

# SENATE BILL 77

P2

(PRE-FILED)

6lr0257  
CF HB 300

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By: **Chair, Budget and Taxation Committee (By Request – Departmental – Commerce)**

Requested: September 30, 2025

Introduced and read first time: January 14, 2026

Assigned to: Budget and Taxation

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Committee Report: Favorable

Senate action: Adopted

Read second time: February 15, 2026

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Contracts – Prohibited Provisions – Exemptions**

3 FOR the purpose of exempting certain contracts entered into by the Office of International  
4 Trade from certain prohibitions on the provisions that may be included in State  
5 contracts; and generally relating to State contracts.

6 BY repealing and reenacting, with amendments,  
7 Article – State Finance and Procurement  
8 Section 2–901  
9 Annotated Code of Maryland  
10 (2021 Replacement Volume and 2025 Supplement)

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

13 **Article – State Finance and Procurement**

14 2–901.

15 (a) In this section, “State contract” means any agreement entered into by the  
16 State.

17 (a–1) This section does not apply to:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1           **(1)** a State contract relating to the purchase, redevelopment, or operation  
2 of a racing facility or training facility site as those terms are defined under § 10–601 of the  
3 Economic Development Article; **OR**

4           **(2) A STATE CONTRACT ENTERED INTO BY THE OFFICE OF**  
5 **INTERNATIONAL TRADE IN THE DEPARTMENT OF COMMERCE RELATING TO THE**  
6 **DEVELOPMENT OF INTERNATIONAL BUSINESS ACTIVITIES AND OPPORTUNITIES**  
7 **AUTHORIZED UNDER § 3–303 OF THE ECONOMIC DEVELOPMENT ARTICLE.**

8           (b) Except as required by State or federal law, a State contract may not include:

9           (1) a provision that requires the State to indemnify, defend, or hold  
10 harmless another person without an appropriation of State funds for that purpose;

11           (2) a provision by which the State agrees to binding arbitration or any  
12 other binding extrajudicial dispute resolution process;

13           (3) a provision that names a jurisdiction or venue for any action or dispute  
14 against the State other than a court of proper jurisdiction in the State;

15           (4) a provision that requires the State to agree to limit the liability for any  
16 direct loss to the State for bodily injury, death, or damage to real property or tangible  
17 personal property of the State caused by the negligence, intentional or willful misconduct,  
18 fraudulent act, recklessness, or other tortious conduct of a person or a person's employees  
19 or agents or a provision that would otherwise impose an indemnification obligation on the  
20 State;

21           (5) a provision that requires the State to be bound by a term or condition  
22 that:

23           (i) is unknown to the State at the time of signing a contract;

24           (ii) may be unilaterally changed by the other party; or

25           (iii) is electronically accepted by a State employee without authority;

26           (6) a provision that provides for a person other than the Attorney General  
27 of Maryland to serve as legal counsel for the State, unless provided under § 6–106 of the  
28 State Government Article;

29           (7) a provision that is inconsistent with the State's obligations under Title  
30 3 or 4 of the General Provisions Article;

31           (8) a provision prohibited under § 7–237 of this article;

1           (9)    a provision for automatic renewal that obligates the State to allocate  
2 funding in subsequent fiscal years; or

3           (10) a provision that limits the State’s ability to recover the difference in the  
4 cost of a replacement contractor to perform the services not performed by the original  
5 contractor, to the extent that the sum of the amount paid to the replacement contractor and  
6 the amount paid to the original contractor exceed the costs provided for in the contract with  
7 the original contractor.

8           (c)    If a State contract contains a provision listed under subsection (b) of this  
9 section, the provision is void ab initio and the contract containing that provision shall be  
10 enforceable as if it did not contain the provision.

11          (d)    A State contract that contains a provision listed under subsection (b) of this  
12 section shall be governed by and construed in accordance with State law, notwithstanding  
13 any term or condition to the contrary in the contract.

14          SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
15 1, 2026.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.