

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 80

(Chairman, Finance Committee)

(By Request – Departmental – Aging)

Finance

Health and Government Operations

Aging - Congregate Housing - Civil Money Penalties

This departmental bill clarifies that the Secretary of Aging, as opposed to the Department of Aging, may impose a civil penalty against a congregate housing services provider. It also clarifies that a provider's civil penalty appeal operates according to the Administrative Procedures Act, which allows the Secretary to refer an appeal to the Office of Administrative Hearings for adjudication.

Fiscal Summary

State Effect: None. The change is technical in nature and would not directly affect governmental finances.

Local Effect: None.

Small Business Effect: The Department of Aging has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. The attached assessment does not reflect amendments to the bill.

Analysis

Current Law/Background: Congregate housing services are provided in an apartment building and promote independent living. They include congregate meals, housekeeping, and personal services for (1) an individual who is at least 62 and has temporary or periodic problems with one or more essential daily living activity, such as feeding, bathing, grooming, and dressing; and (2) the individual's spouse who is at least 55 and also has temporary or periodic problems with one or more essential daily living activity, such as feeding, bathing, grooming, and dressing.

The department can impose a civil penalty against a congregate housing services provider for (1) a violation that results in the imminent danger or substantial probability of death or serious physical harm to a resident; (2) a violation of resident's rights under regulations; or (3) noncompliance with State or local fire safety regulations. The department may impose a \$20 civil penalty per violation, per resident, per day against the provider. The maximum penalty is \$1,000 per violation or \$5,000 total.

Providers that receive a civil penalty may request a hearing before the Secretary of Aging. The hearing must be held according to regulations adopted under this statute. Providers can appeal the Secretary's decision to the Office of Administrative Hearings.

This bill is proposed as a result of questions raised by the Department of Legislative Services during the code revision process of Article 70B – Department of Aging. In one section of statute it states that the Secretary of Aging can impose a civil penalty upon a congregate housing services provider. However, another section of statute states that the department may impose the civil penalty. As a result, a departmental employee could impose a civil penalty upon a provider without the Secretary's approval.

Before 1993, Section 4I of Article 70B dealt with two forms of housing services programs generically called "sheltered housing." In 1993, the then Office on Aging received legislative authority to issue civil penalties for violations of the sheltered housing program. When the assisted living law was reformed in 1996, the sheltered housing provisions were modified because one of the two sheltered housing programs was largely usurped by the new assisted living statute. The congregate housing program remained.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Aging, Department of Legislative Services

Fiscal Note History: First Reader - February 1, 2005
mll/jr Revised - Enrolled Bill - May 3, 2005

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