

House Bill 3412

Sponsored by Representative MACPHERSON (at the request of John C. Caldwell, E. Kimball Allison, Richard Goff, Ann Kendrick, Donna Brinati)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires that periodic charges in residency agreement be based on specified budget charges. Provides complaint procedure for resident aggrieved by proposed amount or allocation of periodic charge. Requires that provider include certain information in annual disclosure statement.

A BILL FOR AN ACT

1
2 Relating to continuing care retirement communities; creating new provisions; and amending ORS
3 101.130.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2, 3 and 4 of this 2005 Act are added to and made a part of ORS**
6 **chapter 101.**

7 **SECTION 2. (1) Periodic charges provided for in a residency agreement shall be:**

8 (a) Fair, just and equitable; and

9 (b) Calculated on budgeted charges based on the annual budget for the continuing care
10 retirement community.

11 (2) As used in this section, "budgeted charges" means anticipated cash expenditures for:

12 (a) Operating expenses. Depreciation is not an operating expense.

13 (b) Interest payments and a debt service liquid reserve.

14 (c) Amounts under loan agreements that are required to be added to a sinking fund for
15 payment of outstanding debt.

16 (d) Reasonably prudent amounts placed in a sinking fund for:

17 (A) Anticipated capital expenditures;

18 (B) Anticipated refunds; and

19 (C) Contingencies.

20 **SECTION 3. (1) A resident who is aggrieved by the proposed amount or allocation of a**
21 **periodic charge may petition the provider in writing within 14 days from the date of a notice**
22 **of the periodic charge.**

23 (2) The petition shall state the basis of the resident's dissatisfaction with the proposed
24 amount or allocation of the periodic charge.

25 (3) If the provider fails to change the proposed amount or allocation of the periodic
26 charge within 20 days after receiving the petition, the resident may petition the Department
27 of Human Services for a hearing.

28 (4) After the hearing under subsection (3) of this section, the department shall make
29 findings on whether the proposed amount or allocation of the periodic charge is fair, just and
30 equitable. The department shall approve all periodic charges that it finds are fair, just and

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **equitable. The department shall deny or modify all periodic charges that it finds are not fair,**
2 **just and equitable.**

3 **SECTION 4. A disclosure statement under ORS 101.050 or 101.130 may not include an**
4 **untrue statement of a material fact or omit a material fact necessary to make the state-**
5 **ment, in light of the circumstances under which the statement is made, not misleading.**

6 **SECTION 5.** ORS 101.130 is amended to read:

7 101.130. (1) The provider shall file annually with the Department of Human Services an annual
8 disclosure statement for the end of the provider's fiscal year. The statement shall be filed within
9 four months following the end of the provider's fiscal year unless the time is extended by the de-
10 partment.

11 (2) The annual disclosure statement shall consist of:

12 (a) An audited financial statement prepared in accordance with generally accepted accounting
13 principles for the preceding fiscal year and shall disclose any change in ownership or manager.

14 (b) **A full description of all contracts that the provider has entered into or anticipates**
15 **entering into with affiliated organizations and an explanation of the financial impact that the**
16 **contracts may have on residents.**

17 (3) **The disclosure statement shall note any changes from the provider's previous annual**
18 **disclosure statement.**

19 (4) **A provider shall provide a copy of the annual disclosure statement to each resident.**
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