



# Senate

General Assembly

**File No. 155**

January Session, 2011

Substitute Senate Bill No. 299

*Senate, March 23, 2011*

The Committee on Human Services reported through SEN. MUSTO of the 22nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE ENFORCEMENT OF SURETY CONTRACTS BY NURSING HOMES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-539 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) Each nursing home facility shall disclose in writing to all  
4 prospective patients a complete and accurate list of all additional costs  
5 which may be incurred by them and such nursing home facility shall  
6 display or cause to be displayed copies of such list in conspicuous  
7 places therein.

8 (b) Nursing home facilities, as defined in section 19a-521, shall be  
9 prohibited from enforcing a [surety] contract [on behalf of an applicant  
10 required as a condition of admission] with a third-party guarantor or  
11 an admissions agreement entered into with a responsible party who  
12 has access to an applicant or resident's assets or financial information  
13 unless: (1) The guarantor under such contract or [his] the guarantor's

14 spouse, [or his children] child or [his grandchildren] grandchild has  
15 received an assignment or transfer or other disposition of property for  
16 less than fair market value, pursuant to section 17b-261, from the  
17 applicant; or (2) the applicant fails to return a properly completed  
18 application for Title XIX benefits to the Department of Social Services  
19 in accordance with its regulations; and (3) such contract contains a  
20 [clause which states the] notice advising the applicant, third-party  
21 guarantor or responsible party that: (A) The contract is enforceable  
22 against the guarantor, [or his] the guarantor's spouse, [or his children]  
23 child or [his grandchildren] grandchild if such guarantor or [his] the  
24 guarantor's spouse, [or his children] child or [his grandchildren have]  
25 grandchild has received an assignment or transfer or other disposition  
26 of property for less than fair market value, pursuant to section 17b-261,  
27 from the applicant or if said applicant fails to return a properly  
28 completed application for Title XIX benefits to the Department of  
29 Social Services in accordance with its regulations; (B) state and federal  
30 law prohibit a nursing home facility from requiring a third party to  
31 personally guarantee payment as a condition of admission or  
32 continued stay in the facility; and (C) due to the complexity involved  
33 in preparing an application for Title XIX benefits, it may be advisable  
34 for the person completing such application to seek professional  
35 assistance or legal advice. Such notice shall be written in not less than  
36 ten-point, boldface type, shall be stated in plain and simple language  
37 and, whenever possible and in accordance with any applicable federal  
38 guidelines, shall be in the primary language of the recipient.

39 (c) A nursing home facility may prepare and submit an application  
40 for Title XIX benefits to the Department of Social Services on behalf of  
41 a person residing in or seeking admission to the nursing home facility,  
42 provided such person or such person's authorized representative  
43 authorizes the nursing home facility, in writing, to prepare and submit  
44 such application on such person's behalf.

45 ~~[(c)]~~ (d) Nothing in this section shall be interpreted as prohibiting  
46 the acceptance of a voluntary surety contract.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	19a-539

**HS**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill has no fiscal impact as it makes changes to nursing home contracts and admissions agreements, which do not affect state payments to nursing homes.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****sSB 299*****AN ACT CONCERNING THE ENFORCEMENT OF SURETY CONTRACTS BY NURSING HOMES.*****SUMMARY:**

In most circumstances, the law prohibits nursing, convalescent, chronic disease, and rest homes (“nursing homes”) from enforcing contracts under which another person (a guarantor) promises to pay a nursing home applicant’s or resident’s bill. It carves out two exceptions. The exceptions apply if the applicant (1) transferred property to the guarantor or a close family member (presumably during the five-year lookback period when such transfers result in a lapse in Medicaid eligibility) or (2) fails to apply for Medicaid.

This bill extends this prohibition, without the exceptions, to admission agreements entered into by a nursing home and a responsible party who has access to the applicant’s or resident’s assets or financial information, but these agreements appear to be unenforceable.

It expands the notice requirements in the contracts and extends the requirements to the agreements. It specifies how the notice must appear, including primary language, type size, and font.

The bill allows nursing home staff, with written permission of the resident or his or her representative, to fill out a Medicaid application on the resident’s behalf.

EFFECTIVE DATE: July 1, 2011

**CONTRACTUAL NOTICE**

Existing law requires enforceable third-party nursing home

contracts to have a clause stating that they are enforceable against the guarantor or his or her spouse, children, or grandchildren who received assets or property for less than fair market value or against the same parties when the nursing home resident fails to complete a Medicaid application.

Under the bill, the contract and admission agreement must have notice provisions containing the information described above, and the following:

1. state and federal law prohibit nursing homes from requiring a third party to personally guarantee payment as a condition of admission or continued stay and
2. because of the complexity involved in filling out a Medicaid application, it may be advisable for the person completing the application to seek professional assistance or legal advice.

#### **CONTRACT FORMALITIES**

The notice must be printed in at least 10-point bold type, stated in plain and simple language, and, whenever possible and in accordance with any applicable federal guidelines, in the recipient's primary language.

#### **COMMITTEE ACTION**

Human Services Committee

Joint Favorable Substitute  
Yea 18 Nay 0 (03/10/2011)