

The House Committee on Rules offers the following substitute to HB 198:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 revise and provide for definitions relative to health planning and development; to eliminate
3 the requirement that certain expenditures by a health care facility are required to obtain a
4 certificate of need; to eliminate the Health Strategies Council; to provide certain indigent and
5 charity care requirements; to provide for the conversion of destination cancer hospitals; to
6 provide for penalties; to require certain facilities to participate as Medicaid providers; to
7 provide limitations on opposing an application; to provide for additional exemptions from
8 certificate of need requirements; to provide for the submission of certain documents to the
9 Department of Community Health and the posting of certain documents on hospital websites;
10 to prohibit certain actions relating to medical use rights; to provide for the investment of
11 funds by hospital authorities; to amend Code Section 48-7-29.20 of the Official Code of
12 Georgia Annotated, relating to tax credits for contributions to rural hospital organizations,
13 so as to revise provisions relating to the rural hospital tax credit program; to revise Code
14 Section 50-18-70 of the Official Code of Georgia Annotated, relating to legislative intent and
15 definitions relative to open records laws, so as to revise definitions; to provide for related
16 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

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

18 **PART I**
19 **SECTION 1-1.**

20 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising
21 paragraphs (8), (14), (17), (19), (21), (23), and (33) of and by adding a new paragraph to
22 Code Section 31-6-2, relating to definitions relative to state health planning and
23 development, as follows:

24 "(8) 'Clinical health services' means diagnostic, treatment, or rehabilitative services
25 provided in a health care facility, or parts of the physical plant where such services are

26 located in a health care facility, and includes, but is not limited to, the following:
 27 radiology and diagnostic imaging, such as magnetic resonance imaging and positron
 28 emission tomography (PET); radiation therapy; biliary lithotripsy; surgery; intensive care;
 29 coronary care; pediatrics; gynecology; obstetrics; general medical care; medical/surgical
 30 care; inpatient nursing care, whether intermediate, skilled, or extended care; cardiac
 31 catheterization; open-heart surgery; and inpatient rehabilitation; ~~and alcohol, drug abuse,~~
 32 ~~and mental health services."~~

33 "(14) 'Develop,' with reference to a project, means:

34 (A) Constructing, remodeling, installing, or proceeding with a project, or any part of
 35 a project, or a capital expenditure project, the cost estimate for which exceeds ~~\$2.5~~
 36 million \$10 million; or

37 (B) The expenditure or commitment of funds exceeding ~~\$1 million~~ \$4 million for
 38 orders, purchases, leases, or acquisitions through other comparable arrangements of
 39 major medical equipment; provided, however, that this shall not include build-out costs,
 40 as defined by the department, but shall include all functionally related equipment,
 41 software, and any warranty and services contract costs for the first five years.

42 Notwithstanding subparagraphs (A) and (B) of this paragraph, the expenditure or
 43 commitment or incurring an obligation for the expenditure of funds to develop certificate
 44 of need applications, studies, reports, schematics, preliminary plans and specifications,
 45 or working drawings or to acquire, develop, or prepare sites shall not be considered to be
 46 the developing of a project."

47 "(16.1) 'Freestanding emergency department' means a facility that provides emergency
 48 services, but that is structurally separate and distinct from a hospital and has no more than
 49 one inpatient bed and that:

50 (A) Is operated pursuant to a hospital's license and located within 35 miles of such
 51 hospital;

52 (B) Is subject to the federal 'Emergency Medical Treatment and Labor Act';

53 (C) Operates 24 hours per day, 365 days per year; and

54 (D) Is a Medicaid provider and treats Medicaid recipients.

55 (17) 'Health care facility' means hospitals; destination cancer hospitals; other special care
 56 units, including but not limited to podiatric facilities; skilled nursing facilities;
 57 intermediate care facilities; personal care homes; ambulatory surgical centers or
 58 obstetrical facilities; freestanding emergency departments; health maintenance
 59 organizations; home health agencies; and diagnostic, treatment, or rehabilitation centers,
 60 but only to the extent paragraph (3) or (7), or both paragraphs (3) and (7), of subsection
 61 (a) of Code Section 31-6-40 are applicable thereto."

62 ~~"(19) 'Health Strategies Council' or 'council' means the body created by this chapter to~~
 63 ~~advise the department. Reserved."~~

64 "(21) 'Hospital' means an institution which is primarily engaged in providing to
 65 inpatients, by or under the supervision of physicians, diagnostic services and therapeutic
 66 services for medical diagnosis, treatment, and care of injured, disabled, or sick persons
 67 or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. Such
 68 term includes public, private, ~~psychiatric~~, rehabilitative, geriatric, osteopathic,
 69 micro-hospitals, and other specialty hospitals."

70 "(23) 'Joint venture ambulatory surgical center' means a freestanding ambulatory surgical
 71 center that is jointly owned by a hospital in the same county as the center or a hospital in
 72 a contiguous county if there is no hospital in the same county as the center and a single
 73 group of physicians practicing in the center and that provides surgery or where
 74 cardiologists perform procedures in a single specialty as defined by the department;
 75 provided, however, that general surgery, a group practice which includes one or more
 76 physiatrists who perform services that are reasonably related to the surgical procedures
 77 performed in the center, and a group practice in orthopedics which includes plastic hand
 78 surgeons with a certificate of added qualifications in Surgery of the Hand from the
 79 American Board of Plastic and Reconstructive Surgery shall be considered a single
 80 specialty. The ownership interest of the hospital shall be no less than 30 percent and the
 81 collective ownership of the physicians or group of physicians shall be no less than 30
 82 percent."

83 "(33) 'Single specialty ambulatory surgical center' means an ambulatory surgical center
 84 where surgery is performed or where cardiologists perform procedures in the offices of
 85 an individual private physician or single group practice of private physicians if such
 86 surgery or cardiology procedures are is performed in a facility that is owned, operated,
 87 and utilized by such physicians who also are of a single specialty; provided, however, that
 88 general surgery, a group practice which includes one or more physiatrists who perform
 89 services that are reasonably related to the surgical procedures performed in the center,
 90 and a group practice in orthopedics which includes plastic hand surgeons with a
 91 certificate of added qualifications in Surgery of the Hand from the American Board of
 92 Plastic and Reconstructive Surgery shall be considered a single specialty."

93 **SECTION 1-2.**

94 Said title is further amended by revising paragraphs (3) and (8) of subsection (b) of Code
 95 31-6-21, relating to the Department of Community Health generally, as follows:

96 ~~"(3) To seek advice, at its discretion, from the Health Strategies Council in the~~
 97 ~~performance by the department of its functions pursuant to this chapter; Reserved."~~

98 "(8) To establish, by rule, need methodologies for new institutional health services and
 99 health facilities. In developing such need methodologies, the department shall, at a
 100 minimum, consider the demographic characteristics of the population, the health status
 101 of the population, service use patterns, standards and trends, financial and geographic
 102 accessibility, and market economics. The department shall establish service-specific need
 103 methodologies and criteria for at least the following clinical health services: short stay
 104 hospital beds, adult therapeutic cardiac catheterization, adult open heart surgery, pediatric
 105 cardiac catheterization and open heart surgery, Level II and III perinatal services,
 106 freestanding birthing centers, ~~psychiatric and substance abuse inpatient programs~~, skilled
 107 nursing and intermediate care facilities, home health agencies, and continuing care
 108 retirement community sheltered facilities;"

109 **SECTION 1-3.**

110 Said title is further amended by revising subsection (a) of Code Section 31-6-40, relating to
 111 the requirement of a certificate of need for new institutional health services and exemption,
 112 as follows:

113 "(a) On and after July 1, 2008, any new institutional health service shall be required to
 114 obtain a certificate of need pursuant to this chapter. New institutional health services
 115 include:

116 (1) The construction, development, or other establishment of a new health care facility;
 117 (2) Any expenditure by or on behalf of a health care facility in excess of ~~\$2.5 million~~
 118 \$10 million which, under generally accepted accounting principles consistently applied,
 119 is a capital expenditure, except expenditures for acquisition of an existing health care
 120 facility not owned or operated by or on behalf of a political subdivision of this state, or
 121 any combination of such political subdivisions, or by or on behalf of a hospital authority,
 122 as defined in Article 4 of Chapter 7 of this title, or certificate of need owned by such
 123 facility in connection with its acquisition. The dollar amounts specified in this paragraph
 124 and in subparagraph (A) of paragraph (14) of Code Section 31-6-2 shall be adjusted
 125 annually by an amount calculated by multiplying such dollar amounts (as adjusted for the
 126 preceding year) by the annual percentage of change in the composite index of
 127 construction material prices, or its successor or appropriate replacement index, if any,
 128 published by the United States Department of Commerce for the preceding calendar year,
 129 commencing on July 1, 2009, and on each anniversary thereafter of publication of the
 130 index. The department shall immediately institute rule-making procedures to adopt such
 131 adjusted dollar amounts. In calculating the dollar amounts of a proposed project for
 132 purposes of this paragraph and subparagraph (A) of paragraph (14) of Code Section
 133 31-6-2, the costs of all items subject to review by this chapter and items not subject to

134 review by this chapter associated with and simultaneously developed or proposed with
 135 the project shall be counted, except for the expenditure or commitment of or incurring an
 136 obligation for the expenditure of funds to develop certificate of need applications, studies,
 137 reports, schematics, preliminary plans and specifications or working drawings, or to
 138 acquire sites;

139 (3) The purchase or lease by or on behalf of a health care facility or a diagnostic,
 140 treatment, or rehabilitation center of diagnostic or therapeutic equipment with a value in
 141 excess of ~~\$1 million~~ \$4 million; provided, however, that diagnostic or other imaging
 142 services that are not offered in a hospital or in the offices of an individual private
 143 physician or single group practice of physicians exclusively for use on patients of that
 144 physician or group practice shall be deemed to be a new institutional health service
 145 regardless of the cost of equipment; and provided, further, that this shall not include build
 146 out costs, as defined by the department, but shall include all functionally related
 147 equipment, software, and any warranty and services contract costs for the first five years.
 148 The acquisition of one or more items of functionally related diagnostic or therapeutic
 149 equipment shall be considered as one project. The dollar amount specified in this
 150 paragraph, in subparagraph (B) of paragraph (14) of Code Section 31-6-2, and in
 151 paragraph (10) of subsection (a) of Code Section 31-6-47 shall be adjusted annually by
 152 an amount calculated by multiplying such dollar amounts (as adjusted for the preceding
 153 year) by the annual percentage of change in the consumer price index, or its successor or
 154 appropriate replacement index, if any, published by the United States Department of
 155 Labor for the preceding calendar year, commencing on July 1, 2010;

156 (4) Any increase in the bed capacity of a health care facility except as provided in Code
 157 Section 31-6-47;

158 (5) Clinical health services which are offered in or through a health care facility, which
 159 were not offered on a regular basis in or through such health care facility within the 12
 160 month period prior to the time such services would be offered;

161 (6) Any conversion or upgrading of any general acute care hospital to a specialty hospital
 162 or of a facility such that it is converted from a type of facility not covered by this chapter
 163 to any of the types of health care facilities which are covered by this chapter; and

164 (7) Clinical health services which are offered in or through a diagnostic, treatment, or
 165 rehabilitation center which were not offered on a regular basis in or through that center
 166 within the 12 month period prior to the time such services would be offered, but only if
 167 the clinical health services are any of the following:

168 (A) Radiation therapy;

169 (B) Biliary lithotripsy;

170 (C) Surgery in an operating room environment, including but not limited to ambulatory
 171 surgery; and
 172 (D) Cardiac catheterization."

173 **SECTION 1-4.**

174 Said title is further amended by revising subsection (c) of Code Section 31-6-40.1, relating
 175 to acquisition of health care facilities, penalty for failure to notify the department, limitation
 176 on applications, agreement to care for indigent patients, requirements for destination cancer
 177 hospitals, and notice and hearing provisions for penalties authorized under this Code section,
 178 as follows:

179 "(c) Prior to July 1, 2021, the ~~The~~ department may require that any applicant for a
 180 certificate of need agree to provide a specified amount of clinical health services to
 181 indigent patients as a condition for the grant of a certificate of need; provided, however,
 182 that each facility granted a certificate of need by the department as a destination cancer
 183 hospital shall be required to provide uncompensated indigent or charity care for residents
 184 of Georgia which meets or exceeds 3 percent of such destination cancer hospital's adjusted
 185 gross revenues and provide care to Medicaid beneficiaries. A grantee or successor in
 186 interest of a certificate of need or an authorization to operate under this chapter which
 187 violates such an agreement or violates any conditions imposed by the department relating
 188 to such services, whether made before or after July 1, 2008, shall be liable to the
 189 department for a monetary penalty in the amount of the difference between the amount of
 190 services so agreed to be provided and the amount actually provided and may be subject to
 191 revocation of its certificate of need, in whole or in part, by the department pursuant to Code
 192 Section 31-6-45. Any penalty so recovered shall be paid into the state treasury. On and
 193 after June 30, 2019, each certificate of need holder and each exemption holder subject to
 194 indigent and charity care requirements shall report to the department uncompensated
 195 indigent and charity care based on the base Medicare allowable rate without adjustments
 196 for the unpaid service provided multiplied by a factor of 1.5, and not based on the hospital's
 197 charge for such services; provided, however, that such calculation shall not count against
 198 any such certificate of need holder or exemption holder subject to indigent and charity care
 199 requirements prior to June 30, 2021."

200 **SECTION 1-5.**

201 Said title is further amended by adding new Code sections to read as follows:

202 "31-6-40.3.

203 (a) On and after July 1, 2021, the department shall require that any applicant, any
 204 certificate of need holder, and any exemption holder pursuant to paragraph (18) or (19) of
 205 subsection (a) of Code Section 31-6-47:

206 (1) Provide uncompensated indigent or charity care in an amount which meets or exceeds
 207 the percentage of such applicant's adjusted gross revenues equivalent to:

208 (A) The state-wide average of net uncompensated indigent and charity care provided
 209 based on the previous two most recent years if a nonprofit entity; provided, however,
 210 that in no event shall this be less than 2 percent; or

211 (B) The state-wide average of net uncompensated indigent and charity care provided
 212 based on the previous two most recent years less 3 percent if a for profit entity;
 213 provided, however, that in no event shall this be less than 1 percent; and

214 (2) Participate as a provider of medical assistance for Medicaid purposes, and, if the
 215 facility provides medical care and treatment to children, to participate as a provider for
 216 PeachCare for Kids beneficiaries.

217 (a.1) For purposes of calculating uncompensated indigent or charity care pursuant to this
 218 Code section, uncompensated indigent or charity care provided by a physician, who has an
 219 ownership interest in an ambulatory surgical center, to a patient in a hospital shall be
 220 counted toward the uncompensated indigent or charity care required for the ambulatory
 221 surgical center in which the physician has an ownership interest in an amount equal to the
 222 base Medicare allowable rate without adjustments for the physician services provided
 223 multiplied by the percentage ownership of the physician and shall not be counted toward
 224 the uncompensated indigent or charity care required for a hospital or other setting.

225 (b) A grantee or successor in interest for a certificate of need or an exemption under this
 226 chapter that violates such an agreement or violates any conditions imposed by the
 227 department relating to such services shall be liable to the department for a monetary
 228 penalty in the amount of 1.0 percent of its net revenue for every 0.5 percent of
 229 uncompensated indigent and charity care not provided and may be subject to revocation
 230 of its certificate of need or exemption, in whole or in part, by the department pursuant to
 231 Code Section 31-6-45. Any penalty so recovered shall be dedicated and deposited by the
 232 department into the Indigent Care Trust Fund created pursuant to Code Section 31-8-152
 233 for the purposes set out in Code Section 31-8-154, including expanding Medicaid eligibility
 234 and services; programs to support rural and other health care providers, primarily hospitals,
 235 who serve the medically indigent; and for primary health care programs for medically
 236 indigent citizens and children of this state.

237 (c) Penalties authorized under this Code section shall be subject to the same notices and
 238 hearing for the levy of fines under Code Section 31-6-45.

239 (d)(1) This Code section shall not apply to a hospital or any health care facilities owned
 240 by a hospital or health care system that:

241 (A) Has a payer mix of greater than 40 percent Medicaid recipients and uncompensated
 242 indigent and charity care of at least 2 percent; provided, however, that a hospital's cost
 243 gap between its Medicaid reimbursement rate and the Medicare reimbursement shall
 244 count toward such uncompensated indigent and charity care amount; or

245 (B) Has an inpatient population of catastrophic injury patients that exceeds 60 percent
 246 of total inpatients treated annually.

247 (2) As used in this subsection, the term:

248 (A) 'Catastrophic injury' means an injury to the spinal cord, an acquired brain injury,
 249 and other paralyzing neuromuscular conditions.

250 (B) 'Payer mix' means the proportionate share of itemized charges attributable to
 251 patients assignable to a specific payer classification to total itemized charges for all
 252 patients.

253 (e) The department may withhold all or any portion of disproportionate share of hospital
 254 funds to any hospital that is subject to the requirements contained in paragraph (1) of
 255 subsection (a) of this Code section that fails to meet the minimum indigent and charity care
 256 requirements for two consecutive years.

257 (f) For purposes of this Code section, uncompensated indigent and charity care shall be
 258 based on the base Medicare allowable rate without adjustments for the unpaid service
 259 provided multiplied by a factor of 1.5, and shall not be based on the hospital's charge for
 260 such services.

261 (g) A certificate of need holder or exemption holder may include up to 15 percent of its
 262 Medicaid payments toward the uncompensated indigent and charity care amounts required
 263 of it pursuant to this Code section.

264 (h) A rural hospital organization that is ranked by the department in the top 25 eligible
 265 rural hospital organizations in financial need pursuant to paragraph (1) of subsection (b)
 266 of Code Section 31-8-9.1 shall be exempt from this Code section so long as it continues to
 267 be ranked as such.

268 31-6-40.4.

269 (a) On and after July 1, 2019, a destination cancer hospital may convert to a hospital by
 270 notifying the department in writing as to the date of conversion. Upon such conversion,
 271 the hospital may continue to provide all institutional health services and other services it
 272 provided as of the date of such conversion, including but not limited to inpatient beds,
 273 outpatient services, surgery, radiation therapy, imaging, and positron emission tomography
 274 (PET) scanning, without any further approval from the department; provided, that it

275 provides uncompensated indigent or charity care in accordance with subsection (c) of Code
 276 Section 31-6-40.1 and Code Section 31-6-40.3. On and after the date of conversion, the
 277 hospital shall be classified as a hospital under this chapter and shall be subject to all
 278 requirements and conditions applicable to hospitals under this article.

279 (b) Upon conversion to a hospital, the facility's inpatient beds, operating rooms, radiation
 280 therapy equipment, and imaging equipment shall not be counted in the inventory by the
 281 department for purposes of determining need for additional providers except that any
 282 inpatient beds, operating rooms, radiation therapy equipment, and imaging equipment
 283 added after the date of conversion shall be counted.

284 (c) In the event that a destination cancer hospital does not convert to a hospital, it shall
 285 remain subject to all requirements and conditions applicable to destination cancer hospitals
 286 under this article."

287 SECTION 1-6.

288 Said title is further amended in Code Section 31-6-43, relating to acceptance or rejection of
 289 application for certificate, by revising subsections (d) and (h) as follows:

290 "(d)(1) There shall be a time limit of 120 days for review of a project, beginning on the
 291 day the department declares the application complete for review or in the case of
 292 applications joined for comparative review, beginning on the day the department declares
 293 the final application complete. The department may adopt rules for determining when
 294 it is not practicable to complete a review in 120 days and may extend the review period
 295 upon written notice to the applicant but only for an extended period of not longer than an
 296 additional 30 days. The department shall adopt rules governing the submission of
 297 additional information by the applicant and for opposing an application.

298 (2) No party may oppose an application for a certificate of need for a proposed project
 299 unless:

300 (A) Such party is an existing health care facility that is the same type of facility
 301 proposed or which offers substantially similar services proposed that is located within
 302 a 35 mile radius of the proposed project; or

303 (B) Such party has submitted a competing application in the same batching cycle and
 304 is proposing to establish the same type of facility proposed or offer substantially similar
 305 services to that proposed."

306 "(h) The department shall provide the applicant an opportunity to meet with the department
 307 to discuss the application and to provide an opportunity to submit additional information.
 308 Such additional information shall be submitted within the time limits adopted by the
 309 department. The department shall also provide an opportunity for any party that is ~~opposed~~
 310 to permitted to oppose an application pursuant to paragraph (2) of subsection (d) of this

311 Code section to meet with the department and to provide additional information to the
 312 department. In order for ~~an~~ any such opposing party to have standing to appeal an adverse
 313 decision pursuant to Code Section 31-6-44, such party must attend and participate in an
 314 opposition meeting."

315 SECTION 1-7.

316 Said title is further amended in Code Section 31-6-44, relating to the Certificate of Need
 317 Appeal Panel, by revising subsections (a) and (d) as follows:

318 "(a) Effective July 1, 2008, there is created the Certificate of Need Appeal Panel, which
 319 shall be an agency separate and apart from the department and shall consist of a panel of
 320 independent hearing officers. The purpose of the appeal panel shall be to serve as a panel
 321 of independent hearing officers to review the department's initial decision to grant or deny
 322 a certificate of need application. The Health Planning Review Board which existed on June
 323 30, 2008, shall cease to exist after that date and the Certificate of Need Appeal Panel shall
 324 be constituted effective July 1, 2008, pursuant to this Code section. ~~The terms of all~~
 325 ~~members of the Health Planning Review Board serving as such on June 30, 2008, shall~~
 326 ~~automatically terminate on such date."~~

327 "(d) ~~Any applicant for a project, any competing applicant in the same batching cycle, any~~
 328 ~~competing health care facility party that is permitted to oppose an application pursuant to~~
 329 paragraph (2) of subsection (d) of Code Section 31-6-43 that has notified the department
 330 prior to its decision that such facility party is opposed to the application before the
 331 department, ~~or any county or municipal government in whose boundaries the proposed~~
 332 ~~project will be located who is aggrieved by a decision of the department~~ shall have the right
 333 to an initial administrative appeal hearing before an appeal panel hearing officer or to
 334 intervene in such hearing. Such request for hearing or intervention shall be filed with the
 335 chairperson of the appeal panel within 30 days of the date of the decision made pursuant
 336 to Code Section 31-6-43. In the event an appeal is filed by a ~~competing applicant, or any~~
 337 ~~competing health care facility, or any county or municipal government party that is~~
 338 permitted to oppose an application pursuant to paragraph (2) of subsection (d) of Code
 339 Section 31-6-43, the appeal shall be accompanied by payment of such fee as is established
 340 by the appeal panel. In the event an appeal is requested, the chairperson of the appeal panel
 341 shall appoint a hearing officer for each such hearing within 30 days after the date the
 342 appeal is received. Within 14 days after the appointment of the hearing officer, such
 343 hearing officer shall confer with the parties and set the date or dates for the hearing,
 344 provided that no hearing shall be scheduled less than 60 days nor more than 120 days after
 345 the filing of the request for a hearing, unless the applicant consents or, in the case of
 346 competing applicants, all applicants consent to an extension of this time period to a

347 specified date. Unless the applicant consents or, in the case of competing applicants, all
 348 applicants consent to an extension of said 120 day period, any hearing officer who
 349 regularly fails to commence a hearing within the required time period shall not be eligible
 350 for continued service as a hearing officer for the purposes of this Code section. The
 351 hearing officer shall have the authority to dispose of all motions made by any party before
 352 the issuance of the hearing officer's decision and shall make such rulings as may be
 353 required for the conduct of the hearing."

354 **SECTION 1-8.**

355 Said title is further amended by adding a new Code section to read as follows:

356 "31-6-45.3.

357 No freestanding emergency facility shall be permitted in this state unless it meets the
 358 criteria contained in paragraph (16.1) of Code Section 31-6-2."

359 **SECTION 1-9.**

360 Said title is further amended by revising Code Section 31-6-47, relating to exemptions from
 361 certificate of need program requirements, as follows:

362 "31-6-47.

363 (a) Notwithstanding the other provisions of this chapter, this chapter shall not apply to:

364 (1) Infirmaries operated by educational institutions for the sole and exclusive benefit of
 365 students, faculty members, officers, or employees thereof;

366 (2) Infirmaries or facilities operated by businesses for the sole and exclusive benefit of
 367 officers or employees thereof, provided that such infirmaries or facilities make no
 368 provision for overnight stay by persons receiving their services;

369 (3) Institutions operated exclusively by the federal government or by any of its agencies;

370 (4) Offices of private physicians or dentists whether for individual or group practice,
 371 except as otherwise provided in paragraph (3) or (7) of subsection (a) of Code Section
 372 31-6-40;

373 (5) Religious, nonmedical health care institutions as defined in 42 U.S.C. §
 374 Section 1395x(ss)(1), listed and certified by a national accrediting organization;

375 (6) Site acquisitions for health care facilities or preparation or development costs for
 376 such sites prior to the decision to file a certificate of need application;

377 (7) Expenditures related to adequate preparation and development of an application for
 378 a certificate of need;

379 (8) The commitment of funds conditioned upon the obtaining of a certificate of need;

380 (9) Expenditures for the acquisition of existing health care facilities by stock or asset
381 purchase, merger, consolidation, or other lawful means unless the facilities are owned or
382 operated by or on behalf of a:

383 (A) Political subdivision of this state;

384 (B) Combination of such political subdivisions; or

385 (C) Hospital authority, as defined in Article 4 of Chapter 7 of this title;

386 (9.1) Expenditures for the restructuring of or for the acquisition by stock or asset
387 purchase, merger, consolidation, or other lawful means of an existing health care facility
388 which is owned or operated by or on behalf of any entity described in subparagraph (A),
389 (B), or (C) of paragraph (9) of this subsection only if such restructuring or acquisition is
390 made by any entity described in subparagraph (A), (B), or (C) of paragraph (9) of this
391 subsection;

392 (9.2) The purchase of a closing hospital or of a hospital that has been closed for no more
393 than 12 months by a hospital in a contiguous county to repurpose the facility as a
394 micro-hospital;

395 (10) Expenditures of less than \$870,000.00 for any minor or major repair or replacement
396 of equipment by a health care facility that is not owned by a group practice of physicians
397 or a hospital and that provides diagnostic imaging services if such facility received a
398 letter of nonreviewability from the department prior to July 1, 2008. This paragraph shall
399 not apply to such facilities in rural counties;

400 (10.1) Except as provided in paragraph (10) of this subsection, expenditures for the
401 minor or major repair of a health care facility or a facility that is exempt from the
402 requirements of this chapter, parts thereof or services provided or equipment used therein;
403 or the replacement of equipment, including but not limited to CT scanners previously
404 approved for a certificate of need;

405 (11) Capital expenditures otherwise covered by this chapter required solely to eliminate
406 or prevent safety hazards as defined by federal, state, or local fire, building,
407 environmental, occupational health, or life safety codes or regulations, to comply with
408 licensing requirements of the department, or to comply with accreditation standards of
409 a nationally recognized health care accreditation body;

410 (12) Cost overruns whose percentage of the cost of a project is equal to or less than the
411 cumulative annual rate of increase in the composite construction index, published by the
412 Bureau of the Census of the Department of Commerce, of the United States government,
413 calculated from the date of approval of the project;

414 (13) Transfers from one health care facility to another such facility of major medical
415 equipment previously approved under or exempted from certificate of need review,
416 except where such transfer results in the institution of a new clinical health service for

417 which a certificate of need is required in the facility acquiring said equipment, provided
 418 that such transfers are recorded at net book value of the medical equipment as recorded
 419 on the books of the transferring facility;

420 (14) New institutional health services provided by or on behalf of health maintenance
 421 organizations or related health care facilities in circumstances defined by the department
 422 pursuant to federal law;

423 (15) Increases in the bed capacity of a hospital up to ten beds or ~~10~~ 20 percent of
 424 capacity, whichever is greater, in any consecutive two-year period, in a hospital that has
 425 maintained an overall occupancy rate greater than ~~75~~ 60 percent for the previous 12
 426 month period;

427 (16) Expenditures for nonclinical projects, including parking lots, parking decks, and
 428 other parking facilities; computer systems, software, and other information technology;
 429 and medical office buildings; ~~and state mental health facilities;~~

430 (17) Continuing care retirement communities, provided that the skilled nursing
 431 component of the facility is for the ~~exclusive~~ primary use of residents of the continuing
 432 care retirement community and that a written exemption is obtained from the department;
 433 provided, however, that ~~new~~ sheltered nursing home beds may be used on a limited basis
 434 by persons who are not residents of the continuing care retirement community ~~for a~~
 435 ~~period up to five years after the date of issuance of the initial nursing home license, but~~
 436 such beds shall not be eligible for Medicaid reimbursement. ~~For the first year, the~~
 437 ~~continuing care retirement community sheltered nursing facility may utilize not more~~
 438 ~~than 50 percent of its licensed beds for patients who are not residents of the continuing~~
 439 ~~care retirement community. In the second year of operation, the continuing care~~
 440 ~~retirement community shall allow not more than 40 percent of its licensed beds for new~~
 441 ~~patients who are not residents of the continuing care retirement community. In the third~~
 442 ~~year of operation, the continuing care retirement community shall allow not more than~~
 443 ~~30 percent of its licensed beds for new patients who are not residents of the continuing~~
 444 ~~care retirement community. In the fourth year of operation, the continuing care~~
 445 ~~retirement community shall allow not more than 20 percent of its licensed beds for new~~
 446 ~~patients who are not residents of the continuing care retirement community. In the fifth~~
 447 ~~year of operation, the continuing care retirement community shall allow not more than~~
 448 ~~10 percent of its licensed beds for new patients who are not residents of the continuing~~
 449 ~~care retirement community. At no time during the first five years shall the continuing~~
 450 ~~care retirement community sheltered nursing facility occupy more than 50 percent of its~~
 451 ~~licensed beds with patients who are not residents under contract with the continuing care~~
 452 ~~retirement community. At the end of the five-year period, the continuing care retirement~~
 453 ~~community sheltered nursing facility shall be utilized exclusively by residents of the~~

454 ~~continuing care retirement community, and at~~ At no time shall a resident of a continuing
 455 care retirement community be denied access to the sheltered nursing facility. At no time
 456 shall any existing patient be forced to leave the continuing care retirement community to
 457 comply with this paragraph. The department is authorized to promulgate rules and
 458 regulations regarding the use and definition of 'sheltered nursing facility' in a manner
 459 consistent with this Code section. Agreements to provide continuing care include
 460 agreements to provide care for any duration, including agreements that are terminable by
 461 either party;

462 (18) Any single specialty ambulatory surgical center that:

463 (A)(i) Has capital expenditures associated with the construction, development, or
 464 other establishment of the clinical health service which do not exceed \$2.5 million;
 465 or

466 (ii) Is the only single specialty ambulatory surgical center in the county owned by the
 467 group practice and has two or fewer operating rooms; provided, however, that a center
 468 exempt pursuant to this division shall be required to obtain a certificate of need in
 469 order to add any additional operating rooms;

470 (B) Has a hospital affiliation agreement with a hospital within a reasonable distance
 471 from the facility or the medical staff at the center has admitting privileges or other
 472 acceptable documented arrangements with such hospital to ensure the necessary backup
 473 for the center for medical complications. The center shall have the capability to transfer
 474 a patient immediately to a hospital within a reasonable distance from the facility with
 475 adequate emergency room services. Hospitals shall not unreasonably deny a transfer
 476 agreement or affiliation agreement to the center;

477 (C)(i) Prior to July 1, 2021:

478 (I) Provides care to Medicaid beneficiaries and, if the facility provides medical care
 479 and treatment to children, to PeachCare for Kids beneficiaries and provides
 480 uncompensated indigent and charity care in an amount equal to or greater than 2
 481 percent of its adjusted gross revenue; or

482 ~~(ii)~~(II) If the center is not a participant in Medicaid or the PeachCare for Kids
 483 Program, provides uncompensated care to Medicaid beneficiaries and, if the facility
 484 provides medical care and treatment to children, to PeachCare for Kids
 485 beneficiaries, uncompensated indigent and charity care, or both in an amount equal
 486 to or greater than 4 percent of its adjusted gross revenue; provided, however, that
 487 ~~single~~ specialty ambulatory surgical centers owned by physicians in the practice of
 488 ophthalmology shall not be required to comply with this subparagraph; ~~and~~

489 (ii) On and after July 1, 2021, provides uncompensated indigent and charity care and
 490 participates as a provider of medical assistance for Medicaid purposes and for

491 PeachCare for Kids beneficiaries, if applicable, in accordance with Code Section
 492 31-6-40.3; and

493 (D) Provides annual reports in the same manner and in accordance with Code Section
 494 31-6-70.

495 Noncompliance with any condition of this paragraph shall result in a monetary penalty
 496 in the amount of the difference between the services which the center is required to
 497 provide and the amount actually provided and may be subject to revocation of its
 498 exemption status by the department for repeated failure to pay any fines or moneys due
 499 to the department or for repeated failure to produce data as required by Code Section
 500 31-6-70 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of
 501 Title 50, the 'Georgia Administrative Procedure Act.' The dollar amount specified in this
 502 paragraph shall be adjusted annually by an amount calculated by multiplying such dollar
 503 amount (as adjusted for the preceding year) by the annual percentage of change in the
 504 composite index of construction material prices, or its successor or appropriate
 505 replacement index, if any, published by the United States Department of Commerce for
 506 the preceding calendar year, commencing on July 1, 2009, and on each anniversary
 507 thereafter of publication of the index. The department shall immediately institute
 508 rule-making procedures to adopt such adjusted dollar amounts. In calculating the dollar
 509 amounts of a proposed project for purposes of this paragraph, the costs of all items
 510 subject to review by this chapter and items not subject to review by this chapter
 511 associated with and simultaneously developed or proposed with the project shall be
 512 counted, except for the expenditure or commitment of or incurring an obligation for the
 513 expenditure of funds to develop certificate of need applications, studies, reports,
 514 schematics, preliminary plans and specifications or working drawings, or to acquire sites;

515 (19) Any joint venture ambulatory surgical center that:

516 (A) Has capital expenditures associated with the construction, development, or other
 517 establishment of the clinical health service which do not exceed \$5 million;

518 (B)(i) Prior to July 1, 2021:

519 (I) Provides care to Medicaid beneficiaries and, if the facility provides medical care
 520 and treatment to children, to PeachCare for Kids beneficiaries and provides
 521 uncompensated indigent and charity care in an amount equal to or greater than 2
 522 percent of its adjusted gross revenue; or

523 ~~(ii)~~(II) If the center is not a participant in Medicaid or the PeachCare for Kids
 524 Program, provides uncompensated care to Medicaid beneficiaries and, if the facility
 525 provides medical care and treatment to children, to PeachCare for Kids
 526 beneficiaries, uncompensated indigent and charity care, or both in an amount equal
 527 to or greater than 4 percent of its adjusted gross revenue; ~~and~~

528 (ii) On and after July 1, 2021, provides uncompensated indigent and charity care and
 529 participates as a provider of medical assistance for Medicaid purposes and for
 530 PeachCare for Kids beneficiaries, if applicable, in accordance with Code Section
 531 31-6-40.3; and

532 (C) Provides annual reports in the same manner and in accordance with Code Section
 533 31-6-70.

534 Noncompliance with any condition of this paragraph shall result in a monetary penalty
 535 in the amount of the difference between the services which the center is required to
 536 provide and the amount actually provided and may be subject to revocation of its
 537 exemption status by the department for repeated failure to pay any fines or moneys due
 538 to the department or for repeated failure to produce data as required by Code Section
 539 31-6-70 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of
 540 Title 50, the 'Georgia Administrative Procedure Act.' The dollar amount specified in this
 541 paragraph shall be adjusted annually by an amount calculated by multiplying such dollar
 542 amount (as adjusted for the preceding year) by the annual percentage of change in the
 543 composite index of construction material prices, or its successor or appropriate
 544 replacement index, if any, published by the United States Department of Commerce for
 545 the preceding calendar year, commencing on July 1, 2009, and on each anniversary
 546 thereafter of publication of the index. The department shall immediately institute
 547 rule-making procedures to adopt such adjusted dollar amounts. In calculating the dollar
 548 amounts of a proposed project for purposes of this paragraph, the costs of all items
 549 subject to review by this chapter and items not subject to review by this chapter
 550 associated with and simultaneously developed or proposed with the project shall be
 551 counted, except for the expenditure or commitment of or incurring an obligation for the
 552 expenditure of funds to develop certificate of need applications, studies, reports,
 553 schematics, preliminary plans and specifications or working drawings, or to acquire sites;

554 (20) Expansion of services by an imaging center based on a population needs
 555 methodology taking into consideration whether the population residing in the area served
 556 by the imaging center has a need for expanded services, as determined by the department
 557 in accordance with its rules and regulations, if such imaging center:

558 (A) Was in existence and operational in this state on January 1, 2008;

559 (B) Is owned by a hospital or by a physician or a group of physicians comprising at
 560 least 80 percent ownership who are currently board certified in radiology;

561 (C) Provides three or more diagnostic and other imaging services;

562 (D) Accepts all patients regardless of ability to pay; and

563 (E) Provides uncompensated indigent and charity care in an amount equal to or greater
 564 than the amount of such care provided by the geographically closest general acute care

565 hospital; provided, however, this paragraph shall not apply to an imaging center in a
566 rural county;

567 (21) Diagnostic cardiac catheterization in a hospital setting on patients 15 years of age
568 and older;

569 (22) Therapeutic cardiac catheterization in hospitals selected by the department prior to
570 July 1, 2008, to participate in the Atlantic Cardiovascular Patient Outcomes Research
571 Team (C-PORT) Study and therapeutic cardiac catheterization in hospitals that, as
572 determined by the department on an annual basis, meet the criteria to participate in the
573 C-PORT Study but have not been selected for participation; provided, however, that if
574 the criteria requires a transfer agreement to another hospital, no hospital shall
575 unreasonably deny a transfer agreement to another hospital;

576 (23) Infirmaries or facilities operated by, on behalf of, or under contract with the
577 Department of Corrections or the Department of Juvenile Justice for the sole and
578 exclusive purpose of providing health care services in a secure environment to prisoners
579 within a penal institution, penitentiary, prison, detention center, or other secure
580 correctional institution, including correctional institutions operated by private entities in
581 this state which house inmates under the Department of Corrections or the Department
582 of Juvenile Justice;

583 (24) The relocation of any skilled nursing facility, intermediate care facility, or
584 micro-hospital within the same county, any other health care facility in a rural county
585 within the same county, and any other health care facility in an urban county within a
586 three-mile radius of the existing facility so long as the facility does not propose to offer
587 any new or expanded clinical health services at the new location;

588 (25) Facilities which are devoted to the provision of treatment and rehabilitative care for
589 periods continuing for 24 hours or longer for persons who have traumatic brain injury,
590 as defined in Code Section 37-3-1; ~~and~~

591 (26) Capital expenditures for a project otherwise requiring a certificate of need if those
592 expenditures are for a project to remodel, renovate, replace, or any combination thereof,
593 a medical-surgical hospital and:

594 (A) That hospital:

595 (i) Has a bed capacity of not more than 50 beds;

596 (ii) Is located in a county in which no other medical-surgical hospital is located;

597 (iii) Has at any time been designated as a disproportionate share hospital by the
598 department; and

599 (iv) Has at least 45 percent of its patient revenues derived from ~~medicare~~ Medicare,
600 Medicaid, or any combination thereof, for the immediately preceding three years; and

601 (B) That project:

- 602 (i) Does not result in any of the following:
- 603 (I) The offering of any new clinical health services;
- 604 (II) Any increase in bed capacity;
- 605 (III) Any redistribution of existing beds among existing clinical health services; or
- 606 (IV) Any increase in capacity of existing clinical health services;
- 607 (ii) Has at least 80 percent of its capital expenditures financed by the proceeds of a
- 608 special purpose county sales and use tax imposed pursuant to Article 3 of Chapter 8
- 609 of Title 48; and
- 610 (iii) Is located within a three-mile radius of and within the same county as the
- 611 hospital's existing facility-;

612 (27) Public or private psychiatric hospitals, mental health or substance abuse facilities

613 or programs, or mental health or substance abuse services; and

614 (28) A freestanding ambulatory surgical center with no more than six operating rooms

615 developed on the same site as a sports training and educational facility that includes

616 sports training facilities and fields; a medical education facility and program for

617 physicians and other health care professionals training in sports medicine; a medical

618 research program; ancillary services, including physical therapy and diagnostic imaging;

619 a community education program for student athletic programs on injury prevention and

620 treatment and related topics, and that provides uncompensated indigent or charity care

621 in accordance with subsection (c) of Code Section 31-6-40.1 and Code Section 31-6-40.3,

622 provides care to Medicaid patients, and demonstrates a positive economic impact of no

623 less than \$25 million, taking into consideration the full-time and part-time jobs generated

624 by the initial construction and ongoing operation of the center, new state and local tax

625 revenue generated by the initial construction and ongoing operation of the center, and

626 other factors deemed relevant as determined by the department based on a report prepared

627 by an independent consultant or expert retained by the center.

628 (b) By rule, the department shall establish a procedure for expediting or waiving reviews

629 of certain projects the nonreview of which it deems compatible with the purposes of this

630 chapter, in addition to expenditures exempted from review by this Code section."

631 **PART II**

632 **SECTION 2-1.**

633 Said title is further amended by adding new Code sections to Article 1 of Chapter 7, relating

634 to regulation of hospitals and related institutions, to read as follows:

635 "31-7-22.

636 (a) As used in this Code section, the term 'hospital' means a nonprofit hospital, a hospital
637 owned or operated by a hospital authority, or a nonprofit corporation formed, created, or
638 operated by or on behalf of a hospital authority.

639 (b) Beginning July 1, 2020, each hospital in this state shall post a link in a prominent
640 location on the main page of its website to the most recent version of the following
641 documents:

642 (1) Federal related disclosures:

643 (A) Copies of audited financial statements that are general purpose financial
644 statements, which express the unqualified opinion of an independent certified public
645 accounting firm for the most recently completed fiscal year for the hospital; each of its
646 affiliates, except those affiliates that were inactive or that had an immaterial amount of
647 total assets; and the hospital's parent corporation that include the following:

648 (i) A PDF version of all audited financial statements;

649 (ii) A note in the hospital's audited consolidated financial statements that identifies
650 individual amounts for such hospital's gross patient revenue, allowances, charity care,
651 and net patient revenue;

652 (iii) Audited consolidated financial statements for hospitals with subsidiaries and
653 consolidating financial statements that at a minimum contain a balance sheet and
654 statement of operations and that provide a breakout of the hospital's and each
655 subsidiary's numbers with a report from independent accountants on other financial
656 information; and

657 (iv) Audited consolidated financial statements for the hospital's parent corporation
658 and consolidating financial statements that at a minimum contain a balance sheet and
659 statement of operations and that provide a breakout of the hospital's and each
660 affiliate's numbers with a report from independent accountants on other financial
661 information; and

662 (B) Copy of audited Internal Revenue Service Form 990, including Schedule H for
663 hospitals and other applicable attachments; provided, however, that for any hospital not
664 required to file IRS Form 990, the department shall establish and provide a form that
665 collects the same information as is contained in Internal Revenue Service Form 990,
666 including Schedule H for hospitals, as applicable; and

667 (2) Georgia supplemental disclosures:

668 (A) Copy of the hospital's completed annual hospital questionnaire, as required by the
669 department;

670 (B) The community benefit report prepared pursuant to Code Section 31-7-90.1, if
671 applicable;

- 672 (C) The disproportionate share hospital survey, if applicable;
 673 (D) Listing of all property holdings of the hospital, including the location and size,
 674 parcel ID number, purchase price, current use, and any improvements made to such
 675 property at the end of each fiscal year;
 676 (E) Listing of any ownership or interest the nonprofit hospital has in any joint venture,
 677 business venture foundation, operating contract, partnership, subsidiary holding
 678 company, or captive insurance company; where any such entity is domiciled; and the
 679 value of any such ownership or interest at the end of each fiscal year;
 680 (F) Listing of any bonded indebtedness, outstanding loans, and bond defaults, whether
 681 or not in forbearance; and any bond disclosure sites of the hospital;
 682 (G) A report that identifies by purpose, the ending fund balances of the net assets of
 683 the hospital and each affiliate as of the close of the most recently completed fiscal year,
 684 distinguishing between donor permanently restricted, donor temporarily restricted,
 685 board restricted, and unrestricted fund balances. The hospital's interest in its foundation
 686 shall be deducted from the foundation's total fund balance;
 687 (H) Report of all cash reserves of the hospital;
 688 (I) Copy of all going concern statements regarding the hospital;
 689 (J) The most recent legal chart of corporate structure, including the hospital, each of
 690 its affiliates and subsidiaries, and its parent corporation, duly dated;
 691 (K) Report listing the salaries and fringe benefits for the ten highest paid administrative
 692 positions in the hospital. Each position shall be identified by its complete,
 693 unabbreviated title. Fringe benefits shall include all forms of compensation, whether
 694 actual or deferred, made to or on behalf of the employee, whether full or part-time;
 695 (L) Evidence of accreditation by accrediting bodies, including, but not limited to, the
 696 Joint Commission and DNV; and
 697 (M) Copy of the hospital's policies regarding the provision of charity care and reduced
 698 cost services to the indigent, excluding medical assistance recipients, and its debt
 699 collection practices.
- 700 (c) In the event that any of the documents or information required to be posted by a
 701 hospital pursuant to subsection (b) of this Code section are included in a comprehensive
 702 audited financial statement for such hospital, a link to such comprehensive audited
 703 financial statement shall be deemed to meet the requirements of subsection (b) of this Code
 704 section with respect to the specific documents or information included in such
 705 comprehensive audited financial statement.
- 706 (d) Each hospital shall update the documents in the links posted pursuant to subsection (b)
 707 of this Code section on July 1 of each year or more frequently at its discretion. Noncurrent
 708 documents shall remain posted and accessible on the hospital's website indefinitely.

709 (e) All documents listed in subsection (b) of this Code section shall be prepared in
 710 accordance with generally accepted accounting principles, as applicable.
 711 (f) The department shall also post a link in a prominent location on its website to the
 712 documents listed in subsection (b) of this Code section for each hospital in this state.
 713 (g) Any hospital that fails to post the documents required pursuant to subsection (b) of this
 714 Code section within 30 days of the dates required in this Code section shall be suspended
 715 from receiving any state funds or any donations pursuant to Code Section 48-7-29.20.
 716 (h) The department shall have jurisdiction to enforce this Code section and to promulgate
 717 rules and regulations required to administer this Code section.
 718 (i) Any person who knowingly and willfully includes false, fictitious, or fraudulent
 719 information in any documents required to be posted pursuant to this Code section shall be
 720 subject to a violation of Code Section 16-10-20.

721 31-7-23.

722 (a) As used in this Code section, the term:

723 (1) 'Hospital' shall have the same meaning as in Code Section 31-7-22.

724 (2) 'Medical use rights' means rights or interests in real property in which the owner of
 725 the property has agreed not to sell or lease such real property for identified medical uses
 726 or purposes.

727 (b) It shall be unlawful for any hospital to purchase, renew, extend, lease, maintain, or hold
 728 medical use rights.

729 (c) This Code section shall not be construed to impair any contracts in existence as of the
 730 effective date of this Code section. Reserved."

731 **SECTION 2-2.**

732 Said title is further amended by revising Code Section 31-7-75.1, relating to proceeds of sale
 733 of hospital held in trust to fund indigent hospital care, as follows:

734 "31-7-75.1.

735 (a) The proceeds from any sale or lease of a hospital owned by a hospital authority or
 736 political subdivision of this state, which proceeds shall not include funds required to pay
 737 off the bonded indebtedness of the sold hospital or any expense of the authority or political
 738 subdivision attributable to the sale or lease, shall be held by the authority or political
 739 subdivision in an irrevocable trust fund. Such proceeds in that fund may be invested in the
 740 same way that public moneys may be invested generally pursuant to general law and as
 741 permitted under Code Section 31-7-83, but money in that trust fund shall be used
 742 exclusively for funding the provision of hospital health care for the indigent residents of
 743 the political subdivision which owned the hospital or by which the authority was activated

744 or for which the authority was created. If the funds available for a political subdivision in
 745 that irrevocable trust fund are less than \$100,000.00, the principal amount may be used to
 746 fund the provision of indigent ~~hospital~~ health care; otherwise, only the income from that
 747 fund may be used for that care. Such funding or reimbursement for indigent care shall not
 748 exceed the diagnosis related group rate for that hospital in each individual case.

749 (b) In the event a hospital authority which sold or leased a hospital was activated by or
 750 created for more than one political subdivision or in the event a hospital having as owner
 751 more than one political subdivision is sold or leased by those political subdivisions, each
 752 such constituent political subdivision's portion of the irrevocable trust fund for indigent
 753 ~~hospital~~ health care shall be determined by multiplying the amount of that fund by a figure
 754 having a numerator which is the population of that political subdivision and a denominator
 755 which is the combined population of all the political subdivisions which owned the hospital
 756 or by which or for which the authority was activated or created.

757 (c) For purposes of ~~hospital~~ health care for the indigent under this Code section, the
 758 standard of indigency shall be that determined under Code Section 31-8-43, relating to
 759 standards of indigency for emergency care of pregnant women, based upon 125 percent of
 760 the federal poverty level.

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

762 (1) A reorganization or restructuring;

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

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

772 (A) Hospital authorities that operate a licensed hospital pursuant to a lease from the
 773 county which created the appropriate authority; ~~and~~

774 (B) Hospitals that have a bed capacity of more than 150 beds; ~~and~~

775 (C) Hospitals located in a county in which no other medical-surgical licensed hospital
 776 is located; ~~and~~

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

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

781 **SECTION 2-3.**

782 Said title is further amended by adding a new Code section to Article 4 of Chapter 7, relating
 783 to hospital authorities, to read as follows:

784 "31-7-74.4.

785 Members on the board of a hospital authority at the time of a sale or lease of a hospital
 786 owned by such hospital authority shall be deemed directors and subject to the provisions
 787 of Part 6 of Article 8 of Chapter 3 of Title 14, relating to conflicting interest transactions
 788 with respect to the proceeds of such sale or lease."

789 **SECTION 2-4.**

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

792 "31-7-83.

793 (a) Pending use for the purpose for which received, each hospital authority created by and
 794 under this article is authorized and empowered to invest all moneys or any part thereof
 795 received through the issuance and sale of revenue certificates of the authority in any
 796 securities which are legal investments or which are provided for in the trust indenture
 797 securing such certificates or other legal investments; provided, however, that such
 798 investments ~~will~~ shall be used at all times while held, or upon sale, for the purposes for
 799 which the money was originally received and no other. Contributions or gifts received by
 800 any authority shall be invested as provided by the terms of the contribution or gift or in the
 801 absence thereof as determined by the authority.

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

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

810 (2) Commingled funds and collective investment funds maintained by state chartered
 811 banks or trust companies or regulated by the Office of the Comptroller of the Currency
 812 of the United States Department of the Treasury, including common and group trusts,
 813 and, to the extent the funds are invested in such collective investment funds, the funds
 814 shall adopt the terms of the instruments establishing any group trust in accordance with
 815 applicable United States Internal Revenue Service Revenue Rulings."

816 **SECTION 2-5.**

817 Code Section 50-18-70 of the Official Code of Georgia Annotated, relating to legislative
 818 intent and definitions relative to open records laws, is amended by revising subsection (b)
 819 as follows:

820 "(b) As used in this article, the term:

821 (1) 'Agency' shall have the same meaning as in Code Section 50-14-1 and shall
 822 additionally include any association, corporation, or other similar organization that has
 823 a membership or ownership body composed primarily of counties, municipal
 824 corporations, or school districts of this state, their officers, or any combination thereof
 825 and derives more than 33 1/3 percent of its general operating budget from payments from
 826 such political subdivisions. Such term shall also include any nonprofit organization to
 827 which is leased and transferred hospital assets of a hospital authority through a corporate
 828 restructuring and any subsidiaries or foundations established by such nonprofit
 829 organization in furtherance of the public mission of the hospital authority.

830 (2) 'Public record' means all documents, papers, letters, maps, books, tapes, photographs,
 831 computer based or generated information, data, data fields, or similar material prepared
 832 and maintained or received by an agency or by a private person or entity in the
 833 performance of a service or function for or on behalf of an agency or when such
 834 documents have been transferred to a private person or entity by an agency for storage
 835 or future governmental use, including, but not limited to any such material in the
 836 possession or control of a nonprofit organization to which is leased and transferred
 837 hospital assets of a hospital authority through a corporate restructuring which are related
 838 to the operation of the hospital and other leased facilities in the performance of services
 839 on behalf of the hospital authority, excluding payment agreements with insurance
 840 companies and employment agreements with physicians and physician groups."

841 **PART III**842 **SECTION 3-1.**

843 Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to care and
 844 protection of indigent and elderly patients, is amended by revising Code Section 31-8-9.1,
 845 relating to eligibility to receive tax credits and obligations of rural hospitals after receipt of
 846 funds, as follows:

847 "31-8-9.1.

848 (a) As used in this Code section, the term:

849 (1) 'Critical access hospital' means a hospital that meets the requirements of the federal
 850 Centers for Medicare and Medicaid Services to be designated as a critical access hospital

851 and that is recognized by the department as a critical access hospital for purposes of
852 Medicaid.

853 (2) 'Rural county' means a county having a population of less than 50,000 according to
854 the United States decennial census of 2010 or any future such census; provided, however,
855 that for counties which contain a military base or installation, the military personnel and
856 their dependents living in such county shall be excluded from the total population of such
857 county for purposes of this definition.

858 (3) 'Rural hospital organization' means an acute care hospital licensed by the department
859 pursuant to Article 1 of Chapter 7 of this title that:

860 (A) Provides inpatient hospital services at a facility located in a rural county or is a
861 critical access hospital;

862 (B) Participates in both Medicaid and ~~medicare~~ Medicare and accepts both Medicaid
863 and ~~medicare~~ Medicare patients;

864 (C) Provides health care services to indigent patients;

865 (D) Has at least 10 percent of its annual net revenue categorized as indigent care,
866 charity care, or bad debt;

867 (E) Annually files IRS Form 990, Return of Organization Exempt From Income Tax,
868 with the department, or for any hospital not required to file IRS Form 990, the
869 department will provide a form that collects the same information to be submitted to the
870 department on an annual basis;

871 (F) Is operated by a county or municipal authority pursuant to Article 4 of Chapter 7
872 of this title or is designated as a tax-exempt organization under Section 501(c)(3) of the
873 Internal Revenue Code; ~~and~~

874 (G) Is current with all audits and reports required by law; and

875 (H) Does not have an operating profit of greater than 15 percent, as calculated by the
876 department without consideration of any contributions from the tax credit provided
877 pursuant to Code Section 48-7-29.20.

878 (b)(1) By December 1 of each year, the department shall approve a list of rural hospital
879 organizations eligible to receive contributions from the tax credit provided pursuant to
880 Code Section 48-7-29.20 ranked in order of financial need and transmit such list to the
881 Department of Revenue.

882 (2) Before any rural hospital organization is included on the list as eligible to receive
883 contributions from the tax credit provided pursuant to Code Section 48-7-29.20, it shall
884 submit to the department a five-year plan detailing the financial viability and stability of
885 the rural hospital organization. The criteria to be included in the five-year plan shall be
886 established by the department.

887 (3) The department shall create an operations manual for identifying rural hospital
 888 organizations and ranking such rural hospital organizations in order of financial need.
 889 Such manual shall include:

890 (A) All deadlines for submitting required information to the department;

891 (B) The criteria to be included in the five-year plan submitted pursuant to paragraph (2)
 892 of this subsection; and

893 (C) The formula applied to rank the rural hospital organizations in order of financial
 894 need.

895 (c)(1) A rural hospital organization that receives donations pursuant to Code Section
 896 48-7-29.20 shall:

897 (A) Utilize such donations for the provision of health care related services for residents
 898 of a rural county or for residents of the area served by a critical access hospital; and

899 (B) Report on a form provided by the department:

900 (i) All contributions received from individual and corporate donors pursuant to Code
 901 Section 48-7-29.20 detailing the manner in which the contributions received were
 902 expended by the rural hospital organization; and

903 (ii) Any payments made to a third party to solicit, administer, or manage the
 904 donations received by the rural hospital organization pursuant to this Code section or
 905 Code Section 48-7-29.20. In no event shall payments made to a third party to solicit,
 906 administer, or manage the donations received pursuant to this Code section exceed 3
 907 percent of the total amount of the donations.

908 (2) The department shall annually prepare a report compiling the information received
 909 pursuant to paragraph (1) of this subsection for the chairpersons of the House Committee
 910 on Ways and Means and the Senate Health and Human Services Committee.

911 (d) The department shall post the following information in a prominent location on its
 912 website:

913 (1) The ranked list of rural hospital organizations eligible to receive contributions
 914 established pursuant to paragraph (1) of subsection (b) of this Code section;

915 (2) The operations manual created pursuant to paragraph (3) of subsection (b) of this
 916 Code section;

917 (3) The annual report prepared pursuant to paragraph (2) of subsection (c) of this Code
 918 section;

919 (4) The total amount received by each third party that participated in soliciting,
 920 administering, or managing donations; and

921 (5) A link to the Department of Revenue's website containing the information included
 922 in subsection (d) of Code Section 48-7-29.20."

923

SECTION 3-2.

924 Code Section 48-7-29.20 of the Official Code of Georgia Annotated, relating to tax credits
 925 for contributions to rural hospital organizations, is amended as follows:

926 "48-7-29.20.

927 (a) As used in this Code section, the term:

928 (1) 'Qualified rural hospital organization expense' means the contribution of funds by an
 929 individual or corporate taxpayer to a rural hospital organization for the direct benefit of
 930 such organization during the tax year for which a credit under this Code section is
 931 claimed.

932 (2) 'Rural hospital organization' means an organization that is approved by the
 933 Department of Community Health pursuant to Code Section 31-8-9.1.

934 (b) An individual taxpayer shall be allowed a credit against the tax imposed by this chapter
 935 for qualified rural hospital organization expenses as follows:

936 (1) In the case of a single individual or a head of household, the actual amount expended;

937 (2) In the case of a married couple filing a joint return, the actual amount expended; or

938 (3) In the case of an individual who is a member of a limited liability company duly
 939 formed under state law, a shareholder of a Subchapter 'S' corporation, or a partner in a
 940 partnership, the amount expended; provided, however, that tax credits pursuant to this
 941 paragraph shall be allowed only for the portion of the income on which such tax was
 942 actually paid by such individual.

943 (b.1) From January 1 to June 30 each taxable year, an individual taxpayer shall be limited
 944 in its qualified rural hospital organization expenses allowable for credit under this Code
 945 section, and the commissioner shall not approve qualified rural hospital organization
 946 expenses incurred from January 1 to June 30 each taxable year, which exceed the following
 947 limits:

948 (1) In the case of a single individual or a head of household, \$5,000.00;

949 (2) In the case of a married couple filing a joint return, \$10,000.00; or

950 (3) In the case of an individual who is a member of a limited liability company duly
 951 formed under state law, a shareholder of a Subchapter 'S' corporation, or a partner in a
 952 partnership, \$10,000.00.

953 (c) A corporation or other entity shall be allowed a credit against the tax imposed by this
 954 chapter for qualified rural hospital organization expenses in an amount not to exceed the
 955 actual amount expended or 75 percent of the corporation's income tax liability, whichever
 956 is less.

957 (d) In no event shall the total amount of the tax credit under this Code section for a taxable
 958 year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the

959 taxpayer against the succeeding five years' tax liability. No such credit shall be allowed
 960 the taxpayer against prior years' tax liability.

961 (e)(1) In no event shall the aggregate amount of tax credits allowed under this Code
 962 section exceed \$60 million per taxable year.

963 (2)(A) No more than \$4 million of the aggregate limit established by paragraph (1) of
 964 this subsection shall be contributed to any individual rural hospital organization in any
 965 taxable year. From January 1 to June 30 each taxable year, the commissioner shall only
 966 preapprove contributions submitted by individual taxpayers in an amount not to exceed
 967 \$2 million, and from corporate donors in an amount not to exceed \$2 million. From
 968 July 1 to December 31 each taxable year, subject to the aggregate limit in paragraph (1)
 969 of this subsection and the individual rural hospital organization limit in this paragraph,
 970 the commissioner shall approve contributions submitted by individual taxpayers and
 971 corporations or other entities.

972 (B) In the event an individual or corporate donor desires to make a contribution to an
 973 individual rural hospital organization that has received the maximum amount of
 974 contributions for that taxable year, the Department of Community Health shall provide
 975 the individual or corporate donor with a list, ranked in order of financial need, as
 976 determined by the Department of Community Health, of rural hospital organizations
 977 still eligible to receive contributions for the taxable year.

978 (C) In the event that an individual or corporate donor desires to make a contribution
 979 to an unspecified or undesignated rural hospital organization, either directly to the
 980 department or through a third party that participates in soliciting, administering, or
 981 managing donations, such donation shall be attributed to the rural hospital organization
 982 ranked with the highest financial need that has not yet received the maximum amount
 983 of contributions for that taxable year, regardless of whether a third party has a
 984 contractual relationship or agreement with such rural hospital organization.

985 (D) Any third party that participates in soliciting, advertising, or managing donations
 986 shall provide the complete list of rural hospital organizations eligible to receive the tax
 987 credit provided pursuant to this Code section including their ranking in order of
 988 financial need as determined by the Department of Community Health pursuant to Code
 989 Section 31-8-9.1, to any potential donor regardless of whether a third party has a
 990 contractual relationship or agreement with such rural hospital organization.

991 (3) For purposes of paragraphs (1) and (2) of this subsection, a rural hospital
 992 organization shall notify a potential donor of the requirements of this Code section.
 993 Before making a contribution to a rural hospital organization, the taxpayer shall
 994 electronically notify the department, in a manner specified by the department, of the total
 995 amount of contribution that the taxpayer intends to make to the rural hospital

996 organization. The commissioner shall preapprove or deny the requested amount within
 997 30 days after receiving the request from the taxpayer and shall provide written notice to
 998 the taxpayer and rural hospital organization of such preapproval or denial which shall not
 999 require any signed release or notarized approval by the taxpayer. In order to receive a tax
 1000 credit under this Code section, the taxpayer shall make the contribution to the rural
 1001 hospital organization within 60 days after receiving notice from the department that the
 1002 requested amount was preapproved. If the taxpayer does not comply with this paragraph,
 1003 the commissioner shall not include this preapproved contribution amount when
 1004 calculating the limits prescribed in paragraphs (1) and (2) of this subsection.

1005 (4)(A) Preapproval of contributions by the commissioner shall be based solely on the
 1006 availability of tax credits subject to the aggregate total limit established under
 1007 paragraph (1) of this subsection and the individual rural hospital organization limit
 1008 established under paragraph (2) of this subsection.

1009 (B) Any taxpayer preapproved by the department pursuant to this subsection ~~(e) of this~~
 1010 ~~Code section~~ shall retain their approval in the event the credit percentage in subsection
 1011 ~~(b) of this Code section~~ is modified for the year in which the taxpayer was preapproved.

1012 (C) Upon the rural hospital organization's confirmation of receipt of donations that
 1013 have been preapproved by the department, any taxpayer preapproved by the department
 1014 pursuant to subsection (c) of this Code section shall receive the full benefit of the
 1015 income tax credit established by this Code section even though the rural hospital
 1016 organization to which the taxpayer made a donation does not properly comply with the
 1017 reports or filings required by this Code section.

1018 (5) Notwithstanding any laws to the contrary, the department shall not take any adverse
 1019 action against donors to rural hospital organizations if the commissioner preapproved a
 1020 donation for a tax credit prior to the date the rural hospital organization is removed from
 1021 the Department of Community Health list pursuant to Code Section 31-8-9.1, and all such
 1022 donations shall remain as preapproved tax credits subject only to the donor's compliance
 1023 with paragraph (3) of this subsection.

1024 (f) In order for the taxpayer to claim the tax credit under this Code section, a letter of
 1025 confirmation of donation issued by the rural hospital organization to which the contribution
 1026 was made shall be attached to the taxpayer's tax return. However, in the event the taxpayer
 1027 files an electronic return, such confirmation shall only be required to be electronically
 1028 attached to the return if the Internal Revenue Service allows such attachments when the
 1029 return is transmitted to the department. In the event the taxpayer files an electronic return
 1030 and such confirmation is not attached because the Internal Revenue Service does not, at the
 1031 time of such electronic filing, allow electronic attachments to the Georgia return, such
 1032 confirmation shall be maintained by the taxpayer and made available upon request by the

1033 commissioner. The letter of confirmation of donation shall contain the taxpayer's name,
 1034 address, tax identification number, the amount of the contribution, the date of the
 1035 contribution, and the amount of the credit.

1036 (g) No credit shall be allowed under this Code section with respect to any amount
 1037 deducted from taxable net income by the taxpayer as a charitable contribution to a bona
 1038 fide charitable organization qualified under Section 501(c)(3) of the Internal Revenue
 1039 Code.

1040 (h) The commissioner shall be authorized to promulgate any rules and regulations
 1041 necessary to implement and administer the provisions of this Code section.

1042 (i) The department shall post the following information in a prominent location on its
 1043 website:

1044 (1) All pertinent timelines relating to the tax credit, including, but not limited to:

1045 (A) Beginning date when contributions can be submitted for preapproval by donors for
 1046 the January 1 to June 30 period;

1047 (B) Ending date when contributions can be submitted for preapproval by donors for the
 1048 January 1 to June 30 period;

1049 (C) Beginning date when contributions can be submitted for preapproval by donors for
 1050 the July 1 to December 31 period;

1051 (D) Ending date when contributions can be submitted for preapproval by donors for the
 1052 July 1 to December 31 period; and

1053 (E) Date by which preapproved contributions are required to be sent to the rural
 1054 hospital organization;

1055 (2) The list and ranking order of rural hospital organizations eligible to receive
 1056 contributions established pursuant to paragraph (1) of subsection (b) of Code
 1057 Section 31-8-9.1;

1058 (3) A monthly progress report including:

1059 (A) Total preapproved contributions to date by rural hospital organization;

1060 (B) Total contributions received to date by rural hospital organization;

1061 (C) Total aggregate amount of preapproved contributions made to date; and

1062 (D) Aggregate amount of tax credits available;

1063 (4) A list of all preapproved contributions that were made to an unspecified or
 1064 undesignated rural hospital organization and the rural hospital organizations that received
 1065 such contributions.

1066 (j) The Department of Audits and Accounts shall annually conduct an audit of the tax
 1067 credit program established under this Code section, including the amount and recipient
 1068 rural hospital organization of all contributions made, all tax credits received by individual

1069 and corporate donors, and all amounts received by third parties that solicited, administered,
1070 or managed donations pertaining to this Code section and Code Section 31-8-9.1.
1071 ~~(i)~~(k) This Code section shall stand automatically repealed on December 31, ~~2021~~ 2024."

1072 **PART IV**

1073 **SECTION 4-1.**

1074 This Act shall become effective upon its approval by the Governor or upon its becoming law
1075 without such approval.

1076 **SECTION 4-2.**

1077 All laws and parts of laws in conflict with this Act are repealed.