

**93RD GENERAL ASSEMBLY****State of Illinois****2003 and 2004**

Introduced 02/04/04, by Julie Hamos

SYNOPSIS AS INTRODUCED:

New Act

20 ILCS 3960/5.4 new

30 ILCS 105/5.625 new

Creates the Nursing Facility Bed Moratorium and Modernization Act. Provides that, except as specifically provided, the Health Facilities Planning Board shall deny any request for a permit or exemption for a new nursing facility bed if that license would result in an increase in the medical assistance reimbursement amount for the purposes of the medical assistance program under Title XIX of the Social Security Act. Provides that any nursing facility that has, for the previous 3 years, provided services to at least 50% of its resident population under the medical assistance program under Title XIX of the Social Security Act is eligible to apply for a Nursing Facility Modernization Grant. Provides that Nursing Facility Modernization Grants shall be available from the Nursing Facility Modernization Fund for capital or one-time capital expenditures, for a maximum of \$1,000,000 per nursing facility; provided that grantees shall be required to provide 20% as match toward the total cost of the capital project. Requires the Director of Public Health, in coordination with the Director of Public Aid and the Director of Aging, to submit a report containing analysis of the effect of the nursing facility moratorium and Nursing Facility Modernization Program to the Governor and the General Assembly on January 1, 2006 and on January 1 of each year thereafter. Amends the Illinois Health Facilities Planning Act to provide that no person shall establish, construct, or modify a long term care nursing facility except as authorized under the Nursing Facility Bed Moratorium and Modernization Act. Amends the State Finance Act to create the Nursing Facility Modernization Fund. Effective immediately.

LRB093 19043 AMC 44778 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning nursing facilities.

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

4 Section 1. Short title. This Act may be cited as the
5 Nursing Facility Bed Moratorium and Modernization Act.

6 Section 5. Definitions. For the purposes of this Act:

7 "Board" means the Health Facilities Planning Board.

8 "Nursing facility" means (1) a skilled nursing or
9 intermediate long term care facility, whether public or private
10 and whether organized for profit or not-for-profit, that is
11 subject to licensure by the Department of Public Health under
12 the Nursing Home Care Act, including a county nursing home
13 directed and maintained under Section 5-1005 of the Counties
14 Code, and (2) a part of a hospital in which skilled or
15 intermediate long term care services within the meaning of
16 Title XVIII or XIX of the Social Security Act are provided.

17 Section 10. Nursing facility bed moratorium.

18 (a) In order to create a balanced long term care system
19 with high quality services delivered in the most appropriate
20 manner along a continuum of care, the State of Illinois
21 declares a moratorium on the licensure and medical assistance
22 certification of new nursing facility beds and nursing facility
23 capital expenditures that exceed \$1,000,000. Except as
24 provided in subsection (b) and (c) of this Section, the Health
25 Facilities Planning Board shall deny any request for a permit
26 or exemption for a new nursing facility bed if that license
27 would result in an increase in the medical assistance
28 reimbursement amount for the purposes of the medical assistance
29 program under Title XIX of the Social Security Act.

30 (b) A permit or exemption for a new nursing facility bed
31 may be approved pursuant to the Illinois Health Facilities

1 Planning Act to address an extreme hardship in a particular
2 county that, together with all contiguous Illinois counties,
3 has fewer nursing facility beds per 1,000 elderly than the
4 number that is 10% higher than the national average of nursing
5 facility beds per 1,000 elderly individuals. For the purposes
6 of this Section, the national average of nursing facility beds
7 shall be based on the most recent data that can be supplied by
8 the federal Centers for Medicare and Medicaid Services.

9 (c) The Board shall not approve any permit or exemption for
10 construction, alteration, reconstruction, renovation,
11 modernization, or improvement of any portion of a nursing
12 facility if the construction project adds any nursing facility
13 beds and if the capital expenditure, as defined in the Illinois
14 Health Facilities Planning Act, exceeds \$1,000,000, unless:

15 (1) the construction project has been approved for a
16 Nursing Facility Modernization Grant under Section 15 of
17 this Act;

18 (2) the construction costs are not added to the
19 facility's appraised value for purposes of calculating any
20 portion of a nursing facility rate for reimbursement under
21 the medical assistance program;

22 (3) the project is necessary, for existing nursing
23 facility beds within the facility; to correct violations of
24 State or federal law, or to repair or replace a portion of
25 the facility that was damaged by fire, lightning,
26 groundshifts, or other such hazards, including
27 environmental hazards;

28 (4) the facility has submitted to the Board written
29 documentation evidencing that the facility has commenced
30 construction prior to January 1, 2004 relating to the
31 construction project. For purposes of this subsection, a
32 facility has "commenced construction" if all of the
33 following conditions were met: architectural drawings were
34 developed; construction contracts were awarded; a timely
35 construction schedule was developed, stipulating dates for
36 beginning and completing construction; and all zoning and

1 building permits were applied for;

2 (5) the construction project pertains only to
3 non-clinical service areas, as defined in the Illinois
4 Health Facilities Planning Act; or

5 (6) the project is being proposed by a licensed nursing
6 facility that is not certified to participate in the
7 medical assistance program and will not result in new
8 certified beds.

9 Section 15. Nursing facility modernization program.

10 (a) Any nursing facility that has, for the previous 3
11 years, provided services to at least 50% of its resident
12 population under the medical assistance program under Title XIX
13 of the Social Security Act is eligible to apply for a Nursing
14 Facility Modernization Grant.

15 (b) Nursing Facility Modernization Grants shall be
16 available for the construction, alteration, reconstruction,
17 renovation, modernization, or improvement of existing nursing
18 facility beds or areas within a nursing facility for any or a
19 combination of any of the following uses:

20 (1) Conversion of a portion of or all nursing facility
21 beds to an assisted living establishment as defined in the
22 Assisted Living and Shared Housing Act or to a supported
23 living facility as provided pursuant to Section 5-5.01a of
24 the Public Aid Code.

25 (2) Conversion of shared nursing facility bedrooms to
26 private, single-bed rooms.

27 (3) Provision of any alternatives to nursing facility
28 care, which, for purposes of this Section, means those
29 services included in the program of home and
30 community-based waiver services for seniors under the
31 medical assistance program under Title XIX of the Security
32 Act, including, but not limited to, adult day services or
33 respite care living space within a nursing facility.

34 (c) Construction projects for conversion or modernization
35 of existing nursing facilities shall not have the effect of:

1 (1) diminishing or reducing the quality of services
2 available to nursing facility residents; or

3 (2) forcing any nursing facility resident to
4 involuntarily accept home or community-based services in
5 lieu of nursing facility services; or

6 (3) diminishing or reducing the supply of long-term
7 care services in any community below the level of need.

8 (d) Grants may not be used to expand a current building,
9 except (i) for additional space required to accommodate related
10 supportive services, such as dining rooms, kitchen and
11 recreation areas, or other community use areas; or (ii) if the
12 facility demonstrates that new construction is more cost
13 effective than the conversion of existing space.

14 (e) Notwithstanding any local ordinance related to
15 development, planning, or zoning to the contrary, the
16 conversion, modernization, or reuse of a nursing facility that
17 closes or that curtails, reduces, or changes operations shall
18 be considered a conforming use permitted under local law,
19 provided that the facility is converted to another long-term
20 care service.

21 (f) Conversions or modernization pursuant to this Act are
22 exempt from the requirements of the Health Facilities Planning
23 Act.

24 (g) Subject to available appropriations, Nursing Facility
25 Modernization Grants shall be available from the Nursing
26 Facility Modernization Fund, a special fund hereby created in
27 the State treasury, for capital or one-time capital
28 expenditures, for a maximum of \$1,000,000 per nursing facility;
29 provided that grantees shall be required to provide 20% as
30 match toward the total cost of the capital project. Any
31 application for a Nursing Facility Modernization Grant shall
32 include the total budget that will be necessary, including
33 State and federal funding, for services to operate the program
34 once the capital project is completed, and shall specify the
35 number of existing nursing facility beds that the nursing
36 facility provider agrees to de-license. In distribution of the

1 grants, the following factors shall be considered:

2 (1) the bed need in the area in which the facility is
3 located; and

4 (2) The extent to which the conversion or modernization
5 results in the reduction of licensed nursing facility beds
6 in an area with excess beds.

7 The application and grant process, including rules and
8 regulations for the Nursing Facility Modernization Program,
9 shall be promulgated by the Director of Public Health, in
10 coordination with the Director of Public Aid and the Director
11 of Aging.

12 (h) Any nursing facility receiving a grant pursuant to the
13 Nursing Facility Modernization Program shall reduce the number
14 of licensed nursing facility beds by an amount equal to or
15 greater than the number of beds being constructed or modernized
16 for one or more of the permitted uses pursuant to subsection
17 (b).

18 (i) Any nursing facility receiving a grant pursuant to the
19 Nursing Facility Modernization Program shall agree, for a
20 minimum of 10 years after the date that the grant is awarded,
21 to maintain a minimum of 50% of its occupancy for residents
22 eligible for services under the medical assistance program
23 under Title XIX of the Social Security Act. In the event the
24 nursing facility provider or its successor in interest ceases
25 to comply with the requirement set forth in this subsection,
26 the provider shall refund to the Nursing Facility Modernization
27 Fund, on an amortized basis, the amount of the grant.

28 (j) Any nursing facility receiving a grant pursuant to the
29 Nursing Facility Modernization Program shall not segregate
30 residents receiving nursing facility services under the
31 medical assistance program under Title XIX of the Social
32 Security Act in an area, section, or portion of the nursing
33 facility and shall not relocate a resident within the nursing
34 facility solely due to a change in payment status from private
35 payment to government subsidy.

1 Section 20. Reporting. The Director of Public Health, in
2 coordination with the Director of Public Aid and the Director
3 of Aging, shall implement mechanisms to monitor and analyze the
4 effect of the nursing facility moratorium and Nursing Facility
5 Modernization Program, including documenting and verifying the
6 savings to the Medicaid program attributable to this Act. A
7 report containing the analysis shall be submitted to the
8 Governor and the General Assembly on January 1, 2006 and on
9 January 1 of each year thereafter.

10 Section 90. The Illinois Health Facilities Planning Act is
11 amended by adding Section 5.4 as follows:

12 (20 ILCS 3960/5.4 new)

13 Sec. 5.4. Nursing Facility Bed Moratorium and
14 Modernization Act. After the effective date of this amendatory
15 Act of the 93rd General Assembly, no person shall establish,
16 construct, or modify a long term care nursing facility except
17 as authorized under the Nursing Facility Bed Moratorium and
18 Modernization Act.

19 Section 95. The State Finance Act is amended by adding
20 Section 5.625 as follows:

21 (30 ILCS 105/5.625 new)

22 Sec. 5.625. The Nursing Facility Modernization Fund.

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.