

# SENATE BILL 1075

P3, C3

EMERGENCY BILL

7lr3525  
CF 7lr3530

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By: **Senator Middleton**

Introduced and read first time: February 15, 2017

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Nonprofit Health Entity – Acquisition – Waiver of Waiting Period**

3 FOR the purpose of authorizing a certain regulating entity, under certain circumstances,  
4 to waive a certain waiting period between the date a determination is made on a  
5 certain acquisition of a nonprofit health entity and the date the determination takes  
6 effect; making conforming changes; making this Act an emergency measure; and  
7 generally relating to acquisitions of nonprofit health entities.

8 BY repealing and reenacting, with amendments,  
9 Article – State Government  
10 Section 6.5–203  
11 Annotated Code of Maryland  
12 (2014 Replacement Volume and 2016 Supplement)

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

15 **Article – State Government**

16 6.5–203.

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

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

22 (b) A public hearing under this section shall be a quasi–legislative hearing and  
23 not a contested case hearing.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

(d) The regulating entity may:

- (1) subpoena information and witnesses;
- (2) require sworn statements;
- (3) take depositions; and
- (4) use related discovery procedures.

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

- (i) determine whether to approve an acquisition generally;
- (ii) perform an independent valuation of the public or charitable assets of the transferor;
- (iii) evaluate the impact of the acquisition on the affected community;
- (iv) determine whether there has been due diligence by the transferor; and
- (v) determine the existence of any conflicts of interest.

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

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

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

- (1) approve the acquisition, with or without modifications; or
- (2) disapprove the acquisition.

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

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

3           (h)    **(1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
4     **SUBSECTION, A** determination made by the appropriate regulating entity under  
5     subsection (f) of this section may not take effect until **THE EARLIER OF:**

6                   **(I)**     90 calendar days after the date the determination is made; or

7                   **(II)**    **THE DATE** when ratified or rejected by the General Assembly[,  
8     whichever is earlier].

9                   **(2) THE APPROPRIATE REGULATING ENTITY MAY WAIVE THE**  
10    **WAITING PERIOD UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION IF THE**  
11    **APPROPRIATE REGULATING ENTITY DETERMINES THAT WAIVING THE WAITING**  
12    **PERIOD IS IN THE BEST INTEREST OF THE PUBLIC.**

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