

By the Committees on Budget Subcommittee on General Government Appropriations; Community Affairs; and Health Regulation; and Senators Gaetz and Garcia

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1                   A bill to be entitled  
2           An act relating to the sale or lease of a county,  
3           district, or municipal hospital; amending s. 155.40,  
4           F.S.; defining the terms; requiring that the governing  
5           board of a county, district, or municipal hospital  
6           evaluate the possible benefits to an affected  
7           community from the sale or lease of the hospital  
8           facility to a not-for-profit or for-profit entity  
9           within a specified time period; specifying the actions  
10          the board must take in evaluating whether to sell or  
11          lease the public hospital; requiring the board to  
12          determine whether qualified purchasers or lessees  
13          exist; specifying the factors that must be considered  
14          by the governing board before accepting a proposal to  
15          sell or lease the hospital; requiring the board to  
16          state in writing detailed findings related to its  
17          decision to accept or reject the proposal; requiring  
18          the governing board to make public the required  
19          findings and documents and to publish a notice of the  
20          proposed transaction in one or more newspapers of  
21          general circulation in the county in which the  
22          majority of the physical assets of the hospital are  
23          located; allowing persons to submit written comments  
24          regarding the proposed transaction; providing that the  
25          sale or lease is subject to the approval of the Chief  
26          Financial Officer; requiring the governing board to  
27          file a petition with the Chief Financial Officer  
28          seeking approval of the proposed transaction within a  
29          specified time period; requiring the Chief Financial

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30 Officer or his or her designee to issue a final order  
31 approving or denying the proposed transaction;  
32 specifying the criteria upon which the Chief Financial  
33 Officer must base his or her decision; authorizing an  
34 interested party to appeal the decision of the Chief  
35 Financial Officer; requiring that all costs be paid by  
36 the governing board unless an interested party  
37 contests the action, in which case the court may  
38 assign costs equitably to the parties; providing for  
39 the distribution of proceeds from the transaction;  
40 exempting the sale or lease of specified physical  
41 property of a county, district, or municipal hospital  
42 from processes required for the approval of a sale or  
43 lease of county, district, or municipal hospital  
44 property; providing an exemption from complying with  
45 the requirements of the act under certain  
46 circumstances; exempting application of the act to  
47 hospitals or health care systems for which a letter of  
48 intent to sell or lease is executed before a specified  
49 date; creating s. 155.401, F.S.; providing that the  
50 purposes for which a special taxing district may  
51 appropriate funds from the sale or lease of a hospital  
52 or health care system include the promotion and  
53 support of economic growth in the district and county  
54 in which the taxing district is located and the  
55 furthering of the purposes of the taxing district;  
56 providing that any general or special law that is  
57 inconsistent with or otherwise in conflict with the  
58 act is specifically superseded by the act; amending s.

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59 395.002, F.S.; revising the definition of the term  
 60 "accrediting organizations"; reenacting s.  
 61 395.003(2)(c), F.S., relating to licensure and  
 62 regulation of hospitals, to incorporate the amendment  
 63 made to s. 395.002, F.S., in a reference thereto;  
 64 amending s. 395.3036, F.S.; conforming cross-  
 65 references; providing an effective date.  
 66

67 Be It Enacted by the Legislature of the State of Florida:  
 68

69 Section 1. 155.40, Florida Statutes, is amended to read:

70 155.40 Sale or lease of county, district, or municipal  
 71 hospital; effect of sale.—

72 (1) In the interest of providing quality health care  
 73 services to the ~~order that~~ citizens and residents of this the  
 74 ~~state may receive quality health care, and notwithstanding any~~  
 75 other provision of general or special law, a any county,  
 76 district, or municipal hospital organized and existing under the  
 77 laws of this state, acting by and through its governing board,  
 78 ~~may shall have the authority to~~ sell or lease the such hospital  
 79 to a for-profit or not-for-profit Florida entity corporation,  
 80 and enter into leases or other contracts with a for-profit or  
 81 not-for-profit Florida entity corporation for the purpose of  
 82 operating the and managing such hospital and ~~any or all of its~~  
 83 ~~facilities of whatsoever kind and nature.~~ The term of any such  
 84 lease, contract, or agreement and the conditions, covenants, and  
 85 agreements to be contained therein shall be determined by the  
 86 governing board of the such county, ~~district, or municipal~~  
 87 hospital. The governing board of the hospital must find that the

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88 sale, lease, or contract is in the best interests of the  
89 affected community ~~public~~ and must state the basis of that ~~such~~  
90 finding. ~~If the governing board of a county, district, or~~  
91 ~~municipal hospital decides to lease the hospital, it must give~~  
92 ~~notice in accordance with paragraph (4) (a) or paragraph (4) (b).~~

93 (2) A ~~Any~~ such lease, contract, or agreement made pursuant  
94 hereto shall:

95 (a) Provide that the articles of incorporation of the ~~such~~  
96 for-profit or not-for-profit corporation be subject to the  
97 approval of the board of directors or board of trustees of the  
98 ~~such~~ hospital;

99 (b) Require that any not-for-profit corporation become  
100 qualified under s. 501(c) (3) of the United States Internal  
101 Revenue Code;

102 (c) Provide for the orderly transition of the operation and  
103 management of the ~~such~~ facilities;

104 (d) Provide for the return of the ~~such~~ facility to the  
105 county, municipality, or district upon the termination of the  
106 ~~such~~ lease, contract, or agreement; and

107 (e) Provide for the continued treatment of indigent  
108 patients pursuant to the Florida Health Care Responsibility Act  
109 and pursuant to chapter 87-92, Laws of Florida.

110 (3) Any sale, lease, or contract entered into pursuant to  
111 this section before ~~prior to~~ the effective date of this act must  
112 have complied with the requirements of subsection (2) in effect  
113 at the time of the sale, lease, or contract. Any lease  
114 modification, renewal, or extension relating to a lease  
115 transaction that occurred before the effective date of this act  
116 is not subject to subsections (6)-(17). It is the intent of the

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117 Legislature that this section does not impose any further  
118 requirements with respect to the formation of any for-profit or  
119 not-for-profit Florida entity ~~corporation~~, the composition of  
120 the board of directors of any Florida entity ~~corporation~~, or the  
121 manner in which control of the hospital is transferred to the  
122 Florida entity ~~corporation~~.

123 (4) As used in this section, the term:

124 (a) "Affected community" means those persons residing  
125 within the geographic boundaries defined by the charter of the  
126 county, district, or municipal hospital or health care system,  
127 or if the boundaries are not specifically defined by charter, by  
128 the geographic area from which 75 percent of the county,  
129 district, or municipal hospital's or health care system's  
130 inpatient admissions are derived.

131 (b) "Fair market value" means the price that a seller or  
132 lessor is willing to accept and a buyer or lessee is willing to  
133 pay on the open market and in an arms-length transaction, or  
134 what an independent expert in hospital valuation determines the  
135 fair market value to be.

136 (c) "Interested party" includes a person submitting a  
137 proposal for sale or lease of the county, district, or municipal  
138 hospital or health care system, as well as the governing board.

139 (5) The governing board of a county, district, or municipal  
140 hospital or health care system shall commence an evaluation of  
141 the possible benefits to an affected community from the sale or  
142 lease of hospital facilities owned by the board to a not-for-  
143 profit or for-profit entity no later than December 31, 2012. In  
144 the course of evaluating the benefits of the sale or lease, the  
145 board shall:

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146 (a) Conduct a public hearing to provide interested persons  
147 the opportunity to be heard on the matter.

148 (b) Publish notice of the public hearing in one or more  
149 newspapers of general circulation in the county in which the  
150 majority of the physical assets of the hospital or health care  
151 system are located and in the Florida Administrative Weekly at  
152 least 15 days before the hearing is scheduled to occur.

153 (c) Contract with a certified public accounting firm or  
154 other firm that has substantial expertise in the valuation of  
155 hospitals to render an independent valuation of the hospital's  
156 fair market value.

157 (d) Consider an objective operating comparison between a  
158 hospital or health care system operated by the district, county,  
159 or municipality and other similarly situated hospitals, both  
160 not-for-profit and for-profit, which have a similar service mix,  
161 in order to determine whether there is a difference in the cost  
162 of operation using publicly available data provided by the  
163 Agency for Health Care Administration and the quality metrics  
164 identified by the Centers for Medicare and Medicaid Services  
165 Core Measures. The comparison must determine whether it is more  
166 beneficial to taxpayers and the affected community for the  
167 hospital to be operated by a governmental entity, or whether the  
168 hospital can be operated by a not-for-profit or for-profit  
169 entity with similar or better cost-efficiencies or measurable  
170 outcomes identified by the Centers for Medicare and Medicaid  
171 Services Core Measures. The comparison must also determine  
172 whether there is a net benefit to the community to operate the  
173 hospital as a not-for-profit or for-profit entity and use the  
174 proceeds of the sale or lease for the purposes described in this

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175 section.

176 (e) Make publicly available all documents considered by the  
177 board in the course of such evaluation.

178 1. Within 160 days after the initiation of the process  
179 established in subsection (5), the governing board shall publish  
180 notice of the board's findings in one or more newspapers of  
181 general circulation in the county in which the majority of the  
182 physical assets of the hospital are located and in the Florida  
183 Administrative Weekly.

184 2. This evaluation is not required if a district, county,  
185 or municipal hospital has issued a public request for proposals  
186 for the sale or lease of a hospital on or before February 1,  
187 2012, for the purpose of receiving proposals from qualified  
188 purchasers or lessees, either not-for-profit or for-profit.

189 (6)(4) If, upon completion of the evaluation of the  
190 benefits of the sale or lease, ~~In the event~~ the governing board  
191 of a county, district, or municipal hospital determines that it  
192 is no longer in the best interest of the affected community to  
193 own or operate a hospital or health care system and elects to  
194 consider a sale or lease of the hospital or health care system  
195 to a third party, the governing board must first determine  
196 whether there are any qualified purchasers or lessees. In the  
197 process of evaluating any qualified purchaser or lessee ~~elects~~  
198 ~~to sell or lease the hospital,~~ the board shall:

199 (a) ~~Negotiate the terms of the sale or lease with a for-~~  
200 ~~profit or not-for-profit Florida corporation and Publicly~~  
201 advertise the meeting at which the proposed sale or lease will  
202 be considered by the governing board of the hospital in  
203 accordance with s. 286.0105; or

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204 (b) Publicly advertise the offer to accept proposals in  
205 accordance with s. 255.0525 and receive proposals from all  
206 ~~interested and~~ qualified purchasers and lessees.

207  
208 Any sale or lease must be for fair market value, or, if not for  
209 fair market value, the lease must be in the best interest of the  
210 affected community. ~~A and any~~ sale or lease must comply with all  
211 applicable state and federal antitrust laws.

212 (7) A determination by the governing board to accept a  
213 proposal for sale or lease shall be made after consideration of  
214 all proposals received and negotiations with a qualified  
215 purchaser or lessee. The governing board's determination must  
216 include, in writing, detailed findings of all reasons for  
217 accepting the proposal.

218 (a) The governing board's acceptance of a proposal for sale  
219 or lease must include a description of how the sale or lease  
220 satisfies each of the following requirements:

221 1. The sale or lease represents fair market value, as  
222 determined by a certified public accounting firm or other  
223 qualified firm pursuant to subsection(5). If leased at less than  
224 fair market value, the governing board shall provide a detailed  
225 explanation of how the best interests of the affected community  
226 are served by the acceptance of less than fair market value for  
227 the lease of the hospital.

228 2. Acceptance of the proposal will result in a reduction or  
229 elimination of ad valorem or other taxes for taxpayers in the  
230 district, if applicable.

231 3. The proposal includes an enforceable commitment that  
232 programs and services and quality health care will continue to



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233 be provided to all residents of the affected community,  
234 particularly to the indigent, the uninsured, and the  
235 underinsured.

236 4. Disclosure has been made of all conflicts of interest,  
237 including, but not limited to, whether the sale or lease of the  
238 hospital or health care system would result in a special private  
239 gain or loss to members of the governing board or key management  
240 employees or members of the medical staff of the county,  
241 district, or municipal hospital, or if governing board members  
242 will be serving on the board of any successor private  
243 corporation. Conflicts of interest, if any, with respect to  
244 experts retained by the governing board shall also be disclosed.

245 5. Disclosure has been made by the seller or lessor of all  
246 contracts with physicians or other entities providing health  
247 care services through a contract with the seller or lessor,  
248 including all agreements or contracts that would be void or  
249 voidable upon the consummation of the sale or lease.

250 6. The proposal is in compliance with subsections (8) and  
251 (9).

252 (b) The findings must be accompanied by all information and  
253 documents relevant to the governing board's determination,  
254 including, but not limited to:

255 1. The names and addresses of all parties to the  
256 transaction.

257 2. The location of the hospital or health care system and  
258 all related facilities.

259 3. A description of the terms of all proposed agreements.

260 4. A copy of the proposed sale or lease agreement and any  
261 related agreements, including, but not limited to, leases,

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262 management contracts, service contracts, and memoranda of  
263 understanding.

264 5. The estimated total value associated with the proposed  
265 agreement and the proposed acquisition price.

266 6. Any valuations of the hospital's or health care system's  
267 assets prepared during the 3 years immediately preceding the  
268 proposed transaction date.

269 7. The fair market value analysis required by paragraph  
270 (5) (c), or any other valuation prepared at the request of the  
271 board, owner of the hospital or health care system, or managing  
272 entity of the hospital or health care system.

273 8. Copies of all other proposals and bids that the  
274 governing board may have received or considered in compliance  
275 with subsection (6).

276 (8) Within 120 days before the anticipated closing date of  
277 the proposed transaction, the governing board shall make  
278 publicly available all findings and documents required under  
279 subsection (7) and publish a notice of the proposed transaction  
280 in one or more newspapers of general circulation in the county  
281 in which the majority of the physical assets of the hospital or  
282 health care system are located. The notice must include the  
283 names of the parties involved and the means by which a person  
284 may submit written comments about the proposed transaction to  
285 the governing board and obtain copies of the findings and  
286 documents required under subsection (7).

287 (9) Within 20 days after the date of publication of the  
288 public notice, any person may submit to the governing board  
289 written comments regarding the proposed transaction.

290 (10) The sale or lease of the hospital or health care

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291 system is subject to approval by the Chief Financial Officer or  
292 his or her designee, except, if otherwise required by law,  
293 approval of the sale or lease shall exclusively be by majority  
294 vote of the registered voters in the county, district, or  
295 municipality in which the hospital or health care system is  
296 located.

297 (a) The governing board shall file a petition with the  
298 state Chief Financial Officer seeking approval of the proposed  
299 transaction at least 30 days after publication of the notice of  
300 the proposed transaction.

301 (b) The petition for approval filed by the governing board  
302 must include all findings and documents required under  
303 subsection (7) and certification by the governing board of  
304 compliance with all requirements of this section. The chair of  
305 the governing board must certify under oath and subject to the  
306 penalty of perjury on a form accompanying the petition that the  
307 contents of the petition and representations therein are true  
308 and correct.

309 (11) Within 30 days of receiving the petition, the Chief  
310 Financial Officer or his or her designee shall issue a final  
311 order approving or denying the proposed transaction based solely  
312 upon consideration of whether the procedures contained within  
313 this section have been followed by the governing board of the  
314 county, district, or municipal hospital or health care system.  
315 The order shall require the governing board to accept or reject  
316 the proposal for the sale or lease of the county, district, or  
317 municipal hospital or health care system based upon a  
318 determination that:

319 (a) The proposed transaction is permitted by law.

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320       (b) The proposed transaction does not unreasonably exclude  
321 a potential purchaser or lessee on the basis of being a for-  
322 profit or a not-for-profit Florida corporation or other form of  
323 business organization, such as a partnership or limited  
324 liability company.

325       (c) The governing board of the hospital or health care  
326 system publicly advertised the meeting at which the proposed  
327 transaction was considered by the board in compliance with s.  
328 286.0105.

329       (d) The governing board of the hospital or health care  
330 system publicly advertised the offer to accept proposals in  
331 compliance with s. 255.0525.

332       (e) Any conflict of interest was disclosed, including, but  
333 not limited to, how the proposed transaction could result in a  
334 special private gain or loss to members of the governing board  
335 or key management employees of the county, district, or  
336 municipal hospital, or if governing board members will be  
337 serving on the board of any successor private corporation.  
338 Conflicts of interest, if any, with respect to experts retained  
339 by the governing board shall also be disclosed.

340       (f) The seller or lessor documented that it will receive  
341 fair market value for the sale or lease of the assets as  
342 indicated in paragraph (5)(c) or, if leased at less than fair  
343 market value, the governing board provided a detailed  
344 explanation of how the best interests of the affected community  
345 are served by the acceptance of less than fair market value for  
346 the lease of the hospital or health care system.

347       (g) The acquiring entity has made an enforceable commitment  
348 that programs and services and quality health care will continue

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349 to be provided to all residents of the affected community,  
350 particularly to the indigent, the uninsured, and the  
351 underinsured.

352 (h) The governing board disclosed whether the sale or lease  
353 will result in a reduction or elimination of ad valorem or other  
354 taxes used to support the hospital.

355 (12) Any interested party to the action has the right to  
356 seek judicial review of the decision in the appellate district  
357 where the hospital is located or in the First District Court of  
358 Appeal pursuant to s. 120.68.

359 (a) All proceedings shall be instituted by filing a notice  
360 of appeal in accordance with the Florida Rules of Appellate  
361 Procedure within 30 days after the date of the final order.

362 (b) In such judicial review, the appellate court shall  
363 affirm the decision of the Chief Financial Officer, unless the  
364 decision by the Chief Financial Officer is shown to be clearly  
365 erroneous.

366 (13) All costs shall be paid by the governing board, unless  
367 an interested party contests the action, in which case the court  
368 may assign costs equitably to the parties.

369 (14) If any provision of subsection (5), subsection (6), or  
370 subsection (7) is not followed, the contract for sale or lease  
371 is voidable by any party to the contract. If any member of the  
372 governing board negligently or willfully violates subsection  
373 (5), subsection (6), or subsection (7), as determined by the  
374 Commission on Ethics after receipt of a sworn complaint pursuant  
375 to s. 112.322, the member is subject to a penalty, as determined  
376 by the Commission on Ethics pursuant to s. 112.317.

377 (15) If a county, district, or municipal hospital is sold,

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378 any and all special district tax authority associated with the  
379 hospital subject to the sale shall cease on the effective date  
380 of the closing date of the sale. Any special law inconsistent  
381 with this subsection is superseded by this act.

382 (16) If a county, district, or municipal hospital is sold  
383 or leased, the governing board shall:

384 (a) Deposit 50 percent of the net proceeds of the sale or  
385 lease into a health care economic development trust fund, which  
386 shall be under the control of the county commission of the  
387 county in which the property is located, if the hospital is a  
388 county hospital or district hospital whose geographic boundaries  
389 extend beyond a single municipality, or, if the hospital is a  
390 municipal hospital or district hospital whose geographic  
391 boundaries lie entirely within a single municipality, under the  
392 control of the city or municipal government in which the  
393 hospital is located. The use and distribution of the funds shall  
394 be at the discretion of a majority of the county commission if  
395 the hospital is a county hospital or district hospital whose  
396 geographic boundaries extend beyond a single municipality, or,  
397 if the hospital is a municipal hospital or district hospital  
398 whose geographic boundaries lie entirely within a single  
399 municipality, at the discretion of a majority of the members of  
400 the municipal government. The members of the county commission  
401 or the municipal government, depending on the type of hospital  
402 being sold, shall serve as trustees of the trust fund. The net  
403 proceeds in the health care economic development trust fund  
404 shall be distributed, in consultation with the Department of  
405 Economic Opportunity, to promote job creation in the health care  
406 sector of the economy through new or expanded health care

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407 business development, new or expanded health care services, or  
408 new or expanded health care education programs or  
409 commercialization of health care research within the affected  
410 community; and

411 (b) Appropriate 50 percent of the net proceeds of the sale  
412 or lease for funding the delivery of indigent care, including  
413 but not limited to primary care, physician specialty care, out-  
414 patient care, in-patient care and behavioral health, to  
415 hospitals within the boundaries of the district with  
416 consideration given to the levels of indigent care provided.

417  
418 For the purposes of this subsection, the term "net proceeds"  
419 means the sale price after payment of all district debts and  
420 obligations.

421 (17) If a county, district, or municipal hospital or health  
422 care system is sold or leased to a for-profit corporation or  
423 other business entity subject to local taxation, the resulting  
424 county and municipal ad valorem tax revenue from the formerly  
425 tax-exempt property shall be distributed by the county  
426 commission of the county in which the property is located, if  
427 the hospital is a county hospital or district hospital whose  
428 geographic boundaries extend beyond a single municipality, or,  
429 if the hospital is a municipal hospital or district hospital  
430 whose geographic boundaries lie entirely within a single  
431 municipality, such ad valorem tax revenues shall be distributed  
432 by the municipal government. The distribution of such ad valorem  
433 tax revenues shall be made in consultation with the Department  
434 of Economic Opportunity, for purposes set forth in subsection  
435 (16).

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436        (18)~~(5)~~ ~~If In the event~~ a hospital operated by a for-profit  
437 or not-for-profit Florida entity ~~corporation~~ receives annually  
438 more than \$100,000 in revenues from the county, district, or  
439 municipality that owns the hospital, the Florida entity  
440 ~~corporation~~ must be accountable to the county, district, or  
441 municipality with respect to the manner in which the funds are  
442 expended by either:

443            (a) Having the revenues subject to annual appropriations by  
444 the county, district, or municipality; or

445            (b) Where there is a contract to provide revenues to the  
446 hospital, the term of which is longer than 12 months, the  
447 governing board of the county, district, or municipality must be  
448 able to modify the contract upon 12 months notice to the  
449 hospital.

450

451 A not-for-profit entity ~~corporation~~ that is subject to this  
452 subsection and that does not currently comply with the  
453 accountability requirements in this subsection shall have 12  
454 months after the effective date of this act to modify any  
455 contracts with the county, district, or municipality in a manner  
456 that is consistent with this subsection.

457        (19)~~(6)~~ Unless otherwise expressly stated in the lease  
458 documents, the transaction involving the sale or lease of a  
459 hospital may ~~shall~~ not be construed as:

460            (a) A transfer of a governmental function from the county,  
461 district, or municipality to the private purchaser or lessee;

462            (b) Constituting a financial interest of the public lessor  
463 in the private lessee; or

464            (c) Making a private lessee an integral part of the public



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465 lessor's decisionmaking process.

466 (20)~~(7)~~ The lessee of a hospital, under this section or any  
467 special act of the Legislature, operating under a lease may  
468 ~~shall~~ not be construed to be "acting on behalf of" the lessor as  
469 that term is used in statute, unless the lease document  
470 expressly provides to the contrary.

471 (21)~~(8)~~(a) If, whenever the sale of a public hospital by a  
472 public agency to a private ~~corporation or other private~~ entity  
473 pursuant to this section or pursuant to a special act of the  
474 Legislature reflects that:

475 1. The private ~~corporation or other private~~ entity  
476 purchaser acquires 100 percent ownership in the hospital  
477 enterprise;

478 2. The private ~~corporation or other private~~ entity  
479 purchases the physical plant of the hospital facility and has  
480 complete responsibility for the operation and maintenance of the  
481 facility, regardless of ownership of the underlying real  
482 property;

483 3. The public agency seller retains no control over  
484 decisionmaking or policymaking for the hospital;

485 4. The private ~~corporation or other private~~ entity  
486 purchaser receives no funding from the public agency seller  
487 other than by contract for services rendered to patients for  
488 whom the public agency seller has the responsibility to pay for  
489 hospital or medical care;

490 5. The public agency seller makes no substantial investment  
491 in or loans to the private entity;

492 6. The private ~~corporation or other private~~ entity  
493 purchaser was not created by the public entity seller; and

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494           7. The private ~~corporation or other private~~ entity  
495 purchaser operates primarily for its own financial interests and  
496 not primarily for the interests of the public agency,

497  
498 such a sale shall be considered a complete sale of the public  
499 agency's interest in the hospital or health care system.

500           (b) A complete sale of a hospital or health care system as  
501 described in this subsection may ~~shall~~ not be construed as:

502           1. A transfer of a governmental function from the county,  
503 district, or municipality to the private ~~corporation or other~~  
504 ~~private~~ entity purchaser;

505           2. Constituting a financial interest of the public agency  
506 in the private ~~corporation or other private~~ entity purchaser;

507           3. Making the private ~~corporation or other private~~ entity  
508 purchaser an "agency" as that term is used in statutes;

509           4. Making the private ~~corporation or other private~~ entity  
510 purchaser an integral part of the public agency's decisionmaking  
511 process; or

512           5. Indicating that the private ~~corporation or other private~~  
513 entity purchaser is "acting on behalf of a public agency" as  
514 that term is used in statute.

515           (22) If the governing board elects to sell or lease any  
516 physical property of a county, district, or municipal hospital  
517 or health care system and such property generated less than 20  
518 percent of the hospital's net revenue within the hospital's or  
519 health care system's most recent fiscal year, the sale or lease  
520 of such property is exempt from the requirements under  
521 subsections (6)-(15). However, the governing board shall  
522 publicly advertise the meeting at which the proposed sale or

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523 lease of such property will be considered by the governing board  
524 of the hospital in accordance with s. 286.0105 or publicly  
525 advertise the offer to accept proposals in accordance with s.  
526 255.0525 and receive proposals from all qualified purchasers and  
527 lessees. The sale or lease of the property must be for fair  
528 market value or, if a lease is for less than fair market value,  
529 the lease must be in the best interest of the affected  
530 community.

531 (23) A county, district or municipal hospital or health  
532 care system that is under lease as of the effective date of this  
533 act is not subject to subsections (5)-(16) as long as that lease  
534 remains in effect in accordance with the terms of the lease or  
535 such lease is modified, extended or renewed. Any such hospital  
536 or health care system, however, becomes subject to the  
537 provisions of this act upon:

538 (a) Termination of the lease, unless the lease termination  
539 is the direct result of a new lease involving a partnership,  
540 transaction or contract in which both the existing lessor and  
541 lessee agree to the new lease between the lessor and another  
542 mutually agreed upon entity;

543 (b) Notification provided to the lessee of a planned  
544 termination of the lease in accordance with the lease terms,  
545 unless the notification of lease termination is the direct  
546 result of a new lease involving a partnership, transaction or  
547 contract in which both the existing lessor and lessee agree to  
548 the new lease between the lessor and another mutually agreed  
549 upon entity;

550 (c) Notification to the lessee that upon termination of the  
551 lease the lessor plans to seek potential new lessees or buyers;

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552 or

553 (d) Notification to the lessee that the lessor plans to  
554 resume operation of the hospital or health care system at the  
555 termination of the lease.

556  
557 Any such hospital or health care system may not thereafter be  
558 sold, leased to another lessee, or operated by the owner without  
559 first complying with this act.

560 (24) A county, district, or municipal hospital or health  
561 care system that has executed a letter of intent to sell or  
562 lease the hospital or health care system accepted at a properly  
563 noticed public meeting, and whose governing board has voted to  
564 approve the letter of intent before December 31, 2011, is not  
565 subject to subsections (6)-(17) as long as the final closing of  
566 the sale or lease transaction pursuant to the letter of intent  
567 occurs before December 31, 2012.

568 Section 2. Section 155.401, Florida Statutes, is created to  
569 read:

570 155.401 Power of special taxing district to appropriate  
571 proceeds from sale or lease of hospital or health care system to  
572 economic development trust fund.—Notwithstanding any other  
573 general or special law, the purposes for which a special taxing  
574 district may appropriate funds from the sale or lease of a  
575 hospital or health care system to an economic development fund  
576 include the promotion and support of economic growth in such  
577 district and in the county in which such district is located and  
578 the furthering of the purposes of such district, as provided by  
579 law.

580 Section 3. To the extent that any general or special law is

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581 inconsistent with or otherwise in conflict with this act, such  
582 conflicting provisions are specifically superseded by this act.  
583 A special tax district, public hospital, or municipal hospital  
584 is not exempt from this act.

585 Section 4. Subsection (1) of section 395.002, Florida  
586 Statutes, is amended to read:

587 395.002 Definitions.—As used in this chapter:

588 (1) "Accrediting organizations" means national  
589 accreditation organizations that are approved by the Centers for  
590 Medicare and Medicaid Services and whose standards incorporate  
591 comparable licensure regulations required by the state ~~the Joint~~  
592 ~~Commission on Accreditation of Healthcare Organizations, the~~  
593 ~~American Osteopathic Association, the Commission on~~  
594 ~~Accreditation of Rehabilitation Facilities, and the~~  
595 ~~Accreditation Association for Ambulatory Health Care, Inc.~~

596 Section 5. For the purpose of incorporating the amendment  
597 made by this act to section 395.002, Florida Statutes, in a  
598 reference thereto, paragraph (c) of subsection (2) of section  
599 395.003, Florida Statutes, is reenacted to read:

600 395.003 Licensure; denial, suspension, and revocation.—

601 (2)

602 (c) Intensive residential treatment programs for children  
603 and adolescents which have received accreditation from an  
604 accrediting organization as defined in s. 395.002(1) and which  
605 meet the minimum standards developed by rule of the agency for  
606 such programs shall be licensed by the agency under this part.

607 Section 6. Section 395.3036, Florida Statutes, is amended  
608 to read:

609 395.3036 Confidentiality of records and meetings of

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610 entities ~~corporations~~ that lease public hospitals or other  
611 public health care facilities.—The records of a private entity  
612 ~~corporation~~ that leases a public hospital or other public health  
613 care facility are confidential and exempt from ~~the provisions of~~  
614 s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and  
615 the meetings of the governing board of a private entity  
616 ~~corporation~~ are exempt from s. 286.011 and s. 24(b), Art. I of  
617 the State Constitution if when the public lessor complies with  
618 the public finance accountability provisions of s. 155.40(18)  
619 ~~155.40(5)~~ with respect to the transfer of any public funds to  
620 the private lessee and if when the private lessee meets at least  
621 three of the five following criteria:

622 (1) The public lessor that owns the public hospital or  
623 other public health care facility was not the incorporator or  
624 initial member of the private entity ~~corporation~~ that leases the  
625 public hospital or other health care facility.

626 (2) The public lessor and the private lessee do not  
627 commingle any of their funds in any account maintained by either  
628 of them, other than the payment of the rent and administrative  
629 fees or the transfer of funds pursuant to subsection (5) ~~(2)~~.

630 (3) Except as otherwise provided by law, the private lessee  
631 is not allowed to participate, except as a member of the public,  
632 in the decisionmaking process of the public lessor.

633 (4) The lease agreement does not expressly require the  
634 lessee to comply with ~~the requirements of~~ ss. 119.07(1) and  
635 286.011.

636 (5) The public lessor is not entitled to receive any  
637 revenues from the lessee, except for rental or administrative  
638 fees due under the lease, and the lessor is not responsible for

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639 the debts or other obligations of the lessee.

640 Section 7. This act shall take effect upon becoming a law.