GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

SENATE BILL 296

Short Title: Reorganization & Economic Development Act.  (Public)

Sponsors: Senators Johnson, Craven, and Proctor (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 14, 2023

A BILL TO BE ENTITLED
AN ACT TO ESTABLISH A PROCEDURE FOR A HOSPITAL SERVICE CORPORATION
TO REORGANIZE BY CREATING A NONPROFIT HOLDING CORPORATION.
The General Assembly of North Carolina enacts:

SECTION 1. Article 65 of Chapter 58 of the General Statutes is amended by adding a new Part to read:


§ 58-65-175. Definitions.
The following definitions apply in this Part:

(1) Affiliate. – As defined in G.S. 58-19-5.
(2) Executive officer. – As defined in G.S. 58-19-5.
(3) Nonprofit holding corporation. – A domestic corporation formed in connection with a reorganization and operating under Chapter 55A of the General Statutes that directly or indirectly holds all the membership interests in a hospital service corporation and is the ultimate controlling person of the hospital service corporation. A nonprofit holding corporation is not (i) a "company," "insurance company," or "insurer," as those terms are defined in G.S. 58-1-5, or (ii) a "hospital service corporation," as defined in G.S. 58-65-1.1.
(4) Reorganization. – A transaction or series of transactions in which a nonprofit holding corporation is created by or on behalf of a hospital service corporation to hold, directly or indirectly, membership interests in the hospital service corporation and becomes the ultimate controlling person of the hospital service corporation.
(5) Subsidiary. – As defined in G.S. 58-19-5.
(6) Ultimate controlling person. – As defined in G.S. 58-19-5.

(a) Permissible Activities. – A reorganization may include transfers, by dividend or otherwise, of property, assets, rights, liabilities, equity or ownership interests in subsidiaries or other owned business entities, and other interests between the hospital service corporation and the nonprofit holding corporation and any other subsidiaries of the nonprofit holding corporation, and other related transactions.
(b) Hospital Service Corporation to be Held by Nonprofit Holding Corporation. – Notwithstanding any other provision of this Article, a hospital service corporation may have a nonprofit holding corporation as its ultimate controlling person.
(c) Reorganization Not a Change of Control. — A reorganization shall be considered an internal restructuring that does not have the effect of changing or influencing the control of the hospital service corporation. A reorganization shall not be considered a change of control of the hospital service corporation and shall not be subject to the provisions of G.S. 58-19-15. For purposes of this subsection, "control" is defined by G.S. 58-19-5.

(d) Transfers in Connection with Reorganization. — Notwithstanding any other provision of this Article, as part of a reorganization, a hospital service corporation may transfer, by dividend or otherwise, of property, assets, rights, liabilities, equity or ownership interests in subsidiaries or other owned business entities, and other interests between the hospital service corporation and the nonprofit holding corporation and any other subsidiaries of the nonprofit holding corporation, and other related transactions. Compliance with G.S. 58-19-30 and this Part shall be the exclusive means of approval to permit a reorganization, and the provisions of G.S. 58-19-10(b), 58-65-131, 58-65-132, and 58-65-133 shall not apply to a reorganization.

(e) Compensation. — A director, officer, or employee of the hospital service corporation shall not receive any fee, commission, additional compensation, or other valuable consideration for aiding, promoting, or assisting in a reorganization. This subsection does not apply to compensation paid in the ordinary course of business.


(a) Notwithstanding (i) any law of this State to the contrary or (ii) anything to the contrary in the bylaws or articles of incorporation of the hospital service corporation, a hospital service corporation may, by action of its governing board, authorize a reorganization and propose corresponding amendments to its charter. Proposed amendments shall be submitted to the Commissioner for approval, and the Commissioner shall approve the proposed amendments no later than 30 days after receiving the application unless the proposed amendments do not comply with this Article or Chapter 55A of the General Statutes.

(b) Any provision of this Article relating to the procedure for amending a charter, other than the provisions of this Part, is inapplicable.


(a) Except as provided in this Part, a nonprofit holding corporation shall not be subject to this Article or Article 66 of this Chapter.

(b) Both of the following shall apply to a nonprofit holding corporation upon and after a reorganization:

(1) The nonprofit holding corporation shall remain a nonprofit corporation under G.S. 55A-1-40. The nonprofit holding corporation shall remain the ultimate controlling person of the hospital service corporation. This subsection shall not apply if a plan of conversion of the hospital service corporation is approved pursuant to G.S. 58-65-131, 58-65-132, or 58-65-133.

(2) The nonprofit holding corporation and its direct or indirect subsidiaries that are not hospital service corporations or subsidiaries of hospital service corporations are not subject to G.S. 58-65-131, 58-65-132, or 58-65-133, and the actions of the nonprofit holding corporation and such subsidiaries will not constitute or require a conversion of the hospital service corporation under those sections or any other law of this State.

(c) No equity or ownership interest in the nonprofit holding corporation or any of its subsidiaries shall be granted to any executive officer or any member of the governing board of the nonprofit holding corporation or the hospital service corporation.

§ 58-65-182. Hospital service corporation to maintain legal status.

(a) A reorganization does not change (i) the legal form of the hospital service corporation or (ii) the hospital service corporation's license to do business in North Carolina. Any subscribers' contracts and certificates issued by the hospital service corporation shall remain in full force and effect.
(b) The hospital service corporation shall continue to be subject to this Article and Article 66 of this Chapter, except for the following:

1. A reorganization shall not constitute or require a conversion of the hospital service corporation pursuant to G.S. 58-65-131, 58-65-132, and 58-65-133 or any other law of this State.

2. A reorganization shall not require the nonprofit holding corporation, hospital service corporation, or any affiliate of either to make any distribution or payment to any person or entity. This subdivision shall not apply to distributions or payments between a nonprofit holding corporation or hospital service corporation and any of its affiliates.

3. The hospital service corporation may make and pay direct or indirect dividends or distributions to the nonprofit holding corporation, and G.S. 58-19-10(b), 58-65-131, 58-65-132, and 58-65-133 shall not apply to such dividends or distributions, provided that such dividends or distributions comply with G.S. 55A-13-02, 58-7-130, 58-19-25(d), and 58-19-30.

4. If the hospital service corporation undertakes a conversion pursuant to G.S. 58-65-131, 58-65-132, and 58-65-133 at any time following a reorganization, then, for the purposes of that conversion, the references in G.S. 58-65-131, 58-65-132, and 58-65-133 to "fair market value of the corporation" or "value of the corporation" shall mean the fair market value of the nonprofit holding corporation.

SECTION 2. This act is effective when it becomes law.