



Rep. Jennifer Gong-Gershowitz

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10300HB2222ham001

LRB103 30580 LNS 59572 a

1 AMENDMENT TO HOUSE BILL 2222

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2222 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Health Facilities Planning Act is  
5 amended by changing Section 8.5 as follows:

6 (20 ILCS 3960/8.5)

7 (Section scheduled to be repealed on December 31, 2029)

8 Sec. 8.5. Certificate of exemption for change of ownership  
9 of a health care facility; discontinuation of a category of  
10 service; public notice and public hearing.

11 (a) Upon a finding that an application for a change of  
12 ownership is complete, the State Board shall publish a legal  
13 notice on 3 consecutive days in a newspaper of general  
14 circulation in the area or community to be affected and afford  
15 the public an opportunity to request a hearing. If the  
16 application is for a facility located in a Metropolitan

1 Statistical Area, an additional legal notice shall be  
2 published in a newspaper of limited circulation, if one  
3 exists, in the area in which the facility is located. If the  
4 newspaper of limited circulation is published on a daily  
5 basis, the additional legal notice shall be published on 3  
6 consecutive days. The applicant shall pay the cost incurred by  
7 the Board in publishing the change of ownership notice in  
8 newspapers as required under this subsection. The legal notice  
9 shall also be posted on the Health Facilities and Services  
10 Review Board's web site and sent to the State Representative  
11 and State Senator of the district in which the health care  
12 facility is located and to the Office of the Attorney General.

13 An application for change of ownership of a hospital shall not  
14 be deemed complete without a signed certification that for a  
15 period of 2 years after the change of ownership transaction is  
16 effective, the hospital will not adopt a charity care policy  
17 that is more restrictive than the policy in effect during the  
18 year prior to the transaction. An application for a change of  
19 ownership need not contain signed transaction documents so  
20 long as it includes the following key terms of the  
21 transaction: names and background of the parties; structure of  
22 the transaction; the person who will be the licensed or  
23 certified entity after the transaction; the ownership or  
24 membership interests in such licensed or certified entity both  
25 prior to and after the transaction; fair market value of  
26 assets to be transferred; and the purchase price or other form

1 of consideration to be provided for those assets. The issuance  
2 of the certificate of exemption shall be contingent upon the  
3 applicant submitting a statement to the Board within 90 days  
4 after the closing date of the transaction, or such longer  
5 period as provided by the Board, certifying that the change of  
6 ownership has been completed in accordance with the key terms  
7 contained in the application. If such key terms of the  
8 transaction change, a new application shall be required.

9 Where a change of ownership is among related persons, and  
10 there are no other changes being proposed at the health care  
11 facility that would otherwise require a permit or exemption  
12 under this Act, the applicant shall submit an application  
13 consisting of a standard notice in a form set forth by the  
14 Board briefly explaining the reasons for the proposed change  
15 of ownership. Once such an application is submitted to the  
16 Board and reviewed by the Board staff, the Board Chair shall  
17 take action on an application for an exemption for a change of  
18 ownership among related persons within 45 days after the  
19 application has been deemed complete, provided the application  
20 meets the applicable standards under this Section. If the  
21 Board Chair has a conflict of interest or for other good cause,  
22 the Chair may request review by the Board. Notwithstanding any  
23 other provision of this Act, for purposes of this Section, a  
24 change of ownership among related persons means a transaction  
25 where the parties to the transaction are under common control  
26 or ownership before and after the transaction is completed.

1           Nothing in this Act shall be construed as authorizing the  
2 Board to impose any conditions, obligations, or limitations,  
3 other than those required by this Section, with respect to the  
4 issuance of an exemption for a change of ownership, including,  
5 but not limited to, the time period before which a subsequent  
6 change of ownership of the health care facility could be  
7 sought, or the commitment to continue to offer for a specified  
8 time period any services currently offered by the health care  
9 facility.

10           (a-3) (Blank).

11           (a-5) Upon a finding that an application to discontinue a  
12 category of service is complete and provides the requested  
13 information, as specified by the State Board, an exemption  
14 shall be issued. No later than 30 days after the issuance of  
15 the exemption, the health care facility must give written  
16 notice of the discontinuation of the category of service to  
17 the State Senator and State Representative serving the  
18 legislative district in which the health care facility is  
19 located. No later than 90 days after a discontinuation of a  
20 category of service, the applicant must submit a statement to  
21 the State Board certifying that the discontinuation is  
22 complete.

23           (b) If a public hearing is requested, it shall be held at  
24 least 15 days but no more than 30 days after the date of  
25 publication of the legal notice in the community in which the  
26 facility is located. The hearing shall be held in the affected

1 area or community in a place of reasonable size and  
2 accessibility and a full and complete written transcript of  
3 the proceedings shall be made. All interested persons  
4 attending the hearing shall be given a reasonable opportunity  
5 to present their positions in writing or orally. The applicant  
6 shall provide a summary or describe the proposed change of  
7 ownership at the public hearing.

8 (c) For the purposes of this Section "newspaper of limited  
9 circulation" means a newspaper intended to serve a particular  
10 or defined population of a specific geographic area within a  
11 Metropolitan Statistical Area such as a municipality, town,  
12 village, township, or community area, but does not include  
13 publications of professional and trade associations.

14 (d) The changes made to this Section by this amendatory  
15 Act of the 101st General Assembly shall apply to all  
16 applications submitted after the effective date of this  
17 amendatory Act of the 101st General Assembly.

18 (Source: P.A. 100-201, eff. 8-18-17; 101-83, eff. 7-15-19.)

19 Section 10. The State Finance Act is amended by adding  
20 Section 5.990 as follows:

21 (30 ILCS 105/5.990 new)

22 Sec. 5.990. The Antitrust Enforcement Fund.

23 Section 15. The Illinois Antitrust Act is amended by

1 changing Section 7.2 and by adding Sections 7.2a and 13 as  
2 follows:

3 (740 ILCS 10/7.2) (from Ch. 38, par. 60-7.2)

4 Sec. 7.2. (1) Whenever it appears to the Attorney General  
5 that any person has engaged in, is engaging in, or is about to  
6 engage in any act or practice prohibited by this Act, or that  
7 any person has assisted or participated in any agreement or  
8 combination of the nature described herein, he may, in his  
9 discretion, conduct an investigation as he deems necessary in  
10 connection with the matter and has the authority prior to the  
11 commencement of any civil or criminal action as provided for  
12 in the Act to subpoena witnesses, and pursuant to a subpoena  
13 (i) compel their attendance for the purpose of examining them  
14 under oath, (ii) require the production of any books,  
15 documents, records, writings or tangible things hereafter  
16 referred to as "documentary material" which the Attorney  
17 General deems relevant or material to his investigation, for  
18 inspection, reproducing or copying under such terms and  
19 conditions as hereafter set forth, (iii) require written  
20 answers under oath to written interrogatories, or (iv) require  
21 compliance with a combination of the foregoing. Any subpoena  
22 issued by the Attorney General shall contain the following  
23 information:

24 (a) The statute and section thereof, the alleged  
25 violation of which is under investigation and the general

1 subject matter of the investigation.

2 (b) The date and place at which time the person is  
3 required to appear or produce documentary material in his  
4 possession, custody or control or submit answers to  
5 interrogatories in the office of the Attorney General  
6 located in Springfield or Chicago. Said date shall not be  
7 less than 10 days from date of service of the subpoena.

8 (c) Where documentary material is required to be  
9 produced, the same shall be described by class so as to  
10 clearly indicate the material demanded.

11 The Attorney General is hereby authorized, and may so  
12 elect, to require the production, pursuant to this section, of  
13 documentary material or interrogatory answers prior to the  
14 taking of any testimony of the person subpoenaed. Said  
15 documentary material shall be made available for inspection  
16 and copying during normal business hours at the principal  
17 place of business of the person served, or at such other time  
18 and place, as may be agreed upon by the person served and the  
19 Attorney General. When documentary material is demanded by  
20 subpoena, said subpoena shall not:

21 (i) contain any requirement which would be  
22 unreasonable or improper if contained in a subpoena duces  
23 tecum issued by a court of this State; or

24 (ii) require the disclosure of any documentary  
25 material which would be privileged, or which for any other  
26 reason would not be required by a subpoena duces tecum

1 issued by a court of this State.

2 (2) The production of documentary material in response to  
3 a subpoena served pursuant to this Section shall be made under  
4 a sworn certificate, in such form as the subpoena designates,  
5 by the person, if a natural person, to whom the demand is  
6 directed or, if not a natural person, by a person or persons  
7 having knowledge of the facts and circumstances relating to  
8 such production, to the effect that all of the documentary  
9 material required by the demand and in the possession,  
10 custody, or control of the person to whom the demand is  
11 directed has been produced and made available to the  
12 custodian. Answers to interrogatories shall be accompanied by  
13 a statement under oath attesting to the accuracy of the  
14 answers.

15 While in the possession of the Attorney General and under  
16 such reasonable terms and conditions as the Attorney General  
17 shall prescribe: (A) documentary material shall be available  
18 for examination by the person who produced such material or by  
19 any duly authorized representative of such person, (B)  
20 transcript of oral testimony shall be available for  
21 examination by the person who produced such testimony, or his  
22 or her counsel and (C) answers to interrogatories shall be  
23 available for examination by the person who swore to their  
24 accuracy.

25 Except as otherwise provided in this Section, no  
26 documentary material, transcripts of oral testimony, or



1 answers to interrogatories, or copies thereof, in the  
2 possession of the Attorney General shall be available for  
3 examination by any individual other than an authorized  
4 employee of the Attorney General or other law enforcement  
5 officials, federal, State, or local, without the consent of  
6 the person who produced such material, transcripts, or  
7 interrogatory answers. Such documentary material, transcripts  
8 of oral testimony, or answers to interrogatories, or copies  
9 thereof may be used by the Attorney General in any  
10 administrative or judicial action or proceeding.

11 For purposes of this Section, all documentary materials,  
12 transcripts of oral testimony, ~~or~~ answers to interrogatories  
13 obtained by the Attorney General from other law enforcement  
14 officials, information voluntarily produced to the Attorney  
15 General for purposes of any investigation conducted under  
16 subsection (1), or information provided to the Attorney  
17 General pursuant to the notice requirement of Section 7.2a  
18 shall be treated as if produced pursuant to a subpoena served  
19 pursuant to this Section for purposes of maintaining the  
20 confidentiality of such information.

21 (3) No person shall, with intent to avoid, evade, prevent,  
22 or obstruct compliance in whole or in part by any person with  
23 any duly served subpoena of the Attorney General under this  
24 Act, knowingly remove from any place, conceal, withhold,  
25 destroy, mutilate, alter, or by any other means falsify any  
26 documentary material that is the subject of such subpoena. A

1 violation of this subsection is a Class A misdemeanor. The  
2 Attorney General, with such assistance as he may from time to  
3 time require of the State's Attorneys in the several counties,  
4 shall investigate suspected violations of this subsection and  
5 shall commence and try all prosecutions under this subsection.

6 (Source: P.A. 96-751, eff. 1-1-10; 96-1000, eff. 7-2-10.)

7 (740 ILCS 10/7.2a new)

8 Sec. 7.2a. Notification to the Attorney General.

9 (a) As used in this Section:

10 "Acquisition" means an agreement, arrangement, or activity  
11 the consummation of which results in a person acquiring  
12 directly or indirectly the control of another person.

13 "Acquisition" includes the acquisition of voting securities  
14 and noncorporate interests, such as assets, capital stock,  
15 membership interests, or equity interests.

16 "Contracting affiliation" means the formation of a  
17 relationship between 2 or more entities that permits the  
18 entities to negotiate jointly with health carriers or  
19 third-party administrators over rates for professional medical  
20 services, or for one entity to negotiate on behalf of the other  
21 entity with health carriers or third-party administrators over  
22 rates for professional medical services. "Contracting  
23 affiliation" does not include arrangements among entities  
24 under common ownership.

25 "Covered transaction" means any merger, acquisition, or

1 contracting affiliation between 2 or more health care  
2 facilities or provider organizations not previously under  
3 common ownership or contracting affiliation.

4 "Health care facility" means the following facilities,  
5 organizations, and related persons:

6 (1) An ambulatory surgical treatment center required  
7 to be licensed under the Ambulatory Surgical Treatment  
8 Center Act.

9 (2) An institution, place, building, or agency  
10 required to be licensed under the Hospital Licensing Act.

11 (3) A hospital, ambulatory surgical treatment center,  
12 or kidney disease treatment center maintained by the State  
13 or any department or agency thereof.

14 (4) A kidney disease treatment center, including a  
15 free-standing hemodialysis unit required to meet the  
16 requirements of 42 CFR 494 in order to be certified for  
17 participation in Medicare and Medicaid under Titles XVIII  
18 and XIX of the federal Social Security Act of 1935.

19 (5) An institution, place, building, or room used for  
20 the performance of outpatient surgical procedures that is  
21 leased, owned, or operated by or on behalf of an  
22 out-of-state facility.

23 (6) An institution, place, building, or room used for  
24 provision of a health care category of service, as defined  
25 under the Illinois Health Facilities Planning Act,  
26 including, but not limited to, cardiac catheterization and

1       open heart surgery.

2       With the exception of those health care facilities  
3 specifically included in this Section, nothing in this Section  
4 shall be intended to include facilities operated as a part of  
5 the practice of a physician or other licensed health care  
6 professional, whether practicing in his or her individual  
7 capacity or within the legal structure of any partnership,  
8 medical or professional corporation, or unincorporated medical  
9 or professional group. Further, this Section shall not apply  
10 to physicians or other licensed health care professional's  
11 practices where such practices are carried out in a portion of  
12 a health care facility under contract with such health care  
13 facility by a physician or by other licensed health care  
14 professionals, whether practicing in his or her individual  
15 capacity or within the legal structure of any partnership,  
16 medical or professional corporation, or unincorporated medical  
17 or professional groups, unless the entity constructs,  
18 modifies, or establishes a health care facility as  
19 specifically defined in this Section.

20       "Health care services revenue" means the total revenue  
21 received for health care services in the previous 12 months.

22       "Health carriers" has the meaning given to that term in  
23 Section 10 of the Health Carrier External Review Act.

24       "Illinois health care entity" means a health care facility  
25 or provider organization that has an office in or is doing  
26 business in this State.

1       "Merger" means the consolidation of 2 or more  
2 organizations, including 2 or more organizations joining  
3 through a common parent organization or 2 or more  
4 organizations forming a new organization, but does not include  
5 a corporate reorganization.

6       "Out-of-state health care entity" means a health care  
7 facility or provider organization that is not headquartered in  
8 this State and does not do business in this State.

9       "Provider organization" means a corporation, partnership,  
10 business trust, association, or organized group of persons,  
11 whether incorporated or not, which is in the business of  
12 health care delivery or management and that represents 20 or  
13 more health care providers in contracting with health carriers  
14 or third-party administrators for the payment of health care  
15 services. "Provider organization" includes physician  
16 organizations, physician-hospital organizations, independent  
17 practice associations, provider networks, and accountable care  
18 organizations.

19       "Third-party administrator" means an entity that  
20 administers payments for health care services on behalf of a  
21 client in exchange for an administrative fee.

22       (b) Health care facilities or provider organizations that  
23 are party to a covered transaction shall provide notice of  
24 such transaction to the Attorney General no later than 30 days  
25 prior to the transaction closing or effective date of the  
26 transaction.

1       Covered transactions between an Illinois health care  
2 entity and an out-of-state health care entity must provide  
3 notice under this subsection where the out-of-state entity  
4 generates \$10,000,000 or more in annual revenue from patients  
5 residing in this State.

6       (c) The written notice provided by the parties under  
7 subsection (b) shall be provided as follows:

8           (1) For any health care facility or provider  
9 organization that is a party to a covered transaction and  
10 files a premerger notification with the Federal Trade  
11 Commission or the United States Department of Justice, in  
12 compliance with the Hart-Scott-Rodino Antitrust  
13 Improvements Act of 1976, 15 U.S.C. 18a, the notice  
14 requirement is satisfied by providing a copy of such  
15 filing to the Attorney General at the same time as it is  
16 provided to the federal government.

17           (2) For any health care facility that is a party to a  
18 covered transaction that is not described in paragraph  
19 (1), the notice requirement is satisfied when the  
20 healthcare facility files an application for a change of  
21 ownership with the Health Facilities and Services Review  
22 Board, in compliance with the Illinois Health Facilities  
23 Planning Act. The Health Facilities and Services Review  
24 Board shall provide a copy of such filing to the Attorney  
25 General at the same time as it is provided to the  
26 applicable State legislators under subsection (a) of

1 Section 8.5 of the Illinois Health Facilities Planning  
2 Act.

3 (3) For any health care facility or provider  
4 organization that is a party to a covered transaction that  
5 is not described in paragraph (1) or (2), written notice  
6 provided by the parties must include:

7 (A) the names of the parties and their current  
8 business address;

9 (B) identification of all locations where health  
10 care services are currently provided by each party;

11 (C) a brief description of the nature and purpose  
12 of the proposed transaction; and

13 (D) the anticipated effective date of the proposed  
14 transaction.

15 Nothing in this subsection prohibits the parties to a  
16 covered transaction from voluntarily providing additional  
17 information to the Attorney General.

18 (d) The Attorney General may make any requests for  
19 additional information from the parties that is relevant to  
20 its investigation of the covered transaction within 30 days of  
21 the date notice is received under subsections (b) and (c). If  
22 the Attorney General requests additional information, the  
23 covered transaction may not proceed until 30 days after the  
24 parties have substantially complied with the request. Any  
25 subsequent request for additional information by the Attorney  
26 General shall not further delay the covered transaction from

1 proceeding. Nothing in this Section precludes the Attorney  
2 General from conducting an investigation or enforcing State or  
3 federal antitrust laws at a later date.

4 (e) Any health care facility or provider organization that  
5 fails to comply with any provision of this Section is subject  
6 to a civil penalty of not more than \$500 per day for each day  
7 during which the health care facility or provider organization  
8 is in violation of this Section.

9 Whenever the Attorney General has reason to believe that a  
10 health care facility or provider organization has engaged in  
11 or is engaging in a covered transaction without complying with  
12 the provisions of this Section, the Attorney General may apply  
13 for and obtain, in an action in the Circuit Court of Sangamon  
14 or Cook County, a temporary restraining order or injunction,  
15 or both, prohibiting the health care facility or provider  
16 organization from continuing its noncompliance or doing any  
17 act in furtherance thereof. The court may make such further  
18 orders or judgments, at law or in equity, as may be necessary  
19 to remedy such noncompliance.

20 Before bringing such an action or seeking to recover a  
21 civil penalty, the Attorney General shall permit the health  
22 care facility or provider organization to come into compliance  
23 with this Section within 10 days of being notified of its  
24 alleged noncompliance. The right to cure noncompliance does  
25 not exist on or after the covered transaction's proposed or  
26 actual closing date of the covered transaction, whichever is



1 sooner.

2 (740 ILCS 10/13 new)

3 Sec. 13. Antitrust Enforcement Fund. Any penalties  
4 collected from an entity for violations of this Act shall be  
5 deposited into the Antitrust Enforcement Fund, a special fund  
6 created in the State treasury that is dedicated to enforcing  
7 this Act.

8 Section 99. Effective date. This Act takes effect January  
9 1, 2024.".