

SENATE BILL 542

P2

2lr1265
CF HB 451

By: Senators Kagan, Augustine, Beidle, Benson, Carozza, Corderman, Edwards, Elfreth, Ellis, Feldman, Gallion, Griffith, Guzzone, Hershey, Hester, Hettleman, Hough, Jackson, Kelley, King, Klausmeier, Kramer, Patterson, Pinsky, Ready, Reilly, Rosapepe, Salling, Smith, Sydnor, Waldstreicher, Washington, Watson, West, and Young

Introduced and read first time: January 31, 2022

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 9, 2022

CHAPTER _____

1 AN ACT concerning

2 **State Finance and Procurement – Grants – Prompt Payment Requirement**

3 FOR the purpose of establishing invoicing and prompt payment requirements for certain
4 State grants; and generally relating to State grants.

5 BY adding to

6 Article – State Finance and Procurement

7 Section 2–211

8 Annotated Code of Maryland

9 (2021 Replacement Volume)

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

12 **Article – State Finance and Procurement**

13 **2–211.**

14 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
15 **INDICATED.**

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 **(2) (I) “GRANT” MEANS A LEGAL INSTRUMENT OF FINANCIAL**
2 **ASSISTANCE BETWEEN A STATE GRANT-MAKING ENTITY AND A NON-STATE ENTITY**
3 **THAT IS:**

4 **1. USED TO ENTER INTO A RELATIONSHIP THE**
5 **PRINCIPAL PURPOSE OF WHICH IS TO TRANSFER ANYTHING OF VALUE FROM THE**
6 **GRANT-MAKING ENTITY TO THE GRANT RECIPIENT TO CARRY OUT A PUBLIC**
7 **PURPOSE AUTHORIZED BY LAW AND NOT TO ACQUIRE PROPERTY OR SERVICES FOR**
8 **THE DIRECT BENEFIT OR USE OF THE GRANT-MAKING ENTITY; ~~AND~~**

9 **2. DISTINGUISHED FROM A COOPERATIVE AGREEMENT**
10 **IN THAT IT DOES NOT PROVIDE FOR SUBSTANTIAL INVOLVEMENT BETWEEN THE**
11 **GRANT-MAKING ENTITY AND THE GRANT RECIPIENT IN CARRYING OUT THE**
12 **ACTIVITY CONTEMPLATED BY THE AWARD; AND**

13 **3. EXECUTED ON OR AFTER OCTOBER 1, 2022.**

14 **(II) “GRANT” DOES NOT INCLUDE AN INSTRUMENT THAT**
15 **PROVIDES ONLY:**

16 **1. DIRECT GOVERNMENT CASH ASSISTANCE TO AN**
17 **INDIVIDUAL;**

18 **2. A SUBSIDY;**

19 **3. A LOAN;**

20 **4. A LOAN GUARANTEE;**

21 **5. INSURANCE; OR**

22 **6. STATE FUNDING THAT IS REQUIRED ANNUALLY AND**
23 **IS CALCULATED THROUGH A FORMULA SET IN STATUTE.**

24 **(3) “LATE PAYMENT” MEANS ANY AMOUNT THAT IS DUE AND PAYABLE**
25 **BY LAW UNDER A WRITTEN GRANT AGREEMENT, WITHOUT DEFERRAL, DELAY, OR**
26 **SET-OFF, AND REMAINS UNPAID MORE THAN ~~45~~ 30 DAYS AFTER A STATE**
27 **GRANT-MAKING ENTITY RECEIVES A PROPER INVOICE.**

28 **(4) “PAYMENT” INCLUDES ALL REQUIRED PROCESSING AND**
29 **AUTHORIZATION BY THE COMPTROLLER, AS PROVIDED UNDER STATE**
30 **REGULATIONS.**

1 **(5) “PROPER INVOICE” MEANS A BILL, A WRITTEN DOCUMENT, OR AN**
2 **ELECTRONIC TRANSMISSION READABLE BY THE GRANT-MAKING ENTITY, PROVIDED**
3 **BY A GRANT RECIPIENT, THAT:**

4 **(I) REQUESTS AN AMOUNT THAT IS DUE AND PAYABLE BY LAW**
5 **UNDER A WRITTEN GRANT AGREEMENT; AND**

6 **(II) MEETS THE REQUIREMENTS OF SUBSECTION (E) OF THIS**
7 **SECTION.**

8 **(B) THIS SECTION DOES NOT APPLY TO:**

9 ~~**(1) GRANTS MADE BY THE STATE HIGHER EDUCATION SYSTEM, THE**~~
10 ~~**CAPITAL BUDGET, THE DEPARTMENT OF TRANSPORTATION, OR THE MARYLAND**~~
11 ~~**TECHNOLOGY DEVELOPMENT CORPORATION; OR**~~

12 ~~**(2) BUSINESS DEVELOPMENT GRANTS MADE BY THE DEPARTMENT**~~
13 ~~**OF COMMERCE.**~~

14 **(1) GRANTS MADE BY:**

15 **(I) THE STATE HIGHER EDUCATION SYSTEM;**

16 **(II) THE DEPARTMENT OF TRANSPORTATION;**

17 **(III) THE MARYLAND TECHNOLOGY DEVELOPMENT**
18 **CORPORATION;**

19 **(IV) THE MARYLAND DEPARTMENT OF LABOR;**

20 **(V) THE DEPARTMENT OF COMMERCE;**

21 **(VI) THE DEPARTMENT OF NATURAL RESOURCES;**

22 **(VII) THE MARYLAND DEPARTMENT OF EMERGENCY**
23 **MANAGEMENT;**

24 **(VIII) THE MARYLAND ENERGY ADMINISTRATION; OR**

25 **(IX) A UNIT IN THE JUDICIAL BRANCH OF STATE GOVERNMENT;**
26 **OR**

27 **(2) GRANTS FUNDED FROM GENERAL OBLIGATION BOND PROCEEDS**
28 **OR FROM A GENERAL FUND CAPITAL APPROPRIATION TO THE BOARD OF PUBLIC**
29 **WORKS.**

1 **(C) IT IS THE POLICY OF THE STATE TO MAKE A PAYMENT UNDER A GRANT**
2 **AGREEMENT WITHIN 30 DAYS AFTER:**

3 **(1) THE DAY ON WHICH THE PAYMENT BECOMES DUE UNDER THE**
4 **GRANT AGREEMENT; OR**

5 **(2) IF LATER, THE DAY ON WHICH THE STATE GRANT-MAKING ENTITY**
6 **RECEIVES A PROPER INVOICE.**

7 **(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,**
8 **INTEREST SHALL ACCRUE AT THE RATE OF 9% A YEAR ON ANY AMOUNT THAT:**

9 **(I) IS DUE AND PAYABLE BY LAW AND UNDER A WRITTEN GRANT**
10 **AGREEMENT; AND**

11 **(II) REMAINS UNPAID MORE THAN ~~45~~ 30 DAYS AFTER A STATE**
12 **GRANT-MAKING ENTITY RECEIVES A PROPER INVOICE.**

13 **(2) INTEREST SHALL ACCRUE BEGINNING ON THE 31ST DAY AFTER:**

14 **(I) THE DAY ON WHICH PAYMENT BECOMES DUE UNDER THE**
15 **GRANT AGREEMENT; OR**

16 **(II) IF LATER, THE DAY ON WHICH THE STATE GRANT-MAKING**
17 **ENTITY RECEIVES A PROPER INVOICE.**

18 **(3) A STATE GRANT-MAKING ENTITY IS NOT LIABLE FOR INTEREST:**

19 **(I) UNLESS WITHIN 30 DAYS AFTER THE DATE ON THE STATE'S**
20 **CHECK FOR THE AMOUNT ON WHICH THE INTEREST ACCRUED, THE GRANT**
21 **RECIPIENT SUBMITS AN INVOICE FOR THE INTEREST;**

22 **(II) IF THE STATE GRANT-MAKING ENTITY HAS INITIATED**
23 **LEGAL PROCEEDINGS TO DISPUTE THE AMOUNT OWED TO THE GRANT RECIPIENT;**

24 **(III) ACCRUING MORE THAN 1 YEAR AFTER THE 31ST DAY AFTER**
25 **THE GRANT-MAKING ENTITY RECEIVES AN INVOICE; OR**

26 **(IV) ON AN AMOUNT THAT REPRESENTS UNPAID INTEREST.**

27 **(4) INTEREST FOR WHICH A STATE GRANT-MAKING ENTITY IS LIABLE**
28 **UNDER THIS SUBSECTION:**

1 **(I) SHALL BE PAID FROM THE STATE GRANT-MAKING ENTITY'S**
2 **OPERATING BUDGET; AND**

3 **(II) MAY NOT BE PAID FROM FUNDS APPROPRIATED TO FUND A**
4 **GRANT.**

5 **(E) A PROPER INVOICE, REQUIRED AS PAYMENT DOCUMENTATION, SHALL**
6 **INCLUDE WITHOUT ERROR:**

7 **(1) THE GRANT RECIPIENT'S FEDERAL EMPLOYER IDENTIFICATION**
8 **NUMBER OR SOCIAL SECURITY NUMBER;**

9 **(2) THE GRANT AGREEMENT IDENTIFICATION NUMBER OR ANOTHER**
10 **ADEQUATE DESCRIPTION OF THE GRANT AGREEMENT; AND**

11 **(3) ANY DOCUMENTATION REQUIRED BY REGULATION OR THE GRANT**
12 **AGREEMENT.**

13 **(F) FOR THE PURPOSES OF DETERMINING A PAYMENT DUE DATE AND THE**
14 **DATE ON WHICH INTEREST WILL BEGIN TO ACCRUE IF A PAYMENT IS LATE, AN**
15 **INVOICE SHALL BE DEEMED TO BE RECEIVED:**

16 **(1) FOR INVOICES THAT ARE MAILED, WHEN A PROPER INVOICE IS**
17 **RECEIVED BY THE STATE GRANT-MAKING ENTITY, AS OF THE DATE THE**
18 **GRANT-MAKING ENTITY ANNOTATES THE INVOICE WITH THE DATE AND TIME OF**
19 **RECEIPT; OR**

20 **(2) FOR INVOICES ELECTRONICALLY TRANSMITTED, ON THE DATE**
21 **THE TRANSMISSION IS RECEIVED BY THE STATE GRANT-MAKING ENTITY, OR THE**
22 **NEXT BUSINESS DAY IF RECEIVED AFTER 5 P.M.**

23 **(G) (1) ON RECEIPT OF AN INVOICE, A STATE GRANT-MAKING ENTITY**
24 **SHALL:**

25 **(I) MARK THE INVOICE WITH THE DATE THE INVOICE WAS**
26 **RECEIVED; AND**

27 **(II) REVIEW THE INVOICE AS SOON AS PRACTICABLE, BUT NOT**
28 **LATER THAN 5 BUSINESS DAYS AFTER RECEIPT, TO DETERMINE WHETHER THE**
29 **INVOICE IS A PROPER INVOICE.**

30 **(2) IF THE GRANT-MAKING ENTITY DETERMINES THAT THE INVOICE**
31 **IS A PROPER INVOICE, THE GRANT-MAKING ENTITY SHALL SUBMIT THE INVOICE TO**

1 THE COMPTROLLER FOR PAYMENT WITHIN 1 BUSINESS DAY AFTER THE
2 DETERMINATION.

3 (3) (I) IF THE STATE GRANT-MAKING ENTITY DETERMINES THAT
4 THE INVOICE IS NOT A PROPER INVOICE, THE GRANT-MAKING ENTITY SHALL NOTIFY
5 THE GRANT RECIPIENT OF ALL DEFECTS THAT PREVENT PROCESSING AND SPECIFY
6 ALL REASONS WHY THE INVOICE IS NOT PROPER WITHIN 2 BUSINESS DAYS AFTER
7 THE DETERMINATION.

8 (II) IT IS THE RESPONSIBILITY OF THE GRANT RECIPIENT TO
9 SUBMIT A CORRECTED INVOICE.

10 (4) STATE GRANT-MAKING ENTITIES:

11 (I) MAY USE MEDIA THAT PRODUCE TANGIBLE RECORDINGS OF
12 INFORMATION TO EXPEDITE THE PAYMENT PROCESS, RATHER THAN DELAYING THE
13 PROCESS BY REQUIRING ORIGINAL PAPER DOCUMENTS; AND

14 (II) SHALL PROVIDE ADEQUATE SAFEGUARDS AND CONTROLS
15 TO ENSURE THE INTEGRITY OF THE DATA AND TO PREVENT DUPLICATE
16 PROCESSING.

17 (5) FAILURE BY A STATE GRANT-MAKING ENTITY TO COMPLY WITH
18 THE PROCEDURAL REQUIREMENTS OF THIS SUBSECTION DOES NOT CONSTITUTE A
19 LATE PAYMENT.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.