



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB0191

Introduced 2/9/2021, by Sen. Meg Loughran Cappel

#### SYNOPSIS AS INTRODUCED:

210 ILCS 9/90

210 ILCS 9/93 new

210 ILCS 45/2-201

from Ch. 111 1/2, par. 4152-201

Amends the Assisted Living and Shared Housing Act and the Nursing Home Care Act. Directs assisted living establishments and facilities licensed under the Nursing Home Care Act to institute written policies and procedures regarding the acceptance of personal gifts from a resident or the family member of a resident. Requires assisted living establishments and facilities to include in all employment contracts a provision that prohibits acceptance of a monetary gift from a resident or the family member of a resident, which shall also notify the employee of the need to enter into a repayment agreement to recoup the value of any gift accepted by staff from a resident or the family member of a resident that is not returned promptly. Provides that if the employee agrees to and signs the repayment agreement, the assisted living establishment or facility shall be permitted to withhold up to 15% of the employee's wages per paycheck, or a higher amount from the employee's final compensation, until the employee has paid back the full value of the monetary gift.

LRB102 15018 CPF 20373 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Assisted Living and Shared Housing Act is  
5 amended by changing Section 90 and by adding Section 93 as  
6 follows:

7 (210 ILCS 9/90)

8 Sec. 90. Contents of service delivery contract. A contract  
9 between an establishment and a resident must be entitled  
10 "assisted living establishment contract" or "shared housing  
11 establishment contract" as applicable, shall be printed in no  
12 less than 12 point type, and shall include at least the  
13 following elements in the body or through supporting documents  
14 or attachments:

15 (1) the name, street address, and mailing address of  
16 the establishment;

17 (2) the name and mailing address of the owner or  
18 owners of the establishment and, if the owner or owners  
19 are not natural persons, the type of business entity of  
20 the owner or owners;

21 (3) the name and mailing address of the managing agent  
22 of the establishment, whether hired under a management  
23 agreement or lease agreement, if the managing agent is

1 different from the owner or owners;

2 (4) the name and address of at least one natural  
3 person who is authorized to accept service on behalf of  
4 the owners and managing agent;

5 (5) a statement describing the license status of the  
6 establishment and the license status of all providers of  
7 health-related or supportive services to a resident under  
8 arrangement with the establishment;

9 (6) the duration of the contract;

10 (7) the base rate to be paid by the resident and a  
11 description of the services to be provided as part of this  
12 rate;

13 (8) a description of any additional services to be  
14 provided for an additional fee by the establishment  
15 directly or by a third party provider under arrangement  
16 with the establishment;

17 (9) the fee schedules outlining the cost of any  
18 additional services;

19 (10) a description of the process through which the  
20 contract may be modified, amended, or terminated;

21 (11) a description of the establishment's complaint  
22 resolution process available to residents and notice of  
23 the availability of the Department on Aging's Senior  
24 Helpline for complaints;

25 (12) the name of the resident's designated  
26 representative, if any;

1           (13) the resident's obligations in order to maintain  
2           residency and receive services including compliance with  
3           all assessments required under Section 15;

4           (14) the billing and payment procedures and  
5           requirements;

6           (15) a statement affirming the resident's freedom to  
7           receive services from service providers with whom the  
8           establishment does not have a contractual arrangement,  
9           which may also disclaim liability on the part of the  
10          establishment for those services;

11          (16) a statement that medical assistance under Article  
12          V or Article VI of the Illinois Public Aid Code is not  
13          available for payment for services provided in an  
14          establishment, excluding contracts executed with residents  
15          residing in licensed establishments participating in the  
16          Department on Aging's Comprehensive Care in Residential  
17          Settings Demonstration Project;

18          (17) a statement detailing the admission, risk  
19          management, and residency termination criteria and  
20          procedures;

21          (18) a statement listing the rights specified in  
22          Section 95 and acknowledging that, by contracting with the  
23          assisted living or shared housing establishment, the  
24          resident does not forfeit those rights;

25          (19) a statement detailing the Department's annual  
26          on-site review process including what documents contained

1 in a resident's personal file shall be reviewed by the  
2 on-site reviewer as defined by rule; ~~and~~

3 (20) a statement outlining whether the establishment  
4 charges a community fee and, if so, the amount of the fee  
5 and whether it is refundable; if the fee is refundable,  
6 the contract must describe the conditions under which it  
7 is refundable and how the amount of the refund is  
8 determined; and.

9 (21) a statement outlining the policies and procedures  
10 of the establishment regarding the acceptance of personal  
11 gifts from a resident or the family member of a resident,  
12 consistent with Section 93.

13 (Source: P.A. 93-775, eff. 1-1-05; 94-256, eff. 7-19-05.)

14 (210 ILCS 9/93 new)

15 Sec. 93. Personal gifts. An assisted living establishment  
16 shall institute written policies and procedures regarding the  
17 acceptance of personal gifts from a resident or the family  
18 member of a resident. The assisted living establishment shall  
19 also prohibit the receipt of a monetary gift, including, but  
20 not limited to, cash, a cash equivalent, a gift card, or  
21 merchandise from a resident or the family member of a  
22 resident. The assisted living establishment shall require that  
23 all employment contracts include a provision prohibiting staff  
24 from receiving monetary gifts from a resident or the family  
25 member of a resident. The provision shall also provide for a

1 repayment agreement to recoup the value of any monetary gift  
2 received by staff from a resident that was not returned to the  
3 resident. The repayment agreement shall allow the assisted  
4 living establishment to withhold up to 15% of an employee's  
5 wages per paycheck, or a higher amount from the employee's  
6 final compensation, to repay the resident the full value of  
7 the monetary gift. If there is an event that triggers the need  
8 for a repayment agreement, and the employer and employee agree  
9 to a repayment agreement, the employee must sign that  
10 agreement before the employer begins to withhold wages.

11 Section 10. The Nursing Home Care Act is amended by  
12 changing Section 2-201 as follows:

13 (210 ILCS 45/2-201) (from Ch. 111 1/2, par. 4152-201)  
14 Sec. 2-201. To protect the residents' funds, the facility:  
15 (1) Shall at the time of admission provide, in order of  
16 priority, each resident, or the resident's guardian, if any,  
17 or the resident's representative, if any, or the resident's  
18 immediate family member, if any, with a written statement  
19 explaining to the resident and to the resident's spouse (a)  
20 their spousal impoverishment rights, as defined at Section 5-4  
21 of the Illinois Public Aid Code, and at Section 303 of Title  
22 III of the Medicare Catastrophic Coverage Act of 1988 (P.L.  
23 100-360), (b) their obligation to comply with the asset and  
24 income disclosure requirements of Title XIX of the federal

1 Social Security Act and the regulations duly promulgated  
2 thereunder, except that this item (b) does not apply to  
3 facilities operated by the Illinois Department of Veterans'  
4 Affairs that do not participate in Medicaid, and (c) the  
5 resident's rights regarding personal funds and listing the  
6 services for which the resident will be charged. The facility  
7 shall obtain a signed acknowledgment from each resident or the  
8 resident's guardian, if any, or the resident's representative,  
9 if any, or the resident's immediate family member, if any,  
10 that such person has received the statement and understands  
11 that failure to comply with asset and income disclosure  
12 requirements may result in the denial of Medicaid eligibility.

13 (2) May accept funds from a resident for safekeeping and  
14 managing, if it receives written authorization from, in order  
15 of priority, the resident or the resident's guardian, if any,  
16 or the resident's representative, if any, or the resident's  
17 immediate family member, if any; such authorization shall be  
18 attested to by a witness who has no pecuniary interest in the  
19 facility or its operations, and who is not connected in any way  
20 to facility personnel or the administrator in any manner  
21 whatsoever.

22 (3) Shall maintain and allow, in order of priority, each  
23 resident or the resident's guardian, if any, or the resident's  
24 representative, if any, or the resident's immediate family  
25 member, if any, access to a written record of all financial  
26 arrangements and transactions involving the individual

1 resident's funds.

2 (4) Shall provide, in order of priority, each resident, or  
3 the resident's guardian, if any, or the resident's  
4 representative, if any, or the resident's immediate family  
5 member, if any, with a written itemized statement at least  
6 quarterly, of all financial transactions involving the  
7 resident's funds.

8 (5) Shall purchase a surety bond, or otherwise provide  
9 assurance satisfactory to the Departments of Public Health and  
10 Insurance that all residents' personal funds deposited with  
11 the facility are secure against loss, theft, and insolvency.

12 (6) Shall keep any funds received from a resident for  
13 safekeeping in an account separate from the facility's funds,  
14 and shall at no time withdraw any part or all of such funds for  
15 any purpose other than to return the funds to the resident upon  
16 the request of the resident or any other person entitled to  
17 make such request, to pay the resident his allowance, or to  
18 make any other payment authorized by the resident or any other  
19 person entitled to make such authorization.

20 (7) Shall deposit any funds received from a resident in  
21 excess of \$100 in an interest bearing account insured by  
22 agencies of, or corporations chartered by, the State or  
23 federal government. The account shall be in a form which  
24 clearly indicates that the facility has only a fiduciary  
25 interest in the funds and any interest from the account shall  
26 accrue to the resident. The facility may keep up to \$100 of a



1 resident's money in a non-interest bearing account or petty  
2 cash fund, to be readily available for the resident's current  
3 expenditures.

4 (8) Shall return to the resident, or the person who  
5 executed the written authorization required in subsection (2)  
6 of this Section, upon written request, all or any part of the  
7 resident's funds given the facility for safekeeping, including  
8 the interest accrued from deposits.

9 (9) Shall (a) place any monthly allowance to which a  
10 resident is entitled in that resident's personal account, or  
11 give it to the resident, unless the facility has written  
12 authorization from the resident or the resident's guardian or  
13 if the resident is a minor, his parent, to handle it  
14 differently, (b) take all steps necessary to ensure that a  
15 personal needs allowance that is placed in a resident's  
16 personal account is used exclusively by the resident or for  
17 the benefit of the resident, and (c) where such funds are  
18 withdrawn from the resident's personal account by any person  
19 other than the resident, require such person to whom funds  
20 constituting any part of a resident's personal needs allowance  
21 are released, to execute an affidavit that such funds shall be  
22 used exclusively for the benefit of the resident.

23 (10) Unless otherwise provided by State law, upon the  
24 death of a resident, shall provide the executor or  
25 administrator of the resident's estate with a complete  
26 accounting of all the resident's personal property, including

1 any funds of the resident being held by the facility.

2 (11) If an adult resident is incapable of managing his  
3 funds and does not have a resident's representative, guardian,  
4 or an immediate family member, shall notify the Office of the  
5 State Guardian of the Guardianship and Advocacy Commission.

6 (12) If the facility is sold, shall provide the buyer with  
7 a written verification by a public accountant of all  
8 residents' monies and properties being transferred, and obtain  
9 a signed receipt from the new owner.

10 (13) Shall establish written policies and procedures  
11 regarding the acceptance of personal gifts from a resident or  
12 the family member of a resident consistent with this  
13 paragraph. The facility shall include in all employment  
14 contracts a provision that prohibits acceptance of a monetary  
15 gift, including, but not limited to, cash, a cash equivalent,  
16 a gift card, or merchandise, from a resident or the family  
17 member of a resident. The provision shall also notify the  
18 employee of the need to enter into a repayment agreement to  
19 recoup the value of any gift accepted by an employee from a  
20 resident or the family member of a resident that is not  
21 returned promptly. If the employee agrees to and signs the  
22 repayment agreement, the facility shall be permitted to  
23 withhold up to 15% of the employee's wages per paycheck, or a  
24 higher amount from the employee's final compensation, until  
25 the employee has paid back the full value of the monetary gift.  
26 The facility shall forward all recovered funds to the resident

1 or the resident's estate as soon as is feasible.

2 (Source: P.A. 98-523, eff. 8-23-13.)