

HOUSE BILL 559

P2

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By: **Delegates Clagett, Aumann, Barve, Bates, DeBoy, Elliott, Healey, Krebs, Luedtke, McMillan, Pendergrass, Sophocleus, Stocksedale, and Wood**

Introduced and read first time: February 3, 2012

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Automatic Debarment – Unpaid Taxes**

3 FOR the purpose of providing that a person is debarred, by operation of law, from
4 entering into a contract with the State if the person owes unpaid taxes to the
5 State; requiring the Board of Public Works to notify a person that the person is
6 debarred under a certain provision of this Act and to give the person a certain
7 opportunity for a hearing; prohibiting a person that is debarred under a certain
8 provision of this Act from being considered for the award of, being awarded, or
9 performing a contract with the State during a certain time period; providing for
10 the termination of the debarment of certain persons; requiring a certain
11 affidavit to contain a certain affirmation under certain circumstances; and
12 generally relating to the automatic debarment from State procurement for
13 unpaid taxes.

14 BY adding to

15 Article – State Finance and Procurement
16 Section 16–202.1
17 Annotated Code of Maryland
18 (2009 Replacement Volume and 2011 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article – State Finance and Procurement
21 Section 16–304(a), 16–309, 16–310(a), and 16–311
22 Annotated Code of Maryland
23 (2009 Replacement Volume and 2011 Supplement)

24 BY repealing and reenacting, without amendments,

25 Article – State Finance and Procurement
26 Section 16–307
27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2009 Replacement Volume and 2011 Supplement)

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

Article – State Finance and Procurement

16–202.1.

A PERSON IS DEBARRED BY OPERATION OF LAW FROM ENTERING INTO A CONTRACT WITH THE STATE IF THE PERSON OWES UNPAID TAXES TO THE STATE.

16–304.

(a) The Board shall notify a person that the person is debarred under § 16–202(a) **OR § 16–202.1** of this title, and shall give reasonable opportunity for that person to be heard on whether the stated basis for debarment exists.

16–307.

(a) A business is debarred from entering into a contract with a public body if the Board debars:

(1) an officer, director, controlling shareholder, or partner; or

(2) an employee directly involved in the process of obtaining contracts with public bodies.

(b) The business is debarred under subsection (a) of this section to the same extent as the person debarred by the Board.

(c) A business shall remain debarred under this section:

(1) as long as the debarred person remains with the business in any capacity described in subsection (a) of this section; or

(2) until the debarment is removed under § 16–310 of this subtitle.

(d) The Board shall notify in writing any business that it is debarred under this section.

16–309.

(a) If a person or business is debarred or suspended based on an offense listed in § 16–202 of this title, the person or business may not be considered for the

1 award of, be awarded, or perform, directly or indirectly, a contract with a public body
2 during the time period of debarment or suspension.

3 **(B) IF A PERSON IS DEBARRED UNDER § 16-202.1 OF THIS TITLE, THE**
4 **PERSON MAY NOT BE CONSIDERED FOR THE AWARD OF, BE AWARDED, OR**
5 **PERFORM, DIRECTLY OR INDIRECTLY, A CONTRACT WITH THE STATE DURING**
6 **THE TIME PERIOD OF DEBARMENT.**

7 ~~[(b)]~~ (C) If a person or business is debarred or suspended based on an
8 offense listed in § 16-203 of this title, the person or business may not be considered for
9 the award of, be awarded, or perform, directly or indirectly, a contract with the State
10 during the time period of debarment or suspension.

11 16-310.

12 (a) (1) If the conviction that is the basis for a debarment or suspension is
13 reversed or otherwise rendered void, the debarment or suspension terminates
14 automatically.

15 (2) If the federal debarment that is the basis for a State debarment is
16 reversed or otherwise rendered void, the debarment terminates automatically if the
17 person debarred provides to the Board sufficient legal documentation that the federal
18 debarment has been reversed or otherwise rendered void.

19 **(3) IF THE PERSON PAYS THE UNPAID TAXES THAT WERE THE**
20 **BASIS FOR DEBARMENT UNDER § 16-202.1 OF THIS SUBTITLE, THE DEBARMENT**
21 **TERMINATES AUTOMATICALLY.**

22 16-311.

23 (a) Every person, upon submitting a bid proposal or other application for a
24 contract with a public body, shall submit an affidavit stating to its best knowledge
25 whether it or any of its officers, directors, or partners, or any of its employees who are
26 directly involved in obtaining or performing contracts with any public bodies has:

27 (1) been convicted of bribery, attempted bribery, or conspiracy to
28 bribe, under the laws of any state or of the federal government;

29 (2) been convicted under a State or federal law or statute of any
30 offense enumerated in § 16-203 of this title; or

31 (3) been found civilly liable under a State or federal antitrust statute
32 as provided in § 16-203 of this title.

33 (b) The affidavit required by subsection (a) of this section shall also contain
34 the person's affirmation that it shall not knowingly enter into a contract with a public

1 body under which a person or business debarred or suspended under this subtitle will
2 provide, directly or indirectly, supplies, services, architectural services, construction
3 related services, leases of real property, or construction.

4 **(C) IF THE AFFIDAVIT REQUIRED BY SUBSECTION (A) OF THIS SECTION**
5 **IS BEING SUBMITTED TO THE STATE, THE AFFIDAVIT ALSO SHALL CONTAIN THE**
6 **PERSON'S AFFIRMATION STATING TO ITS BEST KNOWLEDGE WHETHER IT OR**
7 **ANY OF ITS OFFICERS, DIRECTORS, OR PARTNERS, OR ANY OF ITS EMPLOYEES**
8 **WHO ARE DIRECTLY INVOLVED IN OBTAINING OR PERFORMING CONTRACTS**
9 **WITH THE STATE OWES UNPAID TAXES TO THE STATE.**

10 **[(c)] (D)** The requirements of this section are satisfied if the affidavit:

11 (1) incorporates by reference the statements contained in an affidavit
12 filed with the same public body within the previous year pursuant to the requirements
13 of this section; and

14 (2) states that those statements remain accurate.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2012.