

Senate Bill No. 141

CHAPTER 250

An act to amend Section 1569.651 of the Health and Safety Code, relating to residential care facilities.

[Approved by Governor September 22, 2005. Filed with Secretary of State September 22, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 141, Soto. Residential care facilities: preadmission fee refunds.

Existing law regulates the licensure and operation of residential care facilities for the elderly, including setting forth the basic services a facility is required to provide. Existing law requires that a licensee of a residential care facility for the elderly, if the licensee charges a preadmission fee, provide the applicant or his or her representative with a written general statement describing costs associated with the preadmission fee charges and stating whether or not the preadmission fee is refundable. If the preadmission fee or some portion thereof is refundable, existing law requires the statement to describe the conditions for the refund. A violation of the provisions relating to the licensure or operation of a residential care facility for the elderly is a crime.

This bill would provide that if the applicant decides not to enter the facility prior to the facility's completion of a preadmission appraisal or if the facility fails to provide full written disclosure of the preadmission fee charges and refund conditions, the applicant or the applicant's representative would be entitled to a refund of 100% of the preadmission fee. It would also require a preadmission fee in excess of \$500 to be refundable under certain conditions, and would require the licensee to provide the applicant or his or her representative with a written statement, stating that the preadmission fee is refundable and describing the conditions for the refund. By changing the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1569.651 of the Health and Safety Code is amended to read:

1569.651. (a) A licensee of a residential care facility for the elderly shall not require any form of preadmission fee or deposit from a recipient under the State Supplementary Program for the Aged, Blind and Disabled (Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code) who applies for admission to the facility.

(b) If a licensee charges a preadmission fee, the licensee shall provide the applicant or his or her representative with a written general statement describing all costs associated with the preadmission fee charges and stating that the preadmission fee is refundable. The statement shall describe the conditions for the refund as specified in subdivision (g). A licensee shall only charge a single preadmission fee as defined in subdivision (e) per resident admission.

(c) A licensee of a residential care facility for the elderly shall not require, request, or accept any funds from a resident or a resident's representative that constitutes a deposit against any possible damages by the resident.

(d) Any fee charged by a licensee of a residential care facility for the elderly, whether prior to or after admission, shall be clearly specified in the admission agreement.

(e) For the purposes of this section, "preadmission fee" means an application fee, processing fee, admission fee, entrance fee, community fee, or other fee, however designated, that is requested or accepted by a licensee of a residential care facility for the elderly prior to admission.

(f) This section shall not apply to licensees of residential care facilities for the elderly that have obtained a certificate of authority to offer continuing care contracts, as defined in paragraph (8) of subdivision (c) of Section 1771.

(g) If the applicant decides not to enter the facility prior to the facility's completion of a preadmission appraisal or if the facility fails to provide full written disclosure of the preadmission fee charges and refund conditions, the applicant or the applicant's representative shall be entitled to a refund of 100percent of the preadmission fee.

(h) Unless subdivision (g) applies, preadmission fees in excess of five hundred dollars (\$500) shall be refunded according to the following:

(1) If the applicant does not enter the facility after a preadmission appraisal is conducted, the applicant or the applicant's representative shall be entitled to a refund of at least 80 percent of the preadmission fee amount in excess of five hundred dollars (\$500).

(2) If the resident leaves the facility for any reason during the first month of residency, the resident shall be entitled to a refund of at least 80 percent of the preadmission fee amount in excess of five hundred dollars (\$500).

(3) If the resident leaves the facility for any reason during the second month of residency, the resident shall be entitled to a refund of at least 60 percent of the preadmission fee amount in excess of five hundred dollars (\$500).

(4) If the resident leaves the facility for any reason during the third month of residency, the resident shall be entitled to a refund of at least 40 percent of the preadmission fee amount in excess of five hundred dollars (\$500).

(5) The facility may, but is not required to, make a refund of the preadmission fee for residents living in the facility for four or more months.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.