



**SENATE BILL 698:**  
**Legacy Medical Care Facility/Certificate of Need**  
**Exempt**

2015-2016 General Assembly

**Committee:**  
**Introduced by:**  
**Analysis of:** S.L. 2015-288

**Date:**  
**Prepared by:** Janice Paul  
 Staff Attorney

**SUMMARY:** *S.L. 2015-288 does the following: (i) provides for certain exemptions under the Certificate of Need Law; (ii) amends the requirements for a municipality or hospital authority to approve the sale or lease of a public hospital; (iii) effective January 1, 2018, repeals North Carolina's Certificate of Public Advantage laws; and (iv) gives a hospital authority the power to engage in health care activities outside the State.*

*Except as otherwise provided, this act became effective October 29, 2015.*

**BILL ANALYSIS:**

**Sections 1 and 2**

**Background and Current Law:** Article 9 of Chapter 131E governs the issuance of Certificates of Need (CON). The CON law<sup>1</sup> provides the process by which persons may apply for a license to construct or expand health care facilities or to provide services in accordance with the determined need. The State's CON law provides, "No person shall offer or develop a new institutional health service without first obtaining a certificate of need from the [Department of Health and Human Services] ('Department')." G.S. 131E-178.

**Sections 1 and 2** of the act amend G.S. Chapter 131E by creating a definition of "Legacy Medical Care Facility," and exempting from CON review the acquisition or reopening of a Legacy Medical Care Facility if the operator provides the Department with a written notice containing specified information. A Legacy Medical Care Facility is defined as an institution that (1) is not presently operating, (2) has not continuously operated for at least the past six months, (3) was licensed under the Hospital Licensure Act, and (4) was primarily engaged in providing specified services to inpatients, by physicians or under physicians' supervision.

**Section 3**

**Background and Current Law:** Under current law, before a municipality or hospital authority may lease, sell, or convey any hospital facility, it must comply with the procedures set forth in G.S. 131E-13(d), including giving notice of its intent, soliciting additional buyers or lessees, holding public hearings, and approving any sale or lease at a regular meeting by resolution.

**Section 3** of S.L. 2015-288 creates G.S. 131E-13(h) that allows a municipality or hospital authority that has or has not complied with certain procedures in G.S. 131E-13(d) to solicit additional prospective lessees or buyers that were not previously solicited, and then approve the lease, sale, or conveyance without being required to repeat compliance with specified provisions upon meeting specified conditions.

O. Walker Reagan  
 Director



Research Division  
 (919) 733-2578

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**Section 4** of the act repeals North Carolina's Certificate of Public Advantage laws (Article 1E of Chapter 90 of the General Statutes and Article 9A of Chapter 131E of the General Statutes).

**Section 5** of S.L. 2015-288 amends G.S. 131E-23 to give a hospital authority "all powers necessary or convenient. . . [t]o engage in health care activities outside the State."

**EFFECTIVE DATE:** Section 4 of the act is effective January 1, 2018. The remainder of this act became effective when the Governor signed it into law on October 29, 2015.

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<sup>i</sup> \*For further background and information on the State's CON laws, see the following reports:

- [http://www.ncleg.net/documentsites/committees/HSCCONPRHI/04-19-12/HSCCON final report 4-23.pdf](http://www.ncleg.net/documentsites/committees/HSCCONPRHI/04-19-12/HSCCON_final_report_4-23.pdf)
- <http://ncleg.net/Library/studies/2013/st11925.pdf>.