

ENROLLED
HB 7077

2009 Legislature

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

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsection (2) of section 20.425, Florida
24 Statutes, is amended to read:

25 20.425 Agency for Health Care Administration; trust
26 funds.--The following trust funds shall be administered by the
27 Agency for Health Care Administration:

28 (2) Grants and Donations Trust Fund.

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

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

37 Section 2. Paragraph (e) of subsection (5) of section
38 215.5601, Florida Statutes, is amended to read:

39 215.5601 Lawton Chiles Endowment Fund.--

40 (5) AVAILABILITY OF FUNDS; USES.--

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

48 Section 3. Paragraph (d) of subsection (2) of section
49 400.179, Florida Statutes, is amended to read:

50 400.179 Liability for Medicaid underpayments and
51 overpayments.--

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

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57 | overpayments shall be as follows:

58 | (d) Where the transfer involves a facility that has been
59 | leased by the transferor:

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

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

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85 fee must maintain an existing lease bond through the end of the
86 30-month term period of that bond. The agency is herein granted
87 specific authority to promulgate all rules pertaining to the
88 administration and management of this account, including
89 withdrawals from the account, subject to federal review and
90 approval. This provision shall take effect upon becoming law and
91 shall apply to any leasehold license application. The financial
92 viability of the Medicaid nursing home overpayment account shall
93 be determined by the agency through annual review of the account
94 balance and the amount of total outstanding, unpaid Medicaid
95 overpayments owing from leasehold licensees to the agency as
96 determined by final agency audits.

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

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

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

110 6. Any failure of the nursing facility operator to
111 acquire, maintain, renew annually, or provide proof to the
112 agency shall be grounds for the agency to deny, revoke, and

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113 suspend the facility license to operate such facility and to
 114 take any further action, including, but not limited to,
 115 enjoining the facility, asserting a moratorium pursuant to part
 116 II of chapter 408, or applying for a receiver, deemed necessary
 117 to ensure compliance with this section and to safeguard and
 118 protect the health, safety, and welfare of the facility's
 119 residents. A lease agreement required as a condition of bond
 120 financing or refinancing under s. 154.213 by a health facilities
 121 authority or required under s. 159.30 by a county or
 122 municipality is not a leasehold for purposes of this paragraph
 123 and is not subject to the bond requirement of this paragraph.

124 Section 4. Section 409.916, Florida Statutes, is amended
 125 to read:

126 409.916 Grants and Donations Trust Fund.--

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

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

138 (3) Receipts from the agency's share of Medicaid fraud and
 139 abuse recoupments and fines shall be deposited into the Grants
 140 and Donations Trust Fund for purposes established by law and the

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141 General Appropriations Act.

142 (4) Funds received from Medicaid providers as nursing home
143 quality assessment fees shall be deposited into the Grants and
144 Donations Trust Fund and used for purposes established by law
145 and the General Appropriations Act.

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

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

155 Section 5. Paragraph (b) of subsection (3) of section
156 893.165, Florida Statutes, is amended to read:

157 893.165 County alcohol and other drug abuse treatment or
158 education trust funds.--

159 (3)

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

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

171 938.23 Assistance grants for alcohol and other drug abuse
172 programs.--

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

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