

# SENATE BILL 437

C3

EMERGENCY BILL

5lr2616  
CF HB 859

---

By: **Senator Middleton**

Introduced and read first time: February 6, 2015

Assigned to: Finance

---

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 10, 2015

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Nonprofit Health Service Plans – Hearing and Order – Impact of Law or**  
3 **Regulatory Action by Another State**

4 FOR the purpose of ~~requiring, instead of authorizing, the Maryland Insurance~~  
5 ~~Commissioner to hold a certain hearing relating to the impact of a law of another~~  
6 ~~state on a nonprofit health service plan operating in this State; authorizing the~~  
7 ~~Commissioner to conduct an examination instead of holding a hearing~~ authorizing  
8 the Maryland Insurance Commissioner to conduct an examination relating to the  
9 impact of a law of another state on a nonprofit health service plan operating in this  
10 State; adding a regulatory action by another state to the circumstances ~~that require~~  
11 in which the Commissioner ~~to~~ may hold a hearing or conduct an examination; adding  
12 a requirement by another state that a nonprofit health service plan operating in this  
13 State distribute or reduce its surplus to the circumstances ~~that require~~ in which the  
14 Commissioner ~~to~~ may hold a hearing or conduct an examination; authorizing an  
15 order issued by the Commissioner to include certain actions; prohibiting a nonprofit  
16 health service plan from distributing or reducing its surplus under certain  
17 circumstances except with ~~certain~~ the approval of the Commissioner; making certain  
18 conforming changes; making this Act an emergency measure; and generally relating  
19 to the impact of a law or regulatory action by another state on a nonprofit health  
20 service plan operating in this State and actions by the Maryland Insurance  
21 Commissioner.

22 BY repealing and reenacting, with amendments,

23 Article – Insurance

24 Section 14–124

---

### 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 Annotated Code of Maryland  
2 (2011 Replacement Volume and 2014 Supplement)

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

5 **Article – Insurance**

6 14–124.

7 (a) (1) The Commissioner may conduct any investigation or hearing that the  
8 Commissioner considers necessary to enforce this subtitle.

9 (2) In conducting a hearing or investigation under this section, the  
10 Commissioner has the same powers with respect to nonprofit health service plans as are  
11 granted to the Commissioner under Titles 2 and 4 of this article with respect to any other  
12 activity regulated under this article.

13 (3) If another state enacts a law **OR TAKES A REGULATORY ACTION** that  
14 requires a nonprofit health service plan operating in this State to provide a program or  
15 benefits for the residents of the other state **OR TO DISTRIBUTE OR REDUCE ITS SURPLUS**  
16 **ON THE GROUNDS THAT THE SURPLUS IS EXCESSIVE IN WHOLE OR IN PART**, the  
17 Commissioner ~~may~~ **SHALL** hold a quasi-legislative hearing or a hearing under Title 2 of  
18 this article **OR CONDUCT AN EXAMINATION** to review and evaluate the impact of the law  
19 **OR REGULATORY ACTION** on the nonprofit health service plan, including the impact on:

20 (i) surplus;

21 (ii) premium rates for policies issued or delivered in this State; and

22 (iii) solvency.

23 (4) Based on the review and evaluation under paragraph (3) of this  
24 subsection, the Commissioner shall determine whether the impact on the nonprofit health  
25 service plan is harmful to the interests of subscribers covered by policies issued or delivered  
26 in this State.

27 (5) (i) If the Commissioner determines the program or benefits for the  
28 residents of another state **OR THE SURPLUS DISTRIBUTION OR REDUCTION** have an  
29 impact on the nonprofit health service plan that is harmful to the interests of subscribers  
30 covered by policies issued or delivered in this State, the Commissioner shall issue an  
31 appropriate order to protect the subscribers.

32 (ii) The order issued under subparagraph (i) of this paragraph may  
33 include:

1                   1. a prohibition on the nonprofit health service plan  
2 subsidizing the program or benefits for the residents of another state through:

3                   [1.] A. premiums charged to subscribers under policies  
4 issued or delivered in this State; or

5                   [2.] B. use of any surplus earned through policies issued or  
6 delivered in this State;

7                   2. A PROHIBITION ON THE NONPROFIT HEALTH SERVICE  
8 PLAN DISTRIBUTING OR REDUCING ITS SURPLUS FOR THE BENEFIT OF RESIDENTS  
9 OF ANOTHER STATE; OR

10                  3. ANY OTHER ACTION THE COMMISSIONER CONSIDERS  
11 NECESSARY TO PROTECT THE INTERESTS OF THE SUBSCRIBERS COVERED BY  
12 POLICIES ISSUED OR DELIVERED IN THIS STATE.

13                  **(6) A NONPROFIT HEALTH SERVICE PLAN MAY NOT DISTRIBUTE OR**  
14 **REDUCE ITS SURPLUS UNDER A LAW OR REGULATORY ACTION THE IMPACT OF**  
15 **WHICH IS SUBJECT TO A HEARING OR AN EXAMINATION UNDER PARAGRAPH (3) OF**  
16 **THIS SUBSECTION, EXCEPT WITH THE APPROVAL OF THE COMMISSIONER ~~AFTER~~**  
17 **~~THE HEARING IS HELD OR THE EXAMINATION IS CONDUCTED.~~**

18                  (b) The Commissioner may adopt regulations to carry out this subtitle.

19                  (c) The Commissioner may commence a delinquency proceeding against a  
20 corporation operating under this subtitle for any of the reasons set forth in § 9-211(a) and  
21 (b) of this article.

22                  SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
23 measure, is necessary for the immediate preservation of the public health or safety, has  
24 been passed by a ye and nay vote supported by three-fifths of all the members elected to  
25 each of the two Houses of the General Assembly, and shall take effect from the date it is  
26 enacted.