

AMENDED IN ASSEMBLY APRIL 30, 2001

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 ~~\$2,000~~ \$3,000. The bill would create exceptions to this \$2,000 limit 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 ~~two~~ three thousand dollars (~~\$2,000~~) (\$3,000), exclusive
9 of interest or finance charges.

10 (c) A contract for health studio services may exceed the amount
11 specified in subdivision (b) if both of the following conditions are
12 satisfied::

13 (1) The contract establishes the right of the consumer to cancel
14 the contract at any time during the term of the contract, in which
15 case the consumer shall be liable only for that portion of the total
16 contract payment which has been used by the consumer. The used
17 portion of the contract shall be calculated at the nondiscounted rate
18 for that type of contract and shall exclude initiation fees. The
19 payment for the portion of the contract that was not used by the
20 consumer shall be returned to the consumer by the health studio.
21 However, the contract may provide that a consumer who cancels
22 for a reason other than specified in subdivision (a) or (b) of Section
23 1812.89 is liable for not less than one thousand dollars (\$1,000).
24 The right of cancellation set forth by this section is in addition to
25 the cancellation rights set forth in Section 1812.85.

26 (2) The health studio has been doing business in this state for
27 more than three years under the same management and control, or
28 the health studio doing business in this state for three years or less



1 maintains a bond issued by a surety company admitted to do
2 business in this state.

3 (A) The principal sum of the bond shall be 25 percent of the
4 health studio's gross income from the health studio's business in
5 this state during the health studio's last fiscal year, except that the
6 principal sum of the bond shall not be less than one hundred
7 thousand dollars (\$100,000) if the health studio has been in
8 business for less than one fiscal year or its gross income in its last
9 ~~fiscal~~ *fiscal* year was less than four hundred thousand dollars
10 (\$400,000).

11 (B) The bond required by this paragraph shall be in favor of,
12 and payable to, the people of the State of California and shall be
13 for the benefit of a person or persons damaged by a violation of this
14 title.

15 (C) A copy of the bond required by this paragraph shall be filed
16 with the Secretary of State. If the principal sum of the bond is less
17 than five hundred thousand dollars (\$500,000), the health studio
18 shall also file with the Secretary of State a declaration signed under
19 penalty of perjury by the owner of the health studio stating the
20 health studio's gross income from the health studio's business in
21 this state during the last fiscal year. The information contained in
22 the declaration shall not be subject to public inspection. This
23 declaration shall not be required of the owner of the health studio
24 for the first fiscal year of doing business in this state.

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

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

29 (d) Every health studio that posts a bond pursuant to paragraph
30 (2) of subdivision (c) shall include in every contract for health
31 studio services a statement that the health studio is bonded and that
32 a copy of the bond may be obtained by writing to the office of the
33 Secretary of State.

34 SEC. 2. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section 17556 of
40 the Government Code, or changes the definition of a crime within



- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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