

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**

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

A BILL ENTITLED

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.

23 BY adding to
24 Article - Health - General
25 Section 24-1101 through 24-1107, inclusive, to be under the new subtitle
26 "Subtitle 11. Federally Qualified Health Centers Grant Program"
27 Annotated Code of Maryland
28 (2000 Replacement Volume and 2003 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 11. FEDERALLY QUALIFIED HEALTH CENTERS GRANT PROGRAM.

5 24-1101.

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

8 (B) "FEDERALLY QUALIFIED HEALTH CENTER" MEANS A HEALTH CENTER
9 THAT IS:

10 (1) DESIGNATED AS A FEDERALLY QUALIFIED HEALTH CENTER UNDER
11 § 330 OF THE FEDERAL PUBLIC HEALTH SERVICE ACT, 42 U.S.C. 254B; AND

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

14 (C) "NONPROFIT ORGANIZATION" MEANS:

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

20 (2) AN ORGANIZATION:

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

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

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

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

30 (II) THE LEASE AGREEMENT EXTENDS THE RIGHT OF PURCHASE
31 TO THE LESSEE; AND

32 (2) THE LESSOR CONSENTS TO THE RECORDING IN THE LAND RECORDS
33 OF THE COUNTY OR BALTIMORE CITY WHERE THE FACILITY IS LOCATED, OF A

1 NOTICE OF THE STATE'S RIGHT OF RECOVERY AS PROVIDED UNDER § 24-1106 OF THIS
2 SUBTITLE.

3 24-1102.

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

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

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

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

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

13 (4) THE PURCHASE OF CAPITAL EQUIPMENT FOR FEDERALLY
14 QUALIFIED HEALTH CENTERS; OR

15 (5) THE PLANNING, DESIGN, AND CONSTRUCTION OF FEDERALLY
16 QUALIFIED HEALTH CENTERS.

17 24-1103.

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

22 (B) THE APPLICATION SHALL INCLUDE:

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

24 (2) A STATEMENT LISTING THE PERSONNEL EMPLOYED OR TO BE
25 EMPLOYED AT THE FEDERALLY QUALIFIED HEALTH CENTER, INCLUDING ALL
26 REMUNERATION AND PERQUISITES FOR PERSONAL SERVICES AND ALL OTHER
27 EXPENSES PAID OR TO BE PAID TO THESE PERSONNEL;

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

30 (4) THE SCHEDULE OF RATES CHARGED OR TO BE CHARGED FOR
31 SERVICES RENDERED.

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

1 24-1104.

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

4 (B) STATE FUNDS MAY ONLY BE USED FOR THE PURPOSES LISTED UNDER §
5 24-1102 OF THIS SUBTITLE AND APPROVED BY THE SECRETARY UNDER § 24-1103 OF
6 THIS SUBTITLE.

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

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

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

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

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

22 (E) THE AMOUNT OF THE STATE GRANT RECOMMENDED TO THE BOARD OF
23 PUBLIC WORKS FOR ANY PROJECT SHALL BE DETERMINED AFTER CONSIDERATION
24 OF:

25 (1) ALL ELIGIBLE PROJECTS;

26 (2) THE TOTAL OF UNALLOCATED STATE FUNDS AVAILABLE AT THE
27 TIME THE GRANT RECOMMENDATION IS MADE TO THE BOARD OF PUBLIC WORKS;
28 AND

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

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

31 (I) TO FURTHER SECTARIAN RELIGIOUS INSTRUCTION;

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

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

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

5 24-1105.

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

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

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

13 24-1106.

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

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

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

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

34 (2) THE RECORDING OF THE NOTICE:

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

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

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

6 (II) THE COMPLAINT SHALL BE FILED WITH:

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

9 2. A DETAILED JUSTIFICATION OF THE AMOUNT CLAIMED.

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

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

17 (II) IN OTHER AMOUNTS THAT THE COURT DETERMINES TO BE
18 REASONABLE.

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

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

24 2. ON THE DATE A NOTICE OF TEMPORARY LIEN IS
25 RECORDED.

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

30 1. TAKE ANY ACTION THAT WOULD AFFECT THE TITLE TO
31 THE PROPERTY; OR

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

34 (4) (I) THE OWNER OF THE PROPERTY OR ANY OTHER INTERESTED
35 PARTY MAY OBTAIN RELEASE OF A TEMPORARY LIEN AT ANY TIME BY FILING WITH
36 THE COURT A BOND SECURING THE PAYMENT IN FULL OF THE STATE'S CLAIM AND

1 ANY ADDITIONAL AMOUNT NECESSARY TO COVER THE COSTS AND REASONABLE
2 ATTORNEYS' FEES INCURRED BY THE STATE.

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

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

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

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

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

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

25 2. A LIEN TAKES EFFECT ON THE 31ST DAY FOLLOWING THE
26 COURT'S FINAL ORDER IF THE SECRETARY OF THE BOARD OF PUBLIC WORKS
27 RECORDS A NOTICE OF LIEN IN THE LAND RECORDS OF THE COUNTY OR BALTIMORE
28 CITY WHERE THE PROPERTY IS LOCATED ON OR BEFORE THE 41ST DAY FOLLOWING
29 THE FINAL ORDER.

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

33 2. THE RECORDED NOTICE OF A LIEN SHALL CONSTITUTE
34 NOTICE OF THE RELEASE OF A TEMPORARY LIEN.

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

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

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

7 (4) IF THE CIRCUIT COURT FINDS THAT THERE HAS BEEN NO DEFAULT
8 OR IF THE FULL AMOUNT OF THE COURT'S JUDGMENT IS PAID TO THE STATE WITHIN
9 30 DAYS AFTER THE COURT'S FINAL ORDER, A TEMPORARY LIEN THEN IN EFFECT
10 SHALL BE RELEASED IMMEDIATELY AND THE SECRETARY OF THE BOARD OF PUBLIC
11 WORKS SHALL CAUSE THE RELEASE TO BE RECORDED IN THE LAND RECORDS.

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

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

19 24-1107.

20 THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THE
21 PROVISIONS OF THIS SUBTITLE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
23 effect July 1, 2004.