

1 HB285  
2 216689-2  
3 By Representative Clouse  
4 RFD: Ways and Means General Fund  
5 First Read: 08-FEB-22

1  
2 ENROLLED, An Act,

3           Relating to the privilege assessment for nursing  
4 homes; to amend Section 40-26B-21, Code of Alabama 1975; to  
5 extend the supplemental privilege assessment, the secondary  
6 supplemental privilege assessment, and the surcharge through  
7 August 31, 2025; and provide that the Medicaid nursing  
8 facility program be administered by the Alabama Medicaid  
9 Agency during the period that the privilege assessment is  
10 levied and collected.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

14           "§40-26B-21.

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

18           "(a) There is levied and shall be collected a  
19 privilege assessment on the business activities of every  
20 nursing facility in the State of Alabama. The privilege  
21 assessment imposed is in addition to all other taxes and  
22 assessments, and shall be at the annual rate of one thousand  
23 eight hundred ninety-nine dollars and ninety-six cents  
24 (\$1,899.96) for each bed in the nursing facility. Beginning  
25 September 1, 2020, the privilege assessment shall be increased

1 from one thousand eight hundred ninety-nine dollars and  
2 ninety-six cents (\$1,899.96) for each bed in the nursing  
3 facility, by an addition to the privilege assessment equal to  
4 three hundred twenty-seven dollars and forty-eight cents  
5 (\$327.48) per annum. The addition to the privilege assessment  
6 shall be paid in equal monthly installments and shall merge  
7 into and be a part of the privilege assessment described in  
8 this subsection. The payment to nursing facilities of the  
9 determined allowable costs in respect to the addition to the  
10 privilege assessment described in this subsection shall be  
11 included in Medicaid per diem rates for services provided  
12 commencing as of October 1, 2020, and shall continue to be  
13 included in such Medicaid per diem rates in the same manner  
14 that reimbursement for the privilege assessment is included in  
15 Medicaid per diem rates. For each Medicaid nursing facility,  
16 in determining the October 1, 2020 adjustment to the Medicaid  
17 per diem for the allowable costs associated with the addition  
18 to the privilege assessment, the Medicaid Agency shall divide  
19 the total addition to the privilege assessment by the total of  
20 all incurred resident days (regardless of payor class)  
21 reported by each nursing facility in its Medicaid cost report  
22 filed for the period then ended June 30, 2019. Notwithstanding  
23 the foregoing, in the event that the June 30, 2019 cost report  
24 is for a period of less than one year, the resident days  
25 reported shall be annualized. After the October 1, 2020

1 adjustment under this subsection, the addition to the  
2 privilege assessment shall be fully merged into the privilege  
3 assessment and reimbursed in accordance with the method set  
4 forth for calculating the reimbursement for the privilege  
5 assessment. In the event that any portion of the privilege  
6 assessment paid by a facility cannot be included in the  
7 computation of Medicaid per diem rate because of the effect of  
8 any cost ceiling provision of the reimbursement methodology,  
9 the cost ceiling shall be adjusted to ensure continued  
10 treatment of the total privilege assessments as an allowable  
11 cost.

12 "(b) For the period September 1, 2010, through  
13 August 31, ~~2022~~ 2025, there is levied and shall be collected a  
14 supplemental privilege assessment on the business activities  
15 of every nursing facility in the State of Alabama. The  
16 supplemental privilege assessment imposed is in addition to  
17 all other taxes and assessments, including without limitation,  
18 the privilege taxes provided for under this article, and from  
19 September 1, 2010, through August 31, 2011, shall be at the  
20 annual rate of one thousand ~~and~~ sixty-three dollars and eight  
21 cents (\$1,063.08) for each bed in the nursing facility, and  
22 one thousand six hundred three dollars and eight cents  
23 (\$1,603.08) for the period of September 1, 2011, through  
24 August 31, ~~2022~~ 2025, except that beginning with the monthly  
25 payment for the supplemental privilege assessment due

1 beginning May 20, 2012, and ending August 31, ~~2022~~ 2025, 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 ~~2022~~ 2025, 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 Act 2015-536, and is in addition to all other taxes and  
17 assessments, including without limitation, the privilege taxes  
18 provided for under this article, and beginning October 1,  
19 2015, shall be at the annual rate of four hundred one dollars  
20 and twenty-eight cents (\$401.28) for each bed in the nursing  
21 facility, payable monthly.

22 "(c) The total privilege assessment (and the  
23 addition to the privilege assessment), supplemental privilege  
24 assessment, secondary privilege assessment, (privilege  
25 assessments) and surcharge paid by a nursing facility pursuant

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

1 described in subsection (b), the agency shall use the  
2 mechanism described herein to adjust each nursing facility's  
3 rate effective as of October 1, 2011, regarding the privilege  
4 assessment, and May 1, 2012, regarding the surcharge.

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

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

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

8 "(e) The Medicaid nursing facility program shall  
9 continue to be administered directly by the Medicaid Agency  
10 ~~until at least October 1, 2022~~ during the period in which the  
11 provider assessment provided by this section is levied and  
12 collected."

13 Section 2. This act shall become effective  
14 immediately following its passage and approval by the  
15 Governor, or its otherwise becoming law.



