

# SENATE BILL 112

P2  
SB 542/22 – B&T

(PRE-FILED)

3lr0464  
CF HB 328

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By: **Senator Kagan**

Requested: September 28, 2022

Introduced and read first time: January 11, 2023

Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 5, 2023

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## 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.**

16 **(2) (I) “GRANT” MEANS A LEGAL INSTRUMENT OF FINANCIAL**  
17 **ASSISTANCE BETWEEN A STATE GRANT-MAKING ENTITY AND A ~~NON-STATE ENTITY~~**

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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.



1 NONPROFIT ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C) OF THE  
 2 INTERNAL REVENUE CODE THAT IS:

3 1. USED TO ENTER INTO A RELATIONSHIP THE  
 4 PRINCIPAL PURPOSE OF WHICH IS TO TRANSFER ANYTHING OF VALUE FROM THE  
 5 STATE GRANT-MAKING ENTITY TO THE GRANT RECIPIENT TO CARRY OUT A PUBLIC  
 6 PURPOSE AUTHORIZED BY LAW AND NOT TO ACQUIRE PROPERTY OR SERVICES FOR  
 7 THE DIRECT BENEFIT OR USE OF THE STATE GRANT-MAKING ENTITY;

8 2. USED TO PROVIDE FOR ONE OR MORE PAYMENTS IN  
 9 REIMBURSEMENT FOR SERVICES OR OTHER PERFORMANCE UNDER THE  
 10 AGREEMENT ON A SCHEDULED OR OTHER INCREMENTAL BASIS;

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

15 ~~3.~~ 4. ~~EXECUTED~~ EXECUTED, RENEWED, OR EXTENDED ON  
 16 OR AFTER ~~OCTOBER 1, 2022~~ JUNE 1, 2023.

17 (II) "GRANT" DOES NOT INCLUDE AN INSTRUMENT THAT  
 18 PROVIDES ONLY:

19 1. DIRECT GOVERNMENT CASH ASSISTANCE TO AN  
 20 INDIVIDUAL;

21 2. A SUBSIDY;

22 3. A LOAN;

23 4. A LOAN GUARANTEE;

24 5. INSURANCE; OR

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

27 ~~(3) "LATE PAYMENT" MEANS ANY AMOUNT THAT IS DUE AND PAYABLE~~  
 28 ~~BY LAW UNDER A WRITTEN GRANT AGREEMENT, WITHOUT DEFERRAL, DELAY, OR~~  
 29 ~~SET-OFF, AND REMAINS UNPAID MORE THAN 37 DAYS AFTER A STATE~~  
 30 ~~GRANT-MAKING ENTITY RECEIVES A PROPER INVOICE.~~

1           ~~(4)~~ **(3)**       “PAYMENT” INCLUDES ALL REQUIRED PROCESSING AND  
2 AUTHORIZATION BY THE COMPTROLLER, AS PROVIDED UNDER STATE  
3 REGULATIONS.

4           ~~(5)~~ **(4)**       “PROPER INVOICE” MEANS A BILL, A WRITTEN DOCUMENT,  
5 OR AN ELECTRONIC TRANSMISSION READABLE BY THE STATE GRANT-MAKING  
6 ENTITY, PROVIDED BY A GRANT RECIPIENT, THAT:

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

9                   (II)       MEETS THE REQUIREMENTS OF SUBSECTION (E) OF THIS  
10 SECTION.

11       **(B)   THIS SECTION DOES NOT APPLY TO GRANTS:**

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

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

16       **(C)   IT IS THE POLICY OF THE STATE TO MAKE A PAYMENT UNDER A GRANT  
17 AGREEMENT WITHIN ~~30~~ 37 DAYS AFTER:**

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

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

22       **(D)   (1)   EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A  
23 GRANT-MAKING ENTITY SHALL BE LIABLE FOR INTEREST THAT SHALL ACCRUE AT  
24 THE RATE OF 9% A YEAR ON ANY AMOUNT ~~THAT~~:**

25                   (I)       THAT IS DUE AND PAYABLE BY LAW AND UNDER A WRITTEN  
26 GRANT AGREEMENT; AND

27                   (II)       FOR WHICH THE GRANT-MAKING ENTITY HAS RECEIVED,  
28 AND FAILED TO SUBMIT TO THE COMPTROLLER WITHIN 30 DAYS OF ITS RECEIPT, A  
29 PROPER INVOICE.

30                   ~~(II)       REMAINS UNPAID MORE THAN 30 DAYS AFTER A STATE~~  
31 ~~GRANT-MAKING ENTITY RECEIVES A PROPER INVOICE.~~

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

3           ~~(I) THE DAY ON WHICH PAYMENT BECOMES DUE UNDER THE~~  
4 ~~GRANT AGREEMENT; OR~~

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

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

8           (I) UNLESS WITHIN 30 DAYS AFTER THE DATE ON THE STATE'S  
9 CHECK FOR THE AMOUNT ON WHICH THE INTEREST ACCRUED, THE GRANT  
10 RECIPIENT SUBMITS AN INVOICE FOR THE INTEREST;

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

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

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

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

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

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

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

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

26           (2) THE GRANT AGREEMENT IDENTIFICATION NUMBER OR ANOTHER  
27 ADEQUATE DESCRIPTION OF THE GRANT AGREEMENT; AND

28           (3) ANY DOCUMENTATION REQUIRED BY REGULATION OR THE GRANT  
29 AGREEMENT.

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

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

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

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

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

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

18           **(2) IF THE STATE GRANT-MAKING ENTITY DETERMINES THAT THE**  
19 **INVOICE IS A PROPER INVOICE, ~~THE STATE GRANT-MAKING ENTITY SHALL SUBMIT~~**  
20 **~~THE INVOICE TO THE COMPTROLLER FOR PAYMENT WITHIN 1 BUSINESS DAY AFTER~~**  
21 **~~THE DETERMINATION~~ AND SUBMITS THE INVOICE TO THE COMPTROLLER, THE**  
22 **COMPTROLLER SHALL MAKE PAYMENT WITHIN 5 BUSINESS DAYS.**

23           **(3) (I) IF THE STATE GRANT-MAKING ENTITY DETERMINES THAT**  
24 **THE INVOICE IS NOT A PROPER INVOICE, THE STATE GRANT-MAKING ENTITY SHALL**  
25 **NOTIFY THE GRANT RECIPIENT OF ALL DEFECTS THAT PREVENT PROCESSING AND**  
26 **SPECIFY ALL REASONS WHY THE INVOICE IS NOT PROPER WITHIN 2 BUSINESS DAYS**  
27 **AFTER THE DETERMINATION.**

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

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

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

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

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

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.