

CHAPTER 641

(Senate Bill 946)

AN ACT concerning

Hospital Regulation and Financing – Maryland Hospital Bond Program and User Fees of the Health Services Cost Review Commission

FOR the purpose of specifying that certain hospital plans must be acceptable to the Secretary of Health and Mental Hygiene, in consultation with the Maryland Health Care Commission; providing that the Maryland Hospital Bond Program shall provide for the payment and refinancing of certain public obligations issued on behalf of a hospital on or after a certain date under certain circumstances; requiring a hospital with public obligations issued on or after a certain date to provide to the Secretary a certain closure plan under certain circumstances; requiring a certain closure plan to include a certain plan for provision of care to certain patients and populations; repealing a prohibition on certain user fees for the Health Services Cost Review Commission increasing from one fiscal year to the next by more than a certain percentage amount; clarifying the circumstances under which the Commission can assess a certain fee; and generally relating to hospital regulation and financing.

BY repealing and reenacting, without amendments,

Article – Economic Development

Section 10–340

Annotated Code of Maryland

(As enacted by Chapter ____ (H.B. 1050) of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,

Article – Economic Development

Section 10–343 and 10–346

Annotated Code of Maryland

(As enacted by Chapter ____ (H.B. 1050) of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19–213(c) and 19–223

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Economic Development

10–340.

(a) In this part the following words have the meanings indicated.

(b) “Affiliate” means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(c) (1) “Closure cost” means costs incurred in connection with the closure or delicensing of a hospital.

(2) “Closure cost” includes expenses of operating a hospital, payments to employees, employee benefits, fees of consultants, insurance, security services, utilities, legal fees, capital costs, costs of terminating contracts with vendors, suppliers of goods and services and others, debt service, contingencies, and other necessary or appropriate costs and expenses.

(d) “Control” means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person through equity interest, membership interest, or contract other than a commercial contract for goods or nonmanagement services, or otherwise, whether or not the power is exercised or sought to be exercised.

(e) “Hospital” means an institution defined as a hospital under § 19–301 of the Health – General Article and that is licensed as a hospital by the Secretary of Health and Mental Hygiene under § 19–318 of the Health – General Article.

(f) “Program” means the Maryland Hospital Bond Program under this part.

(g) (1) “Public obligation” means a bond, note, evidence of indebtedness, or other obligation, to repay borrowed money issued by the Authority, the State, a unit, instrumentality, or public corporation of the State, a public body as defined in Article 31, § 9 of the Code, a county, or a municipal corporation.

(2) “Public obligation” does not include an obligation, or portion of an obligation, if:

(i) the principal of and interest on the obligation or the portion of the obligation is:

1. insured by an effective municipal bond insurance policy; and

2. issued on behalf of a hospital that voluntarily closed in accordance with § 19–120(l) of the Health – General Article; and

(ii) the proceeds of the obligation or the portion of the obligation are used to finance wholly or partly:

1. a facility or part of a facility that is used primarily to provide outpatient services at a location other than the hospital; or

2. a facility or part of a facility that is used primarily by physicians who are not employees of the hospital to provide services to nonhospital patients.

10–343.

(a) There is a Maryland Hospital Bond Program in the Authority.

(b) **[The] FOR PUBLIC ~~BODY~~ OBLIGATIONS ISSUED ON BEHALF OF A HOSPITAL BEFORE OCTOBER 1, 2008, THE** Program shall provide for the payment and refinancing of public obligations of a hospital, if:

(1) (i) the closure of the hospital is in accordance with § 19–120(l) of the Health – General Article; or

(ii) the delicensure of the hospital is in accordance with § 19–325 of the Health – General Article;

(2) a public obligation issued on behalf of the hospital is outstanding; and

(3) the hospital plan for closure or delicensure and the related financing plan is acceptable to:

(I) the Secretary of Health and Mental Hygiene, **IN CONSULTATION WITH THE MARYLAND HEALTH CARE COMMISSION**; and

(II) the Authority.

(c) **FOR PUBLIC ~~BODY~~ OBLIGATIONS ISSUED ON BEHALF OF A HOSPITAL ON OR AFTER OCTOBER 1, 2008, THE PROGRAM SHALL PROVIDE FOR THE PAYMENT AND REFINANCING OF PUBLIC OBLIGATIONS OF A HOSPITAL, IF:**

(1) (I) **THE CLOSURE OF THE HOSPITAL IS IN ACCORDANCE WITH § 19–120(L) OF THE HEALTH – GENERAL ARTICLE; OR**

(II) THE DELICENSURE OF THE HOSPITAL IS IN ACCORDANCE WITH § 19-325 OF THE HEALTH – GENERAL ARTICLE;

(2) A PUBLIC OBLIGATION ISSUED ON BEHALF OF THE HOSPITAL IS OUTSTANDING;

(3) THE HOSPITAL PLAN FOR CLOSURE OR DELICENSURE AND THE RELATED FINANCING PLAN IS ACCEPTABLE TO:

(I) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, IN CONSULTATION WITH THE MARYLAND HEALTH CARE COMMISSION; AND

(II) THE AUTHORITY; AND

(4) THE HEALTH SERVICES COST REVIEW COMMISSION DETERMINES THAT IMPLEMENTATION OF THE PROGRAM IS IN THE PUBLIC INTEREST, TAKING INTO ACCOUNT THE AMOUNT OF SYSTEM-WIDE SAVINGS TO THE HEALTH CARE SYSTEM IN THE STATE THAT MIGHT BE EXPECTED AS A RESULT OF THE CLOSURE.

10-346.

(a) (1) A hospital that intends to close or is scheduled to be delicensed shall provide the Authority and the Health Services Cost Review Commission with a written statement of any outstanding public obligations issued on its behalf.

(2) The statement shall include:

(i) the name of each issuer of the public obligation;

(ii) the outstanding principal amount of each public obligation;

(iii) the due dates for payment or any mandatory redemption or purchase of each public obligation;

(iv) the due dates for the payment of interest on each public obligation and the interest rates; and

(v) the documents and information about the public obligation that the Authority or the Health Services Cost Review Commission requests.

(B) (1) A HOSPITAL WITH PUBLIC OBLIGATIONS ISSUED ON OR AFTER OCTOBER 1, 2008, THAT INTENDS TO CLOSE OR IS SCHEDULED TO BE DELICENSED, SHALL PROVIDE TO THE SECRETARY OF HEALTH AND MENTAL

HYGIENE A CLOSURE PLAN THAT IS ACCEPTABLE TO THE SECRETARY, IN CONSULTATION WITH THE MARYLAND HEALTH CARE COMMISSION.

(2) THE CLOSURE PLAN REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE THE PLAN OF THE HOSPITAL FOR THE PROVISION OF CARE TO ITS PATIENTS AND TO THE POPULATION IN ITS SERVICE AREA.

[(b)] (C) The hospital shall file the [statement] **ITEMS** required under [subsection (a)] **SUBSECTIONS (A) AND (B)** of this section:

(1) within 10 days after the date of filing the written notice of intent to close under § 19–120(l) of the Health – General Article with the Maryland Health Care Commission; or

(2) at least 150 days before the scheduled date of delicensure under § 19–325 of the Health – General Article.

Article – Health – General

19–213.

(c) (1) The total fees assessed by the Commission may not exceed \$5,500,000.

(2) The total user fees assessed by the Commission may not exceed the Special Fund appropriation for the Commission by more than 20%.

(3) The user fees assessed by the Commission shall be used exclusively to cover the actual documented direct costs of fulfilling the statutory and regulatory duties of the Commission in accordance with the provisions of this subtitle and any administrative costs for services to the Commission provided by the Department.

(4) The Commission shall pay all funds collected from fees assessed in accordance with this section into the Health Services Cost Review Commission Fund.

(5) The user fees assessed by the Commission may be expended only for purposes authorized by the provisions of this subtitle.

(6) [The percentage amount by which total user fees assessed by the Commission under this section are increased from one fiscal year to the next may not exceed the percentage amount by which the annual update factor applicable to all Maryland general acute care hospitals is increased for the same fiscal year.

(7)] The amount specified in paragraph (1) of this subsection limits only the total user fees the Commission may assess in a fiscal year.

19-223.

The Commission shall assess a fee on all hospitals whose rates have been approved by the Commission to pay for:

(1) [The] **TO THE EXTENT PROVIDED FOR IN TITLE 10, SUBTITLE 3, PART IV OF THE ECONOMIC DEVELOPMENT ARTICLE, THE** amounts required by [subsection (k) of § 16A of Article 43C of the Code] **§ 10-350 OF THE ECONOMIC DEVELOPMENT ARTICLE** with respect to public [body] obligations or closure costs of a closed or delicensed hospital [as defined in Article 43C, § 16A of the Code]; and

(2) Funding the Hospital Employees Retraining Fund.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 22, 2008.