

SENATE BILL 112

P2
SB 542/22 – B&T

(PRE-FILED)

3lr0464
CF 3lr0465

By: **Senator Kagan**

Requested: September 28, 2022

Introduced and read first time: January 11, 2023

Assigned to: Budget and Taxation

A BILL ENTITLED

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.**

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

19 **1. USED TO ENTER INTO A RELATIONSHIP THE**
20 **PRINCIPAL PURPOSE OF WHICH IS TO TRANSFER ANYTHING OF VALUE FROM THE**
21 **STATE GRANT-MAKING ENTITY TO THE GRANT RECIPIENT TO CARRY OUT A PUBLIC**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 PURPOSE AUTHORIZED BY LAW AND NOT TO ACQUIRE PROPERTY OR SERVICES FOR
2 THE DIRECT BENEFIT OR USE OF THE STATE GRANT-MAKING ENTITY;

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

7 3. EXECUTED ON OR AFTER OCTOBER 1, 2022.

8 (II) "GRANT" DOES NOT INCLUDE AN INSTRUMENT THAT
9 PROVIDES ONLY:

10 1. DIRECT GOVERNMENT CASH ASSISTANCE TO AN
11 INDIVIDUAL;

12 2. A SUBSIDY;

13 3. A LOAN;

14 4. A LOAN GUARANTEE;

15 5. INSURANCE; OR

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

18 (3) "LATE PAYMENT" MEANS ANY AMOUNT THAT IS DUE AND PAYABLE
19 BY LAW UNDER A WRITTEN GRANT AGREEMENT, WITHOUT DEFERRAL, DELAY, OR
20 SET-OFF, AND REMAINS UNPAID MORE THAN 37 DAYS AFTER A STATE
21 GRANT-MAKING ENTITY RECEIVES A PROPER INVOICE.

22 (4) "PAYMENT" INCLUDES ALL REQUIRED PROCESSING AND
23 AUTHORIZATION BY THE COMPTROLLER, AS PROVIDED UNDER STATE
24 REGULATIONS.

25 (5) "PROPER INVOICE" MEANS A BILL, A WRITTEN DOCUMENT, OR AN
26 ELECTRONIC TRANSMISSION READABLE BY THE STATE GRANT-MAKING ENTITY,
27 PROVIDED BY A GRANT RECIPIENT, THAT:

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

1 **(II) MEETS THE REQUIREMENTS OF SUBSECTION (E) OF THIS**
2 **SECTION.**

3 **(B) THIS SECTION DOES NOT APPLY TO GRANTS:**

4 **(1) MADE BY A UNIT IN THE JUDICIAL BRANCH OF STATE**
5 **GOVERNMENT; OR**

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

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

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

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

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

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

18 **(II) REMAINS UNPAID MORE THAN 30 DAYS AFTER A STATE**
19 **GRANT-MAKING ENTITY RECEIVES A PROPER INVOICE.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 **(3) ANY DOCUMENTATION REQUIRED BY REGULATION OR THE GRANT**
19 **AGREEMENT.**

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

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

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

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

1 **(I) MARK THE INVOICE WITH THE DATE THE INVOICE WAS**
2 **RECEIVED; AND**

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

6 **(2) IF THE STATE GRANT-MAKING ENTITY DETERMINES THAT THE**
7 **INVOICE IS A PROPER INVOICE, THE STATE GRANT-MAKING ENTITY SHALL SUBMIT**
8 **THE INVOICE TO THE COMPTROLLER FOR PAYMENT WITHIN 1 BUSINESS DAY AFTER**
9 **THE DETERMINATION.**

10 **(3) (I) IF THE STATE GRANT-MAKING ENTITY DETERMINES THAT**
11 **THE INVOICE IS NOT A PROPER INVOICE, THE STATE GRANT-MAKING ENTITY SHALL**
12 **NOTIFY THE GRANT RECIPIENT OF ALL DEFECTS THAT PREVENT PROCESSING AND**
13 **SPECIFY ALL REASONS WHY THE INVOICE IS NOT PROPER WITHIN 2 BUSINESS DAYS**
14 **AFTER THE DETERMINATION.**

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

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

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

21 **(II) SHALL PROVIDE ADEQUATE SAFEGUARDS AND CONTROLS**
22 **TO ENSURE THE INTEGRITY OF THE DATA AND TO PREVENT DUPLICATE**
23 **PROCESSING.**

24 **(5) FAILURE BY A STATE GRANT-MAKING ENTITY TO COMPLY WITH**
25 **THE PROCEDURAL REQUIREMENTS OF THIS SUBSECTION DOES NOT CONSTITUTE A**
26 **LATE PAYMENT.**

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