



796306

LEGISLATIVE ACTION

Senate

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House

Floor: 3/AD/2R

04/12/2017 06:40 PM

Senator Flores moved the following:

Senate Amendment (with title amendment)

Between lines 390 and 391

insert:

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

400.179 Liability for Medicaid underpayments and
overpayments.—

(2) Because any transfer of a nursing facility may expose
the fact that Medicaid may have underpaid or overpaid the
transferor, and because in most instances, any such underpayment



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12 or overpayment can only be determined following a formal field
13 audit, the liabilities for any such underpayments or
14 overpayments shall be as follows:

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

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

23 2. A leasehold licensee may meet the requirements of
24 subparagraph 1. by payment of a nonrefundable fee, paid at
25 initial licensure, paid at the time of any subsequent change of
26 ownership, and paid annually thereafter, in the amount of 1
27 percent of the total of 3 months' Medicaid payments to the
28 facility computed on the basis of the preceding 12-month average
29 Medicaid payments to the facility. If a preceding 12-month
30 average is not available, projected Medicaid payments may be
31 used. The fee shall be deposited into the Grants and Donations
32 Trust Fund and shall be accounted for separately as a Medicaid
33 nursing home overpayment account. These fees shall be used at
34 the sole discretion of the agency to repay nursing home Medicaid
35 overpayments or for enhanced payments to nursing facilities as
36 specified in the General Appropriations Act or other law.

37 Payment of this fee shall not release the licensee from any
38 liability for any Medicaid overpayments, nor shall payment bar
39 the agency from seeking to recoup overpayments from the licensee
40 and any other liable party. As a condition of exercising this



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41 lease bond alternative, licensees paying this fee must maintain
42 an existing lease bond through the end of the 30-month term
43 period of that bond. The agency is herein granted specific
44 authority to promulgate all rules pertaining to the
45 administration and management of this account, including
46 withdrawals from the account, subject to federal review and
47 approval. This provision shall take effect upon becoming law and
48 shall apply to any leasehold license application. The financial
49 viability of the Medicaid nursing home overpayment account shall
50 be determined by the agency through annual review of the account
51 balance and the amount of total outstanding, unpaid Medicaid
52 overpayments owing from leasehold licensees to the agency as
53 determined by final agency audits. By March 31 of each year, the
54 agency shall assess the cumulative fees collected under this
55 subparagraph, minus any amounts used to repay nursing home
56 Medicaid overpayments and amounts transferred to contribute to
57 the General Revenue Fund pursuant to s. 215.20. If the net
58 cumulative collections, minus amounts utilized to repay nursing
59 home Medicaid overpayments, exceed \$25 million, the provisions
60 of this subparagraph shall not apply for the subsequent fiscal
61 year.

62 3. The leasehold licensee may meet the bond requirement
63 through other arrangements acceptable to the agency. The agency
64 is herein granted specific authority to promulgate rules
65 pertaining to lease bond arrangements.

66 4. All existing nursing facility licensees, operating the
67 facility as a leasehold, shall acquire, maintain, and provide
68 proof to the agency of the 30-month bond required in
69 subparagraph 1., above, on and after July 1, 1993, for each



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70 license renewal.

71 5. It shall be the responsibility of all nursing facility
72 operators, operating the facility as a leasehold, to renew the
73 30-month bond and to provide proof of such renewal to the agency
74 annually.

75 6. Any failure of the nursing facility operator to acquire,
76 maintain, renew annually, or provide proof to the agency shall
77 be grounds for the agency to deny, revoke, and suspend the
78 facility license to operate such facility and to take any
79 further action, including, but not limited to, enjoining the
80 facility, asserting a moratorium pursuant to part II of chapter
81 408, or applying for a receiver, deemed necessary to ensure
82 compliance with this section and to safeguard and protect the
83 health, safety, and welfare of the facility's residents. A lease
84 agreement required as a condition of bond financing or
85 refinancing under s. 154.213 by a health facilities authority or
86 required under s. 159.30 by a county or municipality is not a
87 leasehold for purposes of this paragraph and is not subject to
88 the bond requirement of this paragraph.

89

90 ===== T I T L E A M E N D M E N T =====

91 And the title is amended as follows:

92 Delete line 42

93 and insert:

94 regardless of the number of licensed beds; amending s.
95 400.179, F.S.; providing that certain fees deposited
96 into the Medicaid nursing home overpayment account in
97 the Grants and Donations Trust Fund may be used by the
98 agency for enhanced payments to nursing facilities as



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specified in the General Appropriations Act or other
law; amending s.