

Stricken language would be deleted from and underlined language would be added to present law.  
Act 19 of the Regular Session

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

As Engrossed: *SI/27/11*

# A Bill

SENATE BILL 134

5 *By: Senators Teague, Crumbly, Elliott, S. Flowers, Files, S. Harrelson, G. Jeffress, J. Jeffress, D.*  
6 *Johnson, Luker, Madison, Salmon, B. Sample, J. Taylor, D. Wyatt*  
7 *By: Representatives Ingram, Pennartz, Allen, D. Altes, Catlett, Cheatham, Dale, Gaskill, Hall, Hickerson,*  
8 *D. Hutchinson, Hyde, Lea, Leding, Lindsey, Lovell, Perry, Pierce, T. Rogers, G. Smith, Steel, T. Steele,*  
9 *Tyler, Wardlaw, B. Wilkins, Webb, Wright, Woods*

## For An Act To Be Entitled

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11  
12 AN ACT TO AMEND THE ASSESSMENT FEE LEVIED ON  
13 HOSPITALS TO IMPROVE HEALTH CARE ACCESS FOR THE  
14 CITIZENS OF ARKANSAS; AND FOR OTHER PURPOSES.

## Subtitle

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17  
18 AN ACT TO AMEND THE ASSESSMENT FEE LEVIED  
19 ON HOSPITALS TO IMPROVE HEALTH CARE  
20 ACCESS FOR THE CITIZENS OF ARKANSAS.

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22  
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24  
25 SECTION 1. Arkansas Code Title § 20-77-1902(a)(2), concerning the  
26 assessment fee on hospitals, is amended to read as follows:

27 (2) The assessment rate shall be determined annually based upon the  
28 percentage of net patient revenue needed to generate an amount up to the  
29 nonfederal portion of the upper payment limit gap plus the annual fee to be  
30 paid to Medicaid under § 20-77-1904(f)(1)(C), but in no case ~~greater than one~~  
31 ~~percent (1%) of net patient revenue~~ at a rate that would cause the assessment  
32 proceeds to exceed the indirect guarantee threshold set forth in 42 CFR §  
33 433.68(f)(3)(i).

34  
35 SECTION 2. Arkansas Code § 20-77-1903(b)(3), concerning rules for the  
36 administration of the hospital fee program, is amended to read as follows:



1 (3) The rules adopted under subdivision (b)(1) of this section shall  
2 include any necessary forms for:

3 (A) Proper imposition and collection of the assessment  
4 imposed under § 20-77-1902;

5 (B) Enforcement of this subchapter, including without  
6 limitation letters of caution or sanctions; and

7 (C) Reporting of net patient revenue.  
8

9 SECTION 3. Arkansas Code § 20-77-1906(c), concerning failure of a  
10 hospital to timely pay the hospital fee, is amended to add an additional  
11 subdivision to read as follows:

12 (3) If the division is unable to recoup from Medicaid payments  
13 the full amount of any unpaid assessment or penalty assessment, or both, the  
14 division may file suit in a court of competent jurisdiction to collect up to  
15 double the amount due, the division's costs related to the suit and  
16 reasonable attorneys' fees.  
17

18 SECTION 4. Arkansas Code § 20-77-1909 is amended to read as follows:  
19 20-77-1909. Effectiveness and cessation.

20 (a) The assessment imposed under § 20-77-1902 ~~shall not take effect or~~  
21 shall cease to be imposed, the Medicaid hospital access payments made under §  
22 20-77-1908 shall cease to be paid, and any moneys remaining in the Hospital  
23 Assessment Account in the Arkansas Medicaid Program Trust Fund shall be  
24 refunded to hospitals in proportion to the amounts paid by them if:

25 ~~(1) The appropriations for any state fiscal year from the~~  
26 ~~General Revenue Fund Account of the State Apportionment Fund for hospital~~  
27 ~~payments under the state Medicaid program are less than the preceding state~~  
28 ~~fiscal year;~~

29 ~~(2) The Division of Medical Services of the Department of Human~~  
30 ~~Services makes changes in its rules that reduce hospital inpatient payment~~  
31 ~~rates, outpatient payment rates, or adjustment payments, including any cost-~~  
32 ~~settlement protocol, that were in effect on January 1, 2009; or~~

33 ~~(3)~~(1) The inpatient or outpatient hospital access payments  
34 required under § 20-77-1908 are changed or the assessments imposed under §  
35 20-77-1902 are not eligible for federal matching funds under Title XIX of the  
36 Social Security Act, 42 U.S.C. § 1396 et seq., or Title XXI of the Social

1 Security Act, 42 U.S.C. § 1397aa et seq.; or

2 (2) It is determined in the course of an administrative  
3 adjudication or in an action under § 25-15-207 that the Division of Medical  
4 Services of the Department of Human Services:

5 (A) Established Medicaid hospital payment rates that  
6 include an offset, in whole or in part, for any hospital access payments  
7 under § 20-77-1908; or

8 (B) Included the net effect of any hospital access payment  
9 under § 20-77-1908 when considering whether Medicaid hospital payment rates  
10 are:

11 (i) Consistent with efficiency, economy, and quality  
12 of care; and

13 (ii) Sufficient to enlist enough providers so that  
14 Medicaid care and services are available at least to the extent that the care  
15 and services are available to the general population in the geographic area.

16 (b)(1) The assessment imposed under § 20-77-1902 ~~shall not take effect~~  
17 ~~or~~ shall cease to be imposed and the Medicaid hospital access payments under  
18 § 20-77-1908 shall cease to be paid if the assessment is determined to be an  
19 impermissible tax under Title XIX of the Social Security Act, 42 U.S.C. §  
20 1396 et seq.

21 (2) Moneys in the Hospital Assessment Account in the Arkansas  
22 Medicaid Program Trust Fund derived from assessments imposed before the  
23 determination described in subdivision (b)(1) of this section shall be  
24 disbursed under § 20-77-1908 to the extent federal matching is not reduced  
25 due to the impermissibility of the assessments, and any remaining moneys  
26 shall be refunded to hospitals in proportion to the amounts paid by them.

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28 /s/Teague

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31 **APPROVED: 02/09/2011**