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

Introduced and read first time: January 18, 2005

Rules suspended

Assigned to: Finance

Committee Report: Favorable

Senate action: Adopted

Read second time: February 8, 2005

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:

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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 [(ii) The hearing shall be held in accordance with regulations
23 adopted under this article.

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

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

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

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

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

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