN THE PRECEDING 5 YEARS, THE PERSON HAS:

23 (I) COMMITTED MULTIPLE VIOLATIONS OF ANY FEDERAL,
24 MARYLAND, OR A CONTIGUOUS JURISDICTION'S LABOR LAW, CIVIL RIGHTS LAW, OR
25 ENVIRONMENTAL PROTECTION LAW; AND

26 (II) AS A RESULT OF THE VIOLATIONS, BEEN SUBJECT TO
27 MULTIPLE SEPARATE AND DISTINCT FINDINGS OF CIVIL LIABILITY IN MARYLAND OR
28 A CONTIGUOUS JURISDICTION; OR

29 (5) (6) for any other cause that the Board determines to be so serious
30 as to affect the integrity of the procurement process.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2003.

