

By: Johnson of Dallas

H.B. No. 3095

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain senior living facilities.

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

SECTION 1. Title 8, Property Code, is amended by adding Chapter 95 to read as follows:

CHAPTER 95. SENIOR LIVING FACILITIES

Sec. 95.001. DEFINITIONS. In this chapter:

(1) "Common amenity" means an amenity or service offered or provided to residents of a multiunit residential property, including:

(A) a fitness center;

(B) concierge services;

(C) a library;

(D) common dining services;

(E) housekeeping services; and

(F) full-time security.

(2) "Resident" means an individual who resides in a senior living facility as a unit owner or tenant.

(3) "Senior living contract" means a contract with a resident of a senior living facility for providing a common amenity to the resident.

(4) "Senior living facility" means a residential facility or a portion of a residential facility that:

(A) is managed by a single entity;

1                   (B) generally requires a resident to be 55 years  
2 of age or older;

3                   (C) contains not fewer than 20 residential units  
4 in one or more multiunit buildings that are available to rent,  
5 lease, or own;

6                   (D) is located on a single lot or tract of land or  
7 on multiple contiguous lots or tracts of land; and

8                   (E) provides common amenities.

9                   (5) "Unit" means a physical portion of a residential  
10 property designated for separate ownership or occupancy.

11           Sec. 95.002. EXEMPTIONS. This chapter does not apply to:

12                   (1) a health care institution as defined by Section  
13 74.001, Civil Practice and Remedies Code;

14                   (2) a boarding home facility as defined by Section  
15 260.001, Health and Safety Code, that holds a permit issued under  
16 Chapter 260, Health and Safety Code;

17                   (3) a supportive housing facility for elderly  
18 individuals operated under Section 202, the National Housing Act  
19 (12 U.S.C. Section 1701q);

20                   (4) a center for independent living as defined by  
21 Section 702 of the federal Rehabilitation Act of 1973 (29 U.S.C.  
22 Section 796a); or

23                   (5) any other facility that is regulated by the Health  
24 and Human Services Commission or in accordance with rules adopted  
25 by the Centers for Medicare and Medicaid Services.

26           Sec. 95.003. REQUIREMENTS RELATING TO RESIDENT SAFETY FROM  
27 CRIMINAL ACTIVITY. (a) A senior living facility shall:

1           (1) conduct a criminal history record check for each  
2 facility employee and each person contracted by the facility to  
3 provide services at the facility and maintain the records of each  
4 criminal history record check conducted under this subdivision; and

5           (2) report all instances of criminal activity at the  
6 facility to a law enforcement officer, including, if applicable,  
7 information regarding the involvement of a facility employee or  
8 contractor in the criminal activity.

9           (b) A senior living facility may not:

10           (1) prevent or inhibit a resident from or penalize a  
11 resident for communicating with a law enforcement officer, social  
12 worker, family member, or other interested person regarding the  
13 safety and security of the facility; or

14           (2) prevent a law enforcement officer or court officer  
15 from entering a common area of the facility to conduct a voluntary  
16 interview with a resident as part of an investigation into criminal  
17 activity at the facility.

18           Sec. 95.004. PROHIBITED AGREEMENT OR CONTRACT PROVISIONS.

19 A lease, rental, or purchase agreement for a residential unit in a  
20 senior living facility or a senior living contract with a resident  
21 may not include a provision that:

22           (1) requires arbitration or waives liability in an  
23 action brought under Section 95.005; or

24           (2) controls the content or execution of the  
25 resident's advance directive or testamentary documents.

26           Sec. 95.005. CIVIL LIABILITY. (a) A senior living facility  
27 is liable to a resident for actual damages incurred from:

1           (1) a violation of this chapter; or

2           (2) the facility's failure to implement a safety  
3 policy or procedure that the resident reasonably believed was  
4 adopted by the facility.

5           (b) Chapter 74, Civil Practice and Remedies Code, does not  
6 apply to an action brought under Subsection (a).

7           Sec. 95.006. CUMULATIVE REMEDIES. The remedies provided by  
8 this chapter are not exclusive and are in addition to any other  
9 remedy provided by law, including a remedy provided for a tenant  
10 against a landlord under this title, as applicable.

11           SECTION 2. (a) Section 95.004, Property Code, as added by  
12 this Act, applies only to an agreement or contract entered into or  
13 renewed on or after the effective date of this Act.

14           (b) Section 95.005, Property Code, as added by this Act,  
15 applies only to a cause of action that accrues on or after the  
16 effective date of this Act.

17           SECTION 3. This Act takes effect September 1, 2021.