

SENATE BILL 430

By Overbey

AN ACT to amend Tennessee Code Annotated, Title 68  
and Title 71, relative to nursing homes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-11-216, is amended by deleting subsection (c) in its entirety and substituting the following:

(c)

(1) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of providing nursing home care. The assessment fee imposed by this subsection (c) shall be in addition to all other privilege taxes.

(2) Effective for one (1) year beginning July 1, 2013, in addition to the fees set forth in subsection (a), each nursing home shall pay a nursing home annual assessment fee as set forth in this subsection (c). Such assessment fee shall be paid in equal monthly installments of one-twelfth (1/12) of the annual amount established by this subsection (c). The installments are due on the fifteenth day of each following month beginning August 15, 2013, for the July 2013 installment and ending with a final payment on July 15, 2014.

(3) The nursing home annual assessment fee shall be based on the number of nursing home beds licensed by this state on July 1, 2013, for the fiscal year following such date, excluding beds in nursing homes specifically certified as intermediate care beds for the mentally retarded. The assessment fee shall be uniformly applied to all licensed beds at the rate of two thousand two hundred twenty-five dollars (\$2,225) per licensed bed per year. Licensed facilities that are owned or operated by an agency of

this state are not excluded from paying the assessment fee. There shall be no exclusions, deductions or adjustments applied to the assessment fee of any licensed facility different from any other such facility. Beds licensed after July 1, 2013, shall pay a prorated amount of the annual assessment fee for the fiscal year following such date; provided, that no such assessment fee shall be due to the extent that the beds licensed after July 1, 2013, were the result of the transfer of such beds from one (1) licensed facility to another licensed facility, where the transferor facility had already paid the full amount of the assessment fee on such beds, or where the transferor facility agrees to continue to pay the monthly installments due with respect to such beds.

(4) The commissioner shall adopt rules and regulations governing the collection of such assessment fees. Notwithstanding any other provision of law, the commissioner is authorized to promulgate such rules as emergency rules pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(5) Any challenge to the assessment fee imposed by this subsection (c) shall be brought pursuant to title 67, chapter 1, part 9 and § 9-8-307(a)(1)(O).

(6)

(A) All revenue collected pursuant to this subsection (c) shall be deposited in the general fund.

(B) All nursing home annual assessment fee payments made by nursing homes under this section and received by this state; all investment earnings credited to the nursing home annual assessment fee payments; any interest and penalties paid under this section by any nursing home; and all funds generated by federal matching payments made relative to the nursing home annual assessment fee shall be available to and used by the bureau of TennCare for the sole purpose of providing payment to nursing homes.

(C) No part of the nursing home annual assessment fee payments made by nursing homes under this section and received by this state; the investment earnings credited to the nursing home annual assessment fee payments; the

interest and penalties paid under this section by any nursing home; or the funds generated by federal matching payments made relative to the nursing home annual assessment fee shall be used for any purpose other than providing payment to nursing homes.

(7)

(A) If any part of any assessment fee imposed under this subsection (c) is not paid on or before the due date, a penalty of five percent (5%) of the amount due shall at once accrue and be added to such assessment fee. Thereafter, on the first day of each month during which any part of any assessment fee or any prior accrued penalty remains unpaid, an additional penalty of five percent (5%) of the then unpaid balance shall accrue and be added to such assessment fee or prior accrued penalty. In addition, assessment fees under this subsection (c) not paid on the due date shall bear interest at the maximum lawful rate from the due date to the date paid. Payment shall be deemed to have been made upon date of deposit in the United States mail. The commissioner may for good cause approve an alternative payment plan, as long as full payment of the assessment fee plus penalty and interest is made.

(B) If a nursing home is more than sixty (60) days delinquent in paying an installment of its nursing home annual assessment fee, the commissioner shall be authorized to initiate proceedings before the board in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, so that the board may suspend admissions to the facility or otherwise direct the facility to pay the assessment fee and any accrued penalties and interest in full within a prescribed period of time. If the facility does not pay the assessment fee and any accrued penalties and interest in full within the prescribed period of time as

directed by the board, the board shall suspend admissions to the facility. Any suspension of admissions imposed according to this section shall immediately be lifted following the full payment of the assessment fee and any accrued penalties and interest by the facility. If full payment of the assessment fee and any accrued penalties and interest is not paid within sixty (60) days from the first day of the suspension of admissions, the commissioner shall be authorized to initiate proceedings before the board in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, so that the board may consider the revocation of the facility's license.

(8) The assessment fee imposed by this subsection (c) may not be billed by the nursing home as a separately stated charge, but this shall not prevent the nursing home from adjusting its rates to defray the cost associated with the assessment fee.

(9) The fiscal review committee shall review and have oversight of the implementation of this subsection (c).

(10) Enactment of this subsection (c) and any amendments to this subsection (c) shall not operate to excuse the monthly installment payment of the nursing home privilege tax due on July 15, 2013.

(11) Any assessment fee obligation imposed by this subsection (c) shall be suspended to the extent that, and for the period that receipt of the assessment fee by the state results in, a corresponding reduction in federal financial participation under Title XIX of the federal Social Security Act, compiled in 42 U.S.C. § 1396 et seq.

(12) The nursing home annual assessment fee established by this subsection (c) shall terminate on June 30, 2014.

SECTION 2. This act shall take effect July 1, 2013, the public welfare requiring it.