

AMENDED IN ASSEMBLY AUGUST 31, 2011

AMENDED IN SENATE MAY 17, 2011

AMENDED IN SENATE MARCH 31, 2011

SENATE BILL

No. 897

Introduced by Senator Leno

(Coauthor: Senator Hancock)

(Coauthors: Assembly Members Alejo, Block, 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 ~~State Long-Term Care Ombudsman in writing within 2 business days of specified events or obtaining knowledge of events.~~

~~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, *in writing within 2 business days 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 State Long-Term Care Ombudsman in writing of the event.~~
- 22 ~~This notification may be provided by telephone facsimile, overnight~~

1 ~~mail, or by telephone with a written confirmation within five~~
2 ~~calendar days after the telephone call.~~

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)–~~

14 ~~1569.686. (a) A licensee shall notify the department, the State~~
15 ~~Long-Term Care Ombudsman, all residents, and, if applicable,~~
16 ~~their legal representatives, in writing, within two business days,~~
17 ~~and shall notify all applicants for potential residence, and, if~~
18 ~~applicable, their legal representatives, prior to admission, of any~~
19 ~~of the following events, or knowledge of the event:~~

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

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

23 ~~(3) The licensee files for bankruptcy.~~

24 ~~(4) The licensee receives a written notice of default of payment~~
25 ~~of rent described in Section 1161 of the Code of Civil Procedure.~~

26 ~~(5) A utility company has sent a notice of intent to terminate~~
27 ~~electricity, gas, or water service on the property within not more~~
28 ~~than 15 days of the notice.~~

29 ~~(d)~~

30 ~~(b) Upon receipt of the notice required pursuant to subdivision~~
31 ~~(c)– (a), the department shall initiate a compliance plan,~~
32 ~~noncompliance conference, or other appropriate action.~~

33 ~~(e)~~

34 ~~(c) A licensee who fails to comply with this section may be~~
35 ~~liable for civil penalties in an amount not to exceed one hundred~~
36 ~~dollars (\$100) for each day of the failure to provide notification~~
37 ~~required in this section. The total civil penalty shall not exceed~~
38 ~~two thousand dollars (\$2,000). If a resident is relocated without~~
39 ~~the notification required by this section, and suffers transfer trauma~~
40 ~~or other harm to his or her health or safety, the department may~~

1 also suspend or revoke the licensee's license and issue a permanent
2 revocation of the licensee's ability to operate or act as an
3 administrator of a facility anywhere in the state. Suspension or
4 revocation proceedings pursuant to this subdivision shall be
5 conducted in compliance with Section 1569.51.

6 ~~(f)~~

7 (d) For purposes of this section, "property" means the land or
8 building in which a residential care facility for the elderly is
9 located.

10 ~~(g)~~

11 (e) This section shall not apply to licensees of residential care
12 facilities for the elderly that have obtained a certificate of authority,
13 as defined in paragraph (5) of subdivision (c) of Section 1771, to
14 offer continuing care contracts, as defined in paragraph (8) of
15 subdivision (c) of Section 1771.

16 SEC. 4. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.