

HOUSE BILL 1078

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2002 Regular Session
2lr2755
CF 2lr1604

By: **Delegates Hurson, Rawlings, and Taylor**
Introduced and read first time: February 8, 2002
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Temporary Nursing Home Provider Assessment - Supplementary**
3 **Appropriation - Medical Care Programs Administration**

4 FOR the purpose of establishing a temporary nursing home provider assessment that
5 is assessed by the Secretary of Health and Mental Hygiene on each nursing
6 home in the State to raise revenue on a temporary basis in compliance with a
7 certain federal law; requiring the Secretary to calculate the assessment each
8 month in a certain manner to produce an aggregate assessment equal to a
9 certain percent of certain annual gross receipts; providing that beginning on a
10 certain date, the multiplier used to calculate the assessment will be determined
11 in a certain manner; requiring nursing homes located in the State to file certain
12 reports; requiring a certain assessment calculated by the Secretary to be paid
13 quarterly by a certain date; requiring the payment of the tax to be reported as
14 an allowable cost for Medicaid reimbursement purposes; requiring the Secretary
15 to develop certain forms and adopt certain regulations; providing that a nursing
16 home that fails to file certain required reports or pay certain assessments may
17 be subject to fines not to exceed certain amounts; requiring all assessments
18 collected by the Secretary under this Act to be transferred to the Maryland
19 Medicaid Provider Payments Fund; establishing the Maryland Medicaid
20 Provider Payments Fund; specifying that the Fund is a special, nonlapsing fund,
21 that the State Treasurer shall hold the Fund separately, and that the
22 Comptroller shall account for the Fund; specifying that the Fund consists of
23 certain assessments collected by the Secretary and certain federal funds;
24 requiring certain investment earnings to be credited to the Fund; allowing the
25 Fund to be used only to pay certain providers for certain services; defining
26 certain terms; providing for the legislative appropriation for a certain fiscal year
27 of certain revenues derived as a result of this Act; providing for the termination
28 of this Act; and generally relating to establishing a temporary nursing home
29 provider assessment and a supplementary appropriation for a certain fiscal year
30 for the Medical Care Programs Administration.

31 BY adding to
32 Article - Health - General
33 Section 15-134
34 Annotated Code of Maryland

1 (2000 Replacement Volume and 2001 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article - Health - General**

5 15-134.

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (2) "GROSS RECEIPTS" MEANS THE GROSS RECEIPTS PAID TO A NURSING
9 HOME AS COMPENSATION FOR SERVICES PROVIDED TO RESIDENTS OF THE NURSING
10 HOME.

11 (3) "MIDNIGHT CENSUS" MEANS THE COUNT OF EACH PATIENT
12 OCCUPYING A NURSING HOME BED AT MIDNIGHT OF EACH DAY INCLUDING THE
13 COUNT OF ANY PATIENT BED FOR WHICH PAYMENT IS MADE BY THE PROGRAM TO
14 RESERVE THE BED UNDER § 15-117 OF THIS SUBTITLE.

15 (4) "MULTIPLIER" MEANS THE FIXED DOLLAR AMOUNT USED TO
16 CALCULATE THE ASSESSMENT.

17 (5) "NURSING HOME" HAS THE MEANING STATED IN § 19-1401 OF THIS
18 ARTICLE.

19 (6) "PATIENT DAYS" MEANS THE NUMBER OF PATIENTS IN A NURSING
20 FACILITY AS DETERMINED BY THE MIDNIGHT CENSUS.

21 (7) "ASSESSMENT" MEANS THE TEMPORARY NURSING HOME PROVIDER
22 ASSESSMENT ESTABLISHED UNDER THIS SECTION.

23 (B) (1) THERE IS A TEMPORARY NURSING HOME PROVIDER ASSESSMENT
24 THAT SHALL BE ASSESSED BY THE SECRETARY ON EACH NURSING HOME LOCATED
25 IN THE STATE AS PROVIDED IN THIS SECTION.

26 (2) THE PURPOSE OF THE ASSESSMENT IS TO RAISE REVENUE ON A
27 TEMPORARY BASIS FROM NURSING HOMES IN A MANNER THAT COMPLIES WITH THE
28 PROVIDER-SPECIFIC TAX REQUIREMENTS OF THE FEDERAL MEDICAID VOLUNTARY
29 CONTRIBUTION AND PROVIDER-SPECIFIC TAX AMENDMENTS OF 1991.

30 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THE
31 SECRETARY SHALL CALCULATE THE ASSESSMENT IN AN AMOUNT DETERMINED
32 EACH MONTH BY MULTIPLYING THE PATIENT DAYS AS REPORTED BY EACH NURSING
33 HOME FOR EACH DAY OF THE MONTH BY THE MULTIPLIER.

34 (2) THE MULTIPLIER SHALL BE CALCULATED BY THE SECRETARY TO
35 PRODUCE AN AGGREGATE ASSESSMENT ON NURSING HOMES EQUAL TO 6% OF THE
36 AGGREGATE ANNUAL GROSS RECEIPTS OF ALL NURSING HOMES IN THE STATE.

1 (3) THE MULTIPLIER MAY BE ADJUSTED PROSPECTIVELY AS
2 NECESSARY TO ENSURE ANNUAL AGGREGATE ASSESSMENTS EQUAL TO 6% OF
3 AGGREGATE ANNUAL GROSS RECEIPTS OF ALL NURSING HOMES IN THE STATE.

4 (4) THE MULTIPLIER SHALL BE \$9.80 FOR THE PERIOD BEGINNING JULY
5 1, 2002 AND ENDING DECEMBER 31, 2002.

6 (5) FOR THE PERIOD BEGINNING JANUARY 1, 2003 AND ENDING JUNE 30,
7 2003, THE MULTIPLIER SHALL BE DETERMINED USING THE PATIENT DAYS AND
8 GROSS RECEIPTS REPORTED TO THE DEPARTMENT FOR THE PRIOR 6 MONTHS.

9 (6) BEGINNING JULY 1, 2003, THE MULTIPLIER SHALL BE DETERMINED
10 USING THE PATIENT DAYS AND GROSS RECEIPTS FOR A PERIOD OF AT LEAST 6
11 MONTHS AND SHALL BE ANNUALIZED.

12 (D) ON OR BEFORE THE 10TH DAY OF EACH MONTH, EACH NURSING HOME
13 LOCATED IN THE STATE SHALL FILE A REPORT WITH THE SECRETARY ON A
14 STANDARD FORM APPROVED BY THE SECRETARY THAT LISTS THE PATIENT DAYS
15 AND GROSS RECEIPTS FOR THE PRECEDING MONTH.

16 (E) ON OR BEFORE THE 10TH DAY OF EACH MONTH FOLLOWING THE END OF
17 EACH FISCAL YEAR QUARTER, EACH NURSING HOME LOCATED IN THE STATE SHALL
18 PAY THE ASSESSMENT CALCULATED BY THE SECRETARY FOR THE PERIOD
19 COVERING THE PRECEDING QUARTER.

20 (F) THE PAYMENT OF THE ASSESSMENT SHALL BE REPORTED AS AN
21 ALLOWABLE COST FOR MEDICAID REIMBURSEMENT PURPOSES.

22 (G) THE SECRETARY SHALL:

23 (1) DEVELOP STANDARD FORMS FOR THE REQUIRED NURSING HOME
24 REPORTS UNDER THIS SECTION; AND

25 (2) ADOPT ANY REGULATIONS NECESSARY TO IMPLEMENT THIS
26 SECTION.

27 (H) (1) A NURSING HOME THAT FAILS TO FILE THE REPORTS REQUIRED
28 UNDER THIS SECTION MAY BE SUBJECT TO A FINE NOT TO EXCEED \$1,000 FOR EACH
29 REPORT.

30 (2) A NURSING HOME THAT FAILS TO PAY THE ASSESSMENT REQUIRED
31 UNDER THIS SECTION MAY BE SUBJECT TO A FINE NOT TO EXCEED \$5,000 PLUS
32 INTEREST ON THE FINE THAT SHALL ACCRUE FOR EACH DAY THE ASSESSMENT
33 REMAINS UNPAID.

34 (I) ALL ASSESSMENTS COLLECTED BY THE SECRETARY UNDER THIS SECTION
35 SHALL BE CREDITED TO THE MARYLAND MEDICAID PROVIDER PAYMENTS FUND
36 ESTABLISHED UNDER SUBSECTION (J) OF THIS SECTION.

1 (J) (1) IN THIS SUBSECTION, "FUND" MEANS THE MARYLAND MEDICAID
2 PROVIDER PAYMENTS FUND.

3 (2) THERE IS A MARYLAND MEDICAID PROVIDER PAYMENTS FUND.

4 (3) THE PURPOSE OF THE FUND IS TO MAKE PAYMENTS TO MEDICAID
5 PROVIDERS THAT WILL QUALIFY FOR FEDERAL REIMBURSEMENT UNDER THE
6 PROGRAM.

7 (4) THE SECRETARY SHALL ADMINISTER THE FUND.

8 (5) (I) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
9 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

10 (II) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND
11 THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

12 (6) THE FUND CONSISTS OF:

13 (I) THE ASSESSMENTS COLLECTED BY THE SECRETARY UNDER
14 THIS SECTION; AND

15 (II) ANY FUNDS RECEIVED AS A RESULT OF THE MATCHING
16 FEDERAL FINANCIAL PARTICIPATION UNDER TITLE XIX OF THE SOCIAL SECURITY
17 ACT FOR EXPENDITURES FROM THE MARYLAND MEDICAID PROVIDER PAYMENTS
18 FUND.

19 (7) ANY INTEREST OR OTHER INVESTMENT EARNINGS OF THE FUND
20 SHALL BE CREDITED AND PAID INTO THE FUND.

21 (8) THE FUND MAY BE USED ONLY TO PAY NURSING HOMES AND
22 OUTPATIENT MENTAL HEALTH CLINICS FOR SERVICES PROVIDED TO PROGRAM
23 RECIPIENTS THAT QUALIFY FOR FEDERAL MEDICAID REIMBURSEMENT.

24 (9) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE
25 SAME MANNER AS ANY OTHER STATE MONEY MAY BE INVESTED.

26 (10) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN
27 ACCORDANCE WITH THE STATE BUDGET AND SUBSECTION (K) OF THIS SECTION.

28 (K) EACH FISCAL YEAR, EXPENDITURES FROM THE MARYLAND MEDICAID
29 PROVIDER PAYMENTS FUND SHALL BE USED IN THE FOLLOWING MANNER:

30 (1) 85% OF THE FUNDS SHALL BE USED TO PROVIDE PAYMENTS FOR
31 SERVICES TO PROGRAM RECIPIENTS UNDER THE MEDICAID NURSING HOME
32 REIMBURSEMENT SYSTEM; AND

33 (2) 15% OF THE FUNDS SHALL BE USED TO PROVIDE PAYMENTS FOR
34 SERVICES TO PROGRAM RECIPIENTS PROVIDED BY OUTPATIENT MENTAL HEALTH
35 CLINICS.

1 SECTION 2. AND BE IT FURTHER ENACTED, That notwithstanding the
2 provisions of § 15-134 of the Health - General Article as enacted under Section 1 of
3 this Act, for fiscal year 2003 only and from those additional revenues resulting from
4 this Act that are credited to the Maryland Medicaid Provider Payments Special Fund
5 for fiscal year 2003, and from no other funds, and subject to the provisions of law
6 relating to budgetary procedure to the extent applicable, the amount specified below,
7 or as much thereof as required to accomplish the designated purpose, is hereby
8 appropriated and authorized to be disbursed from as much of those additional
9 revenues as are received by the State:

10 MEDICAL CARE PROGRAMS ADMINISTRATION

11 MQ01.03 Medical Care Provider Reimbursement

12 In addition to the amount appropriated in the budget bill for fiscal year 2003, to
13 supplement the appropriation for fiscal year 2003, the following amount to be used to
14 pay for services provided to Maryland Medical Assistance Program recipients under
15 the Medicaid nursing home reimbursement system:

16 Special Fund Appropriation \$91,500,000

17 Federal Fund Appropriation \$91,500,000

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 June 1, 2002. It shall remain effective for a period of 3 years and 1 month and, at the
20 end of June 30, 2005, with no further action required by the General Assembly, this
21 Act shall be abrogated and of no further force and effect.