

# HOUSE BILL 328

P2  
HB 451/22 – HGO

3lr0465  
CF SB 112

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By: Delegates Kaiser, Stein, Alston, Attar, Bagnall, Embry, Fair, Harris, Healey, Henson, Hill, McCaskill, McComas, Pasteur, Reznik, Simpson, Taveras, Taylor, Terrasa, Williams, ~~and Woods~~ Woods, Bhandari, Chisholm, Cullison, Guzzone, Hutchinson, S. Johnson, Kerr, Kipke, R. Lewis, Lopez, Martinez, M. Morgan, Pena-Melnyk, Reilly, Rosenberg, Szeliga, and White

Introduced and read first time: January 25, 2023  
Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 1, 2023

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## 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 and 2022 Supplement)

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.**

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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           (2) (I) "GRANT" MEANS A LEGAL INSTRUMENT OF FINANCIAL  
2 ASSISTANCE BETWEEN A STATE GRANT-MAKING ENTITY AND A ~~NON-STATE ENTITY~~  
3 NONPROFIT ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C) OF THE  
4 INTERNAL REVENUE CODE THAT IS:

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

10                   2. USED TO PROVIDE FOR ONE OR MORE PAYMENTS IN  
11 REIMBURSEMENT FOR SERVICES OR OTHER PERFORMANCE UNDER THE  
12 AGREEMENT ON A SCHEDULED OR OTHER INCREMENTAL BASIS;

13                   3. DISTINGUISHED FROM A COOPERATIVE AGREEMENT  
14 IN THAT IT DOES NOT PROVIDE FOR SUBSTANTIAL INVOLVEMENT BETWEEN THE  
15 STATE GRANT-MAKING ENTITY AND THE GRANT RECIPIENT IN CARRYING OUT THE  
16 ACTIVITY CONTEMPLATED BY THE AWARD; AND

17                   ~~3.~~ 4. EXECUTED, RENEWED, OR EXTENDED ON  
18 OR AFTER ~~OCTOBER 1, 2022~~ JUNE 1, 2023.

19           (II) "GRANT" DOES NOT INCLUDE AN INSTRUMENT THAT  
20 PROVIDES ONLY:

21                   1. DIRECT GOVERNMENT CASH ASSISTANCE TO AN  
22 INDIVIDUAL;

23                   2. A SUBSIDY;

24                   3. A LOAN;

25                   4. A LOAN GUARANTEE;

26                   5. INSURANCE; OR

27                   6. STATE FUNDING THAT IS REQUIRED ANNUALLY AND  
28 IS CALCULATED THROUGH A FORMULA SET IN STATUTE.

29           ~~(3) "LATE PAYMENT" MEANS ANY AMOUNT THAT IS DUE AND PAYABLE~~  
30 ~~BY LAW UNDER A WRITTEN GRANT AGREEMENT, WITHOUT DEFERRAL, DELAY, OR~~  
31 ~~SET OFF, AND REMAINS UNPAID MORE THAN 30 DAYS AFTER A STATE~~  
32 ~~GRANT-MAKING ENTITY RECEIVES A PROPER INVOICE.~~

1           ~~(4)~~ (3)       “PAYMENT” INCLUDES ALL REQUIRED PROCESSING AND  
2 AUTHORIZATION BY THE COMPTROLLER, AS PROVIDED UNDER STATE  
3 REGULATIONS.

4           ~~(5)~~ (4)       “PROPER INVOICE” MEANS A BILL, A WRITTEN DOCUMENT,  
5 OR AN ELECTRONIC TRANSMISSION READABLE BY THE STATE GRANT-MAKING  
6 ENTITY, PROVIDED BY A GRANT RECIPIENT, THAT:

7                   (I)       REQUESTS AN AMOUNT THAT IS DUE AND PAYABLE BY LAW  
8 UNDER A WRITTEN GRANT AGREEMENT; AND

9                   (II)       MEETS THE REQUIREMENTS OF SUBSECTION (E) OF THIS  
10 SECTION.

11       (B)       THIS SECTION DOES NOT APPLY TO GRANTS:

12                   (1)       MADE BY A UNIT IN THE JUDICIAL BRANCH OF STATE  
13 GOVERNMENT; OR

14                   (2)       FUNDED FROM GENERAL OBLIGATION BOND PROCEEDS OR FROM  
15 A GENERAL FUND CAPITAL APPROPRIATION TO THE BOARD OF PUBLIC WORKS.

16       (C)       IT IS THE POLICY OF THE STATE TO MAKE A PAYMENT UNDER A GRANT  
17 AGREEMENT WITHIN ~~30~~ 37 DAYS AFTER:

18                   (1)       THE DAY ON WHICH THE PAYMENT BECOMES DUE UNDER THE  
19 GRANT AGREEMENT; OR

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

22       (D)       (1)       EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A  
23 GRANT-MAKING ENTITY SHALL BE LIABLE FOR INTEREST THAT SHALL ACCRUE AT  
24 THE RATE OF 9% A YEAR ON ANY AMOUNT THAT:

25                   (I)       THAT IS DUE AND PAYABLE BY LAW AND UNDER A WRITTEN  
26 GRANT AGREEMENT; AND

27                   (II)       FOR WHICH THE GRANT-MAKING ENTITY HAS RECEIVED,  
28 AND FAILED TO SUBMIT TO THE COMPTROLLER WITHIN 30 DAYS OF ITS RECEIPT, A  
29 PROPER INVOICE.

1 ~~(H) REMAINS UNPAID MORE THAN 30 DAYS AFTER A STATE~~  
2 ~~GRANT-MAKING ENTITY RECEIVES A PROPER INVOICE.~~

3 (2) INTEREST SHALL ACCRUE BEGINNING ON THE ~~31ST~~ 38TH DAY  
4 AFTER;

5 ~~(I) THE DAY ON WHICH PAYMENT BECOMES DUE UNDER THE~~  
6 ~~GRANT AGREEMENT; OR~~

7 ~~(H) IF LATER,~~ THE DAY ON WHICH THE STATE GRANT-MAKING  
8 ENTITY RECEIVES A PROPER INVOICE.

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

10 (I) UNLESS WITHIN 30 DAYS AFTER THE DATE ON THE STATE'S  
11 CHECK FOR THE AMOUNT ON WHICH THE INTEREST ACCRUED, THE GRANT  
12 RECIPIENT SUBMITS AN INVOICE FOR THE INTEREST;

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

15 (III) ACCRUING MORE THAN 1 YEAR AFTER THE 31ST DAY AFTER  
16 THE STATE GRANT-MAKING ENTITY RECEIVES AN INVOICE; OR

17 (IV) ON AN AMOUNT THAT REPRESENTS UNPAID INTEREST.

18 (4) INTEREST FOR WHICH A STATE GRANT-MAKING ENTITY IS LIABLE  
19 UNDER THIS SUBSECTION:

20 (I) SHALL BE PAID FROM THE STATE GRANT-MAKING ENTITY'S  
21 OPERATING BUDGET; AND

22 (II) MAY NOT BE PAID FROM FUNDS APPROPRIATED TO FUND A  
23 GRANT.

24 (E) A PROPER INVOICE, REQUIRED AS PAYMENT DOCUMENTATION, SHALL  
25 INCLUDE WITHOUT ERROR:

26 (1) THE GRANT RECIPIENT'S FEDERAL EMPLOYER IDENTIFICATION  
27 NUMBER OR SOCIAL SECURITY NUMBER;

28 (2) THE GRANT AGREEMENT IDENTIFICATION NUMBER OR ANOTHER  
29 ADEQUATE DESCRIPTION OF THE GRANT AGREEMENT; AND

1           **(3) ANY DOCUMENTATION REQUIRED BY REGULATION OR THE GRANT**  
2 **AGREEMENT.**

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

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

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

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

15                   **(I) MARK THE INVOICE WITH THE DATE THE INVOICE WAS**  
16 **RECEIVED; AND**

17                   **(II) REVIEW THE INVOICE AS SOON AS PRACTICABLE, ~~BUT NOT~~**  
18 **~~LATER THAN 5 BUSINESS DAYS AFTER RECEIPT,~~ TO DETERMINE WHETHER THE**  
19 **INVOICE IS A PROPER INVOICE.**

20           **(2) IF THE STATE GRANT-MAKING ENTITY DETERMINES THAT THE**  
21 **INVOICE IS A PROPER INVOICE, ~~THE STATE GRANT-MAKING ENTITY SHALL SUBMIT~~**  
22 **~~THE INVOICE TO THE COMPTROLLER FOR PAYMENT WITHIN 1 BUSINESS DAY AFTER~~**  
23 **~~THE DETERMINATION~~ AND SUBMITS THE INVOICE TO THE COMPTROLLER, THE**  
24 **COMPTROLLER SHALL MAKE PAYMENT WITHIN 5 BUSINESS DAYS.**

25           **(3) (I) IF THE STATE GRANT-MAKING ENTITY DETERMINES THAT**  
26 **THE INVOICE IS NOT A PROPER INVOICE, THE STATE GRANT-MAKING ENTITY SHALL**  
27 **NOTIFY THE GRANT RECIPIENT OF ALL DEFECTS THAT PREVENT PROCESSING AND**  
28 **SPECIFY ALL REASONS WHY THE INVOICE IS NOT PROPER WITHIN 2 BUSINESS DAYS**  
29 **AFTER THE DETERMINATION.**

30                   **(II) IT IS THE RESPONSIBILITY OF THE GRANT RECIPIENT TO**  
31 **SUBMIT A CORRECTED INVOICE.**

32           **(4) STATE GRANT-MAKING ENTITIES:**

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

4 (II) SHALL PROVIDE ADEQUATE SAFEGUARDS AND CONTROLS  
5 TO ENSURE THE INTEGRITY OF THE DATA AND TO PREVENT DUPLICATE  
6 PROCESSING.

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

10 (6) THIS SECTION DOES NOT CREATE LIABILITY ON THE  
11 COMPTROLLER FOR INTEREST ACCRUED ON A LATE PAYMENT.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
13 1, 2023.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.