

By: Representative Martinson

To: Public Health and Human
Services; Appropriations

HOUSE BILL NO. 1351

1 AN ACT TO AMEND SECTION 41-7-173, MISSISSIPPI CODE OF 1972,
2 TO DEFINE "CONTINUING CARE RETIREMENT COMMUNITY" FOR THE PURPOSES
3 OF THE HEALTH CARE CERTIFICATE OF NEED LAW; TO AMEND SECTION
4 41-7-185, MISSISSIPPI CODE OF 1972, TO DIRECT THE STATE DEPARTMENT
5 OF HEALTH TO ESTABLISH A NEW CATEGORY OF HEALTH CARE FACILITY TO
6 BE KNOWN AS A CONTINUING CARE RETIREMENT COMMUNITY AND TO ADOPT
7 REGULATIONS ESTABLISHING LICENSING CRITERIA AND MINIMUM STANDARDS
8 FOR CONTINUING CARE RETIREMENT COMMUNITIES; TO AMEND SECTION
9 43-13-145, MISSISSIPPI CODE OF 1972, TO EXEMPT CONTINUING CARE
10 RETIREMENT COMMUNITIES FROM THE ASSESSMENT ON NURSING HOME BEDS;
11 AND FOR RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** Section 41-7-173, Mississippi Code of 1972, is
14 amended as follows:

15 41-7-173. For the purposes of Section 41-7-171 et seq., the
16 following words shall have the meanings ascribed herein, unless
17 the context otherwise requires:

18 (a) "Affected person" means (i) the applicant; (ii) a
19 person residing within the geographic area to be served by the
20 applicant's proposal; (iii) a person who regularly uses health
21 care facilities or HMO's located in the geographic area of the
22 proposal that provide similar service to that which is proposed;
23 (iv) health care facilities and HMO's that have, prior to receipt
24 of the application under review, formally indicated an intention
25 to provide service similar to that of the proposal being
26 considered at a future date; (v) third-party payers who reimburse
27 health care facilities located in the geographical area of the
28 proposal; or (vi) any agency that establishes rates for health
29 care services or HMO's located in the geographic area of the
30 proposal.

31 (b) "Certificate of need" means a written order of the
32 State Department of Health setting forth the affirmative finding
33 that a proposal in prescribed application form, sufficiently
34 satisfies the plans, standards and criteria prescribed for that
35 service or other project by Section 41-7-171 et seq., and by rules
36 and regulations promulgated thereunder by the State Department of
37 Health.

38 (c) (i) "Capital expenditure" when pertaining to
39 defined major medical equipment, shall mean an expenditure that,
40 under generally accepted accounting principles consistently
41 applied, is not properly chargeable as an expense of operation and
42 maintenance and that exceeds One Million Five Hundred Thousand
43 Dollars (\$1,500,000.00).

44 (ii) "Capital expenditure," when pertaining to
45 other than major medical equipment, shall mean any expenditure
46 that under generally accepted accounting principles consistently
47 applied is not properly chargeable as an expense of operation and
48 maintenance and that exceeds Two Million Dollars (\$2,000,000.00).

49 (iii) A "capital expenditure" shall include the
50 acquisition, whether by lease, sufferance, gift, devise, legacy,
51 settlement of a trust or other means, of any facility or part
52 thereof, or equipment for a facility, the expenditure for which
53 would have been considered a capital expenditure if acquired by
54 purchase. Transactions that are separated in time but are planned
55 to be undertaken within twelve (12) months of each other and are
56 components of an overall plan for meeting patient care objectives
57 shall, for purposes of this definition, be viewed in their
58 entirety without regard to their timing.

59 (iv) In those instances where a health care
60 facility or other provider of health services proposes to provide
61 a service in which the capital expenditure for major medical
62 equipment or other than major medical equipment or a combination
63 of the two (2) may have been split between separate parties, the

64 total capital expenditure required to provide the proposed service
65 shall be considered in determining the necessity of certificate of
66 need review and in determining the appropriate certificate of need
67 review fee to be paid. The capital expenditure associated with
68 facilities and equipment to provide services in Mississippi shall
69 be considered regardless of where the capital expenditure was
70 made, in state or out of state, and regardless of the domicile of
71 the party making the capital expenditure, in state or out of
72 state.

73 (d) "Change of ownership" includes, but is not limited
74 to, inter vivos gifts, purchases, transfers, lease arrangements,
75 cash and/or stock transactions or other comparable arrangements
76 whenever any person or entity acquires or controls a majority
77 interest of the facility or service. Changes of ownership from
78 partnerships, single proprietorships or corporations to another
79 form of ownership are specifically included. However, "change of
80 ownership" shall not include any inherited interest acquired as a
81 result of a testamentary instrument or under the laws of descent
82 and distribution of the State of Mississippi.

83 (e) "Commencement of construction" means that all of
84 the following have been completed with respect to a proposal or
85 project proposing construction, renovating, remodeling or
86 alteration:

87 (i) A legally binding written contract has been
88 consummated by the proponent and a lawfully licensed contractor to
89 construct and/or complete the intent of the proposal within a
90 specified period of time in accordance with final architectural
91 plans that have been approved by the licensing authority of the
92 State Department of Health;

93 (ii) Any and all permits and/or approvals deemed
94 lawfully necessary by all authorities with responsibility for such
95 have been secured; and

96 (iii) Actual bona fide undertaking of the subject
97 proposal has commenced, and a progress payment of at least one
98 percent (1%) of the total cost price of the contract has been paid
99 to the contractor by the proponent, and the requirements of this
100 paragraph (e) have been certified to in writing by the State
101 Department of Health.

102 Force account expenditures, such as deposits, securities,
103 bonds, et cetera, may, in the discretion of the State Department
104 of Health, be excluded from any or all of the provisions of
105 defined commencement of construction.

106 (f) "Consumer" means an individual who is not a
107 provider of health care as defined in paragraph (q) of this
108 section.

109 (g) "Develop," when used in connection with health
110 services, means to undertake those activities that, on their
111 completion, will result in the offering of a new institutional
112 health service or the incurring of a financial obligation as
113 defined under applicable state law in relation to the offering of
114 those services.

115 (h) "Health care facility" includes hospitals,
116 psychiatric hospitals, chemical dependency hospitals, skilled
117 nursing facilities, end stage renal disease (ESRD) facilities,
118 including freestanding hemodialysis units, intermediate care
119 facilities, ambulatory surgical facilities, intermediate care
120 facilities for the mentally retarded, home health agencies,
121 psychiatric residential treatment facilities, pediatric skilled
122 nursing facilities, long-term care hospitals, comprehensive
123 medical rehabilitation facilities, continuing care retirement
124 communities, including facilities owned or operated by the state
125 or a political subdivision or instrumentality of the state, but
126 does not include Christian Science sanatoriums operated or listed
127 and certified by the First Church of Christ, Scientist, Boston,
128 Massachusetts. This definition shall not apply to facilities for

129 the private practice, either independently or by incorporated
130 medical groups, of physicians, dentists or health care
131 professionals except where those facilities are an integral part
132 of an institutional health service. The various health care
133 facilities listed in this paragraph shall be defined as follows:

134 (i) "Hospital" means an institution that is
135 primarily engaged in providing to inpatients, by or under the
136 supervision of physicians, diagnostic services and therapeutic
137 services for medical diagnosis, treatment and care of injured,
138 disabled or sick persons, or rehabilitation services for the
139 rehabilitation of injured, disabled or sick persons. That term
140 does not include psychiatric hospitals.

141 (ii) "Psychiatric hospital" means an institution
142 that is primarily engaged in providing to inpatients, by or under
143 the supervision of a physician, psychiatric services for the
144 diagnosis and treatment of mentally ill persons.

145 (iii) "Chemical dependency hospital" means an
146 institution that is primarily engaged in providing to inpatients,
147 by or under the supervision of a physician, medical and related
148 services for the diagnosis and treatment of chemical dependency
149 such as alcohol and drug abuse.

150 (iv) "Skilled nursing facility" means an
151 institution or a distinct part of an institution that is primarily
152 engaged in providing to inpatients skilled nursing care and
153 related services for patients who require medical or nursing care
154 or rehabilitation services for the rehabilitation of injured,
155 disabled or sick persons.

156 (v) "End stage renal disease (ESRD) facilities"
157 means kidney disease treatment centers, which includes
158 freestanding hemodialysis units and limited care facilities. The
159 term "limited care facility" generally refers to an
160 off-hospital-premises facility, regardless of whether it is
161 provider or nonprovider operated, that is engaged primarily in

162 furnishing maintenance hemodialysis services to stabilized
163 patients.

164 (vi) "Intermediate care facility" means an
165 institution that provides, on a regular basis, health related care
166 and services to individuals who do not require the degree of care
167 and treatment that a hospital or skilled nursing facility is
168 designed to provide, but who, because of their mental or physical
169 condition, require health related care and services (above the
170 level of room and board).

171 (vii) "Ambulatory surgical facility" means a
172 facility primarily organized or established for the purpose of
173 performing surgery for outpatients and is a separate identifiable
174 legal entity from any other health care facility. That term does
175 not include the offices of private physicians or dentists, whether
176 for individual or group practice, and does not include any
177 abortion facility as defined in Section 41-75-1(e).

178 (viii) "Intermediate care facility for the
179 mentally retarded" means an intermediate care facility that
180 provides health or rehabilitative services in a planned program of
181 activities to the mentally retarded, also including, but not
182 limited to, cerebral palsy and other conditions covered by the
183 Federal Developmentally Disabled Assistance and Bill of Rights
184 Act, Public Law 94-103.

185 (ix) "Home health agency" means a public or
186 privately owned agency or organization, or a subdivision of such
187 an agency or organization, properly authorized to conduct business
188 in Mississippi, which is primarily engaged in providing to
189 individuals at the written direction of a licensed physician, in
190 the individual's place of residence, skilled nursing services
191 provided by or under the supervision of a registered nurse
192 licensed to practice in Mississippi, and one or more of the
193 following services or items:

194 1. Physical, occupational or speech therapy;

- 195 2. Medical social services;
- 196 3. Part-time or intermittent services of a
197 home health aide;
- 198 4. Other services as approved by the
199 licensing agency for home health agencies;
- 200 5. Medical supplies, other than drugs and
201 biologicals, and the use of medical appliances; or
- 202 6. Medical services provided by an intern or
203 resident-in-training at a hospital under a teaching program of
204 the hospital.

205 Further, all skilled nursing services and those services
206 listed in items 1. through 4. of this subparagraph (ix) must be
207 provided directly by the licensed home health agency. For
208 purposes of this subparagraph, "directly" means either through an
209 agency employee or by an arrangement with another individual not
210 defined as a health care facility.

211 This subparagraph (ix) shall not apply to health care
212 facilities that had contracts for the above services with a home
213 health agency on January 1, 1990.

214 (x) "Psychiatric residential treatment facility"
215 means any nonhospital establishment with permanent licensed
216 facilities that provides a twenty-four-hour program of care by
217 qualified therapists including, but not limited to, duly licensed
218 mental health professionals, psychiatrists, psychologists,
219 psychotherapists and licensed certified social workers, for
220 emotionally disturbed children and adolescents referred to that
221 facility by a court, local school district or by the Department of
222 Human Services, who are not in an acute phase of illness requiring
223 the services of a psychiatric hospital, and are in need of those
224 restorative treatment services. For purposes of this paragraph,
225 the term "emotionally disturbed" means a condition exhibiting one
226 or more of the following characteristics over a long period of

227 time and to a marked degree, which adversely affects educational
228 performance:

229 1. An inability to learn that cannot be
230 explained by intellectual, sensory or health factors;

231 2. An inability to build or maintain
232 satisfactory relationships with peers and teachers;

233 3. Inappropriate types of behavior or
234 feelings under normal circumstances;

235 4. A general pervasive mood of unhappiness or
236 depression; or

237 5. A tendency to develop physical symptoms or
238 fears associated with personal or school problems. An
239 establishment furnishing primarily domiciliary care is not within
240 this definition.

241 (xi) "Pediatric skilled nursing facility" means an
242 institution or a distinct part of an institution that is primarily
243 engaged in providing to inpatients skilled nursing care and
244 related services for persons under twenty-one (21) years of age
245 who require medical or nursing care or rehabilitation services for
246 the rehabilitation of injured, disabled or sick persons.

247 (xii) "Long-term care hospital" means a
248 freestanding, Medicare-certified hospital that has an average
249 length of inpatient stay greater than twenty-five (25) days, which
250 is primarily engaged in providing chronic or long-term medical
251 care to patients who do not require more than three (3) hours of
252 rehabilitation or comprehensive rehabilitation per day, and has a
253 transfer agreement with an acute care medical center and a
254 comprehensive medical rehabilitation facility. Long-term care
255 hospitals shall not use rehabilitation, comprehensive medical
256 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
257 nursing home, skilled nursing facility, or sub-acute care facility
258 in association with its name.

259 (xiii) "Comprehensive medical rehabilitation
260 facility" means a hospital or hospital unit that is licensed
261 and/or certified as a comprehensive medical rehabilitation
262 facility that provides specialized programs that are accredited by
263 the Commission on Accreditation of Rehabilitation Facilities and
264 supervised by a physician board certified or board eligible in
265 Physiatry or other doctor of medicine or osteopathy with at least
266 two (2) years of training in the medical direction of a
267 comprehensive rehabilitation program that:

268 1. Includes evaluation and treatment of
269 individuals with physical disabilities;

270 2. Emphasizes education and training of
271 individuals with disabilities;

272 3. Incorporates at least the following core
273 disciplines:

274 (i) Physical Therapy;

275 (ii) Occupational Therapy;

276 (iii) Speech and Language Therapy;

277 (iv) Rehabilitation Nursing; and

278 4. Incorporates at least three (3) of the
279 following disciplines:

280 (i) Psychology;

281 (ii) Audiology;

282 (iii) Respiratory Therapy;

283 (iv) Therapeutic Recreation;

284 (v) Orthotics;

285 (vi) Prosthetics;

286 (vii) Special Education;

287 (viii) Vocational Rehabilitation;

288 (ix) Psychotherapy;

289 (x) Social Work;

290 (xi) Rehabilitation Engineering.

291 These specialized programs include, but are not limited to:
292 spinal cord injury programs, head injury programs and infant and
293 early childhood development programs.

294 (xiv) "Continuing care retirement community" means
295 a comprehensive, cohesive living arrangement for aged persons,
296 which is offered under a contract that:

297 1. Lasts for more than one (1) year or for
298 the life of the resident;

299 2. Describes the service obligation of the
300 continuing care retirement community and the financial obligations
301 of the resident;

302 3. Obligates the continuing care retirement
303 community to provide, at a minimum, room, board and nursing care
304 to the resident; and

305 4. Provides for full lifetime nursing home
306 care as required by the resident.

307 A continuing care retirement community must include at least
308 the following components on the site of the facility: independent
309 living accommodations; licensed personal care beds; and licensed
310 nursing facility beds.

311 (i) "Health maintenance organization" or "HMO" means a
312 public or private organization organized under the laws of this
313 state or the federal government that:

314 (i) Provides or otherwise makes available to
315 enrolled participants health care services, including
316 substantially the following basic health care services: usual
317 physician services, hospitalization, laboratory, x-ray, emergency
318 and preventive services, and out-of-area coverage;

319 (ii) Is compensated (except for copayments) for
320 the provision of the basic health care services listed in
321 subparagraph (i) of this paragraph to enrolled participants on a
322 predetermined basis; and

323 (iii) Provides physician services primarily:

324 1. Directly through physicians who are either
325 employees or partners of that organization; or

326 2. Through arrangements with individual
327 physicians or one or more groups of physicians (organized on a
328 group practice or individual practice basis).

329 (j) "Health service area" means a geographic area of
330 the state designated in the State Health Plan as the area to be
331 used in planning for specified health facilities and services and
332 to be used when considering certificate of need applications to
333 provide health facilities and services.

334 (k) "Health services" means clinically related (i.e.,
335 diagnostic, treatment or rehabilitative) services and includes
336 alcohol, drug abuse, mental health and home health care services.

337 (l) "Institutional health services" shall mean health
338 services provided in or through health care facilities and shall
339 include the entities in or through which those services are
340 provided.

341 (m) "Major medical equipment" means medical equipment
342 designed for providing medical or any health related service that
343 costs in excess of One Million Five Hundred Thousand Dollars
344 (\$1,500,000.00). However, this definition shall not be applicable
345 to clinical laboratories if they are determined by the State
346 Department of Health to be independent of any physician's office,
347 hospital or other health care facility or otherwise not so defined
348 by federal or state law, or rules and regulations promulgated
349 thereunder.

350 (n) "State Department of Health" shall mean the state
351 agency created under Section 41-3-15, which shall be considered to
352 be the State Health Planning and Development Agency, as defined in
353 paragraph (t) of this section.

354 (o) "Offer," when used in connection with health
355 services, means that it has been determined by the State

356 Department of Health that the health care facility is capable of
357 providing specified health services.

358 (p) "Person" means an individual, a trust or estate,
359 partnership, corporation (including associations, joint stock
360 companies and insurance companies), the state or a political
361 subdivision or instrumentality of the state.

362 (q) "Provider" shall mean any person who is a provider
363 or representative of a provider of health care services requiring
364 a certificate of need under Section 41-7-171 et seq., or who has
365 any financial or indirect interest in any provider of services.

366 (r) "Secretary" means the Secretary of Health and Human
367 Services, and any officer or employee of the Department of Health
368 and Human Services to whom the authority involved has been
369 delegated.

370 (s) "State Health Plan" means the sole and official
371 statewide health plan for Mississippi that identifies priority
372 state health needs and establishes standards and criteria for
373 health-related activities that require certificate of need review
374 in compliance with Section 41-7-191.

375 (t) "State Health Planning and Development Agency"
376 means the agency of state government designated to perform health
377 planning and resource development programs for the State of
378 Mississippi.

379 **SECTION 2.** Section 41-7-185, Mississippi Code of 1972, is
380 amended as follows:

381 41-7-185. (1) In carrying out its functions under Section
382 41-7-171 et seq., the State Department of Health may:

383 (a) Make applications for and accept funds from the
384 secretary and other federal and state agencies and to receive and
385 administer such other funds for the planning or provision of
386 health facilities or health care as are appropriate to the
387 accomplishment of the purposes of Section 41-7-171 et seq.; * * *

388 to contract with the secretary to accept funds to administer
389 planning activities on the community, regional or state level;

390 (b) With the approval of the secretary, delegate to or
391 contract with any mutually agreeable department, division or
392 agency of the state, the federal government, or any political
393 subdivision of either, or any private corporation, organization or
394 association chartered by the Secretary of State of Mississippi,
395 authority for administering any programs, duties or functions
396 provided for in Section 41-7-171 et seq.;

397 (c) Prescribe and promulgate such reasonable rules and
398 regulations as may be necessary to the implementation of the
399 purposes of Section 41-7-171 et seq., complying with Section
400 25-43-1 et seq.;

401 (d) Require providers of institutional health services
402 and home health care services provided through a home health
403 agency and any other provider of health care requiring a
404 certificate of need to submit or make available statistical
405 information or such other information requested by the State
406 Department of Health, but not information that would constitute an
407 unwarranted invasion of the personal privacy of any individual
408 person or place the provider in jeopardy of legal action by a
409 third party;

410 (e) Conduct such other hearing or hearings in addition
411 to those provided for in Section 41-7-197, and enter such further
412 order or orders, and with approval of the Governor enter into such
413 agreement or agreements with the secretary as may be reasonably
414 necessary to the realization by the people of Mississippi of the
415 full benefits of Acts of Congress;

416 (f) In its discretion, contract with the secretary, or
417 terminate any such contract, for the administration of the
418 provisions, programs, duties and functions of Section 1122 of
419 Public Law 92-603; but the State Department of Health shall not be
420 relieved of matters of accountability, obligation or

421 responsibility that accrued to the department by virtue of prior
422 contracts and/or statutes;

423 (g) Prepare, review at least triennially, and revise,
424 as necessary, a State Health Plan, as defined in Section 41-7-173,
425 which shall be approved by the Governor before it becomes
426 effective.

427 (2) The State Department of Health shall establish a new
428 category of health care facility to be known as a "continuing care
429 retirement community," which shall be included in the Directory of
430 Mississippi Health Care Facilities of the department. On or
431 before July 1, 2004, the department shall adopt regulations
432 establishing licensing criteria and minimum standards for
433 continuing care retirement communities.

434 **SECTION 3.** Section 43-13-145, Mississippi Code of 1972, is
435 amended as follows:

436 43-13-145. (1) (a) Upon each nursing facility and each
437 intermediate care facility for the mentally retarded licensed by
438 the State of Mississippi, there is levied an assessment in the
439 amount of Four Dollars (\$4.00) per day for each licensed and/or
440 certified bed of the facility. The term "nursing facility," as
441 used in this section, does not include a continuing care
442 retirement community as defined in Section 41-7-173. The division
443 may apply for a waiver from the United States Secretary of Health
444 and Human Services to exempt nonprofit, public, charitable or
445 religious facilities from the assessment levied under this
446 subsection, and if a waiver is granted, those facilities shall be
447 exempt from any assessment levied under this subsection after the
448 date that the division receives notice that the waiver has been
449 granted.

450 (b) A nursing facility or intermediate care facility
451 for the mentally retarded is exempt from the assessment levied
452 under this subsection if the facility is operated under the
453 direction and control of:

454 (i) The United States Veterans Administration or
455 other agency or department of the United States government;

456 (ii) The State Veterans Affairs Board;

457 (iii) The University of Mississippi Medical
458 Center; or

459 (iv) A state agency or a state facility that
460 either provides its own state match through intergovernmental
461 transfer or certification of funds to the division.

462 (2) (a) Upon each psychiatric residential treatment
463 facility licensed by the State of Mississippi, there is levied an
464 assessment in the amount of Three Dollars (\$3.00) per day for each
465 licensed and/or certified bed of the facility.

466 (b) A psychiatric residential treatment facility is
467 exempt from the assessment levied under this subsection if the
468 facility is operated under the direction and control of:

469 (i) The United States Veterans Administration or
470 other agency or department of the United States government;

471 (ii) The University of Mississippi Medical Center;

472 (iii) A state agency or a state facility that
473 either provides its own state match through intergovernmental
474 transfer or certification of funds to the division.

475 (3) (a) Upon each hospital licensed by the State of
476 Mississippi, there is levied an assessment in the amount of One
477 Dollar and Fifty Cents (\$1.50) per day for each licensed inpatient
478 acute care bed of the hospital.

479 (b) A hospital is exempt from the assessment levied
480 under this subsection if the hospital is operated under the
481 direction and control of:

482 (i) The United States Veterans Administration or
483 other agency or department of the United States government;

484 (ii) The University of Mississippi Medical Center;

485 or

486 (iii) A state agency or a state facility that
487 either provides its own state match through intergovernmental
488 transfer or certification of funds to the division.

489 (4) Each health care facility that is subject to the
490 provisions of this section shall keep and preserve such suitable
491 books and records as may be necessary to determine the amount of
492 assessment for which it is liable under this section. The books
493 and records shall be kept and preserved for a period of not less
494 than five (5) years, and those books and records shall be open for
495 examination during business hours by the division, the State Tax
496 Commission, the Office of the Attorney General and the State
497 Department of Health.

498 (5) The assessment levied under this section shall be
499 collected by the division each month beginning on April 12, 2002.

500 (6) All assessments collected under this section shall be
501 deposited in the Medical Care Fund created by Section 43-13-143.

502 (7) The assessment levied under this section shall be in
503 addition to any other assessments, taxes or fees levied by law,
504 and the assessment shall constitute a debt due the State of
505 Mississippi from the time the assessment is due until it is paid.

506 (8) (a) If a health care facility that is liable for
507 payment of the assessment levied under this section does not pay
508 the assessment when it is due, the division shall give written
509 notice to the health care facility by certified or registered mail
510 demanding payment of the assessment within ten (10) days from the
511 date of delivery of the notice. If the health care facility
512 fails or refuses to pay the assessment after receiving the notice
513 and demand from the division, the division shall withhold from any
514 Medicaid reimbursement payments that are due to the health care
515 facility the amount of the unpaid assessment and a penalty of ten
516 percent (10%) of the amount of the assessment, plus the legal rate
517 of interest until the assessment is paid in full. If the health
518 care facility does not participate in the Medicaid program, the

519 division shall turn over to the Office of the Attorney General the
520 collection of the unpaid assessment by civil action. In any such
521 civil action, the Office of the Attorney General shall collect the
522 amount of the unpaid assessment and a penalty of ten percent (10%)
523 of the amount of the assessment, plus the legal rate of interest
524 until the assessment is paid in full.

525 (b) As an additional or alternative method for
526 collecting unpaid assessments under this section, if a health care
527 facility fails or refuses to pay the assessment after receiving
528 notice and demand from the division, the division may file a
529 notice of a tax lien with the circuit clerk of the county in which
530 the health care facility is located, for the amount of the unpaid
531 assessment and a penalty of ten percent (10%) of the amount of the
532 assessment, plus the legal rate of interest until the assessment
533 is paid in full. Immediately upon receipt of notice of the tax
534 lien for the assessment, the circuit clerk shall enter the notice
535 of the tax lien as a judgment upon the judgment roll and show in
536 the appropriate columns the name of the health care facility as
537 judgment debtor, the name of the division as judgment creditor,
538 the amount of the unpaid assessment, and the date and time of
539 enrollment. The judgment shall be valid as against mortgagees,
540 pledgees, entrusters, purchasers, judgment creditors and other
541 persons from the time of filing with the clerk. The amount of the
542 judgment shall be a debt due the State of Mississippi and remain a
543 lien upon the tangible property of the health care facility until
544 the judgment is satisfied. The judgment shall be the equivalent
545 of any enrolled judgment of a court of record and shall serve as
546 authority for the issuance of writs of execution, writs of
547 attachment or other remedial writs.

548 **SECTION 4.** This act shall take effect and be in force from
549 and after July 1, 2004, except for Section 2, which shall take
550 effect and be in force from and after the passage of this act.