

By the Committee on Health and Human Services Appropriations;
and Senator Peadar

603-05117-09

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1 A bill to be entitled
2 An act relating to trust funds; amending s. 20.425,
3 F.S.; providing an additional source of funds for the
4 Grants and Donations Trust Fund within the Agency for
5 Health Care Administration; amending s. 215.5601,
6 F.S., relating to the Lawton Chiles Endowment Fund;
7 revising the date of reversion of undisbursed balances
8 in the fund; amending s. 400.179, F.S.; requiring that
9 a leasehold licensee fee be deposited into the Grants
10 and Donations Trust Fund of the agency; amending s.
11 409.916, F.S.; requiring that funds from nursing home
12 facility quality assessments, certain grants and
13 donations, and leasehold licensee fees be deposited
14 into the Grant and Donations Trust Fund of the agency;
15 amending ss. 893.165 and 938.23, F.S.; requiring that
16 certain assessments for alcohol and drug abuse
17 treatment programs and collected by the clerks of the
18 circuit courts be deposited into the Grants and
19 Donations Trust Fund of the Department of Children and
20 Family Services; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Subsection (2) of section 20.425, Florida
25 Statutes, is amended to read:

26 20.425 Agency for Health Care Administration; trust funds.-
27 The following trust funds shall be administered by the Agency
28 for Health Care Administration:

29 (2) Grants and Donations Trust Fund.

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30 (a) Funds to be credited to and uses of the trust fund
31 shall be administered in accordance with the provisions of ss.
32 215.32, 400.179, and 409.916.

33 (b) Notwithstanding the provisions of s. 216.301 and
34 pursuant to s. 216.351, any balance in the trust fund at the end
35 of any fiscal year shall remain in the trust fund at the end of
36 the year and shall be available for carrying out the purposes of
37 the trust fund.

38 Section 2. Paragraph (e) of subsection (5) of section
39 215.5601, Florida Statutes, as amended by section 3 of chapter
40 2009-2, Laws of Florida, is amended to read:

41 215.5601 Lawton Chiles Endowment Fund.—

42 (5) AVAILABILITY OF FUNDS; USES.—

43 (e) Notwithstanding s. 216.301 and pursuant to s. 216.351,
44 all unencumbered balances of appropriations from each
45 department's respective Tobacco Settlement Trust Fund as of June
46 30 or undisbursed balances as of September 30 ~~December 31~~ shall
47 revert to the endowment's principal. Unencumbered balances in
48 the Biomedical Research Trust Fund shall be managed as provided
49 in s. 20.435(8)(b).

50 Section 3. Paragraph (d) of subsection 2 of section
51 400.179, Florida Statutes, is amended to read:

52 400.179 Liability for Medicaid underpayments and
53 overpayments.—

54 (2) Because any transfer of a nursing facility may expose
55 the fact that Medicaid may have underpaid or overpaid the
56 transferor, and because in most instances, any such underpayment
57 or overpayment can only be determined following a formal field
58 audit, the liabilities for any such underpayments or

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59 overpayments shall be as follows:

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

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

68 2. A leasehold licensee may meet the requirements of
69 subparagraph 1. by payment of a nonrefundable fee, paid at
70 initial licensure, paid at the time of any subsequent change of
71 ownership, and paid annually thereafter, in the amount of 1
72 percent of the total of 3 months' Medicaid payments to the
73 facility computed on the basis of the preceding 12-month average
74 Medicaid payments to the facility. If a preceding 12-month
75 average is not available, projected Medicaid payments may be
76 used. The fee shall be deposited into the Grants and Donations
77 ~~Health-Care~~ Trust Fund and shall be accounted for separately as
78 a Medicaid nursing home overpayment account. These fees shall be
79 used at the sole discretion of the agency to repay nursing home
80 Medicaid overpayments. ~~The agency is authorized to transfer~~
81 ~~funds to the Grants and Donations Trust Fund for such~~
82 ~~repayments.~~ Payment of this fee shall not release the licensee
83 from any liability for any Medicaid overpayments, nor shall
84 payment bar the agency from seeking to recoup overpayments from
85 the licensee and any other liable party. As a condition of
86 exercising this lease bond alternative, licensees paying this
87 fee must maintain an existing lease bond through the end of the

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88 30-month term period of that bond. The agency is herein granted
89 specific authority to promulgate all rules pertaining to the
90 administration and management of this account, including
91 withdrawals from the account, subject to federal review and
92 approval. This provision shall take effect upon becoming law and
93 shall apply to any leasehold license application. The financial
94 viability of the Medicaid nursing home overpayment account shall
95 be determined by the agency through annual review of the account
96 balance and the amount of total outstanding, unpaid Medicaid
97 overpayments owing from leasehold licensees to the agency as
98 determined by final agency audits.

99 3. The leasehold licensee may meet the bond requirement
100 through other arrangements acceptable to the agency. The agency
101 is herein granted specific authority to promulgate rules
102 pertaining to lease bond arrangements.

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

108 5. It shall be the responsibility of all nursing facility
109 operators, operating the facility as a leasehold, to renew the
110 30-month bond and to provide proof of such renewal to the agency
111 annually.

112 6. Any failure of the nursing facility operator to acquire,
113 maintain, renew annually, or provide proof to the agency shall
114 be grounds for the agency to deny, revoke, and suspend the
115 facility license to operate such facility and to take any
116 further action, including, but not limited to, enjoining the

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117 facility, asserting a moratorium pursuant to part II of chapter
118 408, or applying for a receiver, deemed necessary to ensure
119 compliance with this section and to safeguard and protect the
120 health, safety, and welfare of the facility's residents. A lease
121 agreement required as a condition of bond financing or
122 refinancing under s. 154.213 by a health facilities authority or
123 required under s. 159.30 by a county or municipality is not a
124 leasehold for purposes of this paragraph and is not subject to
125 the bond requirement of this paragraph.

126 Section 4. Section 409.916, Florida Statutes, is amended to
127 read:

128 409.916 Grants and Donations Trust Fund.—

129 (1) The agency shall deposit any funds received from
130 pharmaceutical manufacturers and all other funds received by the
131 agency from any other person as the result of a Medicaid cost
132 containment strategy, in the nature of a rebate, grant, or other
133 similar mechanism into the Grants and Donations Trust Fund.

134 (2) Funds received from pharmaceutical manufacturers shall
135 be used as the state portion for funding Medicaid prescribed
136 drug services. However, at least \$75,000 may be appropriated
137 from the Grants and Donations Trust Fund for Medicaid research
138 and development activities as specified in the General
139 Appropriations Act.

140 (3) Receipts from the agency's share of Medicaid fraud and
141 abuse recoupments and fines shall be deposited into the Grants
142 and Donations Trust Fund for purposes established by law and the
143 General Appropriations Act.

144 (4) Nursing home quality assessment fees received from
145 Medicaid providers shall be deposited into the Grants and

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146 Donations Trust Fund and used for purposes established by law
147 and the General Appropriations Act.

148 (5) Funds received through grants and donations from the
149 state and from counties, local governments, public entities, and
150 taxing districts shall be deposited into the Grants and
151 Donations Trust Fund and used for purposes established by law
152 and the General Appropriations Act.

153 (6) Funds received from the leasehold licensee fee pursuant
154 to s. 400.179(2)(d)2. shall be deposited into the Grants and
155 Donations Trust Fund and used for purposes established by law
156 and the General Appropriations Act.

157 Section 5. Paragraph (b) of subsection (3) of section
158 893.165, Florida Statutes, is amended to read:

159 893.165 County alcohol and other drug abuse treatment or
160 education trust funds.—

161 (3)

162 (b) Assessments collected by clerks of circuit courts
163 having more than one county in the circuit, for any county in
164 the circuit which does not have a County Alcohol and Other Drug
165 Abuse Trust Fund, shall be remitted to the Department of
166 Children and Family Services, in accordance with administrative
167 rules adopted, for deposit into the department's ~~Community~~
168 ~~Alcohol and Other Drug Abuse Services~~ Grants and Donations Trust
169 Fund for distribution pursuant to the guidelines and priorities
170 developed by the department.

171 Section 6. Subsection (2) of section 938.23, Florida
172 Statutes, is amended to read:

173 938.23 Assistance grants for alcohol and other drug abuse
174 programs.—

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175 (2) All assessments authorized by this section shall be
176 collected by the clerk of court and remitted to the
177 jurisdictional county as described in s. 893.165(2) for deposit
178 into the County Alcohol and Other Drug Abuse Trust Fund or
179 remitted to the Department of Revenue for deposit into the
180 ~~Community Alcohol and Other Drug Abuse Services~~ Grants and
181 Donations Trust Fund of the Department of Children and Family
182 Services pursuant to guidelines and priorities developed by the
183 department. If a County Alcohol and Other Drug Abuse Trust Fund
184 has not been established for any jurisdictional county,
185 assessments collected by the clerk of court shall be remitted to
186 the Department of Revenue for deposit into the ~~Community Alcohol~~
187 ~~and Other Drug Abuse Services~~ Grants and Donations Trust Fund of
188 the Department of Children and Family Services.

189 Section 7. This act shall take effect July 1, 2009.