CHAPTER _____

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 and 2022 Supplement)

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.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Underlining indicates amendments to bill.
Strike-out indicates matter stricken from the bill by amendment or deleted from the law by amendment.
(2) (I) “Grant” means a legal instrument of financial assistance between a State grant–making entity and a non–State entity nonprofit organization exempt from taxation under § 501(c) of the Internal Revenue Code that is:

1. Used to enter into a relationship the principal purpose of which is to transfer anything of value from the State grant–making entity to the grant recipient to carry out a public purpose authorized by law and not to acquire property or services for the direct benefit or use of the State grant–making entity;

2. Used to provide for one or more payments in reimbursement for services or other performance under the agreement on a scheduled or other incremental basis;

3. Distinguished from a cooperative agreement in that it does not provide for substantial involvement between the State grant–making entity and the grant recipient in carrying out the activity contemplated by the award; and

3, 4. Executed, renewed, or extended on or after October 1, 2022 June 1, 2023.

(II) “Grant” does not include an instrument that provides only:

1. Direct government cash assistance to an individual;

2. A subsidy;

3. A loan;

4. A loan guarantee;

5. Insurance; or

6. State funding that is required annually and is calculated through a formula set in statute.

(3) “Late payment” means any amount that is due and payable by law under a written grant agreement, without deferral, delay, or set off, and remains unpaid more than 30 days after a State grant–making entity receives a proper invoice.
“Payment” includes all required processing and authorization by the Comptroller, as provided under State regulations.

“Proper invoice” means a bill, a written document, or an electronic transmission readable by the State grant-making entity, provided by a grant recipient, that:

(I) requests an amount that is due and payable by law under a written grant agreement; and

(II) meets the requirements of subsection (E) of this section.

This section does not apply to grants:

(1) made by a unit in the Judicial Branch of State government; or

(2) funded from general obligation bond proceeds or from a General Fund capital appropriation to the Board of Public Works.

It is the policy of the State to make a payment under a grant agreement within 30 days after:

(1) the day on which the payment becomes due under the grant agreement; or

(2) if later, the day on which the State grant-making entity receives a proper invoice.

Except as provided in paragraph (3) of this subsection, a grant-making entity shall be liable for interest that shall accrue at the rate of 9% a year on any amount that:

(I) that is due and payable by law and under a written grant agreement; and

(II) for which the grant-making entity has received, and failed to submit to the Comptroller within 30 days of its receipt, a proper invoice.
(II) REMAINS UNPAID MORE THAN 30 DAYS AFTER A STATE
GRANT-MAKING ENTITY RECEIVES A PROPER INVOICE.

(2) INTEREST SHALL ACCRUE BEGINNING ON THE 31ST 38TH DAY
AFTER:

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

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

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

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

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

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

(IV) ON AN AMOUNT THAT REPRESENTS UNPAID INTEREST.

(4) INTEREST FOR WHICH A STATE GRANT-MAKING ENTITY IS LIABLE
UNDER THIS SUBSECTION:

(1) SHALL BE PAID FROM THE STATE GRANT-MAKING ENTITY’S
OPERATING BUDGET; AND

(II) MAY NOT BE PAID FROM FUNDS APPROPRIATED TO FUND A
GRANT.

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

(1) THE GRANT RECIPIENT’S FEDERAL EMPLOYER IDENTIFICATION
NUMBER OR SOCIAL SECURITY NUMBER;

(2) THE GRANT AGREEMENT IDENTIFICATION NUMBER OR ANOTHER
ADEQUATE DESCRIPTION OF THE GRANT AGREEMENT; AND
(3) ANY DOCUMENTATION REQUIRED BY REGULATION OR THE GRANT AGREEMENT.

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

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

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

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

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

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


(3) (I) IF THE STATE GRANT–MAKING ENTITY DETERMINES THAT THE INVOICE IS NOT A PROPER INVOICE, THE STATE GRANT–MAKING ENTITY SHALL NOTIFY THE GRANT RECIPENT OF ALL DEFECTS THAT PREVENT PROCESSING AND SPECIFY ALL REASONS WHY THE INVOICE IS NOT PROPER WITHIN 2 BUSINESS DAYS AFTER THE DETERMINATION.

(II) IT IS THE RESPONSIBILITY OF THE GRANT RECIPENT TO SUBMIT A CORRECTED INVOICE.

(4) STATE GRANT–MAKING ENTITIES:
(I) MAY USE MEDIA THAT PRODUCE TANGIBLE RECORDINGS OF INFORMATION TO EXPEDITE THE PAYMENT PROCESS, RATHER THAN DELAYING THE PROCESS BY REQUIRING ORIGINAL PAPER DOCUMENTS; AND

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

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

(6) THIS SECTION DOES NOT CREATE LIABILITY ON THE COMPTROLLER FOR INTEREST ACCRUED ON A LATE PAYMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2023.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.