



Rep. Daniel V. Beiser

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1 AMENDMENT TO SENATE BILL 314

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 314 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Act on the Aging is amended by  
5 changing Section 4.04 as follows:

6 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

7 Sec. 4.04. Long Term Care Ombudsman Program.

8 (a) Long Term Care Ombudsman Program. The Department shall  
9 establish a Long Term Care Ombudsman Program, through the  
10 Office of State Long Term Care Ombudsman ("the Office"), in  
11 accordance with the provisions of the Older Americans Act of  
12 1965, as now or hereafter amended.

13 (b) Definitions. As used in this Section, unless the  
14 context requires otherwise:

15 (1) "Access" has the same meaning as in Section 1-104  
16 of the Nursing Home Care Act, as now or hereafter amended;

1 that is, it means the right to:

2 (i) Enter any long term care facility or assisted  
3 living or shared housing establishment or supportive  
4 living facility;

5 (ii) Communicate privately and without restriction  
6 with any resident, regardless of age, who consents to  
7 the communication;

8 (iii) Seek consent to communicate privately and  
9 without restriction with any resident, regardless of  
10 age;

11 (iv) Inspect the clinical and other records of a  
12 resident, regardless of age, with the express written  
13 consent of the resident;

14 (v) Observe all areas of the long term care  
15 facility or supportive living facilities, assisted  
16 living or shared housing establishment except the  
17 living area of any resident who protests the  
18 observation.

19 (2) "Long Term Care Facility" means (i) any facility as  
20 defined by Section 1-113 of the Nursing Home Care Act, as  
21 now or hereafter amended; and (ii) any skilled nursing  
22 facility or a nursing facility which meets the requirements  
23 of Section 1819(a), (b), (c), and (d) or Section 1919(a),  
24 (b), (c), and (d) of the Social Security Act, as now or  
25 hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d)  
26 and 42 U.S.C. 1396r(a), (b), (c), and (d)).

1           (2.5) "Assisted living establishment" and "shared  
2 housing establishment" have the meanings given those terms  
3 in Section 10 of the Assisted Living and Shared Housing  
4 Act.

5           (2.7) "Supportive living facility" means a facility  
6 established under Section 5-5.01a of the Illinois Public  
7 Aid Code.

8           (3) "State Long Term Care Ombudsman" means any person  
9 employed by the Department to fulfill the requirements of  
10 the Office of State Long Term Care Ombudsman as required  
11 under the Older Americans Act of 1965, as now or hereafter  
12 amended, and Departmental policy.

13           (3.1) "Ombudsman" means any designated representative  
14 of a regional long term care ombudsman program; provided  
15 that the representative, whether he is paid for or  
16 volunteers his ombudsman services, shall be qualified and  
17 designated by the Office to perform the duties of an  
18 ombudsman as specified by the Department in rules and in  
19 accordance with the provisions of the Older Americans Act  
20 of 1965, as now or hereafter amended.

21           (c) Ombudsman; rules. The Office of State Long Term Care  
22 Ombudsman shall be composed of at least one full-time ombudsman  
23 and shall include a system of designated regional long term  
24 care ombudsman programs. Each regional program shall be  
25 designated by the State Long Term Care Ombudsman as a  
26 subdivision of the Office and any representative of a regional

1 program shall be treated as a representative of the Office.

2 The Department, in consultation with the Office, shall  
3 promulgate administrative rules in accordance with the  
4 provisions of the Older Americans Act of 1965, as now or  
5 hereafter amended, to establish the responsibilities of the  
6 Department and the Office of State Long Term Care Ombudsman and  
7 the designated regional Ombudsman programs. The administrative  
8 rules shall include the responsibility of the Office and  
9 designated regional programs to investigate and resolve  
10 complaints made by or on behalf of residents of long term care  
11 facilities, supportive living facilities, and assisted living  
12 and shared housing establishments, including the option to  
13 serve residents under the age of 60, relating to actions,  
14 inaction, or decisions of providers, or their representatives,  
15 of long term care facilities, of supported living facilities,  
16 of assisted living and shared housing establishments, of public  
17 agencies, or of social services agencies, which may adversely  
18 affect the health, safety, welfare, or rights of such  
19 residents. The Office and designated regional programs may  
20 represent all residents, but are not required by this Act to  
21 represent persons under 60 years of age, except to the extent  
22 required by federal law. When necessary and appropriate,  
23 representatives of the Office shall refer complaints to the  
24 appropriate regulatory State agency. The Department, in  
25 consultation with the Office, shall cooperate with the  
26 Department of Human Services and other State agencies in

1 providing information and training to designated regional long  
2 term care ombudsman programs about the appropriate assessment  
3 and treatment (including information about appropriate  
4 supportive services, treatment options, and assessment of  
5 rehabilitation potential) of the residents they serve,  
6 including children, persons with mental illness (other than  
7 Alzheimer's disease and related disorders), and persons with  
8 developmental disabilities.

9 The State Long Term Care Ombudsman and all other ombudsmen,  
10 as defined in paragraph (3.1) of subsection (b) must submit to  
11 background checks under the Health Care Worker Background Check  
12 Act and receive training, as prescribed by the Illinois  
13 Department on Aging, before visiting facilities. The training  
14 must include information specific to assisted living  
15 establishments, supportive living facilities, and shared  
16 housing establishments and to the rights of residents  
17 guaranteed under the corresponding Acts and administrative  
18 rules.

19 (c-5) Consumer Choice Information Reports. The Office  
20 shall:

21 (1) In collaboration with the Attorney General, create  
22 a Consumer Choice Information Report form to be completed  
23 by all licensed long term care facilities to aid  
24 Illinoisans and their families in making informed choices  
25 about long term care. The Office shall create a Consumer  
26 Choice Information Report for each type of licensed long

1 term care facility.

2 (2) Develop a database of Consumer Choice Information  
3 Reports completed by licensed long term care facilities  
4 that includes information in the following consumer  
5 categories:

6 (A) Medical Care, Services, and Treatment.

7 (B) Special Services and Amenities.

8 (C) Staffing.

9 (D) Facility Statistics and Resident Demographics.

10 (E) Ownership and Administration.

11 (F) Safety and Security.

12 (G) Meals and Nutrition.

13 (H) Rooms, Furnishings, and Equipment.

14 (I) Family, Volunteer, and Visitation Provisions.

15 (3) Make this information accessible to the public,  
16 including on the Internet by means of a hyperlink labeled  
17 "Resident's Right to Know" on the Office's World Wide Web  
18 home page.

19 (4) Have the authority, with the Attorney General, to  
20 verify that information provided by a facility is accurate.

21 (5) Request a new report from any licensed facility  
22 whenever it deems necessary.

23 (d) Access and visitation rights.

24 (1) In accordance with subparagraphs (A) and (E) of  
25 paragraph (3) of subsection (c) of Section 1819 and  
26 subparagraphs (A) and (E) of paragraph (3) of subsection

1 (c) of Section 1919 of the Social Security Act, as now or  
2 hereafter amended (42 U.S.C. 1395i-3 (c)(3)(A) and (E) and  
3 42 U.S.C. 1396r (c)(3)(A) and (E)), and Section 712 of the  
4 Older Americans Act of 1965, as now or hereafter amended  
5 (42 U.S.C. 3058f), a long term care facility, supportive  
6 living facility, assisted living establishment, and shared  
7 housing establishment must:

8 (i) permit immediate access to any resident,  
9 regardless of age, by a designated ombudsman; and

10 (ii) permit representatives of the Office, with  
11 the permission of the resident's legal representative  
12 or legal guardian, to examine a resident's clinical and  
13 other records, regardless of the age of the resident,  
14 and if a resident is unable to consent to such review,  
15 and has no legal guardian, permit representatives of  
16 the Office appropriate access, as defined by the  
17 Department, in consultation with the Office, in  
18 administrative rules, to the resident's records.

19 (2) Each long term care facility, supportive living  
20 facility, assisted living establishment, and shared  
21 housing establishment shall display, in multiple,  
22 conspicuous public places within the facility accessible  
23 to both visitors and residents and in an easily readable  
24 format, the address and phone number of the Office of the  
25 Long Term Care Ombudsman, in a manner prescribed by the  
26 Office.

1           (e) Immunity. An ombudsman or any representative of the  
2 Office participating in the good faith performance of his or  
3 her official duties shall have immunity from any liability  
4 (civil, criminal or otherwise) in any proceedings (civil,  
5 criminal or otherwise) brought as a consequence of the  
6 performance of his official duties.

7           (f) Business offenses.

8           (1) No person shall:

9           (i) Intentionally prevent, interfere with, or  
10 attempt to impede in any way any representative of the  
11 Office in the performance of his official duties under  
12 this Act and the Older Americans Act of 1965; or

13           (ii) Intentionally retaliate, discriminate  
14 against, or effect reprisals against any long term care  
15 facility resident or employee for contacting or  
16 providing information to any representative of the  
17 Office.

18           (2) A violation of this Section is a business offense,  
19 punishable by a fine not to exceed \$501.

20           (3) The Director of Aging, in consultation with the  
21 Office, shall notify the State's Attorney of the county in  
22 which the long term care facility, supportive living  
23 facility, or assisted living or shared housing  
24 establishment is located, or the Attorney General, of any  
25 violations of this Section.

26           (g) Confidentiality of records and identities. The



1 Department shall establish procedures for the disclosure by the  
2 State Ombudsman or the regional ombudsmen entities of files  
3 maintained by the program. The procedures shall provide that  
4 the files and records may be disclosed only at the discretion  
5 of the State Long Term Care Ombudsman or the person designated  
6 by the State Ombudsman to disclose the files and records, and  
7 the procedures shall prohibit the disclosure of the identity of  
8 any complainant, resident, witness, or employee of a long term  
9 care provider unless:

10 (1) the complainant, resident, witness, or employee of  
11 a long term care provider or his or her legal  
12 representative consents to the disclosure and the consent  
13 is in writing;

14 (2) the complainant, resident, witness, or employee of  
15 a long term care provider gives consent orally; and the  
16 consent is documented contemporaneously in writing in  
17 accordance with such requirements as the Department shall  
18 establish; or

19 (3) the disclosure is required by court order.

20 (h) Legal representation. The Attorney General shall  
21 provide legal representation to any representative of the  
22 Office against whom suit or other legal action is brought in  
23 connection with the performance of the representative's  
24 official duties, in accordance with the State Employee  
25 Indemnification Act.

26 (i) Treatment by prayer and spiritual means. Nothing in

1 this Act shall be construed to authorize or require the medical  
2 supervision, regulation or control of remedial care or  
3 treatment of any resident in a long term care facility operated  
4 exclusively by and for members or adherents of any church or  
5 religious denomination the tenets and practices of which  
6 include reliance solely upon spiritual means through prayer for  
7 healing.

8 (j) The Long Term Care Ombudsman Fund is created as a  
9 special fund in the State treasury to receive moneys for the  
10 express purposes of this Section. All interest earned on moneys  
11 in the fund shall be credited to the fund. Moneys contained in  
12 the fund shall be used to support the purposes of this Section.

13 (Source: P.A. 95-620, eff. 9-17-07; 95-823, eff. 1-1-09;  
14 revised 9-5-08.)

15 Section 10. The State Finance Act is amended by adding  
16 Sections 5.723 and 5.724 as follows:

17 (30 ILCS 105/5.723 new)

18 Sec. 5.723. The Long Term Care Ombudsman Fund.

19 (30 ILCS 105/5.724 new)

20 Sec. 5.724. The Nursing Home Conversion Fund.

21 Section 15. The Nursing Home Care Act is amended by  
22 changing Sections 3-103 and 3-308 as follows:

1 (210 ILCS 45/3-103) (from Ch. 111 1/2, par. 4153-103)  
2 Sec. 3-103. The procedure for obtaining a valid license  
3 shall be as follows:

4 (1) Application to operate a facility shall be made to  
5 the Department on forms furnished by the Department.

6 (2) All license applications shall be accompanied with  
7 an application fee. The fee for an annual license shall be  
8 \$995. Facilities that pay a fee or assessment pursuant to  
9 Article V-C of the Illinois Public Aid Code shall be exempt  
10 from the license fee imposed under this item (2). The fee  
11 for a 2-year license shall be double the fee for the annual  
12 license set forth in the preceding sentence. The fees  
13 collected shall be deposited with the State Treasurer into  
14 the Long Term Care Monitor/Receiver Fund, which has been  
15 created as a special fund in the State treasury. This  
16 special fund is to be used by the Department for expenses  
17 related to the appointment of monitors and receivers as  
18 contained in Sections 3-501 through 3-517 of this Act, for  
19 the enforcement of this Act, and for implementation of the  
20 Abuse Prevention Review Team Act. The Department may reduce  
21 or waive a penalty pursuant to Section 3-308 only if that  
22 action will not threaten the ability of the Department to  
23 meet the expenses required to be met by the Long Term Care  
24 Monitor/Receiver Fund. At the end of each fiscal year, any  
25 funds in excess of \$1,000,000 held in the Long Term Care

1 Monitor/Receiver Fund shall be deposited in the State's  
2 General Revenue Fund. The application shall be under oath  
3 and the submission of false or misleading information shall  
4 be a Class A misdemeanor. The application shall contain the  
5 following information:

6 (a) The name and address of the applicant if an  
7 individual, and if a firm, partnership, or  
8 association, of every member thereof, and in the case  
9 of a corporation, the name and address thereof and of  
10 its officers and its registered agent, and in the case  
11 of a unit of local government, the name and address of  
12 its chief executive officer;

13 (b) The name and location of the facility for which  
14 a license is sought;

15 (c) The name of the person or persons under whose  
16 management or supervision the facility will be  
17 conducted;

18 (d) The number and type of residents for which  
19 maintenance, personal care, or nursing is to be  
20 provided; and

21 (e) Such information relating to the number,  
22 experience, and training of the employees of the  
23 facility, any management agreements for the operation  
24 of the facility, and of the moral character of the  
25 applicant and employees as the Department may deem  
26 necessary.

1           (3) Each initial application shall be accompanied by a  
2 financial statement setting forth the financial condition  
3 of the applicant and by a statement from the unit of local  
4 government having zoning jurisdiction over the facility's  
5 location stating that the location of the facility is not  
6 in violation of a zoning ordinance. An initial application  
7 for a new facility shall be accompanied by a permit as  
8 required by the "Illinois Health Facilities Planning Act".  
9 After the application is approved, the applicant shall  
10 advise the Department every 6 months of any changes in the  
11 information originally provided in the application.

12           (4) Other information necessary to determine the  
13 identity and qualifications of an applicant to operate a  
14 facility in accordance with this Act shall be included in  
15 the application as required by the Department in  
16 regulations.

17 (Source: P.A. 93-32, eff. 7-1-03; 93-841, eff. 7-30-04; 94-931,  
18 eff. 6-26-06.)

19           (210 ILCS 45/3-308) (from Ch. 111 1/2, par. 4153-308)

20           Sec. 3-308. In the case of a Type "A" violation, a penalty  
21 may be assessed from the date on which the violation is  
22 discovered. In the case of a Type "B" or Type "C" violation or  
23 an administrative warning issued pursuant to Sections 3-401  
24 through 3-413 or the rules promulgated thereunder, the facility  
25 shall submit a plan of correction as provided in Section 3-303.

1           In the case of a Type "B" violation or an administrative  
2 warning issued pursuant to Sections 3-401 through 3-413 or the  
3 rules promulgated thereunder, a penalty shall be assessed on  
4 the date of notice of the violation, but the Director may  
5 reduce the amount or waive such payment for any of the  
6 following reasons:

7           (a) The facility submits a true report of correction  
8 within 10 days;

9           (b) The facility submits a plan of correction within 10  
10 days and subsequently submits a true report of correction  
11 within 15 days thereafter;

12           (c) The facility submits a plan of correction within 10  
13 days which provides for a correction time that is less than  
14 or equal to 30 days and the Department approves such plan;  
15 or

16           (d) The facility submits a plan of correction for  
17 violations involving substantial capital improvements  
18 which provides for correction within the initial 90 day  
19 limit provided under Section 3-303.

20           The Director or his or her designee may reallocate the  
21 amount of a penalty assessed pursuant to Section 3-305. A  
22 facility shall submit to the Director a written request for a  
23 penalty reduction, in a form prescribed by the Department,  
24 which includes an accounting of all costs for goods and  
25 services purchased in correcting the violation. The amount by  
26 which a penalty is reduced may not be greater than the amount

1 of the costs reported by the facility. A facility that accepts  
2 a penalty reallocation under this Section waives its right to  
3 dispute a notice of violation and any remaining fine or penalty  
4 in an administrative hearing. The Director shall consider the  
5 following factors ~~in determinations to reduce or waive such~~  
6 ~~penalties:~~

7 (1) The violation has not caused actual harm to a  
8 resident. ~~†~~

9 (2) The facility has made a diligent effort to correct  
10 the violation and to prevent its recurrence. ~~†~~

11 (3) The facility has no record of a pervasive pattern  
12 of the same or similar violations. ~~† and~~

13 (4) The facility did not benefit financially from  
14 committing or continuing the violation. ~~The facility has a~~  
15 ~~record of substantial compliance with this Act and the~~  
16 ~~regulations promulgated hereunder.~~

17 At least annually, and upon request, the Department shall  
18 provide a list of all reallocations and the reasons for those  
19 reallocations.

20 If a plan of correction is approved and carried out for a  
21 Type "C" violation, the fine provided under Section 3-305 shall  
22 be suspended for the time period specified in the approved plan  
23 of correction. If a plan of correction is approved and carried  
24 out for a Type "B" violation or an administrative warning  
25 issued pursuant to Sections 3-401 through 3-413 or the rules  
26 promulgated thereunder, with respect to a violation that

1 continues after the date of notice of violation, the fine  
2 provided under Section 3-305 shall be suspended for the time  
3 period specified in the approved plan of correction.

4 If a good faith plan of correction is not received within  
5 the time provided by Section 3-303, a penalty may be assessed  
6 from the date of the notice of the Type "B" or "C" violation or  
7 an administrative warning issued pursuant to Sections 3-401  
8 through 3-413 or the rules promulgated thereunder served under  
9 Section 3-301 until the date of the receipt of a good faith  
10 plan of correction, or until the date the violation is  
11 corrected, whichever is earlier. If a violation is not  
12 corrected within the time specified by an approved plan of  
13 correction or any lawful extension thereof, a penalty may be  
14 assessed from the date of notice of the violation, until the  
15 date the violation is corrected.

16 (Source: P.A. 87-549.)

17 Section 20. The Older Adult Services Act is amended by  
18 changing Section 30 as follows:

19 (320 ILCS 42/30)

20 Sec. 30. Nursing home conversion program.

21 (a) The Department of Public Health, in collaboration with  
22 the Department on Aging and the Department of Healthcare and  
23 Family Services, shall establish a nursing home conversion  
24 program. Start-up grants, pursuant to subsections (l) and (m)



1 of this Section, shall be made available to nursing homes as  
2 appropriations permit as an incentive to reduce certified beds,  
3 retrofit, and retool operations to meet new service delivery  
4 expectations and demands.

5 (b) Grant moneys shall be made available for capital and  
6 other costs related to: (1) the conversion of all or a part of  
7 a nursing home to an assisted living establishment or a special  
8 program or unit for persons with Alzheimer's disease or related  
9 disorders licensed under the Assisted Living and Shared Housing  
10 Act or a supportive living facility established under Section  
11 5-5.01a of the Illinois Public Aid Code; (2) the conversion of  
12 multi-resident bedrooms in the facility into single-occupancy  
13 rooms; and (3) the development of any of the services  
14 identified in a priority service plan that can be provided by a  
15 nursing home within the confines of a nursing home or  
16 transportation services. Grantees shall be required to provide  
17 a minimum of a 20% match toward the total cost of the project.

18 (c) Nothing in this Act shall prohibit the co-location of  
19 services or the development of multifunctional centers under  
20 subsection (f) of Section 20, including a nursing home offering  
21 community-based services or a community provider establishing  
22 a residential facility.

23 (d) A certified nursing home with at least 50% of its  
24 resident population having their care paid for by the Medicaid  
25 program is eligible to apply for a grant under this Section.

26 (e) Any nursing home receiving a grant under this Section

1 shall reduce the number of certified nursing home beds by a  
2 number equal to or greater than the number of beds being  
3 converted for one or more of the permitted uses under item (1)  
4 or (2) of subsection (b). The nursing home shall retain the  
5 Certificate of Need for its nursing and sheltered care beds  
6 that were converted for 15 years. If the beds are reinstated by  
7 the provider or its successor in interest, the provider shall  
8 pay to the fund from which the grant was awarded, on an  
9 amortized basis, the amount of the grant. The Department shall  
10 establish, by rule, the bed reduction methodology for nursing  
11 homes that receive a grant pursuant to item (3) of subsection  
12 (b).

13 (f) Any nursing home receiving a grant under this Section  
14 shall agree that, for a minimum of 10 years after the date that  
15 the grant is awarded, a minimum of 50% of the nursing home's  
16 resident population shall have their care paid for by the  
17 Medicaid program. If the nursing home provider or its successor  
18 in interest ceases to comply with the requirement set forth in  
19 this subsection, the provider shall pay to the fund from which  
20 the grant was awarded, on an amortized basis, the amount of the  
21 grant.

22 (g) Before awarding grants, the Department of Public Health  
23 shall seek recommendations from the Department on Aging and the  
24 Department of Healthcare and Family Services. The Department of  
25 Public Health shall attempt to balance the distribution of  
26 grants among geographic regions, and among small and large

1 nursing homes. The Department of Public Health shall develop,  
2 by rule, the criteria for the award of grants based upon the  
3 following factors:

4 (1) the unique needs of older adults (including those  
5 with moderate and low incomes), caregivers, and providers  
6 in the geographic area of the State the grantee seeks to  
7 serve;

8 (2) whether the grantee proposes to provide services in  
9 a priority service area;

10 (3) the extent to which the conversion or transition  
11 will result in the reduction of certified nursing home beds  
12 in an area with excess beds;

13 (4) the compliance history of the nursing home; and

14 (5) any other relevant factors identified by the  
15 Department, including standards of need.

16 (h) A conversion funded in whole or in part by a grant  
17 under this Section must not:

18 (1) diminish or reduce the quality of services  
19 available to nursing home residents;

20 (2) force any nursing home resident to involuntarily  
21 accept home-based or community-based services instead of  
22 nursing home services;

23 (3) diminish or reduce the supply and distribution of  
24 nursing home services in any community below the level of  
25 need, as defined by the Department by rule; or

26 (4) cause undue hardship on any person who requires

1 nursing home care.

2 (i) The Department shall prescribe, by rule, the grant  
3 application process. At a minimum, every application must  
4 include:

5 (1) the type of grant sought;

6 (2) a description of the project;

7 (3) the objective of the project;

8 (4) the likelihood of the project meeting identified  
9 needs;

10 (5) the plan for financing, administration, and  
11 evaluation of the project;

12 (6) the timetable for implementation;

13 (7) the roles and capabilities of responsible  
14 individuals and organizations;

15 (8) documentation of collaboration with other service  
16 providers, local community government leaders, and other  
17 stakeholders, other providers, and any other stakeholders  
18 in the community;

19 (9) documentation of community support for the  
20 project, including support by other service providers,  
21 local community government leaders, and other  
22 stakeholders;

23 (10) the total budget for the project;

24 (11) the financial condition of the applicant; and

25 (12) any other application requirements that may be  
26 established by the Department by rule.

1 (j) A conversion project funded in whole or in part by a  
2 grant under this Section is exempt from the requirements of the  
3 Illinois Health Facilities Planning Act. The Department of  
4 Public Health, however, shall send to the Health Facilities  
5 Planning Board a copy of each grant award made under this  
6 Section.

7 (k) Applications for grants are public information, except  
8 that nursing home financial condition and any proprietary data  
9 shall be classified as nonpublic data.

10 (l) The Department of Public Health may award grants from  
11 the Long Term Care Civil Money Penalties Fund established under  
12 Section 1919(h) (2) (A) (ii) of the Social Security Act and 42 CFR  
13 488.422(g) if the award meets federal requirements.

14 (m) The Nursing Home Conversion Fund is created as a  
15 special fund in the State treasury. Moneys appropriated by the  
16 General Assembly or transferred from other sources for the  
17 purposes of this Section shall be deposited into the Fund. All  
18 interest earned on moneys in the fund shall be credited to the  
19 fund. Moneys contained in the fund shall be used to support the  
20 purposes of this Section.

21 (Source: P.A. 95-331, eff. 8-21-07.)

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law."