WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 3223
(By Delegates Long and Porter)

Passed March 9, 2007
In Effect from Passage
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-29I-1, §16-29I-2, §16-29I-3, §16-29I-4, §16-29I-5, §16-29I-6, §16-29I-7, §16-29I-8, §16-29I-9 and §16-29I-10, all relating to creating a revolving loan fund to be administered by the West Virginia Health Care Authority Board to provide loans to assist hospitals in the rationalization and restructuring of their health care delivery systems; setting forth the criteria and conditions for approving hospital restructuring plans and loans from the revolving funds; and providing the Health Care Authority Board with reporting responsibilities and rule making authority to implement the provisions of the new article.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-29I-1, §16-29I-2, §16-29I-3, §16-29I-4, §16-29I-5, §16-29I-6, §16-29I-7, §16-29I-8, §16-29I-9 and §16-29I-10, all to read as follows:
ARTICLE 29I. WEST VIRGINIA HEALTH CARE AUTHORITY REVOLVING LOAN AND GRANT FUND.

§16-29I-1. Legislative findings; purpose.

(a) The Legislature hereby finds and declares that the rationalization and restructuring of the health care delivery system, particularly for services provided by hospitals can provide for efficiencies and corresponding reduced costs for the delivery and provision of health care services provided by hospitals. Further, the Legislature finds and declares that the rationalization and restructuring of the health care delivery system by a hospital or combination of hospitals can, if undertaken properly, provide health care cost savings for both public health care funds administered or funded by the state and for private payors and health care insurers operating within the State of West Virginia.

(b) The Legislature further finds that state support of the rationalization and restructuring of the delivery of hospital services with state resources can be used to promote beneficial cost containment restructuring for the health care delivery system in the State of West Virginia.

(c) Therefore, the purpose of this article is to provide for a revolving loan fund to be administered and used by the board to provide loans, including low interest or no interest loans to hospitals or combinations of hospitals to assist in the rationalization and restructuring of the health care delivery system in the State of West Virginia.

§16-29I-2. Short title.

This article may be cited as the West Virginia Health Care Authority Revolving Loan Fund Act.

§16-29I-3. Definitions.

Definitions of words and terms defined in articles two-d, five-f and twenty-nine-b of this chapter are incorporated in
(a) "Fund" means the West Virginia Health Care Authority Revolving Loan Fund created under section four of this article.

(b) "Hospital Restructuring Plan" means a plan submitted by a hospital or combination of hospitals to the board for review and approval pursuant to section five of this article.

§16-291-4. Revolving fund created.

(a) (1) The board shall create and establish a special revolving fund of moneys made available to the fund by appropriation, grant, contribution, loan, or statutory dedication to be known as the West Virginia Health Care Authority Revolving Loan Fund. The fund shall be governed, administered and accounted for by the board.

(2) Any money collected pursuant to this section, including the repayment of loans made by the board, shall be paid into the fund by any state agent or entity charged with the collection of the money, credited to the fund, and used only for the purposes set forth in this article.

(b) The board may pledge revenues to the fund and from time to time establish one or more restricted accounts within the fund for the purpose of providing funds to guarantee loans made pursuant to this article. No loan guarantee shall be made pursuant to this article unless recourse under the loan guarantee is limited solely to amounts in the restricted account or accounts. No person shall have any recourse to any restricted accounts established pursuant to this subsection other than those persons to whom the loan guarantee or loan guarantees have been made.

(c) Each loan or loan guarantee made or provided by the board from the fund shall be evidenced by a loan document, a loan guarantee document or any other writing or document or documents as the board may consider appropriate, between
the Health Care Authority Board and the hospital or hospitals
to which the loan, or loan guarantee, was made available or
provided. The agreements shall include, without limitation
and to the extent applicable, the following provisions:

(1) The estimated total costs of the hospital restructuring
plan, the amount of the loan, or loan guarantee and the terms
of repayment and the security for the loan if any;

(2) The specific purposes for which the loan proceeds
shall be expended and the conditions and procedures for
dispersing a loan proceeds; and

(3) The duties, conditions and obligations imposed by the
board upon the hospital or hospitals regarding the hospital
restructuring plan.

Money in the fund shall be approved for expenditure
by the Health Care Authority Board only as the moneys are
available in the fund. Approval of expenditures by the board
may occur without appropriation by the Legislature prior to
the first day of July, two thousand eight. After the first day
of July, two thousand eight, expenditures from the fund shall
be made by the board only pursuant to available amounts
appropriated by the Legislature.

§16-291-5. Use of revolving loan funds by loan hospital
restructuring plans.

A hospital or combination of hospitals, whether or not
related by common ownership or management, may submit
to the board for its approval, a hospital restructuring plan
which provides for the rationalization and restructuring of
health care delivery services provided by the hospital or
combination of hospitals. The submission of a hospital
restructuring plan or plans by a hospital or a combination of
hospitals, shall be in a form and manner authorized by the
board and shall include the following information:
(1) The sponsoring hospital or combination of hospitals submitting the hospital restructuring plan;

(2) All financial information required by the board relevant to an analysis of the proposed hospital restructuring plan and the subsequent delivery of impacted services;

(3) An estimate of savings and the methodologies used to calculate those savings for both public and private health care payors attributable to the implementation of the hospital restructuring plan;

(4) The amount of any loan requested by the hospital or combination of hospitals and the purposes for which any loan will be used by the hospital or combination of hospitals, to implement the hospital restructuring plan;

(5) An identification of any other benefits or enhancements of services provided by the hospital or combination of hospitals attributable to the implementation of the hospital restructuring plan; and

(6) Any other relevant information requested by the board necessary to review and analyze the submitted hospital restructuring plan.


(a) The board shall review and may approve or reject hospital restructuring plans submitted to it from time to time. Upon approval of any submitted plan, the board may in its sole discretion provide from the fund a loan, low-interest loan, or no-interest loan, in a form and on those terms and conditions as the board considers appropriate to assist in the implementation of the hospital restructuring plan. Prior to approving any plan, the board shall make a factual determination that the implementation of the hospital restructuring plan will rationalize and restructure the delivery of health care services provided by the hospital or
combination of hospitals submitting the plan, and shall further determine that the implementation of the plan will provide a cost savings for hospital services delivered by the hospital or combination of hospitals for both public and private health care payors.

(b) The board may approve hospital restructuring plans and loans from the revolving fund contingent upon any conditions considered necessary by the board to assure the repayment of any loan, which may include but need not be limited to the successful implementation of the cost containment objectives of any hospital restructuring plan.

(c) The board may withhold future rate approvals, certificates of need and rural health system loans and grants if any of the terms or conditions of the loan provided by the board are not subsequently satisfied or met by the hospital or combination of hospitals receiving the loan from the fund.

§16-29I-7. Temporary exemption for approval process.

The board may conduct any hearing or hearing it considers necessary for the consideration of hospital restructuring plans: Provided, That both the application consideration process and the loan approval process provided for in this article and undertaken by the board and completed prior to the first day of July, two thousand eight, are exempt from the requirements of articles two-d and twenty-nine-b of this chapter for holding hearings upon the written demand of any person alleging that they are interested in or affected by any act or failure to act by the board pursuant to article twenty-nine-b of this chapter.

§16-29I-8. Review of final decisions of board.

A final decision of the board accepting or rejecting a hospital restructuring plan submitted pursuant to the terms of this article, shall upon request of the hospital or combination of hospitals making application of the plan be reviewed and
approved pursuant to the provisions of article twenty-nine-b of this chapter: Provided, That no appeal or review authority shall have the authority or jurisdiction to require the board to provide or alter the conditions of any loan.


The board may propose rules, including emergency rules, for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement and make effective the powers, duties and responsibilities contained in this article.

§16-291-10. Annual report.

The board shall within thirty days following the close of the fiscal year, or from time to time as requested by the Legislature, prepare and transmit to the Governor and the Legislative Oversight Commission on Health and Human Resources Accountability, a report of its operations and activities for the proceeding year regarding the consideration, denial or approval of hospital restructuring plans and any loans made pursuant to the approval of the plans.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 23rd day of March, 2007.

Governor
PRESENTED TO THE GOVERNOR
MAR 18 2007
Time 2:02 pm