

SENATE BILL No. 1114

September 5, 2018, Introduced by Senator CASPERSON 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,

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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) ~~(H)~~—"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) ~~(e)~~—"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~~ **306, 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~~ **306, 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~~ **306, 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.