

# HOUSE BILL 66

O4

6lr0012

(PRE-FILED)

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By: **Chair, Appropriations Committee (By Request – Departmental – Office for Children)**

Requested: September 24, 2015

Introduced and read first time: January 13, 2016

Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Residential Child Care Capital Grant Program – Repeal**

3 FOR the purpose of repealing the Residential Child Care Capital Grant Program, which  
4 authorizes the Board of Public Works, on the recommendation of the Executive  
5 Director of the Governor’s Office for Children, to make certain grants to counties,  
6 municipal corporations, and nonprofit organizations; repealing provisions of law  
7 relating to the purposes, administration, and funding of the Program; repealing  
8 provisions of law relating to the uses, terms, and conditions of the grants and the  
9 State’s recovery of funds expended under the Program; repealing provisions of law  
10 relating to the authority of the Board of Public Works and the Governor’s Office for  
11 Children to adopt regulations to implement the Program; and generally relating to  
12 the Residential Child Care Capital Grant Program.

13 BY repealing

14 Article – Human Services

15 Section 8–901 through 8–911 and the subtitle “Subtitle 9. Residential Child Care  
16 Capital Grant Program”

17 Annotated Code of Maryland

18 (2007 Volume and 2015 Supplement)

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

21 **Article – Human Services**

22 **[Subtitle 9. Residential Child Care Capital Grant Program.]**

23 **[8–901.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 In this subtitle, “nonprofit organization” means:

2 (1) a bona fide religious organization, no part of the earnings of which  
3 inures to the benefit of any individual or is used for any purpose other than the  
4 maintenance and operation of a residential child care program, the purchase of equipment  
5 to be used in a residential child care program, or the expansion of a residential child care  
6 program; or

7 (2) an organization:

8 (i) that is chartered as a nonprofit corporation and classified by the  
9 Internal Revenue Service as nonprofit; and

10 (ii) no part of the earnings of which inures to the benefit of any  
11 individual or is used for any purpose other than the maintenance and operation of a  
12 residential child care program, the purchase of equipment to be used in a residential child  
13 care program, or the expansion of a residential child care program.]

14 [8–902.

15 (a) There is a Residential Child Care Capital Grant Program.

16 (b) On the recommendation of the Executive Director, the Board of Public Works  
17 may make grants to counties, municipal corporations, and nonprofit organizations for:

18 (1) the conversion of public buildings or parts of public buildings to  
19 residential child care programs;

20 (2) the acquisition of existing buildings or parts of buildings for use as  
21 residential child care programs;

22 (3) the renovation of residential child care programs;

23 (4) the purchase of capital equipment for residential child care programs;  
24 or

25 (5) the planning, design, and construction of residential child care  
26 programs.]

27 [8–903.

28 (a) A county, municipal corporation, or nonprofit organization sponsoring a  
29 project involving work specified in § 8–902 of this subtitle may apply to the Executive  
30 Director for a State grant to be applied toward the cost of that project.

31 (b) An application for a grant shall include:

1 (1) project plans for the work to be carried out;

2 (2) a statement listing the personnel employed or to be employed at the  
3 residential child care program, including all compensation for personnel services and all  
4 other expenses paid or to be paid to the personnel;

5 (3) all other expenses incurred or to be incurred in operating the residential  
6 child care program; and

7 (4) a statement describing how the residential child care program will  
8 provide services in an underserved geographic area of the State, as identified by the Office.

9 (c) An applicant may amend the project plans submitted with its application  
10 during or after the grant application process if the amendments are:

11 (1) intended to meet the changing needs of the residential child care  
12 program or its residents; and

13 (2) approved by the Executive Director.

14 (d) On approval of a project and the project plans, the Executive Director shall:

15 (1) promptly report the application to the Board of Public Works; and

16 (2) recommend that the Board make funds available as provided in this  
17 subtitle.

18 (e) The amount of the State grant recommended to the Board of Public Works for  
19 a project shall be determined after consideration of:

20 (1) all eligible projects;

21 (2) the total of unallocated State funds available at the time the grant  
22 recommendation is made to the Board of Public Works; and

23 (3) the priorities established by the Office regarding geographic areas of  
24 the State identified as underserved by residential child care programs.]

25 [8-904.

26 (a) Beginning in fiscal year 2008 and in each fiscal year thereafter, the Governor  
27 may include an appropriation for the Residential Child Care Capital Grant Program in the  
28 State capital budget to be distributed and managed in accordance with this subtitle.

29 (b) (1) The Board of Public Works shall:

1 (i) make allocations from funds available for the Residential Child  
2 Care Capital Grant Program in accordance with this subtitle; and

3 (ii) certify the allocations to the Comptroller and the Treasurer.

4 (2) After the Board certifies the allocations, the Treasurer shall make  
5 payments to or on behalf of the applicant, when needed, for an approved project.

6 (3) The Board of Public Works may adopt regulations to implement this  
7 subsection.]

8 [8-905.

9 (a) A State grant may be used only for the purposes listed under § 8-902 of this  
10 subtitle and approved by the Executive Director under § 8-903 of this subtitle.

11 (b) (1) Any federal or other grant that is received for an eligible project shall  
12 be applied first to the cost of the project.

13 (2) A State grant may not exceed 50% of the cost of eligible work remaining  
14 unpaid after all federal grants have been applied.

15 (3) For purposes of this subtitle, community development block grant funds  
16 shall be considered as local matching funds and may not be considered as federal grant  
17 funds.

18 (c) (1) A State grant may not be used:

19 (i) to further sectarian religious instruction;

20 (ii) in connection with the design, acquisition, or construction of any  
21 building to be used as a place of sectarian religious worship or instruction; or

22 (iii) in connection with any program or department of divinity for any  
23 religious denomination.

24 (2) On the request of the Board of Public Works, the applicant shall submit  
25 evidence satisfactory to the Board that a grant is not being used for a purpose prohibited  
26 under this subsection or under applicable federal law.]

27 [8-906.

28 (a) Before the State makes any funds available for an approved project, the Office  
29 shall cause a notice of the State's right of recovery to be recorded in the land records of the  
30 county in which the property is located.

31 (b) The recording of the notice:

1 (1) does not create a lien against the property; but

2 (2) constitutes notice to any potential transferee, transferor, creditor, or  
3 any other interested party of the possibility that the State may obtain a lien under this  
4 subtitle.]

5 [8-907.

6 (a) The State may recover grant funds paid under this subtitle if, within 30 years  
7 after completion of a project, the property for which funds have been paid:

8 (1) is sold or transferred to a person that:

9 (i) would not qualify as an applicant under this subtitle; or

10 (ii) is not approved as a transferee by the Board of Public Works; or

11 (2) ceases to be a residential child care program.

12 (b) The State may recover from the:

13 (1) transferor;

14 (2) transferee; or

15 (3) owner of a property that has ceased to be a residential child care  
16 program.

17 (c) The State may recover the sum of:

18 (1) an amount that equals the value of the project property at the time of  
19 the recovery multiplied by a fraction:

20 (i) the numerator of which is the amount of the State funds for the  
21 project; and

22 (ii) the denominator of which is the total eligible cost of the project;  
23 and

24 (2) all costs and reasonable attorneys' fees incurred in the recovery  
25 proceedings.

26 (d) The Board of Public Works may waive the State's right of recovery under this  
27 subtitle for good cause.]

28 [8-908.

1           (a)   (1)   The Secretary of the Board of Public Works may file a civil complaint  
2 under this subtitle in the circuit court for the county in which the property is located,  
3 against the owner of the property and any other interested parties, including any  
4 transferor.

5                   (2)   The complaint shall be filed with:

6                           (i)   affidavits stating facts on which the allegations of default are  
7 based; and

8                           (ii)   a detailed justification of the amount claimed.

9           (b)   (1)   If the court determines from the State's initial filing that a default  
10 described in § 8-907(a) of this subtitle has occurred, the court shall authorize a temporary  
11 lien on the property pending full determination of the State's claim.

12                   (2)   The temporary lien shall be in the amount of the State's claim, plus any  
13 additional amount estimated to be necessary to cover the costs and reasonable attorneys'  
14 fees incurred by the State, or another amount that the court determines to be reasonable.

15           (c)   (1)   A temporary lien shall take effect:

16                           (i)   on the date of the court order authorizing the lien, if the  
17 Secretary of the Board of Public Works records a notice of temporary lien in the land records  
18 of the county in which the property is located within 10 days after the date of the court  
19 order; or

20                           (ii)   on the date a notice of temporary lien is recorded.

21           (2)   While the temporary lien is in effect, the owner or any person who  
22 acquired an interest in the property after the State first made funds available in connection  
23 with the property may not, without the prior written consent of the State:

24                           (i)   take any action that would affect the title to the property; or

25                           (ii)   institute any proceedings to enforce a security interest or other  
26 similar rights in the property.

27           (d)   (1)   The owner of the property or any other interested party may obtain  
28 release of a temporary lien at any time by filing with the court a bond securing the payment  
29 in full of the State's claim and any additional amount necessary to cover the costs and  
30 reasonable attorneys' fees incurred by the State.

31                   (2)   The owner or other interested party may cause the release to be  
32 recorded in the land records.]

1 [8-909.

2 (a) Proceedings to determine the State's right to recover and the amount of its  
3 recovery under this subtitle shall have priority over other civil proceedings in the circuit  
4 courts.

5 (b) (1) At the conclusion of full adversary proceedings on the issue of default  
6 and of any disputes over the amount of the State's recovery, if the court finds that a default  
7 described in § 8-907(a) of this subtitle has occurred, the court shall issue a final judgment  
8 for the amount it finds to be recoverable by the State.

9 (2) All parties involved in the default, including the owner of the property,  
10 shall be held jointly and severally liable to the State for the amount of the judgment.

11 (3) If the court finds that a default described in § 8-907(a) of this subtitle  
12 has not occurred or if the full amount of the court's judgment is paid to the State within 30  
13 days after the court's final order, any temporary lien shall be released immediately and the  
14 Secretary of the Board of Public Works shall cause the release to be recorded in the land  
15 records.

16 (4) (i) If the amount of the final judgment remains unpaid after 30 days  
17 following the court's final order, the final judgment shall constitute a lien on the property.

18 (ii) Except as the State may otherwise provide by a written  
19 subordination agreement, the lien is superior to the lien or other interest of a mortgagee,  
20 pledgee, purchaser, or judgment creditor whose interest became perfected against third  
21 persons after the State first made funds available under this subtitle.

22 (c) (1) A lien takes effect on the later of:

23 (i) the 31st day after the court's final order if the Secretary of the  
24 Board of Public Works records a notice of lien in the land records of the county in which the  
25 property is located on or before the 41st day after the final order; or

26 (ii) the date a notice of lien is recorded.

27 (2) (i) When a lien takes effect, any temporary lien is automatically and  
28 fully released.

29 (ii) The recorded notice of a lien constitutes notice of the release of a  
30 temporary lien.

31 (d) A lien imposed under this section may be enforced and foreclosed in  
32 accordance with the Maryland Rules, except that the State or any agent appointed by the  
33 State to sell the property does not need to file a bond.

1           (e)    (1)    The owner or any other interested party may obtain release of a lien at  
2 any time by paying to the State the full amount of the judgment entered by the circuit court,  
3 together with interest from the date of judgment.

4           (2)    On payment in full, the Secretary of the Board of Public Works shall  
5 cause a release to be recorded in the land records.]

6 [8-910.

7           All funds recovered under this subtitle shall be deposited in the annuity bond fund  
8 and applied to the debt service requirements of the State.]

9 [8-911.

10           The Office shall adopt regulations to implement this subtitle.]

11           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
12 1, 2016.