
By: **Delegates Busch and Hurson**

Introduced and read first time: February 9, 2001

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance - Acquisition of Nonprofit Health Entity**

3 FOR the purpose of altering the criteria for making a certain determination; altering
4 a certain determination of the Insurance Commissioner; requiring the Maryland
5 Health Care Foundation to perform a certain study under certain
6 circumstances; specifying the purposes of the study; requiring the Foundation to
7 develop a certain proposal based on the results of the study; requiring the
8 Foundation to submit a report to the General Assembly in accordance with
9 certain provisions of law; prohibiting the Foundation from using or spending
10 certain assets received as the result of a certain acquisition before a certain
11 date; providing for the termination of certain provisions of this Act; making this
12 Act an emergency measure; and generally relating to the regulation of an
13 acquisition of a nonprofit health entity.

14 BY repealing and reenacting, with amendments,
15 Article - State Government
16 Section 6.5-301(c) and 6.5-303
17 Annotated Code of Maryland
18 (1999 Replacement Volume and 2000 Supplement)

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

21 **Article - State Government**

22 6.5-301.

23 (c) The regulating entity may determine that a distribution of assets of a
24 nonprofit health entity [or a vote of its certificate holders as provided under §
25 6.5-303(2)(iii) of this subtitle] is not required under this section if the transaction is:

- 26 (1) determined not to be an acquisition;
- 27 (2) in the ordinary course of business; and
- 28 (3) for fair value.

1 6.5-303.

2 In determining whether to approve an acquisition of a nonprofit health service
3 plan or a nonprofit health maintenance organization, the Administration shall
4 consider:

5 (1) the criteria listed in § 6.5-301 of this subtitle; and

6 (2) whether the acquisition:

7 (i) is equitable to enrollees, insureds, shareholders, and certificate
8 holders, if any, of the transferor;

9 (ii) is in compliance with Title 2, Subtitle 6 of the Corporations and
10 Associations Article; AND

11 (iii) [is approved by at least two-thirds of the transferor's certificate
12 holders who have voted on the acquisition:

13 1. in person, by proxy, or by mail; and

14 2. pursuant to the requirements adopted by the
15 Commissioner regarding notice and procedure; and

16 (iv)] ensures that the transferee will possess surplus in an amount
17 sufficient to:

18 1. comply with the surplus required under law; and

19 2. provide for the security of the transferee's certificate
20 holders and policyholders.

21 SECTION 2. AND BE IT FURTHER ENACTED, That:

22 (a) If the Maryland Health Care Foundation receives a distribution of public
23 or charitable assets as the result of the acquisition of a nonprofit health service plan
24 or a nonprofit health maintenance organization, approved by the Maryland Insurance
25 Administration on or after January 1, 2001, in accordance with Title 6.5 of the State
26 Government Article, the Foundation shall:

27 (1) perform a study to identify:

28 (i) the unmet health care needs of the citizens of the State,
29 including any gaps in the availability or accessibility of health care services as a
30 result of the acquisition of the nonprofit health entity under Title 6.5 of the State
31 Government Article; and

32 (ii) the most effective means of addressing those unmet needs;

33 (2) develop a proposal for use of the assets based on the results of the
34 study; and

1 (3) on December 31, 2001, submit a report to the General Assembly in
2 accordance with § 2-1246 of the State Government Article containing the results of
3 the Foundation's study and its proposal for use of the public or charitable assets.

4 (b) The Maryland Health Care Foundation may not use or spend, in the form
5 of a grant or otherwise, any public or charitable assets received as the result of the
6 acquisition of a nonprofit health service plan or a nonprofit health maintenance
7 organization, approved by the Maryland Insurance Administration on or after
8 January 1, 2001, in accordance with Title 6.5 of the State Government Article, until
9 July 1, 2002.

10 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
11 remain effective through June 30, 2002 and, at the end of June 30, 2002, with no
12 further action required by the General Assembly, Section 2 of this Act shall be
13 abrogated and of no further force and effect.

14 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency
15 measure, is necessary for the immediate preservation of the public health and safety,
16 has been passed by a yea and nay vote supported by three-fifths of all the members
17 elected to each of the two Houses of the General Assembly, and shall take effect from
18 the date it is enacted.