

AMENDED IN SENATE APRIL 29, 2013

SENATE BILL

No. 781

Introduced by Senator Lara

February 22, 2013

An act to amend Section ~~1245.060~~ of the Code of Civil Procedure, relating to civil actions ~~1792.7~~ of the Health and Safety Code, relating to continuing care contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 781, as amended, Lara. ~~Eminent domain: precondemnation activities.~~ *Continuing care contracts.*

Existing law provides for the regulation by the State Department of Social Services of activities relating to continuing care contracts that govern care provided to an elderly resident in a continuing care retirement community for the duration of the resident's life or a term in excess of one year. Existing law imposes certain financial reporting and reserve requirements on providers of continuing care. Existing law requires that a provider that has entered into a Type A contract, as defined, file with the department an actuary's opinion as to the actuarial financial condition of the provider's continuing care operations.

This bill would additionally require a provider that has entered into a Type A contract to make the above-described actuarial opinion available online or to a current resident upon request.

~~Existing law authorizes any person authorized to acquire property for a particular use by eminent domain to enter upon property to engage in specified precondemnation activities that are reasonably related to acquisition or use of the property. Existing law provides that if the entry and activities upon the property cause actual damage to or substantial~~

interference with the possession or use of the property, the owner may recover for the damage or interference in a civil action.

~~This bill would make technical, nonsubstantive changes to this provision of law.~~

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

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

1 SECTION 1. *Section 1792.7 of the Health and Safety Code is*
2 *amended to read:*

3 1792.7. (a) The Legislature finds and declares all of the
4 following:

5 (1) In continuing care contracts, providers offer a wide variety
6 of living accommodations and care programs for an indefinite or
7 extended number of years in exchange for substantial payments
8 by residents.

9 (2) The annual reporting and reserve requirements for each
10 continuing care provider should include a report that summarizes
11 the provider’s recent and projected performance in a form useful
12 to residents, prospective residents, and the department.

13 (3) Certain providers enter into “life care contracts” or similar
14 contracts with their residents. Periodic actuarial studies that
15 examine the actuarial financial condition of these providers will
16 help to assure their long-term financial soundness.

17 (b) Each provider shall annually file with the department a report
18 that shows certain key financial indicators for the provider’s past
19 five years, based on the provider’s actual experience, and for the
20 upcoming five years, based on the provider’s projections. Providers
21 shall file their key indicator reports in the manner required by
22 Section 1792.9 and in a form prescribed by the department.

23 (c) Each provider that has entered into Type A contracts shall
24 file with the department an actuary’s opinion as to the actuarial
25 financial condition of the provider’s continuing care operations in
26 the manner required by Section 1792.10, *and shall make the*
27 *actuary’s opinion available online or to a current resident upon*
28 *request.*

29 ~~SECTION 1. Section 1245.060 of the Code of Civil Procedure~~
30 ~~is amended to read:~~

1 ~~1245.060.— (a) If the entry and activities upon property cause~~
2 ~~actual damage to or substantial interference with the possession~~
3 ~~or use of the property, whether or not a claim has been presented~~
4 ~~in compliance with Part 3 (commencing with Section 900) of~~
5 ~~Division 3.6 of Title 1 of the Government Code, the owner may~~
6 ~~recover for the damage or interference in a civil action or by~~
7 ~~application to the court under subdivision (e).~~
8 ~~(b) The prevailing claimant in an action or proceeding under~~
9 ~~this section shall be awarded his or her costs and, if the court finds~~
10 ~~that any of the following occurred, his or her litigation expenses~~
11 ~~incurred in proceedings under this article:~~
12 ~~(1) The entry was unlawful.~~
13 ~~(2) The entry was lawful but the activities upon the property~~
14 ~~were abusive or lacking in due regard for the interests of the owner.~~
15 ~~(3) There was a failure to comply substantially with the terms~~
16 ~~of an order made under Section 1245.030 or 1245.040.~~
17 ~~(e) If funds are on deposit under this article, upon application~~
18 ~~of the owner, the court shall determine and award the amount the~~
19 ~~owner is entitled to recover under this section and shall order such~~
20 ~~amount paid out of the funds on deposit. If the funds on deposit~~
21 ~~are insufficient to pay the full amount of the award, the court shall~~
22 ~~enter judgment for the unpaid portion.~~
23 ~~(d) Nothing in this section affects the availability of any other~~
24 ~~remedy the owner may have for the damaging of his or her~~
25 ~~property.~~