

By: Uresti

S.B. No. 871

A BILL TO BE ENTITLED

AN ACT

relating to the enforcement of civil penalties against certain assisted living facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 247.045, Health and Safety Code, is amended by amending Subsections (d) and (e) and adding Subsection (h) to read as follows:

(d) The attorney general may institute and conduct a suit to collect a penalty and fees under this section at the request of the department. If the attorney general fails to notify the department ~~[take action]~~ within 30 days of referral from the department that the attorney general will accept the case, the department shall refer the case to the local district attorney, county attorney, or city attorney. The district attorney, county attorney, or city attorney shall file suit in a district court to collect and retain the penalty.

(e) Investigation and attorney's fees may not be assessed or collected by or on behalf of the department or other state agency unless ~~[the department or other state agency assesses and collects]~~ a penalty described under this chapter is assessed.

(h) If a person who is liable under this section fails to pay any amount the person is obligated to pay under this section, the state may seek satisfaction from any owner, other controlling person, or affiliate of the person found liable. The owner, other

1 controlling person, or affiliate may be found liable in the same
2 suit or in another suit on a showing by the state that the amount to
3 be paid has not been paid or otherwise legally discharged. The
4 department by rule may establish a method for satisfying an
5 obligation imposed under this section from an insurance policy,
6 letter of credit, or other contingency fund.

7 SECTION 2. The change in law made by this Act applies only
8 to a violation that occurs on or after the effective date of this
9 Act. A violation occurs before the effective date of this Act if
10 any element of the violation occurs before that date. A violation
11 that occurs before the effective date of this Act is covered by the
12 law in effect when the violation occurred, and the former law is
13 continued in effect for that purpose.

14 SECTION 3. This Act takes effect September 1, 2007.