

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN SENATE APRIL 28, 2010

AMENDED IN SENATE APRIL 19, 2010

AMENDED IN SENATE APRIL 6, 2010

SENATE BILL

No. 1329

**Introduced by Senator Leno
(Coauthor: Senator Romero)**

February 19, 2010

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 1329, 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 2010 which would, with certain exceptions, require the licensee of a facility to notify the department 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 administrative action upon receipt of the notification.

This bill would require the licensee of a facility, with certain exceptions, to notify the department and all residents, applicants, and

potential residents, and, if applicable, their legal representatives, of other specified events, and would require the department to initiate a compliance plan, noncompliance conference, or other administrative 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 2010.

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 in writing of the event. This notification may be
22 provided by telephone facsimile, overnight mail, or by telephone
23 with a written confirmation within five calendar days after the
24 telephone call. Upon receipt of the notification, the department

1 may initiate a compliance plan, noncompliance conference, or
2 other administrative action.

3 (b) Any of the following events requires notification pursuant
4 to this section:

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) Failure to make timely payment of any premiums required~~
8 ~~to maintain mandated insurance policies or bonds in effect, or any~~
9 ~~tax lien levied by any government agency. Notice to the department~~
10 ~~is not required when an insurance premium has not been paid due~~
11 ~~to the fault of an escrow account servicer.~~

12 ~~(3)~~
13 (2) A utility company has sent notice of intent to terminate a
14 utility on the property. *For the purposes of this paragraph, “utility*
15 *company” means a provider of electricity, gas, or water services.*

16 ~~(4) A judgment lien has been levied against the facility or any~~
17 ~~of the assets of the facility or licensee.~~

18 ~~(5)~~
19 (3) A financial institution refuses to honor a check or other
20 instrument issued by the licensee to its employees for a regular
21 payroll due to insufficient funds.

22 ~~(6)~~
23 (4) The financial resources of the licensee fall below the amount
24 needed to operate the facility for a period of at least *the next* 45
25 days based on the current occupancy of the facility.

26 (c) A licensee shall notify the department, all residents, and, if
27 applicable, their legal representatives, in writing, within two
28 business ~~days~~, *days*, and shall notify all applicants ~~or potential~~
29 ~~residents for potential residence~~, and, if applicable, their legal
30 representatives, prior to admission, of any of the following events,
31 or knowledge of the event:

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

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

35 (3) The licensee files for bankruptcy.

36 (d) Upon receipt of the notice required pursuant to subdivision
37 (c), the department shall initiate a compliance plan, noncompliance
38 conference, or other administrative action.

39 (e) A licensee who fails to comply with this section shall be
40 liable for immediate civil penalties in the amount of one hundred

1 dollars (\$100) for each day of the failure to provide notification
2 required in this section. The total civil penalty shall not exceed
3 two thousand dollars (\$2,000). If a resident is relocated without
4 the adequate notification required by this section, or if the health
5 or safety of a resident has been compromised as a result of a
6 relocation that has occurred without adequate notification, the
7 department may also suspend or revoke the licensee's license and
8 issue a permanent revocation of the licensee's ability to operate
9 or act as an administrator of a facility anywhere in the state.

10 (f) For purposes of this section, "property" means the land or
11 building in which a residential care facility for the elderly is
12 located.

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

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