

SENATE SUBSTITUTE TO HB 307

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to the
 2 care and protection of indigent and elderly patients, so as to provide for a payment to be
 3 imposed on hospitals to be used to obtain federal financial participation for medical
 4 assistance payments under Medicaid; to provide for a short title; to provide for definitions;
 5 to establish a segregated account within the Indigent Care Trust Fund for the deposit of
 6 provider payments; to provide for a method for calculating and collecting the provider
 7 payment; to authorize the Department of Community Health to inspect hospital records for
 8 purposes of auditing provider payments; to provide for penalties for failure to pay a provider
 9 payment; to authorize the Department of Community Health to withhold Medicaid payments
 10 equal to amounts owed as a provider payment and penalty; to provide for the collection of
 11 payments by civil action and tax liens; to provide for the appropriation of funds in the
 12 segregated account for medical assistance payments; to provide for application of the
 13 "Georgia Medical Assistance Act of 1977"; to provide for automatic repeal of such
 14 amendments to said Chapter 8; to amend Code Section 33-8-4 of the Official Code of
 15 Georgia Annotated, relating to state insurance premium taxes, so as to provide for an
 16 exemption for premiums for health insurance policies; to provide for related matters; to
 17 provide for an effective date; to repeal conflicting laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

SECTION 1.

19 Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to the care and
 20 protection of indigent and elderly patients, is amended by adding a new article to read as
 21 follows:
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"ARTICLE 6C

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31-8-179.

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This article is enacted pursuant to the authority of Article III, Section IX, Paragraph VI(i)

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of the Constitution and shall be known and may be cited as the 'Provider Payment

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Agreement Act.'

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31-8-179.1.

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As used in this article, the term:

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(1) Reserved.

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(2) 'Hospital' means an institution licensed pursuant to Chapter 7 of this title which is

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primarily engaged in providing to inpatients, by or under the supervision of physicians,

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diagnostic services and therapeutic services for medical diagnosis, treatment, and care of

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injured, disabled, or sick persons or rehabilitation services for the rehabilitation of

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injured, disabled, or sick persons. Such term includes public, private, rehabilitative,

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geriatric, osteopathic, and other specialty hospitals but shall not include psychiatric

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hospitals as defined in paragraph (7) of Code Section 37-3-1, critical access hospitals as

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defined in paragraph (3) of Code Section 33-21A-2, or any state owned or state operated

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hospitals.

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(3) 'Net patient revenue' means the total gross patient revenue of a hospital less

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contractual adjustments; charity care; bad debt; Hill-Burton commitments; and indigent

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care as defined by and calculated in the department's annual hospital financial survey.

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(4) 'Provider payment' means the payment imposed pursuant to this article for the

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privilege of operating a hospital.

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(5) 'Segregated account' means an account for the dedication and deposit of provider

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payments which is established within the Indigent Care Trust Fund created pursuant to

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Code Section 31-8-152.

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(6) 'Trust fund' means the Indigent Care Trust Fund created pursuant to Code Section

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31-8-152.

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31-8-179.2.

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There is established within the trust fund a segregated account for revenues raised through

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the imposition of the provider payment. All revenues raised through provider payments

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from hospitals shall be credited to the segregated account within the trust fund. All funds

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shall be invested in the same manner as authorized for investing other moneys in the state

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treasury. Contributions and transfers to the trust fund pursuant to Code Sections 31-8-153

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and 31-8-153.1 shall not be deposited into the segregated account.

57 31-8-179.3.

58 (a) Each hospital shall be assessed a provider payment in the amount of 1.45 percent of the
59 net patient revenue of the hospital; provided, however, that the Department of Community
60 Health may lower the provider payment percentage for a subclass of hospitals, if necessary,
61 to comply with the broad-based and uniform tests pursuant to 42 C.F.R. Section 433.68.

62 (b) The provider payment shall be paid quarterly by each hospital to the department. The
63 assessment shall be based on the department's annual hospital financial survey. Payment
64 of the provider payment shall be due at end of each calendar

65 (c) The provider payment imposed under this article shall be recognized by the department
66 as a form of expenditure for indigent or charity care under any agreement by a hospital to
67 provide a specified amount of clinical health services to indigent patients pursuant to
68 subsection (c) of Code Section 31-6-40.1 and may be considered a community benefit for
69 purposes of any required or voluntary community benefit report filed or prepared by a
70 hospital; provided, however, that the provider payment shall not be considered charity or
71 indigent care for purposes of calculating net patient revenue pursuant to this article.

72 31-8-179.4.

73 (a) The department shall collect the provider payments imposed pursuant to Code Section
74 31-8-179.3. All revenues raised pursuant to this article shall be deposited into the
75 segregated account. Such funds shall be dedicated and used for the sole purpose of
76 obtaining federal financial participation for medical assistance payments to providers on
77 behalf of Medicaid recipients pursuant to Article 7 of Chapter 4 of Title 49.

78 (b) The department shall prepare and distribute a form upon which each hospital shall
79 submit information to comply with this article.

80 (c) Each hospital shall keep and preserve for a period of three years such books and
81 records as may be necessary to determine the amount for which it is liable under this
82 article. The department shall have the authority to inspect and copy the records of a
83 hospital for purposes of auditing the calculation of the provider payment. All information
84 obtained by the department pursuant to this article shall be confidential and shall not
85 constitute a public record.

86 (d) In the event the department determines that a hospital has underpaid or overpaid the
87 provider payment, the department shall notify the hospital of the balance of the provider
88 payment or refund that is due. Such payment or refund shall be due within 30 days of the
89 department's notice.

90 (e) Any hospital that fails to pay the provider payment pursuant to this article within the
91 time required by this article shall pay, in addition to the outstanding provider payment, a
92 6 percent penalty for each month or fraction thereof that the payment is overdue. If a

93 provider payment has not been received by the department by the last day of the month, the
94 department shall withhold an amount equal to the provider payment and penalty owed from
95 any medical assistance payment due such hospital under the Medicaid program. The
96 provider payment levied by this article shall constitute a debt due the state and may be
97 collected by civil action and the filing of tax liens in addition to such methods provided for
98 in this article. Any penalty that accrues pursuant to this subsection shall be credited to the
99 segregated account.

100 31-8-179.5.

101 (a) Notwithstanding any other provision of this chapter, the General Assembly is
102 authorized to appropriate as state funds to the department for use in any fiscal year all
103 revenues dedicated and deposited into the segregated account. Such appropriations shall
104 be made for the sole purpose of obtaining federal financial participation for medical
105 assistance payments to providers on behalf of Medicaid recipients pursuant to Article 7 of
106 Chapter 4 of Title 49. Any appropriation from the segregated account for any purpose
107 other than such medical assistance payments shall be void.

108 (b) Revenues appropriated to the department pursuant to this Code section shall be used
109 to match federal funds that are available for the purpose for which such trust funds have
110 been appropriated.

111 (c) Appropriations from the segregated account to the department shall not lapse to the
112 general fund at the end of the fiscal year.

113 31-8-179.6.

114 The department shall report annually to the General Assembly on its use of revenues
115 deposited into the segregated account and appropriated to the department pursuant to this
116 article.

117 31-8-179.7.

118 Except where inconsistent with this article, the provisions of Article 7 of Chapter 4 of Title
119 49, the 'Georgia Medical Assistance Act of 1977,' shall apply to the department in carrying
120 out the purposes of this article.

121 31-8-179.8.

122 This article shall stand repealed on June 30, 2013."

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SECTION 2.

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Code Section 33-8-4 of the Official Code of Georgia Annotated, relating to state insurance premium taxes, is amended by adding a new subsection to read as follows:

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"(d)(1) Insurers shall be exempt from otherwise applicable state premium taxes as provided for in subsection (a) of this Code section on premiums paid by Georgia residents for health insurance policies.

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(2) The exemption under this subsection shall not apply to local insurance premium taxes.

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(3) The exemption under this subsection shall commence on January 1 of the calendar year immediately following the state fiscal year in which the revenue shortfall reserve is funded at the level of \$500 million or more as certified to the commissioner in writing by the state auditor."

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SECTION 3.

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This Act shall become effective July 1, 2010.

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SECTION 4.

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All laws and parts of laws in conflict with this Act are repealed.