

1 AN ACT concerning health and human services providers.

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 Authority Act
5 is amended by changing Sections 2.06, 4.06, and 11 and by
6 adding Sections 17.1, 17.2, 17.3, 17.4, 17.5, 17.6, 17.7,
7 17.8, 17.9, and 17.10 as follows:

8 (20 ILCS 3705/2.06) (from Ch. 111 1/2, par. 1102.06)

9 Sec. 2.06. Bonds. "Bonds" means bonds, notes and bond
10 anticipation notes and any other evidences of indebtedness of
11 the Authority issued under this Act, including refunding
12 bonds and bonds issued under Section 17.3.

13 (Source: P.A. 85-1173.)

14 (20 ILCS 3705/4.06) (from Ch. 111 1/2, par. 1104.06)

15 Sec. 4.06. Issuance of bonds. To issue bonds of the
16 Authority for any of its corporate purposes and in such
17 amounts as it deems necessary and to fund or refund the same
18 all as provided in this Act, and with respect to bonds issued
19 under Section 17.3, subject to the requirements of Sections
20 17.1 through 17.10.

21 (Source: P.A. 77-2635.)

22 (20 ILCS 3705/11) (from Ch. 111 1/2, par. 1111)

23 Sec. 11. Bonds; liability of State and political
24 subdivisions.

25 (a) Bonds issued under the provisions of this Act shall
26 not be deemed to constitute a debt or liability of the State
27 or of any political subdivision thereof other than the
28 Authority or a pledge of the faith and credit of the State or
29 of any such political subdivision other than the Authority,

1 but shall be payable solely from the funds herein provided
2 therefor. The issuance of bonds under the provisions of this
3 Act shall not, directly or indirectly or contingently,
4 obligate the State or any political subdivision thereof to
5 levy any form of taxation therefor or to make any
6 appropriation for their payment. Nothing in this Section
7 contained shall prevent or be construed to prevent the
8 Authority from pledging its full faith and credit or the full
9 faith and credit of a health institution to the payment of
10 bonds authorized pursuant to this Act. Nothing in this Act
11 shall be construed to authorize the Authority to create a
12 debt of the State within the meaning of the Constitution or
13 Statutes of Illinois and all bonds issued by the Authority
14 pursuant to the provisions of this Act are payable and shall
15 state that they are payable solely from the funds pledged for
16 their payment in accordance with the resolution authorizing
17 their issuance or in any trust indenture or mortgage or deed
18 of trust executed as security therefor. The State shall not
19 in any event be liable for the payment of the principal of or
20 interest on any bonds of the Authority or for the performance
21 of any pledge, mortgage, obligation or agreement of any kind
22 whatsoever which may be undertaken by the Authority. No
23 breach of any such pledge, mortgage, obligation or agreement
24 may impose any pecuniary liability upon the State or any
25 charge upon its general credit or against its taxing power.

26 (b) The provisions of subsection (a) do not apply to
27 bonds issued under Section 17.3, the nature of which are as
28 described in Section 17.6.

29 (Source: P.A. 77-2635.)

30 (20 ILCS 3705/17.1 new)

31 Sec. 17.1. Financially distressed provider refunding bond
32 program; findings and declaration of policy. The General
33 Assembly finds and declares that health care and human

1 services providers in the State of Illinois are currently
2 experiencing serious and sustained financial problems. These
3 financial problems are most severe for a group of health and
4 human services providers who receive significant amounts of
5 funding from the State of Illinois and for a group of health
6 care providers who serve a predominantly indigent patient
7 population in areas of critical need throughout the State of
8 Illinois. The financial difficulties being experienced by
9 this group of health and human services providers has been
10 significantly worsened as a result of failure by the State of
11 Illinois to provide adequate funding to support essential
12 programs and services and by the State's failure to make
13 timely payment of amounts appropriated for payment to these
14 providers. These institutions provide essential human
15 services for the people of the State of Illinois. The ability
16 of these entities effectively to carry out their mission and
17 to provide these essential services, however, is being
18 significantly hampered by these financial problems. It is
19 therefore essential that the State of Illinois provide a
20 financing mechanism to permit this group of providers to
21 refinance, at a significantly reduced rate of interest,
22 outstanding indebtedness previously issued for the purpose of
23 financing or refinancing costs of acquiring, constructing,
24 enlarging, remodeling, renovating, improving, furnishing, or
25 equipping a health facility. Use of such a financing
26 mechanism will permit these providers to realize significant
27 debt service savings, which can be applied to providing
28 expanded and improved health and human services to the
29 neediest residents of the State of Illinois. Establishing a
30 program is therefore declared to be in the public interest
31 and for the public benefit.

32 (20 ILCS 3705/17.2 new)

33 Sec. 17.2. Definitions. The following words or terms,

1 whenever used or referred to in Sections 17.1 through 17.9,
2 have the following meanings ascribed to them, except where
3 the context clearly requires otherwise:

4 (a) "Costs of issuance" means all reasonable costs
5 incurred in connection with the issuance of the bonds
6 including, but not limited to, legal and accounting fees and
7 expenses, printing expenses, financial consultants' fees,
8 financing charges (including underwriting and placement fees
9 and discounts), printing costs, costs incurred in connection
10 with public approvals, fees and expenses associated with
11 obtaining a rating on the bonds, costs for the preparation of
12 any disclosure document and other documents necessary for the
13 issuance of the bonds, and fees of trustees, paying agents,
14 and other fiduciaries.

15 (b) "Director" means Director of the Bureau of the
16 Budget.

17 (c) "Financially Distressed Provider Credit Enhancement
18 Fund" means the special fund created in the State treasury
19 under the State Finance Act.

20 (d) "Minimum required debt service savings" means net
21 present value savings, after payment of costs of issuance,
22 paid by, on behalf of, or with respect to any qualifying
23 provider of at least 3%. The amount of the costs of issuance
24 properly allocated as paid by, on behalf of, or with respect
25 to any qualifying provider shall be determined by the
26 Authority, with the written concurrence of the Director.

27 (e) "Qualifying provider" means a participating health
28 institution that is either: (i) certified as a provider under
29 the Critical Access Hospital program or (ii) demonstrates, to
30 the reasonable written satisfaction of the Director, that,
31 for its last 3 fiscal years for which audited financial
32 statements have been prepared, State funding accounted for an
33 annual average of at least 40% of its operating revenues.

34 (f) "Refinance" or "refinancing" means refunding of any

1 outstanding bonds, notes, or other indebtedness of a
2 qualifying provider, whether or not that indebtedness has
3 previously been issued to the Authority, whether or not
4 interest on that indebtedness is exempt from federal income
5 taxation, and regardless of the remaining term to maturity of
6 that indebtedness.

7 (g) "State agency" means the Department of Public Aid,
8 the Department of Public Health, the Department of Children
9 and Family Services, the Department of Human Services, and
10 any other department or agency of State government that
11 enters into contracts with health institutions under which
12 the institution is paid or reimbursed by the State for
13 providing health or human services to persons in Illinois.

14 (h) "State funding" means funds received from any State
15 agency.

16 (20 ILCS 3705/17.3 new)

17 Sec. 17.3. Issuance of bonds. On application of a
18 qualifying provider, the Authority may issue its bonds solely
19 for the purpose of enabling that qualifying provider to
20 refinance all or a portion of its outstanding indebtedness.
21 Bonds shall be issued by the Authority under this Section
22 only in accordance with the following requirements:

23 (1) Bonds shall be issued only for the purpose of
24 refinancing outstanding indebtedness of a qualifying provider
25 that was previously issued to finance or refinance the cost
26 of a health facility (but not including working capital,
27 accounts receivable, and operating expenses).

28 (2) Bonds shall be issued only if the Director, in
29 consultation with the Authority, determines that as a result
30 of the refinancing: (i) the qualifying provider will realize
31 minimum required debt service savings or (ii) the qualifying
32 provider will realize significant economic or financial
33 advantages that will enable it to more effectively provide

1 health care or other human services to the people of the
2 State of Illinois.

3 (3) The Authority may issue bonds for any individual
4 qualified provider or may issue a single bond issue for a
5 group of qualified providers. The Authority shall make that
6 determination only with the written concurrence of the
7 Director. The Authority and the Director are encouraged to
8 consider issuance of a single bond issue for a group of
9 qualified providers as a means of reducing costs of issuance
10 and providing greater net financial and economic benefits to
11 qualifying providers. Any single bond issue for a group of
12 qualified providers is subject to all requirements for bond
13 issues as established by this Act.

14 (20 ILCS 3705/17.4 new)

15 Sec. 17.4. Limitation on authorization.

16 (a) The Authority may issue bonds under Section 17.3 in
17 an aggregate principal amount not to exceed \$300,000,000.

18 (b) Bonds may be issued under Section 17.3 on or before
19 June 30, 2004. No bonds may be issued under Section 17.3 on
20 or after July 1, 2004. The final maturity date of bonds
21 issued under Section 17.3 may be no later than January 1,
22 2025.

23 (c) Bonds may be issued by the Authority under Section
24 17.3 only after consultation with and upon receipt of the
25 written concurrence of the Director.

26 (d) The maximum amount of proceeds of bonds under
27 Section 17.3 to be loaned to, or otherwise made available for
28 the benefit of, any individual qualifying provider may not
29 exceed \$50,000,000. For purposes of this subsection, proceeds
30 of bonds used to pay costs of issuance paid by, on behalf of,
31 or with respect to any qualifying provider shall not be
32 included. The amount of costs of issuance properly allocated
33 as paid by, on behalf of, or with respect to any qualifying

1 provider shall be determined by the Authority, with the
2 written concurrence of the Director.

3 (e) Unless specifically approved in writing by the
4 Director, costs of issuance for each issue of bonds may not
5 exceed one and one-half percent of the principal amount of
6 the proceeds of sale of each issue of bonds.

7 (f) If any bonds are to be sold by negotiated sale, the
8 Authority, in consultation with the Director, must comply
9 with the competitive request for proposal process set forth
10 in the Illinois Procurement Code and all other applicable
11 requirements of that Code.

12 (g) Before the issuance of bonds for the benefit of a
13 qualified provider, that qualified provider must enter into
14 an agreement with the Authority, the Director, and any
15 applicable State agency pursuant to which the qualified
16 provider agrees, among other matters, that if amounts are
17 withdrawn from the debt service reserve fund established
18 under Section 17.5 as a result of the failure of that
19 qualified provider to make timely repayment to the Authority
20 of bond proceeds loaned to, or otherwise made available for
21 the benefit of, that qualified provider, the State agency
22 shall be permitted to direct the payment of any money that is
23 otherwise due and payable to the qualified provider, up to
24 the maximum amount of that withdrawal from the debt service
25 reserve fund, into the Financially Distressed Provider Credit
26 Enhancement Fund.

27 (20 ILCS 3705/17.5 new)

28 Sec. 17.5. Debt service reserve funds.

29 (a) In connection with the issuance of each series of
30 bonds, the Authority must create and establish a debt service
31 reserve fund to be maintained by a trustee, separate and
32 segregated from all other funds and accounts of the
33 Authority. The Authority may, however, in consultation with

1 the Director, establish one debt service reserve fund for the
2 benefit of 2 or more series of bonds. The amounts required to
3 be on deposit in a debt service reserve fund shall be
4 determined by the Authority, in consultation with and upon
5 the written concurrence of the Director, and shall be
6 specified in the resolution or indenture securing the bonds.
7 Any reserve fund established under this Section shall be
8 initially funded from bond proceeds and other moneys lawfully
9 available to the Authority.

10 (b) If moneys are withdrawn from any debt service
11 reserve fund established under subsection (a), the trustee
12 shall immediately notify the Chairman of the Authority, who
13 shall in turn immediately notify the Director, the State
14 Comptroller, and the State Treasurer of the amount of that
15 withdrawal. Upon receipt of the notification, the State
16 Comptroller and the State Treasurer shall immediately
17 transfer from the Financially Distressed Provider Credit
18 Enhancement Fund to, or at the direction of, the Authority
19 for deposit into the debt service reserve fund the amount
20 required to restore that debt service reserve fund to the
21 level of the debt service reserve requirement specified in
22 the resolution or indenture securing the bonds.

23 (c) This Section constitutes an irrevocable and
24 continuing appropriation from the Financially Distressed
25 Provider Credit Enhancement Fund to any debt service reserve
26 fund established under subsection (a) of all amounts
27 necessary for that purpose and the irrevocable and continuing
28 authority for and direction to the State Treasurer and the
29 State Comptroller to make those transfers and deposits.

30 (20 ILCS 3705/17.6 new)

31 Sec. 17.6. Nature of bonds. All bonds issued under
32 Section 17.3 shall be limited obligations of the State of
33 Illinois payable from: (i) amounts transferred from the

1 Financially Distressed Provider Credit Enhancement Fund to
 2 the debt service reserve fund established under Section 17.5
 3 and (ii) amounts in any fund or account maintained pursuant
 4 to any indenture or resolution securing those bonds to the
 5 extent provided in the indenture or resolution. The bonds are
 6 not general obligations of the State of Illinois and are not
 7 secured by the full faith and credit of the State of
 8 Illinois, and the holders of the bonds may not require the
 9 levy or imposition of any taxes or the application of State
 10 revenues, other than amounts transferred from the Financially
 11 Distressed Provider Credit Enhancement Fund to the debt
 12 service reserve fund established under Section 17.5, to the
 13 payment of the bonds. Each bond shall describe the limited
 14 nature of the State's obligation on the face of the bond.

15 (20 ILCS 3705/17.7 new)

16 Sec. 17.7. Actions to compel payment. If the State fails
 17 to transfer required amounts from the Financially Distressed
 18 Provider Credit Enhancement Fund to a debt service reserve
 19 fund, as provided in Section 17.5, or from the Tobacco
 20 Settlement Recovery Fund to the Financially Distressed
 21 Provider Credit Enhancement Fund, as provided in Section
 22 6z-43 of the State Finance Act, a civil action to compel that
 23 transfer may be instituted in the Circuit Court of Sangamon
 24 County by the holder or holders of the bonds issued under
 25 Section 17.3. Delivery of a summons and a copy of the
 26 complaint to the Attorney General constitutes sufficient
 27 service to give the Circuit Court of Sangamon County
 28 jurisdiction of the subject matter of such a suit and
 29 jurisdiction over the State and its officers named as
 30 defendants for the purpose of compelling the transfer.

31 (20 ILCS 3705/17.8 new)

32 Sec. 17.8. Covenants with bondholders. The State of

1 Illinois irrevocably covenants and agrees with the holders of
2 bonds issued under Section 17.3 that the State will not alter
3 or limit: (i) the basis on which transfers are required to be
4 made from the Tobacco Settlement Recovery Fund to the
5 Distressed Provider Credit Enhancement Fund, pursuant to
6 Section 6z-43 of the State Finance Act; (ii) the basis on
7 which transfers are required to be made from the Distressed
8 Provider Credit Enhancement Fund to either the debt service
9 reserve fund established under Section 17.5 or to the Tobacco
10 Settlement Recovery Fund; or (iii) the provisions of this Act
11 or the State Finance Act so as to impair, in any of the
12 foregoing respects, the obligations of contract incurred in
13 favor of the holders of bonds issued under Section 17.3. The
14 covenant and agreement set forth in this Section may be
15 included in a trust indenture, resolution, or bond issued
16 under Section 17.3.

17 (20 ILCS 3705/17.9 new)

18 Sec. 17.9. Tax exemption. The exercise of the powers
19 granted in Sections 17.1 through 17.10 are in all respects
20 for the benefit of the people of Illinois. In consideration
21 of that benefit, the bonds issued under Section 17.3 and the
22 income from those bonds are free from all taxation by the
23 State or its political subdivisions, except for estate,
24 transfer, and inheritance taxes. For purposes of Section 250
25 of the Illinois Income Tax Act, the exemption of the income
26 from bonds issued under those Sections terminates after all
27 of the bonds have been fully paid. The amount of that income
28 to be added to and then subtracted from federal adjusted
29 gross income or federal taxable income on the Illinois income
30 tax return of a taxpayer, as provided in Section 203 of the
31 Illinois Income Tax Act, in computing Illinois base income
32 shall be the interest net of any bond premium amortization.

1 (20 ILCS 3705/17.10 new)

2 Sec. 17.10. Generally applicable provisions. Except as
3 specifically provided for in Sections 17.1 through 17.9, all
4 bonds issued under Section 17.3 are subject to this Act in
5 the same manner and to the same extent as other bonds issued
6 under this Act.

7 Section 4. The State Finance Act is amended by changing
8 Section 6z-43 and by adding Sections 5.595 and 8.45 as
9 follows:

10 (30 ILCS 105/5.595 new)

11 Sec. 5.595. The Financially Distressed Provider Credit
12 Enhancement Fund.

13 (30 ILCS 105/6z-43)

14 Sec. 6z-43. Tobacco Settlement Recovery Fund.

15 (a) There is created in the State Treasury a special
16 fund to be known as the Tobacco Settlement Recovery Fund,
17 into which shall be deposited all monies paid to the State
18 pursuant to (1) the Master Settlement Agreement entered in
19 the case of People of the State of Illinois v. Philip Morris,
20 et al. (Circuit Court of Cook County, No. 96-L13146) and (2)
21 any settlement with or judgment against any tobacco product
22 manufacturer other than one participating in the Master
23 Settlement Agreement in satisfaction of any released claim as
24 defined in the Master Settlement Agreement, as well as any
25 other monies as provided by law. All earnings on Fund
26 investments shall be deposited into the Fund. Upon the
27 creation of the Fund, the State Comptroller shall order the
28 State Treasurer to transfer into the Fund any monies paid to
29 the State as described in item (1) or (2) of this Section
30 before the creation of the Fund plus any interest earned on
31 the investment of those monies. The Treasurer may invest the

1 moneys in the Fund in the same manner, in the same types of
2 investments, and subject to the same limitations provided in
3 the Illinois Pension Code for the investment of pension funds
4 other than those established under Article 3 or 4 of the
5 Code.

6 (b) As soon as may be practical after June 30, 2001,
7 upon notification from and at the direction of the Governor,
8 the State Comptroller shall direct and the State Treasurer
9 shall transfer the unencumbered balance in the Tobacco
10 Settlement Recovery Fund as of June 30, 2001, as determined
11 by the Governor, into the Budget Stabilization Fund. The
12 Treasurer may invest the moneys in the Budget Stabilization
13 Fund in the same manner, in the same types of investments,
14 and subject to the same limitations provided in the Illinois
15 Pension Code for the investment of pension funds other than
16 those established under Article 3 or 4 of the Code.

17 (c) As soon as practical in fiscal year 2004, there
18 shall be transferred from the Tobacco Settlement Recovery
19 Fund to the Financially Distressed Provider Credit
20 Enhancement Fund an amount to be certified by the Director of
21 the Bureau of the Budget to the State Treasurer and the State
22 Comptroller to be equal to: (x) the amount projected by the
23 Director to be the debt service reserve requirement to be
24 established in connection with the issuance of the maximum
25 amount of bonds authorized by Section 17.3 of the Illinois
26 Health Facilities Authority Act times (y) 1.25 (the product
27 of (x) times (y) being referred to as the "estimated
28 amount"). On June 30, 2004, the Director shall certify to the
29 State Treasurer and the State Comptroller: (i) the debt
30 service reserve requirement actually established in
31 connection with all bonds issued under Section 17.3 of the
32 Illinois Health Facilities Authority Act (referred to as the
33 "reserve requirement"); (ii) 125% of the reserve requirement;
34 and (iii) the difference between the estimated amount and the

1 amount certified under item (ii). The State Comptroller shall
 2 direct and the State Treasurer shall transfer the amount
 3 certified under item (iii) from the Financially Distressed
 4 Provider Credit Enhancement Fund to the Tobacco Settlement
 5 Recovery Fund.

6 (d) In each fiscal year, beginning with fiscal year
 7 2004, there shall be transferred from the Tobacco Settlement
 8 Recovery Fund for deposit into the Financially Distressed
 9 Provider Credit Enhancement Fund an amount equal to the
 10 reserve requirement. This transfer shall be made in each
 11 fiscal year prior to any other use, transfer, or application
 12 of moneys in the Tobacco Settlement Recovery Fund. This
 13 Section constitutes an irrevocable and continuing
 14 appropriation from the Tobacco Settlement Recovery Fund of
 15 all amounts necessary for that purpose and the irrevocable
 16 and continuing authority for and direction to the State
 17 Treasurer and the State Comptroller to make those transfers
 18 and deposits.

19 (Source: P.A. 91-646, eff. 11-19-99; 91-704, eff. 7-1-00;
 20 91-797, eff. 6-9-00; 92-11, eff. 6-11-01; 92-16, eff.
 21 6-28-01.)

22 (30 ILCS 105/8.45 new)

23 Sec. 8.45. Financially Distressed Provider Credit
 24 Enhancement Fund.

25 (a) The State Comptroller and the State Treasurer shall
 26 transfer into the Financially Distressed Provider Credit
 27 Enhancement Fund from the Tobacco Settlement Recovery Fund
 28 all amounts required to be transferred under subsections (c)
 29 and (d) of Section 6z-43. In addition, there shall be
 30 deposited into the Financially Distressed Provider Credit
 31 Enhancement Fund all amounts directed to be deposited into
 32 that Fund under an agreement executed in accordance with the
 33 provisions of subsection (g) of Section 17.4 of the Illinois

1 Health Facilities Authority Act.

2 (b) On June 30, 2005, and on each June 30 thereafter,
3 all amounts in the Financially Distressed Provider Credit
4 Enhancement Fund that are in excess of 125% of the reserve
5 requirement shall be transferred by the State Treasurer for
6 deposit into the Tobacco Settlement Recovery Fund. This
7 Section constitutes an irrevocable and continuing
8 appropriation from the Financially Distressed Provider Credit
9 Enhancement Fund of all amounts necessary for that purpose
10 and the irrevocable and continuing authority for and
11 direction to the State Treasurer and the State Comptroller to
12 make those transfers and deposits.

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20 ILCS 3705/17.2 new
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