

Human Resources  
Gratias, Chairperson  
Hulse  
Coleman

*Reprinted 4/8/81*

*Amended from 3070 to 3071 (p. 329)*

FILED JAN 12 1981

SENATE FILE 24

BY HOLDEN

Passed Senate, Date 2-23-81 (p. 537) Passed House, Date 3/26/82 (p. 1039)

Vote: Ayes 27 Nays 16 Vote: Ayes 94 Nays 1

Approved 4-6-82

*Motion to reconsider adopted 3/24 (p. 924)*

*Repassed Senate 4-7-81 (p. 1130)*  
44-3

### A BILL FOR

1 An Act relating to the requirement that plans and specifica-  
2 tions for new health care facilities and remodeling of  
3 or additions to existing health care facilities be sub-  
4 mitted to the department of health for preliminary in-  
5 spection and approval or recommendations.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 135C.16, subsection 2, Code 1981, is  
2 amended to read as follows:

3 2. The department shall prescribe by rule that any licensee  
4 or applicant for license desiring to make specific types of  
5 physical or functional alterations or additions to its facility  
6 or to construct new facilities shall, before commencing ~~such~~  
7 the alteration or additions or new construction, submit plans  
8 and specifications ~~therefor~~ to the department for preliminary  
9 inspection and approval or recommendations with respect to  
10 ~~the~~ compliance with the department's rules and standards  
11 ~~herein-authorized~~. When the plans and specifications ~~submitted~~  
12 ~~as-required-by-this-subsection~~ have been properly approved  
13 by the department or other appropriate state agency, the  
14 facility or the portion of the facility constructed or altered  
15 in accord with the plans ~~so-approved~~ and specifications shall  
16 not for a period of at least five years from completion of  
17 the construction or alteration be considered deficient or  
18 ineligible for licensing by reason of failure to meet any  
19 rule or standard established subsequent to approval of the  
20 plans and specifications, unless a clear and present danger  
21 exists that would adversely affect the residents of the  
22 facility. When construction or alteration of a facility or  
23 portion of a facility has commenced in accord with plans and  
24 specifications submitted as required by this subsection and  
25 properly approved by the department or other appropriate state  
26 agency, and it is discovered that the facility or portion  
27 of a facility is not in compliance with a requirement of this  
28 chapter or of the rules or standards adopted pursuant to it  
29 and in effect at the time the plans and specifications were  
30 submitted, and the deficiency was apparent from the plans  
31 and specifications submitted but was not noted or objected  
32 to by the department or other appropriate state agency, the  
33 department or agency responsible for the oversight shall  
34 either waive the requirement or reimburse the licensee or  
35 applicant for any costs which are necessary to bring the new

1 or reconstructed facility or portion of a facility into  
2 compliance with the requirement and which the licensee or  
3 applicant would not have incurred if the deficiency had been  
4 noted or objected to before the plans and specifications were  
5 approved.

6 EXPLANATION

7 Health care facilities (nursing homes) are required to  
8 submit plans and specifications for new construction,  
9 additions, or remodeling to the Department of Health for  
10 advance review and approval or recommendations for changes  
11 needed to comply with applicable rules and standards. This  
12 bill requires that if the department or any other agency which  
13 reviews the plans and specifications so submitted fails to  
14 note or object to a feature which does not comply with existing  
15 rules and standards, and is apparent from the plans and  
16 specifications submitted, but asks that the deficiency be  
17 corrected at any time after construction has begun, the  
18 department or agency involved must either waive the requirement  
19 or pay any costs of making the correction which would not  
20 have been incurred if the deficiency had been noted before  
21 construction began.

22 The bill would become law July 1 following its enactment.

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SENATE FILE 24

S-3055

- 1 Amend Senate File 24 as follows:  
2 1. Page 1, line 23, by striking the word  
3 "commenced" and inserting in lieu thereof the words  
4 "been completed".

S-3055 FILED

FEBRUARY 5, 1981

*Adopted 2/23 (p. 539)*

BY COMMITTEE ON HUMAN RESOURCES  
JULIA B. GENTLEMAN, CHAIR

SENATE FILE 24

S-3082

- 1 Amend Senate File 24 as follows:  
2 1. Title page, line 5, by inserting after the  
3 word "recommendations" the words "and that the  
4 department either waive or pay the costs to correct  
5 any deficiencies which were not noted by the department  
6 in the plans or specifications".

S-3082 FILED

FEBRUARY 19, 1981

*Adopted 2/23 (p. 539)*

BY EDGAR H. HOLDEN

SENATE FILE 24

S-3234

- 1 Amend Senate File 24 as follows:  
2 1. Page 2, line 5, by inserting after the word  
3 "approved." the words "However, if the deficiency  
4 presents a clear and present danger to residents of  
5 the facility, the department or agency may order the  
6 deficiency corrected without reimbursement by the  
7 department or agency to the licensee or applicant.  
8 In addition, if the deficiency results from the  
9 negligence of the architect or designer of the  
10 facility, the state is subrogated to the rights of  
11 the owner or builder of the facility as against the  
12 architect or designer of the facility that arise out  
13 of that negligence, to the extent of reimbursement  
14 paid by the state."

S-3234 FILED

MARCH 23, 1981

*4/10 4/7/81 (p. 1129)*

S-3252

BY ARTHUR A. SMALL, JR.

SENATE FILE 24

- 1 Amend Senate File 24 as follows:  
2 1. Page 2, line 5, by striking the word "approved"  
3 and inserting in lieu thereof the words "approved;  
4 and the state is subrogated, to the extent of any  
5 reimbursement paid to the licensee, to any claims  
6 which the licensee may have against an architect,  
7 designer or other person for damages arising out of  
8 the existence of the deficiency in the plans and  
9 specifications".

S-3252 FILED

MARCH 25, 1981

*Placed out of order 4/7/81 (p. 1129)*

BY JOHN S. MURRAY

SENATE FILE 24

S-3368

1 Amend Senate File 24 as follows:

2 1. Page 2, by striking lines 3 through 5 and  
3 inserting in lieu thereof the words "applicant would  
4 not have incurred if the facility or portion of the  
5 facility had been constructed in compliance with the  
6 requirements of this chapter or of the rules or  
7 standards adopted pursuant to it and in effect at  
8 the time the plans and specifications were submitted.  
9 If within two years from the completion of the  
10 construction or alteration of the facility or portion  
11 thereof, a department or agency of the state orders  
12 that the new or reconstructed facility or portion  
13 thereof be brought into compliance with the  
14 requirements of this chapter or the rules or standards  
15 adopted pursuant to it and in effect at the time the  
16 plans and specifications were submitted, the state  
17 shall have a claim for damages to the extent of any  
18 reimbursement paid to the licensee or applicant against  
19 any person who designed the facility or portion thereof  
20 for negligence in the preparation of the plans and  
21 specifications therefor, subject to all defenses based  
22 upon the negligence of the state in reviewing and  
23 approving those plans and specifications, but not  
24 thereafter."

S-3368 FILED

APRIL 2, 1981

*Adopted 4/7/81 (p. 1129)*

BY ARTHUR A. SMALL, JR.

EDGAR H. HOLDEN

SENATE FILE 24

S-3374

1 Amend Senate File 24 as follows:

2 1. Page 1, by striking lines 20 through 22,  
3 and inserting in lieu thereof the following:  
4 "plans and specifications unless a clear and present  
5 danger exists that would adversely affect the residents  
6 of the facility. When construction or alteration of  
7 a facility or".  
8 2. Page 2, by inserting after line 5, the following:  
9 "The provisions of this subsection shall not apply  
10 where the deficiency presents a clear and present danger  
11 to the safety of the residents of the facility.".

S-3374 FILED

APRIL 3, 1981

*Adopted 4/7/81 (p. 1129)*

BY ARTHUR A. SMALL, JR.



1 Section 1. Section 135C.16, subsection 2, Code 1981, is  
2 amended to read as follows:

3 2. The department shall prescribe by rule that any licensee  
4 or applicant for license desiring to make specific types of  
5 physical or functional alterations or additions to its facility  
6 or to construct new facilities shall, before commencing such  
7 the alteration or additions or new construction, submit plans  
8 and specifications ~~therefor~~ to the department for preliminary  
9 inspection and approval or recommendations with respect to  
10 the compliance with the department's rules and standards  
11 herein-authorized. When the plans and specifications submitted  
12 as-required-by-this-subsection have been properly approved  
13 by the department or other appropriate state agency, the  
14 facility or the portion of the facility constructed or altered  
15 in accord with the plans ~~so-approved~~ and specifications shall  
16 not for a period of at least five years from completion of  
17 the construction or alteration be considered deficient or  
18 ineligible for licensing by reason of failure to meet any  
19 rule or standard established subsequent to approval of the  
20 plans and specifications, unless-a-clear-and-present-danger  
21 exists-that-would-adversely-affect-the-residents-of-the  
22 facility. When construction or alteration of a facility or  
23 portion of a facility has been completed in accord with plans  
24 and specifications submitted as required by this subsection  
25 and properly approved by the department or other appropriate  
26 state agency, and it is discovered that the facility or portion  
27 of a facility is not in compliance with a requirement of this  
28 chapter or of the rules or standards adopted pursuant to it  
29 and in effect at the time the plans and specifications were  
30 submitted, and the deficiency was apparent from the plans  
31 and specifications submitted but was not noted or objected  
32 to by the department or other appropriate state agency, the  
33 department or agency responsible for the oversight shall  
34 either waive the requirement or reimburse the licensee or  
35 applicant for any costs which are necessary to bring the new

1 or reconstructed facility or portion of a facility into  
 2 compliance with the requirement and which the licensee or  
 3 applicant would not have incurred if the facility or portion  
 4 of the facility had been constructed in compliance with the  
 5 requirements of this chapter or of the rules or standards  
 6 adopted pursuant to it and in effect at the time the plans  
 7 and specifications were submitted. If within two years from  
 8 the completion of the construction or alteration of the  
 9 facility or portion thereof, a department or agency of the  
 10 state orders that the new or reconstructed facility or portion  
 11 thereof be brought into compliance with the requirements of  
 12 this chapter or the rules or standards adopted pursuant to  
 13 it and in effect at the time the plans and specifications  
 14 were submitted, the state shall have a claim for damages to  
 15 the extent of any reimbursement paid to the licensee or  
 16 applicant against any person who designed the facility or  
 17 portion thereof for negligence in the preparation of the plans  
 18 and specifications therefor, subject to all defenses based  
 19 upon the negligence of the state in reviewing and approving  
 20 those plans and specifications, but not thereafter.

21 The provisions of this subsection shall not apply where  
 22 the deficiency presents a clear and present danger to the  
 23 safety of the residents of the facility.

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## SENATE FILE 24

## AN ACT

RELATING TO THE REQUIREMENT THAT PLANS AND SPECIFICATIONS FOR NEW HEALTH CARE FACILITIES AND REMODELING OF OR ADDITIONS TO EXISTING HEALTH CARE FACILITIES BE SUBMITTED TO THE DEPARTMENT OF HEALTH FOR PRELIMINARY INSPECTION AND APPROVAL OR RECOMMENDATIONS AND THAT THE DEPARTMENT EITHER WAIVE OR PAY THE COSTS TO CORRECT ANY DEFICIENCIES WHICH WERE NOT NOTED BY THE DEPARTMENT IN THE PLANS OR SPECIFICATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 135C.16, subsection 2, Code 1981, is amended to read as follows:

2. The department shall prescribe by rule that any licensee or applicant for license desiring to make specific types of physical or functional alterations or additions to its facility or to construct new facilities shall, before commencing ~~such~~ the alteration or additions or new construction, submit plans and specifications ~~therefor~~ to the department for preliminary inspection and approval or recommendations with respect to the compliance with the department's rules and standards ~~herein authorized~~. When ~~the~~ plans and specifications ~~submitted as required by this subsection~~ have been properly approved by the department or other appropriate state agency, the facility or the portion of the facility constructed or altered in accord with the plans ~~as approved~~ and specifications shall not for a period of at least five years from completion of the construction or alteration be considered deficient or ineligible for licensing by reason of failure to meet any rule or standard established subsequent to approval of the plans and specifications, ~~unless a clear and present danger~~

~~exists that would adversely affect the residents of the facility.~~ When construction or alteration of a facility or portion of a facility has been completed in accord with plans and specifications submitted as required by this subsection and properly approved by the department or other appropriate state agency, and it is discovered that the facility or portion of a facility is not in compliance with a requirement of this chapter or of the rules or standards adopted pursuant to it and in effect at the time the plans and specifications were submitted, and the deficiency was apparent from the plans and specifications submitted but was not noted or objected to by the department or other appropriate state agency, the department or agency responsible for the oversight shall either waive the requirement or reimburse the licensee or applicant for any costs which are necessary to bring the new or reconstructed facility or portion of a facility into compliance with the requirement and which the licensee or applicant would not have incurred if the facility or portion of the facility had been constructed in compliance with the requirements of this chapter or of the rules or standards adopted pursuant to it and in effect at the time the plans and specifications were submitted. If within two years from the completion of the construction or alteration of the facility or portion thereof, a department or agency of the state orders that the new or reconstructed facility or portion thereof be brought into compliance with the requirements of this chapter or the rules or standards adopted pursuant to it and in effect at the time the plans and specifications were submitted, the state shall have a claim for damages to the extent of any reimbursement paid to the licensee or applicant against any person who designed the facility or portion thereof for negligence in the preparation of the plans and specifications therefor, subject to all defenses based upon the negligence of the state in reviewing and approving those plans and specifications, but not thereafter.

The provisions of this subsection shall not apply where the deficiency presents a clear and present danger to the safety of the residents of the facility.

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TERRY E. BRANSTAD  
President of the Senate

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DELWYN STROMER  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 24, Sixty-ninth General Assembly.

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K. MARIE THAYER  
Secretary of the Senate

Approved 4/6, 1982

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ROBERT D. RAY  
Governor