

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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SENATE BILL 681

Short Title: Rural Health Care Stabilization Act. (Public)

Sponsors: Senators Berger and Tillman (Primary Sponsors).

Referred to: Rules and Operations of the Senate

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)."



1 **(b) Administration.** – UNC Health Care, in collaboration with the Local Government
2 Commission, shall administer the Program in accordance with this Article. UNC Health Care
3 shall be responsible for assessing Plans submitted by eligible applicants for loans, negotiating
4 the terms of proposed loan agreements, submitting recommendations to the Commission on
5 eligible applicants for its approval of an issuance of a loan under the Program, administering the
6 Fund, and implementing approved loan agreements, including monitoring repayment, collection,
7 and otherwise enforcing those agreements. UNC Health Care shall also evaluate the applicant's
8 ability to repay the loan under the proposed Plan and what security interests are necessary to
9 enforce repayment of the loan. The Commission shall review UNC Health Care's
10 recommendations, eligible applicants' Plans, and provide approval or disapproval for the award
11 of loans under the Program. UNC Health Care and the Commission are authorized to adopt any
12 rules necessary for implementation of the Program, respectively.

13 **"§ 131A-32. The Rural Health Care Stabilization Fund.**

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

21 **"§ 131A-33. Applications for loans; review.**

22 **(a) Application to UNC Health Care.** – An eligible applicant seeking a loan under the
23 Program shall submit its application to UNC Health Care during an application period established
24 by UNC Health Care. The eligible applicant shall develop a hospital stabilization plan for an
25 eligible hospital as part of the loan application. The Plan shall include, at a minimum, any
26 proposed changes in governance or ownership for the eligible hospital and the eligible hospital's
27 financial projections, including a plan for repayment by the applicant of the requested loan and
28 other sources of funds projected for support of the eligible hospital, such as local or federal funds.
29 An applicant shall submit to UNC Health Care any additional information requested by UNC
30 Health Care to enable it to determine whether to recommend the application to the Local
31 Government Commission for approval.

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

41 **(c) Request for Commission Review.** – If UNC Health Care recommends disapproval of
42 a loan application under subsection (b) of this section, an eligible applicant may request that the
43 Commission review UNC Health Care's determination and, upon a finding by the Commission
44 that the eligible applicant demonstrates a financially sustainable health care service model for the
45 community in which the eligible hospital is located, the Commission may approve the applicant
46 for a loan under the Program. If a loan is approved pursuant to this subsection, the Commission
47 shall require UNC Health Care to administer the loan agreement negotiated between the
48 Commission and the approved applicant.

49 **(d) Conflict of Interest.** – UNC Health Care shall disclose to the Commission any
50 potential conflict of interest in its review of an application and Plan pursuant to this section. The
51 Commission shall not approve an eligible applicant if the issuance of a loan would result in a

1 material, direct financial benefit to UNC Health Care at the time the application and Plan are
2 submitted to the Commission for its approval.

3 **"§ 131A-34. Award of loans; terms.**

4 (a) Award. – The Commission shall consider approval of a loan that is recommended to
5 the Commission by UNC Health Care, including the terms of the loan agreement. In adopting
6 terms of the loan agreement, the Commission may require changes to the governance structure
7 of the eligible hospital. In considering approval or disapproval of a loan, the Commission may
8 require the eligible applicant and eligible hospital, if different, to provide current and historical
9 financial information.

10 (b) Reconsideration. – If the Commission determines that an applicant may qualify for
11 approval but the Commission does not approve of the terms of the loan, the Commission shall
12 provide recommendations to UNC Health Care on modifications to the agreement in order for
13 the loan to be approved. UNC Health Care may resubmit its recommendations after modifying
14 the agreement, and the Commission shall consider approval or disapproval of the loan based on
15 the revised recommendation. The Commission shall also consider approval of an application for
16 a loan submitted pursuant to G.S. 131A-33(c). Upon approval by the Commission of a loan
17 award, UNC Health Care shall notify the applicant. The notification shall set out any conditions
18 the applicant must meet to receive an award of a loan.

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

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

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

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

26 **"§ 131A-35. Annual reports on the Rural Health Care Stabilization Fund.**

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

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

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

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

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

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

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

41 **"§ 116-37. University of North Carolina Health Care System.**

42 ...

43 (e) Finances. – The University of North Carolina Health Care System shall be subject to
44 the provisions of the State Budget Act, except for trust funds as provided in G.S. 116-36.1 and
45 G.S. 116-37.2. The Chief Executive Officer, subject to the board of directors, shall be responsible
46 for all aspects of budget preparation, budget execution, and expenditure reporting. All operating
47 funds of The University of North Carolina Health Care System may be budgeted and disbursed
48 through special fund codes, maintaining separate auditable accounts for the University of North
49 Carolina Hospitals at Chapel Hill and the clinical patient care programs of the School of Medicine
50 of the University of North Carolina at Chapel Hill. All receipts of The University of North
51 Carolina Health Care System may be deposited directly to the special fund codes, and except for

1 General Fund appropriations, all receipts of the University of North Carolina Hospitals at Chapel
2 Hill may be invested pursuant to G.S. 116-37.2(h). General Fund appropriations for support of
3 the University of North Carolina Hospitals at Chapel Hill shall be budgeted in a General Fund
4 code under a single purpose, "Contribution to University of North Carolina Hospitals at Chapel
5 Hill Operations" and be transferable to a special fund operating code as receipts. General Fund
6 appropriations for the Rural Health Care Stabilization Program shall be deposited in the Rural
7 Health Care Stabilization Fund pursuant to G.S. 131A-32 and shall only be used for the purposes
8 set forth in Article 2 of Chapter 131A of the General Statutes.

9 ...

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

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