

HOUSE BILL 328

P2
HB 451/22 – HGO

3lr0465
CF SB 112

By: **Delegates Kaiser, Stein, Alston, Attar, Bagnall, Embry, Fair, Harris, Healey, Henson, Hill, McCaskill, McComas, Pasteur, Reznik, Simpson, Taveras, Taylor, Terrasa, Williams, and Woods**
Introduced and read first time: January 25, 2023
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 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.**

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 **STATE 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 STATE GRANT-MAKING ENTITY;

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

7 3. EXECUTED ON OR AFTER OCTOBER 1, 2022.

8 (II) "GRANT" DOES NOT INCLUDE AN INSTRUMENT THAT
9 PROVIDES ONLY:

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

12 2. A SUBSIDY;

13 3. A LOAN;

14 4. A LOAN GUARANTEE;

15 5. INSURANCE; OR

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

18 (3) "LATE PAYMENT" MEANS ANY AMOUNT THAT IS DUE AND PAYABLE
19 BY LAW UNDER A WRITTEN GRANT AGREEMENT, WITHOUT DEFERRAL, DELAY, OR
20 SET-OFF, AND REMAINS UNPAID MORE THAN 30 DAYS AFTER A STATE
21 GRANT-MAKING ENTITY RECEIVES A PROPER INVOICE.

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

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

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

30 (II) MEETS THE REQUIREMENTS OF SUBSECTION (E) OF THIS

1 SECTION.

2 (B) THIS SECTION DOES NOT APPLY TO GRANTS:

3 (1) MADE BY A UNIT IN THE JUDICIAL BRANCH OF STATE
4 GOVERNMENT; OR

5 (2) FUNDED FROM GENERAL OBLIGATION BOND PROCEEDS OR FROM
6 A GENERAL FUND CAPITAL APPROPRIATION TO THE BOARD OF PUBLIC WORKS.

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 30 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;

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

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

3 (IV) ON AN AMOUNT THAT REPRESENTS UNPAID INTEREST.

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

6 (I) SHALL BE PAID FROM THE STATE GRANT-MAKING ENTITY'S
7 OPERATING BUDGET; AND

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

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

12 (1) THE GRANT RECIPIENT'S FEDERAL EMPLOYER IDENTIFICATION
13 NUMBER OR SOCIAL SECURITY NUMBER;

14 (2) THE GRANT AGREEMENT IDENTIFICATION NUMBER OR ANOTHER
15 ADEQUATE DESCRIPTION OF THE GRANT AGREEMENT; AND

16 (3) ANY DOCUMENTATION REQUIRED BY REGULATION OR THE GRANT
17 AGREEMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
26 1, 2023.