

Act No. 62
Public Acts of 1998
Approved by the Governor
April 17, 1998
Filed with the Secretary of State
April 20, 1998
EFFECTIVE DATE: April 20, 1998

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senator Van Regenmorter

ENROLLED SENATE BILL No. 361

AN ACT to amend 1987 PA 230, entitled "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, constructing, adding to, repairing, remodeling, renovating, equipping, and re-equipping hospitals and other health care facilities and related purposes; to provide for the application of this act to existing municipal hospitals and for the transfer of ownership of hospital funds and personal property; to validate and ratify the existence, organization, actions, proceedings, and board membership of existing organizations acting as county public hospitals; to provide for the appointment of trustees; to grant certain powers of a public body corporate to health facilities corporations and subsidiary health facilities corporations; to empower certain local governmental units to encumber property for the benefit of, transfer or make property available to, issue bonds to construct facilities to be used by, appropriate funds for, and levy a tax for, municipal health facilities corporations and subsidiary municipal health facilities corporations; to empower certain local governmental units to guarantee obligations of municipal health facilities corporations and subsidiary municipal health facilities corporations and to permit certain local governmental units to pledge their full faith and credit to pay such guaranties; to provide for transfer of ownership or operation of health care facilities and health services to nonprofit health care organizations; to authorize municipal health facilities corporations and subsidiary municipal health facilities corporations to borrow money and issue notes for the purposes of meeting expenses of operation and to issue corporation obligations for the purpose of acquisition, construction, repair, remodeling, equipping or re-equipping of health care facilities and for the refinancing, refunding, or refunding in advance of indebtedness of the municipal health facilities corporations or the subsidiary municipal health facilities corporations or of indebtedness of certain local governmental units undertaken on their behalf; to authorize municipal health facilities corporations and subsidiary municipal health facilities corporations to enter into mortgages, deeds of trust, and other agreements for security which may include provisions for the appointment of receivers; to exempt obligations and property of municipal health facilities corporations and subsidiary municipal health facilities corporations from taxation; and to provide other rights, powers, and duties of municipal health facilities corporations and subsidiary municipal health facilities corporations," by amending section 306 (MCL 331.1306), as amended by 1988 PA 502.

The People of the State of Michigan enact:

Sec. 306. (1) Subject to applicable licensing and other regulatory requirements, and subject to any approvals required under subsections (5) and (6), each board of trustees and subsidiary board may enter into and carry out agreements for the reorganization and the transfer of ownership or operation of some or all of its health care facilities and related assets or health services to a nonprofit health care organization or to a public authority on behalf of a nonprofit health care organization by sale, installment sales agreement, land contract, lease, lease with an option to purchase, sublease, contract, option, or by any other means.

(2) In establishing the terms of a reorganization pursuant to this section, the board of trustees or subsidiary board may take into account, in addition to the monetary consideration for the transfer, if any, 1 or more of the following:

(a) The ability and willingness of the nonprofit health care organization to continue to provide health services to residents of the local governmental unit.

(b) The assumption by the nonprofit health care organization of liabilities, obligations, and risks associated with ownership or operation of the health care facilities and health services transferred, including those associated with outstanding bonds, notes and obligations, pension, retirement, and other benefits for employees and employees and conditions attached to public or private grants.

(c) The willingness and ability of the nonprofit health care organization to provide services to those unable to pay fully for their care.

(d) The elimination of or reduction in support required for the health care facilities or health services from tax revenues or other public sources.

(e) The ability and willingness of the nonprofit health care corporation to expand or improve the health care facilities or the health services being transferred.

(f) Such other factors bearing on the health and welfare of the residents of the local governmental unit as the board of trustees or subsidiary board considers appropriate.

(3) A board of trustees or subsidiary board may accept secured or unsecured notes, bonds, or obligations given by or on behalf of a nonprofit health care organization or such other forms of payment as it considers appropriate in full or partial satisfaction of any monetary consideration provided under an agreement for reorganization pursuant to this section.

(4) Any board of trustees or subsidiary board transferring health care facilities pursuant to this section shall require, for a term of not less than 30 years, that use of the health care facilities transferred shall be open to all regardless of race, religion, color, national origin, sex, age, disability, marital status, sexual preference, or source of payment, and that the nonprofit health care organization acquiring such health care facilities shall provide an equal opportunity for employment, without discrimination as to race, religion, color, national origin, sex, age, disability, marital status, or sexual preference.

(5) Any transfer made by a subsidiary board in reliance upon this section shall be made only with the prior approval of the board of trustees of its parent corporation.

(6) Any transfer by a corporation or a subsidiary corporation in reliance upon this section shall be made only with the prior approval of the county board of commissioners, city council, or village council, if either of the following applies:

(a) The health care facilities or health services to be transferred provided more than 10% of the gross revenues of the corporation or subsidiary corporation making the transfer, determined in accordance with generally accepted accounting principles, in either of the 2 full fiscal years of the corporation or subsidiary corporation completed immediately preceding the date of the transfer.

(b) A majority of the governing body of the nonprofit health care organization acquiring the health care facilities or health services is composed of persons who are also serving as trustees of the corporation or the subsidiary corporation making the transfer.

(7) Notwithstanding any other provision of this section, no transfer shall be made in such a way as to impair the obligation of the corporation or the subsidiary corporation with respect to any outstanding corporation obligation, bond, note, or contract.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Mary B. Buehler

Clerk of the House of Representatives.

Approved _____

Governor.