

BILL ANALYSIS

Senate Research Center

S.B. 1231
By: Estes
Business & Commerce
8/17/2011
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Proposed changes made by S.B. 1231 to the Health Spa Act serve two primary purposes—to modernize the Act by removing outdated requirements and to address issues in the language of the Act that have arisen through its administration. Modernization provisions include removing the requirement that health spa members submit claims to the Office of the Secretary of State (SOS) by certified mail and removing the requirement that the SOS visit the location of each health spa to ensure that notice of the closing is posted.

S.B. 1231 further amends the language of the Act to improve efficiency in the administration of the Act and eliminate unnecessary requirements. The first change is to require a health spa to maintain security only until the claims of its members have been foreclosed by law and satisfied. The second is requiring that health spas be provided with notice and an opportunity for hearing, before SOS takes administrative disciplinary action, instead of requiring a hearing, even when it is not desired by the health spa. The final change is to specify that the 90 day claim period, during which members of a health spa may file a claim with SOS due to financial harm resulting from the closing of a health spa, is triggered when notice of the health spa is posted on SOS's website, instead of by the closing date of the health spa.

S.B. 1231 amends current law relating to the regulation of health spas by the secretary of state.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 702.155, Occupations Code, to require a certificate holder to maintain the security filed or posted under Section 702.151 (Security Required) in effect until the earlier, rather than later, of the second anniversary of the date the certificate holder's health spa closes, or the date the secretary of state (SOS) determines that each claim filed against the security has been satisfied or foreclosed by law.

SECTION 2. Amends Section 702.156, Occupations Code, as follows:

Sec. 702.156. New heading: NOTICE OF CANCELLATION OF SECURITY. Deletes existing Subsection (a) designation. Requires a surety or obligor of security filed or posted under this subchapter to provide to SOS, not later than the 60th day before the date the security is canceled, written notice of the cancellation. Deletes existing Subsection (b) requiring SOS, if the security filed or posted under this subchapter by a certificate holder is canceled, to suspend the certificate holder's certificate of registration on the date of cancellation, and maintain other security on file with SOS until the later of the second anniversary of the date the certificate holder's health spa closes, or the date SOS determines that each claim filed against the security has been satisfied or foreclosed by law.

SECTION 3. Amends Section 702.207, Occupations code, to authorize SOS, after notice and opportunity for hearing, to deny an application for an exemption or permanently revoke a

certificate holder's certificate of exemption if SOS finds that the applicant or certificate holder provided false information on the application for an exemption, or is not longer eligible for an exemption.

SECTION 4. Amends Section 702.251, Occupations Code, to authorize a member to file a claim against the security filed or posted under this subchapter by providing to SOS, rather than by sending to SOS by certified mail, a copy of the contract between the member and certificate holder who filed or posted the security, accompanied by proof of payment made under the contract, if the certificate holder's health spa closes and fails to provide alternative facilities not more than 10 miles from the location of the health spa, or relocates more than 10 miles away from its location preceding the relocation.

SECTION 5. Amends Section 702.254, Occupations Code, to prohibit SOS from considering a claim filed under Section 702.251 (Filing of Security Claim) if the claim is received later than the 90th day after the date notice of the closure or relocation is first posted on SOS's Internet website under Section 702.452(c), rather than Section 702.452.

SECTION 6. Amends Section 702.304(a), Occupations Code, to require that a contract state certain language in at least 10-point type that is boldfaced, capitalized, underlined, or otherwise conspicuously distinguished from surrounding written material. Sets forth the required language of the provision.

SECTION 7. Amends Sections 702.451 and 702.452, Occupations Code, as follows:

Sec. 702.451. **DISCIPLINARY ACTIONS.** (a) Creates this subsection from existing text. Authorizes SOS, after notice and opportunity for hearing, to deny an application for a certificate of registration, or may permanently revoke, rather than permanently revoke or suspend for a definite period, a health spa operator's certificate of registration, on a finding by SOS that the applicant or certificate holder provided false information on an application or other document filed with SOS, failed to file or post, or maintain, the security for each health spa location as required by Subchapter D (Security Requirements), or failed to provide the contract disclosure language required by Subchapter G (Contract Requirements).

(b) Authorizes SOS to permanently revoke a certificate of registration under Subsection (a) based on the certificate holder's failure to maintain the required security only after a finding by SOS that, within the 30-day period following the cancellation or lapse of the security, the certificate holder failed to file or post replacement security in the required amount.

Sec. 702.452. **NOTICE REQUIREMENT BEFORE HEALTH SPA CLOSING.** (a) Requires the certificate holder, at least 30 days before the date a health spa is scheduled to close or relocate, to contemporaneously take certain actions, including to post, inside and outside each entrance to the health spa, a notice stating that a member of the health spa may, not later than the 90th day after the date the notice of the closure or relocation is first posted on SOS's Internet website, rather than after the date the health spa closes or relocates, file with SOS a claim to recover actual financial loss suffered by the member as a result of the health spa closing.

(b) Requires that the notice posted under Subsection (a)(1) (relating to requiring the certificate holder to post a notice) be at least 8 1/2 by 11 inches in size, and posted continuously for at least 30 days. Deletes existing text requiring SOS, if the certificate holder fails to post notice required by Subsection (a)(1) within the time frame specified, not later than the 30th day after the date SOS discovers that a health spa is closed, to post the notice required under Subsection (a)(1).

(c) Redesignates existing Subsection (d) as Subsection (c). Makes no further changes to this subsection.

(d) Redesignates existing Subsection (e) as Subsection (d). Makes no further changes to this subsection.

(e) Redesignates existing Subsection (f) as Subsection (e). Makes no further changes to this subsection.

SECTION 8. (a) Provides that the changes in law made by this Act to Section 702.155 and 702.156, Occupations Code, apply to security that is filed or posted before, on, or after the effective date of this Act.

(b) Makes application of the change in law made by this Act to Section 702.207, Occupations Code, prospective.

(c) Makes application of the change in law made by this Act to Sections 702.251 and 702.254, Occupations Code, prospective.

(d) Makes application of the change in law made by this Act to Section 702.304, Occupations Code, prospective.

(e) Makes application of the change in law made by this Act to Section 702.451, Occupations Code, prospective.

(f) Makes application of the change in law made by this Act to Section 702.452, Occupations Code, prospective.

SECTION 9. Effective date: September 1, 2011.
250,000,000