

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
Third Reader

House Bill 1553

(Delegate Cullison, *et al.*)

Health and Government Operations

Finance

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Nonprofit Health Entity - Acquisition - Waiver of Waiting Period

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This emergency bill (1) clarifies that a determination made by the appropriate regulating entity regarding the acquisition of a nonprofit health entity may take effect the earlier of 90 days after the determination or *the date* when ratified or rejected by the General Assembly and (2) authorizes the appropriate regulating entity to waive the 90-day waiting period if it determines that it is in the best interest of the public.

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Fiscal Summary

**State Effect:** The bill does not materially affect State finances or operations.

**Local Effect:** The bill does not materially affect local government finances or operations.

**Small Business Effect:** None.

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Analysis

**Current Law:** A nonprofit health entity is a nonprofit hospital, health service plan, or health maintenance organization. A person may not acquire a nonprofit health entity without approval from the appropriate regulating entity. The appropriate regulating entity is determined by the type of nonprofit health entity. For a nonprofit hospital, the regulating entity is the Attorney General in consultation with the Department of Health and Mental Hygiene; for a nonprofit health service plan or health maintenance organization, the regulating entity is the Maryland Insurance Administration (MIA).

To acquire a nonprofit health entity, a person must submit a specified application to the appropriate regulating entity. Within 10 working days after receiving an application, the

appropriate regulating entity must publish specified notice of the application and provide notification to specified persons. No later than 90 days after receiving a complete application, the appropriate regulating entity must hold a public quasi-legislative hearing. Any person may file written comments or make a statement at the public hearing. The regulating entity may subpoena information and witnesses, require sworn statements, take depositions, use related discovery procedures, and contract with experts as reasonably necessary for specified determinations.

Within 60 days after the record has been closed, the appropriate regulating entity must approve (with or without modifications) or disapprove the acquisition. The regulating entity may extend for good cause the time for making a final determination up to a maximum of two 60-day extensions. A determination made by the appropriate regulating entity may not take effect until 90 calendar days after the date the determination is made or when ratified or rejected by the General Assembly, whichever is earlier.

**Background:** In October 2016, Evergreen Health, one of 23 consumer-oriented and -operated health plans established under the federal Patient Protection and Affordable Care Act, announced plans to be acquired by investors and convert to a for-profit insurer. In December 2016, MIA announced that Evergreen Health would not participate in the individual market for calendar 2017, forcing policyholders to choose a new plan from the remaining carriers in the market. Evergreen Health finalized plans with investors and received approval from the federal government to convert to for-profit status in January 2017. Evergreen Health, which has approximately 26,000 members, is currently in the process of obtaining permission from MIA to convert to for-profit status.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** SB 1075 (Senator Middleton) - Finance.

**Information Source(s):** *The Baltimore Sun*; Department of Health and Mental Hygiene; Maryland Insurance Administration; Department of Legislative Services

**Fiscal Note History:** First Reader - March 17, 2017  
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