

House Amendments to Senate Bill No. 2892

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

20 **SECTION 1.** Section 41-13-10, Mississippi Code of 1972, is
21 amended as follows:

22 41-13-10. For purposes of Sections 41-13-10 through
23 41-13-47, the following words shall have the meanings ascribed
24 herein, unless the context otherwise requires:

25 (a) "Administrator" shall mean the chief administrative
26 official and executive officer of a community hospital selected by
27 the board of trustees of such community hospital.

28 (b) "Board of trustees" shall mean the board appointed
29 pursuant to Section 41-13-29, to operate a community hospital.

30 (c) "Community hospital" shall mean any hospital,
31 nursing home and/or related health facilities or programs,
32 including, without limitation, ambulatory surgical facilities,
33 intermediate care facilities, after-hours clinics, home health
34 agencies and rehabilitation facilities, established and acquired
35 by boards of trustees or by one or more owners which is governed,
36 operated and maintained by a board of trustees.

37 (d) "Owner" shall mean any board of supervisors of any
38 county having an ownership interest in any community hospital or
39 leased facility on behalf of the county or on behalf of any
40 supervisors district, judicial district or election district of
41 the county and shall also mean any governing council or board of
42 any municipality having an ownership interest in any community
43 hospital or leased facility.

44 (e) "Leased facility" shall mean a hospital, nursing
45 home or related health facilities which an owner has leased to an
46 individual, partnership, corporation, other owner or board of
47 trustees for a term not in excess of fifty (50) years, conditioned
48 upon the facility continuing to operate on a nonprofit basis. A
49 leased facility shall not be deemed or considered to be a
50 community hospital except for purposes of Sections 41-13-19
51 through 41-13-25, and shall not be subject to the statutory
52 requirements placed on community hospitals except to the extent as
53 may be specifically required by the terms of the applicable lease
54 agreement. However, in situations where another community
55 hospital, acting through its board of trustees, is the lessee of a
56 leased facility, the leased facility shall remain subject to this
57 chapter and other laws applicable to community hospitals, except
58 that the owners of the lessee shall have sole authority to appoint
59 the board of trustees for the leased facility, which shall be the
60 same board of trustees as appointed under Section 41-13-29 for the
61 lessee community hospital.

62 (f) "Service area" means that area in which a community
63 hospital may provide services and perform the activities in
64 Section 41-13-35(5), as determined by a board of trustees by its
65 patient origin studies, and may include areas outside of the State
66 of Mississippi.

67 **SECTION 2.** Section 41-13-15, Mississippi Code of 1972, is
68 amended as follows:

69 41-13-15. (1) Any county and/or any political or judicial
70 subdivision of a county and/or any municipality of the State of
71 Mississippi, acting individually or jointly, may acquire and hold
72 real estate for a community hospital either recognized and/or
73 licensed as such by either the State of Mississippi or the United
74 States Government, and may, after complying with applicable health
75 planning and licensure statutes, construct a community hospital
76 thereon and/or appropriate funds according to the provisions of
77 this chapter for the construction, remodeling, maintaining,
78 equipping, furnishing and expansion of such facilities by the
79 board of trustees upon such real estate.

80 (2) Where joint ownership of a community hospital is
81 involved, the owners are hereby authorized to contract with each
82 other for determining the pro rata ownership of such community
83 hospital, the proportionate cost of maintenance and operation, and
84 the proportionate financing that each will contribute to the
85 community hospital.

86 (3) The owners may likewise contract with each other, or on
87 behalf of any subordinate political or judicial subdivision, or

88 with the board of trustees of a community hospital, and/or any
89 agency of the State of Mississippi or the United States
90 Government, for necessary purposes related to the establishment,
91 operation or maintenance of community hospitals and related
92 programs wherever located, and may either accept from, sell or
93 contribute to the other entities, monies, personal property or
94 existing health facilities. The owners or the board of trustees
95 may also receive monies, property or any other valuables of any
96 kind through gifts, donations, devises or other recognized means
97 from any source for the purpose of hospital use.

98 (4) Owners and boards of trustees, acting jointly or
99 severally, may acquire and hold real estate for offices for
100 physicians and other health care practitioners and related health
101 care or support facilities, provided that any contract for the
102 purchase of real property must be ratified by the owner, and may
103 thereon construct and equip, maintain and remodel or expand such
104 offices and related facilities, and the board of trustees may
105 lease same to members of the hospital staff or others at a rate
106 deemed to be in the best interest of the community hospital.

107 (5) If any political or judicial subdivision of a county is
108 obligated hereunder, the boundaries of such district shall not be
109 altered in such a manner as to relieve any portion thereof of its
110 obligation hereunder.

111 (6) Owners may convey to any other owner any or all
112 property, real or personal, comprising any existing community
113 hospital, including related facilities, wherever located, owned by

114 such conveying owner. Such conveyance shall be upon such terms
115 and conditions as may be agreed upon and may make such provisions
116 for transfers of operating funds and/or for the assumption of
117 liabilities of the community hospital as may be deemed appropriate
118 by the respective owners.

119 (7) (a) Except as provided for in subsection (11) of this
120 section, owners may lease all or part of the property, real or
121 personal, comprising a community hospital, including any related
122 facilities, wherever located, and/or assets of such community
123 hospital, to any individual, partnership or corporation, whether
124 operating on a nonprofit basis or on a profit basis, or to the
125 board of trustees of such community hospital or any other owner or
126 board of trustees, subject to the applicable provisions of
127 subsections (8), (9) and (10) of this section. The term of such
128 lease shall not exceed fifty (50) years. Such lease shall be
129 conditioned upon (i) the leased facility continuing to operate in
130 a manner safeguarding community health interests; (ii) the
131 proceeds from the lease being first applied against such bonds,
132 notes or other evidence of indebtedness as are issued pursuant to
133 Section 41-13-19 as and when they are due, provided that the terms
134 of the lease shall cover any indebtedness pursuant to Section
135 41-13-19; and (iii) any surplus proceeds from the lease being
136 deposited in the general fund of the owner, which proceeds may be
137 used for any lawful purpose. Such lease shall be subject to the
138 express approval of the board of trustees of the community
139 hospital, except in the case where the board of trustees of the

140 community hospital will be the lessee. However, owners may not
141 lease any community hospital to the University of Mississippi
142 Medical Center unless first the University of Mississippi Medical
143 Center has obtained authority to lease such hospital under
144 specific terms and conditions from the Board of Trustees of State
145 Institutions of Higher Learning.

146 If the owner wishes to lease a community hospital without an
147 option to sell it and the approval of the board of trustees of the
148 community hospital is required but is not given within thirty (30)
149 days of the request for its approval by the owner, then the owner
150 may enter such lease as described herein on the following
151 conditions: A resolution by the owner describing its intention to
152 enter such lease shall be published once a week for at least three
153 (3) consecutive weeks in at least one (1) newspaper published in
154 the county or city, as the case may be, or if none be so
155 published, in a newspaper having a general circulation therein.
156 The first publication of such notice shall be made not less than
157 twenty-one (21) days prior to the date fixed in such resolution
158 for the lease of the community hospital and the last publication
159 shall be made not more than seven (7) days prior to such date.
160 If, on or prior to the date fixed in such resolution for the lease
161 of the community hospital, there shall be filed with the clerk of
162 the owner a petition signed by twenty percent (20%) or fifteen
163 hundred (1500), whichever is less, of the qualified voters of such
164 owner, requesting that an election be called and held on the
165 question of the lease of the community hospital, then it shall be

166 the duty of the owner to call and provide for the holding of an
167 election as petitioned for. In such case, no such lease shall be
168 entered into unless authorized by the affirmative vote of the
169 majority of the qualified voters of such owner who vote on the
170 proposition at such election. Notice of such election shall be
171 given by publication in like manner as hereinabove provided for
172 the publication of the initial resolution. Such election shall be
173 conducted and the return thereof made, canvassed and declared as
174 nearly as may be in like manner as is now or may hereafter be
175 provided by law in the case of general elections in such owner.
176 If, on or prior to the date fixed in the owner's resolution for
177 the lease of the community hospital, no such petition as described
178 above is filed with the clerk of the owner, then the owner may
179 proceed with the lease subject to the other requirements of this
180 section. Subject to the above conditions, the lease agreement
181 shall be upon such terms and conditions as may be agreed upon and
182 may make such provision for transfers of tangible and intangible
183 personal property and operating funds and/or for the assumption of
184 liabilities of the community hospital and for such lease payments,
185 all as may be deemed appropriate by the owners.

186 (b) Owners may sell and convey all or part of the
187 property, real or personal, comprising a community hospital,
188 including any related facilities, wherever located, and/or assets
189 of such community hospital, to any individual, partnership or
190 corporation, whether operating on a nonprofit basis or on a profit
191 basis, or to the board of trustees of such community hospital or

192 any other owner or board of trustees, subject to the applicable
193 provisions of subsections (8) and (10) of this section. Such sale
194 and conveyance shall be upon such terms and conditions as may be
195 agreed upon by the owner and the purchaser that are consistent
196 with the requirements of this section, and the parties may make
197 such provisions for the transfer of operating funds or for the
198 assumption of liabilities of the facility, or both, as they deem
199 appropriate. However, such sale and conveyance shall be
200 conditioned upon (i) the facility continuing to operate in a
201 manner safeguarding community health interests; (ii) the proceeds
202 from such sale being first applied against such bonds, notes or
203 other evidence of indebtedness as are issued pursuant to Section
204 41-13-19 as and when they are due, provided that the terms of the
205 sale shall cover any indebtedness pursuant to Section 41-13-19;
206 and (iii) any surplus proceeds from the sale being deposited in
207 the general fund of the owner, which proceeds may be used for any
208 lawful purpose. However, owners may not sell or convey any
209 community hospital to the University of Mississippi Medical Center
210 unless first the University of Mississippi Medical Center has
211 obtained authority to purchase such hospital under specific terms
212 and conditions from the Board of Trustees of State Institutions of
213 Higher Learning.

214 (8) Whenever any owner decides that it may be in its best
215 interests to sell or lease a community hospital as provided for
216 under subsection (7) of this section, the owner shall first
217 contract with a certified public accounting firm, a law firm or

218 competent professional health care or management consultants to
219 review the current operating condition of the community hospital.
220 The review shall consist of, at minimum, the following:

221 (a) A review of the community's inpatient facility
222 needs based on current workload, historical trends and
223 projections, based on demographic data, of future needs.

224 (b) A review of the competitive market for services,
225 including other hospitals which serve the same area, the services
226 provided and the market perception of the competitive hospitals.

227 (c) A review of the hospital's strengths relative to
228 the competition and its capacity to compete in light of projected
229 trends and competition.

230 (d) An analysis of the hospital's options, including
231 service mix and pricing strategies. If the study concludes that a
232 sale or lease should occur, the study shall include an analysis of
233 which option would be best for the community and how much revenues
234 should be derived from the lease or sale.

235 (9) After the review and analysis under subsection (8) of
236 this section, an owner may choose to sell or lease the community
237 hospital. If an owner chooses to sell such hospital or lease the
238 hospital with an option to sell it, the owner shall follow the
239 procedure specified in subsection (10) of this section. If an
240 owner chooses to lease the hospital without an option to sell it,
241 it shall first spread upon its minutes why such a lease is in the
242 best interests of the persons living in the area served by the
243 facility to be leased, and it shall make public any and all

244 findings and recommendations made in the review required under
245 proposals for the lease, which shall state clearly the minimum
246 required terms of all respondents and the evaluation process that
247 will be used when the owner reviews the proposals. The owner
248 shall lease to the respondent submitting the highest and best
249 proposal. In no case may the owner deviate from the process
250 provided for in the request for proposals.

251 (10) If an owner wishes to sell such community hospital or
252 lease the hospital with an option to sell it, the owner first
253 shall conduct a public hearing on the issue of the proposed sale
254 or lease with an option to sell the hospital. Notice of the date,
255 time, location and purpose of the public hearing shall be
256 published once a week for at least three (3) consecutive weeks in
257 at least one (1) newspaper published in the county or city, as the
258 case may be, or if none be so published, in a newspaper having a
259 general circulation therein. The first publication of the notice
260 shall be made not less than twenty-one (21) days before the date
261 of the public hearing and the last publication shall be made not
262 more than seven (7) days before that date. If there is filed with
263 the clerk of the owner not more than twenty-one (21) days after
264 the date of the public hearing, * * * a petition signed by twenty
265 percent (20%) or fifteen hundred (1500), whichever is less, of the
266 qualified voters of the owner, requesting that an election be
267 called and held on the question of whether the owner should
268 proceed with the process of seeking proposals for the sale or
269 lease with an option to sell the hospital, then it shall be the

270 duty of the owner to call and provide for the holding of an
271 election as petitioned for. Notice of the election shall be given
272 by publication in the same manner as provided for the publication
273 of the notice of the public hearing. The election shall be
274 conducted and the return thereof made, canvassed and declared in
275 the same manner as provided by law in the case of general
276 elections in the owner. If less than a majority of the qualified
277 voters of the owner who vote on the proposition at such election
278 vote in favor of the owner proceeding with the process of seeking
279 proposals for the sale or lease with an option to sell the
280 hospital, then the owner is not authorized to sell or lease the
281 hospital. If a majority of the qualified voters of the owner who
282 vote on the proposition at such election vote in favor of the
283 owner proceeding with the process of seeking proposals for the
284 sale or lease with an option to sell the hospital, then the owner
285 may seek proposals for the sale or lease of the hospital. If no
286 such petition is timely filed with the clerk of the owner, then
287 the owner may proceed with the process of seeking proposals for
288 the sale or lease with an option to sell the hospital. The owner
289 shall adopt a resolution describing its intention to sell or lease
290 with an option to sell the hospital, which shall include the
291 owner's reasons why such a sale or lease is in the best interests
292 of the persons living in the area served by the facility to be
293 sold or leased. The owner then shall publish a copy of the
294 resolution; the requirements for proposals for the sale or lease
295 with an option to sell the hospital, which shall state clearly the

296 minimum required terms of all respondents and the evaluation
297 process that will be used when the owner reviews the proposals;
298 and the date proposed by the owner for the sale or lease with an
299 option to sell the hospital. Such publication shall be made once
300 a week for at least three (3) consecutive weeks in at least one
301 (1) newspaper published in the county or city, as the case may be,
302 or if none be so published, in a newspaper having a general
303 circulation therein. The first publication of the notice shall be
304 made not less than twenty-one (21) days before the date proposed
305 for the sale or lease with an option to sell the hospital and the
306 last publication shall be made not more than seven (7) days before
307 that date. * * * After receiving proposals, such sale or lease
308 shall be made to the respondent submitting the highest and best
309 proposal. In no case may the owner deviate from the process
310 provided for in the request for proposals.

311 (11) A lessee of a community hospital, under a lease entered
312 into under the authority of Section 41-13-15, in effect prior to
313 July 15, 1993, or an affiliate thereof, may extend or renew such
314 lease whether or not an option to renew or extend the lease is
315 contained in the lease, for a term not to exceed fifteen (15)
316 years, conditioned upon (a) the leased facility continuing to
317 operate in a manner safeguarding community health interest; (b)
318 proceeds from the lease being first applied against such bonds,
319 notes or other evidence of indebtedness as are issued pursuant to
320 Section 41-13-19; (c) surplus proceeds from the lease being used
321 for health related purposes; (d) subject to the express approval

322 of the board of trustees of the community hospital; and (e)
323 subject to the express approval of the owner. If no board of
324 trustees is then existing, the owner shall have the right to enter
325 into a lease upon such terms and conditions as agreed upon by the
326 parties. Any lease entered into under this subsection (11) may
327 contain an option to purchase the hospital, on such terms as the
328 parties shall agree.

329 **SECTION 3.** This act shall take effect and be in force from
330 and after July 1, 2019.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 41-13-10, MISSISSIPPI CODE OF 1972,
2 TO AMEND THE DEFINITION OF A COMMUNITY HOSPITAL SERVICE AREA TO
3 INCLUDE AREAS OUTSIDE OF THE STATE; TO AMEND SECTION 41-13-15,
4 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT WHEN AN OWNER OF A
5 COMMUNITY HOSPITAL WISHES TO SELL THE HOSPITAL OR LEASE THE
6 HOSPITAL WITH AN OPTION TO SELL IT, A PETITION REQUESTING AN
7 ELECTION ON THE QUESTION OF WHETHER THE OWNER SHOULD PROCEED WITH
8 THE PROCESS OF SEEKING PROPOSALS FOR THE SALE OR LEASE OF THE
9 HOSPITAL MAY BE FILED WITH THE CLERK OF THE OWNER; TO PROVIDE THAT
10 IF LESS THAN A MAJORITY OF THE VOTERS IN THE ELECTION VOTE IN
11 FAVOR OF THE QUESTION, THEN THE OWNER IS NOT AUTHORIZED TO SELL OR
12 LEASE THE HOSPITAL; TO PROVIDE THAT IF A MAJORITY OF THE VOTERS IN
13 THE ELECTION VOTE IN FAVOR OF THE QUESTION, OR IF NO SUCH PETITION
14 REQUESTING AN ELECTION IS TIMELY FILED WITH THE CLERK, THEN THE
15 OWNER MAY SEEK PROPOSALS FOR THE SALE OR LEASE OF THE HOSPITAL AND
16 MAY SELL OR LEASE THE HOSPITAL TO THE RESPONDENT SUBMITTING THE
17 HIGHEST AND BEST PROPOSAL AFTER PUBLISHING NOTICE; AND FOR RELATED
18 PURPOSES.

HR26\SB2892A.1J

Andrew Ketchings
Clerk of the House of Representatives