

House Bill 839

By: Representative Spencer of the 180th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to the
2 regulation of health care facilities, so as to revise provisions relative to county and municipal
3 hospital authorities; to provide for legislative findings; to revise definitions; to revise
4 provisions relating to the composition of authorities; to revise the manner of filling
5 vacancies; to repeal certain population act provisions; to revise residency requirements; to
6 revise the oath; to provide for certain requirements prior to the sale or lease by a hospital
7 authority of a health care facility; to revise powers of hospital authorities; to revise provisions
8 relating to the proceeds of certain sales or leases; to revise provisions relating to failure to
9 perform minimum functions; to revise provisions regarding contracts with political
10 subdivisions; to revise provisions relating to the dissolution of a hospital authority; to revise
11 provisions relating to audits; to enact the "Senior Citizens Services Authorities Act"; to
12 provide for definitions; to provide for the creation of authorities by counties and municipal
13 corporations; to provide for its composition; to provide for powers; to provide for exemption
14 from taxation; to provide for annual audits; to provide for statutory construction; to amend
15 Code Section 36-80-5 of the Official Code of Georgia Annotated, relating to relief from or
16 composition of debts under federal statute prohibited, so as to authorize hospital authorities
17 to seek relief from debts under federal law; to provide for related matters; to repeal
18 conflicting laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 style="text-align:center">**SECTION 1.**

21 Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to the regulation
22 of health care facilities, is amended by adding a new Code section to read as follows:

23 "31-7-70.1.

24 The General Assembly finds that:

25 (1) Hospital authorities are created to acquire and operate hospitals and other health care
 26 facilities in counties and municipal corporations in order to promote public health goals
 27 of the state;

28 (2) Hospital authorities are created to minister to the sick residents of each county and
 29 municipal corporation;

30 (3) Hospital authorities are to assume the care and treatment of the indigent sick of the
 31 establishing county or municipal corporation; and

32 (4) Hospital authorities are established to care for those sick or injured in cases where
 33 an accident or emergency occurred within that county or municipal corporation or in the
 34 area of operation of the hospital authority."

35 **SECTION 2.**

36 Said chapter is further amended in Code Section 31-7-71, relating to definitions, by adding
 37 a new paragraph and by revising paragraph (5) as follows:

38 "(3.1) 'Health care facilities' means hospitals, nursing homes, rehabilitation centers,
 39 extended care facilities, pediatric facilities, ambulatory surgical centers or obstetrical
 40 facilities, and other facilities providing health care services to residents."

41 "(5) 'Project' includes the acquisition, construction, and equipping of ~~hospitals,~~ health
 42 care facilities, dormitories, office buildings, clinics, housing accommodations, ~~nursing~~
 43 ~~homes, rehabilitation centers, extended care facilities,~~ and other public health facilities
 44 for the use of patients and officers and employees of any institution under the supervision
 45 and control of any hospital authority or leased by the hospital authority for operation by
 46 others to promote the public health needs of the community and all utilities and facilities
 47 deemed by the authority necessary or convenient for the efficient operation thereof. Such
 48 term may include community centers, wellness centers, or similar facilities if such centers
 49 or facilities provide, at a minimum, wellness checks, including but not limited to blood
 50 pressure checks, cholesterol checks, diabetes screenings, and body mass index checks,
 51 for their indigent residents. Such term may also include any such institutions, utilities,
 52 and facilities located outside the city or county in which the authority is located, provided
 53 that the acquisition, construction, equipping, and operation thereof is requested or
 54 approved by the governing bodies of such city and county in which the project is located
 55 and by the board of any hospital authorities located within such city and county or
 56 provided that the acquisition, construction, equipping, and operation is to be located in
 57 the area of operation of the authority."

SECTION 3.

58
59 Said chapter is further amended in Code Section 31-7-72, relating to creation of a hospital
60 authority in each county and municipality, by revising subsections (a), (b), and (g) as
61 follows:

62 "(a) There is created in and for each county and municipal corporation of the state a public
63 body corporate and politic to be known as the 'hospital authority' of such county or city,
64 which shall consist of a board of not less than five nor more than nine members to be
65 appointed by the governing body of the county or municipal corporation of the area of
66 operation for staggered terms as specified by resolution of the governing body. On and
67 after July 1, 2014, the number of members of each hospital authority shall include an
68 additional member who is appointed by and is a member of the governing body of the
69 county or municipal corporation of the area of operation and who shall serve as a full
70 voting member. In addition, the ~~The~~ number of members of any hospital authority as of
71 ~~March 1, 1984,~~ July 1, 2014, may be increased by not more than two additional members
72 by the adoption of a resolution of the members of the ~~hospital authority~~ governing body of
73 the county or municipal corporation of the area of operation, and such additional members
74 shall be appointed through the same process used for filling vacancies which was in effect
75 for such hospital authority on ~~January 1, 1984~~ July 1, 2014. Whenever an appointment to
76 fill a vacancy on the board of any hospital authority is made, either for an unexpired term
77 or a full term, consideration shall be given as to whether a licensed doctor of medicine or
78 registered nurse currently serves on such authority. If no licensed doctor of medicine or
79 registered nurse currently serves on such authority, then consideration shall be given to the
80 nomination and choice of a licensed doctor of medicine or a registered nurse to fill such
81 vacancy. No authority created under this Code section shall transact any business or
82 exercise any powers under this Code section until the governing body of the area of
83 operation shall, by proper resolution, declare that there is need for an authority to function
84 in such county or municipal corporation. Copies of a resolution so adopted and any
85 resolution adopted by the governing body providing for filling vacancies in the
86 membership of the authority or making any changes in membership shall be filed with the
87 department.

88 (b) ~~Appointments~~ On and after July 1, 2014, appointments to fill vacancies on the board
89 of any hospital authority activated on or after March 15, 1964, for either an unexpired or
90 full term as fixed in the original resolution or ordinance creating the authority, shall be
91 made by the governing body of the county or municipal corporation of the area of
92 operation, and appointees shall serve at the pleasure of such governing body. as follows:

93 ~~(1) The governing body of the area of operation shall submit a list of three eligible~~
94 ~~persons to the board of the hospital authority;~~

95 ~~(2) The board at its next regular meeting shall either select one of the three persons~~
 96 ~~named in such list or decline to select any of the persons named in the list. If the board~~
 97 ~~declines to select any of the persons named on the list, it shall so notify the governing~~
 98 ~~body; and~~

99 ~~(3) Upon receipt of notification that the board has declined to select any of the persons~~
 100 ~~named in the governing body's list, the governing body shall submit a second list of three~~
 101 ~~eligible persons, no one of whom was named on the first list, to the board of the hospital~~
 102 ~~authority. The board at its next regular meeting after receipt of the second list shall select~~
 103 ~~one of the three persons named in the second list."~~

104 "(g) Hospital authorities created pursuant to this Code section shall have perpetual
 105 existence unless otherwise dissolved pursuant to Code Section 31-7-89."

106 **SECTION 4.**

107 Said chapter is further amended in Code Section 31-7-72, relating to creation of a hospital
 108 authority in each county and municipality, by repealing subsections (d) and (e) and by
 109 enacting new subsections (d) and (e) to read as follows:

110 "(d) Any two or more counties or any two or more municipalities or any county or
 111 municipality, or a combination of any county and any municipality, by a like resolution or
 112 ordinance of their respective governing bodies, may authorize the exercise of the powers
 113 provided for in this article by an authority. The membership of such authority affected by
 114 like resolutions of the respective governing bodies of any two or more of the governing
 115 bodies of the participating units shall be not less than five nor more than 15 members to
 116 serve at the pleasure of the respective governing body, the terms and distribution of
 117 members between the participating units to be provided for by the resolutions adopted by
 118 the governing bodies of the participating units. On and after July 1, 2014, the number of
 119 members of each such hospital authority shall include an additional member from each of
 120 the governing bodies of the participating units. Each such governing body shall appoint
 121 a member of its governing body to serve as a full voting member of the authority. The
 122 resolutions of the governing bodies of participating units acting together for the creation
 123 of an authority may be amended by the governing bodies of the participating units from
 124 time to time.

125 (e) Nothing in this Code section is intended to invalidate any of the acts of existing boards
 126 of authorities. Hospital authorities shall be granted the same exemptions and exclusions
 127 from taxes as are now granted to cities and counties for the operation of facilities similar
 128 to facilities to be operated by hospital authorities as provided for under this title."

129 **SECTION 5.**

130 Said chapter is further amended in Code Section 31-7-73, relating to the creation of an
 131 additional hospital authority in counties with large populations, by revising subsection (b)
 132 as follows:

133 "(b) Each such additional hospital authority shall consist of a board of not less than five
 134 nor more than nine members to be appointed by and at the pleasure of the governing body
 135 of each such county for staggered terms, as specified by resolution of the governing body;
 136 provided, however, that on and after July 1, 2014, the number of members of each hospital
 137 authority shall include an additional member who is appointed by and is a member of the
 138 governing body of the county or municipal corporation of the area of operation and who
 139 shall serve as a full voting member. No hospital authority created under this Code section
 140 shall transact any business or exercise any powers under this Code section until the
 141 governing body of each such county declares by proper resolution that there is a need for
 142 an additional hospital authority to function within such county, which resolution shall also
 143 determine and declare that such hospital authority is being created pursuant to this Code
 144 section and shall adopt a designation for the hospital authority so as to reflect that it is a
 145 separate and distinct entity from the hospital authority created pursuant to Code Section
 146 31-7-72. A copy of such resolution shall be filed with the department. Copies of any
 147 resolutions adopted by the governing body of the county for the purpose of filling
 148 vacancies in the membership of the hospital authority or for making any changes in
 149 membership shall also be filed with the department."

150 **SECTION 6.**

151 Said chapter is further amended by revising Code Section 31-7-74, relating to residency
 152 requirements, officers, compensations, and rules and regulations, as follows:

153 "31-7-74.

154 The members of a hospital authority shall be full-time residents of the participating units
 155 comprising the authority. The requirement of residence shall not apply to authorities
 156 activated under subsection (d) of Code Section 31-7-72, provided that they are selected
 157 from within the area of service and within 12 miles of the hospital location or within 12
 158 miles of the sponsoring county or municipality, whichever is farther. The members shall
 159 elect one of their number as ~~chair~~ chairperson and another as vice ~~chair~~ chairperson and
 160 shall also elect a secretary-treasurer, who need not be a member. The members shall
 161 receive no compensation for their services, either as members or as employees of the
 162 authority, but may be reimbursed for their actual expenses incurred in the performance of
 163 their duties, or; in the alternative, the members may elect to be reimbursed for such
 164 expenses on a per diem basis in an amount not to exceed \$100.00 per meeting and the total

165 amount not to exceed \$100.00 per month. The authority shall make rules and regulations
 166 for its governance and may delegate to one or more of its members, officers, agents, or
 167 employees such powers and duties as may be deemed necessary and proper."

168 **SECTION 7.**

169 Said chapter is further amended in Code Section 31-7-74.1, relating to prohibited transactions
 170 by county and municipal hospital authority members, by revising subsection (b) as follows:

171 "(b) Each member of a hospital authority shall disclose upon his or her selection as a
 172 member, and at least annually thereafter, the following described interests and
 173 relationships:

174 (1) Any financial interest held by the member or the member's family, or held by an
 175 entity in which the member or the member's family owns a financial interest, in any
 176 health care provider, any managed care provider or network, or any entity which sells
 177 products or services to the authority;

178 (2) Any position held by the member or the member's family as an officer, director, or
 179 employee of a ~~hospital health care facility, hospital health care facility~~ holding company,
 180 other health care provider, or managed care network; and

181 (3) Any contract which exists between the member or the member's family, or any entity
 182 in which the member or the member's family owns a financial interest, and the authority,
 183 including, but not limited to, supply contracts, service contracts, and leases."

184 **SECTION 8.**

185 Said chapter is further amended by revising Code Section 31-7-74.2, relating to the oath to
 186 be taken by members of a hospital authority, as follows:

187 "31-7-74.2.

188 Each member of a hospital authority shall take in the presence of an officer authorized to
 189 administer same the following oath:

190 I, _____, citizen of _____ County, Georgia, do solemnly
 191 swear that I will, to the best of my ability, without favor or affection to any person and
 192 without any unauthorized financial gain or compensation to myself, faithfully and fairly
 193 discharge all of the duties and responsibilities that devolve upon me as a member of
 194 _____ Hospital Authority, including abiding by all contracts and conditions
 195 agreed to by the hospital authority, during the term of my service as such member."

196

SECTION 9.

197 Said chapter is further amended by revising Code Section 31-7-74.3, relating to the sale or
 198 lease by a hospital authority, hearing required, factors to be considered at the hearing,
 199 applicability, and requirements for a lease, as follows:

200 "31-7-74.3.

201 (a) No ~~hospital~~ health care facility which is owned by a hospital authority may be sold or
 202 leased to a for profit entity, a not for profit entity, or another hospital authority unless a
 203 public hearing regarding such action is held in the county where such ~~hospital~~ health care
 204 facility is located at least 60 days prior to such sale or lease becoming effective. In the
 205 event there is more than one participating unit for an authority, a hearing shall be held in
 206 each participating unit's county at least 60 days prior to the sale or lease becoming
 207 effective. The hospital authority must publish notice of the hearing at least three times,
 208 with the first such notice appearing at least 60 days prior to the hearing in the legal organ
 209 of each participating unit. At each such public hearing, the hospital authority shall
 210 describe, discuss, or otherwise disclose:

211 (1) The reasonably foreseeable adverse and beneficial effects of such lease or sale upon
 212 health care in the service area of the ~~hospitals~~ health care facilities to be leased or sold,
 213 and, for purposes of this paragraph, the service area shall include the county in which the
 214 ~~hospital~~ health care facility is located and each adjoining county;

215 (2) A financial statement and independent appraisal indicating the estimated value of the
 216 total assets and liabilities to be transferred or received in the transaction; provided,
 217 however, that if the value of any individual asset exceeds \$100,000.00, a description and
 218 the value of such assets shall be indicated on the financial statement; and

219 (3) The resumes of the top five executive officers who will manage the health care
 220 facility after it is sold or leased.

221 This subsection shall not apply to any transaction which is subject to the provisions of
 222 Code Section 31-7-89.1.

223 (b) No ~~hospital~~ health care facility which is owned by a hospital authority may be leased
 224 to another person, corporation, or business entity, other than as provided in paragraphs (23)
 225 and (24) of Code Section 31-7-75, unless such lease requires that:

226 (1) At least one member of the hospital authority will serve as a full voting member upon
 227 the governing body or local board of the business entity exercising control and
 228 management powers over the leased ~~hospital~~ health care facility; and

229 (2) The governing body or local board of the business entity exercising control and
 230 management powers over the leased ~~hospital~~ health care facility submits to the governing
 231 authority body of each county in which the ~~hospital~~ health care facility is located, within

232 90 days after the close of the calendar year or that entity's fiscal year, a complete and
 233 detailed financial statement for that entity.
 234 (c) Provisions of a lease required by subsection (b) of this Code section may not be
 235 renegotiated or otherwise altered or amended for the duration of such lease."

236 **SECTION 10.**

237 Said chapter is further amended in Code Section 31-7-75, relating to functions and powers
 238 of county and municipal hospital authorities, by revising paragraphs (6), (12), (17), and (24)
 239 as follows:

240 "(6) To sell to others, or to lease to others for any number of years up to a maximum of
 241 40 years, any lands, buildings, structures, or facilities constituting all or any part of any
 242 existing or hereafter established project. In the event a hospital authority undertakes to
 243 sell a ~~hospital~~ health care facility, such authority shall, prior to the execution of a contract
 244 of sale, provide reasonable public notice of such sale and provide for a public hearing to
 245 receive comments from the public concerning such sale. This power shall be unaffected
 246 by the language set forth in paragraph (13) of this Code section or any implications
 247 arising therefrom unless grants of assistance have been received by the authority with
 248 respect to such lands, buildings, structures, or facilities, in which case approval in writing
 249 as set forth in paragraph (13) of this Code section shall be obtained prior to selling or
 250 leasing to others within 20 years after completion of construction;"

251 "~~acquire~~ receive from a governing body of the area of operation that is acquiring
 252 property by the exercise of the right of eminent domain any property essential to the
 253 purposes of the authority. The right of eminent domain may only be exercised under this
 254 article by the governing body of a county or municipal corporation;"

255 "(17) To borrow money for any corporate purpose; provided, however, that if the
 256 obtaining of any loan would cause the total current and long-term debt of the authority,
 257 as determined through current financial statements, the most current audit conducted
 258 pursuant to Code Section 31-7-91, and independent appraisals, to exceed 50 percent of
 259 the value of the collateral eligible assets of the authority, such loan shall not be entered
 260 into without a prior referendum and approval of a majority of the voters of the
 261 participating units;"

262 "(24) To provide management, consulting, and operating services, including, but not
 263 limited to, administrative, operational, personnel, and maintenance services to another
 264 hospital authority, ~~hospital,~~ health care facility, ~~as said term is defined in Chapter 6 of this~~
 265 ~~title;~~ person, firm, corporation, or any other entity or any group or groups of the
 266 foregoing; to enter into contracts alone or in conjunction with others to provide such
 267 services without regard to the location of the parties to such transactions; to receive

268 management, consulting, and operating services including, but not limited to,
 269 administrative, operational, personnel, and maintenance services from another such
 270 hospital authority, ~~hospital~~, health care facility, person, firm, corporation, or any other
 271 entity or any group or groups of the foregoing; and to enter into contracts alone or in
 272 conjunction with others to receive such services without regard to the location of the
 273 parties to such transactions;"

274 **SECTION 11.**

275 Said chapter is further amended in Code Section 31-7-75.1, relating to proceeds of sale of
 276 a hospital held in trust to fund indigent hospital care, by revising subsections (a), (b), and (c)
 277 as follows:

278 "(a) ~~The~~ Except as otherwise provided in Code Section 31-7-75.3, the proceeds from any
 279 sale or lease of a ~~hospital~~ health care facility owned by a hospital authority or political
 280 subdivision of this state, ~~which proceeds shall not include~~ not including funds required to
 281 pay off the bonded indebtedness of the sold ~~hospital~~ health care facility or any expense of
 282 the authority or political subdivision attributable to the sale or lease, shall be held by the
 283 ~~authority or~~ political subdivision in an irrevocable trust fund. Such proceeds in ~~that~~ such
 284 trust fund may be invested in the same way that public moneys may be invested generally
 285 pursuant to general law, but money in ~~that~~ such trust fund shall be used exclusively for
 286 funding the provision of ~~hospital~~ health care or wellness programs for the indigent residents
 287 of the political subdivision which owned the ~~hospital~~ health care facility or by which the
 288 authority was activated or for which the authority was created. If the funds available for
 289 a political subdivision in ~~that~~ such irrevocable trust fund are less than \$100,000.00, the
 290 principal amount may be used to fund the provision of indigent ~~hospital~~ health care or
 291 wellness programs; otherwise, only the income from ~~that~~ such trust fund may be used for
 292 ~~that~~ such care or programs. Such funding or reimbursement for indigent care shall not
 293 exceed the diagnosis related group rate for that hospital in each individual case.

294 (b) In the event a hospital authority which sold or leased a ~~hospital~~ health care facility was
 295 activated by or created for more than one political subdivision or in the event a ~~hospital~~
 296 health care facility having as owner more than one political subdivision is sold or leased
 297 by those political subdivisions, each such constituent political subdivision's portion of the
 298 irrevocable trust fund for indigent ~~hospital~~ health care shall be determined by multiplying
 299 the amount of ~~that~~ such trust fund by a figure having a numerator which is the population
 300 of that political subdivision and a denominator which is the combined population of all the
 301 political subdivisions which owned the ~~hospital~~ health care facility or by which or for
 302 which the authority was activated or created.

303 (c) For purposes of ~~hospital~~ health care and wellness programs for the indigent under this
 304 Code section, the standard of indigency shall be that determined under Code Section
 305 31-8-43, relating to standards of indigency for emergency care of pregnant women, based
 306 upon 125 percent of the federal poverty level."

307 SECTION 12.

308 Said chapter is further amended in Code Section 31-7-75.1, relating to proceeds of sale of
 309 a hospital held in trust to fund indigent hospital care, by repealing subsection (d) and by
 310 enacting a new subsection (d) to read as follows:

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

312 (1) A reorganization or restructuring;

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

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

322 (A) Hospital authorities that operate a licensed health care facility pursuant to a lease
 323 from the county which created the appropriate authority;

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

325 (C) Hospitals located in a county in which no other medical-surgical licensed hospital
 326 is located; and

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

329 SECTION 13.

330 Said chapter is further amended by revising Code Section 31-7-75.2, relating to exemption
 331 from disclosure for potentially commercially valuable plan, proposal, or strategy, as follows:

332 "31-7-75.2.

333 Notwithstanding any other provision of law to the contrary, no Georgia nonprofit
 334 corporation in its operation of a ~~hospital or other medical~~ health care facility for the benefit
 335 of a governmental entity in this state and no hospital authority shall be required by Chapter
 336 14 of Title 50 or Article 4 of Chapter 18 of Title 50 to disclose or make public any
 337 potentially commercially valuable plan, proposal, or strategy that may be of competitive

338 advantage in the operation of the corporation or authority or its ~~medical~~ health care
 339 facilities and which has not been made public. This exemption shall terminate at such time
 340 as such plan, proposal, or strategy has either been approved or rejected by the governing
 341 board of such corporation or hospital authority. Except as provided in this Code section
 342 or as otherwise provided by law, hospital authorities shall comply with the provisions of
 343 Chapter 14 of Title 50 and Article 4 of Chapter 18 of Title 50."

344 **SECTION 14.**

345 Said chapter is further amended by adding a new Code section to read as follows:

346 "31-7-75.3.

347 (a) Except as otherwise provided in subsection (b) of this Code section, if a hospital
 348 authority:

349 (1) Closes or terminates the operation of all of its health care facilities, including the
 350 lease or contract for the operation of all projects; or

351 (2) Sells all of its health care facilities and does not lease or contract for the operation of
 352 any project.

353 then the hospital authority and the governing bodies of its participating units shall, within
 354 60 days of the final closure or sale, initiate proceedings for dissolution in accordance with
 355 Code Section 31-7-89.

356 (b) This Code section shall not apply if a hospital authority is insolvent."

357 **SECTION 15.**

358 Said chapter is further amended by revising Code Section 31-7-76, relating to the procedure
 359 in the event of the failure of an authority to perform minimum functions, determination of
 360 removal from office, and appointments to fill vacancies created by removal, as follows:

361 "31-7-76.

362 (a) The General Assembly declares that it is the intent of this article to provide a
 363 mechanism for the operation and maintenance of needed health care facilities in the several
 364 counties and municipalities of this state. It is the further intent of the General Assembly
 365 that, whenever an authority ceases to perform the minimum functions required for the
 366 continued operation and maintenance of needed health care facilities in the county or
 367 municipality, a procedure be made available to recognize the failure of the authority to
 368 perform these minimum functions and to provide for the orderly and responsible
 369 reorganization of the authority.

370 (b) Whenever it appears that an authority has ceased to perform the minimum functions
 371 required for the continued operation and maintenance of needed health care facilities in the
 372 county or municipality in which the authority is authorized to function, a petition ~~may~~ shall

373 be filed in the superior court in the county requesting that the members of the authority be
 374 removed from office and that any vacancy created by a removal be filled as provided in
 375 Code Section 31-7-72 ~~for the initial appointment of members of an authority~~. Each such
 376 petition shall be filed ~~by one or more residents of the county in which the authority is~~
 377 ~~authorized to function, or by the county governing body authority, and shall be supported~~
 378 ~~by petition of a number of residents of the county equal to 5 percent or more of the number~~
 379 ~~of electors registered to vote in the general election last held in the county within 90 days~~
 380 ~~of such failure to perform~~. In the case of an authority authorized to function solely within
 381 a municipality, the petition shall be filed ~~by one or more residents of the municipality in~~
 382 ~~which the authority is authorized to function, or by the municipal governing body authority,~~
 383 ~~and shall be supported by petition of a number of residents of the municipality equal to 5~~
 384 ~~percent or more of the number of electors registered to vote in the general election last held~~
 385 ~~in the municipality within 90 days of such failure to perform~~.

386 (b.1) In the event a governing body fails to file a petition as required by subsection (b) of
 387 this Code section, the members of the governing body shall be subject to contempt
 388 proceedings by the court as provided by law.

389 (c) Upon the filing of any petition as provided in subsection (b) of this Code section, the
 390 judge of the superior court shall set a hearing to inquire into the merits of the petition not
 391 sooner than ten days nor later than 30 days from the date of filing of the petition. The
 392 hearing may be continued, in the discretion of the judge, on motion of any party.

393 (d) At each hearing held as provided in subsection (c) of this Code section, the judge,
 394 sitting without a jury, shall inquire into and determine the question of whether the authority
 395 has ceased to perform the minimum functions required for the continued operation and
 396 maintenance of needed health care facilities in the county or municipality. In making his
 397 or her determination, the judge shall consider, but shall not be limited by, whether the
 398 authority has:

399 (1) Failed to establish and enforce rates and charges as provided in Code Section
 400 31-7-77;

401 (2) Failed to take any reasonable action when the failure has the effect of jeopardizing
 402 repayment of principal or interest, when due, on revenue anticipation certificates issued
 403 by the authority;

404 (3) Failed to take any reasonable action when the failure has the effect of breaching a
 405 contract providing for continued maintenance and use of the authority's facilities and
 406 entered into with a county or municipality as provided in Code Section 31-7-85;

407 (4) Failed to make plans for unmet needs of the community as authorized by paragraph
 408 (22) of Code Section 31-7-75;

409 (5) Failed to make and file its annual report as provided in Code Section 31-7-90;

- 410 (6) Failed to adopt an annual budget as provided in Code Section 31-7-90;
- 411 (7) Failed to conduct the annual audit as provided in Code Section 31-7-91;
- 412 (8) Failed to report or publish the annual audit as provided in Code Section 31-7-92;
- 413 (9) Failed to hold at least one meeting in the preceding calendar quarter; or
- 414 (10) Failed to take any other action required pursuant to this article.
- 415 (e) After giving all parties an opportunity to be heard, the judge shall determine, based on
- 416 the evidence presented, whether the clear and convincing weight of the evidence is that the
- 417 authority has ceased to perform the minimum functions required for the continued
- 418 operation and maintenance of needed health care facilities in the county or municipality.
- 419 In the event the judge so decides, he or she shall order the immediate removal from office
- 420 of the members of the authority, except that no member shall be removed who
- 421 demonstrates to the satisfaction of the judge his or her good faith attempt to fulfill his or
- 422 her duties as a member of the authority. In the event the court denies the petition, the
- 423 petition shall be dismissed.
- 424 (f) Whenever it appears that an authority has ceased to perform the minimum functions
- 425 required for the continued operation and maintenance of needed health care facilities in the
- 426 county or municipality in which the authority is authorized to function, the governing body
- 427 or bodies of such county or municipality shall notify each of its appointed authority
- 428 members that he or she will be removed from office if the failure to perform minimum
- 429 functions is not corrected within 90 days. Such authority members shall be removed by the
- 430 governing body if such failure is not corrected within 90 days and shall not be eligible for
- 431 reappointment unless such members have already been removed pursuant to subsection (e)
- 432 of this Code section.
- 433 ~~(f)(g) Vacancies created pursuant to this Code section shall be filled in the same manner~~
- 434 ~~as provided in Code Section 31-7-72 for the initial appointment of members of an~~
- 435 ~~authority. Vacancies created by the expiration of the term or the resignation or disability~~
- 436 ~~of a member appointed pursuant to this Code section shall be filled as provided in Code~~
- 437 ~~Section 31-7-72 for the filling of vacancies.~~
- 438 (h) This Code section shall not impair the power of a governing body to remove its
- 439 appointed authority member or members pursuant to the at-will status of such member or
- 440 members under Code Section 31-7-72."

441 **SECTION 16.**

442 Said chapter is further amended by revising Code Section 31-7-85, relating to contracts with

443 political subdivisions, as follows:

444 "31-7-85.

445 (a) For the purpose of using ~~such~~ the health care facilities of an authority, any city or
 446 county is authorized by action of its governing body to enter into contracts with ~~an~~ such
 447 authority for such periods of time not exceeding 40 years as shall be necessary to provide
 448 for the continued maintenance and use of ~~the~~ such facilities ~~of an authority~~. Sums due and
 449 payable under such contract shall be determined from year to year during the period of such
 450 contract and no sums shall be paid for the services in excess of the amounts necessary to
 451 provide for the maintenance and operation of projects of authorities and such sums as shall
 452 be necessary to provide adequate and necessary facilities for medical care and
 453 hospitalization of the indigent sick, including reasonable reserves necessary for expansion
 454 and necessary for the payment of the cost of facilities of the projects, provided that any
 455 such contract may obligate a city or county or any combination thereof to pay for such
 456 services a fixed and definite minimum sum each year based or calculated upon the
 457 anticipated cost of such services including the cost and expense of making the facilities of
 458 the authority available for the furnishing and performance of such services. The contracts
 459 authorized under this Code section to be entered into between cities or counties or any
 460 combination thereof and an authority may provide for the conveyance or lease of any
 461 existing ~~hospital~~ health care facilities or projects to an authority created by any such cities
 462 or counties for a nominal consideration only, provided that such conveyance shall contain
 463 a clause providing that, upon dissolution of the authority, such ~~hospital~~ health care facilities
 464 or projects shall revert to the city or county conveying the same to the authority and
 465 provided, further, that no property so conveyed may be mortgaged or in any way given as
 466 security for an indebtedness of the authority; this limitation is not to be construed as
 467 limiting the right of the authority to pledge or hypothecate revenues which may be realized
 468 by the authority from the operation of any property so conveyed to the authority.

469 (b) When, in accordance with this article, any county shall activate a hospital authority for
 470 such county and such authority shall acquire or construct or shall make preparations to
 471 acquire or construct a ~~hospital~~ health care facility in the county, any municipality in the
 472 county shall be authorized to contract with the hospital authority for the care in such
 473 ~~hospital~~ health care facility of indigent sick or injured persons who are residents of the
 474 municipality either on a per-patient-per-day basis or for a fixed amount of money payable
 475 at such time as the contracting parties may agree upon; and any such contract may, at the
 476 election of such municipality, be binding upon it for a period of not exceeding 40 years.
 477 Such contract and the amount to be received by the hospital authority thereunder may be
 478 pledged by the hospital authority as security for the payment of the principal and interest
 479 of any bonds or revenue anticipation certificates which it may issue in order to acquire or
 480 construct the ~~hospital~~ health care facility.

481 (c) No governing body of a city or county shall extend a loan or any funds or guarantee
 482 of funds to a hospital authority without verifying, through current financial statements, the
 483 most current audit conducted pursuant to Code Section 31-7-91, and appraisals indicating
 484 the total assets and liabilities of the hospital authority, the ability of the hospital authority
 485 to comply with all repayment terms and conditions."

486 **SECTION 17.**

487 Said chapter is further amended by revising Code Section 31-7-87, relating to hypothecation
 488 or mortgaging of purchased hospital facilities, as follows:

489 "31-7-87.

490 Should an authority acquire by purchase existing ~~hospital~~ health care facilities of political
 491 subdivisions and pay the reasonable value therefor, nothing in this article shall be construed
 492 to prevent the hypothecation or mortgaging of such facilities as security for the repayment
 493 of any indebtedness which may be legally incurred by such authority."

494 **SECTION 18.**

495 Said chapter is further amended by revising Code Section 31-7-89, relating to the procedure
 496 for dissolution and disposition of property, as follows:

497 "31-7-89.

498 By joint action of the board of trustees of an authority and the governing bodies of
 499 participating units, authorities created under and pursuant to the terms of this article may
 500 be dissolved, provided that no such dissolution shall in any way impair the rights of third
 501 persons or the contracts of the authority with such third persons. Prior to its dissolution,
 502 an authority shall cause all real property to be appraised and shall have conducted a final
 503 audit of its assets in the same manner and subject to the same requirements as contained
 504 in Code Sections 31-7-91 through 31-7-93. Disposition to be made of the property of the
 505 authority upon dissolution shall be covered in any resolution adopted by the participating
 506 units and the board of trustees of the authority; provided, however, that any and all
 507 remaining assets of the authority shall be distributed among the governing bodies of
 508 participating units in a similar manner as contained in subsection (b) of Code Section
 509 31-7-75.1. Such assets may be used by such governing bodies for the provision of indigent
 510 health care or wellness programs or for such other purposes as the governing bodies are
 511 authorized to use public funds, including transferring such assets to a Senior Citizens
 512 Services Authority activated by such governing body pursuant to Article 5A of this chapter.
 513 ~~At no time, however, shall any authority upon dissolution convey any of its property,~~
 514 ~~except as may be otherwise authorized by law, to any private person, association, or~~
 515 ~~corporation."~~

516

SECTION 19.

517 Said chapter is further amended by revising Code Section 31-7-90.1, relating to community
 518 benefit reports and reports disclosing member ownership in entities transacting business with
 519 a hospital authority, as follows:

520 "31-7-90.1.

521 (a) Each hospital authority created by and under this article shall annually prepare a
 522 community benefit report disclosing the cost of indigent and charity care provided by such
 523 authority for the preceding year not later than 90 days after the close of the fiscal or
 524 calendar year. Such report provided for in this Code section shall include a statement of
 525 the cost and type of indigent and charity care provided by the authority, including the
 526 number of indigent persons served, categorization of those persons by county of residence,
 527 as well as the cost of indigent and charity care provided in dollars. Such community
 528 benefit report shall be filed with the clerk of superior court of the county in which the
 529 authority's ~~hospital~~ health care facility is located, as well as with the governing body or
 530 bodies of such authority's participating units.

531 (b) Each hospital authority created by and under this article shall also annually prepare a
 532 report indicating any entity in which a member or member's family has a direct or indirect
 533 ownership of assets or stock constituting between 10 percent and 25 percent which
 534 transacted business with the authority during the previous year. Such report shall be filed
 535 with the clerk of superior court of the county in which the authority's ~~hospital~~ health care
 536 facility is located, as well as with the governing body or bodies of such authority's
 537 participating units."

538

SECTION 20.

539 Said chapter is further amended by revising Code Section 31-7-91, relating to required
 540 annual audits, as follows:

541 "31-7-91.

542 Each hospital authority created by and under this article, regardless of whether such
 543 hospital authority owns, operates, or leases a health care facility or other project, shall
 544 ensure that an annual audit of the financial affairs, books, and records of such authority is
 545 conducted at the end of each fiscal year for the preceding year. Each hospital authority
 546 shall obtain either a certified public accountant or a firm of certified public accountants to
 547 conduct such audit. The auditor so appointed shall perform the audit in accordance with
 548 generally accepted accounting principles and shall submit a complete and final report and
 549 audit to the authority not later than 90 days after the close of the fiscal year. All audits
 550 provided for in this Code section shall be certified to and shall include, but in no way be

551 limited to, a full and complete audit containing a balance sheet, profit and loss statement,
552 and statement of receipts and disbursements."

553 **SECTION 21.**

554 Said chapter is further amended by revising Code Section 31-7-92, relating to the filing of
555 audits, as follows:

556 "31-7-92.

557 (a) All final audits provided for in Code Section 31-7-91 shall be reproduced in sufficient
558 number, and copies of the audit shall be filed with the department, with the Department of
559 Audits and Accounts, with the clerk of the superior court in the county where any hospital
560 health care facility or other project is operated, owned, or leased by a hospital authority,
561 and in the office of the clerk of the superior court of any county that is a participating unit
562 of the authority. In the event any hospital health care facility or other project is operated,
563 owned, or leased by a municipal hospital authority, the audit required by this Code section
564 to be filed with the office of the clerk of the superior court shall be filed in the office of city
565 clerk, clerk of council, clerk of the board of aldermen, or clerk of the governing body of
566 the municipality; in lieu of being filed with the clerk of the superior court.

567 (b) The Department of Audits and Accounts shall review the final audits submitted, and
568 if it finds irregularities or budget deficits, it shall report such irregularities or budget
569 deficits to the department, the hospital authority, the governing body or bodies of such
570 authority's participating units, and the members of the legislative delegation of the General
571 Assembly who represent such participating units."

572 **SECTION 22.**

573 Said chapter is further amended by revising Code Section 31-7-93, relating to failure to
574 provide for an audit, as follows:

575 "31-7-93.

576 In the event any hospital authority shall fail or refuse to provide for an annual audit and
577 have such audit prepared and filed as set forth in Code Sections 31-7-91 and 31-7-92; or
578 shall fail to register annually with the Department of Community Affairs as set forth in
579 Code Section 36-80-16:

580 (1) The any taxpayer of any participating unit of such authority or the governing
581 authority of such unit may governing body of the participating unit shall within ten days
582 petition the superior court of the county wherein the authority operates, owns, or leases
583 a health care facility or other project a hospital to require the authority to have such audit
584 prepared and filed as provided by the above Code sections Code Sections 31-7-91 and
585 31-7-92 or to register as provided by Code Section 36-80-16. The judge of such court

586 shall set a time for the hearing on such petition and after notice to the authority shall hear
 587 and determine the petition. If it is determined that the authority has failed to comply with
 588 the requirements for the preparation and filing of the audit or annual registration, the
 589 judge shall pass such orders as are necessary to effectuate compliance with such
 590 requirements. In the event the authority fails to have an audit prepared and filed or fails
 591 to register as required by court order, the members of the authority shall be subject to
 592 contempt proceedings by the court as provided by law; and
 593 (2) The department may withhold all or any portion of any state grants or funds that the
 594 hospital authority is eligible to receive pursuant to Code Section 31-7-94 or 31-7-94.1 or
 595 any other state grants or funds. In the event that the department withholds any such state
 596 grants or funds, the department shall provide notice of such action to the governing body
 597 of each participating unit of the authority and to the members of the legislative delegation
 598 of the General Assembly who represent such participating units."

599 **SECTION 23.**

600 Said chapter is further amended by adding a new article to read as follows:

601 "ARTICLE 5A

602 31-7-121.

603 This article shall be known and may be cited as the 'Senior Citizens Services Authorities
 604 Act.'

605 31-7-122.

606 As used in this article, the term:

607 (1) 'Authority' means each public corporation created pursuant to this article.

608 (2) 'County' means any county of this state.

609 (3) 'Governing body' means the elected or duly appointed officials constituting the
 610 governing body of each municipal corporation and county in this state.

611 (4) 'Municipal corporation' means each city and town in this state.

612 (5) 'Senior center' means facilities or portions of facilities which provide senior services
 613 for senior citizens in the community and their families and caregivers and serve as a
 614 resource for the entire community on issues relating to aging.

615 (6) 'Senior services' means services, support, activities, and care for senior citizens which
 616 are designed to reflect their experience and skills, respond to their diverse needs and
 617 interests, enhance their dignity, support their independence, encourage their involvement
 618 with the community, and provide support for their families and caregivers.

619 31-7-123.

620 (a) There is created in and for each county and municipal corporation in this state a public
621 body corporate and politic to be known as the 'Senior Citizens Services Authority' of such
622 county or municipal corporation.

623 (b) Each authority shall consist of a board of seven directors, one of whom shall be a
624 member of the governing body, to be appointed by the governing body of such county or
625 municipal corporation. The terms of such directors shall initially be two, four, and six
626 years and thereafter shall be staggered terms of six years. The director who is a member
627 of the governing body shall serve as a full voting member. The governing body of the
628 county or municipal corporation shall initially elect two directors for two years, two
629 directors for four years, and three directors for six years; and thereafter, the terms of all
630 directors shall be six years. If at the end of any term of office of any director a successor
631 thereto shall not have been elected, the director whose term of office shall have expired
632 shall continue to hold office until his or her successor shall be so elected. A majority of
633 the directors shall constitute a quorum, but no action may be taken by the board without
634 the affirmative vote of a majority of the full membership of the board.

635 (c) The directors shall be taxpayers residing in the county or municipal corporation for
636 which the authority is created, and their successors shall be appointed by the governing
637 body of such county or municipal corporation and shall serve at the pleasure of such
638 governing body. No director shall be an officer or employee of the county or municipal
639 corporation. The directors shall elect one of their number as chairperson and another as
640 vice chairperson and shall also elect a secretary and a treasurer or a secretary-treasurer, any
641 of whom may but need not be a director. The directors shall receive no compensation for
642 their services but shall be reimbursed for their actual expenses incurred in the performance
643 of their duties.

644 (d) No authority shall transact any business or exercise any powers under this article until
645 the governing body of the county or municipal corporation shall, by proper resolution,
646 declare that there is a need for an authority to function in such county or municipal
647 corporation. A copy of the resolution shall be filed with the Secretary of State, who shall
648 maintain a record of all authorities activated under this article.

649 (e) The authority may make bylaws and regulations for its governance and may delegate
650 to one or more of its officers, agents, and employees such powers and duties as may be
651 deemed necessary and proper. The authority shall have perpetual existence unless
652 dissolved by resolution of the governing body of the county or municipal corporation.

653 31-7-124.

654 (a) Each authority shall have all of the powers necessary or convenient to carry out and
655 effectuate the purposes and provisions of this article, including, but without limiting the
656 generality of the foregoing, the power:

657 (1) To bring and defend an action;

658 (2) To adopt and amend a corporate seal;

659 (3) To make and execute contracts and other instruments necessary to exercise the
660 powers of the authority, any of which contracts may be made with the county in which
661 the authority is located or with any one or more municipal corporations in such county,
662 and each such county and all municipal corporations therein are authorized to enter into
663 contracts with each authority;

664 (4) To receive and administer gifts, grants, and devises of any property and to administer
665 trusts;

666 (5) To acquire by purchase, gift, or construction any real or personal property desired to
667 be acquired by the authority as part of any project or for the purpose of improving,
668 extending, adding to, reconstructing, renovating, or remodeling any project or part thereof
669 already acquired or for the purpose of demolition to make room for such project or any
670 part thereof;

671 (6) To purchase, sell, lease, exchange, transfer, assign, pledge, mortgage, or dispose of,
672 or grant options for any such purposes, any real or personal property or interest therein;

673 (7) To mortgage, convey, pledge, or assign any properties, revenues, income, tolls,
674 charges, or fees owned, received, or to be received by the authority;

675 (8) To invest and reinvest the funds of the authority in any investment which a domestic
676 insurer may lawfully invest in, to determine the allocation of funds among investments,
677 and to purchase, hold, sell, assign, transfer, and dispose of any securities and other
678 investments in which funds of the authority have been invested, any proceeds of any
679 investments, and any money belonging to the authority;

680 (9) To appoint officers and retain agents, engineers, attorneys, fiscal agents, accountants,
681 and employees and to provide for their compensation and duties;

682 (10) To receive from the governing body or the state any grants, funds, or other
683 donations;

684 (11) To operate, manage, or provide assistance for senior centers;

685 (12) To provide or support senior services for members of the community;

686 (13) To identify and provide information, education, and assistance on issues and matters
687 critical to senior citizens in the community; and

688 (14) To do all things necessary or convenient to carry out the powers expressly conferred
689 by this article.

690 (b) The authority shall adopt and promulgate rules and regulations to implement the
691 purposes of this article.

692 31-7-125.

693 (a) Each authority created by and under this article is created for nonprofit and public
694 purposes, and it is found, determined, and declared that:

695 (1) The creation of each such authority and the carrying out of its corporate purposes are
696 in all respects for the benefit of the people of this state; and

697 (2) The authority is an institution of purely public charity and will be performing an
698 essential governmental function in the exercise of the powers conferred upon it by this
699 article; and for such reasons, the authority shall be required to pay no taxes or
700 assessments imposed by the state or any of its counties, municipal corporations, political
701 subdivisions, or taxing districts upon any property acquired by the authority or under its
702 jurisdiction, control, possession, or supervision or leased by it to others or upon its
703 activities in the operation or maintenance of any such property or on any income derived
704 by the authority in the form of fees, recording fees, rentals, charges, purchase price,
705 installments, or otherwise.

706 (b) The tax exemption provided in this Code section shall not include any exemption from
707 sales and use tax on property purchased by the authority or for use by the authority.

708 31-7-126.

709 (a) Each authority created by and under this article shall ensure that an annual audit of the
710 financial affairs, books, and records of such authority is conducted at the end of each fiscal
711 year for the preceding year. Each authority shall obtain either a certified public accountant
712 or a firm of certified public accountants to conduct such audit. The auditor so appointed
713 shall perform the audit in accordance with generally accepted accounting principles and
714 shall submit a complete and final report and audit to the authority not later than 90 days
715 after the close of the fiscal year. All audits provided for in this Code section shall be
716 certified to and shall include, but in no way be limited to, a full and complete audit
717 containing a balance sheet, profit and loss statement, and statement of receipts and
718 disbursements.

719 (b) All final audits provided for in subsection (a) of this Code shall be reproduced in
720 sufficient number, and copies of the audit shall be filed with the clerk of the superior court
721 in the county wherein the authority is located.

722 (c) In the event any authority shall fail or refuse to provide for an annual audit and have
723 such audit prepared and filed as set forth in subsections (a) and (b) of this Code section, the
724 governing body of such county or municipal corporation shall within ten days petition the

725 superior court of the county wherein the authority is located to require the authority to have
 726 such audit prepared and filed as provided by this Code section. The judge of such court
 727 shall set a time for the hearing on such petition and after notice to the authority shall hear
 728 and determine the petition. If it is determined that the authority has failed to comply with
 729 the requirements for the preparation and filing of the audit, the judge shall pass such orders
 730 as are necessary to effectuate compliance with such requirements. In the event the
 731 authority fails to have an audit prepared and filed as required by court order, the members
 732 of the authority shall be subject to contempt proceedings by the court as provided by law.

733 31-7-127.

734 This article shall be liberally construed to effect the purposes hereof, and insofar as this
 735 article may be inconsistent with any other law, including the charter of any municipal
 736 corporation, this article shall be controlling. No proceeding or publication not required by
 737 this article shall be necessary to the performance of any act authorized in this article, nor
 738 shall any such act be subject to referendum."

739 **SECTION 24.**

740 Code Section 36-80-5 of the Official Code of Georgia Annotated, relating to relief from or
 741 composition of debts under federal statute prohibited, is amended as follows:

742 "36-80-5.

743 (a) ~~No~~ Except as otherwise provided in subsection (c) of this Code section, no county,
 744 municipality, school district, authority, division, instrumentality, political subdivision, or
 745 public body corporate created under the Constitution or laws of this state shall be
 746 authorized to file a petition for relief from payment of its debts as they mature or a petition
 747 for composition of its debts under any federal statute providing for such relief or
 748 composition or otherwise to take advantage of any federal statute providing for the
 749 adjustment of debts of political subdivisions and public agencies and instrumentalities.

750 (b) ~~No~~ Except as otherwise provided in subsection (c) of this Code section, no chief
 751 executive, mayor, board of commissioners, city council, board of trustees, or other
 752 governmental officer, governing body, or organization shall be empowered to cause or
 753 authorize the filing by or on behalf of any county, municipality, school district, authority,
 754 division, instrumentality, political subdivision, or public body corporate created under the
 755 Constitution or laws of this state of any petition for relief from payment of its debts as they
 756 mature or a petition for composition of its debts under any federal statute providing for
 757 such relief or composition or otherwise to take advantage of any federal statute providing
 758 for the adjustment of debts of political subdivisions and public agencies and
 759 instrumentalities.

760 (c) A hospital authority created under the Constitution or laws of this state shall be
761 authorized to file a petition for relief from payment of its debts as they mature or a petition
762 for composition of its debts under any federal statute providing for such relief or
763 composition or otherwise to take advantage of any federal statute providing for the
764 adjustment of debts of political subdivisions and public agencies and instrumentalities. The
765 board of a hospital authority created under the Constitution or laws of this state shall be
766 empowered to cause or authorize the filing by or on behalf of such authority any petition
767 for relief from payment of its debts as they mature or a petition for composition of its debts
768 under any federal statute providing for such relief or composition or otherwise to take
769 advantage of any federal statute providing for the adjustment of debts of political
770 subdivisions and public agencies and instrumentalities."

771

SECTION 25.

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