

By: Janek

S.B. No. 1649

A BILL TO BE ENTITLED

AN ACT

1
2 relating to temporary change of ownership licenses for nursing home
3 facilities.

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

5 SECTION 1. Section 242.0336, Health and Safety Code, is
6 amended by amending Subsections (a) and (c) through (g) and adding
7 Subsections (b-1) through (b-5), (c-1), and (d-1) to read as
8 follows:

9 (a) For purposes of this section, a temporary change of
10 ownership license is a temporary 90-day license issued to an
11 applicant who proposes to become the new operator of an institution
12 existing on the date the application is filed.

13 (b-1) Except as provided by Subsection (b-2), the
14 department may not issue a temporary change of ownership license
15 before the 31st day after the date the department has received both:

16 (1) the application for the license; and

17 (2) notification, in writing, of the intent of the
18 institution's existing license holder to transfer operation of the
19 institution to the applicant beginning on a date specified by the
20 applicant.

21 (b-2) Notwithstanding Section 242.0335, the department
22 shall establish criteria under which the department may waive the
23 30-day requirement or the notification requirement of Subsection
24 (b-1). The criteria may include the occurrence of forcible entry

1 and detainer, death, or divorce or other events that affect the
2 ownership of the institution by the existing license holder.

3 (b-3) After receipt of an application or written
4 notification described by Subsection (b-1), the department may
5 place a hold on payments to the existing license holder in an amount
6 not to exceed the average of the monthly vendor payments paid to the
7 facility, as determined by the department. The department shall
8 release funds to the previous license holder not later than the
9 120th day after the date on which the final reporting requirements
10 are met and any resulting informal reviews or formal appeals are
11 resolved. The department may reduce the amount of funds released to
12 the previous license holder by the amount owed to the department or
13 the Health and Human Services Commission under the previous license
14 holder's Medicaid contract or license.

15 (b-4) The executive commissioner of the Health and Human
16 Services Commission shall adopt rules for the department that
17 define a change of ownership. In adopting the rules, the executive
18 commissioner shall consider:

19 (1) the proportion of ownership interest that is being
20 transferred to another person;

21 (2) the addition or removal of a stockholder, partner,
22 owner, or other controlling person;

23 (3) the reorganization of the license holder into a
24 different type of business entity; and

25 (4) the death or incapacity of a stockholder, partner,
26 or owner.

27 (b-5) The executive commissioner may adopt rules for the

1 department that require a license holder to notify the department
2 of any change, including a change that is not a change of ownership,
3 as that term is defined by rules adopted under Subsection (b-4).
4 Nothing in this section prevents the department from acting under
5 Section 242.061 or any other provision of this chapter.

6 (c) The department shall issue or deny a temporary change of
7 ownership license not later than the 31st [~~30th~~] day after the date
8 of receipt of the completed application. The effective date of a
9 temporary change of ownership license issued under this section is
10 the date requested in the application unless:

11 (1) the department does not receive the application
12 and written notification described by Subsection (b-1) at least 30
13 days before that date; and

14 (2) no waiver under Subsection (b-2) applies.

15 (c-1) If the department does not receive the application and
16 written notification required by Subsection (b-1) at least 30 days
17 before the effective date requested in the application and
18 Subsection (b-2) does not apply, the effective date of the
19 temporary change of ownership license is the 31st day after the date
20 the department receives both the application and the notification.

21 (d) Except as provided in Subsection (d-1), after [~~After~~]
22 the department issues a temporary change of ownership license to
23 the applicant, the department shall conduct an inspection or survey
24 of the nursing facility under Section 242.043 as soon as reasonably
25 possible. During the period between the issuance of the temporary
26 license and the inspection or survey of the nursing facility or desk
27 review under Subsection (d-1), the department may not place a hold

1 on vendor payments to the temporary license holder.

2 (d-1) The department shall establish criteria under which a
3 desk review of the facility's compliance with applicable
4 requirements may be substituted for the on-site inspection or
5 survey under Subsection (d).

6 (e) After conducting an inspection or survey under
7 Subsection (d) or a desk review under Subsection (d-1), the
8 department shall issue a license under Section 242.033 to the
9 temporary change of ownership license holder if the nursing
10 facility passes the desk review, inspection, or survey and the
11 applicant meets the requirements of Section 242.033. If the
12 nursing facility fails to pass the desk review, inspection, or
13 survey or the applicant fails to meet the requirements of Section
14 242.033, the department may:

15 (1) place a hold on vendor payments to the temporary
16 change of ownership license holder; and

17 (2) take any other action authorized under this
18 chapter.

19 (f) If the applicant meets the requirements of Section
20 242.033 and the nursing facility passes a desk review, ~~[an]~~ initial
21 inspection, or ~~[a]~~ subsequent inspection before the temporary
22 change of ownership license expires, the license issued under
23 Section 242.033 is considered effective on the date the department
24 determines under Subsection (c) or (c-1) ~~[requested in the~~
25 ~~application for a temporary change of ownership]~~.

26 (g) A temporary change of ownership license issued under
27 Subsection (b) expires on the 90th ~~[91st]~~ day after the effective

1 date established under Subsection (c) or (c-1) [~~date the license~~
2 ~~was issued~~].

3 SECTION 2. As soon as practicable after the effective date
4 of this Act, the executive commissioner of the Health and Human
5 Services Commission shall adopt the rules required by Section
6 242.0336, Health and Safety Code, as amended by this Act.

7 SECTION 3. This Act applies only to a temporary change of
8 ownership license application received by the Department of Aging
9 and Disability Services on or after September 1, 2007. An
10 application received by the department before September 1, 2007, is
11 governed by the law in effect at the time the application is
12 received, and the former law is continued in effect for that
13 purpose.

14 SECTION 4. This Act takes effect September 1, 2007.