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NURSING HOME PAYMENTS; ESCROW

House Bill 4159

Sponsor: Rep. Edward LaForge
**Committee: Senior Health, Security,
and Retirement**

Complete to 2-23-99

A SUMMARY OF HOUSE BILL 4159 AS INTRODUCED 2-3-99

The bill would amend the Public Health Code to allow a nursing home patient, or his or her legal guardian or other legal representative, to suspend payment to the nursing home and deposit the funds into an escrow account if there was reasonable cause to believe that the home was in violation of a local ordinance, or of the Public Health Code's regulatory provisions or rules. A patient, or his or legal representative, who elected to suspend payments under the bill would have to notify the nursing home and the Department of Consumer and Industry Services, in writing, of the suspension of payment and the provisions of the ordinance, law, or rule alleged to be violated. The notice would also have to contain the name and address of the financial institution holding the escrow account. A nursing home would be prohibited from evicting a resident solely because the person had suspended payment under the bill's provisions.

Upon receipt of a notice of escrowed payments under the bill, the department would have to conduct, "in an expeditious manner", an investigation under provisions generally requiring investigations of complaints. If the department determined that the nursing home was in violation of the ordinance, law, or rule, it could order the payment of restitution to the patient, payable in the form of an abatement of payments due under the patient's contract with the home, or a rebate of payments already made, or both. If restitution was ordered, the department would notify the financial institution holding the escrow account to pay the restitution out of those funds. Alternatively, the financial institution would pay the funds to the nursing home if notified by the department that the home was not (or was no longer) in violation of the ordinance, law, or rule; that a settlement had been reached between the parties; or that the patient or his or her representative had voluntarily resumed payment.

Further, if the department did not order restitution, or if the patient did not use the procedure described in the bill, or had reasonable cause to believe that the nursing home was in violation of the contract, he or she could bring an action in a court of competent jurisdiction. The patient could seek appropriate relief from the court, including but not limited to an abatement of payments due under the contract, or a rebate of payments made, or both.

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In addition, the bill would require that the contract between a nursing home and a patient include language specifying the right of a patient to deposit payments in an escrow account, as outlined in the bill, and the right of the patient to seek relief in court for a violation of a contract.

MCL 333.21766 and 333.21766a

Analyst: D. Martens

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.