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1
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 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
26 Secretary of Health Care Administration; requiring the
27 governing board to file a petition with the Secretary
28 of Health Care Administration seeking approval of the

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29 | proposed transaction within a specified time period;
30 | requiring the Secretary of Health Care Administration
31 | or his or her designee to issue a final order
32 | approving or denying the proposed transaction;
33 | specifying the criteria upon which the Secretary of
34 | Health Care Administration must base his or her
35 | decision; authorizing an interested party to appeal
36 | the decision of the Secretary of Health Care
37 | Administration; requiring that all costs be paid by
38 | the governing board unless an interested party
39 | contests the action, in which case the court may
40 | assign costs equitably to the parties; providing for
41 | the distribution of proceeds from the transaction;
42 | exempting the sale or lease of specified physical
43 | property of a county, district, or municipal hospital
44 | from processes required for the approval of a sale or
45 | lease of county, district, or municipal hospital
46 | property; providing an exemption from complying with
47 | the requirements of the act under certain
48 | circumstances; exempting application of the act to
49 | hospitals or health care systems for which a letter of
50 | intent to sell or lease is executed before a specified
51 | date; exempting application of the act to a county,
52 | district, or municipal hospital or health care system
53 | that has issued a request for proposals for the sale
54 | or lease of a hospital or health care system on or
55 | before a specified date; providing an exception;
56 | creating s. 155.401, F.S.; providing that the purposes

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57 | for which a special taxing district may appropriate
 58 | funds from the sale or lease of a hospital or health
 59 | care system include the promotion and support of
 60 | economic growth in the district and county in which
 61 | the taxing district is located and the furthering of
 62 | the purposes of the taxing district; providing that
 63 | any general or special law that is inconsistent with
 64 | or otherwise in conflict with the act is specifically
 65 | superseded by the act; amending s. 395.002, F.S.;
 66 | revising the definition of the term "accrediting
 67 | organizations"; reenacting s. 395.003(2)(c), F.S.,
 68 | relating to licensure and regulation of hospitals, to
 69 | incorporate the amendment made to s. 395.002, F.S., in
 70 | a reference thereto; amending s. 395.3036, F.S.;
 71 | conforming cross-references; providing an effective
 72 | date.

73 |

74 | Be It Enacted by the Legislature of the State of Florida:

75 |

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

77 | 155.40 Sale or lease of county, district, or municipal
 78 | hospital; effect of sale.—

79 | (1) In the interest of providing quality health care
 80 | services to the ~~order that~~ citizens and residents of this the
 81 | ~~state may receive quality health care, and notwithstanding any~~
 82 | other provision of general or special law, a any county,
 83 | district, or municipal hospital organized and existing under the
 84 | laws of this state, acting by and through its governing board,

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85 ~~may shall have the authority to~~ sell or lease the ~~such~~ hospital
 86 to a for-profit or not-for-profit Florida entity ~~corporation~~,
 87 and enter into leases or other contracts with a for-profit or
 88 not-for-profit Florida entity ~~corporation~~ for the purpose of
 89 operating the ~~and managing~~ such hospital and ~~any or all of~~ its
 90 facilities ~~of whatsoever kind and nature~~. The term of ~~any~~ such
 91 lease, contract, or agreement and the conditions, covenants, and
 92 agreements to be contained therein shall be determined by the
 93 governing board of the ~~such county, district, or municipal~~
 94 hospital. The governing board of the hospital must find that the
 95 sale, lease, or contract is in the best interests of the
 96 affected community ~~public~~ and must state the basis of that ~~such~~
 97 finding. ~~If the governing board of a county, district, or~~
 98 ~~municipal hospital decides to lease the hospital, it must give~~
 99 ~~notice in accordance with paragraph (4) (a) or paragraph (4) (b).~~

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

102 (a) Provide that the articles of incorporation of the ~~such~~
 103 for-profit or not-for-profit corporation be subject to the
 104 approval of the board of directors or board of trustees of the
 105 ~~such~~ hospital;

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

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

111 (d) Provide for the return of the ~~such~~ facility to the
 112 county, municipality, or district upon the termination of the

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113 ~~such~~ lease, contract, or agreement; and

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

117 (3) Any sale, lease, or contract entered into pursuant to
 118 this section before ~~prior to~~ the effective date of this act must
 119 have complied with the requirements of subsection (2) in effect
 120 at the time of the sale, lease, or contract. It is the intent of
 121 the Legislature that this section ~~does~~ not impose any further
 122 requirements with respect to the formation of any for-profit or
 123 not-for-profit Florida entity ~~corporation~~, the composition of
 124 the board of directors of any Florida entity ~~corporation~~, or the
 125 manner in which control of the hospital is transferred to the
 126 Florida entity ~~corporation~~.

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

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

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

140 (c) "Interested party" includes a person submitting a

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141 proposal for sale or lease of the county, district, or municipal
 142 hospital or health care system, as well as the governing board.

143 (5) The governing board of a county, district, or
 144 municipal hospital or health care system shall commence an
 145 evaluation of the possible benefits to an affected community
 146 from the sale or lease of hospital facilities owned by the board
 147 to a not-for-profit or for-profit entity no later than December
 148 31, 2012. In the course of evaluating the benefits of the sale
 149 or lease, the board shall:

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

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

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

161 (d) Consider an objective operating comparison between a
 162 hospital or health care system operated by the district, county,
 163 or municipality and other similarly situated hospitals, both
 164 not-for-profit and for-profit, which have a similar service mix,
 165 in order to determine whether there is a difference in the cost
 166 of operation using publicly available data provided by the
 167 Agency for Health Care Administration and the quality metrics
 168 identified by the Centers for Medicare and Medicaid Services

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169 Core Measures. The comparison must determine whether it is more
 170 beneficial to taxpayers and the affected community for the
 171 hospital to be operated by a governmental entity, or whether the
 172 hospital can be operated by a not-for-profit or for-profit
 173 entity with similar or better cost-efficiencies or measurable
 174 outcomes identified by the Centers for Medicare and Medicaid
 175 Services Core Measures. The comparison must also determine
 176 whether there is a net benefit to the community to operate the
 177 hospital as a not-for-profit or for-profit entity and use the
 178 proceeds of the sale or lease for the purposes described in this
 179 section.

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

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

188 2. This evaluation is not required if a district, county,
 189 or municipal hospital has issued a public request for proposals
 190 for the sale or lease of a hospital on or before February 1,
 191 2012, for the purpose of receiving proposals from qualified
 192 purchasers or lessees, either not-for-profit or for-profit.

193 (6)(4) If, upon completion of the evaluation of the
 194 benefits of the sale or lease, ~~In the event~~ the governing board
 195 of a county, district, or municipal hospital determines that it
 196 is no longer in the best interest of the affected community to

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197 own or operate a hospital or health care system and elects to
 198 consider a sale or lease of the hospital or health care system
 199 to a third party, the governing board must first determine
 200 whether there are any qualified purchasers or lessees. In the
 201 process of evaluating any qualified purchaser or lessee elects
 202 ~~to sell or lease the hospital,~~ the board shall:

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

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

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

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

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

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

232 2. Acceptance of the proposal will result in a reduction
233 or elimination of ad valorem or other taxes for taxpayers in the
234 district, if applicable.

235 3. The proposal includes an enforceable commitment that
236 programs and services and quality health care will continue to
237 be provided to all residents of the affected community,
238 particularly to the indigent, the uninsured, and the
239 underinsured.

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

249 5. Disclosure has been made by the seller or lessor of all
250 contracts with physicians or other entities providing health
251 care services through a contract with the seller or lessor,
252 including all agreements or contracts that would be void or

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253 voidable upon the consummation of the sale or lease.

254 6. The proposal is in compliance with subsections (8) and

255 (9).

256 (b) The findings must be accompanied by all information

257 and documents relevant to the governing board's determination,

258 including, but not limited to:

259 1. The names and addresses of all parties to the

260 transaction.

261 2. The location of the hospital or health care system and

262 all related facilities.

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

264 4. A copy of the proposed sale or lease agreement and any

265 related agreements, including, but not limited to, leases,

266 management contracts, service contracts, and memoranda of

267 understanding.

268 5. The estimated total value associated with the proposed

269 agreement and the proposed acquisition price.

270 6. Any valuations of the hospital's or health care

271 system's assets prepared during the 3 years immediately

272 preceding the proposed transaction date.

273 7. The fair market value analysis required by paragraph

274 (5)(c), or any other valuation prepared at the request of the

275 board, owner of the hospital or health care system, or managing

276 entity of the hospital or health care system.

277 8. Copies of all other proposals and bids that the

278 governing board may have received or considered in compliance

279 with subsection (6).

280 (8) Within 120 days before the anticipated closing date of

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281 the proposed transaction, the governing board shall make
 282 publicly available all findings and documents required under
 283 subsection (7) and publish a notice of the proposed transaction
 284 in one or more newspapers of general circulation in the county
 285 in which the majority of the physical assets of the hospital or
 286 health care system are located. The notice must include the
 287 names of the parties involved and the means by which a person
 288 may submit written comments about the proposed transaction to
 289 the governing board and obtain copies of the findings and
 290 documents required under subsection (7).

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

294 (10) The sale or lease of the hospital or health care
 295 system is subject to approval by the Secretary of Health Care
 296 Administration or his or her designee, except, if otherwise
 297 required by law, approval of the sale or lease shall exclusively
 298 be by majority vote of the registered voters in the county,
 299 district, or municipality in which the hospital or health care
 300 system is located.

301 (a) The governing board shall file a petition with the
 302 Secretary of Health Care Administration seeking approval of the
 303 proposed transaction at least 30 days after publication of the
 304 notice of the proposed transaction.

305 (b) The petition for approval filed by the governing board
 306 must include all findings and documents required under
 307 subsection (7) and certification by the governing board of
 308 compliance with all requirements of this section. The chair of

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309 the governing board must certify under oath and subject to the
 310 penalty of perjury on a form accompanying the petition that the
 311 contents of the petition and representations therein are true
 312 and correct.

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

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

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

329 (c) The governing board of the hospital or health care
 330 system publicly advertised the meeting at which the proposed
 331 transaction was considered by the board in compliance with s.
 332 286.0105.

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

336 (e) Any conflict of interest was disclosed, including, but

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337 not limited to, how the proposed transaction could result in a
338 special private gain or loss to members of the governing board
339 or key management employees of the county, district, or
340 municipal hospital, or if governing board members will be
341 serving on the board of any successor private corporation.
342 Conflicts of interest, if any, with respect to experts retained
343 by the governing board shall also be disclosed.

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

351 (g) The acquiring entity has made an enforceable
352 commitment that programs and services and quality health care
353 will continue to be provided to all residents of the affected
354 community, particularly to the indigent, the uninsured, and the
355 underinsured.

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

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

363 (a) All proceedings shall be instituted by filing a notice
364 of appeal in accordance with the Florida Rules of Appellate

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365 Procedure within 30 days after the date of the final order.

366 (b) In such judicial review, the appellate court shall
 367 affirm the decision of the Secretary of Health Care
 368 Administration, unless the decision by the Secretary of Health
 369 Care Administration is shown to be clearly erroneous.

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

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

381 (15) If a county, district, or municipal hospital is sold,
 382 any and all special district tax authority associated with the
 383 hospital subject to the sale shall cease on the effective date
 384 of the closing date of the sale. Any special law inconsistent
 385 with this subsection is superseded by this act.

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

388 (a) Deposit 50 percent of the net proceeds of the sale or
 389 lease into a health care economic development trust fund, which
 390 shall be under the control of the county commission of the
 391 county in which the property is located, if the hospital is a
 392 county hospital or district hospital whose geographic boundaries

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393 extend beyond a single municipality, or, if the hospital is a
 394 municipal hospital or district hospital whose geographic
 395 boundaries lie entirely within a single municipality, under the
 396 control of the city or municipal government in which the
 397 hospital is located. The use and distribution of the funds shall
 398 be at the discretion of a majority of the county commission if
 399 the hospital is a county hospital or district hospital whose
 400 geographic boundaries extend beyond a single municipality, or,
 401 if the hospital is a municipal hospital or district hospital
 402 whose geographic boundaries lie entirely within a single
 403 municipality, at the discretion of a majority of the members of
 404 the municipal government. The members of the county commission
 405 or the municipal government, depending on the type of hospital
 406 being sold, shall serve as trustees of the trust fund. The net
 407 proceeds in the health care economic development trust fund
 408 shall be distributed, in consultation with the Department of
 409 Economic Opportunity, to promote job creation in the health care
 410 sector of the economy through new or expanded health care
 411 business development, new or expanded health care services, or
 412 new or expanded health care education programs or
 413 commercialization of health care research within the affected
 414 community; and

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

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 422 For the purposes of this subsection, the term "net proceeds"
 423 means the sale price after payment of all district debts and
 424 obligations.

425 (17) If a county, district, or municipal hospital or
 426 health care system is sold or leased to a for-profit corporation
 427 or other business entity subject to local taxation, the
 428 resulting county and municipal ad valorem tax revenue from the
 429 formerly tax-exempt property shall be distributed by the county
 430 commission of the county in which the property is located, if
 431 the hospital is a county hospital or district hospital whose
 432 geographic boundaries extend beyond a single municipality, or,
 433 if the hospital is a municipal hospital or district hospital
 434 whose geographic boundaries lie entirely within a single
 435 municipality, such ad valorem tax revenues shall be distributed
 436 by the municipal government. The distribution of such ad valorem
 437 tax revenues shall be made in consultation with the Department
 438 of Economic Opportunity, for purposes set forth in subsection
 439 (16).

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

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

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

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

461 (19)~~(6)~~ Unless otherwise expressly stated in the lease
 462 documents, the transaction involving the sale or lease of a
 463 hospital may ~~shall~~ not be construed as:

- 464 (a) A transfer of a governmental function from the county,
 465 district, or municipality to the private purchaser or lessee;
- 466 (b) Constituting a financial interest of the public lessor
 467 in the private lessee; or
- 468 (c) Making a private lessee an integral part of the public
 469 lessor's decisionmaking process.

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

475 (21)~~(8)~~(a) If, whenever the sale of a public hospital by a
 476 public agency to a private ~~corporation or other private~~ entity

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477 pursuant to this section or pursuant to a special act of the
 478 Legislature reflects that:

479 1. The private ~~corporation or other private~~ entity
 480 purchaser acquires 100 percent ownership in the hospital
 481 enterprise;

482 2. The private ~~corporation or other private~~ entity
 483 purchases the physical plant of the hospital facility and has
 484 complete responsibility for the operation and maintenance of the
 485 facility, regardless of ownership of the underlying real
 486 property;

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

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

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

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

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

501
 502 such a sale shall be considered a complete sale of the public
 503 agency's interest in the hospital or health care system.

504 (b) A complete sale of a hospital or health care system as

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505 described in this subsection may ~~shall~~ not be construed as:

506 1. A transfer of a governmental function from the county,
 507 district, or municipality to the private ~~corporation or other~~
 508 ~~private~~ entity purchaser;

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

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

513 4. Making the private ~~corporation or other private~~ entity
 514 purchaser an integral part of the public agency's decisionmaking
 515 process; or

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

519 (22) If the governing board elects to sell or lease the
 520 physical property of a county, district, or municipal hospital
 521 or health care system and such property generated less than 20
 522 percent of the hospital's net revenue within the hospital's or
 523 health care system's most recent fiscal year, the sale or lease
 524 of such property is exempt from the requirements under
 525 subsections (6)-(17). However, the governing board shall
 526 publicly advertise the meeting at which the proposed sale or
 527 lease of such property will be considered by the governing board
 528 of the hospital in accordance with s. 286.0105 or publicly
 529 advertise the offer to accept proposals in accordance with s.
 530 255.0525 and receive proposals from all qualified purchasers and
 531 lessees. The sale or lease of the property must be for fair
 532 market value or, if a lease is for less than fair market value,

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533 the lease must be in the best interest of the affected
534 community.

535 (23) A county, district, or municipal hospital or health
536 care system that is under lease as of the effective date of this
537 act is not subject to subsections (5)-(17) as long as that lease
538 remains in effect in accordance with the terms of the lease or
539 such lease is modified, extended, or renewed. However, such
540 hospital or health care system becomes subject to the provisions
541 of this act upon:

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

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

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

557 (d) Notification to the lessee that the lessor plans to
558 resume operation of the hospital or health care system at the
559 termination of the lease.

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561 Any such hospital or health care system may not thereafter be
562 sold, leased to another lessee, or operated by the owner without
563 first complying with this section.

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

572 (25) Notwithstanding subsection (24), a county, district,
573 or municipal hospital or health care system that has issued a
574 request for proposals for the sale or lease of a hospital or
575 health care system on or before February 1, 2012, in order to
576 receive proposals from not-for-profit or for-profit qualified
577 purchasers or lessees, is not subject to subsections (5)-(17)
578 unless such request for proposals does not directly result in a
579 sale or lease of the hospital or health care system to a
580 qualified purchaser or lessee on or before December 31, 2012.

581 Section 2. Section 155.401, Florida Statutes, is created
582 to read:

583 155.401 Power of special taxing district to appropriate
584 proceeds from sale or lease of hospital or health care system to
585 economic development trust fund.—Notwithstanding any other
586 general or special law, the purposes for which a special taxing
587 district may appropriate funds from the sale or lease of a
588 hospital or health care system to an economic development fund

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589 include the promotion and support of economic growth in such
 590 district and in the county in which such district is located and
 591 the furthering of the purposes of such district, as provided by
 592 law.

593 Section 3. To the extent that any general or special law
 594 is inconsistent with or otherwise in conflict with this act,
 595 such conflicting provisions are specifically superseded by this
 596 act. A special tax district, public hospital, or municipal
 597 hospital is not exempt from this act.

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

600 395.002 Definitions.—As used in this chapter:

601 (1) "Accrediting organizations" means national
 602 accreditation organizations that are approved by the Centers for
 603 Medicare and Medicaid Services and whose standards incorporate
 604 comparable licensure regulations required by the state ~~the Joint~~
 605 ~~Commission on Accreditation of Healthcare Organizations, the~~
 606 ~~American Osteopathic Association, the Commission on~~
 607 ~~Accreditation of Rehabilitation Facilities, and the~~
 608 ~~Accreditation Association for Ambulatory Health Care, Inc.~~

609 Section 5. For the purpose of incorporating the amendment
 610 made by this act to section 395.002, Florida Statutes, in a
 611 reference thereto, paragraph (c) of subsection (2) of section
 612 395.003, Florida Statutes, is reenacted to read:

613 395.003 Licensure; denial, suspension, and revocation.—

614 (2)

615 (c) Intensive residential treatment programs for children
 616 and adolescents which have received accreditation from an

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617 accrediting organization as defined in s. 395.002(1) and which
 618 meet the minimum standards developed by rule of the agency for
 619 such programs shall be licensed by the agency under this part.

620 Section 6. Section 395.3036, Florida Statutes, is amended
 621 to read:

622 395.3036 Confidentiality of records and meetings of
 623 entities ~~corporations~~ that lease public hospitals or other
 624 public health care facilities.—The records of a private entity
 625 ~~corporation~~ that leases a public hospital or other public health
 626 care facility are confidential and exempt from ~~the provisions of~~
 627 s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and
 628 the meetings of the governing board of a private entity
 629 ~~corporation~~ are exempt from s. 286.011 and s. 24(b), Art. I of
 630 the State Constitution if when the public lessor complies with
 631 the public finance accountability provisions of s. 155.40(18)
 632 ~~155.40(5)~~ with respect to the transfer of any public funds to
 633 the private lessee and if when the private lessee meets at least
 634 three of the five following criteria:

635 (1) The public lessor that owns the public hospital or
 636 other public health care facility was not the incorporator or
 637 initial member of the private entity ~~corporation~~ that leases the
 638 public hospital or other health care facility.

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

643 (3) Except as otherwise provided by law, the private
 644 lessee is not allowed to participate, except as a member of the

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645 public, in the decisionmaking process of the public lessor.

646 (4) The lease agreement does not expressly require the
647 lessee to comply with ~~the requirements of~~ ss. 119.07(1) and
648 286.011.

649 (5) The public lessor is not entitled to receive any
650 revenues from the lessee, except for rental or administrative
651 fees due under the lease, and the lessor is not responsible for
652 the debts or other obligations of the lessee.

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