

AMENDED IN SENATE MARCH 31, 2011

SENATE BILL

No. 897

Introduced by Senator Leno

*(Coauthors: Assembly Members Blumenfield, Huffman, Monning,
Portantino, and Skinner)*

February 18, 2011

An act to add Section 1569.686 to the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

SB 897, as amended, Leno. Residential care facilities for the elderly.

Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services. Existing law authorizes the director to take enforcement action, including, but not limited to, actions to suspend or revoke a license and to impose civil penalties for violations. Under existing law, a violation of these provisions is a crime.

This bill would enact the RCFE Residents Foreclosure Protection Act of 2011 which would, with certain exceptions, require the licensee of a facility to notify the department and the State Long-Term Care Ombudsman in writing within 2 business days of specified events or obtaining knowledge of events, and would authorize the department to initiate a compliance plan, noncompliance conference, or other appropriate action upon receipt of the notification.

This bill would require the licensee of a facility, with certain exceptions, to notify the department, the State Long-Term Care Ombudsman, and all residents, applicants, and, if applicable, their legal representatives, of other specified events, and would require the

department to initiate a compliance plan, noncompliance conference, or other appropriate action upon receipt of this notice.

By expanding the definition of an existing crime, this bill would impose 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. This act shall be known, and may be cited, as the
2 RCFE Residents Foreclosure Protection Act of 2011.

3 SEC. 2. The Legislature finds and declares all of the following:

4 (a) There are currently approximately 8,000 residential care
5 facilities for the elderly (RCFEs) in California.

6 (b) The vast majority of RCFEs are located in single-family
7 dwellings, with a mortgage on the property.

8 (c) The best interests of the residents of RCFEs requires
9 procedures to ensure that they are notified and protected whenever
10 their home is subject to a foreclosure or other event indicating
11 significant financial distress.

12 (d) Therefore, it is the intent of the Legislature in enacting this
13 act to establish procedures to protect RCFE residents by providing
14 them and the state with information when an RCFE is suffering
15 foreclosure proceedings or experiencing financial distress.

16 SEC. 3. Section 1569.686 is added to the Health and Safety
17 Code, to read:

18 1569.686. (a) Within two business days of any event, or
19 obtaining knowledge of any event, described in subdivision (b),
20 the licensee of a residential care facility for the elderly shall notify
21 the department and the State Long-Term Care Ombudsman in
22 writing of the event. This notification may be provided by
23 telephone facsimile, overnight mail, or by telephone with a written
24 confirmation within five calendar days after the telephone call.
25 Upon receipt of the notification, the department may initiate a

1 compliance plan, noncompliance conference, or other appropriate
2 action.

3 (b) Any of the following events requires notification pursuant
4 to subdivision (a):

5 (1) Failure to make one or more mortgage, lease, or rental
6 payments on the property within 30 days of the due date.

7 (2) A utility company has sent notice of intent to terminate a
8 utility on the property. For the purposes of this paragraph, “utility
9 company” means a provider of electricity, gas, or water services.

10 (3) A financial institution refuses to honor a check or other
11 instrument issued by the licensee to its employees for a regular
12 payroll due to insufficient funds.

13 (c) A licensee shall notify the department, the State Long-Term
14 Care Ombudsman, all residents, and, if applicable, their legal
15 representatives, in writing, within two business days, and shall
16 notify all applicants for potential residence, and, if applicable, their
17 legal representatives, prior to admission, of any of the following
18 events, or knowledge of the event:

19 (1) A notice of default, notice of trustee’s sale, or any other
20 indication of foreclosure is issued on the property.

21 (2) An unlawful detainer action is initiated against the licensee.

22 (3) The licensee files for bankruptcy.

23 (d) Upon receipt of the notice required pursuant to subdivision
24 (c), the department shall initiate a compliance plan, noncompliance
25 conference, or other appropriate action.

26 (e) A licensee who fails to comply with this section ~~shall~~ *may*
27 ~~be liable for immediate civil penalties in the amount of one hundred~~
28 *liable for civil penalties in an amount not to exceed one hundred*
29 dollars (\$100) for each day of the failure to provide notification
30 required in this section. The total civil penalty shall not exceed
31 two thousand dollars (\$2,000). If a resident is relocated without
32 the notification required by this section, and suffers transfer trauma
33 or other harm to his or her health or safety, the department may
34 also suspend or revoke the licensee’s license and issue a permanent
35 revocation of the licensee’s ability to operate or act as an
36 administrator of a facility anywhere in the state. Suspension or
37 revocation proceedings pursuant to this subdivision shall be
38 conducted in compliance with Section 1569.51.

1 (f) For purposes of this section, “property” means the land or
2 building in which a residential care facility for the elderly is
3 located.

4 (g) This section shall not apply to licensees of residential care
5 facilities for the elderly that have obtained a certificate of authority,
6 as defined in paragraph (5) of subdivision (c) of Section 1771, to
7 offer continuing care contracts, as defined in paragraph (8) of
8 subdivision (c) of Section 1771.

9 SEC. 4. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.