

1 HB696
2 140381-2
3 By Representative Barton
4 RFD: Ways and Means General Fund
5 First Read: 17-APR-12

1 ENGROSSED

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3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
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8 To amend Sections 40-26B-21 and 40-26B-22, as
9 amended by Act 2011-614 of the 2011 Regular Session (Acts
10 2011, p. 1376), Code of Alabama 1975, relating to the
11 privilege assessment on nursing facilities and Medicaid
12 nursing facility reimbursement aspects; to levy an additional
13 monthly surcharge beginning May 20, 2012, and ending August
14 31, 2013, to be due with each payment of the supplemental
15 privilege assessment referred to in Section 40-26B-21(b), Code
16 of Alabama 1975, with the initial monthly surcharge being
17 reduced beginning September 20, 2012 until August 31, 2013.
18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 40-26B-21 and 40-26B-22, as
20 amended by Act 2011-614 of the 2011 Regular Session (Acts
21 2011, p. 1376), Code of Alabama 1975, are amended to read as
22 follows:

23 "§40-26B-21.

24 "To provide further for the availability of indigent
25 health care, the operation of the Medicaid program, and the
26 maintenance and expansion of medical services:

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

7 "(b) For the period September 1, 2010 through August
8 31, ~~2013-2014~~ 2013, there is levied and shall be collected a
9 supplemental privilege assessment on the business activities
10 of every nursing facility in the State of Alabama. The
11 supplemental privilege assessment imposed is in addition to
12 all other taxes and assessments, including without limitation,
13 the privilege taxes provided for under this article, and from
14 September 1, 2010, through August 31, 2011, shall be at the
15 annual rate of \$1,063.08 for each bed in the nursing facility,
16 and one thousand six hundred three dollars and eight cents
17 (\$1,603.08) for the period of September 1, 2011, through
18 August 31, 2013, except that beginning with the monthly
19 payment for the supplemental privilege assessment due
20 beginning May 20, 2012, and ending August 31, 2013, there
21 shall be a monthly surcharge due with each monthly payment of
22 the supplemental privilege assessment. The initial monthly
23 surcharge shall be one hundred thirty-one dollars and
24 twenty-five cents (\$131.25) per licensed bed. Beginning with
25 the monthly payment of the supplemental privilege assessment
26 due on September 20, 2012, the monthly surcharge shall be

1 reduced to forty-three dollars and seventy-five cents (\$43.75)
2 per month.

3 "(c) The total privilege assessment, ~~and~~
4 supplemental privilege assessment, (privilege assessments) and
5 surcharge paid by a nursing facility pursuant to this article
6 shall be considered an allowable costs, as that term is
7 defined in the reimbursement methodology for nursing
8 facilities contained in Title 560 of the Alabama
9 Administrative Code, and, to the extent permitted under
10 applicable federal law governing the Alabama Medicaid nursing
11 home program, the total privilege assessments paid must be
12 included in the computation of the Medicaid per diem rate
13 determined under the reimbursement methodology for nursing
14 facilities contained in Title 560 of the Alabama
15 Administrative Code. The payment to nursing facilities of the
16 determined allowable costs in respect to the supplemental
17 privilege assessment described in subsection (b) shall be
18 included in Medicaid per diem rates for services provided
19 commencing as of January 1, 2011, and shall continue to be
20 included in such Medicaid per diem rates for a period equal to
21 the number of months during which the supplemental assessments
22 shall have been in effect. For each Medicaid nursing facility,
23 in determining the adjustment to the Medicaid per diem for the
24 allowable costs associated with the supplemental assessment,
25 the Alabama Medicaid Agency shall divide the total
26 supplemental assessment due under subsection (b) by the total
27 of all incurred resident days (regardless of payor class)

1 reported by such nursing facility in its Medicaid cost report
2 filed for the period then ended June 30, 2010. To accommodate
3 the increase in the supplemental assessment and the surcharge
4 described in subsection (b), Medicaid shall use the ~~same~~
5 mechanism described herein to adjust each nursing facility's
6 rate effective as of October 1, 2011, regarding the privilege
7 assessment, and May 1, 2012, regarding the surcharge.

8 Notwithstanding the foregoing, in the event that such cost
9 report shall be for a period less than one year, the resident
10 days reported shall be annualized. In the event that any
11 portion of the privilege ~~taxes~~ assessment paid by a facility
12 cannot be included in the computation of the Medicaid per diem
13 rate because of the effect of any cost ceiling provision of
14 the reimbursement methodology, the cost ceiling must be
15 adjusted to ensure continued treatment of the total privilege
16 assessments as an allowable cost.

17 "(d) The privilege assessment rate or the
18 supplemental privilege assessment rate or the surcharge rate
19 shall be reduced by the department upon the advice of the
20 Alabama Medicaid Agency if, but only if, such reduction is
21 required to ensure that the total revenues to the State of
22 Alabama produced by this privilege assessment or, if the
23 supplemental privilege assessment ~~is~~ and surcharge are in
24 effect, the aggregate of the supplemental privilege assessment
25 and surcharge and the privilege assessment, during any state
26 fiscal year are less than or equal to ~~five and one-half~~ six
27 percent of the total revenues received by the nursing

1 facilities in the state subject to the assessment during that
2 same fiscal year. In the event that the supplemental privilege
3 assessment ~~is~~ or surcharge are reduced as provided in the
4 preceding sentence, then for each Medicaid nursing facility a
5 corresponding reduction shall be made to the Medicaid per diem
6 adjustment described in subsection (c) to ensure that only the
7 amount of supplemental privilege assessment or surcharge
8 actually paid is used in computing that Medicaid nursing
9 facility's allowable costs.

10 "§40-26B-22.

11 "(a) The privilege assessments imposed by this
12 article shall be due and payable in monthly installments to
13 the department on or before the twentieth day of the month
14 next succeeding the month in which the ~~tax~~ assessment accrues,
15 and shall, when collected, be paid by the department into the
16 State Treasury. Payment by United States mail will be timely
17 if mailed in accordance with Section 40-1-45. When so paid
18 into the State Treasury, all such privilege assessments shall
19 be deposited to the credit of the Alabama Health Care Trust
20 Fund or any successor fund administered by or on behalf of the
21 Alabama Medicaid Agency.

22 "(b) The receipts from the privilege assessments
23 levied in this article shall be solely available for
24 appropriation by the Alabama Legislature to the Alabama
25 Medicaid Agency for use by the agency in accomplishing the
26 purposes of this article. Provided, however, for the first
27 fiscal year in which this article is effective, to defray its

1 expenses including salaries and costs of operation incident to
2 the collection of this privilege assessment, there is hereby
3 appropriated to the department and shall be deducted as a
4 first charge thereon, an amount not to exceed one percent of
5 the revenues collected pursuant to this article. Such amount
6 of money as shall be appropriated for each succeeding fiscal
7 year by the Legislature to the department with which to pay
8 the salaries, the cost of operation and the management of the
9 department shall be deducted, as a first charge thereon, from
10 the privilege assessments collected under and pursuant to this
11 article. Provided, however, the expenditure of the sum so
12 appropriated shall be budgeted and allotted pursuant to
13 Article 4 of Chapter 4 of Title 41, and limited to the amount
14 appropriated to defray the expenses of operating the
15 department for each fiscal year, incident to the collection of
16 this privilege assessment."

17 Section 2. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Ways and Means
General Fund..... . 17-APR-12

Read for the second time and placed
on the calendar 1 amendment 26-APR-12

Read for the third time and passed
as amended..... . 03-MAY-12

Yeas 93, Nays 6, Abstains 0

Greg Pappas
Clerk