



217600

CHAMBER ACTION

| <u>Senate</u> | . | <u>House</u> |
|---------------|---|--------------|
| Comm: RCS     | . |              |
| 4/2/2008      | . |              |
|               | . |              |
|               | . |              |

1 The Committee on Health and Human Services Appropriations  
 2 (Peaden) recommended the following **amendment**:

3  
 4 **Senate Amendment (with title amendment)**

5 Between line(s) 45 and 46,  
 6 insert:

7 Section 1. Paragraph (d) of subsection (2) of section  
 8 400.179, Florida Statutes, is amended to read:

9 400.179 Liability for Medicaid underpayments and  
 10 overpayments.--

11 (2) Because any transfer of a nursing facility may expose  
 12 the fact that Medicaid may have underpaid or overpaid the  
 13 transferor, and because in most instances, any such underpayment  
 14 or overpayment can only be determined following a formal field  
 15 audit, the liabilities for any such underpayments or overpayments  
 16 shall be as follows:

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17 (d) Where the transfer involves a facility that has been  
18 leased by the transferor:

19 1. The transferee shall, as a condition to being issued a  
20 license by the agency, acquire, maintain, and provide proof to  
21 the agency of a bond with a term of 30 months, renewable  
22 annually, in an amount not less than the total of 3 months'  
23 Medicaid payments to the facility computed on the basis of the  
24 preceding 12-month average Medicaid payments to the facility.

25 2. A leasehold licensee may meet the requirements of  
26 subparagraph 1. by payment of a nonrefundable fee, paid at  
27 initial licensure, paid at the time of any subsequent change of  
28 ownership, and paid annually thereafter, in the amount of 1  
29 percent of the total of 3 months' Medicaid payments to the  
30 facility computed on the basis of the preceding 12-month average  
31 Medicaid payments to the facility. If a preceding 12-month  
32 average is not available, projected Medicaid payments may be  
33 used. The fee shall be deposited into the Health Care Trust Fund  
34 and shall be accounted for separately as a Medicaid nursing home  
35 overpayment account. These fees shall be used at the sole  
36 discretion of the agency to repay nursing home Medicaid  
37 overpayments. The agency may transfer funds to the Grants and  
38 Donations Trust Fund for such repayments. Payment of this fee  
39 shall not release the licensee from any liability for any  
40 Medicaid overpayments, nor shall payment bar the agency from  
41 seeking to recoup overpayments from the licensee and any other  
42 liable party. As a condition of exercising this lease bond  
43 alternative, licensees paying this fee must maintain an existing  
44 lease bond through the end of the 30-month term period of that  
45 bond. The agency is herein granted specific authority to  
46 promulgate all rules pertaining to the administration and

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47 management of this account, including withdrawals from the  
48 account, subject to federal review and approval. This provision  
49 shall take effect upon becoming law and shall apply to any  
50 leasehold license application. The financial viability of the  
51 Medicaid nursing home overpayment account shall be determined by  
52 the agency through annual review of the account balance and the  
53 amount of total outstanding, unpaid Medicaid overpayments owing  
54 from leasehold licensees to the agency as determined by final  
55 agency audits.

56 3. The leasehold licensee may meet the bond requirement  
57 through other arrangements acceptable to the agency. The agency  
58 is herein granted specific authority to promulgate rules  
59 pertaining to lease bond arrangements.

60 4. All existing nursing facility licensees, operating the  
61 facility as a leasehold, shall acquire, maintain, and provide  
62 proof to the agency of the 30-month bond required in subparagraph  
63 1., above, on and after July 1, 1993, for each license renewal.

64 5. It shall be the responsibility of all nursing facility  
65 operators, operating the facility as a leasehold, to renew the  
66 30-month bond and to provide proof of such renewal to the agency  
67 annually.

68 6. Any failure of the nursing facility operator to acquire,  
69 maintain, renew annually, or provide proof to the agency shall be  
70 grounds for the agency to deny, revoke, and suspend the facility  
71 license to operate such facility and to take any further action,  
72 including, but not limited to, enjoining the facility, asserting  
73 a moratorium pursuant to part II of chapter 408, or applying for  
74 a receiver, deemed necessary to ensure compliance with this  
75 section and to safeguard and protect the health, safety, and  
76 welfare of the facility's residents. A lease agreement required



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77 | as a condition of bond financing or refinancing under s. 154.213  
 78 | by a health facilities authority or required under s. 159.30 by a  
 79 | county or municipality is not a leasehold for purposes of this  
 80 | paragraph and is not subject to the bond requirement of this  
 81 | paragraph.

82 |  
 83 | ===== T I T L E A M E N D M E N T =====

84 | And the title is amended as follows:

85 |       On line(s) 2, after the semicolon,

86 | insert:

87 |       amending s. 400.179, F.S.; authorizing the Agency for  
 88 |       Health Care Administration to transfer fees used to repay  
 89 |       nursing home Medicaid overpayments to the Grants and  
 90 |       Donations Trust Fund within the agency;