

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

HOUSE BILL 1581

4
5 By: Representative Wilson

For An Act To Be Entitled

9 "The Nonprofit Hospital Sale Act."

Subtitle

12 "The Nonprofit Hospital Sale Act."

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

16 SECTION 1. This act shall be known and may be cited as the "Nonprofit
17 Hospital Sale Act."

19 SECTION 2. For purposes of this act:

20 (a) "Acquisition" means any acquisition by a person or persons with
21 ownership or controlling interest in a hospital, whether by purchase, merger,
22 lease, gift, or otherwise, which results in a change of ownership or control
23 of twenty percent (20%) or greater or which results in the acquiring person or
24 persons holding a fifty percent (50%) or greater interest in the ownership or
25 control of a hospital, but acquisition does not include the acquisition of an
26 ownership or controlling interest in a hospital owned by a nonprofit
27 corporation having a substantially similar charitable health care purpose as
28 the transferor or is a governmental entity;

29 (b) "Department" means the Department of Health;

30 (c) "Hospital" means (1) any institution, facility, place, or building
31 which is devoted primarily to the maintenance and operation of facilities for
32 the diagnosis, treatment, or medical care over a period exceeding twenty-four
33 (24) consecutive hours of two (2) or more unrelated persons suffering from
34 illness, condition, injury, or deformity, (2) any institution, facility,
35 place, or building which is devoted primarily to the rendering over a period
36 exceeding twenty-four (24) consecutive hours of obstetrical or other medical

1 care for two (2) or more unrelated persons, or (3) any institution, facility,
2 place, or building in which any accommodation is primarily maintained,
3 furnished, or offered for the medical and nursing care over a period exceeding
4 twenty-four (24) consecutive hours or two (2) or more unrelated aged or infirm
5 persons requiring or receiving convalescent care. Hospitals shall not be
6 construed to include the residence, office, or clinic of a physician or of an
7 association of physicians, any other health practitioner, or any practitioner
8 or association of practitioners, in which residence, office, or clinic
9 patients are not treated or given care for a period in excess of twenty-four
10 (24) consecutive hours.

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12 SECTION 3. No person shall engage in the acquisition of a hospital
13 owned by a nonprofit corporation without first having applied for and received
14 the approval of the department. No person shall engage in the acquisition of a
15 hospital not owned by a nonprofit corporation without first having applied for
16 and received the approval of the department pursuant to this act unless such
17 acquiring person is a nonprofit corporation exempt from federal income tax
18 under Section 501(c)(3) of the Internal Revenue Code or is a governmental
19 entity. The application shall be submitted to the department on forms
20 provided by the department and shall include the name of the seller, the name
21 of the purchaser or other parties to the acquisition, the terms of the
22 proposed agreement, the sale price, a copy of the acquisition agreement, a
23 financial and economic analysis and report from an independent expert or
24 consultant of the effect of the acquisition under the criteria set forth in
25 this act and all other related documents.

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27 SECTION 4. (a) Within five (5) working days after receipt of an
28 application under Section 3, the department shall publish notice of the
29 application in a newspaper of general circulation in the county or counties
30 where the hospital is located and shall notify by first-class United States
31 mail any person who has requested notice of the filing of such applications.
32 The notice shall state that an application has been received, state the names
33 of the parties to the agreement, describe the contents of the application, and
34 state the date by which a person may submit written comments about the
35 application to the department.

36 (b) Within sixty (60) days after receiving an application, the

1 department shall review the application in accordance with the standards set
 2 forth in this act and approve or disapprove the acquisition pursuant to the
 3 act.

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 5 SECTION 5. The department shall, during the course of review under
 6 Section 4 or Section 6, hold a public hearing in which any person may file
 7 written comments and exhibits or appear and make a statement. The department
 8 may subpoena additional information or witnesses, require and administer
 9 oaths, require sworn statements, take depositions, and use related discovery
 10 procedures for purposes of the hearing and at any time prior to making a
 11 decision on the application. The hearing shall be held not later than thirty
 12 (30) days after receipt of an application. The hearing shall be held upon ten
 13 (10) working days notice, not including days the application is deemed to be
 14 incomplete.

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 16 SECTION 6. (a) The department shall review the completed application in
 17 accordance with the standards enumerated in Section 7. Within sixty (60) days
 18 after receipt of a completed application, the department shall:

19 (1) Approve the acquisition, with or without any specific
 20 modifications; or

21 (2) Disapprove the acquisition.

22 (b) The department shall not make its decision subject to any condition
 23 not directly related to criteria enumerated in Section 7, and any condition or
 24 modification shall bear a direct and rational relationship to the application
 25 under review. The department shall adopt and promulgate regulations
 26 establishing procedures by which any affected person may appeal a final
 27 decision by the department under the Administrative Procedure Act.

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 29 SECTION 7. In making a decision whether to approve or disapprove an
 30 application, the department shall consider:

31 (1) Whether sufficient safeguards are included to assure the affected
 32 community continued access to affordable care;

33 (2) Whether the purchaser and parties to the acquisition have made a
 34 commitment to provide health care to the disadvantaged, the uninsured, and the
 35 underinsured and to provide benefits to the affected community to promote
 36 improved health care;

1 (3) Activities and funding provided by the seller or its successor
 2 nonprofit corporation or foundation to provide such health care; and

3 (4) If health care providers will be offered the opportunity to invest
 4 or own an interest in the purchaser or a related entity to the purchaser,
 5 whether procedures or safeguards are in place to avoid conflict of interest in
 6 patient referral and the nature of such procedures or safeguards.

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8 SECTION 8. If the department receives information indicating that the
 9 acquiring person is not fulfilling the commitment to the affected community
 10 under Section 7, the department shall hold a hearing upon ten (10) days
 11 notice to the affected parties. If after such hearing the department
 12 determines that the information is true, it may rescind its approval for the
 13 acquisition.

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15 SECTION 9. No license to operate a hospital may be issued or renewed by
 16 any agency of this state and a license which has been issued shall be subject
 17 to revocation or suspension, if:

18 (1) There is an acquisition of a hospital without first having received
 19 the approval of the department under this act; or

20 (2) The hospital is not fulfilling its commitment under Section 7.

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22 SECTION 10. All provisions of this act of a general and permanent nature
 23 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 24 Revision Commission shall incorporate the same in the Code.

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26 SECTION 11. If any provision of this act or the application thereof to
 27 any person or circumstance is held invalid, such invalidity shall not affect
 28 other provisions or applications of the act which can be given effect without
 29 the invalid provision or application, and to this end the provisions of this
 30 act are declared to be severable.

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32 SECTION 12. All laws and parts of laws in conflict with this act are
 33 hereby repealed.

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