

COMMITTEE SUBSTITUTE

FOR

## **Senate Bill No. 435**

(By Senators Chafin, Yost and Wills)

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[Originating in the Committee on The Judiciary;  
reported February 23, 2012.]

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

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

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

**ARTICLE 5C. NURSING HOMES.**

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

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

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

9 (c) Each nursing home shall maintain a true and com-  
10 plete record of all receipts for any disbursements from the  
11 personal funds account of each resident in the nursing home,  
12 including the purpose and payee of each disbursement, and  
13 shall render a true account of such record to the resident or  
14 his or her representative upon demand and upon termination  
15 of the resident's stay in the nursing home.

16 (d) Any person or corporation who violates any subsec-  
17 tion of this section is guilty of a misdemeanor and, upon  
18 conviction thereof, shall be fined not more than \$1,000, or  
19 imprisoned in jail not more than one year, or both fined and  
20 imprisoned.

21 (e) Reports provided to review organizations are confi-  
22 dential unless inaccessibility of information interferes with  
23 the director's ability to perform his or her oversight function  
24 as mandated by federal regulations and this section.

25 (f) Notwithstanding subsection (b) of this section or any  
26 other provision of this code, upon the death of a resident, any  
27 funds remaining in his or her personal account shall be made  
28 payable to the person or probate jurisdiction administering  
29 the estate of said resident: *Provided*, That if after thirty days  
30 there has been no qualification over the decedent resident's  
31 estate, those funds are presumed abandoned and are report-  
32 able to the State Treasurer pursuant to the West Virginia  
33 Uniform Unclaimed Property Act, section one, article eight,  
34 chapter thirty-six of this code, *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 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.)