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

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Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable

Senate action: Adopted

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CHAPTER \_\_\_\_\_

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (ii) within the preceding 5 years, the failure to perform or of  
36 unsatisfactory performance in accordance with the terms of one or more contracts,

1 unless the failure to perform or unsatisfactory performance was caused by acts  
2 beyond the control of the person;

3 (4) if the person is a competing contractor, or any officer, employee,  
4 representative, agent, or consultant of any competing contractor who violates §  
5 13-211 of this article; [or]

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

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

10 (I) HAS COMMITTED MULTIPLE VIOLATIONS OF ANY FEDERAL OR  
11 ANY STATE'S:

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

14 2. CIVIL RIGHTS LAWS; OR

15 3. ENVIRONMENTAL PROTECTION LAW, IF THE VIOLATIONS  
16 SIGNIFICANTLY IMPACT THE HEALTH OR SAFETY OF WORKERS OR MEMBERS OF THE  
17 GENERAL PUBLIC; AND

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

21 [(5)] (7) for any other cause that the Board determines to be so serious  
22 as to affect the integrity of the procurement process.

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