

# SENATE BILL 542

P2

2lr1265  
CF HB 451

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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

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## 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)

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:**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

6           2.     DISTINGUISHED FROM A COOPERATIVE AGREEMENT  
7 IN THAT IT DOES NOT PROVIDE FOR SUBSTANTIAL INVOLVEMENT BETWEEN THE  
8 GRANT-MAKING ENTITY AND THE GRANT RECIPIENT IN CARRYING OUT THE  
9 ACTIVITY CONTEMPLATED BY THE AWARD.

10           (II)   “GRANT” DOES NOT INCLUDE AN INSTRUMENT THAT  
11 PROVIDES ONLY:

12           1.     DIRECT GOVERNMENT CASH ASSISTANCE TO AN  
13 INDIVIDUAL;

14           2.     A SUBSIDY;

15           3.     A LOAN;

16           4.     A LOAN GUARANTEE;

17           5.     INSURANCE; OR

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

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

24           (4)   “PAYMENT” INCLUDES ALL REQUIRED PROCESSING AND  
25 AUTHORIZATION BY THE COMPTROLLER, AS PROVIDED UNDER STATE  
26 REGULATIONS.

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

30           (1)   REQUESTS AN AMOUNT THAT IS DUE AND PAYABLE BY LAW  
31 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:

4                   (1) GRANTS MADE BY THE STATE HIGHER EDUCATION SYSTEM, THE  
5 CAPITAL BUDGET, THE DEPARTMENT OF TRANSPORTATION, OR THE MARYLAND  
6 TECHNOLOGY DEVELOPMENT CORPORATION; OR

7                   (2) BUSINESS DEVELOPMENT GRANTS MADE BY THE DEPARTMENT  
8 OF COMMERCE.

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

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

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

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

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

19                   (II) REMAINS UNPAID MORE THAN 45 DAYS AFTER A STATE  
20 GRANT-MAKING ENTITY RECEIVES A PROPER INVOICE.

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

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

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

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

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

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

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

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

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

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

13 (2) THE GRANT AGREEMENT IDENTIFICATION NUMBER OR ANOTHER  
14 ADEQUATE DESCRIPTION OF THE GRANT AGREEMENT; AND

15 (3) ANY DOCUMENTATION REQUIRED BY REGULATION OR THE GRANT  
16 AGREEMENT.

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

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

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

27 (G) (1) ON RECEIPT OF AN INVOICE, A STATE GRANT-MAKING ENTITY  
28 SHALL:

29 (I) MARK THE INVOICE WITH THE DATE THE INVOICE WAS  
30 RECEIVED; AND

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

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

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

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

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

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

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

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

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