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By: **Senator Middleton**

Introduced and read first time: February 8, 2006

Assigned to: Rules

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2006

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Health Care Commission - Certificate of Need - Health Care**  
3 **Facilities**

4 FOR the purpose of altering the level of capital expenditures made by or on behalf of  
5 a hospital or a ~~related institution~~ health care facility other than a hospital that  
6 ~~require~~ requires a certificate of need; providing that a certificate of need is not  
7 required for a certain capital expenditure by a hospital or a certain plant  
8 donated to a hospital, if the Maryland Health Care Commission has not made a  
9 certain financial determination within a certain time period; ~~repealing a~~  
10 ~~requirement that, to be exempted from~~ altering a certain exemption from the  
11 requirement to obtain a certificate of need to close a hospital or part of a  
12 hospital, ~~a hospital hold a certain public hearing~~; and generally relating to  
13 certificate of need requirements for health care facilities.

14 BY repealing and reenacting, without amendments,  
15 Article - Health - General  
16 Section 19-120(a) and (c)  
17 Annotated Code of Maryland  
18 (2005 Replacement Volume and 2005 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article - Health - General  
21 Section 19-120(k) and (l)  
22 Annotated Code of Maryland  
23 (2005 Replacement Volume and 2005 Supplement)

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

3 **Article - Health - General**

4 19-120.

5 (a) (1) In this section the following words have the meanings indicated.

6 (2) "Limited service hospital" means a health care facility that:

7 (i) Is licensed as a hospital on or after January 1, 1999;

8 (ii) Changes the type or scope of health care services offered by  
9 eliminating the facility's capability to admit or retain patients for overnight  
10 hospitalization;

11 (iii) Retains an emergency or urgent care center; and

12 (iv) Complies with the regulations adopted by the Secretary under §  
13 19-307.1 of this title.

14 (3) (i) "Health care service" means any clinically related patient  
15 service.

16 (ii) "Health care service" includes a medical service.

17 (4) "Medical service" means:

18 (i) Any of the following categories of health care services:

19 1. Medicine, surgery, gynecology, addictions;

20 2. Obstetrics;

21 3. Pediatrics;

22 4. Psychiatry;

23 5. Rehabilitation;

24 6. Chronic care;

25 7. Comprehensive care;

26 8. Extended care;

27 9. Intermediate care; or

28 10. Residential treatment; or

1 (ii) Any subcategory of the rehabilitation, psychiatry,  
2 comprehensive care, or intermediate care categories of health care services for which  
3 need is projected in the State health plan.

4 (c) The Commission shall adopt rules and regulations for applying for and  
5 issuing certificates of need.

6 (k) (1) A certificate of need is required before any of the following capital  
7 expenditures are made by or on behalf of a [health care facility] HOSPITAL:

8 (i) Any expenditure that, under generally accepted accounting  
9 principles, is not properly chargeable as an operating or maintenance expense, if:

10 1. The expenditure is made as part of an acquisition,  
11 improvement, or expansion, and, after adjustment for inflation as provided in the  
12 regulations of the Commission, the total expenditure, including the cost of each study,  
13 survey, design, plan, working drawing, specification, and other essential activity, is  
14 more than [\$1,250,000] \$10,000,000;

15 2. The expenditure is made as part of a replacement of any  
16 plant and equipment of the [health care facility] HOSPITAL and is more than  
17 [\$1,250,000]\$10,000,000 after adjustment for inflation as provided in the regulations  
18 of the Commission;

19 3. The expenditure results in a substantial change in the bed  
20 capacity of the [health care facility] HOSPITAL; or

21 4. The expenditure results in the establishment of a new  
22 medical service in a [health care facility] HOSPITAL that would require a certificate  
23 of need under subsection (i) of this section; or

24 (ii) Any expenditure that is made to lease or, by comparable  
25 arrangement, obtain any plant or equipment for the [health care facility] HOSPITAL,  
26 if:

27 1. The expenditure is made as part of an acquisition,  
28 improvement, or expansion, and, after adjustment for inflation as provided in the  
29 rules and regulations of the Commission, the total expenditure, including the cost of  
30 each study, survey, design, plan, working drawing, specification, and other essential  
31 activity, is more than [\$1,250,000] \$10,000,000;

32 2. The expenditure is made as part of a replacement of any  
33 plant and equipment and is more than [\$1,250,000] \$10,000,000 after adjustment for  
34 inflation as provided in the regulations of the Commission;

35 3. The expenditure results in a substantial change in the bed  
36 capacity of the [health care facility] HOSPITAL; or



1                                   3.       THE EXPENDITURE RESULTS IN A SUBSTANTIAL CHANGE  
2 IN THE BED CAPACITY OF THE ~~RELATED INSTITUTION~~ HEALTH CARE FACILITY  
3 OTHER THAN A HOSPITAL; OR

4                                   4.       THE EXPENDITURE RESULTS IN THE ESTABLISHMENT OF  
5 A NEW MEDICAL SERVICE IN A ~~RELATED INSTITUTION~~ HEALTH CARE FACILITY  
6 OTHER THAN A HOSPITAL THAT WOULD REQUIRE A CERTIFICATE OF NEED UNDER  
7 SUBSECTION (I) OF THIS SECTION.

8                   (3)       ~~A CERTIFICATE OF NEED IS REQUIRED BEFORE ANY OF THE~~  
9 ~~FOLLOWING CAPITAL EXPENDITURES ARE MADE BY OR ON BEHALF OF A HEALTH~~  
10 ~~CARE FACILITY OTHER THAN A HOSPITAL OR RELATED INSTITUTION:~~

11                   (4)       ~~ANY EXPENDITURE THAT, UNDER GENERALLY ACCEPTED~~  
12 ~~ACCOUNTING PRINCIPLES, IS NOT PROPERLY CHARGEABLE AS AN OPERATING OR~~  
13 ~~MAINTENANCE EXPENSE, IF:~~

14                                   1.       ~~THE EXPENDITURE IS MADE AS PART OF AN ACQUISITION,~~  
15 ~~IMPROVEMENT, OR EXPANSION, AND, AFTER ADJUSTMENT FOR INFLATION AS~~  
16 ~~PROVIDED IN THE REGULATIONS OF THE COMMISSION, THE TOTAL EXPENDITURE,~~  
17 ~~INCLUDING THE COST OF EACH STUDY, SURVEY, DESIGN, PLAN, WORKING DRAWING,~~  
18 ~~SPECIFICATION, AND OTHER ESSENTIAL ACTIVITY, IS MORE THAN \$1,250,000;~~

19                                   2.       ~~THE EXPENDITURE IS MADE AS PART OF A REPLACEMENT~~  
20 ~~OF ANY PLANT AND EQUIPMENT OF THE HEALTH CARE FACILITY AND IS MORE THAN~~  
21 ~~\$1,250,000 AFTER ADJUSTMENT FOR INFLATION AS PROVIDED IN THE REGULATIONS~~  
22 ~~OF THE COMMISSION;~~

23                                   3.       ~~THE EXPENDITURE RESULTS IN A SUBSTANTIAL CHANGE~~  
24 ~~IN THE BED CAPACITY OF THE HEALTH CARE FACILITY; OR~~

25                                   4.       ~~THE EXPENDITURE RESULTS IN THE ESTABLISHMENT OF~~  
26 ~~A NEW MEDICAL SERVICE IN A HEALTH CARE FACILITY THAT WOULD REQUIRE A~~  
27 ~~CERTIFICATE OF NEED UNDER SUBSECTION (I) OF THIS SECTION; OR~~

28                   (II)       ~~ANY EXPENDITURE THAT IS MADE TO LEASE OR, BY~~  
29 ~~COMPARABLE ARRANGEMENT, OBTAIN ANY PLANT OR EQUIPMENT FOR THE HEALTH~~  
30 ~~CARE FACILITY, IF:~~

31                                   1.       ~~THE EXPENDITURE IS MADE AS PART OF AN ACQUISITION,~~  
32 ~~IMPROVEMENT, OR EXPANSION, AND, AFTER ADJUSTMENT FOR INFLATION AS~~  
33 ~~PROVIDED IN THE RULES AND REGULATIONS OF THE COMMISSION, THE TOTAL~~  
34 ~~EXPENDITURE, INCLUDING THE COST OF EACH STUDY, SURVEY, DESIGN, PLAN,~~  
35 ~~WORKING DRAWING, SPECIFICATION, AND OTHER ESSENTIAL ACTIVITY, IS MORE~~  
36 ~~THAN \$1,250,000;~~

37                                   2.       ~~THE EXPENDITURE IS MADE AS PART OF A REPLACEMENT~~  
38 ~~OF ANY PLANT AND EQUIPMENT AND IS MORE THAN \$1,250,000 AFTER ADJUSTMENT~~  
39 ~~FOR INFLATION AS PROVIDED IN THE REGULATIONS OF THE COMMISSION;~~









1 (l) A certificate of need is not required to close any hospital or part of a  
2 hospital as defined in § 19-301 of this title if:

3 (1) [(i)] ~~Except as provided in paragraph (2) of this subsection, at AT~~  
4 least 45 days before the closing or partial closing of a hospital, including a State  
5 hospital, a person proposing to close all or part of the hospital files notice of the  
6 proposed closing or partial closing with the Commission; ~~and~~

7 (ii) (2) ~~Within~~ FOR A HOSPITAL LOCATED IN A COUNTY WITH  
8 FEWER THAN THREE HOSPITALS, WITHIN 30 days after receipt of the notice of intent  
9 to close, the hospital, in consultation with the Commission, holds a public  
10 informational hearing in the county where the hospital is located; ~~or~~

11 (2) (i) ~~For a hospital located in a county with fewer than three~~  
12 ~~hospitals, at least 45 days before the closing or partial closing of the hospital, a person~~  
13 ~~proposing to close all or part of the hospital files notice of the proposed closing or~~  
14 ~~partial closing with the Commission; and~~

15 (ii) ~~The Commission finds that the closing:~~

16 1- ~~Is in the public interest; and~~

17 2- ~~Is not inconsistent with:~~

18 A. ~~The State health plan; or~~

19 B. ~~An institution-specific plan developed by the Commission~~  
20 ~~under § 19-119 of this subtitle.~~

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 June 1, 2006.