

Senate Bill 395

By: Senators Watson of the 1st, Jackson of the 2nd, Burke of the 11th, Hufstetler of the 52nd, Black of the 8th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 4 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated,
2 relating to county and municipal hospital authorities, so as to revise the standard of indigency
3 relating to portioning of proceeds from the sale or lease of a hospital by a hospital authority;
4 to provide for additional methods for the investment of funds by hospital authorities which
5 hold an irrevocable trust wherein the corpus exceeds certain amounts; to provide for related
6 matters; to repeal conflicting laws; and for other purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 Article 4 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to
10 county and municipal hospital authorities, is amended by revising Code Section 31-7-75.1,
11 relating to proceeds of sale of hospital held in trust to fund indigent hospital care, as follows:
12 "31-7-75.1.

13 (a) The proceeds from any sale or lease of a hospital owned by a hospital authority or
14 political subdivision of this state, which proceeds shall not include funds required to pay
15 off the bonded indebtedness of the sold hospital or any expense of the authority or political
16 subdivision attributable to the sale or lease, shall be held by the authority or political
17 subdivision in an irrevocable trust fund. Such proceeds in that fund may be invested in the
18 same way that public moneys may be invested generally pursuant to general law and as
19 permitted under Code Section 31-7-83, but money in that trust fund shall be used
20 exclusively for funding the provision of health care for the indigent residents of the
21 political subdivision which owned the hospital or by which the authority was activated or
22 for which the authority was created. If the funds available for a political subdivision in that
23 irrevocable trust fund are less than \$100,000.00, the principal amount may be used to fund
24 the provision of indigent health care; otherwise, only the income from that fund may be
25 used for that care. Such funding or reimbursement for indigent care shall not exceed the
26 diagnosis related group rate for that hospital in each individual case.

27 (b) In the event a hospital authority which sold or leased a hospital was activated by or
 28 created for more than one political subdivision or in the event a hospital having as owner
 29 more than one political subdivision is sold or leased by those political subdivisions, each
 30 such constituent political subdivision's portion of the irrevocable trust fund for indigent
 31 health care shall be determined by multiplying the amount of that fund by a figure having
 32 a numerator which is the population of that political subdivision and a denominator which
 33 is the combined population of all the political subdivisions which owned the hospital or by
 34 which or for which the authority was activated or created.

35 (c) For purposes of health care for the indigent under this Code section, the standard of
 36 indigency shall be ~~that determined under Code Section 31-8-43, relating to standards of~~
 37 ~~indigency for emergency care of pregnant women, based upon 125 percent of the federal~~
 38 ~~poverty level~~ defined as income that is at or below 138 percent of the federal poverty level
 39 based on the poverty guidelines established by the United States Department of Health and
 40 Human Services.

41 (d) This Code section shall not apply to the following actions:

42 (1) A reorganization or restructuring;

43 (2) Any sale of a hospital, or the proceeds from that sale, made prior to April 2, 1986;
 44 and

45 (3) Any sale or lease of a hospital when the purchaser or lessee pledges, by written
 46 contract entered into concurrently with such purchase or lease, to provide an amount of
 47 health care equal to that which would have otherwise been available pursuant to
 48 subsections (a), (b), and (c) of this Code section for the indigent residents of the political
 49 subdivisions which owned the hospital, by which the hospital authority was activated, or
 50 for which the authority was created. However, the exception to this Code section
 51 provided by this paragraph shall only apply to:

52 (A) Hospital authorities that operate a licensed hospital pursuant to a lease from the
 53 county which created the appropriate authority;

54 (B) Hospitals that have a bed capacity of more than 150 beds;

55 (C) Hospitals located in a county in which no other medical-surgical licensed hospital
 56 is located;

57 (D) Hospitals located in a county having a population of less than 45,000 according to
 58 the United States decennial census of 1990; and

59 (E) Hospitals operated by a hospital authority that entered into a lease-purchase
 60 agreement between such hospital and a private corporation prior to July 1, 1997."

SECTION 2.

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62 Said article is further amended by revising Code Section 31-7-83, relating to investment of
63 surplus moneys and moneys received through issuance of revenue certificates, as follows:

64 "31-7-83.

65 (a) Pending use for the purpose for which received, each hospital authority created by and
66 under this article is authorized and empowered to invest all moneys or any part thereof
67 received through the issuance and sale of revenue certificates of the authority in any
68 securities which are legal investments or which are provided for in the trust indenture
69 securing such certificates or other legal investments; provided, however, that such
70 investments shall be used at all times while held, or upon sale, for the purposes for which
71 the money was originally received and no other. Contributions or gifts received by any
72 authority shall be invested as provided by the terms of the contribution or gift or in the
73 absence thereof as determined by the authority.

74 (b) In addition to the authorized investments in subsection (a) of this Code section and in
75 Code Section 36-83-4, hospital authorities that have ceased to own or operate medical
76 facilities for a minimum of seven years, have paid off all bonded indebtedness and
77 outstanding short-term or long-term debt obligations, and hold more than \$20 million in
78 funds for charitable health care purposes may invest a maximum of 30 percent of their
79 funds in the following:

80 (1) Shares of mutual funds registered with the Securities and Exchange Commission of
81 the United States under the Investment Company Act of 1940, as amended; and

82 (2) Commingled funds and collective investment funds maintained by state chartered
83 banks or trust companies or regulated by the Office of the Comptroller of the Currency
84 of the United States Department of the Treasury, including common and group trusts,
85 and, to the extent the funds are invested in such collective investment funds, the funds
86 shall adopt the terms of the instruments establishing any group trust in accordance with
87 applicable United States Internal Revenue Service Revenue Rulings.

88 (c) In addition to the authorized investments in subsection (a) of this Code section and in
89 Code Section 36-83-4, hospital authorities that have paid off all bonded indebtedness and
90 outstanding short-term or long-term debt obligations and hold an irrevocable trust wherein
91 the corpus of such trust is \$75 million or more, irrespective of the source of the funds held
92 in the corpus, may invest a maximum of 30 percent of their funds in the following:

93 (1) Shares of mutual funds registered with the Securities and Exchange Commission of
94 the United States under the Investment Company Act of 1940, as amended; and

95 (2) Commingled funds and collective investment funds maintained by state chartered
96 banks or trust companies or regulated by the Office of the Comptroller of the Currency
97 of the United States Department of the Treasury, including common and group trusts,

98 and, to the extent the funds are invested in such collective investment funds, the funds
99 shall adopt the terms of the instruments establishing any group trust in accordance with
100 applicable United States Internal Revenue Service Revenue Rulings.

101 (d) In addition to the authorized investments in subsection (a) of this Code section and in
102 Code Section 36-83-4, hospital authorities that hold an irrevocable trust wherein the corpus
103 of such trust is \$100 million or more may invest its funds, subject to all the terms,
104 conditions, limitations, and restrictions imposed by Article 7 of Chapter 20 of Title 47, the
105 'Public Retirement Systems Investment Authority Law' for large retirement systems,
106 provided that:

107 (1) The trust investments held by the hospital authority are managed by one or more
108 independent professional investment managers recognized by the National Association
109 of Securities Dealers and the United States Securities and Exchange Commission and
110 which adhere to the code of ethical standards and conduct of the Association for
111 Investment Management and Research; and

112 (2) The trust investments are limited to those equities of investment grade quality or
113 better, provided that leverage techniques, option techniques, futures, commodities, private
114 placements, and direct participation plans may not be used when making equity
115 investments."

116

SECTION 3.

117 All laws and parts of laws in conflict with this Act are repealed.