

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 89**  
**97TH GENERAL ASSEMBLY**

0113H.04C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 198.310 and 198.345, RSMo, and to enact in lieu thereof three new sections relating to the establishment and administration of certain health care facilities and senior housing, with an emergency clause for a certain section.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 198.310 and 198.345, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 96.229, 198.310, and 198.345, to read as follows:

**96.229. 1. On or after January 1, 2013, a city in which a hospital is located that:**

**(1) Is organized and operated under this chapter;**

**(2) Has not accepted appropriated funds from the city during the prior twenty years; and**

**(3) Is licensed by the department of health and senior services for two hundred fifty beds or more under sections 197.010 to 197.120;**

**shall not have authority to sell, lease, or otherwise transfer all or any portion of the assets of the hospital to, or cause a merger or consolidation with, any other person or entity.**

**2. A hospital described under subsection 1 of this section may become a public benefit corporation governed by chapter 355 upon a majority vote of the people voting on the issue or upon adoption of a resolution by a majority vote of the board of trustees. For purposes of this section, the term "public benefit corporation" shall have the meaning as such term is defined in subdivision (28) of section 355.066.**

**3. On or after January 1, 2013, the board of trustees of a hospital described under subsection 1 of this section may adopt a resolution, by a majority vote of the board, to**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 become a public benefit corporation governed by the provisions of chapter 355. No less  
18 than twenty days prior to the vote by the board of trustees on such resolution, the board  
19 of trustees shall provide notice of such intended vote to the residents of the city in which  
20 the hospital is located in a newspaper of general circulation in the area where published.  
21 The board shall further make available, upon request, to the residents of such city such  
22 nonconfidential financial, operational, strategic, and other information about the hospital,  
23 prepared by independent third parties, to enable the residents of such city to make an  
24 informed judgment as to the current financial and operational strengths of the hospital and  
25 the ability of the hospital to sustain such strengths in the future as a public benefit  
26 corporation. Unless the resolution provides otherwise, at any time before filing by the  
27 secretary of state of the articles of incorporation for the hospital, the conversion of the  
28 hospital to a public benefit corporation may be abandoned, subject to any contractual  
29 rights and in accordance with any procedure set forth in the resolution adopted by the  
30 board of trustees or, if none is set forth, with the subsequent approval of a majority of the  
31 board of trustees.

32       4. As an alternative to the procedure described in subsection 3 of this section,  
33 whenever the governing body of the city in which the hospital described in subsection 1 of  
34 this section is located receives a petition, signed by five percent of the registered voters of  
35 such city voting in the last city election, calling for the hospital to become a public benefit  
36 corporation, the governing body shall submit to the voters of such city the question of  
37 whether to have the hospital become a public benefit corporation. If a majority of the votes  
38 cast on the proposal by the registered voters voting thereon are in favor of the proposal,  
39 the board of trustees shall comply with the requirements of subsections 5 to 11 of this  
40 section and the provisions of subsection 11 of this section shall apply to the hospital. In the  
41 event that a majority of voters voting on such question do not vote in favor, no further  
42 petition shall be accepted, nor shall any vote on such question be held, until no earlier than  
43 five years following the date of the previous vote on such question.

44       5. The conversion of the hospital from a hospital organized and operated under this  
45 chapter to a public benefit corporation shall not become effective unless and until the  
46 payment of any interest and principal of any outstanding valid revenue bond of the city  
47 secured by hospital property and incurred for the purposes specified in section 96.222,  
48 shall have been satisfied in full or otherwise provided for pursuant to a written agreement  
49 between the board of trustees and the holder or holders of such bonds.

50       6. Assets donated to the board of trustees of the hospital under section 96.210, or  
51 initially acquired by the city in which the hospital is located, prior to the hospital becoming  
52 a public benefit corporation, for use by the hospital, including any replacements,

53 substitutions, conversions, or proceeds thereof, shall continue to be used to provide health  
54 care services in the city and in the geographic region previously served by the hospital,  
55 except as otherwise prescribed by the terms of the deed, gift, devise, or bequest.

56 7. Following the passage of the resolution or ballot question provided under this  
57 section, the board of trustees shall give the attorney general written notice of the planned  
58 conversion to a public benefit corporation. The notice shall include a copy of the proposed  
59 articles of incorporation drafted in conformance with subsection 8 of this section, the  
60 resolution described in subsection 3 of this section, if applicable, and evidence which  
61 demonstrates provision for the satisfaction of any bond or bonds described under  
62 subsection 5 of this section. The conversion shall not become effective until twenty days  
63 after the board of trustees has given the written notice required by this subsection to the  
64 attorney general or until the attorney general has consented in writing to, or indicated in  
65 writing that he or she will take no action with respect to, the conversion, whichever is  
66 earlier.

67 8. (1) Upon completion of the twenty-day time period specified in subsection 7 of  
68 this section, the board of trustees shall deliver for filing with the secretary of state the  
69 articles of incorporation of the hospital as prescribed in section 355.096, applicable to  
70 public benefit corporations. The articles of incorporation shall provide that the principal  
71 purpose of the public benefit corporation shall be the establishment, equipping, operating,  
72 and maintaining by purchase, lease, construction, or otherwise of a health care facility or  
73 facilities in the city in which the voters elected to levy a tax under section 96.150 for the  
74 care and treatment of the sick, disabled, and infirm persons.

75 (2) The articles of incorporation shall also include provisions that prohibit the  
76 board of trustees, for a period of fifteen years following the filing of the articles of  
77 incorporation by the secretary of state, from entering into any transaction which would  
78 result in the selling, leasing, or otherwise transferring all or substantially all of the assets  
79 of the hospital to, or merging or consolidating with, a for profit corporation, limited  
80 liability company, general or limited partnership, or any other person or entity which is  
81 not exempt from income taxation under the internal revenue laws of the United States and  
82 of the state of Missouri. The articles of incorporation shall further include provisions that  
83 allow the board of trustees to enter into any such transaction after the conclusion of such  
84 fifteen-year period upon approval by a majority of the registered voters of the city in which  
85 the hospital is located at an election held on such question.

86 9. Unless a delayed effective date is specified, the conversion of the hospital to a  
87 public benefit corporation shall begin when the articles of incorporation are filed by the  
88 secretary of state.

89           **10. Following the filing by the secretary of state of the articles of incorporation for**  
90 **the hospital, the board of trustees, as comprised immediately prior to such filing, shall**  
91 **constitute the initial board of trustees of the resulting public benefit corporation. The**  
92 **initial board of trustees shall adopt bylaws of the public benefit corporation under chapter**  
93 **355; provided, however, that, at all times, the number of the authorized members of the**  
94 **board of trustees of the resulting public benefit corporation shall be no fewer than fifteen**  
95 **trustees. A majority of the positions on the board of trustees shall be allocated to**  
96 **individuals who shall be residents of the county in which such hospital is located and no**  
97 **less than one-half of such county residents shall be residents of the city in which such**  
98 **hospital is located. The power to appoint trustees, fill vacancies, set compensation, and to**  
99 **remove trustees shall be vested in the board of trustees of the resulting public benefit**  
100 **corporation.**

101           **11. The filing by the secretary of state of the articles of incorporation for the**  
102 **hospital shall have the following effects:**

103           **(1) The hospital shall cease to be organized and operated under the provisions of**  
104 **this chapter except as to the provisions of this section;**

105           **(2) The hospital shall possess all rights, privileges, immunities, powers, and**  
106 **franchises possessed by the board of trustees of the hospital prior to such filing and shall**  
107 **be subject to all restrictions, disabilities, and duties of the board of trustees of such hospital**  
108 **prior to such filing to the extent that such rights, privileges, immunities, powers, franchises,**  
109 **restrictions, disabilities, and duties are applicable to the form of existence of the hospital**  
110 **as a public benefit corporation;**

111           **(3) All rights, causes of action, property, and assets of any kind or description,**  
112 **whether real, personal, tangible, or intangible, of the board of trustees of the hospital prior**  
113 **to such filing, and all debts due on whatever account to the board of trustees of the hospital**  
114 **prior to such filing, including all causes of action belonging to the board of trustees of the**  
115 **hospital, shall be deemed to remain vested in the hospital after such filing without further**  
116 **act or deed;**

117           **(4) Title to all real or personal property and any interest therein vested in the board**  
118 **of trustees of the hospital shall not revert or be in any way impaired by reason of such**  
119 **filing;**

120           **(5) The hospital shall thereafter be responsible and liable for all valid liabilities and**  
121 **obligations of the board of trustees of the hospital prior to such filing, subject to the**  
122 **hospital's right to assert all valid defenses and claims of the board of trustees of the**  
123 **hospital which existed prior to such filing; and**

124           **(6) Neither the rights of creditors nor any liens on the property of the hospital shall**  
125 **be impaired by such filing.**

          198.310. 1. For the purpose of purchasing nursing home district sites, erecting nursing  
2 homes and related facilities and furnishing the same, building additions to and repairing old  
3 buildings, the board of directors may borrow money and issue bonds for the payment thereof in  
4 the manner provided herein. The question of the loan shall be submitted by an order of the board  
5 of directors of the district. Notice of the submission of the question, the amount and the purpose  
6 of the loan shall be given as provided in section 198.250.

7           2. The question shall be submitted in substantially the following form:

8           Shall the ..... Nursing Home District borrow money in the amount of ..... dollars for  
9 the purpose of ..... and issue bonds in payment thereof?

10          3. If [two-thirds] **the constitutionally required percentage** of the votes cast are for the  
11 loan, the board shall, subject to the restrictions of subsection 4, be vested with the power to  
12 borrow money in the name of the district, to the amount and for the purposes specified on the  
13 ballot, and issue the bonds of the district for the payment thereof.

14          4. The loans authorized by this section shall not be contracted for a period longer than  
15 twenty years, and the entire amount of the loan shall at no time exceed, including the existing  
16 indebtedness of the district, in the aggregate, ten percent of the value of taxable tangible property  
17 therein, as shown by the last completed assessment for state and county purposes, the rate of  
18 interest to be agreed upon by the parties, but in no case to exceed the highest legal rate allowed  
19 by contract; when effected, it shall be the duty of the directors to provide for the collection of an  
20 annual tax sufficient to pay the interest on the indebtedness as it falls due, and also to constitute  
21 a sinking fund for the payment of the principal thereof within the time the principal becomes due.

          198.345. Nothing in sections 198.200 to 198.350 shall prohibit a nursing home district  
2 from establishing and maintaining apartments for seniors that provide at a minimum housing[,]  
3 **and** food services[, and emergency call buttons to the apartment residents] in any county of the  
4 third **or fourth** classification [without a township form of government and with more than  
5 twenty-eight thousand two hundred but fewer than twenty-eight thousand three hundred  
6 inhabitants or any county of the third classification without a township form of government and  
7 with more than nine thousand five hundred fifty but fewer than nine thousand six hundred fifty  
8 inhabitants] **within its corporate limits**. Such nursing home districts shall not lease such  
9 apartments for less than fair market rent as reported by the United States Department of Housing  
10 and Urban Development.

          Section B. Because of the need to ensure local hospitals can continue the purpose of  
2 providing the best care and treatment of the sick, disabled, and infirm persons as decided on by  
3 the people in the affected community, section 96.229 of section A of this act is deemed necessary

4 for the immediate preservation of the public health, welfare, peace and safety, and is hereby  
5 declared to be an emergency act within the meaning of the constitution, and section 96.229 of  
6 section A of this act shall be in full force and effect upon its passage and approval.

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