

**ASSEMBLY BILL**

**No. 1724**

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**Introduced by Assembly Member Richter**

February 2, 1998

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An act to repeal and add Section 11462 of, and to repeal Sections 11462.01, 11462.05, and 11462.06 of, the Welfare and Institutions Code, relating to human services, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1724, as introduced, Richter. Foster care rates.

Existing law provides for the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which payments are provided to foster care homes on behalf of low-income children.

Under existing law, the State Department of Social Services sets AFDC-FC rates for foster group homes, in accordance with specified requirements.

This bill would transfer this ratesetting authority to each county.

Since state funds are continuously appropriated to pay for a share of the cost of AFDC-FC payments, the bill would, by allowing counties to increase rates, constitute an appropriation.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 11462 of the Welfare and  
2 Institutions Code is repealed.

3 ~~11462. (a) (1) Effective July 1, 1990, foster care~~  
4 ~~providers licensed as group homes, as defined in~~  
5 ~~departmental regulations, including public child care~~  
6 ~~institutions, as defined in Section 11402.5, shall have rates~~  
7 ~~established by classifying each group home program and~~  
8 ~~applying the standardized schedule of rates. The~~  
9 ~~department shall collect information from group~~  
10 ~~providers beginning January 1, 1990, in order to classify~~  
11 ~~each group home program.~~

12 ~~(2) Notwithstanding paragraph (1), foster care~~  
13 ~~providers licensed as group homes shall have rates~~  
14 ~~established only if the group home is organized and~~  
15 ~~operated on a nonprofit basis as required under~~  
16 ~~subdivision (h) of Section 11400. The department shall~~  
17 ~~terminate the rate effective January 1, 1993, of any group~~  
18 ~~home not organized and operated on a nonprofit basis as~~  
19 ~~required under subdivision (h) of Section 11400.~~

20 ~~(b) A group home program shall be initially classified,~~  
21 ~~for purposes of emergency regulations, according to the~~  
22 ~~level of care and services to be provided using a point~~  
23 ~~system developed by the department and described in~~  
24 ~~the report, "The Classification of Group Home Programs~~  
25 ~~under the Standardized Schedule of Rates System,"~~  
26 ~~prepared by the State Department of Social Services,~~  
27 ~~August 30, 1989.~~

28 ~~(c) The rate for each rate classification level (RCL)~~  
29 ~~has been determined by the department with data from~~  
30 ~~the AFDC-FC Group Home Rate Classification Pilot~~  
31 ~~Study. The rates effective July 1, 1990, were developed~~  
32 ~~using 1985 calendar year costs and reflect adjustments to~~  
33 ~~the costs for each fiscal year, starting with the 1986-87~~  
34 ~~fiscal year, by the amount of the California Necessities~~  
35 ~~Index computed pursuant to the methodology described~~  
36 ~~in Section 11453. The data obtained by the department~~  
37 ~~using 1985 calendar year costs shall be updated and~~  
38 ~~revised by January 1, 1993.~~



1 ~~(d) As used in this section, “standardized schedule of~~  
2 ~~rates” means a listing of the 14 rate classification levels,~~  
3 ~~the single rate established for each RCL, and the rate~~  
4 ~~floor for each RCL.~~

5 ~~(e) The standardized schedule of rates shall be phased~~  
6 ~~in commencing July 1, 1990.~~

7 ~~(1) In order to phase in the standardized schedule of~~  
8 ~~rates, a “rate floor” has been established for each RCL.~~

9 ~~(2) The rate floor for fiscal year 1990-91 shall be 85~~  
10 ~~percent of the standard rate for each RCL. The rate floor~~  
11 ~~shall be increased to 92.5 percent of the standard rate for~~  
12 ~~fiscal year 1991-92 for each RCL, shall be equal to the~~  
13 ~~standard rate for each RCL for the period July 1, 1992, to~~  
14 ~~September 13, 1992, inclusive, and shall be 92.5 percent~~  
15 ~~of the standard rate for each RCL for the period~~  
16 ~~September 14, 1992, to June 30, 1993, inclusive.~~

17 ~~(3) The rate floor for each RCL shall be 95 percent of~~  
18 ~~the standard rate for each RCL for the 1993-94 fiscal year.~~  
19 ~~The rate floor shall be equal to the standard rate for each~~  
20 ~~RCL for the 1994-95 fiscal year and beyond.~~

21 ~~(f) Except as specified in paragraph (1), the~~  
22 ~~department shall determine the RCL for each group~~  
23 ~~home program on a prospective basis, according to the~~  
24 ~~level of care and services that the group home operator~~  
25 ~~projects will be provided during the period of time for~~  
26 ~~which the rate is being established.~~

27 ~~(1) For a group home program for which the~~  
28 ~~department established a rate effective prior to June 30,~~  
29 ~~1990, that took into account the program’s historical costs,~~  
30 ~~the department shall establish the rate for fiscal year~~  
31 ~~1990-91 by determining the RCL on a retrospective basis,~~  
32 ~~according to the level of care and services actually~~  
33 ~~provided between July 1 and December 31, 1989, or~~  
34 ~~between July 1, 1989, and March 31, 1990.~~

35 ~~(2) Group home programs that fail to maintain at least~~  
36 ~~the level of care and services associated with the RCL~~  
37 ~~upon which their rate was established shall inform the~~  
38 ~~department. The department shall develop regulations~~  
39 ~~specifying procedures to be applied when a group home~~  
40 ~~fails to maintain the level of services projected, including,~~



1 but not limited to, rate reduction and recovery of  
2 overpayments.

3 (3) The department shall not reduce the rate, establish  
4 an overpayment, or take other actions pursuant to  
5 paragraph (2) for any period that a group home program  
6 maintains the level of care and services associated with  
7 the RCL for children actually residing in the facility.  
8 Determinations of levels of care and services shall be  
9 made in the same way as modifications of overpayments  
10 are made pursuant to paragraph (2) of subdivision (b) of  
11 Section 11466.2.

12 (4) Beginning July 1, 1994, for group homes paid at  
13 rates below the standard rate established by subdivision  
14 (g), a group home program shall remain at its current  
15 RCL if it maintains at least the level of care and services  
16 associated with that percentage of the points required to  
17 be at that RCL that equals the percentage of the standard  
18 rate used to establish the group home's rate. In no event,  
19 however, shall points per child per month be reduced  
20 more than 10 points below the minimum required for the  
21 current RCL. The RCL for a program shall not increase  
22 due to the operation of this paragraph absent any  
23 program changes approved by the department pursuant  
24 to subdivision (k).

25 (5) A group home program that substantially changes  
26 its staffing pattern from that reported in the group home  
27 program statement shall provide notification of this  
28 change to all counties that have placed children currently  
29 in care. This notification shall be provided whether or not  
30 the RCL for the program may change as a result of the  
31 change in staffing pattern.

32 (g) The standardized schedule of rates for fiscal year  
33 1990-91 is:

		FY 1990-91	
Rate			
Classification		Standard	Rate
Level	Point Ranges	Rate	Floor
			(85%)
†	Under 60	\$1,183	\$1,006



1	2	<del>60-89</del>	1,478	1,256
2	3	<del>90-119</del>	1,773	1,507
3	4	<del>120-149</del>	2,067	1,757
4	5	<del>150-179</del>	2,360	2,006
5	6	<del>180-209</del>	2,656	2,258
6	7	<del>210-239</del>	2,950	2,508
7	8	<del>240-269</del>	3,245	2,758
8	9	<del>270-299</del>	3,539	3,008
9	10	<del>300-329</del>	3,834	3,259
10	11	<del>330-359</del>	4,127	3,508
11	12	<del>360-389</del>	4,423	3,760
12	13	<del>390-419</del>	4,720	4,012
13	14	<del>420 &amp; Up</del>	5,013	4,261

15 ~~(h) (1) For fiscal year 1990-91, the standardized~~  
 16 ~~schedule of rates shall be implemented as follows:~~

17 ~~(A) Any group home program which received an~~  
 18 ~~AFDC-FC rate in the prior fiscal year below the standard~~  
 19 ~~rate for the fiscal year 1990-91 RCL shall receive their~~  
 20 ~~1989-90 rate plus an amount equal to the California~~  
 21 ~~Necessities Index (CNI). The rate for fiscal year 1990-91~~  
 22 ~~at which the state will participate shall not exceed the~~  
 23 ~~standard rate for the RCL.~~

24 ~~(B) If the CNI increase to the group home program's~~  
 25 ~~fiscal year 1989-90 rate does not raise the group home~~  
 26 ~~program to the rate floor for the RCL, the group home~~  
 27 ~~program shall receive a rate equal to the rate floor for the~~  
 28 ~~RCL.~~

29 ~~(C) A group home program which received an~~  
 30 ~~AFDC-FC rate for fiscal year 1989-90 at or above the~~  
 31 ~~standard rate for the RCL for fiscal year 1990-91 shall~~  
 32 ~~continue to receive that fiscal year 1989-90 rate.~~

33 ~~(2) For that portion of the 1998-99 fiscal year,~~  
 34 ~~commencing on November 1, 1998, and the 1999-2000~~  
 35 ~~fiscal year, the standardized rate for each RCL shall be~~  
 36 ~~adjusted by an amount equal to the California Necessities~~  
 37 ~~Index computed pursuant to the methodology described~~  
 38 ~~in Section 11453.~~

39 ~~(A) Any group home program which received an~~  
 40 ~~AFDC-FC rate in the prior fiscal year at or above the~~



1 ~~adjusted standard rate for the RCL in the current fiscal~~  
2 ~~year shall continue to receive that rate.~~

3 ~~(B) A group home program which received an~~  
4 ~~AFDC-FC rate in the prior fiscal year below the standard~~  
5 ~~rate for the RCL in the current fiscal year shall receive~~  
6 ~~that rate adjusted by an amount equal to the CNI. The~~  
7 ~~rate for the current fiscal year shall not exceed the~~  
8 ~~standard rate for the RCL and shall not be less than the~~  
9 ~~rate floor for the RCL.~~

10 ~~(3) Beginning with the 2000-01 fiscal year, the~~  
11 ~~standardized schedule of rates shall be adjusted annually~~  
12 ~~by an amount equal to the CNI computed pursuant to~~  
13 ~~Section 11453, subject to the availability of funds.~~

14 ~~(A) Any group home program which received an~~  
15 ~~AFDC-FC rate in the prior fiscal year at or above the~~  
16 ~~adjusted standard rate for the RCL in the current fiscal~~  
17 ~~year shall continue to receive that rate.~~

18 ~~(B) Any group home program which received an~~  
19 ~~AFDC-FC rate in the prior fiscal year below the adjusted~~  
20 ~~standard rate for the RCL in the current fiscal year shall~~  
21 ~~receive the adjusted RCL rate.~~

22 ~~(i) (1) (A) The rate for a new group home program~~  
23 ~~of a new or existing provider shall be established at the~~  
24 ~~rate floor for the new program's projected RCL.~~

25 ~~(B) On and after the operative date of this~~  
26 ~~subparagraph, the department shall not, prior to July 1,~~  
27 ~~1993, establish a rate for a new group home program of a~~  
28 ~~new or existing provider.~~

29 ~~(2) The department shall not establish a rate for a new~~  
30 ~~program of a new or existing provider unless the provider~~  
31 ~~submits a recommendation from the host county, the~~  
32 ~~primary placing county, or a regional consortium of~~  
33 ~~counties that the program is needed in that county; that~~  
34 ~~the provider is capable of effectively and efficiently~~  
35 ~~operating the program; and that the provider is willing~~  
36 ~~and able to accept AFDC-FC children for placement who~~  
37 ~~are determined by the placing agency to need the level~~  
38 ~~of care and services that will be provided by the program.~~

39 ~~(3) The department shall encourage the~~  
40 ~~establishment of consortia of county placing agencies on~~



1 a regional basis for the purpose of making decisions and  
2 recommendations about the need for, and use of, group  
3 home programs and other foster care providers within  
4 the regions.

5 (4) The department shall annually conduct a  
6 county by county survey to determine the unmet  
7 placement needs of children placed pursuant to Sections  
8 300 and Section 601 or 602, and shall publish its findings  
9 by November 1 of each year.

10 (j) The department shall develop regulations  
11 specifying ratesetting procedures for program  
12 expansions, reductions, or modifications, including  
13 increases or decreases in licensed capacity, or increases or  
14 decreases in level of care or services.

15 (k) (1) For the purpose of this subdivision, “program  
16 change” means any alteration to an existing group home  
17 program planned by a provider that will increase the  
18 RCL or AFDC-FC rate. An increase in the licensed  
19 capacity or other alteration to an existing group home  
20 program that does not increase the RCL or AFDC-FC  
21 rate shall not constitute a program change.

22 (2) (A) Prior to July 1, 1993, the rate for a group home  
23 program shall not increase, as the result of a program  
24 change, from the rate established for the program  
25 effective June 30, 1992. For rate increases as a result of a  
26 program change which became effective between July 1,  
27 1992, and the effective date of this paragraph, the  
28 department shall adjust rates downward as necessary to  
29 comply with this chapter. Notwithstanding any other  
30 provisions of law, a group home provider shall be allowed  
31 to change a group home program to reflect a decrease in  
32 services due to the provisions of this paragraph.

33 (B) For the 1993-94 fiscal year, the rate for a group  
34 home program shall not increase, as the result of a  
35 program change, from the rate established for the  
36 program effective July 1, 1993, except as provided in  
37 paragraph (3).

38 (C) For the 1994-95 fiscal year, the 1995-96 fiscal year,  
39 the 1996-97 fiscal year, and the 1997-98 fiscal year, the  
40 rate for a group home program shall not increase, as the



1 result of a program change, from the rate established for  
2 the program effective July 1, 1994, except as provided in  
3 paragraph (3):

4 (3) (A) For the 1993-94 fiscal year, the 1994-95 fiscal  
5 year, the 1995-96 fiscal year, the 1996-97 fiscal year, and  
6 the 1997-98 fiscal year, the department shall not establish  
7 a rate for a new program of a new or existing provider or  
8 approve a program change for an existing provider that  
9 either increases the program's RCL or AFDC-FC rate, or  
10 increases the licensed capacity of the program as a result  
11 of decreases in another program with a lower RCL or  
12 lower AFDC-FC rate that is operated by that provider,  
13 unless both of the conditions specified in this paragraph  
14 are met.

15 (i) The licensee obtains a letter of recommendation  
16 from the host county, primary placing county, or regional  
17 consortium of counties regarding the proposed program  
18 change or new program.

19 (ii) The county determines that there is no increased  
20 cost to the General Fund.

21 (B) Notwithstanding \_\_\_\_\_ subparagraph \_\_\_\_\_ (A), \_\_\_\_\_ the  
22 department may grant a request for a new program or  
23 program change, not to exceed 25 beds, statewide, if (i)  
24 the licensee obtains a letter of recommendation from the  
25 host county, primary placing county, or regional  
26 consortium of counties regarding the proposed program  
27 change or new program, and (ii) the new program or  
28 program change will result in a reduction of referrals to  
29 state hospitals during the 1993-94 fiscal year, the 1994-95  
30 fiscal year, the 1995-96 fiscal year, the 1996-97 fiscal year,  
31 or the 1997-98 fiscal year.

32 (l) General \_\_\_\_\_ unrestricted \_\_\_\_\_ or \_\_\_\_\_ undesignated \_\_\_\_\_ private  
33 charitable \_\_\_\_\_ donations \_\_\_\_\_ and \_\_\_\_\_ contributions \_\_\_\_\_ made \_\_\_\_\_ to  
34 charitable \_\_\_\_\_ or \_\_\_\_\_ nonprofit \_\_\_\_\_ organizations \_\_\_\_\_ shall \_\_\_\_\_ not \_\_\_\_\_ be  
35 deducted from the cost of providing services pursuant to  
36 this section. The donations and contributions shall not be  
37 considered \_\_\_\_\_ in \_\_\_\_\_ any \_\_\_\_\_ determination \_\_\_\_\_ of \_\_\_\_\_ maximum  
38 expenditures made by the department.

39 (m) The department shall, by October 1 each year,  
40 commencing October 1, 1992, provide the Joint



1 ~~Legislative Budget Committee with a list of any new~~  
 2 ~~departmental requirements established during the~~  
 3 ~~previous fiscal year concerning the operation of group~~  
 4 ~~homes, and of any unusual, industrywide increase in costs~~  
 5 ~~associated with the provision of group care which may~~  
 6 ~~have significant fiscal impact on providers of group~~  
 7 ~~homes care. The committee may, in fiscal year 1993-94~~  
 8 ~~and beyond, use the list to determine whether an~~  
 9 ~~appropriation for rate adjustments is needed in the~~  
 10 ~~subsequent fiscal year.~~

11 ~~(n) This section shall become operative on July 1, 1995.~~

12 SEC. 2. Section 11462 is added to the Welfare and  
 13 Institutions Code, to read:

14 11462. Each county department of social services  
 15 shall, on an annual basis, negotiate a rate with those group  
 16 homes with which they wish to place children. These  
 17 rates shall be based upon the needs of the county, for  
 18 services to their dependent and neglected children, and  
 19 actual and allowable cost, as provided for in Subtitle E  
 20 (commencing with Section 470) of Title IV of the federal  
 21 Social Security Act (42 U.S.C. 670 et seq.).

22 SEC. 3. Section 11462.01 of the Welfare and  
 23 Institutions Code is repealed.

24 ~~11462.01. (a) Commencing July 1, 1994, a group~~  
 25 ~~home program shall be classified at RCL 13 or RCL 14 if~~  
 26 ~~the program meets all of the following requirements:~~

27 ~~(1) The group home program is providing, or has~~  
 28 ~~proposed to provide, the level of care and services~~  
 29 ~~necessary to generate sufficient points in the ratesetting~~  
 30 ~~process to be classified at RCL 13 if the rate application~~  
 31 ~~is for RCL 13 or to be classified at RCL 14 if the rate~~  
 32 ~~application is for RCL 14.~~

33 ~~(2) (A) (i) The group home provider shall agree not~~  
 34 ~~to accept for placement into a group home program~~  
 35 ~~AFDC-FC funded children, including voluntary~~  
 36 ~~placements and seriously emotionally disturbed children~~  
 37 ~~placed out-of-home pursuant to an individualized~~  
 38 ~~education program developed under Section 7572.5 of the~~  
 39 ~~Government Code, who have not been approved for~~  
 40 ~~placement by an interagency placement committee, as~~



1 ~~described by Section 4096. The approval shall be in~~  
2 ~~writing and shall indicate that the interagency placement~~  
3 ~~committee has determined the child is seriously~~  
4 ~~emotionally disturbed, as defined by Section 5600.3 and~~  
5 ~~subject to Section 1502.4 of the Health and Safety Code,~~  
6 ~~and that the child needs the level of care provided by the~~  
7 ~~group home.~~

8 ~~(ii) For purposes of clause (i), group home providers~~  
9 ~~who accept seriously emotionally disturbed children who~~  
10 ~~are assessed and placed out-of-home pursuant to an~~  
11 ~~individualized education program developed under~~  
12 ~~Section 7572.5 of the Government Code shall be deemed~~  
13 ~~to have met the interagency placement committee~~  
14 ~~approval for placement requirements of clause (i) if the~~  
15 ~~individualized education program assessment indicates~~  
16 ~~that the child has been determined to be seriously~~  
17 ~~emotionally disturbed, as defined in Section 5600.3 and~~  
18 ~~subject to Section 1502.4 of the Health and Safety Code,~~  
19 ~~and needs the level of care described in clause (i).~~

20 ~~(B) (i) Nothing in this subdivision shall prevent the~~  
21 ~~emergency placement of a child into a group home~~  
22 ~~program prior to the determination by the interagency~~  
23 ~~placement committee pursuant to subclause (i) of~~  
24 ~~subparagraph (A) if a licensed mental health~~  
25 ~~professional, as defined in the department's AFDC-FC~~  
26 ~~ratesetting regulations, has evaluated, in writing, the~~  
27 ~~child within 72 hours of placement, and determined the~~  
28 ~~child to be seriously emotionally disturbed and in need of~~  
29 ~~the care and services provided by the group home~~  
30 ~~program.~~

31 ~~(ii) The interagency placement committee shall,~~  
32 ~~within 30 days of placement pursuant to clause (i), make~~  
33 ~~the determination required by clause (i) of subparagraph~~  
34 ~~(A).~~

35 ~~(iii) If, pursuant to clause (ii), the placement is~~  
36 ~~determined to be appropriate, the committee shall~~  
37 ~~transmit the approval, in writing, to the county placing~~  
38 ~~agency and the group home provider.~~

39 ~~(iv) If, pursuant to clause (ii) the placement is~~  
40 ~~determined not to be appropriate, the child shall be~~



1 removed from the group home and referred to a more  
2 appropriate placement, as specified in subdivision (f).

3 (C) Commencing December 15, 1992, with respect to  
4 AFDC-FC funded children, only those children who are  
5 approved for placement by an interagency placement  
6 committee may be accepted by a group home under this  
7 subdivision.

8 (3) The group home program is certified by the State  
9 Department of Mental Health pursuant to Section 4096.5.

10 (b) The department shall not establish a rate for a  
11 group home requesting a program change to RCL 13 or  
12 RCL 14 unless the group home provider submits a  
13 recommendation from the host county or the primary  
14 placing county that the program is needed and that the  
15 provider is willing and capable of operating the program  
16 at the level sought. For purposes of this subdivision, "host  
17 county," "primary placing county," and "program  
18 change" mean the same as defined in the department's  
19 AFDC-FC ratesetting regulations.

20 (c) The effective date of rates set at RCL 13 or RCL 14  
21 shall be the date that all the requirements are met, but  
22 not prior to July 1 of that fiscal year. Nothing in this  
23 section shall affect RCL 13 or RCL 14 ratesetting  
24 determinations in prior years.

25 (d) Any group home program that has been classified  
26 at RCL 13 or RCL 14 pursuant to the requirements of  
27 subdivision (a) shall be reclassified at the appropriate  
28 lower RCL with a commensurate reduction in rate if  
29 either of the following occurs:

30 (1) The group home program fails to maintain the  
31 level of care and services necessary to generate the  
32 necessary number of points for RCL 13 or RCL 14, as  
33 required by paragraph (1) of subdivision (a). The  
34 determination of points shall be made consistent with the  
35 department's AFDC-FC ratesetting regulations for other  
36 rate classification levels.

37 (2) The group home program fails to maintain a  
38 certified mental health treatment program as required  
39 by paragraph (3) of subdivision (a).



1 ~~(3) In the event of a determination under paragraph~~  
2 ~~(1), the group home may appeal the finding or submit a~~  
3 ~~corrective action plan. The appeal process specified in~~  
4 ~~Section 11466.6 shall be available to RCL 13 and RCL 14~~  
5 ~~group home providers. During any appeal, the group~~  
6 ~~home shall maintain the appropriate level of care.~~

7 ~~(e) The interagency placement committee shall~~  
8 ~~periodically review, but no less often than that required~~  
9 ~~by current law, the placement of the child. If the~~  
10 ~~committee determines that the child no longer needs, or~~  
11 ~~is not benefiting from, placement in a RCL 13 or RCL 14~~  
12 ~~group home, the committee shall require the removal of~~  
13 ~~the child and a new disposition.~~

14 ~~(f) (1) (A) If, at any time subsequent to placement in~~  
15 ~~an RCL 13 or RCL 14 group home program, the~~  
16 ~~interagency placement committee determines either~~  
17 ~~that the child is not seriously emotionally disturbed or is~~  
18 ~~not in need of the care and services provided by the group~~  
19 ~~home program, it shall notify, in writing, both the county~~  
20 ~~placing agency and the group home provider within 10~~  
21 ~~days of the determination.~~

22 ~~(B) The county placing agency shall notify the group~~  
23 ~~home provider, in writing, within five days from the date~~  
24 ~~of the notice from the committee, of the county's plan for~~  
25 ~~removal of the child.~~

26 ~~(C) The county placing agency shall remove the child~~  
27 ~~from the group home program within 30 days from the~~  
28 ~~date of the notice from the interagency placement~~  
29 ~~committee.~~

30 ~~(2) (A) If a county placing agency does not remove a~~  
31 ~~child within 30 days from the date of the notice from the~~  
32 ~~interagency placement committee, the group home~~  
33 ~~provider shall notify the interagency placement~~  
34 ~~committee and the department, in writing, of the~~  
35 ~~county's failure to remove the child from the group home~~  
36 ~~program.~~

37 ~~(B) The group home provider shall make the~~  
38 ~~notification required by subparagraph (A) within five~~  
39 ~~days of the expiration of the 30-day removal period. If~~  
40 ~~notification is made, a group home provider shall not be~~



1 ~~subject to an overpayment determination due to failure~~  
2 ~~of the county placing agency to remove the child.~~

3 ~~(3) Any county placing agency that fails to remove a~~  
4 ~~child from a group home program under this paragraph~~  
5 ~~within 30 days from the date of the notice from the~~  
6 ~~interagency placement committee shall be assessed a~~  
7 ~~penalty in the amount of the state and federal financial~~  
8 ~~participation in the AFDC-FC rate paid on behalf of the~~  
9 ~~child commencing on the 31st day and continuing until~~  
10 ~~the child is removed.~~

11 ~~(g) (1) If any RCL 13 or RCL 14 group home provider~~  
12 ~~discovers that it does not have written approval for~~  
13 ~~placement of any AFDC-FC funded child placed on or~~  
14 ~~after December 15, 1992, from the interagency~~  
15 ~~placement committee, it shall notify the county placing~~  
16 ~~agency, in writing, and shall request the county to obtain~~  
17 ~~approval from the interagency placement committee or~~  
18 ~~remove the child from the group home program. A group~~  
19 ~~home provider shall have 30 days from the child's first day~~  
20 ~~of placement to discover the placement error and to~~  
21 ~~notify the county placing agency.~~

22 ~~(2) Any county placing agency that receives~~  
23 ~~notification pursuant to paragraph (2) of subdivision (f)~~  
24 ~~shall obtain approval for placement from the interagency~~  
25 ~~placement committee or remove the child from the~~  
26 ~~group home program within 30 days from the date of the~~  
27 ~~notice from the group home provider. The program shall~~  
28 ~~not be reclassified to a lower RCL for a violation of the~~  
29 ~~provisions referred to in this paragraph.~~

30 ~~(3) (A) If a county placing agency does not have the~~  
31 ~~placement of a child approved by the interagency~~  
32 ~~placement committee or removed from the group home~~  
33 ~~within 30 days from the date of the notice from the group~~  
34 ~~home provider, the group home provider shall notify the~~  
35 ~~county placing agency and the department, in writing, of~~  
36 ~~the county's failure to have the placement of the child~~  
37 ~~approved or remove the child from the group home~~  
38 ~~program.~~

39 ~~(B) The group home provider shall make the~~  
40 ~~notification required by subparagraph (A) within five~~



1 days after the expiration of the 30-day approval or  
2 removal period. If notification is made, a group home  
3 provider shall not be subject to an overpayment  
4 determination due to failure of the county placing agency  
5 to remove the child.

6 (C) Any group home provider that fails to notify the  
7 county placing agency pursuant to subparagraph (A)  
8 shall be assessed a penalty in the amount of the AFDC-FC  
9 rate paid to the group home provider on behalf of the  
10 child commencing on the 31st day of placement and  
11 continuing until the county placing agency is notified.

12 (4) Any county placing agency that fails to have the  
13 placement of a child approved or to have the child  
14 removed from the group home program within 30 days  
15 shall be assessed a penalty in the amount of the state and  
16 federal financial participation in the AFDC-FC rate paid  
17 on behalf of the child commencing on the 31st day of  
18 placement and continuing until the child is removed.

19 (h) The department shall develop regulations to  
20 obtain payment of assessed penalties as provided in this  
21 section. For audit purposes and the application of  
22 penalties for RCL 13 and RCL 14 programs, the  
23 department shall apply statutory provisions that were in  
24 effect during the period for which the audit was  
25 conducted.

26 (i) (1) Nothing in this subparagraph shall prohibit a  
27 group home classified at RCL 13 or RCL 14 for purposes  
28 of the AFDC-FC program, from accepting private  
29 placements of children.

30 (2) In cases where a referral is not from a public  
31 agency and no public funding is involved, there shall be  
32 no requirement for public agency review or  
33 determination of need.

34 (3) Children subject to paragraphs (1) and (2) shall  
35 have been assessed as seriously emotionally disturbed, as  
36 defined in Section 5600.3 and subject to Section 1502.4 of  
37 the Health and Safety Code, by a licensed mental health  
38 professional, as defined in Sections 629 to 633, inclusive,  
39 of Title 9 of the California Code of Regulations.



1 ~~(j) A child shall not be placed in a group home~~  
2 ~~program classified at an RCL 13 or RCL 14 if the~~  
3 ~~placement is paid for with county-only funds unless the~~  
4 ~~child is assessed as seriously emotionally disturbed, as~~  
5 ~~defined in Section 5600.3, subject to Section 1502.4 of the~~  
6 ~~Health and Safety Code, by a licensed mental health~~  
7 ~~professional, as defined in Sections 629 to 633, inclusive,~~  
8 ~~of Title 9 of the California Code of Regulations.~~

9 SEC. 4. Section 11462.05 of the Welfare and  
10 Institutions Code is repealed.

11 ~~11462.05. By October 1, 1995, the department shall~~  
12 ~~review and recommend to the appropriate policy and~~  
13 ~~fiscal committees of the Legislature, a new or revised~~  
14 ~~ratesetting system for facilities receiving reimbursement~~  
15 ~~under Sections 11462 and 11462.01. The department shall~~  
16 ~~conduct this review and develop recommendations with~~  
17 ~~the advice and assistance of county placement agencies,~~  
18 ~~group home provider associations, and other individuals~~  
19 ~~and organizations as designated by the director. The~~  
20 ~~recommendations shall be based on the department's~~  
21 ~~review and evaluation of the current program~~  
22 ~~classification system, group home actual cost data, and~~  
23 ~~information from the group home program statements~~  
24 ~~and level-of-care assessments specified in Section 11467.~~

25 SEC. 5. Section 11462.06 of the Welfare and  
26 Institutions Code is repealed.

27 ~~11462.06. (a) For purposes of the administration of~~  
28 ~~this article, including the setting of group home rates, the~~  
29 ~~department shall deem the reasonable costs of leases for~~  
30 ~~shelter care for foster children to be allowable costs.~~  
31 ~~Reimbursement of shelter costs shall not exceed 12~~  
32 ~~percent of the fair market value of owned, leased, or~~  
33 ~~rented buildings, including any structures,~~  
34 ~~improvements, edifices, land, grounds, and other similar~~  
35 ~~property that is owned, leased, or rented by the group~~  
36 ~~home and that is used for group home programs and~~  
37 ~~activities, exclusive of idle capacity and capacity used for~~  
38 ~~nongroup home programs and activities. Shelter costs~~  
39 ~~shall be considered reasonable in relation to the fair~~  
40 ~~market value limit as described in subdivision (c).~~



1 ~~Allowable costs of affiliated leases (1) shall be subject to~~  
2 ~~a review by the Charitable Trust Section of the~~  
3 ~~Department of Justice as specified by Chapter 15~~  
4 ~~(commencing with Section 999) of Division 1 of Title 11~~  
5 ~~of the California Code of Regulations and (2) shall be~~  
6 ~~permitted to the extent allowed by federal law for federal~~  
7 ~~financial participation.~~

8 (b) ~~Effective July 1, 1998, an approval letter from the~~  
9 ~~Charitable Trust Section of the Department of Justice~~  
10 ~~shall be required for approval of shelter costs that result~~  
11 ~~from self-dealing transactions, as defined in Section 5233~~  
12 ~~of the Corporations Code.~~

13 (c) ~~For purposes of this section, fair market value of~~  
14 ~~leased property shall be determined by either of the~~  
15 ~~following methods, as chosen by the provider:~~

16 (1) ~~The market value shown on the last tax bill for the~~  
17 ~~cost reporting period.~~

18 (2) ~~The market value determined by an independent~~  
19 ~~appraisal. The appraisal shall be performed by a qualified,~~  
20 ~~professional appraiser who, at a minimum, meets~~  
21 ~~standards for appraisers as specified in Chapter 6.5~~  
22 ~~(commencing with Section 3500) of Title 10 of the~~  
23 ~~California Code of Regulations. The appraisal shall not be~~  
24 ~~deemed independent if performed under a~~  
25 ~~less-than-arms-length agreement, or if performed by a~~  
26 ~~person or persons employed by, or under contract with,~~  
27 ~~the group home for purposes other than performing~~  
28 ~~appraisals, or by a person having a material interest in any~~  
29 ~~group home which receives foster care payments. If the~~  
30 ~~department believes an appraisal does not meet these~~  
31 ~~standards, the department shall give its reasons in writing~~  
32 ~~to the provider and provide an opportunity for appeal.~~

33 (d) (1) ~~The department may adopt emergency~~  
34 ~~regulations in order to implement this section, in~~  
35 ~~accordance with Chapter 3.5 (commencing with Section~~  
36 ~~11340) of Part 1 of Division 3 of Title 2 of the Government~~  
37 ~~Code.~~

38 (2) ~~The adoption of emergency regulations pursuant~~  
39 ~~to this section shall be deemed to be an emergency and~~  
40 ~~considered by the Office of Administrative Law as~~



1 ~~necessary for the immediate preservation of the public~~  
2 ~~peace, health and safety, or general welfare.~~

3 ~~(3) Emergency regulations adopted pursuant to this~~  
4 ~~section shall be exempt from the review and approval of~~  
5 ~~the Office of Administrative Law.~~

6 ~~(4) The emergency regulations authorized by this~~  
7 ~~section shall be submitted to the Office of Administrative~~  
8 ~~Law for filing with the Secretary of State and publication~~  
9 ~~in the California Code of Regulations.~~

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