

HOUSE BILL 13

P2
HB 1363/21 – HRU

(PRE-FILED)

2lr0567

By: **Delegate Carr**

Requested: September 27, 2021

Introduced and read first time: January 12, 2022

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 15, 2022

CHAPTER _____

1 AN ACT concerning

2 **Procurement – Discriminatory Hiring Practices – Debarment**

3 FOR the purpose of ~~requiring~~ establishing that a person ~~shall~~ may be debarred from
4 entering into a certain contract with the State ~~for a certain number of years following~~
5 ~~the issuance of a certain administrative order issued by a certain Administrative~~
6 ~~Review Board~~ if a certain finding is made that the person or certain related
7 individuals have violated certain provisions of law prohibiting discrimination in
8 employment or been debarred from federal contracts under a certain federal
9 executive order; and generally relating to State procurement.

10 BY ~~adding to~~ repealing and reenacting, with amendments,

11 Article – State Finance and Procurement

12 Section ~~16–203(e)~~ 16–203(a) and (c)

13 Annotated Code of Maryland

14 (2021 Replacement Volume)

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

17 **Article – State Finance and Procurement**

18 16–203.

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.



~~(E) A PERSON SHALL BE DEBARRED FROM ENTERING INTO A CONTRACT WITH THE STATE FOR A PERIOD OF 5 YEARS FOLLOWING THE ISSUANCE OF AN ADMINISTRATIVE ORDER BY THE ADMINISTRATIVE REVIEW BOARD OF THE U.S. DEPARTMENT OF LABOR THAT FINDS THAT, IN VIOLATION OF FEDERAL EXECUTIVE ORDER 11246, AS AMENDED, THE PERSON HAS ENGAGED IN DISCRIMINATORY HIRING PRACTICES IN THE STATE.~~

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

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

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

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

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

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

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

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

(6) been convicted of a violation of § 7201, § 7203, § 7205, § 7206, or § 7207 of the Internal Revenue Code;

(7) been convicted of a violation of 18 U.S.C. § 286, § 287, or § 371;

(8) been convicted of a violation of Title 13, Subtitle 7 or Subtitle 10 of the Tax – General Article;

(9) been found to have willfully or knowingly violated Title 17, Subtitle 2 or Title 18 of this article if:

(i) 1. the finding was made by a court; and

1 2. the decision of the court became final; or

2 (ii) 1. the finding was made in a contested case under the
3 Administrative Procedure Act; and

4 2. the finding was not overturned on judicial review;

5 (10) been found to have willfully or knowingly violated Title 3, Subtitle 3,
6 Subtitle 4, or Subtitle 5 or Title 5 of the Labor and Employment Article if:

7 (i) 1. the finding was made by a court; and

8 2. the decision of the court became final; or

9 (ii) 1. the finding was made in a contested case under the
10 Administrative Procedure Act; and

11 2. the finding was not overturned on judicial review;

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

15 **(12) BEEN FOUND TO HAVE WILLFULLY OR KNOWINGLY VIOLATED**
16 **TITLE 20, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE IF:**

17 **(I) 1. THE FINDING WAS MADE BY A COURT; AND**

18 **2. THE DECISION OF THE COURT BECAME FINAL; OR**

19 **(II) 1. THE FINDING WAS MADE IN A CONTESTED CASE**
20 **UNDER THE ADMINISTRATIVE PROCEDURE ACT; AND**

21 **2. THE FINDING WAS NOT OVERTURNED ON JUDICIAL**
22 **REVIEW; OR**

23 **[(12)] (13) been found in a final adjudicated decision to have violated the**
24 **Commercial Nondiscrimination Policy under Title 19 of this article with regard to a public**
25 **or private contract.**

26 **(c) A person may be debarred from entering into a contract with the State if the**
27 **person, an officer, partner, controlling stockholder or principal of that person, or any other**
28 **person substantially involved in that person's contracting activities has been debarred from**
29 **federal contracts under:**

1 **(1)** the Federal Acquisition Regulations, as provided in 48 C.F.R. Chapter
2 1; OR

3 **(2)** FEDERAL EXECUTIVE ORDER 11246, AS AMENDED DUE TO
4 DISCRIMINATORY HIRING PRACTICES IN THE STATE.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
6 apply only prospectively and may not be applied or interpreted to have any effect on or
7 application to any final findings or decisions that a person has violated Title 20, Subtitle 6
8 of the State Government Article or any federal debarment decisions not overturned on
9 judicial review issued before the effective date of this Act.

10 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2022.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.