

House Bill 1747 (AS PASSED HOUSE AND SENATE)

By: Representative Jenkins of the 8th

A BILL TO BE ENTITLED
AN ACT

1 To make certain findings and determinations with respect to a certain transaction in which
2 Rabun County acquired certain hospital facilities from the Woodlands Foundation, Inc.; to
3 determine that said transaction is impossible to undo and that the transaction is therefore
4 excused from compliance with Article 15 of Chapter 7 of Title 31 of the Official Code of
5 Georgia Annotated, relating to acquisition of hospitals; to provide that no review by the
6 Attorney General shall be required in connection with such transaction; to provide that such
7 transaction shall be deemed to be authorized under applicable law and that lack of review and
8 approval under the hospital acquisition law shall not impair or cloud the title to the acquired
9 property; to provide for other related matters; to repeal conflicting laws; and for other
10 purposes.

11 WHEREAS, on or about November 16, 1999, Rabun County, as purchaser, acquired from
12 Woodlands Foundation, Inc., as seller, certain real property known as the Ridgecrest Hospital
13 facilities (the "Ridgecrest transaction"), which real property (the "Ridgecrest property") is
14 more particularly described as follows:

15 Parcel I:

16 All that tract or parcel of land lying and being in Land Lot 19 and Land Lot 20 of the
17 Second Land District of Rabun County, City of Clayton, Georgia, consisting of 5.53 acres
18 and delineated as Tract 2 as shown on a plat of survey prepared by T. Lamar Edwards,
19 Georgia Registered Land Surveyor No. 1837, dated March 12, 1990 and last revised May
20 9, 1991, recorded in Plat Book 28, page 190, Rabun County, Georgia Records, which plat
21 is incorporated herein and made a part hereof by reference, being improved property
22 whereon is situated "Ridgecrest Hospital" and other improvements as shown on the
23 aforementioned plat of survey.

1 Parcel II:

2 All that tract or parcel of land lying and being in Land Lot 19 and Land Lot 20 of the
3 Second Land District of Rabun County, City of Clayton, Georgia, consisting of 2.15 acres
4 and delineated as Tract 5 as shown on a plat of survey prepared by T. Lamar Edwards,
5 Georgia Registered Land Surveyor No. 1837, dated March 12, 1990 and last revised May
6 9, 1991, recorded in Plat Book 28, page 190, Rabun County, Georgia Records, which plat
7 is incorporated herein and made a part hereof by reference, being improved property
8 whereon is situated "Ridgecrest Hospital" and other improvements as shown on the
9 aforementioned plat of survey; and

10 WHEREAS, the Ridgecrest transaction was not submitted by Rabun County and Woodlands
11 Foundation, Inc., for review and approval under the Hospital Acquisition Act set forth at
12 Article 15 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated (the "Hospital
13 Acquisition Act"), inasmuch as at the time of the Ridgecrest transaction, Woodlands
14 Foundation, Inc., had surrendered its permit to operate the hospital facilities located on the
15 Ridgecrest property; and

16 WHEREAS, in certain litigation arising in connection with the Ridgecrest transaction, the
17 Georgia Court of Appeals construed the Hospital Acquisition Act and determined that where
18 a nonprofit corporation surrenders its hospital permit (1) on or after the date of an agreement
19 to sell the hospital facilities or (2) on or after the date of a notice of application made
20 pursuant to the Hospital Acquisition Act, the transaction nevertheless is subject to the review
21 and approval procedures of the Hospital Acquisition Act (*Turpen v. Rabun Co. Bd. of*
22 *Commissioners*, 245 Ga. App. 190 (2000) (physical precedent only)); and

23 WHEREAS, inasmuch as Woodlands Foundation, Inc., surrendered its hospital permit after
24 the date of an agreement to sell the Ridgecrest property, it appears that by virtue of the
25 construction given to the Hospital Acquisition Act in the *Turpen* decision, the Ridgecrest
26 transaction was covered by the Hospital Acquisition Act; and

27 WHEREAS, the Georgia Court of Appeals also concluded in the *Turpen* decision that while
28 its decision renders the Ridgecrest transaction "null and void," "from a practical standpoint,
29 it may be impossible to undo the (Ridgecrest) transaction"; and

30 WHEREAS, from a practicable standpoint, it has now become impossible to undo this
31 transaction; and

1 WHEREAS, the Ridgecrest transaction was approved in related bankruptcy proceedings
2 involving Woodlands Foundation, Inc.; and

3 WHEREAS, it is a recognized principle of law that where conditions are impossible to
4 perform, performance is excused.

5 NOW, THEREFORE, BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 The General Assembly hereby determines and declares that the Ridgecrest transaction is
8 impossible to undo and that, therefore, Rabun County and Woodlands Foundation, Inc., are
9 excused from submitting the Ridgecrest transaction for review and approval under the
10 Hospital Acquisition Act, or otherwise from complying with the Hospital Acquisition Act
11 with respect to the Ridgecrest transaction, and that the Ridgecrest transaction shall not be
12 deemed to be subject to the Hospital Acquisition Act.

13 **SECTION 2.**

14 The General Assembly further determines and declares that the Attorney General shall not
15 be required to review the Ridgecrest transaction under the Hospital Acquisition Act.

16 **SECTION 3.**

17 The General Assembly further determines and declares that the Ridgecrest transaction shall
18 be deemed to be authorized under applicable law and that lack of review and approval of the
19 Ridgecrest transaction under the Hospital Acquisition Act shall not be deemed to impair or
20 cloud the title to the Ridgecrest property.

21 **SECTION 4.**

22 This Act shall become effective upon its approval by the Governor or upon its becoming law
23 without such approval.

24 **SECTION 5.**

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