

1 State of Arkansas  
2 80th General Assembly  
3 Regular Session, 1995

# A Bill

HOUSE BILL 2142

4 By: Representatives Cunningham and J. Miller

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## For An Act To Be Entitled

8 "AN ACT TO CLARIFY THE PROVISIONS OF ARKANSAS CODE §26-52-  
9 1401 ET SEQ.; AND FOR OTHER PURPOSES."

10

## Subtitle

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12 "TO CLARIFY THE PROVISIONS OF ARKANSAS  
13 CODE §26-52-1401 ET SEQ."

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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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18 SECTION 1. Subsection (5) of Arkansas Code §26-52-1401 [Effective June  
19 30, 1995] is amended to read as follows:

20 "(5) Long-term care facilities shall mean those facilities licensed  
21 pursuant to §20-10-101 et seq. or § 20-10-224 except residential care  
22 facilities;"

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24 SECTION 2. Arkansas Code §26-52-1401 [Effective June 30, 1995] is  
25 amended by adding a new subsection to the end thereof to read as follows:

26 "(9) Residential care facility means a building or structure which is  
27 used or maintained to provide, for pay on a twenty-four-hour basis, a place  
28 of residence and board for three (3) or more individuals whose functional  
29 capabilities may have been impaired but do not require hospital or nursing  
30 home care on a daily basis but could require other assistance in activities  
31 of daily living."

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33 SECTION 3. Arkansas Code §26-52-1402(a)(1) [Effective June 30, 1995]  
34 is hereby repealed.

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1       SECTION 4. The effective date of this act is June 30, 1995.

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3       SECTION 5. All provisions of this act of a general and permanent  
4 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
5 Code Revision Commission shall incorporate the same in the Code.

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7       SECTION 6. If any provision of this act or the application thereof to  
8 any person or circumstance is held invalid, such invalidity shall not affect  
9 other provisions or applications of the act which can be given effect without  
10 the invalid provision or application, and to this end the provisions of this  
11 act are declared to be severable.

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13       SECTION 7. All laws and parts of laws in conflict with this act are  
14 hereby repealed.

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16       SECTION 8. EMERGENCY. It is found and determined by the General  
17 Assembly that in 1991 the state faced a serious funding shortfall in the  
18 Medicaid program; that in response to that crisis the legislature levied a  
19 gross receipts tax on certain proceeds received by medicaid providers, which  
20 was later determined to be in violation of federal law; that in response to  
21 this determination, in 1992 the legislature levied a broad based tax on home  
22 health care service agencies, personal care service providers, longterm care  
23 facilities and intermediate care facilities for the mentally retarded; that  
24 in 1993 legislation was passed which removed home health and personal care  
25 services from taxation; that because the termination provisions in the 1993  
26 act repealed the entire act and did not specifically refer to the tax  
27 provision of the act the home health and personal care taxes were not  
28 repealed but were merely suspended for a short period of time and now exist  
29 in the current codification of Subchapter 14 of Chapter 52 of Title 26 of the  
30 Arkansas Code; that such suspension and codification was not the intent of  
31 the General Assembly; that the failure to repeal these taxes may provoke  
32 litigation and violate federal law and to prevent any violation of federal  
33 law and avoid litigation these tax provisions should be terminated.  
34 Therefore, an emergency is declared to exist and, this act, being necessary  
35 for the immediate preservation of the public peace, health, and safety, shall

1 be in full force and effect from and after June 30, 1995.

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