

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

Current report filing

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FILER

**OMEGA HEALTHCARE INVESTORS INC**

CIK: **888491** | IRS No.: **383041398** | State of Incorporation: **MD** | Fiscal Year End: **1231**  
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SIC: **6798** Real estate investment trusts

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TIMONIUM MD 21093

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9690 DEERECO ROAD  
STE 100  
TIMONIUM MD 21093  
410-427-1700

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**FORM 8-K**

**CURRENT REPORT  
Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act of 1934**

Date of report (Date of earliest event reported): December 30, 2005

**OMEGA HEALTHCARE INVESTORS, INC.**  
(Exact name of registrant as specified in charter)

**Maryland**  
(State of incorporation)

**1-11316**  
(Commission File Number)

**38-3041398**  
(IRS Employer  
Identification No.)

**9690 Deereco Road  
Suite 100  
Timonium, Maryland 21093**  
(Address of principal executive offices / Zip Code)

**(410) 427-1700**  
(Registrant's telephone number, including area code)

**Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:**

Written communications pursuant to Rule 425 under the Securities Act.

Soliciting material pursuant to Rule 14a-12 under the Exchange Act.

Pre-commencement communications pursuant to Rule 14d—2(b) under the Exchange Act.

Pre-commencement communications pursuant to Rule 13e—4(c) under the Exchange Act.

**Item 1.01 Entry into a Material Definitive Agreement.**

On December 30, 2005, Omega Healthcare Investors, Inc., a Maryland corporation (the “Company”), and Wachovia Bank, National Association, as trustee (the “Trustee”), entered into Supplemental Indenture No. 2 (the “Second Supplemental Indenture”), amending and supplementing the Indenture dated as of January 24, 1997 between the Company and the Trustee, as amended and supplemented by Supplemental Indenture No. 1 dated as of August 5, 1997 (the “First Supplemental Indenture”) between the Company and the Trustee (as amended and supplemented by the First Supplemental Indenture, the “Original Indenture”), pursuant to which the Company issued its 6.95% notes due 2007 (the “2007 Notes”).

The terms of the 2007 Notes were governed by the Original Indenture. Prior to the execution of the Second Supplemental Indenture, the Original Indenture contained certain covenants that limited the ability of the Company and its subsidiaries to, among other things, incur debt; incur secured debt; make certain dividend payments, distributions and investments; enter into certain transactions, including transactions with affiliates; restrict dividends or other payments from subsidiaries; merge, consolidate or transfer all or substantially all of their respective assets; and sell assets. The Original Indenture also contained customary events of default including, without limitation, failure to make required payments, failure to comply with certain agreements or covenants, cross-defaults to certain other indebtedness in excess of specified amounts, certain events of bankruptcy and insolvency, and failure to pay certain judgments.

The Second Supplemental Indenture became effective on December 30, 2005 when, pursuant to the Company’s offer to purchase all of the outstanding 2007 Notes and consent solicitation with respect to the Second Supplemental Indenture initiated on December 16, 2005 (the “Tender Offer and Consent Solicitation”), the Company delivered written notice to the Trustee that the Company received the requisite consent of holders of the 2007 Notes to enter into the Second Supplemental Indenture. As of December 30, 2005, the Company has accepted tenders and consents representing 79.3% of the aggregate principal amount of 2007 Notes outstanding. The consideration for the 2007 Notes accepted for purchase was paid with the proceeds of the Company’s offering of \$175 million aggregate principal amount of its 7% senior notes due 2016 (the “2016 Notes”).

The Second Supplemental Indenture amends and supplements the Original Indenture as follows:

(a) The following Sections of the Original Indenture, and any corresponding provisions in the 2007 Notes, hereby are deleted in their entirety and replaced with “Intentionally Omitted.”:

<u>Existing Section Number</u>	<u>Caption</u>
SECTION 801.	Company May Consolidate, Etc. Only on Certain Terms.
SECTION 1002.	Maintenance of Office or Agency.
SECTION 1004.	Statement as to Compliance.
SECTION 1006.	SEC Reports.
SECTION 1007.	Limitations on Dividends, Distributions and Acquisitions of Capital Stock.
SECTION 1008.	Existence.

(b) Subsections (4) through (8) of Section 501 (Events of Default) of the Original Indenture, and any corresponding provisions in the 2007 Notes, hereby are deleted in their entirety and replaced with “Intentionally Omitted.”

(c) The first paragraph of Section 1104 of the Original Indenture (Notice of Redemption), and any corresponding provisions in the 2007 Notes, hereby are deleted in their entirety and replaced with the following:

“Notice of redemption shall be given in the manner provided in Section 106 not less than 3 nor more than 25 days prior to the Redemption Date unless a shorter period is specified in the Debt Security of the series to be redeemed, to each Holder of Debt Securities to be redeemed, but failure to give such notice in the manner herein provided to the Holder of any Debt Securities designated for redemption as a whole or in part, or any defect in the notice to any such Holder, shall not affect the validity of the proceedings for the redemption of any other such Debt Securities or portion thereof.”

(d) Subsections (b) through (f) of Section 1504 (Conditions to Defeasance or Covenant Defeasance) of the Original Indenture and any corresponding provisions in the 2007 Notes, hereby are deleted in their entirety and replaced with “Intentionally Omitted.”

(e) The following Sections of the First Supplemental Indenture, and any corresponding provisions in the 2007 Notes, hereby are deleted in their entirety and replaced with “Intentionally Omitted.”:

<u>Existing Section Number</u>	<u>Caption</u>
SECTION 2.4.	Limitations on Incurrence of Debt.
SECTION 2.15.	Provision of Financial Information.

The foregoing description is qualified by reference in its entirety to the entire text of the Second Supplemental Indenture and the press release dated December 30, 2005, copies of which are filed herewith as Exhibit 4.1 and Exhibit 99.1, respectively, and are incorporated by reference into this Item 1.01.

#### **Item 1.02 Termination of a Material Definitive Agreement**

The information set forth in Items 1.01 and 2.04 is incorporated by reference herein.

#### **Item 2.04 Triggering Events that Accelerate or Increase a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement.**

On December 30, 2005, the Company informed the Trustee of its election to redeem the 2007 Notes in full (the “Redemption”) and irrevocably deposited in trust with the Trustee cash in an amount necessary to fully redeem the 2007 Notes (the “Redemption Fund”) pursuant to the Original Indenture as amended and supplemented by the Second Supplemental Indenture (as amended and supplemented, the “Indenture”). The Company also irrevocably instructed the Trustee to deliver, in accordance with the Original Indenture, notice to all holders of the 2007 Notes that all of the outstanding 2007 Notes will be redeemed on January 18, 2006 (the “Redemption Date”). The 2007 Notes not otherwise tendered to the Company pursuant to the Tender Offer and Consent Solicitation will be redeemed with funds from the Redemption Fund at a redemption price equal to 103.389% of the principal amount of 2007 Notes, plus accrued and unpaid interest through the Redemption Date, for a total redemption price of \$1,066.13 per each \$1,000.00 principal amount of 2007 Notes.

On December 30, 2005, upon the Company’s irrevocable funding of the redemption price for the 2007 Notes and certain other acts required by the Indenture, the Trustee certified in writing to the Company (the “Certificate of Satisfaction and Discharge”) that the Indenture was satisfied and discharged and shall have no further effect as of December 30, 2005, except for certain provisions relating to, among other things, the Trustee’s duties and obligations and the Company’s indemnification of the Trustee. In accordance with FASB Statement No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishment of Liabilities*, the Company intends to remove the 2007 Notes

and the amount of the Redemption Fund held in trust by the Trustee from its balance sheet as of the date of receipt of the Certificate of Satisfaction and Discharge from the Trustee.

**Item 3.03 Material Modifications to Rights of Security Holders.**

The information set forth in Items 1.01 and 2.04 is incorporated by reference herein.

**Item 9.01 Financial Statements and Exhibits.**

(c) Exhibits.

<u>Exhibit Number</u>	<u>Description</u>
4.1	Second Supplemental Indenture, dated as of December 30, 2005, among Omega Healthcare Investors, Inc. and Wachovia Bank, National Association, as trustee.
99.1	Press Release dated December 30, 2005.

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## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

**OMEGA HEALTHCARE INVESTORS, INC.**  
(Registrant)

Dated: January 5,  
2006

/s/ C. Taylor Pickett

C. Taylor Pickett  
President and Chief Executive Officer

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## EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Description</u>
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99.1	Press Release dated December 30, 2005.

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OMEGA HEALTHCARE INVESTORS, INC.

Issuer

to

WACHOVIA BANK, NATIONAL ASSOCIATION

Trustee

Supplemental Indenture No. 2

Dated as of December 30, 2005

\$100,000,000

of

6.95% Notes due 2007

**SUPPLEMENTAL INDENTURE NO. 2**, dated as of December 30, 2005 (this “Second Supplemental Indenture”), between **OMEGA HEALTHCARE INVESTORS, INC.**, a corporation duly organized and existing under the laws of the State of Maryland (the “Company”) and **WACHOVIA BANK, NATIONAL ASSOCIATION**, as trustee (the “Trustee”).

#### **RECITALS**

**WHEREAS**, the Company has heretofore delivered to the Trustee an Indenture dated as of January 24, 1997 (the “Original Indenture”), as amended and supplemented by Supplemental Indenture No. 1 dated as of August 5, 1997 (the “First Supplemental Indenture”) (the Original Indenture as amended and supplemented by the First Supplemental Indenture, the “Indenture”), providing for the issuance from time to time of the Company’s 6.95% Notes due 2007 (the “Notes”).

**WHEREAS**, in accordance with Section 902 of the Indenture, the Company has obtained the consent of the holders of a majority in aggregate principal amount of the Notes outstanding to the amendments to the Indenture set forth in this Second Supplemental Indenture.

**NOW, THEREFORE**, in consideration of the premises herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually covenanted and agreed as follows:

#### **ARTICLE ONE**

#### **RELATION TO INDENTURE; DEFINITIONS**

#### **SECTION 1.1. Relation to Indenture**

This Supplemental Indenture constitutes an integral part of the Indenture.

## SECTION 1.2. Definitions.

For all purposes of this Second Supplemental Indenture, except as otherwise expressly provided for or unless the context otherwise requires:

- (1) Capitalized terms used but not defined herein shall have the respective meanings assigned to them in the Indenture; and
- (2) All references herein to Articles and Sections, unless otherwise specified, refer to the corresponding Articles and Sections of this Second Supplemental Indenture.

## ARTICLE TWO AMENDMENTS TO INDENTURE

**SECTION 2.1. Amendments to Indenture.** Effective as of the Amendment Effective Date (as defined below):

(a) The following Sections of the Indenture, and any corresponding provisions in the Notes, hereby are deleted in their entirety and replaced with “Intentionally Omitted.”:

<u>Existing Section Number</u>	<u>Caption</u>
	SECTION 801. Company May Consolidate, Etc. Only on Certain Terms.
SECTION 1002.	Maintenance of Office or Agency.
SECTION 1004.	Statement as to Compliance.
SECTION 1006.	Provision of SEC Reports.
SECTION 1007.	Limitations on Dividends, Distributions and Acquisitions of Capital Stock.
SECTION 1008.	Existence.

(b) Subsections (4) through (8) of Section 501 (Events of Default) of the Indenture, as amended by Section 2.13 of the First Supplemental Indenture, and any corresponding provisions in the Notes, hereby are deleted in their entirety and replaced with “Intentionally Omitted.”

(c) The first paragraph of Section 1104 of the Indenture (Notice of Redemption), and any corresponding provisions in the Notes, hereby is deleted in its entirety and replaced with the following:

“Notice of redemption shall be given in the manner provided in Section 106 not less than 3 nor more than 25 days prior to the Redemption Date unless a shorter period is specified in the Debt Security of the series to be redeemed, to each Holder of Debt Securities to be redeemed, but failure to give such notice in the manner herein provided to the Holder of any Debt Securities designated for redemption as a whole or in part, or any defect in the notice to any such Holder, shall not affect the validity of the proceedings for the redemption of any other such Debt Securities or portion thereof.”

(d) Subsections (b) through (f) of Section 1504 (Conditions to Defeasance or Covenant Defeasance) of the Indenture and any corresponding provisions in the 2007 Notes, hereby are deleted in their entirety and replaced with “Intentionally Omitted.”

**SECTION 2.2. Amendments to First Supplemental Indenture.** Effective as of the Amendment Effective Date:

The following Sections of the First Supplemental Indenture, and any corresponding provisions in the Notes, hereby are deleted in their entirety and replaced with “Intentionally Omitted.”:

**Existing Section Number**

**Caption**

SECTION 2.4.

Limitations on Incurrence of Debt.

SECTION 2.15.

Provision of Financial Information.

**ARTICLE THREE  
MISCELLANEOUS**

**SECTION 3.1. Ratification of Indenture.**

Except as expressly modified or amended hereby, the Indenture continues in full force and effect and is in all respects confirmed and preserved.

**SECTION 3.2. Governing Law.**

This Second Supplemental Indenture and each Note shall be governed by and construed in accordance with the laws of the State of New York. This Second Supplemental Indenture is subject to the provisions of the Trust Indenture Act of 1939, as amended, and shall, to the extent applicable, be governed by such provisions.

**SECTION 3.3. Counterparts.**

This Second Supplemental Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

**SECTION 3.4. References to Second Supplemental Indenture.**

Any and all notices, requests, certificates and other instruments executed and delivered after the execution and delivery of this Second Supplemental Indenture may refer to the Indenture without making specific reference to this Second Supplemental Indenture, but nevertheless all such references shall include this Second Supplemental Indenture unless the context otherwise requires.

**SECTION 3.5. Effect of this Second Supplemental Indenture.**

From and after the Amendment Effective Date, the Indenture shall be deemed to be modified as herein provided, but except as modified hereby, the Indenture shall continue in full force and effect. The Indenture as modified hereby shall be read, taken and construed as one and the same instrument.

**SECTION 3.6. Severability.**

In the event that any provisions of this Second Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**SECTION 3.7. Trustee Not Responsible for Recitals.**

The recitals contained herein shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Second Supplemental Indenture.

**SECTION 3.7. Effectiveness.**

This Second Supplemental Indenture shall become effective, upon execution by the Company and the Trustee, on the Amendment Effective Date. As used herein, the “Amendment Effective Date” shall mean the date that the Company delivers written notice to the Trustee

that the Notes tendered and not validly withdrawn on or prior to December 30, 2005 (the expiration date for the consent solicitation) pursuant to the Company's Offer to Purchase and Consent Solicitation Statement dated December 16, 2005, have been accepted for purchase.

**[Remainder of Page Intentionally Left Blank]**

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**IN WITNESS WHEREOF**, the parties hereto have caused this Second Supplemental Indenture to be duly executed by their respective officers hereunto duly authorized, all as of the day and year first written above.

OMEGA HEALTHCARE INVESTORS, INC.

By: /s/ Robert O. Stephenson  
Name: Robert O. Stephenson  
Title: Chief Financial Officer

WACHOVIA BANK, NATIONAL ASSOCIATION,  
as Trustee

By: /s/ Charles S. Hodges  
Name: Charles S. Hodges  
Title: Vice President

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**OMEGA HEALTHCARE INVESTORS ANNOUNCES  
EXPIRATION OF CONSENT DATE, EXECUTION OF SUPPLEMENTAL INDENTURE,  
AND REDEMPTION DATE FOR ITS 6.95% NOTES DUE 2007**

**TIMONIUM, MARYLAND - December 30, 2005** - Omega Healthcare Investors, Inc. (NYSE:OHI) (“Omega”) announced today that in connection with its current tender offer and consent solicitation for all of its outstanding 6.95% notes due 2007 (the “Notes”), it was in receipt of tenders and consents representing 79.3% of the aggregate principal amount of the Notes outstanding. The tendered notes were accepted for purchase by Omega. The total consideration to be paid to holders who have validly tendered their Notes and delivered their consents will be \$1,031.02 for each \$1,000 principal amount of Notes validly tendered and not validly revoked, which includes a consent payment of \$30.00 per \$1,000 principal amount of Notes. The consideration for the tendered Notes and consents will be paid from the proceeds of Omega’s offering of \$175 million aggregate principal amount of its 7% senior notes due 2016.

The percentage of consents received exceeds the requisite consents needed to amend the indenture pursuant to which the Notes were issued (the “Indenture”) as set forth in the Offer to Purchase and Consent Solicitation Statement circulated in connection with the tender offer and consent solicitation for the Notes. As described in the Offer to Purchase and Consent Solicitation Statement, the amendments to the Indenture (the “Proposed Amendments”) will, among other things, eliminate (i) all events of default under the Indenture other than events of default relating to the failure to pay principal of and interest on the Notes and to make a change of control tender offer if such offer is required under the Indenture and (ii) eliminate substantially all of the restrictive covenants in the Indenture and the Notes. As a result of the receipt of the requisite consents, Omega and Wachovia Bank, National Association, as trustee under the Indenture, have executed a supplemental indenture to the Indenture to affect the Proposed Amendments. The supplemental indenture has an effective date of December 30, 2005.

Deutsche Bank Securities Inc. is the dealer manager for the offer to purchase and the solicitation agent for the consent solicitation. Questions or requests for assistance may be directed to Deutsche Bank Securities Inc. (telephone: (212) 250-4270 (collect) or toll-free at (800) 553-2826). Requests for documentation may be directed to MacKenzie Partners, Inc., the information agent (telephone: (212) 929-5500 (collect)) or toll-free at (800) 322-2885.

Omega’s Board of Directors also authorized the redemption of all outstanding Notes that are not otherwise tendered to and accepted by Omega in connection with the offer to purchase and consent solicitation for the Notes. The redemption date for the Notes will be January 18, 2006. The aggregate redemption price plus all accrued and unpaid interest for the Notes is \$1,066.13 per \$1,000 principal amount of Notes. In accordance with the Indenture, the Company will cause to be deposited with the trustee the aggregate redemption price, to be held in trust for the benefit of the holders of the Notes. On and after the redemption date, the Notes shall cease to be outstanding, interest thereon shall cease to accrue, and all rights with respect to the Notes shall cease and terminate, except for the right of the holders thereof to receive the redemption price of the Notes redeemed, but without interest, upon surrender of their Notes. The notice of redemption will be mailed to the holders of the Notes on or about December 30, 2005. The trustee will act as the Company’s redemption and paying agent. Holders of the Notes who hold Notes through The Depository Trust Company will have their Notes redeemed in accordance with The Depository Trust Company’s procedures.

This press release does not constitute a call for redemption of the Notes. Such call for redemption will be made in a redemption notice issued to the holders of the Notes by Omega.

\* \* \* \* \*

Omega is a real estate investment trust investing in and providing financing to the long-term care industry. At September 30, 2005, the Company owned or held mortgages on 216 skilled nursing and assisted living facilities with approximately 22,407 beds located in 28 states and operated by 38 third-party healthcare operating companies.

FOR FURTHER INFORMATION, CONTACT

Bob Stephenson, CFO at (410) 427-1700 or  
visit the Company's website at [www.omegahealthcare.com](http://www.omegahealthcare.com)

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*This announcement includes forward-looking statements. All forward-looking statements included herein are based on current expectations and speak only as of the date of such statements. Omega undertakes no obligation to publicly update or revise any forward-looking statement, whether as a result of future events, new information or otherwise. Such forward-looking statements should be regarded solely as reflections of Omega's current operating plans and estimates. Statements regarding future events and developments, including the completion of the notes offering, and Omega's future performance, as well as management's expectations, beliefs, plans, estimates or projections relating to the future, are forward-looking statements within the meaning of these laws. All forward-looking statements are subject to certain risks and uncertainties that could cause actual events to differ materially from those projected. Management believes that these forward-looking statements are reasonable; however, you should not place undue reliance on such statements. Actual results may differ materially from those reflected in such forward-looking statements as a result of a variety of factors, including, among other things: (i) uncertainties relating to the business operations of the operators of Omega's properties, including those relating to reimbursement by third-party payors, regulatory matters and occupancy levels; (ii) regulatory and other changes in the healthcare sector, including without limitation, changes in Medicare reimbursement; (iii) changes in the financial position of Omega's operators; (iv) the ability of operators in bankruptcy to reject unexpired lease obligations, modify the terms of Omega's mortgages, and impede the ability of Omega to collect unpaid rent or interest during the pendency of a bankruptcy proceeding and retain security deposits for the debtor's obligations; (v) the availability and cost of capital; (vi) competition in the financing of healthcare facilities; and (vii) other factors identified in Omega's filings with the Securities and Exchange Commission.*