

1 HB12
2 171741-1
3 By Representative Clouse
4 RFD: Ways and Means General Fund
5 First Read: 08-SEP-15

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8 SYNOPSIS: Under existing law, a privilege assessment,
9 a supplemental privilege assessment, and a monthly
10 surcharge are imposed on each bed in a nursing
11 facility.

12 This bill would add a secondary supplemental
13 assessment on each bed in a nursing facility for
14 fiscal years 2016 and 2017, contingent upon a
15 minimum general fund appropriation to the Medicaid
16 program in the 2016 fiscal year.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

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22 To amend Section 40-26B-21, as amended by Act
23 2015-458 of the 2015 Regular Session, Code of Alabama 1975,
24 relating to nursing facilities and the privilege assessment on
25 nursing facilities; to add a secondary supplemental assessment
26 for fiscal years 2016 and 2017, contingent upon a minimum
27 general fund appropriation in the 2016 fiscal year.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 40-26B-21, as amended by Act
3 2015-458 of the 2015 Regular Session, Code of Alabama 1975, is
4 amended to read as follows:

5 "§40-26B-21.

6 "To provide further for the availability of indigent
7 health care, the operation of the Medicaid program, and the
8 maintenance and expansion of medical services:

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

15 "(b) For the period September 1, 2010, through
16 August 31, 2017, there is levied and shall be collected a
17 supplemental privilege assessment on the business activities
18 of every nursing facility in the State of Alabama. The
19 supplemental privilege assessment imposed is in addition to
20 all other taxes and assessments, including without limitation,
21 the privilege taxes provided for under this article, and from
22 September 1, 2010, through August 31, 2011, shall be at the
23 annual rate of \$1,063.08 for each bed in the nursing facility,
24 and one thousand six hundred three dollars and eight cents
25 (\$1,603.08) for the period of September 1, 2011, through
26 August 31, 2017, except that beginning with the monthly
27 payment for the supplemental privilege assessment due

1 beginning May 20, 2012, and ending August 31, 2017, there
2 shall be a monthly surcharge due with each monthly payment of
3 the supplemental privilege assessment. The initial monthly
4 surcharge shall be one hundred thirty-one dollars and
5 twenty-five cents (\$131.25) per licensed bed. Beginning with
6 the monthly payment of the supplemental privilege assessment
7 due on September 20, 2012, the monthly surcharge shall be
8 reduced to forty-three dollars and seventy-five cents (\$43.75)
9 per month.

10 "For the period October 1, 2015, through August 31,
11 2017, there shall be collected a secondary supplemental
12 privilege assessment on the business activities of every
13 nursing facility in the State of Alabama. The secondary
14 supplemental privilege assessment imposed in this paragraph is
15 contingent upon the minimum appropriation provided in Section
16 2 of the act adding this paragraph, and is in addition to all
17 other taxes and assessments, including without limitation, the
18 privilege taxes provided for under this article, and beginning
19 October 1, 2015, shall be at the annual rate of four hundred
20 one dollars and twenty-eight cents (\$401.28) for each bed in
21 the nursing facility, payable monthly.

22 "(c) The total privilege assessment, supplemental
23 privilege assessment, secondary privilege assessment,
24 (privilege assessments) and surcharge paid by a nursing
25 facility pursuant to this article shall be considered an
26 allowable cost, as that term is defined in the reimbursement
27 methodology for nursing facilities contained in Title 560 of

1 the Alabama Administrative Code, and, to the extent permitted
2 under applicable federal law governing the Alabama Medicaid
3 nursing home program, the total privilege assessments paid
4 must be included in the computation of the Medicaid per diem
5 rate determined under the reimbursement methodology for
6 nursing facilities contained in Title 560 of the Alabama
7 Administrative Code. The payment to nursing facilities of the
8 determined allowable costs in respect to the supplemental
9 privilege assessment described in subsection (b) shall be
10 included in Medicaid per diem rates for services provided
11 commencing as of January 1, 2011, and shall continue to be
12 included in such Medicaid per diem rates for a period equal to
13 the number of months during which the supplemental assessments
14 shall have been in effect. For each Medicaid nursing facility,
15 in determining the adjustment to the Medicaid per diem for the
16 allowable costs associated with the supplemental assessment,
17 the Alabama Medicaid Agency shall divide the total
18 supplemental assessment due under subsection (b) by the total
19 of all incurred resident days (regardless of payor class)
20 reported by such nursing facility in its Medicaid cost report
21 filed for the period then ended June 30, 2010. To accommodate
22 the increase in the supplemental assessment and the surcharge
23 described in subsection (b), Medicaid shall use the mechanism
24 described herein to adjust each nursing facility's rate
25 effective as of October 1, 2011, regarding the privilege
26 assessment, and May 1, 2012, regarding the surcharge.
27 Notwithstanding the foregoing, in the event that such cost

1 report shall be for a period less than one year, the resident
2 days reported shall be annualized. In the event that any
3 portion of the privilege assessment paid by a facility cannot
4 be included in the computation of the Medicaid per diem rate
5 because of the effect of any cost ceiling provision of the
6 reimbursement methodology, the cost ceiling must be adjusted
7 to ensure continued treatment of the total privilege
8 assessments as an allowable cost.

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

1 "(e) The Medicaid nursing facility program shall
2 continue to be administered directly by the Alabama Medicaid
3 Agency until at least October 1, 2017."

4 Section 2. The amendments to Section 40-26B-21 by
5 Section 1 of this act shall become operative only if the
6 2015-2016 general appropriations bill, as enacted,
7 appropriates at least seven hundred thirty-five million
8 dollars (\$735,000,000) to the Alabama Medicaid Program.

9 Section 3. This act shall become effective October
10 1, 2015, following its passage and approval by the Governor,
11 or its otherwise becoming law.