

By: Coleman

H.B. No. 2972

A BILL TO BE ENTITLED

AN ACT

relating to the definition of a controlling person of an assisted living facility.

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

SECTION 1. Section 247.005, Tex. Health and Safety Code, is amended to read as follows:

Sec. 247.005. CONTROLLING PERSON. (a) A person is a controlling person if the person, acting alone or with others, has the ability to directly or indirectly influence, direct, or cause the direction of the management, expenditure of money, or policies of an assisted living facility or other person.

(b) For purposes of this chapter, "controlling person" includes:

(1) a management company, landlord, or other business entity that operates or contracts with others for the operation of an assisted living facility;

(2) a person who is a controlling person of a management company or other business entity that operates an assisted living facility or that contracts with another person for the operation of an assisted living facility; and

(3) any other individual who, because of a personal, familial, or other relationship with the owner, manager, landlord, tenant, or provider of an assisted living facility, is in a position of actual control or authority with respect to the facility,

1 without regard to whether the individual is formally named as an
2 owner, manager, director, officer, provider, consultant,
3 contractor, or employee of the facility.

4 (c) A controlling person [~~described by Subsection (b)(3)~~]
5 does not include an employee, lender, secured creditor, landlord,
6 stock holder, limited liability partner, investor or other person
7 who does not exercise formal or actual influence or control over the
8 operation of an assisted living facility.

9 (d) The department may adopt rules that specify the
10 ownership interests and other relationships that qualify a person
11 as a controlling person~~[-]~~; provided that, no rule may be adopted
12 that defines a controlling person to include a person who owns the
13 common stock of a publicly traded organization in the normal course
14 of its business as an investment firm that exerts no control over
15 the day to day operation of an assisted living facility.

16 SECTION 2. This act takes effect September 1, 2009.