

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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**SENATE BILL 681
PROPOSED COMMITTEE SUBSTITUTE S681-PCS45326-RBf-16**

Short Title: Rural Health Care Stabilization Act.

(Public)

Sponsors:

Referred to:

June 24, 2019

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE RURAL HEALTH CARE STABILIZATION PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 131A-1 through G.S. 131A-25 are designated as Article 1 of Chapter 131A of the General Statutes, which is entitled "Health Care Facilities Finance Act."

SECTION 1.(b) The Revisor of Statutes shall change any references in Article 1 of Chapter 131A of the General Statutes to "this Chapter" to "this Article."

SECTION 1.(c) G.S. 113A-12(3)e. reads as rewritten:

"e. A health care facility financed pursuant to Article 1 of Chapter 131A of the General Statutes or receiving a certificate of need under Article 9 of Chapter 131E of the General Statutes."

SECTION 1.(d) G.S. 142-15.16(3) reads as rewritten:

"(3) State-supported financing arrangement. – Any financing arrangement that requires payments that are payable, whether directly or indirectly, and whether or not subject to the appropriation of funds for payment, by payments from the General Fund, the Highway Fund, the Highway Trust Fund, or other funds and accounts of the State that are funded from the general revenues and other taxes and fees of the State or State entities. A State-supported financing arrangement does not include a financing arrangement where bonds or other obligations are issued or incurred to carry out a financing program authorized by the General Assembly under which the bonds or other obligations are payable from moneys derived from specified, limited, nontax sources, such as (i) loan payments made by a non-State entity receiving the benefit of financing by a State entity (including an "obligor" or "participating institution" within the meaning of Chapter 159D of the General Statutes, a "public agency" or a "nonprofit agency" within the meaning of Article 1 of Chapter 131A of the General Statutes, and similar entities); (ii) revenues of a revenue-producing enterprise or activity (such as "revenues" within the meaning of Part 4 of Article 1 of Chapter 116 of the General Statutes and "obligated resources" within the meaning of Article 3 of Chapter 116D of the General Statutes); and (iii) loan payments received, loans owned, and other assets of a State entity that are pledged to secure bonds under programs to finance that type of assets and the associated activities (such as mortgage loans under Chapter 122A of the General Statutes and student loans under Article 23 of Chapter 116 of the General Statutes)."



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- 1 (4) Submitting recommendations to the Commission on whether an applicant
2 should receive a loan under the Program.
3 (5) Negotiating the terms of a proposed loan agreement.
4 (6) Determining the security interests necessary to enforce repayment of the loan.
5 (7) Implementing approved loan agreements, including monitoring repayment
6 and collection.
7 (8) Any other duties and responsibilities necessary to the implementation of the
8 Program and enforcement of the loan agreements under the Program.

9 (c) Exclusion. – UNC Health Care cannot apply for a loan under this Program and cannot
10 be a partner in a partnership that applies for a loan under this Program. The Commission cannot
11 approve an application for a loan if the issuance of the loan would result in a material, direct
12 financial benefit to UNC Health Care at the time the application and Plan are submitted to the
13 Commission for its approval.

14 (d) Rules. – UNC Health Care is authorized to adopt any rules necessary for
15 implementation of the Program.

16 **"§ 131A-32. The Rural Health Care Stabilization Fund.**

17 There is established the Rural Health Care Stabilization Fund under the control and direction
18 of UNC Health Care. The Fund shall be a nonreverting revolving fund consisting of (i) funds
19 appropriated to, or otherwise received by, the Rural Health Care Stabilization Program, (ii) all
20 funds received as repayment of the principal of or interest on a loan made from the Fund, and
21 (iii) all interest credited to the Fund by the State Treasurer pursuant to G.S. 147-69.2 and
22 G.S. 147-69.3. Moneys from the Fund shall only be used for loans made pursuant to this Article.

23 **"§ 131A-33. Application for loan evaluation.**

24 (a) Application and Plan. – A public agency, an owner of a health care facility, or a
25 partnership including one or more of those entities may apply for a loan under the Program to
26 benefit an eligible hospital. To apply for a loan, an applicant must develop a hospital stabilization
27 plan and submit the Plan with its application to UNC Health Care during the application period.
28 The Plan shall include, at a minimum, any proposed changes in governance or ownership for the
29 eligible hospital and the eligible hospital's financial projections, including a plan for repayment
30 by the applicant of the requested loan and other sources of funds projected for support of the
31 eligible hospital, such as local or federal funds. An applicant shall submit to UNC Health Care
32 any additional information requested by UNC Health Care to enable it to determine whether to
33 recommend the application to the Local Government Commission for approval.

34 (b) Evaluation. – UNC Health Care shall evaluate each Plan submitted to determine
35 whether the applicant's Plan demonstrates a financially sustainable health care service model for
36 the community in which the eligible hospital is located. UNC Health Care may also assist an
37 applicant with revisions to its Plan, including negotiating loan terms. Upon conclusion of its
38 review of an application, UNC Health Care shall notify the applicant and the Commission of its
39 recommendation on whether to approve or disapprove a loan application. If more than one
40 applicant applies during an application period, UNC Health Care may assign a priority order for
41 approval of applications when submitting its recommendations to the Commission and reasons
42 for the assigned order of priority.

43 (c) Disapproval of Application. – If UNC Health Care disapproves a loan application, the
44 applicant may engage a disinterested and qualified third party approved by the Commission to
45 evaluate the applicant's Plan to determine if the applicant demonstrates a financially sustainable
46 health care service model for the community in which the eligible hospital is located. The
47 applicant may seek Commission approval of the loan based on the written evaluation of its Plan
48 by the third party.

49 **"§ 131A-34. Commission approval for loan.**

1 (a) Approval Required. – UNC Health Care shall not award a loan under the Program
2 unless the Commission approves it. If the Commission enters an order denying the loan, the
3 proceedings under this Article shall be at an end.

4 (b) Conflict of Interest. – UNC Health Care must disclose to the Commission any
5 potential conflict of interest in its review of an application and Plan. The Commission cannot
6 approve a loan if the issuance of the loan would result in a material, direct financial benefit to
7 UNC Health Care at the time the application and Plan are submitted to the Commission for its
8 approval.

9 (c) Considerations. – The Commission shall review UNC Health Care's
10 recommendations, an applicant's Plan, and any other information it may believe to have a bearing
11 on whether the loan should be approved. If UNC Health Care recommended disapproval of a
12 loan, and the applicant has an evaluation prepared by a disinterested and qualified third party
13 approved by the Commission, the Commission may consider the third party's evaluation of the
14 applicant and the applicant's Plan. The Commission may require the applicant and eligible
15 hospital, if different, to provide any of the following information for its consideration:

16 (1) Current and historical financial information.

17 (2) Whether the undertaking is necessary or expedient.

18 (3) Its debt management procedures and policies.

19 (4) Whether it is in default in any of its debt service obligations.

20 (5) Any other information the Commission may believe to have a bearing on
21 whether the loan should be approved.

22 (d) Loan Approval. – The Commission may approve the application if, upon the
23 information and evidence it receives, it finds and determines:

24 (1) That the loan is necessary or expedient.

25 (2) That the amount proposed is adequate and not excessive for the proposed
26 purpose of the loan.

27 (3) That the Plan demonstrates a financially sustainable health care service model
28 for the community in which the eligible hospital is located.

29 (4) That the applicant's debt management procedures and policies are good, or
30 that reasonable assurances have been given that its debt will be repaid.

31 **§ 131A-35. Award of loans; terms.**

32 (a) Award. – Upon approval of the loan by the Commission, UNC Health Care shall
33 execute the terms of the loan agreement. In adopting terms of the loan agreement, UNC Health
34 Care may require changes to the governance structure of the eligible hospital.

35 (b) Interest Rate and Maturity. – The interest rate payable on and the maximum maturity
36 of a loan are subject to the following limitations:

37 (1) Interest rate. – The interest rate for a loan shall be below the market rate.

38 (2) Maturity. – The maximum maturity for a loan is seven years.

39 (c) Debt Instrument. – UNC Health Care shall execute a debt instrument with the
40 recipient of the loan to evidence the obligation to repay the principal of and interest on the loan
41 awarded under this Article to the State.

42 **§ 131A-36. Annual reports on the Rural Health Care Stabilization Fund.**

43 (a) Requirement. – UNC Health Care shall publish a report each year on the Rural Health
44 Care Stabilization Fund. The report shall be published by November 1 of each year and cover the
45 preceding fiscal year. UNC Health Care shall make the report available to the public and shall
46 give a copy of the report to the Joint Legislative Commission on Governmental Operations and
47 the Fiscal Research Division.

48 (b) Content. – The report required by this section shall contain the following information
49 concerning the Fund:

50 (1) The beginning and ending balance of the Fund for the fiscal year.

51 (2) The amount of revenue credited to the Fund during the fiscal year, by source.

(3) The total amount of loans awarded from the Fund.

(4) For each loan awarded, the recipient of the award, the amount of the award, the amount of the award that was disbursed, and the amount of the award remaining to be disbursed in a subsequent fiscal year, if applicable."

SECTION 3. G.S. 116-37 reads as rewritten:

"§ 116-37. University of North Carolina Health Care System.

...

(e) Finances. – The University of North Carolina Health Care System shall be subject to the provisions of the State Budget Act, except for trust funds as provided in G.S. 116-36.1 and G.S. 116-37.2. The Chief Executive Officer, subject to the board of directors, shall be responsible for all aspects of budget preparation, budget execution, and expenditure reporting. All operating funds of The University of North Carolina Health Care System may be budgeted and disbursed through special fund codes, maintaining separate auditable accounts for the University of North Carolina Hospitals at Chapel Hill and the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill. All receipts of The University of North Carolina Health Care System may be deposited directly to the special fund codes, and except for General Fund appropriations, all receipts of the University of North Carolina Hospitals at Chapel Hill may be invested pursuant to G.S. 116-37.2(h). General Fund appropriations for support of the University of North Carolina Hospitals at Chapel Hill shall be budgeted in a General Fund code under a single purpose, "Contribution to University of North Carolina Hospitals at Chapel Hill Operations" and be transferable to a special fund operating code as receipts. General Fund appropriations for the Rural Health Care Stabilization Program shall be deposited in the Rural Health Care Stabilization Fund pursuant to G.S. 131A-32 and shall only be used for the purposes set forth in Article 2 of Chapter 131A of the General Statutes.

...

(l) Rural Health Care Stabilization Program. – The University of North Carolina Health Care System shall administer the Rural Health Care Stabilization Program in accordance with Article 2 of Chapter 131A of the General Statutes in order to further its mission to promote the health and well-being of the citizens of North Carolina."

SECTION 4. This act becomes effective July 1, 2019, and applies to applications for a loan submitted on or after that date.