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HOUSE BILL NO. 2593

Offered January 21, 1999

A BILL to amend the Code of Virginia by adding a section numbered 32.1-127.4, relating to certain hospital conversions.

Patrons—Purkey, Blevins, Marshall and Parrish; Senators: Colgan, Hawkins, Holland, Lucas, Potts and Ticer

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 32.1-127.4 as follows:**

§ 32.1-127.4. Certain hospital conversions.

A. In accordance with the doctrine of *Parens Patria*, the Attorney General shall be charged with (i) the oversight of any conversion of a nonprofit hospital to a for-profit hospital, regardless of how such conversion is accomplished; (ii) the oversight of any ensuing charitable assets and surplus revenues; and (iii) assuring that the assets of the nonprofit hospital are protected and inured to the community benefit.

B. The administrator or owner of any not-for-profit hospital which is entering into a contract for sale to a for-profit entity or planning to restructure to convert such not-for-profit hospital to a for-profit hospital shall notify the Attorney General at least six months prior to the execution of a contract for sale or the filing of the articles of incorporation as a for-profit corporation and shall provide the Attorney General with (i) an outside, independent expert's appraisal of the assets, fair market value and charitable assets of the not-for-profit hospital and amount of any offers for purchase and (ii) a community impact statement.

C. The Attorney General shall establish a review process for hospital conversion and for approval or disapproval of hospital conversion transactions. The Attorney General's review and approval/disapproval process shall require public disclosure of the negotiations and terms of the transactions as follows: (i) at least one year prior to any such conversion, the public shall be notified of the contemplated purchase or restructuring, in accordance with the Attorney General's procedures, in a newspaper of general distribution and through radio and television announcements in the jurisdiction in which the hospital is located; (ii) within one month of disclosure of the contract for purchase or the filing of the articles of incorporation, and bimonthly thereafter until the conversion is approved or disapproved by the Attorney General or withdrawn by the relevant hospital board, public meetings and/or hearings shall be conducted by the Attorney General's Office, in accordance with the Attorney General's procedures; (iii) the community impact statement shall be published in a newspaper of general distribution in the jurisdiction in which the hospital is located; and (iv) all documents submitted to the Attorney General, regarding any such conversion, shall be available for inspection by the public at reasonable times and places in the jurisdiction.

D. The Attorney General's process for approval or disapproval of hospital conversions shall include (i) assessment of the independent expert's evaluation of assets and whether the seller is receiving fair market value for the assets; (ii) criteria to review the valuation and bidding process, transaction terms, documents, the process for the determination of fair market value, the names and activities of the parties to the transaction, management contracts, and all other collateral agreements relevant to the conversion; (iii) conditions to ensure the avoidance of conflicts of interest on the part of hospital board members and administrators; (iv) stipulations to ensure that the transaction terms are fair and in the community interest; (v) conditions and restrictions on the terms of such conversions which relate to the circumstances of the particular hospital and community; (vi) review of the seller's decisions and actions to ensure that such seller is acting with due diligence and without conflicts of interest and that the use of outside experts was appropriate; (vii) conflict of interest provisions which shall apply to all board members, hospital executives and staff and be designed to avoid conflicts of interest on the part of such hospital board members, hospital executives, and staff; (viii) accounting procedures to ensure that all charitable contributions, federal Hill-Burton moneys, and tax-free revenues are identified; (ix) safeguards to ensure continued assess to care for uninsured and underinsured populations within the jurisdiction, as well as those services traditionally provided to the public by the hospital, such as, but not limited to, emergency services; and (x) criteria to determine the appropriateness of any board or foundation established to oversee the use of any trust or endowment fund set up as a condition of such conversion.

E. In developing and conducting the reviews of hospital conversions, the Attorney General may

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60 *request, and shall receive upon request, full cooperation from the Commonwealth's agencies.*
61 *F. The Attorney General shall determine and establish remedies and penalties for violations of this*
62 *section to be included in his review and approval/disapproval procedures.*