

SENATE BILL 189

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2004 Regular Session
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By: **The President (By Request - Administration) and Senators Astle, Brinkley, Conway, Currie, Garagiola, Giannetti, Greenip, Hafer, Haines, Harris, Hogan, Hollinger, Hooper, Jacobs, Kasemeyer, Kelley, Kittleman, Klausmeier, Kramer, Lawlah, McFadden, Middleton, Munson, Pipkin, Stoltzfus, ~~and Teitelbaum~~ Teitelbaum, Della, Exum, and Gladden**

Introduced and read first time: January 23, 2004
Assigned to: Budget and Taxation and Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: April 3, 2004

CHAPTER _____

1 AN ACT concerning

2 **Department of Health and Mental Hygiene - Federally Qualified Health**
3 **Centers Grant Program**

4 FOR the purpose of creating the Federally Qualified Health Centers Grant Program;
5 authorizing the Board of Public Works, on the recommendation of the Secretary
6 of Health and Mental Hygiene, to provide grants under the Program to counties,
7 municipal corporations, and nonprofit corporations for the conversion of public
8 buildings to Federally Qualified Health Centers facilities, the acquisition of
9 existing buildings or parts of buildings for use as Federally Qualified Health
10 Centers, the renovation of Federally Qualified Health Centers, the purchase of
11 capital equipment for Federally Qualified Health Centers, and the planning,
12 design, and construction of Federally Qualified Health Centers; requiring the
13 Department of Health and Mental Hygiene to make certain recommendations;
14 providing for the application process; authorizing the Board of Public Works to
15 adopt certain regulations; providing certain terms, conditions, and limitations
16 on the allocations, use, and amount of State grants; prohibiting proceeds of a
17 grant from being used for certain religious purposes; authorizing the State,
18 under certain circumstances, to recover a certain portion of the State funds
19 expended; providing for a certain judicial proceeding and liens to enforce the
20 State's right of recovery and the priority of the proceeding and the lien;
21 requiring the Department to adopt certain regulations; defining certain terms;
22 and generally relating to grants for Federally Qualified Health Centers.

1 BY adding to
2 Article - Health - General
3 Section 24-1101 through 24-1107, inclusive, to be under the new subtitle
4 "Subtitle 11. Federally Qualified Health Centers Grant Program"
5 Annotated Code of Maryland
6 (2000 Replacement Volume and 2003 Supplement)

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

9 **Article - Health - General**

10 **SUBTITLE 11. FEDERALLY QUALIFIED HEALTH CENTERS GRANT PROGRAM.**

11 24-1101.

12 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
13 INDICATED.

14 (B) "FEDERALLY QUALIFIED HEALTH CENTER" MEANS A HEALTH CENTER
15 THAT IS:

16 (1) DESIGNATED AS A FEDERALLY QUALIFIED HEALTH CENTER UNDER
17 § 330 OF THE FEDERAL PUBLIC HEALTH SERVICE ACT, 42 U.S.C. 254B; AND

18 (2) WHOLLY OWNED BY AND OPERATED UNDER THE AUTHORITY OF A
19 COUNTY, MUNICIPAL CORPORATION, OR NONPROFIT ORGANIZATION.

20 (C) "NONPROFIT ORGANIZATION" MEANS:

21 (1) A BONA FIDE RELIGIOUS ORGANIZATION, NO PART OF THE
22 EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY INDIVIDUAL OR IS USED FOR
23 ANY PURPOSE OTHER THAN THE MAINTENANCE AND OPERATION OF A FACILITY,
24 THE PURCHASE OF EQUIPMENT TO BE USED IN A FACILITY, OR THE EXPANSION OF A
25 FACILITY; OR

26 (2) AN ORGANIZATION:

27 (I) THAT IS CHARTERED AS A NONPROFIT CORPORATION AND
28 CLASSIFIED BY THE INTERNAL REVENUE SERVICE AS NONPROFIT; AND

29 (II) NO PART OF THE EARNINGS OF WHICH INURES TO THE
30 BENEFIT OF ANY INDIVIDUAL OR IS USED FOR ANY PURPOSE OTHER THAN THE
31 MAINTENANCE AND OPERATION OF A FACILITY, THE PURCHASE OF EQUIPMENT TO
32 BE USED IN A FACILITY, OR THE EXPANSION OF A FACILITY.

33 (D) "WHOLLY OWNED" INCLUDES LEASED, IF:

1 (1) (I) THE LEASE IS FOR A MINIMUM TERM OF 30 YEARS FOLLOWING
2 PROJECT COMPLETION; OR

3 (II) THE LEASE AGREEMENT EXTENDS THE RIGHT OF PURCHASE
4 TO THE LESSEE; AND

5 (2) THE LESSOR CONSENTS TO THE RECORDING IN THE LAND RECORDS
6 OF THE COUNTY OR BALTIMORE CITY WHERE THE FACILITY IS LOCATED, OF A
7 NOTICE OF THE STATE'S RIGHT OF RECOVERY AS PROVIDED UNDER § 24-1106 OF THIS
8 SUBTITLE.

9 24-1102.

10 (A) THERE IS A FEDERALLY QUALIFIED HEALTH CENTERS GRANT PROGRAM.

11 (B) ON THE RECOMMENDATION OF THE SECRETARY, THE BOARD OF PUBLIC
12 WORKS MAY MAKE GRANTS TO COUNTIES, MUNICIPAL CORPORATIONS, AND
13 NONPROFIT ORGANIZATIONS FOR:

14 (1) THE CONVERSION OF PUBLIC BUILDINGS OR PARTS OF PUBLIC
15 BUILDINGS TO FEDERALLY QUALIFIED HEALTH CENTERS;

16 (2) THE ACQUISITION OF EXISTING BUILDINGS OR PARTS OF BUILDINGS
17 FOR USE AS FEDERALLY QUALIFIED HEALTH CENTERS;

18 (3) THE RENOVATION OF FEDERALLY QUALIFIED HEALTH CENTERS;

19 (4) THE PURCHASE OF CAPITAL EQUIPMENT FOR FEDERALLY
20 QUALIFIED HEALTH CENTERS; OR

21 (5) THE PLANNING, DESIGN, AND CONSTRUCTION OF FEDERALLY
22 QUALIFIED HEALTH CENTERS.

23 24-1103.

24 (A) ANY COUNTY, MUNICIPAL CORPORATION, OR NONPROFIT ORGANIZATION
25 SPONSORING A PROJECT INVOLVING WORK SPECIFIED IN § 24-1102 OF THIS
26 SUBTITLE MAY APPLY TO THE SECRETARY FOR A STATE GRANT TO BE APPLIED
27 TOWARD THE COST OF THAT PROJECT.

28 (B) THE APPLICATION SHALL INCLUDE:

29 (1) PROJECT PLANS FOR THE WORK TO BE CARRIED OUT;

30 (2) A STATEMENT LISTING THE PERSONNEL EMPLOYED OR TO BE
31 EMPLOYED AT THE FEDERALLY QUALIFIED HEALTH CENTER, INCLUDING ALL
32 REMUNERATION AND PERQUISITES FOR PERSONAL SERVICES AND ALL OTHER
33 EXPENSES PAID OR TO BE PAID TO THESE PERSONNEL;

34 (3) ALL OTHER EXPENSES INCURRED OR TO BE INCURRED IN
35 OPERATING THE FEDERALLY QUALIFIED HEALTH CENTER; AND

1 (4) THE SCHEDULE OF RATES CHARGED OR TO BE CHARGED FOR
2 SERVICES RENDERED.

3 (C) ON APPROVAL OF A PROJECT AND THE PROJECT PLANS, THE SECRETARY
4 SHALL PROMPTLY REPORT THE APPLICATION TO THE BOARD OF PUBLIC WORKS,
5 TOGETHER WITH THE SECRETARY'S RECOMMENDATION THAT THE BOARD MAKE
6 FUNDS AVAILABLE AS PROVIDED IN THIS SUBTITLE.

7 24-1104.

8 (A) THE ALLOCATION AND USE OF STATE FUNDS UNDER THIS SUBTITLE ARE
9 SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THIS SECTION.

10 (B) STATE FUNDS MAY ONLY BE USED FOR THE PURPOSES LISTED UNDER §
11 24-1102 OF THIS SUBTITLE AND APPROVED BY THE SECRETARY UNDER § 24-1103 OF
12 THIS SUBTITLE.

13 (C) (1) THE ALLOCATION AND USE OF STATE FUNDS UNDER THIS SUBTITLE
14 ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS.

15 (2) ANY FEDERAL OR OTHER GRANT THAT IS RECEIVED FOR AN
16 ELIGIBLE PROJECT SHALL BE APPLIED FIRST TO THE COST OF THE PROJECT.

17 (3) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A STATE
18 GRANT MAY NOT EXCEED ~~THE LESSER OF \$500,000 OR~~ 50% OF THE COST OF ELIGIBLE
19 WORK REMAINING UNPAID AFTER ALL FEDERAL GRANTS HAVE BEEN APPLIED.

20 (4) FOR PURPOSES OF THIS SUBTITLE, COMMUNITY DEVELOPMENT
21 BLOCK GRANT FUNDS SHALL BE CONSIDERED AS LOCAL MATCHING FUNDS AND MAY
22 NOT BE CONSIDERED AS FEDERAL GRANT FUNDS.

23 (D) FOR A PROJECT DESIGNATED AS ELIGIBLE FOR POVERTY AREA FUNDING
24 UNDER FEDERAL REGULATIONS, STATE PLANS, OR DEPARTMENTAL REGULATIONS, A
25 STATE GRANT MAY COVER UP TO ~~THE LESSER OF \$500,000 OR 75%~~ 75% OF THE COST
26 OF ELIGIBLE WORK REMAINING UNPAID AFTER ALL FEDERAL GRANTS HAVE BEEN
27 APPLIED.

28 (E) THE AMOUNT OF THE STATE GRANT RECOMMENDED TO THE BOARD OF
29 PUBLIC WORKS FOR ANY PROJECT SHALL BE DETERMINED AFTER CONSIDERATION
30 OF:

31 (1) ALL ELIGIBLE PROJECTS;

32 (2) THE TOTAL OF UNALLOCATED STATE FUNDS AVAILABLE AT THE
33 TIME THE GRANT RECOMMENDATION IS MADE TO THE BOARD OF PUBLIC WORKS;
34 AND

35 (3) THE PRIORITIES OF AREA NEED ESTABLISHED BY THE DEPARTMENT.

36 (F) (1) NO PORTION OF THE PROCEEDS OF A STATE GRANT MAY BE USED:

- 1 (I) TO FURTHER SECTARIAN RELIGIOUS INSTRUCTION;
- 2 (II) IN CONNECTION WITH THE DESIGN, ACQUISITION, OR
3 CONSTRUCTION OF ANY BUILDING TO BE USED AS A PLACE OF SECTARIAN
4 RELIGIOUS WORSHIP OR INSTRUCTION; OR
- 5 (III) IN CONNECTION WITH ANY PROGRAM OR DEPARTMENT OF
6 DIVINITY FOR ANY RELIGIOUS DENOMINATION.

7 (2) ON THE REQUEST OF THE BOARD OF PUBLIC WORKS, THE
8 APPLICANT SHALL SUBMIT EVIDENCE SATISFACTORY TO THE BOARD THAT THE
9 PROCEEDS OF THE GRANT ARE NOT BEING USED FOR A PURPOSE PROHIBITED
10 UNDER THIS SUBSECTION OR UNDER APPLICABLE FEDERAL LAW.

11 24-1105.

12 (A) THE BOARD OF PUBLIC WORKS SHALL MAKE ALLOCATIONS FROM FUNDS
13 AVAILABLE UNDER THIS SUBTITLE IN ACCORDANCE WITH THIS SUBTITLE.

14 (B) THE BOARD SHALL CERTIFY THE ALLOCATIONS TO THE PROPER STATE
15 OFFICERS, AND THE TREASURER SHALL MAKE PAYMENTS TO OR ON BEHALF OF THE
16 APPLICANT, WHEN NEEDED, FOR THE APPROVED PROJECT.

17 (C) THE BOARD OF PUBLIC WORKS MAY ADOPT REGULATIONS TO IMPLEMENT
18 THIS SECTION.

19 24-1106.

20 (A) THE STATE MAY RECOVER FROM EITHER THE TRANSFEROR OR
21 TRANSFEREE OR, IN THE CASE OF A PROPERTY THAT HAS CEASED TO BE A
22 FEDERALLY QUALIFIED HEALTH CENTER, FROM THE OWNER, AN AMOUNT BEARING
23 THE SAME RATIO TO THE THEN CURRENT VALUE OF SO MUCH OF THE PROPERTY AS
24 CONSTITUTED AN APPROVED PROJECT AS THE AMOUNT OF THE STATE
25 PARTICIPATION BORE TO THE TOTAL ELIGIBLE COST OF THE APPROVED PROJECT,
26 TOGETHER WITH ALL COSTS AND REASONABLE ATTORNEYS' FEES INCURRED BY THE
27 STATE IN THE RECOVERY PROCEEDINGS, IF, WITHIN 30 YEARS AFTER COMPLETION
28 OF A PROJECT, A PROPERTY FOR WHICH FUNDS HAVE BEEN PAID UNDER THIS
29 SUBTITLE:

30 (1) IS SOLD OR TRANSFERRED TO ANY PERSON, AGENCY, OR
31 ORGANIZATION THAT WOULD NOT QUALIFY AS AN APPLICANT UNDER THIS
32 SUBTITLE, OR THAT IS NOT APPROVED AS A TRANSFEREE BY THE BOARD OF PUBLIC
33 WORKS; OR

34 (2) CEASES TO BE A FEDERALLY QUALIFIED HEALTH CENTER AS
35 DEFINED IN THIS SUBTITLE.

36 (B) (1) BEFORE THE STATE MAKES ANY FUNDS AVAILABLE FOR AN
37 APPROVED PROJECT, THE DEPARTMENT SHALL CAUSE A NOTICE OF THIS RIGHT OF

1 RECOVERY TO BE RECORDED IN THE LAND RECORDS OF THE COUNTY OR
2 BALTIMORE CITY WHERE THE PROPERTY IS LOCATED.

3 (2) THE RECORDING OF THE NOTICE:

4 (I) DOES NOT CREATE A LIEN AGAINST THE PROPERTY; BUT

5 (II) SHALL CONSTITUTE NOTICE TO ANY POTENTIAL TRANSFEREE,
6 POTENTIAL TRANSFEROR, POTENTIAL CREDITOR, OR OTHER INTERESTED PARTY OF
7 THE POSSIBILITY THAT THE STATE MAY OBTAIN A LIEN UNDER THIS SUBTITLE.

8 (C) (1) (I) THE SECRETARY OF THE BOARD OF PUBLIC WORKS MAY FILE A
9 CIVIL COMPLAINT UNDER SUBSECTION (B) OF THIS SECTION, IN THE CIRCUIT COURT
10 FOR THE COUNTY OR BALTIMORE CITY WHERE THE PROPERTY IS LOCATED, AGAINST
11 THE OWNER OF THE PROPERTY AND ANY OTHER INTERESTED PARTIES, INCLUDING
12 ANY TRANSFEROR THAT THE STATE WISHES TO MAKE A PARTY.

13 (II) THE COMPLAINT SHALL BE FILED WITH:

14 1. SWORN AFFIDAVITS STATING FACTS ON WHICH THE
15 ALLEGATIONS OF DEFAULT ARE BASED; AND

16 2. A DETAILED JUSTIFICATION OF THE AMOUNT CLAIMED.

17 (2) IF THE CIRCUIT COURT DETERMINES FROM THE STATE'S INITIAL
18 FILING THAT A DEFAULT HAS OCCURRED, PENDING FULL DETERMINATION OF THE
19 STATE'S CLAIM, THE COURT SHALL AUTHORIZE A TEMPORARY LIEN ON THE
20 PROPERTY:

21 (I) IN THE AMOUNT OF THE STATE'S COMPLAINT PLUS ANY
22 ADDITIONAL AMOUNT ESTIMATED TO BE NECESSARY TO COVER THE COSTS AND
23 REASONABLE ATTORNEYS' FEES INCURRED BY THE STATE; OR

24 (II) IN OTHER AMOUNTS THAT THE COURT DETERMINES TO BE
25 REASONABLE.

26 (3) (I) A TEMPORARY LIEN SHALL TAKE EFFECT:

27 1. ON THE DATE OF THE COURT'S AUTHORIZATION, IF THE
28 SECRETARY OF THE BOARD OF PUBLIC WORKS RECORDS A NOTICE OF TEMPORARY
29 LIEN IN THE LAND RECORDS OF THE COUNTY OR BALTIMORE CITY WHERE THE
30 PROPERTY IS LOCATED WITHIN 10 DAYS AFTER THE COURT'S AUTHORIZATION; OR

31 2. ON THE DATE A NOTICE OF TEMPORARY LIEN IS
32 RECORDED.

33 (II) WHILE THE TEMPORARY LIEN IS IN EFFECT, NEITHER THE
34 OWNER NOR ANY PERSON WHO ACQUIRED AN INTEREST IN THE PROPERTY AFTER
35 THE STATE FIRST MADE FUNDS AVAILABLE IN CONNECTION WITH THE PROPERTY
36 MAY WITHOUT THE PRIOR WRITTEN CONSENT OF THE STATE:

