

PROPOSED

ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE BROWARD COUNTY LOCAL PROVIDER PARTICIPATION FUND ORDINANCE; AMENDING SECTIONS 16-129, 16-132, AND 16-137 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"), RELATING TO ANNUAL PROCEEDINGS AND INDEMNITY REQUIREMENTS FOR THE IMPOSITION OF A NON-AD VALOREM SPECIAL ASSESSMENT ON CERTAIN REAL PROPERTY OWNED OR LEASED BY PRIVATE HOSPITALS IN BROWARD COUNTY; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

WHEREAS, on May 10, 2022, the Broward County Board of County Commissioners ("Board") enacted an Ordinance creating Article V of Chapter 16 of the Broward County Code of Ordinances (the "Broward County Local Provider Participation Fund Ordinance") to allow for the imposition of a uniform non-ad valorem special assessment upon certain real property owned or leased by private hospitals in Broward County ("Hospitals") to help finance the non-federal share of the State of Florida's Medicaid program ("Special Assessment"); and

WHEREAS, the Board desires to amend the Broward County Local Provider Participation Fund Ordinance to streamline the procedures and requirements for the annual imposition of the Special Assessment,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
BROWARD COUNTY, FLORIDA:

Section 1. Section 16-129 of the Broward County Code of Ordinances is hereby
amended to read as follows:

Sec. 16-129. Annual Proceedings for Imposing Assessment.

The Board, subject to the provisions of this section and without an election, may
impose an Assessment for the purposes provided for in this article. The proceedings for
imposing the Assessment shall be as follows:

(a) *Petition.* In each Fiscal Year, the Board may impose an Assessment only
after receipt of a the following:

- (1) A petition requesting the imposition of the Assessment signed by at least
seventy-five percent (75%) of the Institutional Health Care Providers; The
which petition shall set forth: ~~(1) the boundaries or other description~~
sufficient to identify each Assessed Property, the proposed Assessment
rate, and the dollar amount to be imposed on each Assessed Property; ~~(2)~~
~~a legal opinion, that is acceptable to the Office of County Attorney, from a~~
~~duly licensed Florida attorney stating that the imposition of the Assessment~~
~~is lawful; and (3) an~~
- (2) An executed release, in a form acceptable to the Office of the County
Attorney, wherein each of ~~the~~ petitioning Institutional Health Care Providers
states, among other things, ~~they~~ it forever releases Broward County and its
officers, employees, and agents from any and all ~~liability~~ claims, suits, and

liabilities relating to the imposition of the Assessment. ~~There shall also be filed with the petition a:~~

(3) A duly certified copy of the proceedings of the board of directors or stockholders of each of the Institutional Health Care Providers or an affidavit executed by an individual duly authorized to bind the Institutional Health Care Provider and such other documents, if any, as may be required by the Office of the County Attorney to show that those signing the petition are duly authorized to sign the petition and to subject the Assessed Property to the levy and imposition of the Assessment as provided in this article;

(4) A designation in each petition of a single point of contact for the Institutional Health Care Providers, which person or entity shall collect and provide to Broward County all documentation required by this article for the imposition of the Assessment; and

(5) In the first year that the Assessment is to be imposed, a legal opinion, that is acceptable to the Office of the County Attorney, from a duly licensed Florida attorney stating that the imposition of the Assessment is lawful.

...

Section 2. Section 16-132 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 16-132. Method of Collection.

The Assessment is to be collected pursuant to an alternative method pursuant to Section 197.3631, Florida Statutes. The County Administrator or designee shall provide

the Assessment bills by first-class mail to each Institutional Health Care Provider. The bill or accompanying explanatory material shall include:

. . .

(h) A copy of the indemnification, hold harmless, and release of liability document required by Section ~~16-129(a)~~ 16-137, which shall be executed by the ~~owners of Assessed Properties~~ Institutional Health Care Providers and returned with the submission of the Assessment.

Section 3. Section 16-137 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 16-137. Indemnification and; Hold Harmless; Release of Liability.

The Institutional Health Care Providers that are the subject of this article have requested enactment of this article and have given assurances to Broward County that the objectives and procedures addressed in this article are proper and lawful. Accordingly, as provided in Section 16-132(h), the Institutional Health Care Providers that ~~are the subject of this article~~ shall provide to Broward County submit with the Assessment, an executed indemnification and, hold harmless document that, and release of liability document approved by the Office of the County Attorney. Broward County may, in its sole discretion, accept a document containing only the release of liability, in a form approved by the Office of the County Attorney, when an Institutional Health Care Provider is not legally permitted to execute an indemnification and hold harmless document. The indemnification and hold harmless required under this section shall ~~hold~~ Broward County and its officers, employees, and agents harmless from any claim arising from the adoption and implementation of this article, and shall indemnify Broward County and its officers,

90 employees, and agents from any and all claims, suits, damages, disallowances, or other
91 proceedings, including, but not limited to, original proceedings, appeals, or any
92 proceeding before any administrative body or tribunal, and from any and all costs and
93 attorneys' ~~or~~ and expert fees associated with the defense of such claims, that may arise
94 in the event that the objectives and procedures of this article are challenged by any
95 person, entity, or government agency. ~~This indemnification and hold harmless shall be~~
96 ~~approved by the Office of the County Attorney as to legal sufficiency and shall be~~
97 ~~submitted with the Assessment pursuant to Section 16-132(h).~~ The release of liability
98 required under this section shall forever release Broward County and its officers,
99 employees, and agents from any and all claims, suits, and liabilities relating to the
100 imposition of the Assessment.

101 Section 4. Severability.

102 If any portion of this Ordinance is determined by any court to be invalid, the invalid
103 portion will be stricken, and such striking will not affect the validity of the remainder of this
104 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
105 legally applied to any individual, group, entity, property, or circumstance, such
106 determination will not affect the applicability of this Ordinance to any other individual,
107 group, entity, property, or circumstance.

108 Section 5. Inclusion in the Broward County Code of Ordinances.

109 It is the intention of the Board of County Commissioners that the provisions of this
110 Ordinance become part of the Broward County Code of Ordinances as of the effective
111 date. The sections of this Ordinance may be renumbered or relettered and the word

112 “ordinance” may be changed to “section,” “article,” or such other appropriate word or
113 phrase to the extent necessary in order to accomplish such intention.

114 Section 6. Effective Date.

115 This Ordinance is effective as of the date provided by law.

ENACTED

PROPOSED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By: /s/ Christina A. Blythe 08/03/2022
Christina A. Blythe (date)
Assistant County Attorney

By: /s/ Annika E. Ashton 08/03/2022
Annika E. Ashton (date)
Deputy County Attorney

CAB/sr
Hospital Special Assessment Amendments Ordinance
08/03/2022

Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.