

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL NO. 235

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 6, after “closure;” insert “providing that the nursing home is subject to certain appellate procedures when a civil money penalty is imposed;”; and after line 7, insert:

“BY repealing and reenacting, with amendments,

Article - Health - General

Section 19-1406

Annotated Code of Maryland

(2000 Replacement Volume and 2001 Supplement)”.

AMENDMENT NO. 2

On page 1, after line 20, insert:

“19-1406.

(a) Within 15 days of the request for an appeal by a nursing home, the nursing home shall deposit the amount of the civil money penalty in an interest bearing escrow account, the nursing home shall bear any cost associated with establishing the escrow account, and the account shall be titled in the name of the nursing home and the Department of Health and Mental Hygiene as joint owners.

(b) When the Secretary issues the final decision of the Department:

(1) If the decision upholds the imposition of the full civil money penalty, the escrow funds will be released to the Department within 15 days from the date of the decision;

(2) If the decision upholds the imposition of a civil penalty, but reduces the

(Over)

amount of the civil penalty, the amount due the Department will be released to the Department with accrued interest within 15 days of the date of the decision and the balance will be released to the nursing home within 15 days of the date of the decision; or

(3) If the decision reverses the imposition of the civil penalty, the escrow funds will be released to the nursing home within 15 days of the decision.

(c) (1) A hearing on the appeal shall be held in accordance with the Administrative Procedure Act, under Title 10, Subtitle 2 of the State Government Article.

(2) The Secretary shall have the burden of proof with respect to the imposition of civil money penalties under §§ 19-1404 OR 19-1413.1 of this subtitle.

(3) A decision shall be rendered by the Office of Administrative Hearings within 10 working days of the hearing.

(d) A nursing home is entitled to a 40% reduction in the amount of the civil money penalty if it waives its right to a hearing within 30 days of the Department's order."

AMENDMENT NO. 3

On page 2, in line 11, strike "A PERSON WHO" and substitute "(A) A NURSING HOME THAT"; and strike beginning with the colon in line 11 down through "FOR" in line 14 and substitute "A CIVIL MONEY PENALTY NOT EXCEEDING"; and in the same line, after "OFFICE" insert "OF HEALTH CARE QUALITY"; and after line 15, insert:

"(B) IF A CIVIL MONEY PENALTY IS IMPOSED ON A NURSING HOME UNDER SUBSECTION (A) OF THIS SECTION, THE NURSING HOME IS SUBJECT TO § 19-1406 OF THIS SUBTITLE."