

Senate Bill 395

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

A BILL TO BE ENTITLED

AN ACT

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

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

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

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

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

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

42 (1) A reorganization or restructuring;

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

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

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

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

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

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

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

**SECTION 2.**

61  
62 Said article is further amended by revising Code Section 31-7-83, relating to investment of  
63 surplus moneys and moneys received through issuance of revenue certificates, as follows:

64 "31-7-83.

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

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

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

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

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

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

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

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

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

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

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

116 **SECTION 3.**

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