

Senate Bill 157

By: Senators Watson of the 1st, Kennedy of the 18th, Cowser of the 46th, Jackson of the 2nd, Albers of the 56th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 6 of Title 31 of the Official Code of Georgia Annotated, relating to state  
2 health planning and development, so as to create additional exemptions to the certificate of  
3 need requirement; to add a definition; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 **SECTION 1.**

6 Chapter 6 of Title 31 of the Official Code of Georgia Annotated, relating to state health  
7 planning and development, is amended in Code Section 31-6-2, relating to definitions, by  
8 adding a new paragraph to read as follows:

9 "(32.1) 'Rural restriction area' means a county that is served by a single hospital with no  
10 more than 100 inpatient beds."

11 **SECTION 2.**

12 Said chapter is further amended in Code Section 31-6-47, relating to exemptions from the  
13 chapter, by adding two new paragraphs to read as follows:

14 "(19.1) Any multi-specialty ambulatory surgical center not located in a rural restriction  
15 area that is the sole ambulatory surgical center owned by a multi-specialty group practice  
16 or its members that has at least 25 physicians as members or employed by the group, has  
17 been in operation for no less than five years, and is a Medicaid provider:

18 (A) Is the only multi-specialty ambulatory surgical center in the county owned by the  
19 group practice and has two or fewer operating rooms; provided, however, that a center  
20 exempt pursuant to this paragraph shall be required to obtain a certificate of need in  
21 order to add any additional operating rooms;

22 (B) Has a hospital affiliation agreement with a hospital within a reasonable distance  
23 from the facility or the medical staff at the center has admitting privileges or other  
24 acceptable documented arrangements with such hospital to ensure the necessary backup  
25 for the center for medical complications. The center shall have the capability to transfer

26 a patient immediately to a hospital within a reasonable distance from the facility with  
27 adequate emergency room services. Hospitals shall not unreasonably deny a transfer  
28 agreement or affiliation agreement to the center;

29 (C)(i) Provides care to Medicaid beneficiaries and, if the facility provides medical  
30 care and treatment to children, to PeachCare for Kids beneficiaries and provides  
31 uncompensated indigent and charity care in an amount equal to or greater  
32 than 4.5 percent of its adjusted gross revenue; or

33 (ii) If the center is not a participant in Medicaid or the PeachCare for Kids Program,  
34 provides uncompensated care to Medicaid beneficiaries and, if the facility provides  
35 medical care and treatment to children, to PeachCare for Kids beneficiaries,  
36 uncompensated indigent and charity care, or both in an amount equal to or greater  
37 than 9 percent of its adjusted gross revenue; and

38 (D) Provides annual reports in the same manner and in accordance with Code  
39 Section 31-6-70.

40 Noncompliance with any condition of this paragraph shall result in a monetary penalty  
41 in the amount of the difference between the services which the center is required to  
42 provide and the amount actually provided and may be subject to revocation of its  
43 exemption status by the department for repeated failure to pay any fines or moneys due  
44 to the department or for repeated failure to produce data as required by Code  
45 Section 31-6-70 after notice to the exemption holder and a fair hearing pursuant to  
46 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The dollar amount  
47 specified in this paragraph shall be adjusted annually by an amount calculated by the  
48 department to reflect inflation, which may be calculated by multiplying such dollar  
49 amount (as adjusted for the preceding year) by the annual percentage of change in the  
50 composite index of construction material prices, or its successor or appropriate  
51 replacement index, if any, published by the United States Department of Commerce for  
52 the preceding calendar year, commencing on July 1, 2009, and on each anniversary  
53 thereafter of publication of the index. The department shall immediately institute  
54 rule-making procedures to adopt such adjusted dollar amounts. In calculating the dollar  
55 amounts of a proposed project for purposes of this paragraph, the costs of all items  
56 subject to review by this chapter and items not subject to review by this chapter  
57 associated with and simultaneously developed or proposed with the project shall be  
58 counted, except for the expenditure or commitment of or incurring an obligation for the  
59 expenditure of funds to develop certificate of need applications, studies, reports,  
60 schematics, preliminary plans and specifications or working drawings, or to acquire  
61 sites;

- 62 (19.2) Any single specialty ambulatory surgical center not located in a rural restriction  
63 area that has operated under an exemption such as a letter of nonreviewability:  
64 (A) Is transferred or sold to a multi-specialty group or its members; and  
65 (B) The center continues to operate as single specialty ambulatory surgery center;”

66

**SECTION 3.**

67 All laws and parts of laws in conflict with this Act are repealed.