

BILL ANALYSIS

C.S.H.B. 2972
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Applicants for any assisted living license or license renewal and managers of assisted living facilities are required to provide personal information, which may include the address, telephone number, drivers license number, and social security number of an individual who the law designates as a "controlling person." However, the definition of a "controlling person" is extremely broad and may include any entity that lends money to, or owns more than a 5 percent equity interest in, another entity or the parent entity of that entity applying for an assisted living facility license. Reporting this information is impossible for a publicly traded company whose stock is traded by individuals and large investment companies on a daily basis, or who borrows funds from national lending institutions. This is delaying the assisted living facility license application process and monopolizing the resources of the Department of Aging and Disability Services for weeks, and sometimes months, at a time.

C.S.H.B. 2972 clarifies the individuals included within the meaning of a controlling person of an assisted living facility or a management company or other business entity that operates or contracts with others for the operation of an assisted living facility that is a publicly traded corporation or is controlled by a publicly traded corporation.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2972 amends the Health and Safety Code to clarify that a controlling person of an assisted living facility or of a management company or other business entity that operates or contracts with others for the operation of an assisted living facility that is a publicly traded corporation or is controlled by a publicly traded corporation means an officer or director of the corporation. The bill specifies that the term controlling person does not include a shareholder or lender of the corporation.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2972 differs from the original by clarifying the meaning of a controlling person of an assisted living facility or of a management company or other business entity that operates or contracts with others for the operation of an assisted living facility that is a publicly traded corporation or is controlled by a publicly traded corporation, whereas the original added to the list of individuals excepted from the meaning of that term a stock holder, limited liability partner, or investor. The substitute differs from the original by omitting a provision in the

original prohibiting a rule from being adopted by the executive commissioner of the Health and Human Services Commission that defines a controlling person to include a person who owns the common stock of a publicly traded organization in the normal course of its business as an investment firm that exerts no control over the day-to-day operation of an assisted living facility.