

# HOUSE BILL No. 6334

September 6, 2018, Introduced by Rep. LaFave and referred to the Committee on Michigan Competitiveness.

A bill to amend 1987 PA 230, entitled "Municipal health facilities corporations act," by amending the title and sections 103, 304, and 307 (MCL 331.1103, 331.1304, and 331.1307), the title and sections 304 and 307 as amended by 1988 PA 502 and section 103 as amended by 2010 PA 331, and by adding section 306a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

TITLE

An act to authorize certain local governmental units to incorporate municipal health facilities corporations and subsidiary municipal health facilities corporations for establishing, modifying, operating, and managing health services and acquiring,

1 constructing, adding to, repairing, remodeling, renovating,  
2 equipping, and re-equipping hospitals and other health care  
3 facilities and related purposes; to provide for the application of  
4 this act to existing municipal hospitals and for the transfer of  
5 ownership of hospital funds and personal property; to validate and  
6 ratify the existence, organization, actions, proceedings, and board  
7 membership of existing organizations acting as county public  
8 hospitals; to provide for the appointment of trustees; to grant  
9 certain powers of a public body corporate to health facilities  
10 corporations and subsidiary health facilities corporations; to  
11 empower certain local governmental units to encumber property for  
12 the benefit of, transfer or make property available to, issue bonds  
13 to construct facilities to be used by, appropriate funds for, and  
14 levy a tax for, municipal health facilities corporations and  
15 subsidiary municipal health facilities corporations; to empower  
16 certain local governmental units to guarantee obligations of  
17 municipal health facilities corporations and subsidiary municipal  
18 health facilities corporations and to permit certain local  
19 governmental units to pledge their full faith and credit to pay  
20 ~~such~~ **THOSE** guaranties; to provide for transfer of ownership or  
21 operation of health care facilities and health services to  
22 nonprofit health care organizations **AND BUSINESS ORGANIZATIONS**; to  
23 authorize municipal health facilities corporations and subsidiary  
24 municipal health facilities corporations to borrow money and issue  
25 notes for the purposes of meeting expenses of operation and to  
26 issue corporation obligations for the purpose of acquisition,  
27 construction, repair, remodeling, equipping or re-equipping of

1 health care facilities and for the refinancing, refunding, or  
 2 refunding in advance of indebtedness of the municipal health  
 3 facilities corporations or the subsidiary municipal health  
 4 facilities corporations or of indebtedness of certain local  
 5 governmental units undertaken on their behalf; to authorize  
 6 municipal health facilities corporations and subsidiary municipal  
 7 health facilities corporations to enter into mortgages, deeds of  
 8 trust, and other agreements for security which may include  
 9 provisions for the appointment of receivers; to exempt obligations  
 10 and property of municipal health facilities corporations and  
 11 subsidiary municipal health facilities corporations from taxation;  
 12 and to provide other rights, powers, and duties of municipal health  
 13 facilities corporations and subsidiary municipal health facilities  
 14 corporations.

15 Sec. 103. As used in this act:

16 (a) "Board of trustees" means the board of trustees of a  
 17 corporation created under or governed by this act.

18 **(B) "BUSINESS ORGANIZATION" MEANS ANY OF THE FOLLOWING:**

19 **(i) A DOMESTIC BUSINESS CORPORATION, AS DEFINED IN SECTION 105**  
 20 **OF THE NONPROFIT CORPORATION ACT, 1982 PA 162, MCL 450.2105.**

21 **(ii) A FOREIGN BUSINESS CORPORATION, AS DEFINED IN SECTION 107**  
 22 **OF THE NONPROFIT CORPORATION ACT, 1982 PA 162, MCL 450.2107.**

23 **(iii) A DOMESTIC LIMITED LIABILITY COMPANY.**

24 **(iv) A FOREIGN LIMITED LIABILITY COMPANY.**

25 **(v) \_\_\_\_\_.**

26 **(C) ~~(b)~~"City"** means a city establishing a corporation  
 27 incorporated under, or governed by, this act.

1           (D) ~~(e)~~—"City public hospital" means a health care facility  
2 that is owned or operated by a city.

3           (E) ~~(d)~~—"Corporation" means a municipal health facilities  
4 corporation incorporated under this act or created under 1913 PA  
5 350, MCL 331.151 to 331.169, or under 1945 PA 109, MCL 331.201 to  
6 331.213, and governed by this act. The term includes a restructured  
7 corporation.

8           (F) ~~(e)~~—"Corporation obligation" means a bond, note, or any  
9 other legal instrument issued by a corporation or subsidiary  
10 corporation under chapter 4 that evidences indebtedness of a  
11 corporation or a subsidiary corporation, including principal,  
12 interest, and premiums, if any, on that indebtedness. Notes issued  
13 under section 401 are not considered corporation obligations.

14           (G) ~~(f)~~—"County" means a county establishing a corporation  
15 incorporated under, or governed by, this act.

16           (H) ~~(g)~~—"County public hospital" means a public corporation  
17 organized and existing or purportedly organized and existing under  
18 1913 PA 350, MCL 331.151 to 331.169, or under 1945 PA 109, MCL  
19 331.201 to 331.213, on ~~the effective date of this act.~~ **FEBRUARY 27,**  
20 **1988.**

21           (I) ~~(h)~~—"Direct provider of health care" means a person ~~or~~  
22 ~~organization~~ whose primary current activity is providing health  
23 services to individuals. The term includes a person ~~or organization~~  
24 licensed, certified, or registered under article 6 or 15 of the  
25 public health code, 1978 PA 368, MCL ~~333.6101 to 333.6523~~ **333.6230**  
26 **TO 333.6251** and 333.16101 to 333.18838, or a professional  
27 corporation or other public or private organization composed of or

1 employing direct providers of health care.

2       **(J)** ~~(i)~~—"Health care facilities" means buildings, structures,  
3 or equipment suitable and intended for, or incidental or ancillary  
4 to, use in providing health services, including, but not limited  
5 to, hospitals; hospital long-term care units; infirmaries;  
6 sanatoria; nursing homes; medical care facilities; outpatient  
7 clinics; ambulatory care facilities; surgical and diagnostic  
8 facilities; hospices; clinical laboratories; shared service  
9 facilities; laundries; meeting rooms; classrooms and other  
10 educational facilities; students', nurses', interns', or  
11 physicians' residences; administration buildings; facilities for  
12 use as or by health maintenance organizations; facilities for  
13 ambulance operations, advanced mobile emergency care services, and  
14 limited advanced mobile emergency care services; research  
15 facilities; facilities for the care of dependent children;  
16 maintenance, storage, and utility facilities; parking lots and  
17 structures; garages; office facilities not less than 80% of the net  
18 leasable space of which is intended for lease to or other use by  
19 direct providers of health care; facilities for the temporary  
20 lodging of outpatients or families of patients; residential  
21 facilities for use by the aged or disabled; and all necessary,  
22 useful, or related equipment, furnishings, and appurtenances and  
23 all lands necessary or convenient as sites for the health care  
24 facilities described in this subdivision.

25       **(K)** ~~(j)~~—"Health services" means 1 or more of the following:

26       (i) Diagnosis and medical and surgical treatment by direct  
27 providers of health care of persons suffering from illness, injury,

1 and disability, including persons suffering from tuberculosis and  
2 other contagious and infectious diseases, and persons requiring  
3 maternity care, rehabilitation, psychiatric care, or substance  
4 abuse services; dentistry and related services; podiatric medicine  
5 and surgery; optometric services; psychological services; skilled,  
6 basic, and visiting nursing services and home health services;  
7 ambulance operations; advanced mobile emergency care services and  
8 limited advanced emergency services; physical, respiratory, and  
9 occupational therapy; health maintenance services; services for the  
10 prevention of illness, injury, and disability and for the  
11 promotion, maintenance, and improvement of public health and  
12 welfare; food services and care for dependent children, the  
13 disabled, and the elderly; and social work and chaplaincy services  
14 provided in conjunction with other health services described in  
15 this subparagraph.

16 (ii) Conduct of or participation in programs for the education  
17 and training of health services personnel, including undergraduate,  
18 internship, residency, postgraduate, and continuing education  
19 programs for physicians; schools and other training programs for  
20 nurses, technicians, therapists, pharmacists, and other health  
21 services personnel; and in-service education of employees of health  
22 care facilities.

23 (iii) Research relating to the cause, prevention, and  
24 treatment of illness, injury, and disability, and the protection,  
25 promotion, or improvement of public health and welfare.

26 (l) ~~(k)~~ "Local governmental unit" means a county, city, or  
27 village.

1           **(M)** ~~(l)~~—"Nonprofit health care organization" means a public  
2 body organized and existing under the laws of this state and  
3 authorized to provide health services, a nonprofit corporation  
4 incorporated under the nonprofit corporation act, 1982 PA 162, MCL  
5 450.2101 to 450.3192, or a not-for-profit corporation incorporated  
6 under the laws of another state and qualified to do business in  
7 this state, that is organized and operated exclusively for  
8 charitable, scientific, educational, or religious purposes and  
9 authorized to provide health services, no part of the net earnings  
10 of which inures to the benefit of any private shareholder or  
11 individual.

12           **(N) "PERSON" MEANS AN INDIVIDUAL, A PARTNERSHIP, A DOMESTIC OR**  
13 **FOREIGN CORPORATION, A LIMITED LIABILITY COMPANY, OR ANY OTHER**  
14 **ASSOCIATION, CORPORATION, TRUST, OR LEGAL ENTITY.**

15           **(O)** ~~(m)~~—"Project costs" means the total of the reasonable or  
16 necessary costs incurred for carrying out the acquisition,  
17 construction, repair, remodeling, equipping, or re-equipping of  
18 health care facilities. The term includes, but is not limited to,  
19 any of the following costs: studies, surveys, plans, and  
20 specifications; architectural and engineering services; fees,  
21 charges, and expenses incurred in obtaining permits, approvals, and  
22 licenses for the acquisition, and initial operation of the health  
23 care construction, financing, facilities; legal, organizational,  
24 marketing, and other special services; acquisition, demolition,  
25 construction, equipment, and site development of new and  
26 rehabilitated buildings; rehabilitation, construction, repair, or  
27 remodeling of existing buildings; interest and carrying charges

1 during construction and before full earnings are achieved but for a  
2 period not to exceed 3 years after the date of the corporation  
3 obligations; operating expenses before full earnings are achieved,  
4 but for a period not to exceed 1 year following completion of  
5 construction; and reasonable reserves for payment of principal and  
6 interest on corporation obligations, not exceeding 15% of the  
7 principal amount of the corporation obligations. Project costs  
8 shall also include reimbursement of a corporation or a subsidiary  
9 corporation for any of the project costs described in this section  
10 expended before the issuance and delivery of the corporation  
11 obligations.

12 (P) ~~(n)~~—"Restructured corporation" means a corporation that  
13 has completed the process described in section 305a.

14 (Q) ~~(o)~~—"Restructured subsidiary corporation" means a  
15 subsidiary corporation that has completed the process described in  
16 section 305a.

17 (R) ~~(p)~~—"Subsidiary board" means the board of trustees of a  
18 subsidiary corporation.

19 (S) ~~(q)~~—"Subsidiary corporation" means a subsidiary municipal  
20 health facilities corporation incorporated under this act. The term  
21 includes a restructured subsidiary corporation.

22 (T) ~~(r)~~—"Trustee" means ~~a person~~ **AN INDIVIDUAL** serving on a  
23 board of trustees or a subsidiary board.

24 (U) ~~(s)~~—"Village" means a village establishing a corporation  
25 incorporated under, or governed by, this act.

26 (V) ~~(t)~~—"Village public hospital" means a health care facility  
27 that is owned or operated by a village.



1           Sec. 304. Without limiting the powers described in section 301  
2 and elsewhere in this act, each board of trustees and subsidiary  
3 board, in furtherance of its purposes and consistent with its  
4 articles of incorporation, but subject to applicable licensing and  
5 other regulatory requirements, may do any or all of the following:

6           (a) Establish sites for its health care facilities inside or  
7 outside the local governmental unit and relocate its health care  
8 facilities in the same municipality or elsewhere.

9           (b) Acquire by purchase, gift, devise, lease, sublease,  
10 installment purchase agreement, land contract, option, or by any  
11 other means, hold, and own in its own name health care facilities  
12 and interests therein and other real and personal property,  
13 including, but not limited to, interests in condominiums, and  
14 property subject to mortgages, security interests, or other liens,  
15 necessary or convenient to fulfill its purposes; and, for the  
16 purpose of condemnation, proceed under the uniform condemnation  
17 procedures act, ~~Act No. 87 of the Public Acts of 1980, being~~  
18 ~~sections 213.51 to 213.77 of the Michigan Compiled Laws, 1980 PA~~  
19 **87, MCL 213.51 TO 213.75**, or other applicable statute.

20           (c) Construct, add to, repair, remodel, renovate, equip, and  
21 re-equip health care facilities and establish rules, regulations,  
22 or policies conforming with applicable law with respect to  
23 requirements for competitive bidding, advertising, advertising for  
24 bids and letting contracts. However, in all cases, the right to  
25 reject any and all bids ~~shall be~~ **IS** reserved.

26           (d) ~~Dispose~~ **SUBJECT TO SECTIONS 306 AND 306A, DISPOSE** of its  
27 real and personal property by sale, lease, sublease, installment

1 sale agreement, land contract, or other lawful means.

2 (e) Purchase, contract for, or acquire administrative,  
3 management, and other services necessary or convenient to the  
4 fulfillment of its purposes from the local governmental unit and  
5 from other sources and sell these services to the local  
6 governmental unit and to other public and private persons.

7 (f) Apply for, negotiate, receive, and accept gifts or grants  
8 of money, property, **OR** services, or other aid offered or made  
9 available to it, and comply, subject to the provisions of this act  
10 and other applicable law, with the terms of ~~such gifts, grants, **A**~~  
11 **GIFT, GRANT,** or other aid.

12 (g) Provide insurance ~~, **OR**~~ reinsurance, obtain indemnification  
13 or establish programs or trusts for self-insurance against loss in  
14 connection with its assets or any liability in connection with its  
15 activities, ~~. The insurance, reinsurance, indemnification, or self-~~  
16 ~~insurance shall be in such forms and amounts, and from such~~  
17 ~~sources, as **IN ANY FORM AND AMOUNT AND FROM ANY SOURCE**~~ it considers  
18 appropriate.

19 (h) Invest funds not immediately required for its purposes,  
20 funds accumulated to provide retirement or pension benefits,  
21 endowment funds created for charitable or educational purposes, and  
22 other funds in any manner in which a local governmental unit may  
23 then lawfully invest ~~such property~~ **THOSE FUNDS** and loan its funds  
24 in furtherance of its purposes.

25 (i) Borrow money from the local governmental unit ~~in~~  
26 ~~accordance with~~ **UNDER** section 305(e) and enter into agreements for  
27 the repayment of the loans.

1 (j) Grant mortgages, security interests, and other liens in  
2 its real and personal property, sell and lease back its real and  
3 personal property, and pledge its property or revenues in  
4 furtherance of its purposes.

5 (k) Guarantee, in whole or in part, bonds, notes, and other  
6 obligations of the local governmental unit undertaken for its  
7 benefit and grant mortgages, security interests, and other liens in  
8 its real and personal property and pledge its property or revenues  
9 to secure obligations of the local governmental unit undertaken for  
10 its benefit, with or without guaranteeing ~~such~~**THOSE** obligations.

11 (l) Transfer real or personal property to subsidiary  
12 corporations or parent corporations in furtherance of its purposes  
13 or the purposes of the subsidiary or parent corporations, with or  
14 without monetary consideration, and transfer money and other real  
15 and personal property not required to carry out its purposes to the  
16 local governmental unit.

17 (m) Guarantee, in whole or in part, corporation obligations,  
18 bonds, notes, and other obligations of a subsidiary corporation or  
19 a parent corporation.

20 (n) Grant mortgages, security interests, or other liens in its  
21 real and personal property and pledge its property or revenues to  
22 secure corporation obligations, bonds, notes, or other obligations  
23 of 1 or more of its subsidiary corporations or its parent  
24 corporation, with or without guaranteeing ~~such~~**THOSE** obligations.

25 **SEC. 306A. (1) SUBJECT TO APPLICABLE LICENSING AND OTHER**  
26 **REGULATORY REQUIREMENTS, AND SUBJECT TO THE REQUIREMENTS OF THIS**  
27 **SECTION, A BOARD OF TRUSTEES OR A SUBSIDIARY BOARD MAY ENTER INTO**

1 AND CARRY OUT AGREEMENTS FOR THE SALE OR TRANSFER OF THE OWNERSHIP  
2 OF A CORPORATION OR SUBSIDIARY CORPORATION, OR THE SALE OR TRANSFER  
3 OF OWNERSHIP OR OPERATION OF SOME OR ALL OF THE HEALTH CARE  
4 FACILITIES AND RELATED ASSETS OR HEALTH SERVICES OF THE CORPORATION  
5 OR SUBSIDIARY CORPORATION, TO A BUSINESS ORGANIZATION BY SALE,  
6 INSTALLMENT SALES AGREEMENT, LAND CONTRACT, LEASE, LEASE WITH AN  
7 OPTION TO PURCHASE, SUBLEASE, CONTRACT, OPTION, OR BY ANY OTHER  
8 MEANS.

9 (2) IN ESTABLISHING THE TERMS OF A SALE OR TRANSFER DESCRIBED  
10 IN SUBSECTION (1), THE BOARD OF TRUSTEES OR SUBSIDIARY BOARD MAY  
11 TAKE INTO ACCOUNT, IN ADDITION TO THE MONETARY CONSIDERATION FOR  
12 THE SALE OR TRANSFER, IF ANY, 1 OR MORE OF THE FOLLOWING:

13 (A) THE ABILITY AND WILLINGNESS OF THE BUSINESS ORGANIZATION  
14 TO CONTINUE TO PROVIDE HEALTH SERVICES TO RESIDENTS OF THE LOCAL  
15 GOVERNMENTAL UNIT.

16 (B) THE ASSUMPTION BY THE BUSINESS ORGANIZATION OF  
17 LIABILITIES, OBLIGATIONS, AND RISKS ASSOCIATED WITH OWNERSHIP OR  
18 OPERATION OF THE CORPORATION, SUBSIDIARY CORPORATION, OR HEALTH  
19 CARE FACILITIES AND HEALTH SERVICES SOLD OR TRANSFERRED, INCLUDING  
20 THOSE ASSOCIATED WITH OUTSTANDING BONDS, NOTES AND OBLIGATIONS,  
21 PENSION, RETIREMENT, AND OTHER BENEFITS FOR EMPLOYEES AND EMPLOYEES  
22 AND CONDITIONS ATTACHED TO PUBLIC OR PRIVATE GRANTS.

23 (C) THE WILLINGNESS AND ABILITY OF THE BUSINESS ORGANIZATION  
24 TO PROVIDE SERVICES TO THOSE UNABLE TO PAY FULLY FOR THEIR CARE.

25 (D) THE ELIMINATION OF OR REDUCTION IN SUPPORT REQUIRED FOR  
26 THE CORPORATION, SUBSIDIARY CORPORATION, OR HEALTH CARE FACILITIES  
27 OR HEALTH SERVICES FROM TAX REVENUES OR OTHER PUBLIC SOURCES.

1           (E) THE ABILITY AND WILLINGNESS OF THE BUSINESS CORPORATION TO  
2 EXPAND OR IMPROVE THE CORPORATION, SUBSIDIARY CORPORATION, OR  
3 HEALTH CARE FACILITIES OR HEALTH SERVICES BEING SOLD OR  
4 TRANSFERRED.

5           (F) ANY OTHER FACTORS BEARING ON THE HEALTH AND WELFARE OF THE  
6 RESIDENTS OF THE LOCAL GOVERNMENTAL UNIT THAT THE BOARD OF TRUSTEES  
7 OR SUBSIDIARY BOARD CONSIDERS APPROPRIATE.

8           (3) A BOARD OF TRUSTEES OR SUBSIDIARY BOARD MAY ACCEPT SECURED  
9 OR UNSECURED NOTES, BONDS, OR OBLIGATIONS GIVEN BY OR ON BEHALF OF  
10 A BUSINESS ORGANIZATION OR ANY OTHER FORMS OF PAYMENT THAT IT  
11 CONSIDERS APPROPRIATE IN FULL OR PARTIAL SATISFACTION OF ANY  
12 MONETARY CONSIDERATION PROVIDED UNDER AN AGREEMENT FOR A SALE OR  
13 TRANSFER DESCRIBED IN SUBSECTION (1).

14           (4) ANY BOARD OF TRUSTEES OR SUBSIDIARY BOARD THAT SELLS OR  
15 TRANSFERS A CORPORATION, SUBSIDIARY CORPORATION, OR HEALTH  
16 FACILITIES UNDER THIS SECTION SHALL REQUIRE, FOR A TERM OF NOT LESS  
17 THAN 30 YEARS, THAT USE OF THE HEALTH CARE FACILITIES OWNED BY THE  
18 SOLD OR TRANSFERRED CORPORATION OR SUBSIDIARY CORPORATION OR THE  
19 SOLD OR TRANSFERRED HEALTH CARE FACILITIES SHALL BE OPEN TO ALL  
20 REGARDLESS OF RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX, AGE,  
21 DISABILITY, MARITAL STATUS, SEXUAL PREFERENCE, OR SOURCE OF  
22 PAYMENT, AND THAT THE BUSINESS ORGANIZATION ACQUIRING THOSE HEALTH  
23 CARE FACILITIES OR THAT CORPORATION OR SUBSIDIARY CORPORATION SHALL  
24 PROVIDE AN EQUAL OPPORTUNITY FOR EMPLOYMENT, WITHOUT DISCRIMINATION  
25 AS TO RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX, AGE, DISABILITY,  
26 MARITAL STATUS, OR SEXUAL PREFERENCE.

27           (5) ANY TRANSFER MADE BY A SUBSIDIARY BOARD IN RELIANCE ON

1 THIS SECTION SHALL BE MADE ONLY WITH THE PRIOR APPROVAL OF THE  
2 BOARD OF TRUSTEES OF ITS PARENT CORPORATION.

3 (6) ANY SALE OR TRANSFER OF OWNERSHIP OF A CORPORATION OR  
4 SUBSIDIARY CORPORATION UNDER THIS SECTION SHALL BE MADE ONLY WITH  
5 THE PRIOR APPROVAL OF THE COUNTY BOARD OF COMMISSIONERS, CITY  
6 COUNCIL, OR VILLAGE COUNCIL. ANY SALE OR TRANSFER OF OWNERSHIP OR  
7 OPERATION OF HEALTH CARE FACILITIES OR HEALTH SERVICES BY A  
8 CORPORATION OR A SUBSIDIARY CORPORATION UNDER THIS SECTION SHALL BE  
9 MADE ONLY WITH THE PRIOR APPROVAL OF THE COUNTY BOARD OF  
10 COMMISSIONERS, CITY COUNCIL, OR VILLAGE COUNCIL, IF EITHER OF THE  
11 FOLLOWING APPLIES:

12 (A) THE HEALTH CARE FACILITIES OR HEALTH SERVICES TO BE  
13 TRANSFERRED PROVIDED MORE THAN 10% OF THE GROSS REVENUES OF THE  
14 CORPORATION OR SUBSIDIARY CORPORATION MAKING THE TRANSFER,  
15 DETERMINED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING  
16 PRINCIPLES, IN EITHER OF THE 2 FULL FISCAL YEARS OF THE CORPORATION  
17 OR SUBSIDIARY CORPORATION COMPLETED IMMEDIATELY PRECEDING THE DATE  
18 OF THE TRANSFER.

19 (B) A MAJORITY OF THE GOVERNING BODY OF THE BUSINESS  
20 ORGANIZATION ACQUIRING THE HEALTH CARE FACILITIES OR HEALTH  
21 SERVICES IS COMPOSED OF INDIVIDUALS WHO ARE ALSO SERVING AS  
22 TRUSTEES OF THE CORPORATION OR THE SUBSIDIARY CORPORATION MAKING  
23 THE TRANSFER.

24 (7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, NO  
25 SALE OR TRANSFER UNDER THIS SECTION SHALL BE MADE IN SUCH A WAY AS  
26 TO IMPAIR THE OBLIGATION OF THE CORPORATION OR THE SUBSIDIARY  
27 CORPORATION WITH RESPECT TO ANY OUTSTANDING CORPORATION OBLIGATION,

1 **BOND, NOTE, OR CONTRACT.**

2 Sec. 307. (1) As used in this section:

3 (a) "Contractor" means ~~an entity which~~ **A BUSINESS ORGANIZATION**  
4 **OR OTHER ENTITY THAT** enters into a contract or other agreement with  
5 a local governmental unit, corporation, or subsidiary corporation  
6 for the purpose of providing health services or for the management,  
7 administration, or operation of a health care facility or  
8 department of a health care facility, ~~pursuant to~~ **UNDER** section  
9 303(h), 304(d), 304(e), 304(l), 305(b), 305(i), ~~or~~ **OR 306A.**  
10 Contractor includes a local governmental unit, corporation, or  
11 subsidiary corporation.

12 (b) "Transferee" means ~~an entity which~~ **A BUSINESS ORGANIZATION**  
13 **OR OTHER ENTITY THAT** receives, accepts, or comes into possession or  
14 an ownership or leasehold interest in a health care facility,  
15 department of a health care facility, or other real or personal  
16 assets of a health care facility ~~pursuant to~~ **UNDER** section 303(h),  
17 304(d), 304(e), 304(l), 305(b), 305(i), ~~or~~ **OR 306A.** Transferee  
18 includes a corporation, county, or subsidiary corporation.

19 (c) "Affected health care facility" means a health care  
20 facility or part or department of a health care facility regularly  
21 employing 5 or more ~~persons~~ **INDIVIDUALS** on a full-time basis or the  
22 equivalent ~~which~~ **THAT** is the subject of any transaction made  
23 ~~pursuant to~~ **UNDER** section 303(h), 304(d), 304(e), 304(l), 305(b),  
24 305(i), ~~or~~ **OR 306A.**

25 (2) A local governmental unit, corporation, or subsidiary  
26 corporation shall not enter into a contract, lease, agreement,  
27 transfer, or other arrangement authorized in section 303(h),

1 304(d), 304(e), 304(l), 305(b), 305(i), ~~or~~ 306, **OR 306A** with a  
2 contractor or transferee under which the contractor or transferee  
3 agrees or can reasonably be expected to continue the operation of  
4 the affected health care facility for the purpose of providing  
5 health services unless the local governmental unit, corporation, or  
6 subsidiary corporation agrees to retain the employees of the  
7 affected health care facility and continue all collective  
8 bargaining agreements covering ~~such~~ **THOSE** employees or unless the  
9 contractor or transferee agrees to all of the following:

10 (a) That all collective bargaining agreements in effect and  
11 covering employees of the affected health care facility shall be  
12 continued in full force and effect by the contractor or transferee.

13 (b) That employees of the affected health care facility shall  
14 be employed by the contractor or transferee and shall not be  
15 replaced with new employees, except in accordance with applicable  
16 collective bargaining agreements and with policies applicable to  
17 the affected health care facility existing on the date of ~~such~~ **THE**  
18 contract, lease, agreement, transfer, or other arrangement.

19 (c) That the contractor or transferee shall continue the terms  
20 and conditions of employment of employees of the affected health  
21 care facility.

22 (d) That the contractor or transferee shall grant recognition  
23 to each collective bargaining agent of employees of the affected  
24 health care facility ~~which~~ **THAT** had representation rights on the  
25 date of the contract, agreement, or other arrangement. However, a  
26 contract, lease, agreement, transfer, or other arrangement may  
27 permit ~~such~~ **ANY** modifications of the obligations of the contractor



1 or transferee ~~as~~ **THAT** may be required to conform to an order of the  
2 ~~national labor relations board~~ **NATIONAL LABOR RELATIONS BOARD** in  
3 appropriate proceedings.

4 (3) This section does not limit employees' rights, under  
5 applicable law, to assert that their bargaining representative is  
6 no longer representative of the employee.

7 (4) If a local governmental unit, corporation, or subsidiary  
8 corporation enters into an agreement providing for a transaction  
9 that is subject to subsection (2), an employee of the affected  
10 health care facility or the collective bargaining agent of such an  
11 employee shall have standing to commence an action in the circuit  
12 court for the county to determine if the transaction is in  
13 compliance with subsection (2), if the action is commenced within  
14 90 days after written notice by the local governmental unit,  
15 corporation, or subsidiary corporation to the employees and  
16 collective bargaining agent of the affected health care facility of  
17 the execution of ~~such~~ **THE** agreement. If the court determines that  
18 the agreement is not in compliance with subsection (2), and if the  
19 local governmental unit, corporation, or the subsidiary corporation  
20 and the contractor or transferee do not agree to amendments making  
21 the agreement in compliance with subsection (2), the court shall  
22 declare the agreement void and of no effect and provide for  
23 rescission of the transactions provided for under the agreement.

24 (5) An employee of a county public hospital, city public  
25 hospital, village public hospital, or other health care facility  
26 who, on ~~the effective date of this act,~~ **FEBRUARY 27, 1988,**  
27 participates in the federal old age, survivors, and disability

1 insurance benefits program through a voluntary agreement made  
2 ~~pursuant to~~**UNDER** section 218 of title II of the social security  
3 act, 42 ~~U.S.C.~~**USC** 418, shall continue to participate in the  
4 program if the individual is employed by a corporation or  
5 subsidiary corporation ~~pursuant to~~**UNDER** this act.

6 Enacting section 1. This amendatory act takes effect 90 days  
7 after the date it is enacted into law.