

The Senate Committee on Health and Human Services offered the following substitute to SB 439:

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 such term is set forth in 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 an authorized representative of a resident of an assisted living  
35 community or personal care home, regardless of whether such resident or authorized  
36 representative receives a discount or other remuneration from the assisted living  
37 community or personal care home, for referring a prospective resident.

38 (5) 'Resident' means a living individual who is seeking, considering, or receiving housing  
39 in an assisted living community or personal care home

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

- 44 (1) A description of the referral agency's services;  
45 (2) The existence of any relationship between the referral agency and the assisted living  
46 community or personal care home, including common ownership or control of the  
47 residence, or financial, business, management, contractual, or familial relationships  
48 between the referral agency and the assisted living community or personal care home;  
49 (3) That the referral agency receives a fee from the assisted living community or  
50 personal care home for the referral;  
51 (4) That the list of assisted living communities or personal care homes provided by the  
52 referral agency may not include all options that meet the prospective resident's stated  
53 preferences and needs; and  
54 (5) That the prospective resident or his or her authorized representative may at any time  
55 terminate all services provided by the referral agency, including the use of a prospective  
56 resident's personal information, by providing a written or electronic notice of termination  
57 to the referral agency.
- 58 (c) A referral agency shall obtain from a prospective resident or his or her authorized  
59 representative a documented written, electronic, or verbal acknowledgment of receipt of  
60 the disclosure required in subsection (b) of this Code section in a physical or electronic  
61 form, which shall be retained by the referral agency. Such acknowledgment shall not  
62 create any contractual or exclusive relationship between the referral agency and the  
63 resident or his or her authorized representative and shall not prohibit a resident or his or her  
64 authorized representative from independently entering into a contract with or for any other  
65 assisted living community or personal care home.
- 66 (d) Referral agencies may charge or collect a fee from an assisted living community or  
67 personal care home only after a resident relocates to the referred residence and confirms  
68 in writing that he or she utilized the referral agency's services to relocate to the referred  
69 residence.

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

72 (1) Without providing the documented written, electronic, or verbal acknowledgment of  
73 receipt of the disclosure required by subsection (c) of this Code section and the  
74 confirmation required by subsection (d) of this Code section to the assisted living  
75 community or personal care home; or

76 (2) In the event that more than 24 months have elapsed between the date that the referral  
77 was made and the date that the resident moved into the assisted living community or  
78 personal care home, unless the prospective resident or his or her authorized representative  
79 has previously terminated the relationship pursuant to subsection (f) of this Code section;  
80 provided, however, if, after the initial 12 months from the date the referral was made, the  
81 prospective resident has not relocated to an assisted living community or personal care  
82 home that he or she was referred to, then the referral agency shall resubmit a referral to  
83 the assisted living community or personal care home. A digital or physical copy of such  
84 referral shall be provided to the prospective resident or his or her representative, and such  
85 resubmitted referral shall reactivate such referral for the remaining 12 months.

86 (f) A prospective resident or his or her authorized representative may at any time terminate  
87 all services provided by the referral agency, including the use of a prospective resident's  
88 personal information, by providing a written or electronic notice of termination to the  
89 referral agency.

90 (g) Enforcement of this Code section shall only be by public enforcement by the Attorney  
91 General pursuant to this part and shall not be enforceable through a private right of action  
92 under Code Section 10-1-399."

93

## SECTION 2.

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