

Senate Bill 439

By: Senators Still of the 48th, Goodman of the 8th, Burns of the 23rd and Echols of the 49th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia
2 Annotated, the "Fair Business Practices Act of 1975," so as to provide for regulation of
3 referral agencies for assisted living communities and personal care homes; to provide for
4 disclosures to prospective residents and acknowledgments of receipt; to provide for charging
5 and collection of fees; to require verification of licensing of assisted living communities and
6 personal care homes by referral agencies; to provide for definitions; to provide for related
7 matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, the
11 "Fair Business Practices Act of 1975," is amended by adding a new Code section to read as
12 follows:

13 "10-1-393.22.

14 (a) As used in this Code section, the term:

15 (1) 'Assisted living community' means a personal care home with a minimum of 25 beds
16 that is licensed as an assisted living community pursuant to Code Section 31-7-3.

17 (2) 'Personal care home' means any dwelling, whether operated for profit or not, which
18 undertakes through its ownership or management to provide or arrange for the provision
19 of housing, food service, and one or more personal services for two or more adults who
20 are not related to the owner or administrator by blood or marriage. Such term shall not
21 include host homes, as defined in paragraph (18) of Code Section 37-1-20.

22 (3) 'Personal services' means individual assistance with or supervision of
23 self-administered medication and essential activities of daily living including, but not
24 limited to, eating, bathing, grooming, dressing, and toileting. Personal services shall not
25 include medical, nursing, or health services; provided, however, that the department shall
26 be authorized to grant a waiver of this provision in the same manner as provided for in
27 Code Section 31-7-12.3 for the waiver of rules and regulations and in the same manner
28 and only to the same extent as granted on or before June 30, 2011.

29 (4) 'Referral agency' means an individual or entity that provides referrals to an assisted
30 living community or personal care home of a prospective resident for a fee that is
31 collected from the assisted living community or personal care home. Such term shall not
32 include:

33 (A) An assisted living community, personal care home, or its employees; or

34 (B) A resident or family member of a resident of an assisted living community or
35 personal care home, regardless of whether such resident or family member receives a
36 discount or other remuneration from the assisted living community or personal care
37 home, for referring a prospective resident.

38 (b) No later than the time that a referral agency makes a referral to an assisted living
39 community or personal care home, such referral agency shall conspicuously disclose in a
40 physical or electronic form to a prospective resident or his or her authorized representative:

41 (1) A description of the referral agency's services;

42 (2) The existence of any relationship between the referral agency and the assisted living
43 community or personal care home, including common ownership or control of the

44 residence, or financial, business, management, contractual, or familial relationships
45 between the referral agency and the assisted living community or personal care home;

46 (3) That the referral agency receives a fee from the assisted living community or
47 personal care home for the referral;

48 (4) That the list of assisted living communities or personal care homes provided by the
49 referral agency may not include all options that meet the prospective resident's stated
50 preferences and needs; and

51 (5) That the prospective resident or his or her authorized representative may at any time
52 terminate all services provided by the referral agency, including the use of a prospective
53 resident's personal information, by providing a written or electronic notice of termination
54 to the referral agency.

55 (c) A referral agency shall obtain from a prospective resident or his or her authorized
56 representative a signed and dated acknowledgment of receipt of the disclosure required in
57 subsection (b) of this Code section in a physical or electronic form.

58 (d) Referral agencies may charge or collect a fee from an assisted living community or
59 personal care home only after a resident confirms in writing that he or she utilized the
60 referral agency's services to relocate to the referred residence.

61 (e) Referral agencies shall not charge or collect a fee from an assisted living community
62 or personal care home:

63 (1) Without providing the signed and dated acknowledgment of receipt of the disclosure
64 required by subsection (c) of this Code section and the confirmation required by
65 subsection (d) of this Code section to the assisted living community or personal care
66 home; or

67 (2) In the event that more than 12 months have elapsed between the date that the referral
68 was made and the date that the resident moved into the assisted living community or
69 personal care home.

70 (f) Referral agencies shall verify with the Department of Community Health that any
71 assisted living community or personal care home they list or make referrals to is licensed
72 pursuant to Code Section 31-7-3 and shall not make any referrals to any unlicensed living
73 community or personal care home."

74 **SECTION 2.**

75 All laws and parts of laws in conflict with this Act are repealed.