
By: **Chairman, Finance Committee (By Request - Departmental - Aging)**

Introduced and read first time: January 18, 2005

Rules suspended

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Aging - Congregate Housing - Civil Money Penalties**

3 FOR the purpose of altering who may impose civil money penalties against
4 congregate housing providers; altering the process of appealing a civil money
5 penalty; making certain conforming changes; and generally relating to the
6 imposition of civil money against providers of congregate housing services.

7 BY repealing and reenacting, with amendments,
8 Article 70B - Department of Aging
9 Section 4-I
10 Annotated Code of Maryland
11 (2003 Replacement Volume and 2004 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article 70B - Department of Aging**

15 4-I.

16 (a) The [Department] SECRETARY, OR THE SECRETARY'S DESIGNEE, may
17 impose a civil money penalty against a provider of congregate housing services for:

18 (1) A violation in a congregate housing services program that results in
19 conditions presenting an imminent danger or a substantial probability of death or
20 serious physical harm to a resident of the program;

21 (2) A violation of a resident's rights as specified in regulations adopted
22 under this article; or

23 (3) Noncompliance with State or local fire safety regulations.

24 (b) If the Department issues a notice of a violation under subsection (a) of this
25 section, that notice shall provide:

1 (1) The time in which a plan of correction that is acceptable to the
2 Department is to be submitted;

3 (2) The time in which the identified deficiency or deficiencies must be
4 substantially corrected; and

5 (3) That failure to submit an acceptable plan of correction as required by
6 item (1) of this subsection or to correct the identified deficiency or deficiencies as
7 required by item (2) of this subsection may result in an order imposing a civil money
8 penalty under subsection (d) of this section.

9 (c) At the expiration of the time set forth in subsection (b)(2) of this section,
10 the Department shall schedule a reinspection of the facility to determine whether the
11 deficiency or deficiencies have been corrected. Following the reinspection the
12 [Department] SECRETARY, OR THE SECRETARY'S DESIGNEE, may:

13 (1) Extend the time frame in which the deficiency must be corrected; or

14 (2) [Propose imposition of] IMPOSE a civil money penalty under
15 subsection (d) of this section.

16 (d) The [Department] SECRETARY, OR THE SECRETARY'S DESIGNEE, may
17 impose a penalty in the amount of \$20 per violation per resident for each day that a
18 violation remains uncorrected beyond the expiration of the time set forth in
19 subsection (b)(2) of this section. A civil money penalty imposed under this section may
20 not exceed \$1,000 per violation or \$5,000 in total.

21 (e) (1) A provider of congregate housing services may request a reduction of
22 a civil money penalty [imposed by the Department].

23 (2) (i) The request shall be in writing, state the reasons for the
24 request, and be made within 10 days of the provider's receipt of the notice of the
25 imposition of the civil money penalty.

26 (ii) A request for reduction of a civil money penalty does not
27 interrupt the accrual of the penalties under subsection (d) of this section.

28 (3) The Department shall hold an informal conference with the provider
29 on the issue of whether to reduce the civil money penalty within 14 days of receipt of
30 the request for reduction under this subsection.

31 (4) The [Department] SECRETARY, OR THE SECRETARY'S DESIGNEE,
32 shall consider, for the purpose of reduction of the civil money penalty, such factors as
33 the provider's history of violations, the provider's current and past diligence in
34 correcting violations, and other factors which the [Department] SECRETARY, OR THE
35 SECRETARY'S DESIGNEE, considers appropriate.

36 (5) In granting a provider's request for reduction of a civil money
37 penalty, the [Department] SECRETARY, OR THE SECRETARY'S DESIGNEE, shall
38 impose as a condition on reduction of the penalty the correction of all violations.

1 (6) The [Department] SECRETARY, OR THE SECRETARY'S DESIGNEE,
2 shall issue a written determination granting or denying the request for reduction of a
3 civil money penalty stating the reasons for the determination.

4 (f) (1) The [Department] SECRETARY, OR THE SECRETARY'S DESIGNEE,
5 shall provide written notice to the provider of a civil money penalty.

6 (2) The notice of a civil money penalty shall be served on the provider by
7 certified mail and include a [list] STATEMENT specifying each penalty imposed, the
8 regulation or provision violated, the amount of the penalty, the provider's right to
9 request a reduction[, and the provider's right to contest] OF the penalty under
10 subsection (e) of this section, AND HOW TO FILE AN ADMINISTRATIVE APPEAL OF THE
11 PENALTY.

12 (3) [(i) A provider may request a hearing before the Secretary
13 regarding the imposition of a civil money penalty.

14 (ii) The hearing shall be held in accordance with regulations
15 adopted under this article.

16 (iii) A provider may appeal any decision by the Secretary to the
17 Office of Administrative Hearings] IF A CIVIL MONEY PENALTY IS IMPOSED UNDER
18 THIS SECTION, THE PROVIDER SHALL HAVE THE RIGHT TO APPEAL FROM THE
19 ORDER IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
20 ARTICLE.

21 (g) The [Department] SECRETARY, OR THE SECRETARY'S DESIGNEE, may
22 impose a penalty 3 times the amount set forth in subsection (d) of this section on a
23 provider of congregate housing services if a sanction has been imposed on the provider
24 for the same violation within 2 years prior to issuance of the notice of violation.

25 (h) (1) A provider shall pay all penalties to the Department within 10 days
26 after the provider receives a final order imposing a civil money penalty.

27 (2) The order imposing a civil money penalty is final when the provider
28 has exhausted all opportunities to contest the penalty in accordance with subsection
29 (e) or (f) of this section.

30 (3) If a provider does not comply with this section, the Department may
31 file a civil action to recover the penalty.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
33 effect October 1, 2005.