

Chapter 154

(Senate Bill 112)

AN ACT concerning

State Finance and Procurement – Grants – Prompt Payment Requirement

FOR the purpose of establishing invoicing and prompt payment requirements for certain State grants; and generally relating to State grants.

BY adding to

Article – State Finance and Procurement

Section 2–211

Annotated Code of Maryland

(2021 Replacement Volume and 2022 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Finance and Procurement**2–211.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(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 37 DAYS AFTER A STATE GRANT-MAKING ENTITY RECEIVES A PROPER INVOICE.~~

~~(4)~~ (3) "PAYMENT" INCLUDES ALL REQUIRED PROCESSING AND AUTHORIZATION BY THE COMPTROLLER, AS PROVIDED UNDER STATE REGULATIONS.

~~(5)~~ (4) "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.

(B) 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.

(C) IT IS THE POLICY OF THE STATE TO MAKE A PAYMENT UNDER A GRANT AGREEMENT WITHIN ~~30~~ 37 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.

(D) (1) 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:

~~(I) 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:

(I) 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:

(I) 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.

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

(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 RECIPIENT 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 RECIPIENT 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 by the Governor, April 24, 2023.