

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 7, 1998 Revised: _____

Subject: Health Facilities Authorities; Accounts Receivable

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Carter</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>BI</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 1060 empowers health facilities authorities established under chapter 154, F.S., to issue bonds and incur other forms of indebtedness on behalf of a health facility (private, not-for-profit corporations organized as hospitals, nursing homes, developmental disabilities facilities, mental health facilities, or providers of life care services under continuing care contracts) or a group of health facilities to use in financing the purchase of accounts receivables acquired from not-for-profit health facilities, whether or not affiliated with the authority, including out-of-state, not-for-profit health facilities.

This bill amends section 154.209(18), Florida Statutes.

II. Present Situation:

Introduction

In Florida, at least one not-for-profit health care system sold to a health facilities authority accounts receivables that it generated and that it purchased from other not-for-profit corporations affiliated with the health system that operate in Florida and outside the state. The health facility authority financed the purchase of the accounts receivables through a \$160,000,000 bond issue in 1996. The health facilities authority realized a \$60,000 profit from its purchase of the health systems accounts receivables. An example of an accounts receivable sold by the health system would be an outstanding balance on a hospital bill owed by a patient for surgery. Accounts receivables financing may involve current accounts or delinquent accounts of varying degrees of delinquency; the “character” of the accounts receivables involved in a bond issue would be specified in the bond indenture (the formal terms of agreement between the bond issuer and the bondholder). When the bill is paid, the health facility authority may either use the funds received

to purchase another patient account or pay down a portion of the bond obligation, unless the bond is approaching final maturity at which time the bond indenture would require that all monies received be applied to repay the bonds issued.

Revenue bonds issued by a health facilities authority do not constitute debt, liability, or obligation on the part of the county or city that created the authority nor are they a pledge of the faith and credit of the state or the county or city that created the authority, as provided in s. 154.223, F.S. Under s. 154.221, F.S., a health facility authority has the discretion to secure a bond issue through a trust agreement by and between the authority and a corporate trustee which may contain a pledge or assign fees, rents, charges, or proceeds from the sale of any project or part of a project, insurance proceeds, condemnation awards, and other funds and revenues to be received from a condemnation, and may provide for the mortgaging of any project or part of a project as security for repayment of the bond.

Part III of ch. 154, F.S., the Health Facilities Authorities Law (hereafter “part III” or “the Law”), was enacted in 1974 to benefit residents of Florida, increase commerce, welfare, and prosperity, and improve health and living conditions, as a matter of declared legislative determination of public interest necessity that residents of the state have access to adequate medical care and health facilities. These benefits and enhancements to the quality-of-life of state residents are to result from granting *each county and municipality appropriate additional means to assist in the development and maintenance of the public health*, as stated in s. 154.203, F.S., stating findings and declaration of necessity. Furthermore, the purpose of part III, is to *provide a measure of assistance and an alternate method to enable health facilities in each county and municipality to supply the facilities and structures which are determined to be needed by the community to accomplish the purposes of this part*. Health facilities authorities are mechanisms created under part III that would enable cities and counties to achieve the objectives stated in the Law.

A health facility under the Law means a private, not-for-profit corporation organized as a state-licensed hospital, nursing home, developmental disabilities facility, mental health facility, or provider of life care services under continuing care contracts. The Law uses the term “local agency” to mean a county or municipality created under Florida law.

A health facilities authority, by definition, may be one of two types of public entities: (1) a public corporation and political entity created by ordinance or resolution of a city or county, bearing the creating governmental entities name; or (2) a board, body, commission, or department of a county or municipality as successor of a health facilities authority. A health facilities authority is deemed to perform an essential public function in the exercise of powers conferred under the Law. The county commission or city council or commission that creates a health facilities authority must designate five persons who are residents of its jurisdiction as members of the authority. Each member of the authority is to serve a 4-year term, under oath or affirmation required by the *State Constitution*, and may be reappointed. Appointments of original members are for staggered terms, as specified in subsection 154.207(4), F.S. The authority is required to annually elect one of its members as chair and another member as vice chair.

Authority members may not be compensated for the performance of their duties, but expenses incurred while performing duties may be paid, as provided under s. 112.061, F.S. However, the authority may employ a paid staff of consulting engineers, architects, surveyors, attorneys, accountants, financial experts, and other persons and agents, as necessary, and fix their compensation. As provided in s. 154.211, F.S., relating to payment of expenses, all expenses incurred by a health facilities authority under part III must be payable solely from funds obtained under the provisions of this part. No liability or obligation may be incurred by a health facilities authority, county or municipality, or the state relating to activities permitted under part III *beyond the extent to which moneys shall have been provided under the provisions of this part.*

Three members of an authority constitute a quorum. However, no vacancy in the membership of the authority will impede the right of a quorum to exercise all rights and perform all the duties of the authority. Actions taken by an authority may be authorized by resolution at any regular or special meeting. The resolution may have immediate effect and the authority is not required to publish or post it. All meetings of an authority and its records, books, documents, and papers are open and available to the public in accordance with the Public Meetings Law, s. 286.011, F.S. Subsection 154.207(9), F.S., expressly states:

Any general or special law, rule or regulation, or ordinance of any local agency to the contrary notwithstanding, service as a member of an authority by a trustee, director, officer, or employee of a health facility shall not in and of itself constitute a conflict of interest. However, any member of the authority who is employed by, or receives income from, a health facility under consideration by the authority shall not vote on any matter related to such facility.

The costs of operating health facilities authorities may be charged to, and equitably apportioned among, health facilities under their respective jurisdictions. If approved by a resolution of the health facilities authority, the authority may donate any surplus funds, including fees or accrued interest, that remain in its account at the end of the fiscal year after its operating costs are paid to the county commission or city council or commission of the county or municipality that created the health facilities authority. A county commission or city council or commission that receives such funds is required to appropriate and disburse those funds to nonprofit human health services agencies. Section 154.239, F.S., requires health facilities authorities to submit within the first 90 days of each calendar year to the county commission or city council or commission that created it a report of its activities that includes a complete operating and financial statement for the preceding calendar year.

Permissive Transactions of Health Facilities Authorities Under Part III of Chapter 154, F.S.

Section 154.209, F.S., provides for health facilities authorities to engage in virtually all types of business transactions allowed under law in furtherance of assisting health facilities within the geographic limits of the county or city that created the authority. Health facilities authorities are granted broad powers to accomplish the purposes of part III, as provided in s. 154.209(19), F.S. Health facilities authorities are delegated, among other powers, the power to: sue and be sued;

acquire by purchase, lease, gift, or otherwise, or obtain options for the acquisition of, any property, real or personal, improved or unimproved, for the acquisition, construction, operation, or maintenance of any project; construct, acquire, own, lease, repair, maintain, extend, expand, improve, rehabilitate, renovate, furnish, and equip projects and to pay all or any part of the costs of projects from the *proceeds of bonds of the authority* or from any other funds made available to the authority for such purpose; make and execute agreements of lease, contracts, deeds, mortgages, notes, and other instruments necessary or convenient in the exercise of its powers and functions under part III; pledge or assign any money, rents, charges, fees, or other revenues and any proceeds derived from sales of property, insurance, or condemnation awards; fix, charge, and collect rents, fees, and charges for the use of any project; issue bonds for the purpose of providing funds to pay all or any part of the cost of any project and issue refunding bonds; acquire existing projects and to refund outstanding obligations, mortgages, or advances issued, made, or given by a health facility for the cost of such project; participate in and issue bonds for the purpose of establishing and maintaining a self-insurance pool, as provided under the state Insurance Code, on behalf of a health facility or a group of health facilities in order to provide for the payment of judgments, settlements of claims, expenses, or loss and damage that arises or is claimed to have arisen from an act or omission of the health facility, its employees, or agents in the performance of health care or health-care-related functions; and issue special obligation revenue bonds for the purpose of establishing and maintaining the self-insurance pool and to provide reserve funds in connection with such an insurance pool.

As a practical matter, health facilities authorities are infrastructures that assist not-for-profit health facilities in the acquisition, construction, financing, and refinancing of *projects* in any incorporated or unincorporated area *within* a county's or city's geographical boundaries. There is no equivalent infrastructure available to for-profit health facilities.

Subsection 154.205(10), F.S., defines “project” to mean *any structure, facility, machinery, equipment, or other property suitable for use by a health facility in connection with its operations or proposed operations, including, without limitation, real property therefor; a clinic, computer facility, dining hall, firefighting facility, fire prevention facility, food service and preparation facility, health care facility, long-term care facility, hospital, interns' residence, laboratory, laundry, maintenance facility, nurses' residence, nursing home, nursing school, office, parking area, pharmacy, recreational facility, research facility, storage facility, utility, or X-ray facility, or any combination of the foregoing; and other structures or facilities related thereto or required or useful for health care purposes, the conducting of research, or the operation of a health facility, including facilities or structures essential or convenient for the orderly conduct of such health facility and other similar items necessary or convenient for the operation of a particular facility or structure in the manner to which its use is intended.* Expressly excluded from the scope of a project under part III are such items as fuel, supplies, or other items which are customarily deemed to result in a current operating charge.

In addition to the meaning given the term “project” in s. 154.205(10), F.S., s. 154.209(18), F.S., explicitly states that the *structuring and financing of an accounts receivable program*, as authorized under this subsection, *constitutes a project*, and, unlike other provisions of the Law

that restrict health facilities authorities to acting on behalf of health facilities within their geographical boundaries, explicitly authorizes health facilities authorities to *structure accounts receivable program projects to the benefit of health facilities within or outside the geographical limits of the county or municipality that established it.*

In 1990, the Act was amended to allow not-for-profit health care corporations to finance their accounts receivables through the issuance of tax-exempt bonds through *any* health facilities authority established in the state. Such a practice allows health care facilities to maximize cash flow liquidity on a consistent and predictable basis.

What are Accounts Receivables?

Accounts receivables are an accounting classification of the outstanding balances of a credit account. They are, for example, the total amount owed by a consumer on his or her VISA or American Express account, gas company account, or the amount owed to a hospital for surgery, treatment, other services received and supplies used in the delivery of health care to a patient.

The 1995 edition of Barron's *Dictionary of Finance and Investment Terms* defines the term "accounts receivable" to mean *amounts owed to a business for merchandise or services sold on open account, a key factor in analyzing a company's liquidity--its ability to meet current obligations without additional revenues.* The term "accounts receivable financing" is defined by the same source to mean *short-term financing whereby accounts receivable serve as collateral to working capital advances.*

A related and relevant concept is that of the accounts receivable aging schedule which is usually prepared by a company's auditor. It is considered a vital tool in analyzing the quality of a company's receivables investment and is frequently required by creditors as a part of the review process relating to a company's request for credit. The following explanation and example are taken from the Barron's dictionary cited above.

The schedule is most often seen as: (1) a list of the amount of receivables by the month in which they were created; (2) a list of receivables by maturity, classified as current or as being in various stages of delinquency. The following is a typical aging schedule.

dollars (in thousands)

Current (under 30 days)	\$14,065	61%
1-30 days past due	3,725	16
31-60 days past due	2,900	12
61-90 days past due	1,800	8
Over 90 days past due	<u>750</u>	<u>3</u>
	\$23,240	100%

The aging schedule reveals patterns of delinquency and shows where collection efforts should be concentrated. It helps in evaluating the adequacy of the reserve to *bad debts*, because the longer accounts stretch out the more likely they are to become uncollectible. Using the schedule can help prevent the loss of future sales, since old customers who fall too far behind tend to seek out new sources of supply.

The Commercial Financing Business

Accounts receivables are a business asset because they represent money owed the business for goods or services that it has provided to a consumer. (Accounts payable is the debt that the business owes for goods and services that it has purchased.) Accounts receivable financing is generally a commercial market activity. Either through discounted sale of outstanding, collectible debt or the use of such debt as collateral to the grant of short-term loans, businesses have used such transactions to bolster their cash reserves, to raise cash for the pursuit of other business opportunities, to cover operating expenses such as payment of salaries or purchase of supplies, or as an accounting gimmick to enhance the appearance of solvency. Typically investment banks extend credit to retailers, such as VISA, by paying .80 on the dollar to the outstanding debt of a company. The credit may be in the form of a corporate bond issue or a line-of-credit. In some instances the bank will sell the accounts receivable or retain it as collateral until a loan has been repaid in full or in part.

Using the Internet search engine, Yahoo, staff retrieved a listing of 21 website links to businesses promoting themselves as sources of accounts receivables financing. Many specifically target health care or medical providers. A company link, <http://www.citx.net/CFG/cfgs0001.html>, (apparently no longer actively maintained) contained the following statements [provided here for illustrative purposes].

*Business Owners, Health Care Providers,
YOU can increase your CASH FLOW and WORKING CAPITAL NOW!
Our Online Interactive Financing Services are ready to service YOUR needs, 24 hours a-day.*

What is Accounts Receivable Funding?

All businesses that offer credit to their business customers have accounts receivable, and the accounts receivable aging report indicates how long the customers take to pay their bills. Whatever the length of time it takes the customers to pay the accounts receivable, it can be financed in such a way that it will turn the credit transactions into cash transactions. Accounts receivable financing brings cash to businesses up front, that will cover your working capital requirements and provide a rebate to the business whenever the customer pays. This high profit, financial alternative can provide the cash that is necessary to invest in the next transaction, to modernize plant and equipment, address health care or other human resource needs, to pay bills and enhance the overall profitability of the business.

III. Effect of Proposed Changes:

The bill amends s. 154.209(18), F.S., which provides the power to health facilities authorities organized under chapter 154, F.S., to participate in and issue bonds and other forms of indebtedness to institute or maintain an accounts receivable program on behalf of a health facility or a group of health facilities. As amended, this subsection expands the scope of accounts receivables that a health facilities authority may finance to include accounts receivables that a not-for-profit health facility *may acquire from another not-for-profit health facility*. That is, a health facility may work with any health facilities authority established in the state to finance accounts receivables that the health facility has acquired from another health facility. A health facilities authority may acquire accounts receivables from a health facility which may or may not be controlled by or affiliated with the acquiring health facility and which may be located in the state or outside the state.

The bill has an effective date of July 1, 1998.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Subsections 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Not-for-profit health facilities within the state and around the country would have an additional source of cash-flow liquidity. It is unclear whether the demand for such liquidity on

the part of not-for-profit health facilities will influence interest rates on bond issues and other credit financing.

C. Government Sector Impact:

Health facilities authorities will be able to generate revenues from the management of bond issues. Such bond issues are not obligations of any governmental jurisdiction other than the involved health facilities authority.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In 1997, staff conferred with an investment banker in North Carolina who specializes in health care financing. She was unfamiliar with accounts receivables transactions in the health care arena, but explained that it is commonplace among consumer goods retailers. She raised a concern that such a practice in the health care industry, on a widespread basis, might “mask” some of the indicators that regulators monitor in assessing the quality-of-care that a health care facility is providing by allowing a poorly managed or insolvent provider to maintain sufficient cash flow and business activity in a way that would render early detection of service deficiencies virtually impossible. On the other hand, accounts receivables financing may give an otherwise well managed health care entity a means of economically addressing problems that have emerged.

VIII. Amendments:

None.