
By: **Senators Stone, Della, Frosh, Giannetti, Gladden, Green, Grosfeld,
Hollinger, Jimeno, Pinsky, Ruben, and Teitelbaum**

Introduced and read first time: January 17, 2005

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of authorizing the debarment of a person from entering into a
4 contract with the State if the person has been criminally convicted of a certain
5 number of violations of certain laws or has committed certain violations of
6 certain laws and has been subject to certain findings of civil liability; and
7 generally relating to certain grounds for the debarment of a person from
8 entering into a contract with the State.

9 BY repealing and reenacting, with amendments,
10 Article - State Finance and Procurement
11 Section 16-203
12 Annotated Code of Maryland
13 (2001 Replacement Volume and 2004 Supplement)

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

16 **Article - State Finance and Procurement**

17 16-203.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (4) if the person is a competing contractor, or any officer, employee,
34 representative, agent, or consultant of any competing contractor who violates §
35 13-211 of this article; [or]

1 (5) IF, WITHIN THE PRECEDING 5 YEARS, THE PERSON HAS BEEN
2 CRIMINALLY CONVICTED OF VIOLATING ANY FEDERAL OR MARYLAND LABOR LAW,
3 CIVIL RIGHTS LAW, OR ENVIRONMENTAL PROTECTION LAW;

4 (6) IF, WITHIN THE PRECEDING 5 YEARS, THE PERSON:

5 (I) HAS COMMITTED MULTIPLE VIOLATIONS OF ANY FEDERAL OR
6 ANY STATE'S:

7 1. LABOR LAW, IF THE VIOLATIONS SIGNIFICANTLY IMPACT
8 THE HEALTH OR SAFETY OF WORKERS;

9 2. CIVIL RIGHTS LAWS; OR

10 3. ENVIRONMENTAL PROTECTION LAW, IF THE VIOLATIONS
11 SIGNIFICANTLY IMPACT THE HEALTH OR SAFETY OF WORKERS OR MEMBERS OF THE
12 GENERAL PUBLIC; AND

13 (II) AS A RESULT OF THE VIOLATIONS, HAS BEEN SUBJECT TO
14 MULTIPLE SEPARATE AND DISTINCT FINDINGS OF CIVIL LIABILITY IN ANY
15 JURISDICTION; OR

16 [(5)] (7) for any other cause that the Board determines to be so serious
17 as to affect the integrity of the procurement process.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
19 effect October 1, 2005.