

AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 357

Introduced by Assembly Member Correa

February 16, 2001

An act to amend Section 1812.86 of the Civil Code, relating to health studio contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 357, as amended, Correa. Health studio contracts.

Existing law prohibits a contract for health studio services from requiring payment by the person receiving the services for the use of the facilities of a total amount in excess of \$1,000.

This bill would instead provide that a contract for health studio services may not require payment by the person receiving the services in an amount exceeding ~~\$5,000~~ \$2,000. The bill would create exceptions to this ~~\$5,000~~ \$2,000 limit for a health studio that has been doing business in this state for more than 5 years and a health studio that has been doing business in this state for less than 5 years that maintains a specified bond when consumers can cancel their contracts for health studio services and receive a refund for their unused portion and the health studio has been in business for more than 3 years or maintains a bond issued by a surety company in a specified amount, depending on how long the health studio has been in business. The bill would require a copy of the bond to be filed with the Secretary of State and require a declaration signed under penalty of perjury by the owner of the health studio in specified circumstances.

Because this bill would expand the scope of the crime of perjury, it would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1812.86 of the Civil Code is amended
 2 to read:
 3 1812.86. (a) Except as provided in subdivision (c), no
 4 contract for health studio services shall require payment by the
 5 person receiving the services for the use of the facilities of a total
 6 amount in excess of the amount specified in subdivision (b).
 7 (b) The limit specified in subdivision (a) shall, on January 1,
 8 2002, be ~~five~~ *two* thousand dollars ~~(\$5,000)~~ *(\$2,000)*, exclusive of
 9 interest or finance charges.
 10 (c) ~~(1)~~—A contract for health studio services may exceed the
 11 amount specified in subdivision (b) if ~~the health studio has been~~
 12 ~~doing business in this state for at least five years.~~
 13 ~~(2)~~—A contract for health studio services may exceed the amount
 14 specified in subdivision (b) if the health studio has been doing
 15 business in this state for less than five years and the health studio
 16 maintains a bond issued by a surety company admitted to do
 17 business in this state. The principal sum of the bond shall be 25
 18 percent of the health studio’s gross income from the health studio’s
 19 business in this state during the health studio’s last fiscal year,
 20 except that the principal sum of the bond shall not be less than
 21 twenty-five thousand dollars ~~(\$25,000)~~ or more than five hundred
 22 thousand dollars ~~(\$500,000)~~. If the health studio was not doing
 23 business in this state during the previous year, the principal sum
 24 of the bond for the health studio’s first year of doing business in
 25 this state shall be not less than fifty thousand dollars ~~(\$50,000)~~.
 26 *both of the following conditions are satisfied.*



1 (1) *The contract establishes the right of the consumer to cancel*
2 *the contract at any time during the term of the contract, in which*
3 *case the consumer shall be liable only for that portion of the total*
4 *contract payment which has been used by the consumer. The used*
5 *portion of the contract shall be calculated at the nondiscounted*
6 *rate for that type of contract and shall exclude initiation fees. The*
7 *payment for the portion of the contract that was not used by the*
8 *consumer shall be returned to the consumer by the health studio.*
9 *However, the contract may provide that a consumer who cancels*
10 *for a reason other than specified in subdivision (a) or (b) of Section*
11 *1812.89 is liable for not less than one thousand dollars (\$1,000).*
12 *The right of cancellation set forth by this section is in addition to*
13 *the cancellation rights set forth in Section 1812.85.*

14 (2) *The health studio has been doing business in this state for*
15 *more than three years under the same management and control, or*
16 *the health studio doing business in this state for three years or less*
17 *maintains a bond issued by a surety company admitted to do*
18 *business in this state.*

19 (A) *The principal sum of the bond shall be 25 percent of the*
20 *health studio's gross income from the health studio's business in*
21 *this state during the health studio's last fiscal year, except that the*
22 *principal sum of the bond shall not be less than one hundred*
23 *thousand dollars (\$100,000) if the health studio has been in*
24 *business for less than one fiscal year or its gross income in its last*
25 *fiscal year was less than four hundred thousand dollars*
26 *(\$400,000).*

27 ~~(A)~~

28 (B) *The bond required by this paragraph shall be in favor of,*
29 *and payable to, the people of the State of California and shall be*
30 *for the benefit of a person or persons damaged by a violation of this*
31 *title.*

32 ~~(B)~~

33 (C) *A copy of the bond required by this paragraph shall be filed*
34 *with the Secretary of State. If the principal sum of the bond is less*
35 *than five hundred thousand dollars (\$500,000), the health studio*
36 *shall also file with the Secretary of State a declaration signed under*
37 *penalty of perjury by the owner of the health studio stating the*
38 *health studio's gross income from the health studio's business in*
39 *this state during the last fiscal year. The information contained in*
40 *the declaration shall not be subject to public inspection. This*



1 declaration shall not be required of the owner of the health studio
2 for the first fiscal year of doing business in this state.

3 ~~(C)~~

4 (D) The Secretary of State shall enforce the provisions of this
5 title that govern the filing and maintenance of bonds.

6 ~~(D)~~

7 (E) The Secretary of State shall charge and collect a filing fee
8 not to exceed the cost of filing the bond.

9 (d) Every health studio that posts a bond pursuant to paragraph
10 (2) of subdivision (c) shall include in every contract for health
11 studio services a statement that the health studio is bonded and that
12 a copy of the bond may be obtained by writing to the office of the
13 Secretary of State.

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

