

BILL ANALYSIS

S.B. 1231
By: Estes
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that the Health Spa Act contains certain outdated requirements that should be addressed and certain impediments to the efficient administration of its provisions. S.B. 1231 addresses these issues as they relate to the regulation of health spas by the secretary of state.

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

S.B. 1231 amends the Occupations Code to require a certificate holder under the Health Spa Act to maintain the security prescribed by the secretary of state in effect until the earlier of, rather than until the later of, certain dates. The bill removes a provision requiring the secretary of state to perform certain actions if the security filed or posted by a certificate holder is canceled. The bill makes these provisions applicable to a security that is filed or posted before, on, or after September 1, 2011.

S.B. 1231, in a provision authorizing the secretary of state to deny an application for an exemption or permanently revoke a certificate of exemption after notice and hearing, clarifies that the secretary of state may perform these actions after an opportunity for hearing. The bill authorizes a member of a health spa to file a claim against the security filed or posted by a certificate holder by providing certain documents to the secretary of state, rather than authorizing such a member to send such documents by certified mail.

S.B. 1231, in a provision prohibiting the secretary of state from considering a security claim filed by a health spa member if the claim is received later than the 90th day after the date notice is first posted, to clarify that such notice is notice of the closure or relocation of the health spa and that the posting is on the secretary of state's Internet website. The bill makes conforming changes to the required disclosure language in a contract between the health spa and the purchaser of a health spa membership.

S.B. 1231 authorizes the secretary of state to permanently revoke a certificate of registration based on the certificate holder's failure to maintain the required security only after a finding by the secretary 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.

S.B. 1231, in a provision setting out information required to be in a notice that is posted before a health spa closes or relocates that includes a statement that a member of the health spa may file a claim with the secretary of state against the spa to recover financial losses, clarifies that the claim must be filed not later than the 90th day after the date notice of the closure or relocation is first posted on the secretary of state's Internet website, rather than not later than the 90th day

after the date the health spa close or relocates. The bill removes a provision requiring the secretary of state, if the certificate holder fails to post the required notice within the time specified, to post the notice not later than the 30th day after the date the secretary discovers that a health spa is closed.

EFFECTIVE DATE

September 1, 2011.