

1 HB491
2 150659-1
3 By Representative Clouse
4 RFD: Ways and Means General Fund
5 First Read: 20-MAR-13

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8 SYNOPSIS: Under existing law, a privilege assessment
9 and supplemental privilege assessment are imposed
10 on each bed in a nursing facility and a monthly
11 surcharge is also imposed. The supplemental
12 privilege assessment and the monthly surcharge will
13 expire on August 31, 2013.

14 This bill would extend the current
15 supplemental privilege assessment and monthly
16 surcharge through August 31, 2015.

17 The bill would also specify that the
18 assessments and surcharges would expire under
19 certain conditions.

20
21 A BILL
22 TO BE ENTITLED
23 AN ACT

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25 To amend Section 40-26B-21, Code of Alabama 1975, as
26 last amended by Act 2012-536 of the 2012 Regular Session,
27 relating to the privilege assessment, the supplemental

1 privilege assessment, and monthly surcharge on nursing
2 facilities; to extend the current supplemental privilege
3 assessment and monthly surcharge to August 31, 2015; and to
4 specify that the assessments and surcharges would expire under
5 certain conditions.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Section 40-26B-21, Code of Alabama 1975,
8 as last amended by Act 2012-536 of the 2012 Regular Session,
9 is amended to read as follows:

10 "§40-26B-21.

11 "To provide further for the availability of indigent
12 health care, the operation of the Medicaid program, and the
13 maintenance and expansion of medical services:

14 "(a) There is levied and shall be collected a
15 privilege assessment on the business activities of every
16 nursing facility in the State of Alabama. The privilege
17 assessment imposed is in addition to all other taxes and
18 assessments, and shall be at the annual rate of \$1,899.96 for
19 each bed in the nursing facility.

20 "(b) For the period September 1, 2010, through
21 August 31, ~~2013~~ 2015, there is levied and shall be collected a
22 supplemental privilege assessment on the business activities
23 of every nursing facility in the State of Alabama. The
24 supplemental privilege assessment imposed is in addition to
25 all other taxes and assessments, including without limitation,
26 the privilege taxes provided for under this article, and from
27 September 1, 2010, through August 31, 2011, shall be at the

1 annual rate of \$1,063.08 for each bed in the nursing facility,
2 and one thousand six hundred three dollars and eight cents
3 (\$1,603.08) for the period of September 1, 2011, through
4 August 31, ~~2013~~ 2015, except that beginning with the monthly
5 payment for the supplemental privilege assessment due
6 beginning May 20, 2012, and ending August 31, ~~2013~~ 2015, there
7 shall be a monthly surcharge due with each monthly payment of
8 the supplemental privilege assessment. The initial monthly
9 surcharge shall be one hundred thirty-one dollars and
10 twenty-five cents (\$131.25) per licensed bed. Beginning with
11 the monthly payment of the supplemental privilege assessment
12 due on September 20, 2012, the monthly surcharge shall be
13 reduced to forty-three dollars and seventy-five cents (\$43.75)
14 per month.

15 "(c) The total privilege assessment, supplemental
16 privilege assessment, (privilege assessments) and surcharge
17 paid by a nursing facility pursuant to this article shall be
18 considered an allowable cost, as that term is defined in the
19 reimbursement methodology for nursing facilities contained in
20 Title 560 of the Alabama Administrative Code, and, to the
21 extent permitted under applicable federal law governing the
22 Alabama Medicaid nursing home program, the total privilege
23 assessments paid must be included in the computation of the
24 Medicaid per diem rate determined under the reimbursement
25 methodology for nursing facilities contained in Title 560 of
26 the Alabama Administrative Code. The payment to nursing
27 facilities of the determined allowable costs in respect to the

1 supplemental privilege assessment described in subsection (b)
2 shall be included in Medicaid per diem rates for services
3 provided commencing as of January 1, 2011, and shall continue
4 to be included in such Medicaid per diem rates for a period
5 equal to the number of months during which the supplemental
6 assessments shall have been in effect. For each Medicaid
7 nursing facility, in determining the adjustment to the
8 Medicaid per diem for the allowable costs associated with the
9 supplemental assessment, the Alabama Medicaid Agency shall
10 divide the total supplemental assessment due under subsection
11 (b) by the total of all incurred resident days (regardless of
12 payor class) reported by such nursing facility in its Medicaid
13 cost report filed for the period then ended June 30, 2010. To
14 accommodate the increase in the supplemental assessment and
15 the surcharge described in subsection (b), Medicaid shall use
16 the mechanism described herein to adjust each nursing
17 facility's rate effective as of October 1, 2011, regarding the
18 privilege assessment, and May 1, 2012, regarding the
19 surcharge. Notwithstanding the foregoing, in the event that
20 such cost report shall be for a period less than one year, the
21 resident days reported shall be annualized. In the event that
22 any portion of the privilege assessment paid by a facility
23 cannot be included in the computation of the Medicaid per diem
24 rate because of the effect of any cost ceiling provision of
25 the reimbursement methodology, the cost ceiling must be
26 adjusted to ensure continued treatment of the total privilege
27 assessments as an allowable cost.

1 "(d) The privilege assessment rate or the
2 supplemental privilege assessment rate or the surcharge rate
3 shall be reduced by the department upon the advice of the
4 Alabama Medicaid Agency if, but only if, such reduction is
5 required to ensure that the total revenues to the State of
6 Alabama produced by this privilege assessment or, if the
7 supplemental privilege assessment and surcharge are in effect,
8 the aggregate of the supplemental privilege assessment and
9 surcharge and the privilege assessment, during any state
10 fiscal year are less than or equal to six percent of the total
11 revenues received by the nursing facilities in the state
12 subject to the assessment during that same fiscal year. In the
13 event that the supplemental privilege assessment or surcharge
14 are reduced as provided in the preceding sentence, then for
15 each Medicaid nursing facility a corresponding reduction shall
16 be made to the Medicaid per diem adjustment described in
17 subsection (c) to ensure that only the amount of supplemental
18 privilege assessment or surcharge actually paid is used in
19 computing that Medicaid nursing facility's allowable costs.

20 "(e) The privilege assessment, supplemental
21 privilege assessment, and the monthly surcharge imposed under
22 this article shall cease to be imposed if the Alabama Medicaid
23 Agency, or its successor, enters into any third-party managed
24 care contracts with a commercial managed care entity for the
25 provision of nursing facility services. For the purpose of
26 this subsection, a "commercial managed care entity" is a
27 private or public managed care entity as described 42 U.S.C.

1 §1396u-2 or similar entity. Notwithstanding the foregoing, a
2 regional care organization, administrative service
3 organization, primary care network, or Program of All
4 Inclusive Services for the Aging (PACE) that is established by
5 the Alabama Medicaid Agency through approval of The Centers
6 for Medicare and Medicaid Services, U.S. Department of Health
7 and Human Services, and has health provider participation in
8 its governance, shall not be deemed a commercial managed care
9 entity."

10 Section 2. This act shall become effective
11 immediately following its passage and approval by the
12 Governor, or its otherwise becoming law.