

CHAPTER 81

HEALTH AND ENVIRONMENT

HOUSE BILL 06-1103

BY REPRESENTATIVE(S) Green, Benefield, Carroll M., Coleman, Frangas, Lindstrom, McGihon, Merrifield, Todd, Boyd, Butcher, Cloer, and Garcia;
also SENATOR(S) Hanna, Bacon, Fitz-Gerald, Groff, Grossman, Shaffer, Tapia, Tochtrop, Tupa, Williams, and Windels.

AN ACT

CONCERNING FORFEITURE PROVISIONS IN AGREEMENTS AFFECTING PERSONS IN FACILITIES PROVIDING RESIDENTIAL CARE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 25-1-120, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25-1-120. Nursing facilities - rights of patients. (1.5) IF A FACILITY REQUIRES A LEASE AGREEMENT WITH A PROVISION REQUIRING IN EXCESS OF A MONTH-TO-MONTH TENANCY AND THE LEASE AGREEMENT RESULTS IN OR REQUIRES FORFEITURE OF MORE THAN THIRTY DAYS OF RENT IF A PATIENT MOVES DUE TO A MEDICAL CONDITION OR DIES DURING THE TERM OF THE LEASE AGREEMENT, THEN THE LEASE AGREEMENT SHALL BE DEEMED TO BE AGAINST PUBLIC POLICY AND SHALL BE VOID; EXCEPT THAT INCLUSION OF SUCH A PROVISION SHALL NOT RENDER THE REMAINDER OF THE CONTRACT OR LEASE AGREEMENT VOID. A CONTRACT PROVISION OR LEASE AGREEMENT THAT REQUIRES FORFEITURE OF RENT FOR THIRTY DAYS AFTER THE PATIENT MOVES DUE TO A MEDICAL CONDITION OR DIES DOES NOT VIOLATE THIS SECTION. THE PROVISIONS REGARDING FORFEITURE OF RENT SHALL APPEAR ON THE FRONT PAGE OF THE CONTRACT OR LEASE AGREEMENT AND SHALL BE PRINTED IN NO LESS THAN TWELVE-POINT BOLD-FACED TYPE. THE PROVISIONS SHALL READ AS FOLLOWS:

THIS LEASE AGREEMENT IS FOR A MONTH-TO-MONTH TENANCY. THE LESSOR SHALL NOT REQUIRE THE FORFEITURE OF RENT BEYOND A THIRTY-DAY PERIOD IF THE LESSEE MOVES DUE TO A MEDICAL CONDITION OR DIES DURING THE TERM OF THE LEASE.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

IN CIRCUMSTANCES IN WHICH THE PATIENT MOVES DUE TO A MEDICAL CONDITION OR DIES DURING THE TERM OF A CONTRACT OR LEASE AGREEMENT, THE FACILITY SHALL RETURN THAT PART OF THE RENT PAID IN EXCESS OF THIRTY DAYS' RENT AFTER A PATIENT MOVES OR DIES TO THE PATIENT OR THE PATIENT'S ESTATE. THE FACILITY MAY ASSESS DAILY RENTAL CHARGES FOR ANY DAYS IN WHICH THE FORMER OR DECEASED PATIENT'S PERSONAL POSSESSIONS REMAIN IN THE PATIENT'S ROOM AFTER THE PERIOD FOR WHICH THE PATIENT HAS PAID RENT AND FOR THE USUAL TIME TO CLEAN THE ROOM AFTER THE PATIENT'S PERSONAL POSSESSIONS HAVE BEEN REMOVED. THE FACILITY SHALL HAVE FORTY-FIVE DAYS AFTER THE DATE THE PATIENT'S PERSONAL POSSESSIONS HAVE BEEN REMOVED FROM THE PATIENT'S ROOM TO RECONCILE THE PATIENT'S ACCOUNTS AND TO RETURN ANY MONEYS OWED. THIS SUBSECTION (1.5) APPLIES TO ANY FACILITY, OR A DISTINCT PART OF A FACILITY, THAT MEETS THE STATE NURSING HOME LICENSING STANDARDS SET FORTH IN SECTION 25-1.5-103 (1) (a) (I) AND THE LICENSING REQUIREMENTS SPECIFIED IN SECTION 25-3-101. FOR PURPOSES OF THIS SECTION, "DAILY RENTAL CHARGES" MEANS AN AMOUNT NOT TO EXCEED ONE-THIRTIETH OF THIRTY DAYS' RENTAL AMOUNT PLUS REASONABLE EXPENSES.

SECTION 2. 25-27-104 (2) (e), Colorado Revised Statutes, is amended to read:

25-27-104. Minimum standards for assisted living residences - rules.

(2) Rules promulgated by the state board pursuant to subsection (1) of this section shall include, as a minimum, provisions requiring the following:

(e) Protection of the individual rights of residents either through a written board and care plan or by means of contracts executed with the residents, WHICH BOARD AND CARE PLAN OR CONTRACT SHALL MEET THE REQUIREMENTS STATED IN SECTION 25-27-104.5;

SECTION 3. Article 27 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25-27-104.5. Requirements governing forfeiture of security deposits and rent. IF A LEASE PROVISION IN A RESIDENT CARE PLAN OR IN A CONTRACT SIGNED BY A RESIDENT OF AN ASSISTED LIVING RESIDENCE RESULTS IN OR REQUIRES FORFEITURE OF MORE THAN THIRTY DAYS OF RENT IF A RESIDENT MOVES DUE TO A MEDICAL CONDITION OR DIES DURING THE TERM OF THE PLAN, THEN THE PLAN SHALL BE DEEMED TO BE AGAINST PUBLIC POLICY AND SHALL BE VOID; EXCEPT THAT INCLUSION OF SUCH A PROVISION SHALL NOT RENDER THE REMAINDER OF THE PLAN OR CONTRACT VOID. A LEASE PROVISION IN A WRITTEN BOARD AND CARE PLAN OR IN A CONTRACT THAT REQUIRES FORFEITURE OF RENT FOR THIRTY DAYS AFTER THE RESIDENT MOVES DUE TO A MEDICAL CONDITION OR DIES DOES NOT VIOLATE THIS SECTION. THE PROVISIONS REGARDING FORFEITURE OF RENT SHALL APPEAR ON THE FRONT PAGE OF THE PLAN OR CONTRACT AND SHALL BE PRINTED IN NO LESS THAN TWELVE-POINT BOLD-FACED TYPE. THE PROVISIONS SHALL READ AS FOLLOWS:

THIS LEASE AGREEMENT IS FOR A MONTH-TO-MONTH TENANCY. THE LESSOR SHALL NOT REQUIRE THE FORFEITURE OF RENT BEYOND A THIRTY-DAY PERIOD IF THE LESSEE MOVES DUE TO A MEDICAL CONDITION OR DIES DURING THE TERM OF THE LEASE.

IN CIRCUMSTANCES IN WHICH THE RESIDENT MOVES DUE TO A MEDICAL CONDITION OR DIES DURING THE TERM OF A PLAN OR CONTRACT, THE ASSISTED LIVING RESIDENCE SHALL RETURN THAT PART OF RENT PAID IN EXCESS OF THIRTY DAYS' RENT AFTER A PATIENT MOVES OR DIES TO THE RESIDENT OR THE RESIDENT'S ESTATE. THE ASSISTED LIVING RESIDENCE MAY ASSESS DAILY RENTAL CHARGES FOR ANY DAYS IN WHICH THE FORMER OR DECEASED RESIDENT'S PERSONAL POSSESSIONS REMAIN IN THE RESIDENT'S ROOM AFTER THE TIME PERIOD FOR WHICH THE RESIDENT HAS PAID RENT AND FOR THE USUAL TIME TO CLEAN THE ROOM AFTER THE RESIDENT'S PERSONAL POSSESSIONS HAVE BEEN REMOVED. FOR PURPOSES OF THIS SECTION, "DAILY RENTAL CHARGES" MEANS AN AMOUNT NOT TO EXCEED ONE-THIRTIETH OF THIRTY DAYS' RENTAL AMOUNT PLUS REASONABLE EXPENSES.

SECTION 4. Effective date - applicability. (1) This act shall take effect January 1, 2007.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to resident care plans executed on or after the applicable effective date of this act.

Approved: March 31, 2006