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Dru Delegates Caldrusten Deurs Deleg Eshandt Hunsen Wink Wonn

By: Delegates Goldwater, Barve, Bobo, Eckardt, Hurson, Kirk, Kopp, Morhaim, Pendergrass, and Bronrott

Introduced and read first time: January 28, 1999

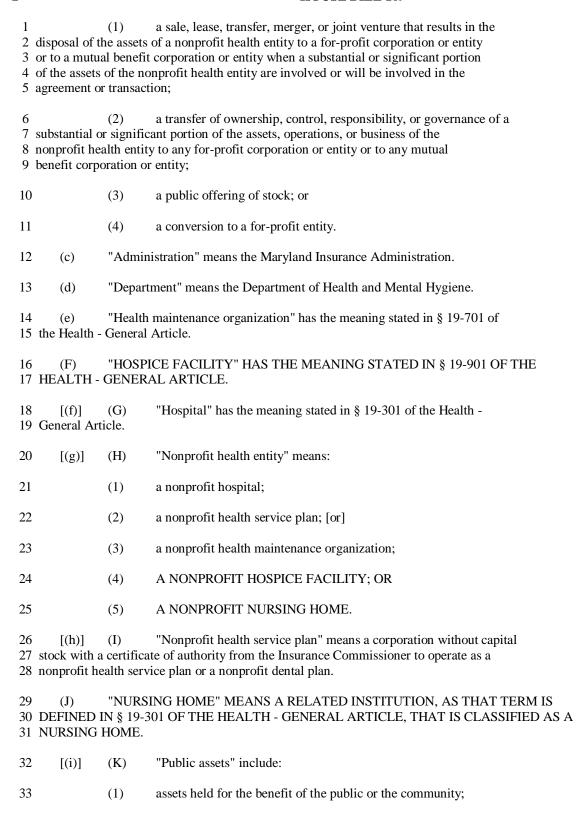
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

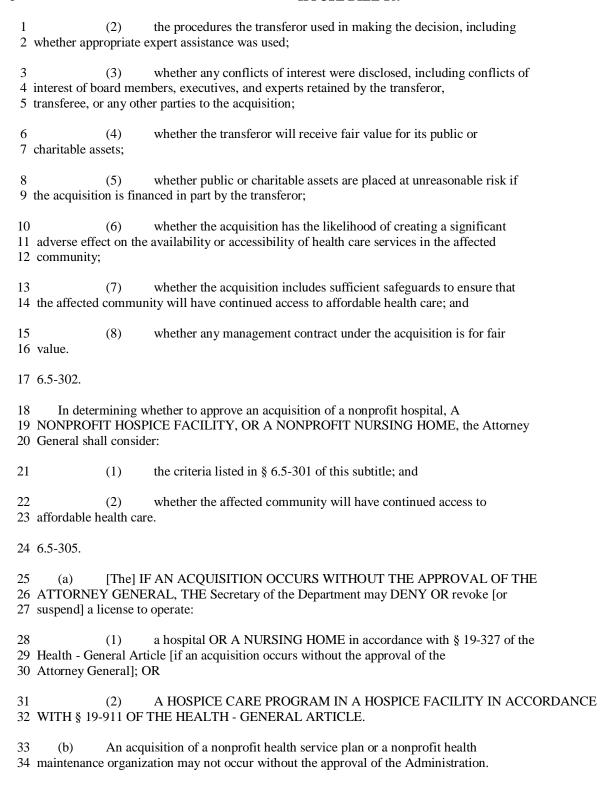
2 Acquisition of Nonprofit Hospice Facilities and Nonprofit Nursing Homes

- 3 FOR the purpose of adding nonprofit hospice facilities and nonprofit nursing homes
- 4 to the list of those nonprofit health entities that a person may not acquire
- 5 without the approval of a certain regulating entity; authorizing the Secretary of
- 6 Health and Mental Hygiene to deny or revoke the license of a person to operate
- 7 a nursing home or a hospice care program in a hospice facility for a violation of
- 8 this Act; defining certain terms; altering certain definitions; making a certain
- 9 technical correction; providing for the application of this Act; and generally
- relating to the acquisition of nonprofit hospice facilities and nonprofit nursing
- 11 homes.
- 12 BY repealing and reenacting, with amendments,
- 13 Article State Government
- 14 Section 6.5-101, 6.5-301, 6.5-302, and 6.5-305
- 15 Annotated Code of Maryland
- 16 (1995 Replacement Volume and 1998 Supplement)
- 17 BY repealing and reenacting, with amendments,
- 18 Article Health General
- 19 Section 19-911
- 20 Annotated Code of Maryland
- 21 (1996 Replacement Volume and 1998 Supplement)
- 22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 23 MARYLAND, That the Laws of Maryland read as follows:
- 24 Article State Government
- 25 6.5-101.
- 26 (a) In this title the following words have the meanings indicated.
- 27 (b) "Acquisition" means:



1		(2)	assets in which the public has an ownership interest; and
2		(3)	assets owned by a governmental entity.
3	[(j)]	(L)	"Regulating entity" means:
	FACILITY, with the Dep		for an acquisition of a nonprofit hospital, A NONPROFIT HOSPICE ONPROFIT NURSING HOME, the Attorney General in consultation
7 8	Administrati	(2) ion; and	for an acquisition of a nonprofit health service plan, the
9 10	the Adminis	(3) stration.	for an acquisition of a nonprofit health maintenance organization,
	- \ / -		"Transferee" means the person in an acquisition that receives the of the nonprofit health entity that is the subject of the
	L(/J		"Transferor" means the nonprofit health entity that is the subject of e corporation that owns the nonprofit health entity that is the ition.
17	6.5-301.		
18 19	` /		propriate regulating entity shall approve an acquisition unless it is not in the public interest.
20 21	(b) been taken t		uisition is not in the public interest unless appropriate steps have
22		(1)	ensure that the value of public or charitable assets is safeguarded;
23		(2)	ensure that:
26	health servi	lealth Ca	(i) the fair value of the public or charitable assets of a nonprofit or a health maintenance organization will be distributed to the re Foundation that was established in § 20-502 of the Health -
30	nonprofit ho will be distr	ibuted to	(ii) 1. 40% of the fair value of the public or charitable assets of a IONPROFIT HOSPICE FACILITY, OR A NONPROFIT NURSING HOME the Maryland Health Care Foundation that was established in § a - General Article; and
	nonprofit ho		2. 60% of the fair value of the public or charitable assets of a IONPROFIT HOSPICE FACILITY, A NONPROFIT NURSING HOME of a public or nonprofit charitable entity or trust that is:

1 2	affected community;		A.	dedicated to serving the unmet health care needs of the			
3	affected community;		B.	dedicated to promoting access to health care in the			
5 6	affected community;	and	C.	dedicated to improving the quality of health care in the			
7			D.	independent of the transferee; and			
	(3) acquisition inure direct health entity.		-	rt of the public or charitable assets of the an officer, director, or trustee of a nonprofit			
	nonprofit health entit	y or a vot	te of its c	determine that a distribution of assets of a ertificate holders as provided under § uired under this section if the transaction is:			
14	(1)	determin	ned not be	e an acquisition;			
15	(2)	in the or	dinary co	ourse of business; and			
16	(3)	for fair v	value.				
17 18				the appropriate regulating entity may consider nined by the regulating entity:			
21	•	determin	ed as if th	onprofit health entity or an affiliate or the assets of ne entity had voting stock outstanding and le and available for purchase without			
23	(2)	the value	e as a goi	ng concern;			
24	(3)	the mark	ket value;				
25	(4)	the inves	stment or	earnings value;			
26	(5)	the net a	ısset valu	e; and			
27	(6)	a contro	l premiur	n, if any.			
28 29	(e) In determining whether an acquisition is in the public interest, the appropriate regulating entity shall consider:						
	(1) in an acquisition, selection of the acquisition:			feror exercised due diligence in deciding to engage ee, and negotiating the terms and conditions			



2	` /	organization may not be operated for profit.								
5	(d) If the Commissioner determines that a nonprofit health service plan or a nonprofit health maintenance organization is in violation of subsection (b) or (c) of this section, the Commissioner may, in addition to any other remedies authorized by law, require the following:									
7		(1)	the dives	stiture of the acquisition;						
8		(2)	that the	entity fully comply with this title;						
9 10	required unde	(3) er this tit		entity file a plan for conversion to a for-profit entity as						
	(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									
14 15		(5) ticle for		nent of a penalty as provided for in § 4-113(d)(1) of the ation of subsection (b) or (c) of this section.						
16				Article - Health - General						
17	19-911.									
		or licens		all deny a license to any applicant or revoke a license if een convicted of a felony that relates to Medicaid or to						
	applicant or l	icensee	does not	by deny a license to an applicant or revoke a license if the meet the requirements of this subtitle or any rule or dopts under this subtitle.						
	LICENSE TO	O OPER	ATE A E	RY MAY DENY A LICENSE TO AN APPLICANT OR REVOKE A IOSPICE CARE PROGRAM IN A HOSPICE FACILITY IF THE VIOLATES TITLE 6.5 OF THE STATE GOVERNMENT ARTICLE.						
29	AND (C) of t	y regula	on, the S	In addition to the provisions of subsections (a) [and (b)], (B), ecretary may, for a violation of any provision of this ted under this subtitle, impose an administrative						
31			(i)	\$500 for a first violation; and						
32			(ii)	\$1,000 for a subsequent, repeated violation.						
33 34		(2) f an adm		retary shall adopt regulations to provide standards for the e penalty under paragraph (1) of this subsection.						

- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be 1
- 2 construed only prospectively and may not be applied or interpreted to have any effect
 3 on or application to any acquisition completed or certificate of need granted before the
- 4 effective date of this Act.
- 5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 6 October 1, 1999.