
By: **Delegates Morhaim, Boutin, and Pendergrass**
Introduced and read first time: January 27, 2003
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Acquisition of a Nonprofit Health Entity - Determination by Regulating**
3 **Entity**

4 FOR the purpose of prohibiting a determination of an approval of an acquisition of a
5 nonprofit health entity from taking effect until the last day of the next regular
6 session of the General Assembly beginning after the determination date;
7 authorizing the General Assembly to take a certain action; making this Act an
8 emergency measure; and generally relating to the acquisition of a nonprofit
9 health entity.

10 BY repealing and reenacting, with amendments,
11 Article - State Government
12 Section 6.5-203
13 Annotated Code of Maryland
14 (1999 Replacement Volume and 2002 Supplement)

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

17 **Article - State Government**

18 6.5-203.

19 (a) (1) As soon as practicable, but no later than 90 days after receiving a
20 complete application, including all necessary expert reports, the appropriate
21 regulating entity shall hold a public hearing.

22 (2) If the nonprofit health entity is a hospital, the regulating entity shall
23 hold the public hearing in the jurisdiction in which the hospital is located.

24 (b) A public hearing under this section shall be a quasi-legislative hearing
25 and not a contested case hearing.

26 (c) Any person may file written comments and exhibits or make a statement
27 at the public hearing.

1 (d) The regulating entity may:

2 (1) subpoena information and witnesses;

3 (2) require sworn statements;

4 (3) take depositions; and

5 (4) use related discovery procedures.

6 (e) (1) The regulating entity may contract with experts as reasonably
7 necessary to:

8 (i) determine whether to approve an acquisition generally;

9 (ii) perform an independent valuation of the public or charitable
10 assets of the transferor;

11 (iii) evaluate the impact of the acquisition on the affected
12 community;

13 (iv) determine whether there has been due diligence by the
14 transferor; and

15 (v) determine the existence of any conflicts of interest.

16 (2) The selection of an expert by a regulating entity under paragraph (1)
17 of this subsection shall be subject to the State procurement laws.

18 (3) If a regulating entity contracts for expert assistance under paragraph
19 (1) of this subsection, the transferee shall pay the reasonable cost of the expert
20 assistance, as determined by the regulating entity.

21 (f) Within 60 days after the record, including the public hearing process, has
22 been closed, the appropriate regulating entity shall:

23 (1) approve the acquisition, with or without modifications; or

24 (2) disapprove the acquisition.

25 (g) (1) Subject to paragraph (2) of this subsection, at its discretion, the
26 regulating entity may extend for good cause for a 60-day period the time for making
27 a determination under subsection (f) of this section.

28 (2) The regulating entity is limited to a maximum of two 60-day
29 extensions for making a determination on the same application.

30 (h) (1) A determination made by the appropriate regulating entity that
31 disapproves the acquisition under subsection (f) of this section may not take effect
32 until 90 calendar days after the date the determination is made.

1 (2) IF THE APPROPRIATE REGULATING ENTITY APPROVES THE
2 ACQUISITION UNDER SUBSECTION (F) OF THIS SECTION:

3 (I) THE DETERMINATION MAY NOT TAKE EFFECT UNTIL THE LAST
4 DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY BEGINNING
5 AFTER THE DATE THE DETERMINATION IS MADE; AND

6 (II) THE GENERAL ASSEMBLY MAY TAKE ACTION TO APPROVE,
7 DISAPPROVE, OR MODIFY THE DETERMINATION.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an
9 emergency measure, is necessary for the immediate preservation of the public health
10 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
11 members elected to each of the two Houses of the General Assembly, and shall take
12 effect from the date it is enacted.