
By: **Delegates Pitkin, Conroy, Hubers, and Cadden**

Introduced and read first time: February 11, 2000

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Health and Mental Hygiene - Assisted Living Facilities Grant**
3 **Program**

4 FOR the purpose of establishing the Assisted Living Facilities Grant Program;
5 authorizing the Board of Public Work, 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 organizations for the conversion of public
8 buildings to assisted living facilities, the acquisition of existing buildings or
9 parts of buildings for use as assisted living facilities, the renovation of assisted
10 living facilities, the purchase of capital equipment for assisted living facilities,
11 and the planning, design, and construction of assisted living facilities; requiring
12 the Department of Health and Mental Hygiene to make recommendations;
13 permitting the Board of Public Works to adopt certain regulations; providing
14 certain terms, conditions, and limitations on the allocations, use, and amount of
15 State grants; providing that no proceeds of a grant may be used for certain
16 religious purposes; providing that, under certain circumstances, the State may
17 recover a certain portion of the State funds expended; providing for certain
18 judicial proceedings and liens to enforce the State's right of recovery and the
19 priority of the proceeding and lien; defining certain terms; and generally
20 relating to grants for assisted living facilities.

21 BY adding to
22 Article - Health - General
23 Section 24-1001 through 24-1007, inclusive, to be under the new subtitle
24 "Subtitle 10. Assisted Living Facilities Grant Program"
25 Annotated Code of Maryland
26 (1996 Replacement Volume and 1999 Supplement)

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

1 **Article - Health - General**

2 SUBTITLE 10. ASSISTED LIVING FACILITIES GRANT PROGRAM.

3 24-1001.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.6 (B) "ASSISTED LIVING FACILITY" MEANS A RESIDENTIAL FACILITY OR
7 FACILITY- BASED PROGRAM THAT:

8 (1) MEETS THE DEFINITION IN § 19-1801 OF THIS ARTICLE; AND

9 (2) IS LICENSED BY THE DEPARTMENT.

10 (C) "FACILITY" MEANS AN ASSISTED LIVING FACILITY THAT IS WHOLLY
11 OWNED BY AND OPERATED UNDER THE AUTHORITY OF:

12 (1) A COUNTY;

13 (2) A MUNICIPAL CORPORATION; OR

14 (3) A NONPROFIT ORGANIZATION.

15 (D) "NONPROFIT ORGANIZATION" MEANS:

16 (1) A BONA FIDE RELIGIOUS ORGANIZATION, NO PART OF THE
17 EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY INDIVIDUAL OR IS USED FOR
18 ANY PURPOSE OTHER THAN THE MAINTENANCE AND OPERATION OF A FACILITY,
19 THE PURCHASE OF EQUIPMENT TO BE USED IN A FACILITY, OR THE EXPANSION OF A
20 FACILITY; OR

21 (2) AN ORGANIZATION:

22 (I) THAT IS CHARTERED AS A NONPROFIT CORPORATION AND
23 CLASSIFIED BY THE INTERNAL REVENUE SERVICE AS NONPROFIT; AND24 (II) NO PART OF THE EARNINGS OF WHICH INURES TO THE
25 BENEFIT OF ANY INDIVIDUAL OR IS USED FOR ANY PURPOSE OTHER THAN THE
26 MAINTENANCE AND OPERATION OF A FACILITY, THE PURCHASE OF EQUIPMENT TO
27 BE USED IN A FACILITY, OR THE EXPANSION OF A FACILITY.

28 (E) "WHOLLY OWNED" INCLUDES LEASED, IF:

29 (1) (I) THE LEASE IS FOR A MINIMUM TERM OF 30 YEARS FOLLOWING
30 PROJECT COMPLETION; OR31 (II) THE LEASE AGREEMENT EXTENDS THE RIGHT OF PURCHASE
32 TO THE LESSEE; AND

1 (2) THE LESSOR CONSENTS TO THE RECORDING IN THE LAND RECORDS
2 OF THE COUNTY OR BALTIMORE CITY IN WHICH THE FACILITY IS LOCATED, OF A
3 NOTICE OF THE STATE'S RIGHT OF RECOVERY AS PROVIDED UNDER § 24-1006 OF THIS
4 SUBTITLE.

5 24-1002.

6 ON THE RECOMMENDATION OF THE SECRETARY, THE BOARD OF PUBLIC WORKS
7 MAY MAKE GRANTS TO COUNTIES, MUNICIPAL CORPORATIONS, AND NONPROFIT
8 ORGANIZATIONS FOR:

9 (1) THE CONVERSION OF PUBLIC BUILDINGS OR PARTS OF BUILDINGS
10 TO ASSISTED LIVING FACILITIES;

11 (2) THE ACQUISITION OF EXISTING BUILDINGS OR PARTS OF BUILDINGS
12 FOR USE AS ASSISTED LIVING FACILITIES;

13 (3) THE RENOVATION OF ASSISTED LIVING FACILITIES;

14 (4) THE PURCHASE OF CAPITAL EQUIPMENT FOR ASSISTED LIVING
15 FACILITIES; OR

16 (5) THE PLANNING, DESIGN, AND CONSTRUCTION OF ASSISTED LIVING
17 FACILITIES.

18 24-1003.

19 (A) ANY COUNTY, MUNICIPAL CORPORATION, OR NONPROFIT ORGANIZATION
20 SPONSORING A PROJECT INVOLVING WORK SPECIFIED IN § 24-1002 OF THIS
21 SUBTITLE MAY APPLY TO THE SECRETARY FOR A STATE GRANT TO BE APPLIED
22 TOWARD THE COST OF THAT PROJECT.

23 (B) ON APPROVAL OF A PROJECT AND THE PROJECT PLANS BY THE
24 DEPARTMENT, THE SECRETARY SHALL PROMPTLY REPORT THE APPLICATION TO
25 THE BOARD OF PUBLIC WORKS, TOGETHER WITH THE SECRETARY'S
26 RECOMMENDATION THAT THE BOARD MAKE FUNDS AVAILABLE AS PROVIDED IN
27 THIS SUBTITLE.

28 24-1004.

29 (A) THE ALLOCATION AND USE OF STATE FUNDS UNDER THIS SUBTITLE ARE
30 SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS.

31 (B) IF THE LOCAL GOVERNMENT AND THE DEPARTMENT CERTIFY TO THE
32 BOARD OF PUBLIC WORKS THAT A SURPLUS PUBLIC BUILDING APPROPRIATE FOR
33 USE AS AN ASSISTED LIVING FACILITY DOES NOT EXIST IN THE AREA IN WHICH THE
34 FACILITY IS TO BE LOCATED, STATE FUNDS MAY BE USED TO:

35 (1) ACQUIRE AN EXISTING BUILDING OR PART OF A BUILDING FOR USE
36 AS AN ASSISTED LIVING FACILITY; OR

1 (2) PLAN, DESIGN, AND CONSTRUCT AN ASSISTED LIVING FACILITY.

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

4 (D) EXCEPT AS PROVIDED IN SUBSECTIONS (E) AND (F) OF THIS SECTION, A
5 STATE GRANT MAY NOT EXCEED 50% OF THE COST OF ELIGIBLE WORK REMAINING
6 UNPAID AFTER ALL FEDERAL AND OTHER GRANTS HAVE BEEN APPLIED.

7 (E) AT THE DISCRETION OF THE BOARD OF PUBLIC WORKS, A STATE GRANT
8 MAY EXCEED 50% OF THE COST OF ELIGIBLE WORK REMAINING UNPAID AFTER ALL
9 FEDERAL AND OTHER GRANTS HAVE BEEN APPLIED, IF:

10 (1) THE PROJECT INVOLVES THE CONVERSION OF A PUBLIC BUILDING
11 OR PART OF A BUILDING TO AN ASSISTED LIVING FACILITY, THE RENOVATION OF AN
12 ASSISTED LIVING FACILITY, OR THE PLANNING, DESIGN, AND CONSTRUCTION OF AN
13 ASSISTED LIVING FACILITY;

14 (2) THE VALUE OF REAL PROPERTY AND IMPROVEMENTS MADE
15 AVAILABLE BY THE LOCAL GOVERNMENT, OR THE VALUE OF THE CENTER TO BE
16 RENOVATED, EQUALS OR EXCEEDS THE AMOUNT OF THE STATE GRANT;

17 (3) STATE FUNDS HAVE NOT BEEN USED FOR THE ACQUISITION,
18 CONSTRUCTION, OR MAINTENANCE OF ANY REAL PROPERTY AND IMPROVEMENTS
19 MADE AVAILABLE BY THE LOCAL GOVERNMENT OR ANY BUILDING TO BE
20 CONVERTED OR RENOVATED; AND

21 (4) THE STATE IS NOT RESPONSIBLE FOR ANY BONDED INDEBTEDNESS
22 IN CONNECTION WITH ANY REAL PROPERTY AND IMPROVEMENTS MADE AVAILABLE
23 BY THE LOCAL GOVERNMENT OR ANY BUILDING TO BE CONVERTED OR RENOVATED.

24 (F) FOR A PROJECT DESIGNATED AS ELIGIBLE FOR POVERTY AREA FUNDING
25 UNDER FEDERAL REGULATIONS, STATE PLANS, OR DEPARTMENTAL REGULATIONS, A
26 STATE GRANT MAY COVER UP TO 75% OF THE COST OF ELIGIBLE WORK REMAINING
27 UNPAID AFTER ALL FEDERAL AND OTHER GRANTS HAVE BEEN APPLIED.

28 (G) THE AMOUNT OF THE STATE GRANT FOR ANY PROJECT SHALL BE
29 DETERMINED AFTER CONSIDERATION OF:

30 (1) ALL ELIGIBLE APPLICATIONS;

31 (2) THE TOTAL OF UNALLOCATED STATE FUNDS AVAILABLE AT THE
32 TIME THE APPLICATION IS RECEIVED; AND

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

34 (H) (1) NO PORTION OF THE PROCEEDS OF A STATE GRANT MAY BE USED:

35 (I) TO FURTHER SECTARIAN RELIGIOUS INSTRUCTION;

1 (II) IN CONNECTION WITH THE DESIGN, ACQUISITION, OR
2 CONSTRUCTION OF ANY BUILDING TO BE USED AS A PLACE OF SECTARIAN
3 RELIGIOUS WORSHIP OR INSTRUCTION; OR

4 (III) IN CONNECTION WITH ANY PROGRAM OR DEPARTMENT OF
5 DIVINITY FOR ANY RELIGIOUS DENOMINATION.

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

10 24-1005.

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

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

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

18 24-1006.

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

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

32 (2) CEASES TO BE A "FACILITY" AS DEFINED IN THIS SUBTITLE.

33 (B) (1) BEFORE THE STATE MAKES ANY FUNDS AVAILABLE FOR AN
34 APPROVED PROJECT, THE DEPARTMENT SHALL CAUSE A NOTICE OF THIS RIGHT OF
35 RECOVERY TO BE RECORDED IN THE LAND RECORDS OF THE COUNTY OR
36 BALTIMORE CITY IN WHICH THE PROPERTY IS LOCATED.

37 (2) THE RECORDING OF THE NOTICE:

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

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

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

10 (II) THE CLAIM SHALL BE FILED WITH:

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

13 2. A DETAILED JUSTIFICATION OF THE AMOUNT CLAIMED.

14 (2) IF THE CIRCUIT COURT DETERMINES FROM THE STATE'S INITIAL
15 FILING THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT A DEFAULT HAS
16 OCCURRED, PENDING FULL DETERMINATION OF THE STATE'S CLAIM, THE COURT
17 SHALL AUTHORIZE A TEMPORARY LIEN ON THE PROPERTY:

18 (I) IN THE AMOUNT OF THE STATE'S CLAIM PLUS ANY ADDITIONAL
19 AMOUNT ESTIMATED TO BE NECESSARY TO COVER THE COSTS AND REASONABLE
20 ATTORNEYS' FEES INCURRED BY THE STATE; OR

21 (II) IN OTHER AMOUNTS THAT THE COURT DETERMINES TO BE
22 REASONABLE.

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

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

28 2. ON THE DATE A NOTICE OF TEMPORARY LIEN IS
29 RECORDED.

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

34 1. TAKE ANY ACTION THAT WOULD AFFECT THE TITLE TO
35 THE PROPERTY; OR

1 2. INSTITUTE ANY PROCEEDINGS TO ENFORCE A SECURITY
2 INTEREST OR OTHER SIMILAR RIGHTS IN THE PROPERTY.

3 (4) (I) THE OWNER OF THE PROPERTY OR ANY OTHER INTERESTED
4 PARTY MAY OBTAIN RELEASE OF A TEMPORARY LIEN AT ANY TIME BY FILING WITH
5 THE COURT A BOND SECURING THE PAYMENT IN FULL OF THE STATE'S CLAIM AND
6 ANY ADDITIONAL AMOUNT NECESSARY TO COVER THE COSTS AND REASONABLE
7 ATTORNEYS' FEES INCURRED BY THE STATE.

8 (II) THE OWNER OR OTHER INTERESTED PARTY MAY CAUSE THE
9 RELEASE TO BE RECORDED IN THE LAND RECORDS.

10 (D) PROCEEDINGS TO DETERMINE THE STATE'S RIGHT TO RECOVER AND THE
11 AMOUNT OF ITS RECOVERY UNDER THIS SUBTITLE SHALL HAVE PRIORITY OVER
12 OTHER CIVIL PROCEEDINGS IN THE CIRCUIT COURTS.

13 (E) (1) (I) AT THE CONCLUSION OF FULL ADVERSARY PROCEEDINGS ON
14 THE ISSUE OF DEFAULT AND OF ANY DISPUTES OVER THE AMOUNT OF THE STATE'S
15 RECOVERY, THE CIRCUIT COURT SHALL, IF IT FINDS THAT A DEFAULT HAS
16 OCCURRED, ISSUE A FINAL JUDGMENT FOR THE AMOUNT IT FINDS TO BE
17 RECOVERABLE BY THE STATE.

18 (II) ALL PARTIES INVOLVED IN THE DEFAULT, INCLUDING IN
19 EVERY CASE THE OWNER OF THE PROPERTY, SHALL BE HELD JOINTLY AND
20 SEVERALLY LIABLE TO THE STATE FOR THE AMOUNT OF THE JUDGMENT.

21 (2) (I) EXCEPT AS THE STATE MAY OTHERWISE PROVIDE BY A
22 WRITTEN SUBORDINATION AGREEMENT, IF THE AMOUNT OF THE FINAL JUDGMENT
23 REMAINS UNPAID AFTER 30 DAYS FOLLOWING THE COURT'S FINAL ORDER, THE
24 FINAL JUDGMENT SHALL CONSTITUTE A LIEN ON THE PROPERTY, SUPERIOR TO THE
25 LIEN OR OTHER INTEREST OF A MORTGAGEE, PLEDGEE, PURCHASER, OR JUDGMENT
26 CREDITOR WHOSE INTEREST BECAME PERFECTED AGAINST THIRD PERSONS AFTER
27 THE STATE FIRST MADE FUNDS AVAILABLE UNDER THIS SUBTITLE.

28 (II) 1. EXCEPT AS PROVIDED IN ITEM 2 OF THIS ITEM, A LIEN
29 TAKES EFFECT ON THE DATE A NOTICE OF LIEN IS RECORDED.

30 2. A LIEN TAKES EFFECT ON THE 31ST DAY FOLLOWING THE
31 COURT'S FINAL ORDER IF THE SECRETARY OF THE BOARD OF PUBLIC WORKS
32 RECORDS A NOTICE OF LIEN IN THE LAND RECORDS OF THE COUNTY OR BALTIMORE
33 CITY IN WHICH THE PROPERTY IS LOCATED ON OR BEFORE THE 41ST DAY
34 FOLLOWING THE FINAL ORDER.

35 (III) 1. AT THE TIME THAT A LIEN TAKES EFFECT, ANY
36 TEMPORARY LIEN THEN IN EFFECT SHALL BE AUTOMATICALLY AND FULLY
37 RELEASED.

38 2. THE RECORDED NOTICE OF A LIEN SHALL CONSTITUTE
39 NOTICE OF THE RELEASE OF A TEMPORARY LIEN.

1 (IV) A LIEN IMPOSED UNDER THIS SUBSECTION MAY BE ENFORCED
2 AND FORECLOSED IN ACCORDANCE WITH THE PROCEDURES PRESCRIBED IN THE
3 MARYLAND RULES, EXCEPT THAT NEITHER THE STATE NOR ANY AGENT APPOINTED
4 BY THE STATE TO SELL THE PROPERTY NEED FILE A BOND.

5 (3) (I) THE OWNER OR ANY OTHER INTERESTED PARTY MAY OBTAIN
6 RELEASE OF A LIEN AT ANY TIME BY PAYING TO THE STATE THE FULL AMOUNT OF
7 THE JUDGMENT RENDERED BY THE CIRCUIT COURT, TOGETHER WITH INTEREST
8 FROM THE DATE OF JUDGMENT.

9 (II) ON PAYMENT IN FULL, THE SECRETARY OF THE BOARD OF
10 PUBLIC WORKS SHALL CAUSE A RELEASE TO BE RECORDED IN THE LAND RECORDS.

11 (4) IF THE CIRCUIT COURT FINDS THAT THERE HAS BEEN NO DEFAULT
12 OR IF THE FULL AMOUNT OF THE COURT'S JUDGMENT IS PAID TO THE STATE WITHIN
13 30 DAYS AFTER THE COURT'S FINAL ORDER, A TEMPORARY LIEN THEN IN EFFECT
14 SHALL BE RELEASED IMMEDIATELY AND THE SECRETARY OF THE BOARD OF PUBLIC
15 WORKS SHALL CAUSE THE RELEASE TO BE RECORDED IN THE LAND RECORDS.

16 (F) (1) ALL FUNDS RECOVERED AS A RESULT OF THIS RIGHT OF RECOVERY
17 SHALL BE DEPOSITED IN THE ANNUITY BOND FUND AND APPLIED TO THE DEBT
18 SERVICE REQUIREMENTS OF THE STATE.

19 (2) IF THE BOARD DETERMINES THAT THERE IS GOOD CAUSE FOR
20 RELEASING THE TRANSFEROR, TRANSFEREE, OR OWNER FROM THE OBLIGATION
21 IMPOSED UNDER THIS SUBTITLE, THE BOARD OF PUBLIC WORKS MAY WAIVE THE
22 STATE'S RIGHT OF RECOVERY UNDER THIS SUBTITLE.

23 24-1007.

24 THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THE
25 PROVISIONS OF THIS SUBTITLE.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 July 1, 2000.