

1 State of Arkansas  
2 80th General Assembly  
3 Regular Session, 1995  
4 By: Senator Mahony

# A Bill

SENATE BILL 736

## For An Act To Be Entitled

"AN ACT TO CLARIFY THE TERMINATION PROVISIONS OF  
SUBCHAPTER 14 OF CHAPTER 52 OF TITLE 26 OF ARKANSAS CODE;  
AND FOR OTHER PURPOSES."

### Subtitle

"AN ACT TO CLARIFY AND TERMINATE  
SUBCHAPTER 14 OF CHAPTER 52 OF TITLE 26  
OF ARKANSAS CODE."

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

SECTION 1. Subchapter 14 of Chapter 52 of Title 26 of the Arkansas Code, Arkansas Code § 26-52-1401 through § 26-52-1406, contains inconsistent termination provisions, and in order to prevent litigation and violation of federal provisions, is hereby terminated effective June 30, 1995.

SECTION 2. *Ark. Code Ann. 26-52-401(2) is hereby amended to read as follows:*

*"(2) The gross receipts or gross proceeds derived from the sale of tangible personal property or service by charitable organizations, except where the organizations may be engaged in business for profit; provided, however, sales by a hotel, motel, or gift shop owned or operated by a charitable, nonprofit hospital shall not be exempt; also the sale of food or beverage by a charitable, nonprofit hospital or its nonprofit affiliates shall be exempt only if the food or beverage is consumed by a patient;"*

SECTION 3. *Ark. Code Ann. § 26-52-401(21) is hereby amended to read as follows:*

1           "(21) (A) Gross receipts or gross proceeds derived from the sale of any  
2 tangible personal property or services as herein specifically provided to:

3                       (i) Any hospital operated for charitable and nonprofit  
4 purposes, for use in the treatment or care of patients or in the operation of  
5 the hospital or its nonprofit affiliates;

6                       (ii) Any nonprofit organization whose sole purpose is to  
7 provide temporary housing to the family members of patients in a hospital,  
8 provided that the temporary housing is not available to the public in which  
9 case it will not be considered a hotel or motel.

10                      (B) However, gross proceeds and gross receipts derived from the  
11 sale of materials used in the original construction or repair or further  
12 extension of the hospital or temporary housing facilities, except state-owned  
13 tax-supported hospitals and sanitariums, shall not be exempt from this act;"

14

15           SECTION 4. Ark. Code Ann. § 26-52-401(14) is hereby repealed.

16

17           SECTION 5. Ark. Code Ann. § 20-10-224(g) is hereby amended to read as  
18 follows:

19                      "(g)(1) Each long-term care facility licensed by the Office of Long  
20 Term Care, except facilities operated by the State of Arkansas, shall pay an  
21 annual licensure fee at the time of applying for a new license or renewing an  
22 existing license in the following amount:

23                              (A) Residential care facilities shall pay an annual fee  
24 determined by multiplying five dollars (\$5.00) by the total number of  
25 licensed resident beds;

26                              (B) Adult day care and adult day health care facilities shall pay  
27 an annual fee determined by multiplying five dollars (\$5.00) by the maximum  
28 number of persons the facility can serve;

29                              (C) All other long-term care facilities shall pay an annual fee  
30 determined by multiplying ten dollars (\$10.00) by the total licensed resident  
31 beds or maximum licensed client population.

32                      (2) In addition to all other fees imposed on long-term care  
33 facilities licensed by the Office of Long Term Care, there is imposed an  
34 additional annual licensure fee in the following amount, to be paid in two  
35 (2) equal installments on July 10 and January 10;

1           (A) Residential care facilities shall pay an annual fee  
2 determined by multiplying twenty dollars (\$20.00) by the total number of  
3 licensed resident beds;

4           (B) Adult day care and adult day health care facilities shall pay  
5 an annual fee determined by multiplying twenty dollars (\$20.00) by the  
6 maximum number of persons the facility can serve;

7           (C) All other long-term care facilities, except those facilities  
8 described in subsection (g)(2)(D) of this section, shall pay an annual fee  
9 determined by multiplying ninety dollars (\$90.00) by the total licensed  
10 resident beds or maximum licensed client population;

11           (D) All fifteen (15) bed and under Intermediate Care Facilities  
12 for the Mentally Retarded (ICF\_s/MRs) shall pay an annual license fee  
13 determined by multiplying fifteen dollars (\$15.00) by the total licensed  
14 resident beds or maximum licensed client population."  
15

16           SECTION 6. Ark. Code Ann. § 20-10-224(h) is hereby amended to read as  
17 follows:

18           "(h) Annual licensure fees for a new long-term care facility license  
19 and for long-term care facility license renewal shall be paid in accordance  
20 with this section."  
21

22           SECTION 7. Ark. Code Ann. § 20-10-224(i) is hereby amended to read as  
23 follows:

24           "(i) Fees for new licensure applications may be prorated by dividing  
25 the total fee by three hundred sixty-five (365) and multiplying the result by  
26 the number of days from the date the application is approved through June 30,  
27 inclusive. Applications for licensure renewal must be delivered, or if mailed  
28 must be postmarked, on or before June 1."  
29

30           SECTION 8. Ark. Code Ann. § 20-10-224(k) is hereby amended to read as  
31 follows:

32           "(k) No license or licensure renewal shall be issued unless the annual  
33 licensure fee imposed by §20-10-224(g)(1) has been paid in full. Failure to  
34 timely pay the fee imposed by §20-10-224(g)(2) shall be a Class C violation  
35 under §20-10-205."

1

2           SECTION 9. Ark. Code Ann. § 20-10-224(m) is hereby amended to read as  
3 follows:

4           "(m) All funds derived from fees collected pursuant to the provisions  
5 of §§20-10-213--20-10-228 shall be deposited into the State Treasury and  
6 credited to the Division of Economic and Medical Services Administrative Fund  
7 to be used for the maintenance and operation of the long-term care facility  
8 licensure program, with the exception that the funds derived from fees  
9 collected pursuant to §20-10-224(g)(2) shall be deposited into the State  
10 Treasury as general revenue."

11

12           SECTION 10. All provisions of this act of a general and permanent  
13 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
14 Code Revision Commission shall incorporate the same in the Code.

15

16           SECTION 11. If any provision of this act or the application thereof to  
17 any person or circumstance is held invalid, such invalidity shall not affect  
18 other provisions or applications of the act which can be given effect without  
19 the invalid provision or application, and to this end the provisions of this  
20 act are declared to be severable.

21

22           SECTION 12. All laws and parts of laws in conflict with this act,  
23 specifically Subchapter 14 of Chapter 52 of Title 26 of the Arkansas Code,  
24 are hereby repealed.

25

26           SECTION 13. EMERGENCY. It is found and determined by the General  
27 Assembly that inconsistent termination provisions regarding provider taxes  
28 exist in the current codification of Subchapter 14 of Chapter 52 of Title 26  
29 of the Arkansas Code, which may provoke litigation and violate federal  
30 provisions, and such provisions should be terminated. *It is further found*  
31 *and determined that additional revenue will be needed to replace the revenue*  
32 *lost by the termination of the provider taxes and this Act provides those*  
33 *additional revenues. Therefore, an emergency is declared to exist and, this*  
34 *act, being necessary for the immediate preservation of the public peace,*  
35 *health, and safety, shall be in full force and effect from and after June 30,*

1 1995.

2

*/s/Mahony*

3