

ENROLLED BILL

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

Introduced by **Senators Brochin, Britt, Conway, Garagiola, Grosfeld, Klausmeier, and Teitelbaum**

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 - Causes~~ Causes for Debarment - Expansion**
3 **Debarment - Causes**

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

9 BY repealing and reenacting, with amendments,
10 Article - State Finance and Procurement
11 Section 16-203 and 16-310(a) and (b)
12 Annotated Code of Maryland
13 (2001 Replacement Volume and 2004 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
33 THE STATE IF THE PERSON, AN OFFICER, PARTNER, CONTROLLING STOCKHOLDER OR
34 PRINCIPAL OF THAT PERSON, OR ANY OTHER PERSON SUBSTANTIALLY INVOLVED IN
35 THAT PERSON'S CONTRACTING ACTIVITIES HAS BEEN DEBARRED FROM FEDERAL
36 CONTRACTS UNDER THE FEDERAL ACQUISITION REGULATIONS, AS PROVIDED IN 48
37 C.F.R. CHAPTER 1.

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

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

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

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

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

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

16 (4) if the person is a competing contractor, or any officer, employee,
17 representative, agent, or consultant of any competing contractor who violates §
18 13-211 of this article; or

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

21 16-310.

22 (a) (1) If the conviction that is the basis for a debarment or suspension is
23 reversed or otherwise rendered void, the debarment or suspension terminates
24 automatically.

25 (2) ~~IF THE FEDERAL DEBARMENT THAT IS THE BASIS FOR A STATE~~
26 ~~DEBARMENT OR SUSPENSION IS REVERSED OR OTHERWISE RENDERED VOID, THE~~
27 ~~PERSON DEBARRED MAY PETITION THE BOARD FOR REMOVAL OF THE DEBARMENT~~
28 DEBARMENT TERMINATES AUTOMATICALLY IF THE PERSON DEBARRED PROVIDES
29 TO THE BOARD SUFFICIENT LEGAL DOCUMENTATION THAT THE FEDERAL
30 DEBARMENT HAS BEEN REVERSED OR OTHERWISE RENDERED VOID.

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

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

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

1 (ii) 5 years.

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