

**ACT 113**

**H.B. NO. 843**

A Bill for an Act Relating to Kahuku Hospital.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Kahuku hospital has been serving the residents of the north shore of Oahu from Kualoa to Waimea Bay, with a population of about twenty-seven thousand, since 1929. Kahuku hospital is a twenty-five-bed facility that has provided an array of health care services, including emergency care, general acute care, surgery, skilled nursing, ancillary care, and health education.

It is one of nine hospitals in Hawaii with a federal medicare designation as a critical access hospital, which allows it to annually receive higher reimbursements amounting to about \$1,000,000 in additional revenue.

On November 6, 2006, the board of directors of Kahuku hospital voted to file for chapter 7 bankruptcy and close down the hospital on December 31, 2006, because of continuing operating losses of about \$1,500,000 a year, a sum that has now reached \$3,500,000. If such a closure was to occur, the hospital would lose its hospital license, its certificate of need, and its critical access hospital designation, all of which would require time and expense for another hospital to obtain, effectively shutting down hospital-based health care services in the area for an indefinite period. Closing down Kahuku hospital would pose a grave threat to the health and safety of all residents on the north shore and windward areas of Oahu, who would have to drive either twenty-two miles to Wahiawa general hospital or thirty-two miles to Castle Medical Center in Kailua for hospital-based care, with both trips requiring driving over an hour along a single-access road that is periodically closed by inclement weather or traffic mishaps.

Accordingly, the legislature finds that it is in the public interest to keep Kahuku hospital operating to serve the residents of the north shore of Oahu by enabling it to file for chapter 11 rather than chapter 7 bankruptcy, which would allow the hospital to:

- (1) Continue operations;
- (2) Preserve its hospital license;
- (3) Retain its certificate of need and critical access hospital designation;
- (4) Reorganize; and
- (5) Settle its debts.

The purpose of this Act is to authorize the Hawaii health systems corporation to bring Kahuku hospital under its governance through formal affiliation with the corporation and to provide for transitional facilitation by the director of health.

SECTION 2. Chapter 323F, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§323F- Acquisition of Kahuku hospital.** (a) Kahuku hospital on Oahu may be assimilated into the Hawaii health systems corporation in a manner and to an extent that may be negotiated between the corporation and Kahuku hospital. After assimilation, the physical assets and the ground lease of Kahuku hospital shall become the property of the corporation, and Kahuku hospital shall be operated by the corporation.

(b) None of the liabilities of Kahuku hospital shall become liabilities of the corporation.

(c) The corporation, at its discretion, may retain any or all medical and nonmedical employees of Kahuku hospital.

(d) The corporation, without regard to section 323F-31, may adjust the levels of services provided by Kahuku hospital.

(e) Kahuku hospital shall be exempt from chapter 102 and section 103-53, and its board of directors, if any, shall be exempt from part I of chapter 92.

(f) The purchase of goods and services by or on behalf of Kahuku hospital shall be exempt from chapters 103D and 103F.

(g) Employees of Kahuku hospital shall be exempt from chapters 76, 87A, 88, and 89, and shall not be considered as employees of the State.”

SECTION 3. **Kahuku hospital; acquisition by Hawaii health systems corporation; transitional facilitation by the director of health.** The director of health, as an interested third party, shall act in the role of honest broker to help

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facilitate the successful acquisition of Kahuku hospital by the Hawaii health systems corporation during the transition period. To that end, the acquisition shall be exempt from part VII of chapter 323D, Hawaii Revised Statutes, relating to hospital acquisition.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,900,000 or so much thereof as may be necessary for fiscal year 2007-2008 to carry out the purposes of this Act, including the hiring of necessary staff.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 5. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval; provided that section 4 shall take effect on July 1, 2007, and section 3 shall be repealed upon:

- (1) The receipt of a letter by the director of health from the board of directors of the Hawaii health systems corporation officially notifying the director of health that the acquisition of Kahuku hospital by the corporation has been successfully completed; and
- (2) The issuance of a proclamation by the governor that the events in paragraph (1) have occurred.

(Approved May 31, 2007.)

### Note

1. Edited pursuant to HRS §23G-16.5.