

Chapter 155

**(House Bill 328)**

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 30 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.**