

BY: Economic Matters Committee

AMENDMENTS TO SENATE BILL NO. 143

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 13, strike beginning with “, impose” down through “actions” in line 14; in line 15, strike “nonprofit”; in the same line, after “certain” insert “public or nonprofit charitable”; and in the same line, strike “charitable” and substitute “certain”.

On page 2, in line 26, after “14-131” insert “and 14-132”.

On page 3, in line 20, strike “AND” and substitute a semicolon.

AMENDMENT NO. 2

On pages 2 and 3, strike in their entirety the lines beginning with line 29 on page 2 through line 15 on page 3, inclusive.

AMENDMENT NO. 3

On page 4, in lines 19 and 23, in each instance, strike “AMOUNT” and substitute “OR SIGNIFICANT PORTION”; and in line 22, strike “THE” and substitute “A”.

On page 5, in line 9, strike “MEANS ASSETS” and substitute “INCLUDE”; in line 10, before “HELD” insert “ASSETS”; in line 11, before “IN” insert “ASSETS”; in the same line, strike “OR” and substitute “AND”; and in line 12, before “OWNED” insert “ASSETS”.

On page 6, in line 12, strike “THIS APPLICATION” and substitute “THE APPLICATION SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION”.

On page 8, in line 22, strike “EMPLOYS” and substitute “CONTRACTS FOR”.

AMENDMENT NO. 4

(Over)

On page 6, in line 26, after “(C)” insert “(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION.”; in lines 26 and 27, strike “AND SUBJECT TO THE PROVISIONS OF § 7-106 OF THE INSURANCE ARTICLE.”; and after line 28, insert:

“(2) THE REGULATING ENTITY MAY NOT BE REQUIRED TO DISCLOSE OR MAKE AVAILABLE FOR PUBLIC INSPECTION UNDER PARAGRAPH (1) OF THIS SUBSECTION ANY INFORMATION THAT IS CONFIDENTIAL OR PROPRIETARY UNLESS DETERMINED BY THE REGULATING ENTITY TO BE IN THE PUBLIC INTEREST.”.

On page 7, before line 1, insert:

“(D) (1) IF THE TRANSFEROR IS A NONPROFIT HEALTH SERVICE PLAN, THE TRANSFEROR SHALL NOTIFY EACH SUBSCRIBER TO THE NONPROFIT HEALTH SERVICE PLAN OF THE PROPOSED TRANSACTION BY FIRST CLASS MAIL WITHIN 10 DAYS OF THE SUBMISSION OF THE APPLICATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.”;

in line 1, strike “(D)” and substitute “(2)”; in line 2, strike “ENROLLEE” and substitute “MEMBER OR SUBSCRIBER”; in line 26, strike “(1)”; in the same line, after “PRACTICABLE” insert a comma; in line 27, strike “COMPLETED” and substitute “COMPLETE”; and strike in their entirety lines 29 through 31, inclusive.

#### AMENDMENT NO. 5

On page 8, in lines 26 and 27, strike “SUBJECT TO SUBSECTION (G) OF THIS SECTION.”; and in line 28, after “THE” insert “PUBLIC”.

On page 9, strike in their entirety lines 1 through 7, inclusive, and substitute:

“(G) (1) UNLESS THE APPROPRIATE REGULATING ENTITY EXTENDS FOR GOOD CAUSE UNDER PARAGRAPH (2) OF THIS SUBSECTION THE TIME FOR MAKING A DETERMINATION UNDER SUBSECTION (F) OF THIS SECTION, IF AN APPLICATION IS NOT APPROVED OR DISAPPROVED WITHIN 60 DAYS AFTER THE RECORD, INCLUDING THE PUBLIC HEARING PROCESS, HAS BEEN CLOSED, THE APPLICATION SHALL BE DEEMED APPROVED.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AT ITS DISCRETION, THE REGULATING ENTITY MAY EXTEND FOR GOOD CAUSE FOR A 60-DAY PERIOD THE TIME FOR MAKING A DETERMINATION UNDER SUBSECTION (F) OF THIS SECTION.

(3) THE REGULATING ENTITY IS LIMITED TO A MAXIMUM OF TWO 60-DAY EXTENSIONS FOR MAKING A DETERMINATION ON THE SAME APPLICATION.”.

AMENDMENT NO. 6

On page 9, in line 13, strike “ENSURE THAT”; in line 17, before “THE” insert “ENSURE THAT”; in the same line, after “PUBLIC” insert “OR CHARITABLE”; in line 18, after “(2)” insert “ENSURE THAT:”; in lines 19 and 20, strike “IS TRANSFERRED” and substitute “WILL BE DISTRIBUTED”; in lines 22 and 26, in each instance, strike “PROCEEDS OF AN ACQUISITION” and substitute “FAIR VALUE OF THE PUBLIC OR CHARITABLE ASSETS”; in lines 23 and 27, in each instance, strike “IS” and substitute “WILL BE”; in lines 26 and 27, strike “PUBLIC OR”; in line 27, after “A” insert “PUBLIC OR”; in line 30, after “COMMUNITY” insert “WITHIN THIS STATE”; and in lines 31 and 33, in each instance, after “CARE” insert “IN THE AFFECTED COMMUNITY WITHIN THIS STATE”.

On page 10, in line 1, before “NO” insert “ENSURE THAT”; in the same line, after “PUBLIC” insert “OR CHARITABLE”; in lines 1 and 2, strike “OR THE PROCEEDS”; in line 5, strike “TRANSFER OR A”; in line 6, after “ASSETS” insert “OF A NONPROFIT HEALTH ENTITY OR A VOTE OF ITS CERTIFICATE HOLDERS AS PROVIDED UNDER § 6.5-303(2)(III) OF THIS SUBTITLE”; in line 16, strike “WERE” and substitute “WAS”; and in line 35, after “PUBLIC” insert “OR CHARITABLE”.

On page 11, in line 1, strike “CHARITABLE FUNDS” and substitute “PUBLIC OR CHARITABLE ASSETS”; and in line 10, strike “MARKET”.

AMENDMENT NO. 7

On page 13, in line 6, after “TO” insert “ANY”; and strike beginning with “THAT” in line 6 down through “VIOLATION” in line 15 and substitute “THE FOLLOWING:”

(Over)

(1) THE DIVESTITURE OF THE ACQUISITION;

(2) THAT THE ENTITY FULLY COMPLY WITH THIS TITLE;

(3) THAT THE ENTITY FILE A PLAN FOR CONVERSION TO A FOR-PROFIT ENTITY AS REQUIRED UNDER THIS TITLE;

(4) THAT THE CERTIFICATE OF AUTHORITY OF THE ENTITY TO OPERATE AS A NONPROFIT HEALTH SERVICE PLAN OR A NONPROFIT HEALTH MAINTENANCE ORGANIZATION IN THIS STATE BE REVOKED OR SUSPENDED; OR

(5) THE PAYMENT OF A PENALTY AS PROVIDED FOR IN § 4-113(D)(1) OF THE INSURANCE ARTICLE FOR EACH VIOLATION OF SUBSECTION (B) OR (C) OF THIS SECTION”.

AMENDMENT NO. 8

On page 13, in line 17, strike “PUBLIC OR”; in the same line, after the second “A” insert “PUBLIC OR”; in line 20, strike “MECHANISMS” and substitute “PROCEDURES”; in lines 24, 25, 28, and 34, in each instance, before “NONPROFIT” insert “PUBLIC OR”; in lines 24 and 25, in each instance, after “ENTITY’S” insert “OR TRUST’S”; in lines 29 and 31, in each instance, before “CHARITABLE” insert “PUBLIC OR”; in line 30, strike “ON” and substitute “REGARDING”.

AMENDMENT NO. 9

On page 14, strike in their entirety lines 8 through 11, inclusive, and substitute:

“(B) ANY NONPROFIT HEALTH ENTITY THAT THE APPROPRIATE REGULATING ENTITY HAS DETERMINED UNDER SUBSECTION (A) OF THIS SECTION THAT THIS TITLE DOES NOT APPLY SHALL SUBMIT AN INFORMATION COPY OF ITS APPLICATION TO ENGAGE IN AN ACQUISITION TO THE REGULATING ENTITY.”.

AMENDMENT NO. 10

On page 18, after line 8, insert:

“[14-132.

(a) This section does not apply to the conversion of a corporation authorized under this subtitle to a mutual health insurer under a court order in connection with the rehabilitation or reorganization of the corporation under Title 9, Subtitle 2 of this article.

(b) A corporation that is incorporated under the laws of the State and is subject to this subtitle may convert to a mutual health insurer subject to the provisions of this article under a plan and procedure approved by the Commissioner.

(c) The Commissioner may not approve a plan or procedure for conversion unless the plan or procedure:

(1) is equitable to subscribers and certificate holders, if any, of the corporation;

(2) complies with Title 2, Subtitle 6 of the Corporations and Associations Article;

(3) provides that none of the assets or surplus of the nonprofit health service plan will inure directly or indirectly to an officer or director of the corporation; and

(4) is approved by at least two-thirds of the corporation's certificate holders who have voted on the plan or procedure in person, by proxy, or by mail under the notice and procedure approved by the Commissioner;

(5) ensures that the resulting mutual health insurer will possess surplus in an amount sufficient to:

(i) comply with the surplus requirements under this article for a mutual health insurer; and

(ii) provide for the security of the resulting mutual health insurer's policyholders and certificate holders.

(Over)

(d) A corporation that becomes a mutual health insurer under this section does not abandon its corporate status by converting, unless the plan specifically provides otherwise.

(e) If the corporation at all times remains qualified to engage in business in the State, the certificate of authority, agent appointments, forms, and other filings existing at the time of the conversion shall continue in effect after the conversion.

(f) All outstanding contracts of the converting corporation shall remain in effect and need not otherwise be endorsed unless ordered by the Commissioner.

(g) The Commissioner or designee of the Commissioner may conduct a hearing on the proposed conversion of a corporation subject to this subtitle into a mutual health insurer.]”.