

1 HB321  
2 189973-2  
3 By Representative Clouse  
4 RFD: Ways and Means General Fund  
5 First Read: 30-JAN-18

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ENROLLED, An Act,

To amend Section 40-26B-21, Code of Alabama 1975, relating to the privilege assessment, the supplemental privilege assessment, and monthly surcharge on nursing facilities; to extend the current supplemental privilege assessment and monthly surcharge to August 31, 2019.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-26B-21, Code of Alabama 1975, is amended to read as follows:

"§40-26B-21.

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

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

"(b) For the period September 1, 2010, through August 31, ~~2018~~ 2019, there is levied and shall be collected a supplemental privilege assessment on the business activities of every nursing facility in the State of Alabama. The supplemental privilege assessment imposed is in addition to

1 all other taxes and assessments, including without limitation,  
2 the privilege taxes provided for under this article, and from  
3 September 1, 2010, through August 31, 2011, shall be at the  
4 annual rate of \$1,063.08 for each bed in the nursing facility,  
5 and one thousand six hundred three dollars and eight cents  
6 (\$1,603.08) for the period of September 1, 2011, through  
7 August 31, ~~2018~~ 2019, except that beginning with the monthly  
8 payment for the supplemental privilege assessment due  
9 beginning May 20, 2012, and ending August 31, ~~2018~~ 2019, there  
10 shall be a monthly surcharge due with each monthly payment of  
11 the supplemental privilege assessment. The initial monthly  
12 surcharge shall be one hundred thirty-one dollars and  
13 twenty-five cents (\$131.25) per licensed bed. Beginning with  
14 the monthly payment of the supplemental privilege assessment  
15 due on September 20, 2012, the monthly surcharge shall be  
16 reduced to forty-three dollars and seventy-five cents (\$43.75)  
17 per month.

18 "For the period October 1, 2015, through August 31,  
19 ~~2018~~ 2019, there shall be collected a secondary supplemental  
20 privilege assessment on the business activities of every  
21 nursing facility in the State of Alabama. The secondary  
22 supplemental privilege assessment imposed in this paragraph is  
23 contingent upon the minimum appropriation provided in Section  
24 2 of the act adding this paragraph, and is in addition to all  
25 other taxes and assessments, including without limitation, the

1 privilege taxes provided for under this article, and beginning  
2 October 1, 2015, shall be at the annual rate of four hundred  
3 one dollars and twenty-eight cents (\$401.28) for each bed in  
4 the nursing facility, payable monthly.

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

1 allowable costs associated with the supplemental assessment,  
2 the Alabama Medicaid Agency shall divide the total  
3 supplemental assessment due under subsection (b) by the total  
4 of all incurred resident days (regardless of payor class)  
5 reported by such nursing facility in its Medicaid cost report  
6 filed for the period then ended June 30, 2010. To accommodate  
7 the increase in the supplemental assessment and the surcharge  
8 described in subsection (b), Medicaid shall use the mechanism  
9 described herein to adjust each nursing facility's rate  
10 effective as of October 1, 2011, regarding the privilege  
11 assessment, and May 1, 2012, regarding the surcharge.

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

21 "(d) The privilege assessment rate or the  
22 supplemental privilege assessment rate or the surcharge rate  
23 shall be reduced by the department upon the advice of the  
24 Alabama Medicaid Agency if, but only if, such reduction is  
25 required to ensure that the total revenues to the State of

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

15 "(e) The Medicaid nursing facility program shall  
16 continue to be administered directly by the Alabama Medicaid  
17 Agency until at least October 1, ~~2018~~ 2019".

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

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 13-FEB-18.

Jeff Woodard  
Clerk

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Senate

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28-MAR-18

Passed