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By: **Delegates Morhaim, Busch, Barve, Jones, Hurson, Owings, Bromwell, Bronrott, V. Clagett, Donoghue, Goldwater, Hammen, Hubbard, Kach, Moe, Murray, Nathan-Pulliam, Oaks, Petzold, Rosenberg, Rudolph, Sophocleus, Weldon, and ~~Zirkin~~ Zirkin, Benson, Boteler, Boutin, Costa, Elliott, Mandel, McDonough, Pendergrass, Smigiel, and V. Turner**

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CHAPTER _____

1 AN ACT concerning

2 **Procurement - Debarment - Causes**

3 FOR the purpose of authorizing the debarment of certain persons that are debarred
4 under certain federal regulations; ~~providing for the reinstatement of certain~~
5 ~~debarred persons~~ authorizing the person debarred to petition the Board of
6 Public Works for the removal of the debarment under certain circumstances;
7 and generally relating to debarment from State contracts.

8 BY repealing and reenacting, with amendments,
9 Article - State Finance and Procurement
10 Section 16-203 and 16-310(a) and (b)
11 Annotated Code of Maryland
12 (2001 Replacement Volume and 2003 Supplement)

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

1 **Article - State Finance and Procurement**

2 16-203.

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

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

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

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

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

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

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

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

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

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
31 THE STATE IF THE PERSON, AN OFFICER, PARTNER, CONTROLLING STOCKHOLDER OR
32 PRINCIPAL OF THAT PERSON, OR ANY OTHER PERSON SUBSTANTIALLY INVOLVED IN
33 THAT PERSON'S CONTRACTING ACTIVITIES HAS BEEN DEBARRED FROM FEDERAL
34 CONTRACTS UNDER THE FEDERAL ACQUISITION REGULATIONS, AS PROVIDED IN 48
35 C.F.R. CHAPTER 1.

36 [(c)] (D) A person may be debarred from entering into a contract with the
37 State:

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

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

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

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

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

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

16 16-310.

17 (a) (1) If the conviction that is the basis for a debarment or suspension is
18 reversed or otherwise rendered void, the debarment or suspension terminates
19 automatically.

20 (2) IF THE FEDERAL DEBARMENT THAT IS THE BASIS FOR A STATE
21 DEBARMENT OR SUSPENSION IS REVERSED OR OTHERWISE RENDERED VOID, ~~THE~~
22 ~~STATE DEBARMENT OR SUSPENSION TERMINATES AUTOMATICALLY THE PERSON~~
23 DEBARRED MAY PETITION THE BOARD FOR REMOVAL OF THE DEBARMENT.

24 (b) (1) Any person debarred under § 16-202 of this title may, after a period
25 of 5 years from the date of the debarment, petition the Board for removal of the
26 debarment.

27 (2) Any person debarred under § 16-203 (A), (B), OR (D) of this title may
28 petition the Board for removal of the debarment, after the expiration of:

29 (i) one-half of the period of debarment; or

30 (ii) 5 years.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
32 effect October 1, 2004.

