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By: **Delegates Pitkin, Conroy, Hubers, and Cadden**  
Introduced and read first time: February 11, 2000  
Assigned to: Appropriations

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Committee Report: Favorable  
House action: Adopted  
Read second time: March 25, 2000

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CHAPTER \_\_\_\_\_

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)

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

3 **Article - Health - General**

4 SUBTITLE 10. ASSISTED LIVING FACILITIES GRANT PROGRAM.

5 24-1001.

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
7 INDICATED.

8 (B) "ASSISTED LIVING FACILITY" MEANS A RESIDENTIAL FACILITY OR  
9 FACILITY- BASED PROGRAM THAT:

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

11 (2) IS LICENSED BY THE DEPARTMENT.

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

14 (1) A COUNTY;

15 (2) A MUNICIPAL CORPORATION; OR

16 (3) A NONPROFIT ORGANIZATION.

17 (D) "NONPROFIT ORGANIZATION" MEANS:

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

23 (2) AN ORGANIZATION:

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

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

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

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

1 (II) THE LEASE AGREEMENT EXTENDS THE RIGHT OF PURCHASE  
2 TO THE LESSEE; AND

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

7 24-1002.

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

11 (1) THE CONVERSION OF PUBLIC BUILDINGS OR PARTS OF BUILDINGS  
12 TO ASSISTED LIVING FACILITIES;

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

15 (3) THE RENOVATION OF ASSISTED LIVING FACILITIES;

16 (4) THE PURCHASE OF CAPITAL EQUIPMENT FOR ASSISTED LIVING  
17 FACILITIES; OR

18 (5) THE PLANNING, DESIGN, AND CONSTRUCTION OF ASSISTED LIVING  
19 FACILITIES.

20 24-1003.

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

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

30 24-1004.

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (1) ALL ELIGIBLE APPLICATIONS;

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

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

36 (H) (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.

11 24-1005.

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 24-1006.

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 "FACILITY", FROM THE OWNER, AN AMOUNT BEARING THE SAME RATIO TO THE THEN  
23 CURRENT VALUE OF SO MUCH OF THE PROPERTY AS CONSTITUTED AN APPROVED  
24 PROJECT AS THE AMOUNT OF THE STATE PARTICIPATION BORE TO THE TOTAL  
25 ELIGIBLE COST OF THE APPROVED PROJECT, TOGETHER WITH ALL COSTS AND  
26 REASONABLE ATTORNEYS' FEES INCURRED BY THE STATE IN THE RECOVERY  
27 PROCEEDINGS, IF, WITHIN 30 YEARS AFTER COMPLETION OF A PROJECT, A  
28 PROPERTY FOR WHICH FUNDS HAVE BEEN PAID UNDER THIS SUBTITLE:

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

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

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

1 (2) THE RECORDING OF THE NOTICE:

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

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

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

11 (II) THE CLAIM SHALL BE FILED WITH:

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

14 2. A DETAILED JUSTIFICATION OF THE AMOUNT CLAIMED.

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

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

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

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

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

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

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

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



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.