

HOUSE BILL 451

P2

2lr1266
CF 2lr1265

By: **Delegate Stein**

Introduced and read first time: January 20, 2022

Assigned to: Health and Government Operations

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:**

19 **1. USED TO ENTER INTO A RELATIONSHIP THE**
20 **PRINCIPAL PURPOSE OF WHICH IS TO TRANSFER ANYTHING OF VALUE FROM THE**
21 **GRANT-MAKING ENTITY TO THE GRANT RECIPIENT TO CARRY OUT A PUBLIC**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 PURPOSE AUTHORIZED BY LAW AND NOT TO ACQUIRE PROPERTY OR SERVICES FOR
2 THE DIRECT BENEFIT OR USE OF THE GRANT-MAKING ENTITY; AND

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

7 (II) “GRANT” DOES NOT INCLUDE AN INSTRUMENT THAT
8 PROVIDES ONLY:

9 1. DIRECT GOVERNMENT CASH ASSISTANCE TO AN
10 INDIVIDUAL;

11 2. A SUBSIDY;

12 3. A LOAN;

13 4. A LOAN GUARANTEE;

14 5. INSURANCE; OR

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

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

21 (4) “PAYMENT” INCLUDES ALL REQUIRED PROCESSING AND
22 AUTHORIZATION BY THE COMPTROLLER, AS PROVIDED UNDER STATE
23 REGULATIONS.

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

27 (I) REQUESTS AN AMOUNT THAT IS DUE AND PAYABLE BY LAW
28 UNDER A WRITTEN GRANT AGREEMENT; AND

29 (II) MEETS THE REQUIREMENTS OF SUBSECTION (E) OF THIS
30 SECTION.

1 **(B) THIS SECTION DOES NOT APPLY TO:**

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

5 **(2) BUSINESS DEVELOPMENT GRANTS MADE BY THE DEPARTMENT**
6 **OF COMMERCE.**

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

9 **(1) THE DAY ON WHICH THE PAYMENT BECOMES DUE UNDER THE**
10 **GRANT AGREEMENT; OR**

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

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

15 **(I) IS DUE AND PAYABLE BY LAW AND UNDER A WRITTEN GRANT**
16 **AGREEMENT; AND**

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

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

20 **(I) THE DAY ON WHICH PAYMENT BECOMES DUE UNDER THE**
21 **GRANT AGREEMENT; OR**

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

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

25 **(I) UNLESS WITHIN 30 DAYS AFTER THE DATE ON THE STATE'S**
26 **CHECK FOR THE AMOUNT ON WHICH THE INTEREST ACCRUED, THE GRANT**
27 **RECIPIENT SUBMITS AN INVOICE FOR THE INTEREST;**

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

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

5 **(IV) ON AN AMOUNT THAT REPRESENTS UNPAID INTEREST.**

6 **(E) A PROPER INVOICE, REQUIRED AS PAYMENT DOCUMENTATION, SHALL**
7 **INCLUDE WITHOUT ERROR:**

8 **(1) THE GRANT RECIPIENT'S FEDERAL EMPLOYER IDENTIFICATION**
9 **NUMBER OR SOCIAL SECURITY NUMBER;**

10 **(2) THE GRANT AGREEMENT IDENTIFICATION NUMBER OR ANOTHER**
11 **ADEQUATE DESCRIPTION OF THE GRANT AGREEMENT; AND**

12 **(3) ANY DOCUMENTATION REQUIRED BY REGULATION OR THE GRANT**
13 **AGREEMENT.**

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

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

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

24 **(G) (1) ON RECEIPT OF AN INVOICE, A STATE GRANT-MAKING ENTITY**
25 **SHALL:**

26 **(I) MARK THE INVOICE WITH THE DATE THE INVOICE WAS**
27 **RECEIVED; AND**

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

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

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

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

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

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

16 **(II) SHALL PROVIDE ADEQUATE SAFEGUARDS AND CONTROLS**
17 **TO ENSURE THE INTEGRITY OF THE DATA AND TO PREVENT DUPLICATE**
18 **PROCESSING.**

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

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