

**Adopted
AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2858

BY: Senator(s) McMahan

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

17 **SECTION 1.** Section 41-13-15, Mississippi Code of 1972, is
18 amended as follows:
19 41-13-15. (1) Any county and/or any political or judicial
20 subdivision of a county and/or any municipality of the State of
21 Mississippi, acting individually or jointly, may acquire and hold
22 real estate for a community hospital either recognized and/or
23 licensed as such by either the State of Mississippi or the United
24 States Government, and may, after complying with applicable health
25 planning and licensure statutes, construct a community hospital
26 thereon and/or appropriate funds according to the provisions of



27 this chapter for the construction, remodeling, maintaining,
28 equipping, furnishing and expansion of such facilities by the
29 board of trustees upon such real estate.

30 (2) Where joint ownership of a community hospital is
31 involved, the owners are hereby authorized to contract with each
32 other for determining the pro rata ownership of such community
33 hospital, the proportionate cost of maintenance and operation, and
34 the proportionate financing that each will contribute to the
35 community hospital.

36 (3) The owners may likewise contract with each other, or on
37 behalf of any subordinate political or judicial subdivision, or
38 with the board of trustees of a community hospital, and/or any
39 agency of the State of Mississippi or the United States
40 Government, for necessary purposes related to the establishment,
41 operation or maintenance of community hospitals and related
42 programs wherever located, and may either accept from, sell or
43 contribute to the other entities, monies, personal property or
44 existing health facilities. The owners or the board of trustees
45 may also receive monies, property or any other valuables of any
46 kind through gifts, donations, devises or other recognized means
47 from any source for the purpose of hospital use.

48 (4) Owners and boards of trustees, acting jointly or
49 severally, may acquire and hold real estate for offices for
50 physicians and other health care practitioners and related health
51 care or support facilities, provided that any contract for the



52 purchase of real property must be ratified by the owner, and may
53 thereon construct and equip, maintain and remodel or expand such
54 offices and related facilities, and the board of trustees may
55 lease same to members of the hospital staff or others at a rate
56 deemed to be in the best interest of the community hospital.

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

61 (6) Owners may convey to any other owner any or all
62 property, real or personal, comprising any existing community
63 hospital, including related facilities, wherever located, owned by
64 such conveying owner. Such conveyance shall be upon such terms
65 and conditions as may be agreed upon and may make such provisions
66 for transfers of operating funds and/or for the assumption of
67 liabilities of the community hospital as may be deemed appropriate
68 by the respective owners.

69 (7) (a) Except as provided for in subsection (11) of this
70 section, owners may lease all or part of the property, real or
71 personal, comprising a community hospital, including any related
72 facilities, wherever located, and/or assets of such community
73 hospital, to any individual, partnership or corporation, whether
74 operating on a nonprofit basis or on a profit basis, or to the
75 board of trustees of such community hospital or any other owner or
76 board of trustees, subject to the applicable provisions of



77 subsections (8), (9) and (10) of this section. The term of such
78 lease shall not exceed fifty (50) years. Such lease shall be
79 conditioned upon (i) the leased facility continuing to operate in
80 a manner safeguarding community health interests; (ii) the
81 proceeds from the lease being first applied against such bonds,
82 notes or other evidence of indebtedness as are issued pursuant to
83 Section 41-13-19 as and when they are due, provided that the terms
84 of the lease shall cover any indebtedness pursuant to Section
85 41-13-19; and (iii) any surplus proceeds from the lease being
86 deposited in the general fund of the owner, which proceeds may be
87 used for any lawful purpose. Such lease shall be subject to the
88 express approval of the board of trustees of the community
89 hospital, except in the case where the board of trustees of the
90 community hospital will be the lessee. However, owners may not
91 lease any community hospital to the University of Mississippi
92 Medical Center unless first the University of Mississippi Medical
93 Center has obtained authority to lease such hospital under
94 specific terms and conditions from the Board of Trustees of State
95 Institutions of Higher Learning.

96 If the owner wishes to lease a community hospital without an
97 option to sell it and the approval of the board of trustees of the
98 community hospital is required but is not given within thirty (30)
99 days of the request for its approval by the owner, then the owner
100 may enter such lease as described herein on the following
101 conditions: A resolution by the owner describing its intention to



102 enter such lease shall be published once a week for at least three
103 (3) consecutive weeks in at least one (1) newspaper published in
104 the county or city, as the case may be, or if none be so
105 published, in a newspaper having a general circulation therein.
106 The first publication of such notice shall be made not less than
107 twenty-one (21) days prior to the date fixed in such resolution
108 for the lease of the community hospital and the last publication
109 shall be made not more than seven (7) days prior to such date.
110 If, on or prior to the date fixed in such resolution for the lease
111 of the community hospital, there shall be filed with the clerk of
112 the owner a petition signed by twenty percent (20%) or fifteen
113 hundred (1500), whichever is less, of the qualified voters of such
114 owner, requesting that an election be called and held on the
115 question of the lease of the community hospital, then it shall be
116 the duty of the owner to call and provide for the holding of an
117 election as petitioned for. In such case, no such lease shall be
118 entered into unless authorized by the affirmative vote of the
119 majority of the qualified voters of such owner who vote on the
120 proposition at such election. Notice of such election shall be
121 given by publication in like manner as hereinabove provided for
122 the publication of the initial resolution. Such election shall be
123 conducted and the return thereof made, canvassed and declared as
124 nearly as may be in like manner as is now or may hereafter be
125 provided by law in the case of general elections in such owner.
126 If, on or prior to the date fixed in the owner's resolution for



127 the lease of the community hospital, no such petition as described
128 above is filed with the clerk of the owner, then the owner may
129 proceed with the lease subject to the other requirements of this
130 section. Subject to the above conditions, the lease agreement
131 shall be upon such terms and conditions as may be agreed upon and
132 may make such provision for transfers of tangible and intangible
133 personal property and operating funds and/or for the assumption of
134 liabilities of the community hospital and for such lease payments,
135 all as may be deemed appropriate by the owners.

136 (b) Owners may sell and convey all or part of the
137 property, real or personal, comprising a community hospital,
138 including any related facilities, wherever located, and/or assets
139 of such community hospital, to any individual, partnership or
140 corporation, whether operating on a nonprofit basis or on a profit
141 basis, or to the board of trustees of such community hospital or
142 any other owner or board of trustees, subject to the applicable
143 provisions of subsections (8) and (10) of this section. Such sale
144 and conveyance shall be upon such terms and conditions as may be
145 agreed upon by the owner and the purchaser that are consistent
146 with the requirements of this section, and the parties may make
147 such provisions for the transfer of operating funds or for the
148 assumption of liabilities of the facility, or both, as they deem
149 appropriate. However, such sale and conveyance shall be
150 conditioned upon (i) the facility continuing to operate in a
151 manner safeguarding community health interests; (ii) the proceeds



152 from such sale being first applied against such bonds, notes or
153 other evidence of indebtedness as are issued pursuant to Section
154 41-13-19 as and when they are due, provided that the terms of the
155 sale shall cover any indebtedness pursuant to Section 41-13-19;
156 and (iii) any surplus proceeds from the sale being deposited in
157 the general fund of the owner, which proceeds may be used for any
158 lawful purpose. However, owners may not sell or convey any
159 community hospital to the University of Mississippi Medical Center
160 unless first the University of Mississippi Medical Center has
161 obtained authority to purchase such hospital under specific terms
162 and conditions from the Board of Trustees of State Institutions of
163 Higher Learning.

164 (8) Whenever any owner decides that it may be in its best
165 interests to sell or lease a community hospital as provided for
166 under subsection (7) of this section, the owner shall first
167 contract with a certified public accounting firm, a law firm or
168 competent professional health care or management consultants to
169 review the current operating condition of the community hospital.
170 The review shall consist of, at minimum, the following:

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

174 (b) A review of the competitive market for services,
175 including other hospitals which serve the same area, the services
176 provided and the market perception of the competitive hospitals.



177 (c) A review of the hospital's strengths relative to
178 the competition and its capacity to compete in light of projected
179 trends and competition.

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

185 (9) After the review and analysis under subsection (8) of
186 this section, an owner may choose to sell or lease the community
187 hospital. If an owner chooses to sell such hospital or lease the
188 hospital with an option to sell it, the owner shall follow the
189 procedure specified in subsection (10) of this section. If an
190 owner chooses to lease the hospital without an option to sell it,
191 it shall first spread upon its minutes why such a lease is in the
192 best interests of the persons living in the area served by the
193 facility to be leased, and it shall make public any and all
194 findings and recommendations made in the review required under
195 proposals for the lease, which shall state clearly the minimum
196 required terms of all respondents and the evaluation process that
197 will be used when the owner reviews the proposals. The owner
198 shall lease to the respondent submitting the highest and best
199 proposal. In no case may the owner deviate from the process
200 provided for in the request for proposals.



201 (10) If an owner wishes to sell such community hospital or
202 lease the hospital with an option to sell it, the owner first
203 shall conduct a public hearing on the issue of the proposed sale
204 or lease with an option to sell the hospital. Notice of the date,
205 time, location and purpose of the public hearing shall be
206 published once a week for at least three (3) consecutive weeks in
207 at least one (1) newspaper published in the county or city, as the
208 case may be, or if none be so published, in a newspaper having a
209 general circulation therein. The first publication of the notice
210 shall be made not less than twenty-one (21) days before the date
211 of the public hearing and the last publication shall be made not
212 more than seven (7) days before that date. If there is filed with
213 the clerk of the owner not more than sixty (60) days after the
214 date of the public hearing, * * * a petition signed by twenty
215 percent (20%) or fifteen hundred (1500), whichever is less, of the
216 qualified voters of the owner, requesting that an election be
217 called and held on the question of whether the owner should
218 proceed with the process of seeking proposals for the sale or
219 lease with an option to sell the hospital, then it shall be the
220 duty of the owner to call and provide for the holding of an
221 election as petitioned for. Notice of the election shall be given
222 by publication in the same manner as provided for the publication
223 of the notice of the public hearing. The election shall be
224 conducted and the return thereof made, canvassed and declared in
225 the same manner as provided by law in the case of general



226 elections in the owner. If less than a majority of the qualified
227 voters of the owner who vote on the proposition at such election
228 vote in favor of the owner proceeding with the process of seeking
229 proposals for the sale or lease with an option to sell the
230 hospital, then the owner is not authorized to sell or lease the
231 hospital. If a majority of the qualified voters of the owner who
232 vote on the proposition at such election vote in favor of the
233 owner proceeding with the process of seeking proposals for the
234 sale or lease with an option to sell the hospital, then the owner
235 may seek proposals for the sale or lease of the hospital. If no
236 such petition is timely filed with the clerk of the owner, then
237 the owner may proceed with the process of seeking proposals for
238 the sale or lease with an option to sell the hospital. The owner
239 shall adopt a resolution describing its intention to sell or lease
240 with an option to sell the hospital, which shall include the
241 owner's reasons why such a sale or lease is in the best interests
242 of the persons living in the area served by the facility to be
243 sold or leased. The owner then shall publish a copy of the
244 resolution; the requirements for proposals for the sale or lease
245 with an option to sell the hospital, which shall state clearly the
246 minimum required terms of all respondents and the evaluation
247 process that will be used when the owner reviews the proposals;
248 and the date proposed by the owner for the sale or lease with an
249 option to sell the hospital. Such publication shall be made once
250 a week for at least three (3) consecutive weeks in at least one



251 (1) newspaper published in the county or city, as the case may be,
252 or if none be so published, in a newspaper having a general
253 circulation therein. The first publication of the notice shall be
254 made not less than twenty-one (21) days before the date proposed
255 for the sale or lease with an option to sell the hospital and the
256 last publication shall be made not more than seven (7) days before
257 that date. * * * After receiving proposals, such sale or lease
258 shall be made to the respondent submitting the highest and best
259 proposal. In no case may the owner deviate from the process
260 provided for in the request for proposals.

261 (11) A lessee of a community hospital, under a lease entered
262 into under the authority of Section 41-13-15, in effect prior to
263 July 15, 1993, or an affiliate thereof, may extend or renew such
264 lease whether or not an option to renew or extend the lease is
265 contained in the lease, for a term not to exceed fifteen (15)
266 years, conditioned upon (a) the leased facility continuing to
267 operate in a manner safeguarding community health interest; (b)
268 proceeds from the lease being first applied against such bonds,
269 notes or other evidence of indebtedness as are issued pursuant to
270 Section 41-13-19; (c) surplus proceeds from the lease being used
271 for health related purposes; (d) subject to the express approval
272 of the board of trustees of the community hospital; and (e)
273 subject to the express approval of the owner. If no board of
274 trustees is then existing, the owner shall have the right to enter
275 into a lease upon such terms and conditions as agreed upon by the



276 parties. Any lease entered into under this subsection (11) may
277 contain an option to purchase the hospital, on such terms as the
278 parties shall agree.

279 **SECTION 2.** This act shall take effect and be in force from
280 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 41-13-15, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT WHEN AN OWNER OF A COMMUNITY HOSPITAL WISHES TO
3 SELL THE HOSPITAL OR LEASE THE HOSPITAL WITH AN OPTION TO SELL IT,
4 A PETITION REQUESTING AN ELECTION ON THE QUESTION OF WHETHER THE
5 OWNER SHOULD PROCEED WITH THE PROCESS OF SEEKING PROPOSALS FOR THE
6 SALE OR LEASE OF THE HOSPITAL MAY BE FILED WITH THE CLERK OF THE
7 OWNER; TO PROVIDE THAT IF LESS THAN A MAJORITY OF THE VOTERS IN
8 THE ELECTION VOTE IN FAVOR OF THE QUESTION, THEN THE OWNER IS NOT
9 AUTHORIZED TO SELL OR LEASE THE HOSPITAL; TO PROVIDE THAT IF A
10 MAJORITY OF THE VOTERS IN THE ELECTION VOTE IN FAVOR OF THE
11 QUESTION, OR IF NO SUCH PETITION REQUESTING AN ELECTION IS TIMELY
12 FILED WITH THE CLERK, THEN THE OWNER MAY SEEK PROPOSALS FOR THE
13 SALE OR LEASE OF THE HOSPITAL AND MAY SELL OR LEASE THE HOSPITAL
14 TO THE RESPONDENT SUBMITTING THE HIGHEST AND BEST PROPOSAL AFTER
15 PUBLISHING NOTICE; AND FOR RELATED PURPOSES.

