

SENATE BILL 296

Unofficial Copy  
J3

2004 Regular Session  
(4lr0384)

*ENROLLED BILL*  
*-- Finance/Health and Government Operations --*

Introduced by **Senator Della**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER 262

1 AN ACT concerning

2 **Maryland Health Care Foundation –~~Repeal and Maryland Health Care Trust~~**

3 FOR the purpose of terminating the Maryland Health Care Foundation; altering the  
4 entity to which the fair value of certain assets must be distributed for certain  
5 acquisitions to be in the public interest; codifying ~~the~~, and making certain  
6 stylistic and conforming changes to, certain provisions of law relating to the  
7 Maryland Health Care Trust; altering the trustee of the Maryland Health Care  
8 Trust to be the State Treasurer; ~~altering the contents of the Trust; repealing an~~  
9 obsolete provision of law requiring certain interest and earnings to be granted to  
10 the Maryland Health Care Foundation; ~~altering~~ ~~repealing~~ a certain provision of  
11 law requiring individuals ~~who are public official members of a board or~~ who are  
12 members of the Board of Trustees of the Maryland Health Care Foundation and  
13 who receive annual compensation of less than a certain amount to file an annual  
14 financial disclosure statement; requiring certain records, furniture, and  
15 equipment of the Maryland Health Care Foundation to be transferred to certain  
16 entities on or before a certain date; *requiring the Governor to transfer certain*  
17 *funds of the Maryland Health Care Foundation to Medbank of Maryland, Inc.;*

1 authorizing the Governor to transfer certain money and funds of the Maryland  
2 Health Care Foundation to the Maryland Health Care Trust; and generally  
3 relating to the Maryland Health Care Trust and the termination of the  
4 Maryland Health Care Foundation.

5 BY repealing

6 Article - Health - General  
7 Section 15-101(d) and 15-305; and 20-501 through 20-510 and the subtitle  
8 "Subtitle 5. Maryland Health Care Foundation"  
9 Annotated Code of Maryland  
10 (2000 Replacement Volume and 2003 Supplement)

11 BY repealing

12 Chapter 701 of the Acts of the General Assembly of 2001  
13 Section 2

14 BY renumbering

15 Article - Health - General  
16 Section 15-101(e), (f), (g), (h), (i), (j), and (k), respectively  
17 to be Section 15-101(d), (e), (f), (g), (h), (i), and (j), respectively  
18 Annotated Code of Maryland  
19 (2000 Replacement Volume and 2003 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article - State Government  
22 Section 6.5-301(b) and 15-601(d)(1)  
23 Annotated Code of Maryland  
24 (1999 Replacement Volume and 2003 Supplement)

25 BY adding to

26 Article - State Government  
27 Section 6.5-401 to be under the new subtitle "Subtitle 4. Maryland Health Care  
28 Trust"  
29 Annotated Code of Maryland  
30 (1999 Replacement Volume and 2003 Supplement)

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
32 MARYLAND, That Section(s) 15-101(d) and 15-305; and 20-501 through 20-510 and  
33 the subtitle "Subtitle 5. Maryland Health Care Foundation" of Article - Health -  
34 General of the Annotated Code of Maryland be repealed.

35 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 2 of Chapter  
36 701 of the Acts of the General Assembly of 2001 be repealed.

1 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 15-101(e), (f),  
 2 (g), (h), (i), (j), and (k), respectively, of Article - Health - General of the Annotated  
 3 Code of Maryland be renumbered to be Section(s) 15-101(d), (e), (f), (g), (h), (i), and (j),  
 4 respectively.

5 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
 6 read as follows:

7 **Article - State Government**

8 6.5-301.

9 (b) An acquisition is not in the public interest unless appropriate steps have  
 10 been taken to:

11 (1) ensure that the value of public or charitable assets is safeguarded;

12 (2) ensure that:

13 (i) the fair value of the public or charitable assets of a nonprofit  
 14 health service plan or a health maintenance organization will be distributed to the  
 15 [Maryland Health Care Foundation that was established in § 20-502 of the Health -  
 16 General Article] MARYLAND HEALTH CARE TRUST ESTABLISHED UNDER § 6.5-401 OF  
 17 ~~THIS ARTICLE~~ TITLE; or

18 (ii) 1. 40% of the fair value of the public or charitable assets of a  
 19 nonprofit hospital will be distributed to the [Maryland Health Care Foundation that  
 20 was established in § 20-502 of the Health - General Article] MARYLAND HEALTH  
 21 CARE TRUST ESTABLISHED UNDER § 6.5-401 OF ~~THIS ARTICLE~~ TITLE; and

22 2. 60% of the fair value of the public or charitable assets of a  
 23 nonprofit hospital will be distributed to a public or nonprofit charitable entity or trust  
 24 that is:

25 A. dedicated to serving the unmet health care needs of the  
 26 affected community;

27 B. dedicated to promoting access to health care in the  
 28 affected community;

29 C. dedicated to improving the quality of health care in the  
 30 affected community; and

31 D. independent of the transferee;

32 (3) ensure that no part of the public or charitable assets of the  
 33 acquisition inure directly or indirectly to an officer, director, or trustee of a nonprofit  
 34 health entity; and

1 (4) ensure that no officer, director, or trustee of the nonprofit health  
2 entity receives any immediate or future remuneration as the result of an acquisition  
3 or proposed acquisition except in the form of compensation paid for continued  
4 employment with the acquiring entity.

5 SUBTITLE 4. MARYLAND HEALTH CARE TRUST.

6 6.5-401.

7 (A) (1) THERE IS A MARYLAND HEALTH CARE TRUST.

8 (2) THE TRUST IS A BODY CORPORATE, SUBJECT TO MODIFICATION OR  
9 TERMINATION BY THE GENERAL ASSEMBLY.

10 (3) THE PURPOSE OF THE TRUST IS TO:

11 (I) BE OF GENERAL BENEFIT TO THE RESIDENTS OF THE STATE;

12 (II) BE CHARITABLE IN NATURE; AND

13 (III) ACCEPT AND RETAIN MONEYS FOR FUTURE EXPENDITURES TO  
14 BE USED TO IMPLEMENT ACTS OF THE GENERAL ASSEMBLY, OTHER THAN THE STATE  
15 BUDGET BILL, THAT:

16 1. IMPROVE THE HEALTH STATUS OF RESIDENTS OF THE  
17 STATE; AND

18 2. SPECIFICALLY DIRECT THE USE OF ASSETS OF THE  
19 TRUST.

20 (4) MONEYS EXPENDED FROM THE TRUST ARE SUPPLEMENTAL TO, AND  
21 ARE NOT INTENDED TO TAKE THE PLACE OF, STATE FUNDS THAT WOULD  
22 OTHERWISE BE APPROPRIATED BY THE STATE FOR THE IMPROVEMENT OF THE  
23 HEALTH CARE STATUS OF THE RESIDENTS OF THE STATE.

24 (B) (1) THE STATE TREASURER SHALL BE THE TRUSTEE OF THE TRUST.

25 (2) THE POWERS AND DUTIES OF THE TRUST SHALL REST IN AND BE  
26 EXERCISED BY THE TRUSTEE.

27 (C) THE POWERS AND DUTIES OF THE TRUST SHALL BE ESTABLISHED AND  
28 MODIFIED SOLELY BY THE GENERAL ASSEMBLY.

29 (D) IN ACCORDANCE WITH THIS TITLE, THE TRUST CONSISTS OF THE PUBLIC  
30 AND CHARITABLE ASSETS RECEIVED AS A RESULT OF THE ACQUISITION OF A  
31 NONPROFIT HEALTH SERVICE PLAN OR A NONPROFIT HEALTH MAINTENANCE  
32 ORGANIZATION, APPROVED BY THE ADMINISTRATION ON OR AFTER JUNE 1, 2001, OR  
33 A NONPROFIT HOSPITAL, APPROVED BY THE ATTORNEY GENERAL IN CONSULTATION  
34 WITH THE DEPARTMENT.

1 (E) (1) THE STATE TREASURER SHALL MANAGE, INVEST, AND REINVEST  
2 THE TRUST IN THE SAME MANNER THAT STATE FUNDS ARE INVESTED.

3 (2) THE TRUST SHALL BE HELD AND ACCOUNTED FOR SEPARATE AND  
4 APART FROM THE FUNDS OF THE STATE.

5 (F) ANY INTEREST OR OTHER INVESTMENT EARNINGS OF THE TRUST SHALL  
6 BE CREDITED TO AND PAID INTO THE TRUST.

7 (G) (1) THE TRUSTEE SHALL MAKE PROVISION FOR A SYSTEM OF  
8 FINANCIAL ACCOUNTING, CONTROLS, AUDITS, AND REPORTS.

9 (2) THE TRUSTEE SHALL REPORT TO THE GOVERNOR AND, IN  
10 ACCORDANCE WITH § 2-1246 OF THIS ARTICLE, TO THE GENERAL ASSEMBLY ON OR  
11 BEFORE DECEMBER 1, 2004, AND ANNUALLY THEREAFTER ON THE STATUS OF THE  
12 ASSETS OF THE TRUST.

13 15-601.

14 (d) (1) An individual who is a public official only as a member of a board [or  
15 who is a member of the Board of Trustees of the Maryland Health Care Foundation  
16 established under § 20-501 of the Health - General Article] and who receives annual  
17 compensation that is less than 25% of the lowest annual compensation at State grade  
18 level 16 shall file the statement required by subsection (a) of this section in  
19 accordance with § 15-609 of this subtitle.

20 SECTION 5. AND BE IT FURTHER ENACTED, That:

21 (a) on or before June 1, 2004, the Maryland Health Care Foundation shall:

22 (1) transfer all records of the Maryland Health Care Foundation,  
23 including records pertaining to Medbank of Maryland, Inc., to ~~Medbank of Maryland,~~  
24 ~~the Maryland State Archives;~~ and

25 (2) transfer all ~~other records, furniture, furniture~~ furniture and equipment of the  
26 Maryland Health Care Foundation to the Department of Health and Mental Hygiene;  
27 and

28 (b) (1) the Governor shall transfer all funds remaining in the General  
29 Investment Account of the Maryland Health Care Foundation as of June 1, 2004 to  
30 Medbank of Maryland, Inc.; and

31 (2) after making the transfer required in paragraph (1) of this subsection,  
32 the Governor may transfer ~~all~~ any remaining money and funds of the Maryland  
33 Health Care Foundation existing as of June 1, 2004, to the Maryland Health Care  
34 Trust.

35 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect  
36 June 1, 2004.

