

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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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

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH A PROCEDURE FOR A HOSPITAL SERVICE CORPORATION  
3 TO REORGANIZE BY CREATING A NONPROFIT HOLDING CORPORATION.

4 The General Assembly of North Carolina enacts:

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

7 "Part 3. Nonprofit Holding Corporations.

8 **"§ 58-65-175. Definitions.**

9 The following definitions apply in this Part:

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

27 **"§ 58-65-177. Reorganization.**

28 (a) Permissible Activities. – A reorganization may include transfers, by dividend or  
29 otherwise, of property, assets, rights, liabilities, equity or ownership interests in subsidiaries or  
30 other owned business entities, and other interests between the hospital service corporation and  
31 the nonprofit holding corporation and any other subsidiaries of the nonprofit holding corporation,  
32 and other related transactions.

33 (b) Hospital Service Corporation to be Held by Nonprofit Holding Corporation. –  
34 Notwithstanding any other provision of this Article, a hospital service corporation may have a  
35 nonprofit holding corporation as its ultimate controlling person.



1       (c) Reorganization Not a Change of Control. – A reorganization shall be considered an  
2 internal restructuring that does not have the effect of changing or influencing the control of the  
3 hospital service corporation. A reorganization shall not be considered a change of control of the  
4 hospital service corporation and shall not be subject to the provisions of G.S. 58-19-15. For  
5 purposes of this subsection, "control" is defined by G.S. 58-19-5.

6       (d) Transfers in Connection with Reorganization. – Notwithstanding any other provision  
7 of this Article, as part of a reorganization, a hospital service corporation may transfer, by dividend  
8 or otherwise, of property, assets, rights, liabilities, equity or ownership interests in subsidiaries  
9 or other owned business entities, and other interests between the hospital service corporation and  
10 the nonprofit holding corporation and any other subsidiaries of the nonprofit holding corporation,  
11 and other related transactions. Compliance with G.S. 58-19-30 and this Part shall be the exclusive  
12 means of approval to permit a reorganization, and the provisions of G.S. 58-19-10(b), 58-65-131,  
13 58-65-132, and 58-65-133 shall not apply to a reorganization.

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

18 **"§ 58-65-179. Charter amendments.**

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

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

28 **"§ 58-65-181. Operation of nonprofit holding corporation and subsidiaries.**

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

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

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

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

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

47 **"§ 58-65-183. Hospital service corporation to maintain legal status.**

48       (a) A reorganization does not change (i) the legal form of the hospital service corporation  
49 or (ii) the hospital service corporation's license to do business in North Carolina. Any subscribers'  
50 contracts and certificates issued by the hospital service corporation shall remain in full force and  
51 effect.

1       (b)    The hospital service corporation shall continue to be subject to this Article and Article  
2 66 of this Chapter, except for the following:

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

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

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

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

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