

JAN 27 2003

HUMAN RESOURCES

HOUSE FILE 62  
BY OSTERHAUS

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to required disclosure of information to  
2 residents of continuing care retirement communities and senior  
3 adult congregate living facilities and making penalties  
4 applicable.

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

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HF 62

1 Section 1. Section 523D.3, subsection 1, paragraph h, Code  
2 2003, is amended to read as follows:

3 h. The provisions which have been made or will be made, if  
4 any, to provide reserve funding or security to enable the  
5 provider to fully perform its obligations under contracts to  
6 provide continuing care or senior adult congregate living  
7 services at the facility, including the establishment of  
8 escrow accounts, trusts, or reserve funds, together with the  
9 manner in which the funds will be invested and the names and  
10 experience of persons who will make the investment decisions.  
11 If escrow accounts, trusts, or reserve funds have been  
12 established with the fees, deposits, or contributions of  
13 prospective or current residents, the disclosure shall include  
14 certified financial statements and narratives explaining and  
15 detailing the balances, revenue, withdrawals, and transactions  
16 involving these accounts, trusts, and reserve funds for the  
17 provider's previous fiscal year and including the manner in  
18 which the moneys in the accounts, trusts, and reserve funds  
19 are being invested and the names and experience of the persons  
20 making the investment decisions.

21 Sec. 2. Section 523D.3, subsection 2, unnumbered paragraph  
22 1, Code 2003, is amended to read as follows:

23 The provider shall file with the insurance division, and  
24 shall provide to each resident, and to each resident's  
25 personal representative if one is appointed, annually within  
26 five months following the end of the provider's fiscal year,  
27 an annual disclosure statement which shall contain the  
28 information required by this chapter for the initial  
29 disclosure statement. The annual disclosure statement shall  
30 also be accompanied by a narrative describing:

31 Sec. 3. Section 523D.3, subsection 3, Code 2003, is  
32 amended to read as follows:

33 3. In the event an amendment is filed with the division of  
34 insurance pursuant to subsection 4, the provider shall deliver  
35 a copy of the amendment or the amended disclosure statement to

1 a prospective resident and to a prospective resident's  
2 personal representative if one is appointed prior to the  
3 provider's acceptance of part or all of the entrance fee or  
4 the execution of the continuing care or senior congregate  
5 living services contract by the prospective resident. The  
6 provider shall also deliver a copy of the amendment or the  
7 amended disclosure statement to each resident and to each  
8 resident's personal representative if one is appointed.

9 Sec. 4. Section 523D.6, subsection 1, Code 2003, is  
10 amended by adding the following new paragraph and relettering  
11 the subsequent paragraphs:

12 NEW PARAGRAPH. m. A statement that adjustment of periodic  
13 charges or fees resulting in increased cost to a resident must  
14 be preceded by a minimum of sixty days' advance notice to the  
15 resident and that the notice must include at a minimum a full  
16 description of any adjustments, with supporting financial  
17 information to demonstrate the need for the adjustment.

18 EXPLANATION

19 This bill requires that a provider of care in a continuing  
20 care retirement community or senior adult congregate living  
21 facility, in addition to providing a disclosure statement to a  
22 prospective resident or a prospective resident's personal  
23 representative, and in addition to filing an annual disclosure  
24 statement with the insurance division, also provide an annual  
25 disclosure statement to each current resident and each current  
26 resident's personal representative if one is appointed. The  
27 bill also provides that if the provider amends a disclosure  
28 statement or annual disclosure statement, a copy of the  
29 amendment or amended disclosure statement is to be delivered  
30 to each current resident and to each current resident's  
31 personal representative if one is appointed.

32 The bill adds to the listing of inclusions in the initial  
33 disclosure statement to be provided to prospective residents  
34 and prospective residents' personal representatives, if  
35 applicable (and by subsequent reference to the listing of

1 inclusions in the annual disclosure statement to be provided  
2 to the insurance division and current residents and current  
3 residents' personal representatives, if applicable), certified  
4 financial statements and narratives explaining and detailing  
5 the balances as well as all revenue, withdrawals, and  
6 transactions involving any accounts, trusts, and reserve funds  
7 that have been established with the fees, deposits, or  
8 contributions of prospective or current residents, for the  
9 provider's previous fiscal year, and including the manner in  
10 which the moneys in the accounts, trusts, and reserve funds  
11 are being invested and the names and experience of the persons  
12 making the investment decisions.

13 The bill also requires that the provider's contract include  
14 a statement that adjustment of periodic charges or fees  
15 resulting in increased cost to a resident must be preceded by  
16 a minimum of 60 days' advance notice to the resident and that  
17 the notice must include at a minimum a full description of any  
18 adjustments, with supporting financial information to  
19 demonstrate the need for the adjustment.

20 Existing civil and criminal penalties under the chapter  
21 apply to violations of the bill provisions. Under the current  
22 chapter, a provider is liable to the person contracting for  
23 services for damages and repayment of all fees paid to the  
24 provider, facility, or person violating the chapter, less the  
25 reasonable value of care and lodging provided to the resident  
26 prior to discovery of the violation, misstatement, or  
27 omission, or the time the violation, misstatement, or omission  
28 should reasonably have been discovered, together with  
29 interest, court costs, and reasonable attorney fees, if the  
30 provider enters into a contract without having first delivered  
31 a disclosure statement meeting the requirements of the chapter  
32 to the persons required to receive the disclosure or enters  
33 into the contract with a person who has relied on a disclosure  
34 statement which contains any untrue statement of a material  
35 fact or omits to state a material fact. Additionally, the

1 chapter currently provides that a person who willfully and  
2 knowingly violates a provision of the chapter or a rule  
3 adopted or order entered pursuant to the chapter is guilty of  
4 an aggravated misdemeanor. The chapter currently also  
5 provides for injunctive relief.

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