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2002 Regular Session
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By: Senators Neall, Astle, Baker, Blount, Colburn, Collins, Conway, Currie, DeGrange, Della, Dorman, Dyson, Exum, Ferguson, Frosh, Green, Hafer, Haines, Harris, Hoffman, Hogan, Hollinger, Hooper, Hughes, Jimeno, Kasemeyer, Kelley, Kittleman, McFadden, Middleton, Mooney, Munson, Roesser, Ruben, Schrader, Sfikas, Stoltzfus, Stone, Teitelbaum, and Van Hollen

Introduced and read first time: February 1, 2002

Assigned to: Finance

## A BILL ENTITLED

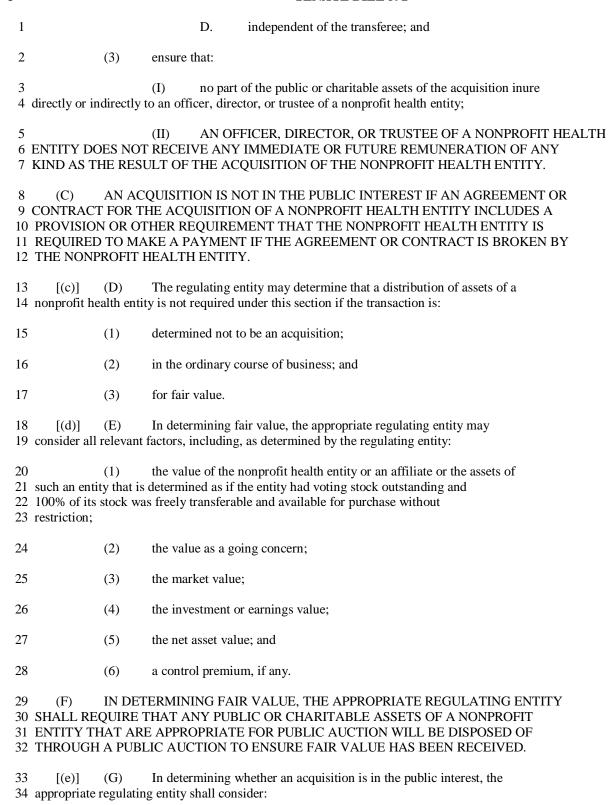
1	ΑN	ACT	concerning
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- 2 Acquisition of Nonprofit Health Entities Limitations on Approval Public Interest and Fair Value
- 4 FOR the purpose of altering a certain standard for making a certain determination
- 5 related to the acquisition of a nonprofit health entity; repealing a certain
- 6 provision deeming an application for the acquisition of an nonprofit health
- 7 entity approved under certain circumstances; prohibiting officers, directors, and
- 8 trustees of nonprofit health entities from receiving any remuneration of any
- 9 kind as the result of the acquisition of a nonprofit health entity; providing that
- an acquisition of a nonprofit health entity is not in the public interest if the
- agreement or contract for the acquisition contains a certain provision or other
- 12 requirement; requiring the appropriate regulating entity to determine fair value
- of certain assets by requiring the assets to be disposed of by public auction to
- ensure fair value; and generally relating to limitations on the acquisition of
- 15 nonprofit health entities.
- 16 BY repealing and reenacting, with amendments,
- 17 Article State Government
- 18 Section 6.5-203(g) and 6.5-301
- 19 Annotated Code of Maryland
- 20 (1999 Replacement Volume and 2001 Supplement)
- 21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 22 MARYLAND, That the Laws of Maryland read as follows:

35 affected community; and

## 1 **Article - State Government** 2 6.5-203. 3 [Unless the appropriate regulating entity extends for good cause (g) (1) 4 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 6 60 days after the record, including the public hearing process, has been closed, the 7 application shall be deemed approved. 8 Subject to paragraph [(3)] (2) of this subsection, at its discretion, the 9 regulating entity may extend for good cause for a 60-day period the time for making 10 a determination under subsection (f) of this section. 11 The regulating entity is limited to a maximum of two 60-day 12 extensions for making a determination on the same application. 13 6.5-301. 14 The appropriate regulating entity [shall] MAY NOT approve an acquisition (a) 15 unless it finds the acquisition is [not] in the public interest. 16 (b) An acquisition is not in the public interest unless appropriate steps have 17 been taken to: 18 (1) ensure that the value of public or charitable assets is safeguarded; 19 (2) ensure that: 20 (i) the fair value of the public or charitable assets of a nonprofit 21 health service plan or a health maintenance organization will be distributed to the 22 Maryland Health Care Foundation that was established in § 20-502 of the Health -23 General Article: or 24 40% of the fair value of the public or charitable assets of a (ii) 1. 25 nonprofit hospital will be distributed to the Maryland Health Care Foundation that 26 was established in § 20-502 of the Health - General Article; and 27 60% of the fair value of the public or charitable assets of a 2. 28 nonprofit hospital will be distributed to a public or nonprofit charitable entity or trust 29 that is: 30 A. dedicated to serving the unmet health care needs of the 31 affected community; 32 B. dedicated to promoting access to health care in the 33 affected community; C. dedicated to improving the quality of health care in the

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	(1) whether the transferor exercised due diligence in deciding to engage in an acquisition, selecting the transferee, and negotiating the terms and conditions of the acquisition;
4 5	(2) the procedures the transferor used in making the decision, including whether appropriate expert assistance was used;
	(3) whether any conflicts of interest were disclosed, including conflicts of interest of board members, executives, and experts retained by the transferor, transferee, or any other parties to the acquisition;
9 10	(4) whether the transferor will receive fair value for its public or charitable assets;
11 12	(5) whether public or charitable assets are placed at unreasonable risk if the acquisition is financed in part by the transferor;
	(6) whether the acquisition has the likelihood of creating a significant adverse effect on the availability or accessibility of health care services in the affected community;
16 17	(7) whether the acquisition includes sufficient safeguards to ensure that the affected community will have continued access to affordable health care; and
18 19	(8) whether any management contract under the acquisition is for fair value.
20 21	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2002.