

House of Representatives, March 30, 1998. The Committee on Judiciary reported through REP. LAWLOR, 99th DIST., Chairman of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING CONTINUING CARE FACILITIES.

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

1 Section 1. Section 17b-529 of the general
2 statutes is repealed and the following is
3 substituted in lieu thereof:

4 (a) Any person who as, or on behalf of, a
5 provider, enters into a contract for continuing
6 care at a facility without having first delivered
7 a disclosure statement meeting the requirements of
8 section 17b-522 to the person contracting for the
9 continuing care, or enters into a contract for
10 continuing care at a facility with a person who
11 has relied on a disclosure statement that omits to
12 state a material fact required to be stated
13 therein or necessary in order to make the
14 statements made therein, in light of the
15 circumstances under which they are made, not
16 misleading, is liable to the person contracting
17 for the continuing care for damages and repayment
18 of all fees paid to the provider, facility or
19 person, less the reasonable value of care and
20 lodging provided to the resident by or on whose
21 behalf the contract for continuing care was
22 entered into prior to discovery of the violation,
23 misstatement or omission or to the time the

24 violation, misstatement or omission should
25 reasonably have been discovered, together with
26 interest thereon at the legal rate for judgments,
27 and court costs and reasonable attorneys fees. [An
28 action to enforce liability pursuant to this
29 section shall not be maintained unless brought
30 within six years after the execution of the
31 contract for continuing care giving rise to the
32 liability.]

33 (b) Liability under this section for any
34 violation, misstatement or omission exists only if
35 the provider or person liable knew or should have
36 known of the violation, the misstatement or
37 omission.

38 (c) Nothing contained in sections 17b-520 to
39 17b-535, inclusive, shall be construed to limit
40 the remedies a person has under any other
41 provision of law.

42 (d) AN ACTION TO ENFORCE LIABILITY PURSUANT
43 TO THIS SECTION OR AN ACTION, WHETHER IN CONTRACT,
44 IN TORT OR OTHERWISE, RELATING TO THE PREPARATION,
45 CONTENT, REVIEW, AUDIT OR DELIVERY OF A DISCLOSURE
46 STATEMENT, OR ANY PORTION THEREOF, SHALL NOT BE
47 MAINTAINED UNLESS BROUGHT WITHIN SEVEN YEARS AFTER
48 THE PERSON CONTRACTING FOR THE CONTINUING CARE
49 FIRST OCCUPIES THE FACILITY THAT IS THE SUBJECT OF
50 THE CONTRACT.

51 Sec. 2. This act shall take effect from its
52 passage and shall be applicable to actions pending
53 on or brought on or after said date.

54 JUD COMMITTEE VOTE: YEA 26 NAY 3 JF

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF 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 HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER HB 5504

STATE IMPACT Minimal, see explanation below

MUNICIPAL IMPACT None

STATE AGENCY(S) Judicial Department

EXPLANATION OF ESTIMATES:

To the extent that the bill would result in an increase in litigation, the court would experience an increase in civil case backlogs. Any increase, if it does occur, is not anticipated to be significant and can be handled within current budgetary and caseload structures of the agency.

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OLR BILL ANALYSIS

HB 5504

AN ACT CONCERNING CONTINUING CARE FACILITIES

SUMMARY: This bill lengthens from six to seven years the statute of limitations for claims alleging that a continuing care provider did not deliver a required disclosure statement or made misrepresentations in the statement before entering into a contract with an individual for continuing care. It changes the time on which the statute of limitations starts to run from the date on which the contract was executed to the date on which the person first occupied the facility.

The bill also lengthens the statute of limitations for

contract and tort actions in a claim alleging violation of disclosure requirements. It applies to any action to enforce liability relating to the disclosure requirements whether it is the statutory cause of action, or brought in contract, tort, or otherwise. The seven year statute of limitations replaces the general limitation of three years for torts, six years for written contracts, and two years for oral contracts.

EFFECTIVE DATE: Upon passage and applicable to actions pending or brought on or after the effective date.

BACKGROUND

Continuing Care Provider Contracts

A continuing care provider must make specific disclosures before entering into a contract with a prospective resident for continuing care at a facility that provides shelter and medical, nursing, or other health benefits for the life of a person or for more than one year. These contracts must involve at least \$20,000 in present or future transfers of assets or as an entrance fee. The commissioner of social services has specified this amount by regulation.

Disclosure Requirements

The required disclosures, among other things, describe the facilities and services to be provided, provisions for escrow accounts, and a number of specific rights and liabilities on the contract. These disclosures also inform a prospective resident about the care provider's financial conditions, experience, and certain types of previous misconduct. The provider will be liable if he knew or should have known of violations of the disclosure requirements or misstatements, omissions, or misleading information in the disclosure.

Liability of Continuing Care Providers

A provider is liable for damages and repayment of all fees except for the reasonable value of care and lodging provided before the violation was discovered or should reasonably have been discovered. A provider may also be liable for court costs and reasonable

attorney's fees.

Continuing care facilities are regulated by statute and by the commissioner of social services, who also has the power to investigate for violations. Violation of any of the statutes regulating these facilities may be punished by a fine of up to \$10,000 and up to one year imprisonment.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report
Yea 26 Nay 3