

2003 DRAFTING REQUEST

Bill

Received: 09/20/2002

Received By: dkennedy

Wanted: As time permits

Identical to LRB:

For: Administration-Budget 267-9546

By/Representing: Jablonsky

This file may be shown to any legislator: NO

Drafter: dkennedy

May Contact:

Addl. Drafters:

Subject: Health - facility licensure

Extra Copies: RLR

Submit via email: NO

Pre Topic:

DOA:.....Jablonsky - BB0042

Topic:

Surcharge on forfeitures for nursing homes and c-brfs

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							S&L
/1	dkennedy 11/08/2002	jdyer 11/14/2002	rschluet 11/14/2002		amentkow 11/14/2002		S&L
/2	dkennedy 01/25/2003	jdyer 01/27/2003	pgreensl 01/27/2003		sbasford 01/27/2003		S&L
/3	rnelson2 02/04/2003 dkennedy 02/06/2003	jdyer 02/06/2003	jfrantze 02/06/2003		mbarman 02/06/2003		

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

FE Sent For:

<END>

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13<sup>2</sup>/<sub>6</sub> jld 202/6 J/Pg  
2/6  
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FE Sent For:

1/2 1/27 jlc

1/27 P8

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FE Sent For:

11/11 jld

11-14-02 <END> RB

# DHFS

**Department of Health and Family Services**  
**1999-2001 Biennial Budget Statutory Language Request**  
September 3, 2002

## Nursing Home and CBRF Enforcement Activities

### Current Language

The Department may assess forfeitures or fines against several types of providers under Chapter 50. For providers for which the authority to impose a forfeiture or fine exists (it does not for hospitals or adult family homes), the maximum allowable forfeiture varies from \$500/day to \$10,000/day among providers. Consequently, if the same deficient practice occurred in each of the different providers, the enforcement action could vary tremendously. Currently all fine and forfeiture income is deposited in the school fund and cannot be used to fund Department costs.

### Proposed Change

Request statutory language change necessary to charge nursing homes a 13% surcharge on forfeitures assessed against them under s. 50.04(5). Sample language for s. 50.04(5)(c), Wis. Stat., is as follows: "In addition, the Department shall assess a surcharge (user fee) equal to 13% of the assessed forfeiture amount. The surcharge may be used by the Department to support administrative costs incurred in assessing forfeitures levied under this subchapter."

Amend 50.03(5g)(c) 1 to increase the CBRF maximum forfeiture amount from \$1,000/day to \$10,000/day.

### Effect of the Change

Nursing homes against whom the Department assesses forfeitures would be required to pay the surcharge in addition to the forfeiture. The Department could assess forfeitures up to \$10,000 per day against CBRFs for licensing violations.

### Rationale for the Change

The Department requests authority to assess surcharges on nursing homes to fund 2.0 additional FTE in the Bureau of Quality Assurance (BQA). The additional staff are needed to respond to increases in workload for analyzing licensing violations and assessing forfeitures. If a facility such as a nursing home, hospital, community based residential facilities (CBRFs) adult family home, residential care complex, home health agency, or a hospice is out of compliance with federal or state regulations, BQA field staff cites that facility with a notice of violation. Regulatory Specialists in BQA analyze cited violations of long term care facilities such as

nursing homes, facilities for the developmentally disabled, and hospices using the current statutory factors to determine the appropriate penalty for the violation. Analysis can require research of medical texts, the internet, and discussions with consultants and surveyors. After the specialist prepares a written analysis and a forfeiture recommendation, he/she may have to defend the recommendation in an administrative hearing process by providing testimony. The specialist will also prepare various reports on an ongoing basis to track the effectiveness of state forfeitures. The specialist may become involved in the federal nursing home enforcement process by monitoring imposed remedies and sanctions. In addition, Regulatory Specialists advise the Office of Legal Counsel (OLC) on negotiating settlement agreements and train surveyors on the process of writing forfeitures.

For those providers that BQA currently has the authority to levy forfeitures against, the maximum forfeiture amount varies. For CBRFs, the maximum amount is \$1,000 for each day of violation, for hospices, \$200, for rural medical centers, \$500, for nursing homes, \$10,000. The Department proposes to raise the maximum forfeiture amount to \$10,000 for each day of violation for CBRFs, the same as the level for nursing homes. Large corporations are, in increasing numbers, operating CBRFs and the current forfeiture amounts are often not large enough to provide sufficient deterrent for these entities.

<b>Desired Effective Date:</b>	Upon passage
<b>Agency:</b>	DHFS
<b>Agency Contact:</b>	Mark Resheske
<b>Phone:</b>	267-0356



SOON - In edit 11/8  
State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-0203/1

DAK:.....

D-NOTE

jld

DOA:.....Jablonsky - BB0042 Surcharge on forfeitures for nursing homes and c-brfs

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

Don't gen

- 1 AN ACT ...; relating to: increasing the forfeiture amount for community-based
- 2 residential facility violations, imposing forfeiture surcharges for nursing home
- 3 violations, and making an appropriation.✓

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**✓

**HEALTH**✓

\* Under current law, DHFS inspects, licenses, and otherwise regulates nursing homes and community-based residential facilities. Revenues from licensing fees for these health care facilities are, in part, used for the costs of the inspections and licensing. DHFS imposes and directly assesses forfeitures on community-based residential facilities, ranging from \$10 to \$1,000✓ for each violation of regulatory statutes or rules. DHFS also imposes and directly assesses forfeitures on nursing homes. Violations by nursing homes of regulatory statutes or rules are classified according to the gravity of threat that the violation poses to the health, safety, or welfare of a nursing home resident; a class "A" violation may be subject to a forfeiture of up to \$10,000✓, a class "B" violation may be subject to a forfeiture of up to \$5,000✓, and a class "C" violation may be subject to a forfeiture of up to \$500✓.

\* This bill increases from \$1,000 to \$10,000✓ the maximum amount of a forfeiture that DHFS may impose on a violating community-based residential facility. The bill



\* requires DHFS to impose on a violating nursing home a forfeiture surcharge of 13% of each forfeiture amount. <sup>✓</sup> The forfeiture surcharge is directly assessed by DHFS and is required to be credited to the appropriation of program revenue that funds the costs of inspections and licensing of health care facilities.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1 SECTION 1. 20.435 (6) (jm) <sup>✓</sup> of the statutes is amended to read:

2 20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule  
3 for the purposes specified in ss. 48.685 (2) (am) and (b) 1., (3) (a) and (b) and (5) (a),  
4 49.45 (47), 50.02 (2), 50.025, 50.065 (2) (am) and (b) 1., (3) (a) and (b) and (5), 50.13,  
5 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57 and 50.981 and subch. IV  
6 of ch. 50 and to conduct health facilities plan and rule development activities, for  
7 accrediting nursing homes, convalescent homes and homes for the aged, to conduct  
8 capital construction and remodeling plan reviews under ss. 50.02 (2) (b) and 50.36  
9 (2) and for the costs of inspecting, licensing and approving facilities, issuing permits  
10 and providing technical assistance that are not specified under any other paragraph  
11 in this subsection. All moneys received under ss. 48.685 (8), 49.45 (47) (c), 50.02 (2),  
12 50.025, 50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93 (1)  
13 (c) and 50.981, all moneys received from fees for the costs of inspecting, licensing and  
14 approving facilities, issuing permits and providing technical assistance that are not  
15 specified under any other paragraph in this subsection, ~~and~~ all moneys received  
16 under 50.135 (2), less the amounts credited to the appropriation account under sub.  
17 (4) (gm), <sup>✓</sup> and all moneys received from forfeiture surcharges under s. 50.04 (5) (bm)  
18 shall be credited to this appropriation account.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11);

1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105.

1 SECTION 2. 50.03 (5g) (c) 1. (intro.) of the statutes is amended to read:

2 50.03 (5g) (c) 1. (intro.) A daily forfeiture amount per violation of not less than  
3 \$10 nor more than \$1,000 \$10,000 for each violation, with each day of violation  
4 constituting a separate offense. All of the following apply to a forfeiture under this  
5 subdivision:

History: 1975 c. 413; 1977 c. 29, 170, 205, 272, 418, 447; 1979 c. 221; 1981 c. 20, 72, 121; 1981 c. 314 s. 146; 1985 a. 29 ss. 1058, 3202 (56) (a); 1985 a. 176; 1985 a. 182 s. 57; 1985 a. 332 s. 251 (1), (3); 1987 a. 27, 127, 399; 1989 a. 31, 359; 1991 a. 39, 221; 1993 a. 27, 112, 375, 491; 1995 a. 27 ss. 3227 to 3232, 9126 (19); 1997 a. 27, 114; 2001 a. 16.

6 SECTION 3. 50.04 (5) (bm) of the statutes is created to read:

7 50.04 (5) (bm) *Forfeiture surcharge*. Whenever the department imposes a  
8 forfeiture under par. (a) for a violation of this subchapter or a rule promulgated under  
9 this subchapter, the department shall in addition levy a forfeiture surcharge in an  
10 amount of <sup>plain</sup> 13% of the forfeiture imposed. If multiple violations are involved, the  
11 forfeiture surcharge under this paragraph shall be based on the total forfeitures for  
12 all violations.

13 SECTION 4. 50.04 (5) (c) of the statutes is amended to read:

14 50.04 (5) (c) Assessment of forfeitures; powers and duties of department and  
15 forfeiture surcharges. The department may directly assess forfeitures provided for  
16 under par. (a) and forfeiture surcharges provided for under par. (bm). If the  
17 department determines that a forfeiture and forfeiture surcharge should be assessed  
18 for a particular violation or for failure to correct it, it shall send a notice of assessment  
19 to the nursing home. The notice shall specify the amount of the forfeiture and  
20 forfeiture surcharge assessed, the violation, the statute or rule alleged to have been  
21 violated, and shall inform the licensee of the right to hearing under par. (e).

History: 1977 c. 170 ss. 6, 29; 1977 c. 272; 1979 c. 34; 1981 c. 20, 121, 317, 391; 1983 a. 27 s. 2200 (1); 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 332 s. 251 (1), (7); 1987 a. 27, 127, 399; 1989 a. 31, 336; 1991 a. 39, 269, 315; 1995 a. 27; 1997 a. 27, 114, 237, 252, 280; 1999 a. 9, 32, 103.

1 SECTION 5. 50.04 (5) (f) ✓ of the statutes is amended to read:

2 50.04 (5) (f) *Forfeitures and forfeiture surcharges paid within 10 days.* All  
3 forfeitures and forfeiture surcharges ✓ shall be paid to the department within 10 days  
4 of receipt of notice of assessment or, if the forfeiture is contested under par. (e), within  
5 10 days of receipt of the final decision after exhaustion of administrative review,  
6 unless the final decision is appealed and the order is stayed by court order under s.  
7 50.03 (11). The department shall remit all forfeitures paid to the state treasurer for  
8 deposit in the school fund and shall credit all forfeiture surcharges to the  
9 appropriation under s. 20.435 (6) (jm). ✓

10 History: 1977 c. 170 ss. 6, 29; 1977 s. 272; 1979 c. 34; 1981 c. 20, 121, 317, 391; 1983 a. 27 s. 2200 (1); 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 332 s. 251 (1), (7); 1987 a. 27, 127, 399; 1989 a. 31, 336; 1991 a. 39, 269, 315; 1995 a. 27; 1997 a. 27, 114, 237, 252, 280; 1999 a. 9, 32, 103.

(END)

✓  
account ✓      D-NOTE

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0203/1dn

DAK:.....

jd

To Sue Jablonsky and Mark Resheske:

1. I based the language for s. 50.04 (5) (bm) ✓ on the language under s. ✓49.498 (16) (c). Are you interested in imposing interest for periods of violations that are longer than one day, as specified under s. ✓49.498 (16) (d)?
2. I have presumed that the appropriation that you intended be credited with the amounts of the forfeiture surcharges is s. ✓20.435 (6) (jm). Correct?

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: debora.kennedy@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0203/1dn  
DAK:jld:rs

November 14, 2002

To Sue Jablonsky and Mark Resheske:

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Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: [debora.kennedy@legis.state.wi.us](mailto:debora.kennedy@legis.state.wi.us)

## Kennedy, Debora

---

**From:** Resheske, Mark  
**Sent:** Monday, December 23, 2002 10:32 AM  
**To:** Jablonsky, Sue; Kennedy, Debora  
**Subject:** Re: FW: LRB Draft: 03-0203/1 Surcharge on forfeitures for nursing homes and c-brfs

The answers to the drafters question are as follows: 1) No. 2) Yes, 20.435  
(6)(jm) is correct.

>>> Jablonsky, Sue 12/18/02 10:59AM >>>

Good thing you checked--I think I forgot to forward this one. Sorry

-----Original Message-----

**From:** Schlueter, Ron  
**Sent:** Thursday, November 14, 2002 2:54 PM  
**To:** Jablonsky, Sue  
**Cc:** Kraus, Jennifer; Uecker, Deborah; Hanaman, Cathlene; Haugen, Caroline  
**Subject:** LRB Draft: 03-0203/1 Surcharge on forfeitures for nursing homes and c-brfs

Following is the PDF version of draft 03-0203/1.

# TELEPHONE DRAFTING INSTRUCTIONS

Drafting instructions received by Debora Kennedy.

DATE: 4/24  
CONVERSATION WITH: Sue Jablonsky  
OF:  
TELEPHONE NO:  
REGARDING LRB # OR DRAFT TOPIC: -0203/1  
INSTRUCTIONS: Redraft

p. 3, 2, 9 690



SOON - In edit 1/25  
State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-0203/2

DAK:jld:rs

DOA:.....Jablonsky - BB0042 Surcharge on forfeitures for nursing homes and c-brfs

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

don't gen

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**HEALTH**

Under current law, DHFS inspects, licenses, and otherwise regulates nursing homes and community-based residential facilities. Revenues from licensing fees for these health care facilities are, in part, used for the costs of the inspections and licensing. DHFS imposes and directly assesses forfeitures on community-based residential facilities, ranging from \$10 to \$1,000 for each violation of regulatory statutes or rules. DHFS also imposes and directly assesses forfeitures on nursing homes. Violations by nursing homes of regulatory statutes or rules are classified according to the gravity of threat that the violation poses to the health, safety, or welfare of a nursing home resident; a class "A" violation may be subject to a forfeiture of up to \$10,000, a class "B" violation may be subject to a forfeiture of up to \$5,000, and a class "C" violation may be subject to a forfeiture of up to \$500.

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690

requires DHFS to impose on a violating nursing home a forfeiture surcharge of ~~10%~~ of each forfeiture amount. The forfeiture surcharge is directly assessed by DHFS and is required to be credited to the appropriation of program revenue that funds the costs of inspections and licensing of health care facilities.

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5 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57 and 50.981 and subch. IV  
6 of ch. 50 and to conduct health facilities plan and rule development activities, for  
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16 under 50.135 (2), less the amounts credited to the appropriation account under sub.  
17 (4) (gm), and all moneys received from forfeiture surcharges under s. 50.04 (5) (bm)  
18 shall be credited to this appropriation account.

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1           50.03 (5g) (c) 1. (intro.) A daily forfeiture amount per violation of not less than  
 2           \$10 nor more than \$1,000 \$10,000 for each violation, with each day of violation  
 3           constituting a separate offense. All of the following apply to a forfeiture under this  
 4           subdivision:

670

5           SECTION 3. 50.04 (5) (bm) of the statutes is created to read:

6           50.04 (5) (bm) *Forfeiture surcharge*. Whenever the department imposes a  
 7           forfeiture under par. (a) for a violation of this subchapter or a rule promulgated under  
 8           this subchapter, the department shall in addition levy a forfeiture surcharge in an  
 9           amount of ~~1%~~ of the forfeiture imposed. If multiple violations are involved, the  
 10          forfeiture surcharge under this paragraph shall be based on the total forfeitures for  
 11          all violations.

12          SECTION 4. 50.04 (5) (c) of the statutes is amended to read:

13          50.04 (5) (c) *Assessment of forfeitures; powers and duties of department and*  
 14          *forfeiture surcharges*. The department may directly assess forfeitures provided for  
 15          under par. (a) and forfeiture surcharges provided for under par. (bm). If the  
 16          department determines that a forfeiture and forfeiture surcharge should be assessed  
 17          for a particular violation or for failure to correct it, it shall send a notice of assessment  
 18          to the nursing home. The notice shall specify the amount of the forfeiture and  
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 20          violated, and shall inform the licensee of the right to hearing under par. (e).

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 23          forfeitures and forfeiture surcharges shall be paid to the department within 10 days  
 24          of receipt of notice of assessment or, if the forfeiture is contested under par. (e), within  
 25          10 days of receipt of the final decision after exhaustion of administrative review,

1 unless the final decision is appealed and the order is stayed by court order under s.  
2 50.03 (11). The department shall remit all forfeitures paid to the state treasurer for  
3 deposit in the school fund and shall credit all forfeiture surcharges to the  
4 appropriation account under s. 20.435 (6) (jm).

5

(END)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0203/3dn  
DAK:jld:jf

February 6, 2003

To Sue Jablonsky:

This draft removes the treatment of s. 20.435 (6) (jm) to reconcile LRB-0201/2 and LRB-0203/2. Both LRB-0201 and LRB-0203 should continue to appear in the compiled bill.

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: [debora.kennedy@legis.state.wi.us](mailto:debora.kennedy@legis.state.wi.us)

D-NOTE

DOA:.....Jablonsky – BB0042 Surcharge on forfeitures for nursing homes and c-brfs

FOR 2003-05 BUDGET -- NOT READY FOR INTRODUCTION

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**HEALTH AND HUMAN SERVICES**

**HEALTH**

Under current law, DHFS inspects, licenses, and otherwise regulates nursing homes and community-based residential facilities. Revenues from licensing fees for these health care facilities are, in part, used for the costs of the inspections and licensing. DHFS imposes and directly assesses forfeitures on community-based residential facilities, ranging from \$10 to \$1,000 for each violation of regulatory statutes or rules. DHFS also imposes and directly assesses forfeitures on nursing homes. Violations by nursing homes of regulatory statutes or rules are classified according to the gravity of threat that the violation poses to the health, safety, or welfare of a nursing home resident; a class "A" violation may be subject to a forfeiture of up to \$10,000, a class "B" violation may be subject to a forfeiture of up to \$5,000, and a class "C" violation may be subject to a forfeiture of up to \$500.

This bill increases from \$1,000 to \$10,000 the maximum amount of a forfeiture that DHFS may impose on a violating community-based residential facility. The bill

requires DHFS to impose on a violating nursing home a forfeiture surcharge of 6% of each forfeiture amount. The forfeiture surcharge is directly assessed by DHFS and is required to be credited to the appropriation of program revenue that funds the costs of inspections and licensing of health care facilities.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 20.435 (6) (jm) of the statutes is amended to read:

2           20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule  
3 for the purposes specified in ss. 48.685 (2) (am) and (b) 1., (3) (a) and (b) and (5) (a),  
4 49.45 (47), 50.02 (2), 50.025, 50.065 (2) (am) and (b) 1., (3) (a) and (b) and (5), 50.13,  
5 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57 and 50.981 and subch. IV  
6 of ch. 50 and to conduct health facilities plan and rule development activities, for  
7 accrediting nursing homes, convalescent homes and homes for the aged, to conduct  
8 capital construction and remodeling plan reviews under ss. 50.02 (2) (b) and 50.36  
9 (2) and for the costs of inspecting, licensing and approving facilities, issuing permits  
10 and providing technical assistance that are not specified under any other paragraph  
11 in this subsection. All moneys received under ss. 48.685 (8), 49.45 (47) (c), 50.02 (2),  
12 50.025, 50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93 (1)  
13 (c) and 50.981, all moneys received from fees for the costs of inspecting, licensing and  
14 approving facilities, issuing permits and providing technical assistance that are not  
15 specified under any other paragraph in this subsection, ~~and~~ all moneys received  
16 under 50.135 (2), less the amounts credited to the appropriation account under sub.  
17 (4) (gm), and all moneys received from forfeiture surcharges under s. 50.04 (5) (hm)  
18 shall be credited to this appropriation account.

19           **SECTION 2.** 50.03 (5g) (c) 1. (intro.) of the statutes is amended to read:

1           50.03 (5g) (c) 1. (intro.) A daily forfeiture amount per violation of not less than  
2           \$10 nor more than ~~\$1,000~~ \$10,000 for each violation, with each day of violation  
3           constituting a separate offense. All of the following apply to a forfeiture under this  
4           subdivision:

5           **SECTION 3.** 50.04 (5) (bm) of the statutes is created to read:

6           50.04 (5) (bm) *Forfeiture surcharge.* Whenever the department imposes a  
7           forfeiture under par. (a) for a violation of this subchapter or a rule promulgated under  
8           this subchapter, the department shall in addition levy a forfeiture surcharge in an  
9           amount of 6% of the forfeiture imposed. If multiple violations are involved, the  
10          forfeiture surcharge under this paragraph shall be based on the total forfeitures for  
11          all violations.

12          **SECTION 4.** 50.04 (5) (c) of the statutes is amended to read:

13          50.04 (5) (c) *Assessment of forfeitures; ~~powers and duties of department~~ and*  
14          *forfeiture surcharges.* The department may directly assess forfeitures provided for  
15          under par. (a) and forfeiture surcharges provided for under par. (bm). If the  
16          department determines that a forfeiture and forfeiture surcharge should be assessed  
17          for a particular violation or for failure to correct it, it shall send a notice of assessment  
18          to the nursing home. The notice shall specify the amount of the forfeiture and  
19          forfeiture surcharge assessed, the violation, the statute or rule alleged to have been  
20          violated, and shall inform the licensee of the right to hearing under par. (e).

21          **SECTION 5.** 50.04 (5) (f) of the statutes is amended to read:

22          50.04 (5) (f) *Forfeitures and forfeiture surcharges paid within 10 days.* All  
23          forfeitures and forfeiture surcharges shall be paid to the department within 10 days  
24          of receipt of notice of assessment or, if the forfeiture is contested under par. (e), within  
25          10 days of receipt of the final decision after exhaustion of administrative review,

1 unless the final decision is appealed and the order is stayed by court order under s.  
2 50.03 (11). The department shall remit all forfeitures paid to the state treasurer for  
3 deposit in the school fund and shall credit all forfeiture surcharges to the  
4 appropriation account under s. 20.435 (6) (jm). ✓

5

(END)

D-NOTE



D-NOTE

To Sue Jablonsky:

removes the treatment of s. 20.435  
(6) (jm) to

This draft/reconcile LRB-0201/2 and  
LRB-0201 and  
LRB 0203/2. Both LRB-0203 should continue  
to appear in the compiled bill.

DAK



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-0203/3  
DAK:jld:jf

DOA:.....Jablonsky – BB0042 Surcharge on forfeitures for nursing homes  
and c-brfs

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

1     **AN ACT ...; relating to:** increasing the forfeiture amount for community-based  
2             residential facility violations, imposing forfeiture surcharges for nursing home  
3             violations, and making an appropriation.

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*Analysis by the Legislative Reference Bureau*  
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10 deposit in the school fund and shall credit all forfeiture surcharges to the  
11 appropriation account under s. 20.435 (6) (jm).

12 (END)