

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 435**

4 (By Senators Chafin, Yost and Wills)

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6 [Originating in the Committee on the Judiciary;

7 reported February 23, 2012.]

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10 A BILL to amend and reenact §16-5C-18 of the Code of West Virginia,  
11 1931, as amended, relating to the conveyance of personal funds  
12 upon death of nursing home residents.

13 *Be it enacted by the Legislature of West Virginia:*

14 That §16-5C-18 of the Code of West Virginia, 1931, as amended,  
15 be amended and reenacted to read as follows:

16 **ARTICLE 5C. NURSING HOMES.**

17 **§16-5C-18. Separate accounts for residents' personal funds;**  
18 **consent for use; records; penalties.**

19 (a) Each nursing home subject to the provisions of this  
20 article shall hold in a separate account and in trust each  
21 resident's personal funds deposited with the nursing home.

22 (b) No person may use or cause to be used for any purpose the  
23 personal funds of any resident admitted to any such nursing home  
24 unless consent for the use thereof has been obtained from the  
25 resident or from a committee or guardian or relative.

1 (c) Each nursing home shall maintain a true and complete  
2 record of all receipts for any disbursements from the personal  
3 funds account of each resident in the nursing home, including the  
4 purpose and payee of each disbursement, and shall render a true  
5 account of such record to the resident or his or her representative  
6 upon demand and upon termination of the resident's stay in the  
7 nursing home.

8 (d) Any person or corporation who violates any subsection of  
9 this section is guilty of a misdemeanor and, upon conviction  
10 thereof, shall be fined not more than \$1,000, or imprisoned in jail  
11 not more than one year, or both fined and imprisoned.

12 (e) Reports provided to review organizations are confidential  
13 unless inaccessibility of information interferes with the  
14 director's ability to perform his or her oversight function as  
15 mandated by federal regulations and this section.

16 (f) Notwithstanding subsection (b) of this section or any  
17 other provision of this code, upon the death of a resident, any  
18 funds remaining in his or her personal account shall be made  
19 payable to the person or probate jurisdiction administering the  
20 estate of said resident: Provided, That if after thirty days there  
21 has been no qualification over the decedent resident's estate,  
22 those funds are presumed abandoned and are reportable to the State  
23 Treasurer pursuant to the West Virginia Uniform Unclaimed Property  
24 Act, section one, article eight, chapter thirty-six of this code,  
25 et sequella.

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(NOTE: The purpose of this bill to ensure that nursing homes that hold accounts in trust for their residents are able to transfer the those funds to the state as unclaimed property in a more timely manner on those occasions where no one has qualified as an administrator or an executor of the resident's estate within thirty days.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)