

**First Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 01-0609.01 Michele Hanigsberg

HOUSE BILL 01-1189

HOUSE SPONSORSHIP

Daniel, Boyd, Crane, Hefley, Jahn, Veiga, and Williams S.

SENATE SPONSORSHIP

Windels,

House Committees

Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING FORFEITURE PROVISIONS IN AGREEMENTS AFFECTING**
102 **PERSONS IN FACILITIES PROVIDING RESIDENTIAL CARE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Provides that persons residing in skilled nursing facilities, intermediate care facilities, and personal care boarding homes have a right to a contract or written agreement that contains fair lease provisions concerning the forfeiture of any rent paid. Provides that the provisions of any contract or written agreement regarding forfeiture must appear on the front page of the contract or agreement and in bold print that is at least 12-point type.

States that any contract clause or lease provision that results in or

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
February 27, 2001

HOUSE
Amended 2nd Reading
February 26, 2001

requires forfeiture of more than one month of rent if a person residing in a nursing home facility, including a skilled nursing facility, intermediate care facility, or personal care boarding home, moves due to a medical condition or dies during the term of the contract or lease shall be deemed against public policy and void. States that a contract or lease provision that requires forfeiture of rent for the month in which the patient moves due to a medical condition or dies does not violate the act. Directs the facility to return to the patient or the patient's estate any rent paid in excess of the amount required for the month in which the patient moved due to a medical condition or died. Allows such facilities to assess daily rental charges under certain circumstances after a patient moves due to a medical condition or dies.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 25-1-120 (1), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **25-1-120. Nursing facilities - rights of patients.** (1) The
5 department shall require all skilled nursing facilities and intermediate care
6 facilities to adopt and make public a statement of the rights and
7 responsibilities of the patients who are receiving treatment in such
8 facilities and to treat their patients in accordance with the provisions of
9 said statement. The statement shall ensure each patient the following:

10 (o) THE RIGHT OF A CONTRACT OR LEASE AGREEMENT THAT
11 CONTAINS FAIR LEASE PROVISIONS REGARDING THE FORFEITURE OF ANY
12 RENT PAID AND MEETS THE REQUIREMENTS OF SUBSECTION (1.5) OF THIS
13 SECTION.

14 **SECTION 2.** 25-1-120, Colorado Revised Statutes, is amended
15 BY THE ADDITION OF A NEW SUBSECTION to read:

16 **25-1-120. Nursing facilities - rights of patients.** (1.5) ANY
17 PROVISION IN A CONTRACT OR LEASE AGREEMENT THAT RESULTS IN OR
18 REQUIRES FORFEITURE OF MORE THAN ONE MONTH OF RENT IF A PATIENT
19 MOVES DUE TO A MEDICAL CONDITION OR DIES DURING THE TERM OF THE

1 CONTRACT OR LEASE AGREEMENT SHALL BE DEEMED TO BE AGAINST PUBLIC
2 POLICY AND SHALL BE VOID; EXCEPT THAT INCLUSION OF SUCH A PROVISION
3 SHALL NOT RENDER THE REMAINDER OF THE CONTRACT OR LEASE
4 AGREEMENT VOID. A CONTRACT PROVISION OR LEASE AGREEMENT THAT
5 REQUIRES FORFEITURE OF RENT FOR ONE MONTH AFTER THE PATIENT
6 MOVES DUE TO A MEDICAL CONDITION OR DIES DOES NOT VIOLATE THIS
7 SECTION. THE PROVISIONS REGARDING FORFEITURE OF RENT SHALL APPEAR
8 ON THE FRONT PAGE OF THE CONTRACT OR LEASE AGREEMENT AND SHALL
9 BE IN BOLD PRINT. IN CIRCUMSTANCES IN WHICH THE PATIENT MOVES DUE
10 TO A MEDICAL CONDITION OR DIES DURING THE TERM OF A CONTRACT OR
11 LEASE AGREEMENT, THE SKILLED NURSING FACILITY OR INTERMEDIATE
12 CARE FACILITY SHALL RETURN THAT PART OF THE RENT PAID IN EXCESS OF
13 ONE MONTH'S RENT AFTER A PATIENT MOVES OR DIES TO THE PATIENT
14 OR THE PATIENT'S ESTATE. THE FACILITY MAY ASSESS DAILY RENTAL
15 CHARGES FOR ANY DAYS IN WHICH THE FORMER PATIENT'S OR THE
16 DECEASED PATIENT'S PERSONAL POSSESSIONS REMAIN IN THE PATIENT'S
17 ROOM AFTER THE TIME PERIOD FOR WHICH THE PATIENT HAS PAID RENT
18 AND FOR THE USUAL TIME TO CLEAN THE ROOM AFTER THE
19 PATIENT'S PERSONAL POSSESSIONS HAVE BEEN REMOVED. THIS
20 SUBSECTION (1.5) APPLIES TO ANY FACILITY, OR A DISTINCT PART OF A
21 FACILITY, THAT MEETS THE STATE NURSING HOME LICENSING STANDARDS
22 SET FORTH IN SECTION 25-1-107 (1) (I) AND THE LICENSING
23 REQUIREMENTS SPECIFIED IN SECTION 25-3-101. FOR PURPOSES OF THIS
24 SECTION, "DAILY RENTAL CHARGES" MEANS AN AMOUNT NOT TO EXCEED
25 ONE-THIRTIETH OF ONE MONTH'S RENTAL AMOUNT PLUS REASONABLE
26 EXPENSES.

27 **SECTION 3.** 25-27-104 (2) (e), Colorado Revised Statutes, is

1 amended to read:

2 **25-27-104. Minimum standards for personal care boarding**
3 **homes - rules.** (2) Regulations promulgated by the state board pursuant
4 to subsection (1) of this section shall include, as a minimum, provisions
5 requiring the following:

6 (e) Protection of the individual rights of residents either through
7 a written board and care plan or by means of contracts executed with the
8 residents, WHICH PLAN OR CONTRACTS SHALL MEET THE REQUIREMENTS
9 STATED IN SECTION 25-27-104.5;

10 **SECTION 4.** Article 27 of title 25, Colorado Revised Statutes, is
11 amended BY THE ADDITION OF A NEW SECTION to read:

12 **25-27-104.5. Requirements governing forfeiture of security**
13 **deposits and rent.** A LEASE PROVISION IN A WRITTEN BOARD AND CARE
14 PLAN OR IN A CONTRACT SIGNED BY A RESIDENT OF A PERSONAL CARE
15 BOARDING HOME THAT RESULTS IN OR REQUIRES FORFEITURE OF MORE
16 THAN ONE MONTH OF RENT IF A RESIDENT MOVES DUE TO A MEDICAL
17 CONDITION OR DIES DURING THE TERM OF THE CONTRACT OR LEASE
18 AGREEMENT SHALL BE DEEMED TO BE AGAINST PUBLIC POLICY AND SHALL
19 BE VOID; EXCEPT THAT INCLUSION OF SUCH A PROVISION SHALL NOT
20 RENDER THE REMAINDER OF THE PLAN OR CONTRACT VOID. A LEASE
21 PROVISION IN A WRITTEN BOARD AND CARE PLAN OR IN A CONTRACT THAT
22 REQUIRES FORFEITURE OF RENT FOR ONE MONTH AFTER THE RESIDENT
23 MOVES DUE TO A MEDICAL CONDITION OR DIES DOES NOT VIOLATE THIS
24 SECTION. THE PROVISIONS REGARDING FORFEITURE OF RENT SHALL APPEAR
25 ON THE FRONT PAGE OF THE CONTRACT OR LEASE AGREEMENT AND SHALL
26 BE IN BOLD PRINT. IN CIRCUMSTANCES IN WHICH THE RESIDENT MOVES DUE
27 TO A MEDICAL CONDITION OR DIES DURING THE TERM OF A CONTRACT OR

1 LEASE AGREEMENT, THE PERSONAL CARE BOARDING HOME SHALL RETURN
2 THAT PART OF RENT PAID IN EXCESS OF ONE MONTH'S RENT AFTER A
3 PATIENT MOVES OR DIES TO THE
4 RESIDENT OR THE RESIDENT'S ESTATE. THE PERSONAL CARE BOARDING
5 HOME MAY ASSESS DAILY RENTAL CHARGES FOR ANY DAYS IN WHICH THE
6 FORMER RESIDENT'S OR THE DECEASED RESIDENT'S PERSONAL POSSESSIONS
7 REMAIN IN THE RESIDENT'S ROOM AFTER THE TIME PERIOD FOR WHICH THE
8 RESIDENT HAS PAID RENT AND FOR THE USUAL TIME TO CLEAN THE ROOM
9 AFTER THE RESIDENT'S PERSONAL POSSESSIONS HAVE BEEN REMOVED. FOR
10 PURPOSES OF THIS SECTION, "DAILY RENTAL CHARGES" MEANS AN AMOUNT
11 NOT TO EXCEED ONE-THIRTIETH OF ONE MONTH'S RENTAL AMOUNT PLUS
12 REASONABLE EXPENSES.

13 **SECTION 5. Effective date - applicability.** (1) This act shall
14 take effect January 1, 2002, unless a referendum petition is filed during
15 the ninety-day period after final adjournment of the general assembly that
16 is allowed for submitting a referendum petition pursuant to article V,
17 section 1 (3) of the state constitution. If such a referendum petition is
18 filed against this act or an item, section, or part of this act within such
19 period, then the act, item, section, or part, if approved by the people, shall
20 take effect on the date of the official declaration of the vote thereon by
21 proclamation of the governor.

22 (2) The provisions of this act shall apply to contracts executed on
23 or after the applicable effective date of this act.