

# SB2218



## 95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2218

Introduced 2/14/2008, by Sen. John J. Cullerton

### SYNOPSIS AS INTRODUCED:

20 ILCS 3960/3

from Ch. 111 1/2, par. 1153

Amends the Illinois Health Care Facilities Planning Act. Exempts construction and renovation of certain long-term care "campus facilities" from the Act's application. Effective immediately.

LRB095 19553 JAM 45877 b

A BILL FOR

1 AN ACT concerning State government.

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 3 as follows:

6 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

7 (Section scheduled to be repealed on August 31, 2008)

8 Sec. 3. Definitions. As used in this Act:

9 "Health care facilities" means and includes the following  
10 facilities and organizations:

11 1. An ambulatory surgical treatment center required to  
12 be licensed pursuant to the Ambulatory Surgical Treatment  
13 Center Act;

14 2. An institution, place, building, or agency required  
15 to be licensed pursuant to the Hospital Licensing Act;

16 3. Skilled and intermediate long term care facilities  
17 licensed under the Nursing Home Care Act;

18 4. Hospitals, nursing homes, ambulatory surgical  
19 treatment centers, or kidney disease treatment centers  
20 maintained by the State or any department or agency  
21 thereof;

22 5. Kidney disease treatment centers, including a  
23 free-standing hemodialysis unit required to be licensed

1 under the End Stage Renal Disease Facility Act; and

2 6. An institution, place, building, or room used for  
3 the performance of outpatient surgical procedures that is  
4 leased, owned, or operated by or on behalf of an  
5 out-of-state facility.

6 This Act shall not apply to the construction of any new  
7 facility or the renovation of any existing facility located on  
8 any campus facility as defined in Section 5-5.8b of the  
9 Illinois Public Aid Code, provided that the campus facility  
10 encompasses 30 or more contiguous acres and that the new or  
11 renovated facility is intended for use by a licensed  
12 residential facility.

13 No federally owned facility shall be subject to the  
14 provisions of this Act, nor facilities used solely for healing  
15 by prayer or spiritual means.

16 No facility licensed under the Supportive Residences  
17 Licensing Act or the Assisted Living and Shared Housing Act  
18 shall be subject to the provisions of this Act.

19 A facility designated as a supportive living facility that  
20 is in good standing with the program established under Section  
21 5-5.01a of the Illinois Public Aid Code shall not be subject to  
22 the provisions of this Act.

23 This Act does not apply to facilities granted waivers under  
24 Section 3-102.2 of the Nursing Home Care Act. However, if a  
25 demonstration project under that Act applies for a certificate  
26 of need to convert to a nursing facility, it shall meet the

1 licensure and certificate of need requirements in effect as of  
2 the date of application.

3 This Act does not apply to a dialysis facility that  
4 provides only dialysis training, support, and related services  
5 to individuals with end stage renal disease who have elected to  
6 receive home dialysis. This Act does not apply to a dialysis  
7 unit located in a licensed nursing home that offers or provides  
8 dialysis-related services to residents with end stage renal  
9 disease who have elected to receive home dialysis within the  
10 nursing home. The Board, however, may require these dialysis  
11 facilities and licensed nursing homes to report statistical  
12 information on a quarterly basis to the Board to be used by the  
13 Board to conduct analyses on the need for proposed kidney  
14 disease treatment centers.

15 This Act shall not apply to the closure of an entity or a  
16 portion of an entity licensed under the Nursing Home Care Act,  
17 with the exceptions of facilities operated by a county or  
18 Illinois Veterans Homes, that elects to convert, in whole or in  
19 part, to an assisted living or shared housing establishment  
20 licensed under the Assisted Living and Shared Housing Act.

21 This Act does not apply to any change of ownership of a  
22 healthcare facility that is licensed under the Nursing Home  
23 Care Act, with the exceptions of facilities operated by a  
24 county or Illinois Veterans Homes. Changes of ownership of  
25 facilities licensed under the Nursing Home Care Act must meet  
26 the requirements set forth in Sections 3-101 through 3-119 of

1 the Nursing Home Care Act.

2 With the exception of those health care facilities  
3 specifically included in this Section, nothing in this Act  
4 shall be intended to include facilities operated as a part of  
5 the practice of a physician or other licensed health care  
6 professional, whether practicing in his individual capacity or  
7 within the legal structure of any partnership, medical or  
8 professional corporation, or unincorporated medical or  
9 professional group. Further, this Act shall not apply to  
10 physicians or other licensed health care professional's  
11 practices where such practices are carried out in a portion of  
12 a health care facility under contract with such health care  
13 facility by a physician or by other licensed health care  
14 professionals, whether practicing in his individual capacity  
15 or within the legal structure of any partnership, medical or  
16 professional corporation, or unincorporated medical or  
17 professional groups. This Act shall apply to construction or  
18 modification and to establishment by such health care facility  
19 of such contracted portion which is subject to facility  
20 licensing requirements, irrespective of the party responsible  
21 for such action or attendant financial obligation.

22 "Person" means any one or more natural persons, legal  
23 entities, governmental bodies other than federal, or any  
24 combination thereof.

25 "Consumer" means any person other than a person (a) whose  
26 major occupation currently involves or whose official capacity

1 within the last 12 months has involved the providing,  
2 administering or financing of any type of health care facility,  
3 (b) who is engaged in health research or the teaching of  
4 health, (c) who has a material financial interest in any  
5 activity which involves the providing, administering or  
6 financing of any type of health care facility, or (d) who is or  
7 ever has been a member of the immediate family of the person  
8 defined by (a), (b), or (c).

9 "State Board" means the Health Facilities Planning Board.

10 "Construction or modification" means the establishment,  
11 erection, building, alteration, reconstruction, modernization,  
12 improvement, extension, discontinuation, change of ownership,  
13 of or by a health care facility, or the purchase or acquisition  
14 by or through a health care facility of equipment or service  
15 for diagnostic or therapeutic purposes or for facility  
16 administration or operation, or any capital expenditure made by  
17 or on behalf of a health care facility which exceeds the  
18 capital expenditure minimum; however, any capital expenditure  
19 made by or on behalf of a health care facility for (i) the  
20 construction or modification of a facility licensed under the  
21 Assisted Living and Shared Housing Act or (ii) a conversion  
22 project undertaken in accordance with Section 30 of the Older  
23 Adult Services Act shall be excluded from any obligations under  
24 this Act.

25 "Establish" means the construction of a health care  
26 facility or the replacement of an existing facility on another

1 site.

2 "Major medical equipment" means medical equipment which is  
3 used for the provision of medical and other health services and  
4 which costs in excess of the capital expenditure minimum,  
5 except that such term does not include medical equipment  
6 acquired by or on behalf of a clinical laboratory to provide  
7 clinical laboratory services if the clinical laboratory is  
8 independent of a physician's office and a hospital and it has  
9 been determined under Title XVIII of the Social Security Act to  
10 meet the requirements of paragraphs (10) and (11) of Section  
11 1861(s) of such Act. In determining whether medical equipment  
12 has a value in excess of the capital expenditure minimum, the  
13 value of studies, surveys, designs, plans, working drawings,  
14 specifications, and other activities essential to the  
15 acquisition of such equipment shall be included.

16 "Capital Expenditure" means an expenditure: (A) made by or  
17 on behalf of a health care facility (as such a facility is  
18 defined in this Act); and (B) which under generally accepted  
19 accounting principles is not properly chargeable as an expense  
20 of operation and maintenance, or is made to obtain by lease or  
21 comparable arrangement any facility or part thereof or any  
22 equipment for a facility or part; and which exceeds the capital  
23 expenditure minimum.

24 For the purpose of this paragraph, the cost of any studies,  
25 surveys, designs, plans, working drawings, specifications, and  
26 other activities essential to the acquisition, improvement,

1 expansion, or replacement of any plant or equipment with  
2 respect to which an expenditure is made shall be included in  
3 determining if such expenditure exceeds the capital  
4 expenditures minimum. Donations of equipment or facilities to a  
5 health care facility which if acquired directly by such  
6 facility would be subject to review under this Act shall be  
7 considered capital expenditures, and a transfer of equipment or  
8 facilities for less than fair market value shall be considered  
9 a capital expenditure for purposes of this Act if a transfer of  
10 the equipment or facilities at fair market value would be  
11 subject to review.

12 "Capital expenditure minimum" means \$6,000,000, which  
13 shall be annually adjusted to reflect the increase in  
14 construction costs due to inflation, for major medical  
15 equipment and for all other capital expenditures; provided,  
16 however, that when a capital expenditure is for the  
17 construction or modification of a health and fitness center,  
18 "capital expenditure minimum" means the capital expenditure  
19 minimum for all other capital expenditures in effect on March  
20 1, 2000, which shall be annually adjusted to reflect the  
21 increase in construction costs due to inflation.

22 "Non-clinical service area" means an area (i) for the  
23 benefit of the patients, visitors, staff, or employees of a  
24 health care facility and (ii) not directly related to the  
25 diagnosis, treatment, or rehabilitation of persons receiving  
26 services from the health care facility. "Non-clinical service



1 areas" include, but are not limited to, chapels; gift shops;  
2 news stands; computer systems; tunnels, walkways, and  
3 elevators; telephone systems; projects to comply with life  
4 safety codes; educational facilities; student housing;  
5 patient, employee, staff, and visitor dining areas;  
6 administration and volunteer offices; modernization of  
7 structural components (such as roof replacement and masonry  
8 work); boiler repair or replacement; vehicle maintenance and  
9 storage facilities; parking facilities; mechanical systems for  
10 heating, ventilation, and air conditioning; loading docks; and  
11 repair or replacement of carpeting, tile, wall coverings,  
12 window coverings or treatments, or furniture. Solely for the  
13 purpose of this definition, "non-clinical service area" does  
14 not include health and fitness centers.

15 "Areawide" means a major area of the State delineated on a  
16 geographic, demographic, and functional basis for health  
17 planning and for health service and having within it one or  
18 more local areas for health planning and health service. The  
19 term "region", as contrasted with the term "subregion", and the  
20 word "area" may be used synonymously with the term "areawide".

21 "Local" means a subarea of a delineated major area that on  
22 a geographic, demographic, and functional basis may be  
23 considered to be part of such major area. The term "subregion"  
24 may be used synonymously with the term "local".

25 "Areawide health planning organization" or "Comprehensive  
26 health planning organization" means the health systems agency

1 designated by the Secretary, Department of Health and Human  
2 Services or any successor agency.

3 "Local health planning organization" means those local  
4 health planning organizations that are designated as such by  
5 the areawide health planning organization of the appropriate  
6 area.

7 "Physician" means a person licensed to practice in  
8 accordance with the Medical Practice Act of 1987, as amended.

9 "Licensed health care professional" means a person  
10 licensed to practice a health profession under pertinent  
11 licensing statutes of the State of Illinois.

12 "Director" means the Director of the Illinois Department of  
13 Public Health.

14 "Agency" means the Illinois Department of Public Health.

15 "Comprehensive health planning" means health planning  
16 concerned with the total population and all health and  
17 associated problems that affect the well-being of people and  
18 that encompasses health services, health manpower, and health  
19 facilities; and the coordination among these and with those  
20 social, economic, and environmental factors that affect  
21 health.

22 "Alternative health care model" means a facility or program  
23 authorized under the Alternative Health Care Delivery Act.

24 "Out-of-state facility" means a person that is both (i)  
25 licensed as a hospital or as an ambulatory surgery center under  
26 the laws of another state or that qualifies as a hospital or an

1 ambulatory surgery center under regulations adopted pursuant  
2 to the Social Security Act and (ii) not licensed under the  
3 Ambulatory Surgical Treatment Center Act, the Hospital  
4 Licensing Act, or the Nursing Home Care Act. Affiliates of  
5 out-of-state facilities shall be considered out-of-state  
6 facilities. Affiliates of Illinois licensed health care  
7 facilities 100% owned by an Illinois licensed health care  
8 facility, its parent, or Illinois physicians licensed to  
9 practice medicine in all its branches shall not be considered  
10 out-of-state facilities. Nothing in this definition shall be  
11 construed to include an office or any part of an office of a  
12 physician licensed to practice medicine in all its branches in  
13 Illinois that is not required to be licensed under the  
14 Ambulatory Surgical Treatment Center Act.

15 "Change of ownership of a health care facility" means a  
16 change in the person who has ownership or control of a health  
17 care facility's physical plant and capital assets. A change in  
18 ownership is indicated by the following transactions: sale,  
19 transfer, acquisition, lease, change of sponsorship, or other  
20 means of transferring control.

21 "Related person" means any person that: (i) is at least 50%  
22 owned, directly or indirectly, by either the health care  
23 facility or a person owning, directly or indirectly, at least  
24 50% of the health care facility; or (ii) owns, directly or  
25 indirectly, at least 50% of the health care facility.

26 "Charity care" means care provided by a health care

1 facility for which the provider does not expect to receive  
2 payment from the patient or a third-party payer.

3 "Freestanding emergency center" means a facility subject  
4 to licensure under Section 32.5 of the Emergency Medical  
5 Services (EMS) Systems Act.

6 (Source: P.A. 94-342, eff. 7-26-05; 95-331, eff. 8-21-07;  
7 95-543, eff. 8-28-07; 95-584, eff. 8-31-07; revised 10-30-07.)

8 Section 99. Effective date. This Act takes effect upon  
9 becoming law.