

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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7 (Section scheduled to be repealed on December 31, 2029)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  
17 Statistical Area, an additional legal notice shall be  
18 published in a newspaper of limited circulation, if one  
19 exists, in the area in which the facility is located. If the  
20 newspaper of limited circulation is published on a daily  
21 basis, the additional legal notice shall be published on 3  
22 consecutive days. The applicant shall pay the cost incurred by  
23 the Board in publishing the change of ownership notice in

1 newspapers as required under this subsection. The legal notice  
2 shall also be posted on the Health Facilities and Services  
3 Review Board's web site and sent to the State Representative  
4 and State Senator of the district in which the health care  
5 facility is located and to the Office of the Attorney General.  
6 An application for change of ownership of a hospital shall not  
7 be deemed complete without a signed certification that for a  
8 period of 2 years after the change of ownership transaction is  
9 effective, the hospital will not adopt a charity care policy  
10 that is more restrictive than the policy in effect during the  
11 year prior to the transaction. An application for a change of  
12 ownership need not contain signed transaction documents so  
13 long as it includes the following key terms of the  
14 transaction: names and background of the parties; structure of  
15 the transaction; the person who will be the licensed or  
16 certified entity after the transaction; the ownership or  
17 membership interests in such licensed or certified entity both  
18 prior to and after the transaction; fair market value of  
19 assets to be transferred; and the purchase price or other form  
20 of consideration to be provided for those assets. The issuance  
21 of the certificate of exemption shall be contingent upon the  
22 applicant submitting a statement to the Board within 90 days  
23 after the closing date of the transaction, or such longer  
24 period as provided by the Board, certifying that the change of  
25 ownership has been completed in accordance with the key terms  
26 contained in the application. If such key terms of the

1 transaction change, a new application shall be required.

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

20 Nothing in this Act shall be construed as authorizing the  
21 Board to impose any conditions, obligations, or limitations,  
22 other than those required by this Section, with respect to the  
23 issuance of an exemption for a change of ownership, including,  
24 but not limited to, the time period before which a subsequent  
25 change of ownership of the health care facility could be  
26 sought, or the commitment to continue to offer for a specified

1 time period any services currently offered by the health care  
2 facility.

3 The changes made by this amendatory Act of the 103rd  
4 General Assembly are inoperative on and after January 1, 2027.

5 (a-3) (Blank).

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

18 (b) If a public hearing is requested, it shall be held at  
19 least 15 days but no more than 30 days after the date of  
20 publication of the legal notice in the community in which the  
21 facility is located. The hearing shall be held in the affected  
22 area or community in a place of reasonable size and  
23 accessibility and a full and complete written transcript of  
24 the proceedings shall be made. All interested persons  
25 attending the hearing shall be given a reasonable opportunity  
26 to present their positions in writing or orally. The applicant

1 shall provide a summary or describe the proposed change of  
2 ownership at the public hearing.

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

9 (d) The changes made to this Section by this amendatory  
10 Act of the 101st General Assembly shall apply to all  
11 applications submitted after the effective date of this  
12 amendatory Act of the 101st General Assembly.

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

14 Section 10. The State Finance Act is amended by adding  
15 Section 5.990 as follows:

16 (30 ILCS 105/5.990 new)

17 Sec. 5.990. The Antitrust Enforcement Fund. This Section  
18 is repealed on January 1, 2027.

19 Section 15. The Illinois Antitrust Act is amended by  
20 changing Section 7.2 and by adding Sections 7.2a and 13 as  
21 follows:

22 (740 ILCS 10/7.2) (from Ch. 38, par. 60-7.2)

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

21           (a) The statute and section thereof, the alleged  
22 violation of which is under investigation and the general  
23 subject matter of the investigation.

24           (b) The date and place at which time the person is  
25 required to appear or produce documentary material in his  
26 possession, custody or control or submit answers to

1           interrogatories in the office of the Attorney General  
2           located in Springfield or Chicago. Said date shall not be  
3           less than 10 days from date of service of the subpoena.

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

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

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

20          (ii) require the disclosure of any documentary  
21          material which would be privileged, or which for any other  
22          reason would not be required by a subpoena duces tecum  
23          issued by a court of this State.

24          (2) The production of documentary material in response to  
25          a subpoena served pursuant to this Section shall be made under  
26          a sworn certificate, in such form as the subpoena designates,

1 by the person, if a natural person, to whom the demand is  
2 directed or, if not a natural person, by a person or persons  
3 having knowledge of the facts and circumstances relating to  
4 such production, to the effect that all of the documentary  
5 material required by the demand and in the possession,  
6 custody, or control of the person to whom the demand is  
7 directed has been produced and made available to the  
8 custodian. Answers to interrogatories shall be accompanied by  
9 a statement under oath attesting to the accuracy of the  
10 answers.

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

21 Except as otherwise provided in this Section, no  
22 documentary material, transcripts of oral testimony, or  
23 answers to interrogatories, or copies thereof, in the  
24 possession of the Attorney General shall be available for  
25 examination by any individual other than an authorized  
26 employee of the Attorney General or other law enforcement



1 officials, federal, State, or local, without the consent of  
2 the person who produced such material, transcripts, or  
3 interrogatory answers. Such documentary material, transcripts  
4 of oral testimony, or answers to interrogatories, or copies  
5 thereof may be used by the Attorney General in any  
6 administrative or judicial action or proceeding.

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

17 The changes made by this amendatory Act of the 103rd  
18 General Assembly are inoperative on and after January 1, 2027.

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

1 time require of the State's Attorneys in the several counties,  
2 shall investigate suspected violations of this subsection and  
3 shall commence and try all prosecutions under this subsection.  
4 (Source: P.A. 96-751, eff. 1-1-10; 96-1000, eff. 7-2-10.)

5 (740 ILCS 10/7.2a new)

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

7 (a) As used in this Section:

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

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

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

23 "Covered transaction" means any merger, acquisition, or  
24 contracting affiliation between 2 or more health care  
25 facilities or provider organizations not previously under

1 common ownership or contracting affiliation.

2 "Health care facility" means the following facilities,  
3 organizations, and related persons:

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

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

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

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

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

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

26 With the exception of those health care facilities

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

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

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

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

25 "Merger" means the consolidation of 2 or more  
26 organizations, including 2 or more organizations joining

1 through a common parent organization or 2 or more  
2 organizations forming a new organization, but does not include  
3 a corporate reorganization.

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

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

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

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

25 Covered transactions between an Illinois health care  
26 entity and an out-of-state health care entity must provide

1 notice under this subsection where the out-of-state entity  
2 generates \$10,000,000 or more in annual revenue from patients  
3 residing in this State.

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

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

15 (2) For any health care facility that is a party to a  
16 covered transaction that is not described in paragraph  
17 (1), the notice requirement is satisfied when the  
18 healthcare facility files an application for a change of  
19 ownership with the Health Facilities and Services Review  
20 Board, in compliance with the Illinois Health Facilities  
21 Planning Act. The Health Facilities and Services Review  
22 Board shall provide a copy of such filing to the Attorney  
23 General at the same time as it is provided to the  
24 applicable State legislators under subsection (a) of  
25 Section 8.5 of the Illinois Health Facilities Planning  
26 Act.

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

5                   (A) the names of the parties and their current  
6                   business address;

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

9                   (C) a brief description of the nature and purpose  
10                  of the proposed transaction; and

11                  (D) the anticipated effective date of the proposed  
12                  transaction.

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

16           (d) The Attorney General may make any requests for  
17           additional information from the parties that is relevant to  
18           its investigation of the covered transaction within 30 days of  
19           the date notice is received under subsections (b) and (c). If  
20           the Attorney General requests additional information, the  
21           covered transaction may not proceed until 30 days after the  
22           parties have substantially complied with the request. Any  
23           subsequent request for additional information by the Attorney  
24           General shall not further delay the covered transaction from  
25           proceeding. Nothing in this Section precludes the Attorney  
26           General from conducting an investigation or enforcing State or

1 federal antitrust laws at a later date.

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

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

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

26 (f) This Section is repealed on January 1, 2027.



1 (740 ILCS 10/13 new)

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

7 This Section is repealed on January 1, 2027.

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