

HOUSE BILL 351

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2004 Regular Session
4lr0378
CF 4lr0384

By: **Delegate Hurson**

Introduced and read first time: January 28, 2004
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: February 24, 2004

CHAPTER _____

1 AN ACT concerning

2 **Maryland Health Care Foundation –~~Repeat~~ Maryland Health Care Trust**

3 FOR the purpose of terminating the Maryland Health Care Foundation; altering the
4 entity to which the fair value of certain assets must be distributed for certain
5 acquisitions to be in the public interest; codifying ~~the~~, and making certain
6 stylistic and conforming changes to, certain provisions of law relating to the
7 Maryland Health Care Trust; altering the trustee of the Maryland Health Care
8 Trust to be the State Treasurer; altering the contents of the Trust; repealing an
9 obsolete provision of law requiring certain interest and earnings to be granted to
10 the Maryland Health Care Foundation; ~~altering~~ repealing a certain provision of
11 law requiring individuals ~~who are public official members of a board or~~ who are
12 members of the Board of Trustees of the Maryland Health Care Foundation and
13 who receive annual compensation of less than a certain amount to file an annual
14 financial disclosure statement; requiring certain records, furniture, and
15 equipment of the Maryland Health Care Foundation to be transferred to certain
16 entities on or before a certain date; authorizing the Governor to transfer certain
17 money and funds of the Maryland Health Care Foundation to the Maryland
18 Health Care Trust; and generally relating to the Maryland Health Care Trust
19 and the termination of the Maryland Health Care Foundation.

20 BY repealing

21 Article - Health - General
22 Section 15-101(d) and 15-305; and 20-501 through 20-510 and the subtitle
23 "Subtitle 5. Maryland Health Care Foundation"
24 Annotated Code of Maryland
25 (2000 Replacement Volume and 2003 Supplement)

26 BY repealing

1 Chapter 701 of the Acts of the General Assembly of 2001
2 Section 2

3 BY renumbering
4 Article - Health - General
5 Section 15-101(e), (f), (g), (h), (i), (j), and (k), respectively
6 to be Section 15-101(d), (e), (f), (g), (h), (i), and (j), respectively
7 Annotated Code of Maryland
8 (2000 Replacement Volume and 2003 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article - State Government
11 Section 6.5-301(b) and 15-601(d)(1)
12 Annotated Code of Maryland
13 (1999 Replacement Volume and 2003 Supplement)

14 BY adding to
15 Article - State Government
16 Section 6.5-401 to be under the new subtitle "Subtitle 4. Maryland Health Care
17 Trust"
18 Annotated Code of Maryland
19 (1999 Replacement Volume and 2003 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That Section(s) 15-101(d) and 15-305; and 20-501 through 20-510 and
22 the subtitle "Subtitle 5. Maryland Health Care Foundation" of Article - Health -
23 General of the Annotated Code of Maryland be repealed.

24 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 2 of Chapter
25 701 of the Acts of the General Assembly of 2001 be repealed.

26 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 15-101(e), (f),
27 (g), (h), (i), (j), and (k), respectively, of Article - Health - General of the Annotated
28 Code of Maryland be renumbered to be Section(s) 15-101(d), (e), (f), (g), (h), (i), and (j),
29 respectively.

30 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
31 read as follows:

32 **Article - State Government**

33 6.5-301.

34 (b) An acquisition is not in the public interest unless appropriate steps have
35 been taken to:

36 (1) ensure that the value of public or charitable assets is safeguarded;

1 (2) ensure that:

2 (i) the fair value of the public or charitable assets of a nonprofit
 3 health service plan or a health maintenance organization will be distributed to the
 4 [Maryland Health Care Foundation that was established in § 20-502 of the Health -
 5 General Article] MARYLAND HEALTH CARE TRUST ESTABLISHED UNDER § 6.5-401 OF
 6 ~~THIS ARTICLE~~ TITLE; or

7 (ii) 1. 40% of the fair value of the public or charitable assets of a
 8 nonprofit hospital will be distributed to the [Maryland Health Care Foundation that
 9 was established in § 20-502 of the Health - General Article] MARYLAND HEALTH
 10 CARE TRUST ESTABLISHED UNDER § 6.5-401 OF ~~THIS ARTICLE~~ TITLE; and

11 2. 60% of the fair value of the public or charitable assets of a
 12 nonprofit hospital will be distributed to a public or nonprofit charitable entity or trust
 13 that is:

14 A. dedicated to serving the unmet health care needs of the
 15 affected community;

16 B. dedicated to promoting access to health care in the
 17 affected community;

18 C. dedicated to improving the quality of health care in the
 19 affected community; and

20 D. independent of the transferee;

21 (3) ensure that no part of the public or charitable assets of the
 22 acquisition inure directly or indirectly to an officer, director, or trustee of a nonprofit
 23 health entity; and

24 (4) ensure that no officer, director, or trustee of the nonprofit health
 25 entity receives any immediate or future remuneration as the result of an acquisition
 26 or proposed acquisition except in the form of compensation paid for continued
 27 employment with the acquiring entity.

28 SUBTITLE 4. MARYLAND HEALTH CARE TRUST.

29 6.5-401.

30 (A) (1) THERE IS A MARYLAND HEALTH CARE TRUST.

31 (2) THE TRUST IS A BODY CORPORATE, SUBJECT TO MODIFICATION OR
 32 TERMINATION BY THE GENERAL ASSEMBLY.

33 (3) THE PURPOSE OF THE TRUST IS TO:

34 (I) BE OF GENERAL BENEFIT TO THE RESIDENTS OF THE STATE;

1 (II) BE CHARITABLE IN NATURE; AND

2 (III) ACCEPT AND RETAIN MONEYS FOR FUTURE EXPENDITURES TO
3 BE USED TO IMPLEMENT ACTS OF THE GENERAL ASSEMBLY, OTHER THAN THE STATE
4 BUDGET BILL, THAT:

5 1. IMPROVE THE HEALTH STATUS OF RESIDENTS OF THE
6 STATE; AND

7 2. SPECIFICALLY DIRECT THE USE OF ASSETS OF THE
8 TRUST.

9 (4) MONEYS EXPENDED FROM THE TRUST ARE SUPPLEMENTAL TO, AND
10 ARE NOT INTENDED TO TAKE THE PLACE OF, STATE FUNDS THAT WOULD
11 OTHERWISE BE APPROPRIATED BY THE STATE FOR THE IMPROVEMENT OF THE
12 HEALTH CARE STATUS OF THE RESIDENTS OF THE STATE.

13 (B) (1) THE STATE TREASURER SHALL BE THE TRUSTEE OF THE TRUST.

14 (2) THE POWERS AND DUTIES OF THE TRUST SHALL REST IN AND BE
15 EXERCISED BY THE TRUSTEE.

16 (C) THE POWERS AND DUTIES OF THE TRUST SHALL BE ESTABLISHED AND
17 MODIFIED SOLELY BY THE GENERAL ASSEMBLY.

18 (D) IN ACCORDANCE WITH THIS TITLE, THE TRUST CONSISTS OF THE PUBLIC
19 AND CHARITABLE ASSETS RECEIVED AS A RESULT OF THE ACQUISITION OF A
20 NONPROFIT HEALTH SERVICE PLAN OR A NONPROFIT HEALTH MAINTENANCE
21 ORGANIZATION, APPROVED BY THE ADMINISTRATION ON OR AFTER JUNE 1, 2001, OR
22 A NONPROFIT HOSPITAL, APPROVED BY THE ATTORNEY GENERAL IN CONSULTATION
23 WITH THE DEPARTMENT.

24 (E) (1) THE STATE TREASURER SHALL MANAGE, INVEST, AND REINVEST
25 THE TRUST IN THE SAME MANNER THAT STATE FUNDS ARE INVESTED.

26 (2) THE TRUST SHALL BE HELD AND ACCOUNTED FOR SEPARATE AND
27 APART FROM THE FUNDS OF THE STATE.

28 (F) ANY INTEREST OR OTHER INVESTMENT EARNINGS OF THE TRUST SHALL
29 BE CREDITED TO AND PAID INTO THE TRUST.

30 (G) (1) THE TRUSTEE SHALL MAKE PROVISION FOR A SYSTEM OF
31 FINANCIAL ACCOUNTING, CONTROLS, AUDITS, AND REPORTS.

32 (2) THE TRUSTEE SHALL REPORT TO THE GOVERNOR AND, IN
33 ACCORDANCE WITH § 2-1246 OF THIS ARTICLE, TO THE GENERAL ASSEMBLY ON OR
34 BEFORE DECEMBER 1, 2004, AND ANNUALLY THEREAFTER ON THE STATUS OF THE
35 ASSETS OF THE TRUST.

1 15-601.

2 (d) (1) An individual who is a public official only as a member of a board [or
3 who is a member of the Board of Trustees of the Maryland Health Care Foundation
4 established under § 20-501 of the Health - General Article] and who receives annual
5 compensation that is less than 25% of the lowest annual compensation at State grade
6 level 16 shall file the statement required by subsection (a) of this section in
7 accordance with § 15-609 of this subtitle.

8 SECTION 5. AND BE IT FURTHER ENACTED, That:

9 (a) on or before June 1, 2004, the Maryland Health Care Foundation shall:

10 (1) transfer all records of the Maryland Health Care Foundation,
11 including records pertaining to Medbank of Maryland, Inc., to ~~Medbank of Maryland,~~
12 the Maryland State Archives; and

13 (2) transfer all ~~other records, furniture, furniture~~ and equipment of the
14 Maryland Health Care Foundation to the Department of Health and Mental Hygiene;
15 and

16 (b) the Governor may transfer all money and funds of the Maryland Health
17 Care Foundation existing as of June 1, 2004, to the Maryland Health Care Trust.

18 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 June 1, 2004.