

**ENROLLED BILL**  
-- Finance/Health and Government Operations --

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

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

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:

1

**Article 70B - Department of Aging**

2 4-I.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9                   (4)     The [Department] ~~SECRETARY, OR THE SECRETARY'S DESIGNEE,~~  
10 shall consider, for the purpose of reduction of the civil money penalty, such factors as  
11 the provider's history of violations, the provider's current and past diligence in  
12 correcting violations, and other factors which the [Department] ~~SECRETARY, OR THE~~  
13 ~~SECRETARY'S DESIGNEE,~~ considers appropriate.

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

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

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

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

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

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

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

37                   (g)     The [Department] ~~SECRETARY, OR THE SECRETARY'S DESIGNEE,~~ may  
38 impose a penalty 3 times the amount set forth in subsection (d) of this section on a

1 provider of congregate housing services if a sanction has been imposed on the provider  
2 for the same violation within 2 years prior to issuance of the notice of violation.

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

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

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

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