

125th MAINE LEGISLATURE

SECOND REGULAR SESSION-2012

Legislative Document

No. 1641

H.P. 1231

House of Representatives, December 20, 2011

An Act To Ensure Equal Tax Treatment for Private-pay and MaineCare-participating Providers of Residential Care to Persons Who Are Elderly or Disabled

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 16, 2011. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Heath & Puint

HEATHER J.R. PRIEST Clerk

Presented by Representative HARMON of Palermo. Cosponsored by President RAYE of Washington and Representatives: CUSHING of Hampden, Speaker NUTTING of Oakland, STRANG BURGESS of Cumberland, Senators: COURTNEY of York, CRAVEN of Androscoggin, McCORMICK of Kennebec, SNOWE-MELLO of Androscoggin, THIBODEAU of Waldo.

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1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not 2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** facilities that provide residential care services to persons who are elderly 4 or disabled that do not participate in the MaineCare program are not subject to the State's 5 service provider tax; and

6 Whereas, the service provider tax is imposed on providers of residential care 7 services to persons who are elderly or disabled that do participate in the MaineCare 8 program and those providers are therefore classified as private nonmedical institutions 9 both for MaineCare purposes and for determining whether the service provider tax 10 applies; and

Whereas, the result of this taxation arrangement is that those providers of residential care services to persons who are elderly or disabled without certain specific diagnoses that participate in the MaineCare program are subjected to a tax that increases their operating costs as compared to the costs of similar facilities that do not accept MaineCare-eligible residents and interferes with their ability to provide needed services; and

Whereas, in the judgment of the Legislature, these facts create an emergency within
the meaning of the Constitution of Maine and require the following legislation as
immediately necessary for the preservation of the public peace, health and safety; now,
therefore,

21 Be it enacted by the People of the State of Maine as follows:

22 Sec. 1. 36 MRSA §2551, sub-§10, as amended by PL 2007, c. 438, §53, is 23 further amended to read:

24 10. Private nonmedical institution. "Private nonmedical institution" means a 25 person licensed by the Department of Health and Human Services to provide private nonmedical institution services to 4 or more MaineCare-eligible and other residents in 26 27 single or multiple facilities under a written agreement with the Department of Health and 28 Human Services on a noncase mix basis that specializes in the treatment of specific 29 diagnoses such as acquired brain injury, human immunodeficiency virus, Acquired Immune Deficiency Syndrome, mental retardation or blindness. "Private nonmedical 30 31 institution" does not include a health insurance organization, hospital, nursing home or 32 community health care center.

Emergency clause. In view of the emergency cited in the preamble, this
 legislation takes effect when approved.

35 SUMMARY

This bill excludes from the service provider tax private nonmedical institutions that provide services reimbursed under MaineCare for persons who are elderly or disabled without specializing in a particular diagnosis.