



SOON - In edit 8/26
State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0290/3

DAK:jld

D-NOTE

2003 BILL ✓

expanding rights of residents of facilities to include residents of residential care apartment complexes,

Regen

1 AN ACT to create 16.009 (1) (em), 20.432 (1) (b) and 50.034 (9) of the statutes;
2 relating to: authorizing access by the long-term care ombudsman or his or her
3 representative to a client or resident in a residential care apartment complex,
4 imposing a monthly assessment on occupied apartments of residential care
5 apartment complexes, requiring the exercise of rule-making authority, and
6 making an appropriation.

Analysis by the Legislative Reference Bureau ✓

Under current law, under the Long-Term Care Ombudsman Program, the long-term care ombudsman or his or her designated representative may enter a long-term care facility at any time, without notice, and have access to clients and residents of the facility. "Long-term care facility" is defined to be a nursing home, a community-based residential facility, a place in which care is provided under a continuing care contract, a swing bed in an acute care or extended care facility, or an adult family home. The ombudsman or representative may communicate in private with a client or resident, review records with consent of the client or resident or his or her legal counsel, and have access to records of the long-term care facility or of the the Department of Health and Family Services (DHFS) concerning regulation of the long-term care facility.

Also under current law, residential care apartment complexes are certified or registered and otherwise regulated by DHFS. A "residential care apartment

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complex” is defined as a place where five or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen with a stove, and individual bathroom, sleeping and living areas, and that provides to a resident not more than 28 hours per week of supportive, personal, and nursing services.

✓
INSERT A1
This bill expands the definition of a long-term care facility, for purposes of activities by the long-term care ombudsman or his or her designated representative, to include residential care apartment complexes.

The bill imposes an assessment on each residential care apartment complex of \$28 per calendar month per ~~apartment~~ apartment, ~~based on the previous month's~~ ~~needs~~ which must be computed and reported by the complex to DHFS, beginning with the month of March 2004. The assessment must be enforced and collected by DHFS and deposited in the general fund. The bill makes an appropriation of general purpose revenues for expenditure by the Board on Aging and Long-Term Care for activities under the Long-Term Care Ombudsman Program in residential care apartment complexes.

✓
INSERT A2
For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1

SECTION 1. ^X 16.009 (1) ^{7.} (em) of the statutes is created to read:

2 16.009 (1) (em) 7. A residential care apartment complex, as defined in s. 50.01
3 (1d).

4 SECTION 2. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
5 the following amounts for the purposes indicated:

6 2003-04 2004-05

7 **20.432 Board on aging and long-term care**

8 (1) IDENTIFICATION OF THE NEEDS OF THE AGED AND
9 DISABLED

10 (b) Activities in residential care
11 apartment complexes

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12 SECTION 3. ^X 20.432 (1) (b) of the statutes is created to read:

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1 20.432 (1) (b) *Activities in residential care apartment complexes.* The amounts
2 in the schedule for long-term care ombudsman program activities in residential care
3 apartment complexes.

4 **SECTION 4.** 50.034 (9) of the statutes is created to read:

5 50.034 (9) ASSESSMENT ON OCCUPIED APARTMENTS. (a) In this subsection,
6 "complex" means a certified or registered residential care apartment complex.

7 (b) For the privilege of doing business in this state, there is imposed on all
8 ~~occupied~~ apartments of a complex an assessment that shall be deposited in the
9 general fund and that is \$28 per calendar month per ~~occupied unit~~. The assessment
10 shall be on the average number of occupied apartments of a complex for the calendar
11 month previous to the month of the assessment, based on a census computed and
12 reported by the complex to, and verified by, the department.

13 (c) By the end of each month, a complex shall submit to the department the
14 ~~average census and~~ the amount due under par. (a) for each ~~occupied~~
15 complex for the month preceding the month during which the ~~census and~~ payment
16 ~~are~~ ^{is} being submitted. The department shall verify the ~~census~~ and, if necessary, make
17 adjustments to the payment, notify the complex of changes in the ~~census or~~ payment,
18 and send the complex an invoice for the additional amount due or send the complex
19 a refund.

20 (d) Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
21 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under
22 subch. III of ch. 77, apply to the assessment under this subsection.

23 (e) 1. The department shall enforce and collect the assessment under this
24 subsection and shall develop and distribute forms necessary for levying and
25 collection.

apartment

number of apartments of a complex

owing

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1 2. The department shall promulgate rules that establish procedures and
2 requirements for levying the assessment under this subsection.

3 (f) 1. An affected complex may contest an action by the department under this
4 subsection by submitting a written request for a hearing to the department within
5 30 days after the date of the department's action.

6 2. An order or determination made by the department under a hearing as
7 specified in subd. 1. is subject to judicial review as prescribed under ch. 227.

8 **SECTION 5. Nonstatutory provisions.**

9 (1) ASSESSMENTS ON RESIDENTIAL CARE APARTMENT COMPLEXES; RULES.

10 (a) The department of health and family services shall submit in proposed form
11 the rules required under section 50.034 (9) (e) 2. of the statutes, as created by this
12 act, to the legislative council staff under section 227.15 (1) of the statutes no later
13 than the first day of the 4th month beginning after the effective date of this
14 paragraph.

15 (b) Using the procedure under section 227.24 of the statutes, the department
16 of health and family services may promulgate rules required under section 50.034
17 (9) (e) 2. of the statutes, as created by this act, for the period before the effective date
18 of the rules submitted under paragraph (a), but not to exceed the period authorized
19 under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24
20 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide
21 evidence that promulgating a rule under this paragraph as an emergency rule is
22 necessary for the preservation of the public peace, health, safety, or welfare and is
23 not required to provide a finding of emergency for a rule promulgated under this
24 paragraph.

25 **SECTION 6. Initial applicability.**

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an assessment due from

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(1) ASSESSMENTS ON RESIDENTIAL CARE APARTMENT COMPLEXES ~~RULE~~ The
treatment of section 50.034 (9) of the statutes first applies to ~~a census computed and~~
~~reported by~~ a residential care apartment complex for March 2004.

SECTION 7. Effective date.

(1) This act takes effect on March 1, 2004.

(END)

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Lastly, current law specifies rights of residents of nursing homes and community-based residential facilities, including the rights to have private and unrestricted communication with others, to present grievances without justifiable fear of reprisal, and to be fully informed of all services, charges for services, and changes in service.

INSERT A2

④ Finally, the bill includes residents of residential care apartment complexes as persons entitled to the rights that are specified under current law for residents of nursing homes and community-based residential facilities.

INSERT 4-7

1 SECTION 1. 50.09 (title) of the statutes is amended to read:

2 50.09 (title) **Rights of residents in certain facilities and complexes.**

History: 1975 c. 119, 199; 1977 c. 170 s. 33; Stats. 1977 s. 50.09; 1979 c. 175, 221; 1987 a. 27; 1989 a. 31; 1991 a. 39; 1997 a. 27, 114, 175.

③ SECTION 2. 50.09 (1) of the statutes is renumbered 50.09 (1m) and 50.09 (1m)

④ (intro.), (b), (c), (e), (f) 1. and 3., (g), (j) (intro.) and 2. (intro.) and a. and (L) (2), (4), (5)

⑤ and (6) (a), (b) and (d), as renumbered, are amended to read:

6 50.09 (1m) ~~RESIDENTS' RIGHTS.~~ (intro.) Every resident in a nursing home or
7 community-based residential facility or a complex shall, except as provided in sub.
8 (5), have the right to:

History: 1975 c. 119, 199; 1977 c. 170 s. 33; Stats. 1977 s. 50.09; 1979 c. 175, 221; 1987 a. 27; 1989 a. 31; 1991 a. 39; 1997 a. 27, 114, 175.

9 (b) Present grievances on the resident's own behalf or others to the facility's
10 staff or administrator of the facility or complex, to public officials or to any other
11 person without justifiable fear of reprisal, and to join with other residents or
12 individuals within or outside of the facility or complex to work for improvements in
13 resident care.

History: 1975 c. 119, 199; 1977 c. 170 s. 33; Stats. 1977 s. 50.09; 1979 c. 175, 221; 1987 a. 27; 1989 a. 31; 1991 a. 39; 1997 a. 27, 114, 175.

14 (c) Manage the resident's own financial affairs, including any personal
15 allowances under federal or state programs, unless the resident delegates, in
16 writing, such responsibility to the facility or complex and the facility or complex



INS 4-7 CONT

1 accepts the responsibility or unless the resident delegates to someone else of the
 2 resident's choosing and that person accepts the responsibility. The resident shall
 3 receive, upon written request by the resident or guardian, a written monthly account
 4 of any financial transactions made by the facility or complex under such a delegation
 5 of responsibility.

plain
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History: 1975 c. 119, 199; 1977 c. 170 s. 33; Stats. 1977 s. 50.09; 1979 c. 175, 221; 1987 a. 27; 1989 a. 31; 1991 a. 39; 1997 a. 27, 114, 175.

6 (e) Be treated with courtesy, respect and full recognition of the resident's
 7 dignity and individuality, by all employees of the facility or complex and licensed,
 8 certified or registered providers of health care and pharmacists with whom the
 9 resident comes in contact.

History: 1975 c. 119, 199; 1977 c. 170 s. 33; Stats. 1977 s. 50.09; 1979 c. 175, 221; 1987 a. 27; 1989 a. 31; 1991 a. 39; 1997 a. 27, 114, 175.

10 (f) 1. Privacy for visits by spouse. If both spouses are residents of the same
 11 facility or complex, they shall be permitted to share a room or apartment unless
 12 medically contraindicated as documented by the resident's physician in the
 13 resident's medical record.

History: 1975 c. 119, 199; 1977 c. 170 s. 33; Stats. 1977 s. 50.09; 1979 c. 175, 221; 1987 a. 27; 1989 a. 31; 1991 a. 39; 1997 a. 27, 114, 175.

14 3. Confidentiality of health and personal records, and the right to approve or
 15 refuse their release to any individual outside the facility or complex, except in the
 16 case of the resident's transfer to another facility or complex or as required by law or
 17 3rd-party payment contracts and except as provided in s. 146.82 (2) and (3).

History: 1975 c. 119, 199; 1977 c. 170 s. 33; Stats. 1977 s. 50.09; 1979 c. 175, 221; 1987 a. 27; 1989 a. 31; 1991 a. 39; 1997 a. 27, 114, 175.

18 (g) Not to be required to perform services for the facility or complex that are not
 19 included for therapeutic purposes in the resident's plan of care.

History: 1975 c. 119, 199; 1977 c. 170 s. 33; Stats. 1977 s. 50.09; 1979 c. 175, 221; 1987 a. 27; 1989 a. 31; 1991 a. 39; 1997 a. 27, 114, 175.

20 (j) (intro.) Be transferred or discharged, and be given reasonable advance notice
 21 of any planned transfer or discharge, and an explanation of the need for and
 22 alternatives to the transfer or discharge. The facility or complex to which the
 23 resident is to be transferred must have accepted the resident for transfer, except in

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INS 4-7 cont

1 a medical emergency or if the transfer or discharge is for nonpayment of charges
2 following a reasonable opportunity to pay a deficiency. No person may be
3 involuntarily discharged for nonpayment under this paragraph if the person meets
4 all of the following conditions:

History: 1975 c. 119, 199; 1977 c. 170 s. 33; Stats. 1977 s. 50.09; 1979 c. 175, 221; 1987 a. 27; 1989 a. 31; 1991 a. 39; 1997 a. 27, 114, 175.

5 2. (intro.) The funding of his or her care in the ~~nursing home or~~
6 ~~community-based residential facility~~ under s. 49.45 (6m) is reduced or terminated
7 because of one of the following:

History: 1975 c. 119, 199; 1977 c. 170 s. 33; Stats. 1977 s. 50.09; 1979 c. 175, 221; 1987 a. 27; 1989 a. 31; 1991 a. 39; 1997 a. 27, 114, 175.

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8 a. He or she requires a level or type of care which is not provided by the ~~nursing~~
9 ~~home or community-based residential facility~~

10 (L) Receive adequate and appropriate care within the capacity of the facility

11 or complex. Am; 50.09 (2), (4) and (5) ~~and (6) (a), (b) and (c)~~

12 50.09 (2) The department, in establishing standards for ~~nursing homes and~~
13 ~~community-based residential facilities~~ and complexes may establish, by rule, rights
14 in addition to those specified in sub. (1) (1m) for residents in such facilities or
15 complexes.

16 (4) Each facility or complex shall make available a copy of the rights and
17 responsibilities established under this section and the facility's rules of the facility
18 or complex to each resident and each resident's legal representative, if any, at or prior
19 to the time of admission to the facility or complex, to each person who is a resident
20 of the facility or complex, and to each member of the ~~facility's staff~~ of the facility or
21 complex. The rights, complex

22 complex. Each facility or complex shall prepare a written plan and provide
23 appropriate staff training to implement each resident's rights established under this
24 section.



INS 4-7
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1 (5) Rights established under this section shall not, except as determined by the
2 department of corrections, be applicable to residents in ~~such~~ facilities or complexes,
3 if the resident is in the legal custody of the department of corrections and is a
4 correctional client in ~~such a~~ facility or complex.

5 → SECTION #. Am; 50.09(6)(a), (b) and (c)
50.09(6) (a) Each facility or complex shall establish a system of reviewing
6 complaints and allegations of violations of residents' rights established under this
7 section. The facility or complex shall designate a specific individual who, for the
8 purposes of effectuating this section, shall report to the administrator.

9 (b) Allegations of violations of such rights by persons licensed, certified or
10 registered under chs. 441, 446 to 450, 455 and 456 shall be promptly reported by the
11 facility or complex to the appropriate licensing, examining or affiliated credentialing
12 board and to the person against whom the allegation has been made. Any employee
13 of the facility or complex and any person licensed, certified or registered under chs.
14 441, 446 to 450, 455 and 456 may also report such allegations to the board. ~~Such~~ The
15 board may make further investigation and take such disciplinary action, within the
16 board's statutory authority, as the case requires.

History: 1975 c. 119, 199; 1977 c. 170 s. 33; Stats. 1977 s. 50.09; 1979 c. 175, 221; 1987 a. 27; 1989 a. 31; 1991 a. 39; 1997 a. 27, 114, 175.

17 (d) The facility or complex shall attach a statement, which summarizes
18 complaints or allegations of violations of rights established under this section, to the
19 report required under s. 50.03 (4) (c) 1. or 2. The statement shall contain the date
20 of the complaint or allegation, the name of the persons involved, the disposition of
21 the matter and the date of disposition. The department shall consider the statement
22 in reviewing the report.

History: 1975 c. 119, 199; 1977 c. 170 s. 33; Stats. 1977 s. 50.09; 1979 c. 175, 221; 1987 a. 27; 1989 a. 31; 1991 a. 39; 1997 a. 27, 114, 175.

23 SECTION 3. 50.09 (1g) of the statutes is created to read:



SECTION # • CR; 50.09 (1g)

1
2

50.09 (1g) In this section, "complex" means a [✓] residential care apartment complex.

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INSERT
A3

(end ins 4-7)

D-NOTE

To Christian Moran:

I had suggested an earlier date for s. 16.009
(1)(em) 7, as created in this bill, because
it might facilitate ~~an~~ inspection of
residential care apartment complexes before
the rules are in place. However, ^{since} since the
assessments won't begin until March,
2004, the Board on Aging and Long-Term Care
probably won't have the money to fund staff
to perform the inspections, so the issue
is likely moot.

DAK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0290/3dn
DAK:jld:rs

August 27, 2003

To Christian Moran:

I had suggested an earlier date for s. 16.009 (1) (em) 7., as created in this bill, because it might facilitate inspection of residential care apartment complexes before the rules are in place. However, since the assessments won't begin until March 1, 2004, the Board on Aging and Long-Term Care probably won't have the money to fund staff to perform the inspections, so the issue is likely moot.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

TELEPHONE DRAFTING INSTRUCTIONS

Drafting instructions received by Debora Kennedy.

DATE: 9/23/03
CONVERSATION WITH: Christian
OF: Krusick's office
TELEPHONE NO:
REGARDING LRB # OR DRAFT TOPIC: - 0290/3
INSTRUCTIONS: Redraft:

Change assessment to \$29,500/yr./apt. -
the LFB fiscal estimate says should fund
2.5 ombudsmen

From Jessica (LFB): Annual cost of 2.5
ombudsmen is \$122,300; for 2003-04,
expense wd. be 1/4 that →

	30,560
1/4	122,300



2003 - In edit 9/23
State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0290/84
DAK:jld:rs

2003 BILL

Regen

1 AN ACT *to renumber and amend* 50.09 (1); *to amend* 50.09 (title), 50.09 (2),
2 (4) and (5) and 50.09 (6) (a), (b) and (d); and *to create* 16.009 (1) (em) 7., 20.432
3 (1) (b), 50.034 (9) and 50.09 (1g) of the statutes; **relating to:** authorizing access
4 by the long-term care ombudsman or his or her representative to a client or
5 resident in a residential care apartment complex, imposing ^{an annual} ~~a monthly~~
6 assessment on occupied apartments of residential care apartment complexes,
7 expanding rights of residents of facilities to include residents of residential care
8 apartment complexes, requiring the exercise of rule-making authority, and
9 making an appropriation. ✓

Analysis by the Legislative Reference Bureau

Under current law, under the Long-Term Care Ombudsman Program, the long-term care ombudsman or his or her designated representative may enter a long-term care facility at any time, without notice, and have access to clients and residents of the facility. "Long-term care facility" is defined to be a nursing home, a community-based residential facility, a place in which care is provided under a continuing care contract, a swing bed in an acute care or extended care facility, or an adult family home. The ombudsman or representative may communicate in private

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with a client or resident, review records with consent of the client or resident or his or her legal counsel, and have access to records of the long-term care facility or of the the Department of Health and Family Services (DHFS) concerning regulation of the long-term care facility.

Also under current law, residential care apartment complexes are certified or registered and otherwise regulated by DHFS. A "residential care apartment complex" is defined as a place where five or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen with a stove, and individual bathroom, sleeping and living areas, and that provides to a resident not more than 28 hours per week of supportive, personal, and nursing services.

Lastly, current law specifies rights of residents of nursing homes and community-based residential facilities, including the rights to have private and unrestricted communication with others, to present grievances without justifiable fear of reprisal, and to be fully informed of all services, charges for services, and changes in service.

This bill expands the definition of a long-term care facility, for purposes of activities by the long-term care ombudsman or his or her designated representative, to include residential care apartment complexes.

The bill imposes an assessment on each residential care apartment complex of ~~\$28 per calendar month~~ per apartment, which must be ~~computed and reported~~ by the complex to DHFS, ~~beginning with the month of March 2004~~. The assessment must be enforced and collected by DHFS and deposited in the general fund. The bill makes an appropriation of general purpose revenues for expenditure by the Board on Aging and Long-Term Care for activities under the Long-Term Care Ombudsman Program in residential care apartment complexes.

Finally, the bill includes residents of residential care apartment complexes as persons entitled to the rights that are specified under current law for residents of nursing homes and community-based residential facilities.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 16.009 (1) (em) 7. of the statutes is created to read:

2 16.009 (1) (em) 7. A residential care apartment complex, as defined in s. 50.01
3 (1d).

4 SECTION 2. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
5 the following amounts for the purposes indicated:

✓
\$29.50
per
year

occupied ✓

paid

✓ by April 1, based on occupied apartments for the complex

for Y
the preceding March

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2003-04 2004-05

20.432 Board on aging and long-term care

(1) IDENTIFICATION OF THE NEEDS OF THE AGED AND
DISABLED

(b) Activities in residential care

apartment complexes

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30,600

122,300

SECTION 3. 20.432 (1) (b) of the statutes is created to read:

20.432 (1) (b) *Activities in residential care apartment complexes.* The amounts in the schedule for long-term care ombudsman program activities in residential care apartment complexes.

SECTION 4. 50.034 (9) of the statutes is created to read:

50.034 (9) ASSESSMENT ON OCCUPIED APARTMENTS. (a) In this subsection, "complex" means a certified or registered residential care apartment complex.

(b) For the privilege of doing business in this state, there is imposed on all occupied apartments of a complex an annual assessment that shall be deposited in the general fund and that is ~~\$28 per calendar month~~ April 1 annually per apartment. \$29.50

(c) By ~~the end of each month~~ the end of each month, a complex shall submit to the department the amount due under par. (a) for each occupied apartment of the complex for the ~~month~~ month preceding ~~the month~~ the month during which the payment is being submitted. The department shall verify the number of apartments of a complex and, if necessary, make adjustments to the payment, notify the complex of changes in the payment owing, and send the complex an invoice for the additional amount due or send the complex a refund.

March

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1 (d) Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
2 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under
3 subch. III of ch. 77, apply to the assessment under this subsection.

4 (e) 1. The department shall enforce and collect the assessment under this
5 subsection and shall develop and distribute forms necessary for levying and
6 collection.

7 2. The department shall promulgate rules that establish procedures and
8 requirements for levying the assessment under this subsection.

9 (f) 1. An affected complex may contest an action by the department under this
10 subsection by submitting a written request for a hearing to the department within
11 30 days after the date of the department's action.

12 2. An order or determination made by the department under a hearing as
13 specified in subd. 1. is subject to judicial review as prescribed under ch. 227.

14 **SECTION 5.** 50.09 (title) of the statutes is amended to read:

15 **50.09 (title) Rights of residents in certain facilities and complexes.**

16 **SECTION 6.** 50.09 (1) of the statutes is renumbered 50.09 (1m), and 50.09 (1m)
17 (intro.), (b), (c), (e), (f) 1. and 3., (g), (j) (intro.) and 2. (intro.) and a. and (L), as
18 renumbered, are amended to read:

19 **50.09 (1m) RESIDENTS' RIGHTS.** (intro.) Every resident in a ~~nursing home or~~
20 ~~community-based residential facility~~ or a complex shall, except as provided in sub.
21 (5), have the right to:

22 (b) Present grievances on the resident's own behalf or others to the facility's
23 staff or administrator of the facility or complex, to public officials or to any other
24 person without justifiable fear of reprisal, and to join with other residents or

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1 individuals within or outside of the facility or complex to work for improvements in
2 resident care.

3 (c) Manage the resident's own financial affairs, including any personal
4 allowances under federal or state programs, unless the resident delegates, in
5 writing, such responsibility to the facility or complex and the facility or complex
6 accepts the responsibility or unless the resident delegates to someone else of the
7 resident's choosing and that person accepts the responsibility. The resident shall
8 receive, upon written request by the resident or guardian, a written monthly account
9 of any financial transactions made by the facility or complex under such a delegation
10 of responsibility.

11 (e) Be treated with courtesy, respect and full recognition of the resident's
12 dignity and individuality, by all employees of the facility or complex and licensed,
13 certified or registered providers of health care and pharmacists with whom the
14 resident comes in contact.

15 (f) 1. Privacy for visits by spouse. If both spouses are residents of the same
16 facility or complex, they shall be permitted to share a room or apartment unless
17 medically contraindicated as documented by the resident's physician in the
18 resident's medical record.

19 3. Confidentiality of health and personal records, and the right to approve or
20 refuse their release to any individual outside the facility or complex, except in the
21 case of the resident's transfer to another facility or complex or as required by law or
22 3rd-party payment contracts and except as provided in s. 146.82 (2) and (3).

23 (g) Not to be required to perform services for the facility or complex that are not
24 included for therapeutic purposes in the resident's plan of care.

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1 (j) (intro.) Be transferred or discharged, and be given reasonable advance notice
2 of any planned transfer or discharge, and an explanation of the need for and
3 alternatives to the transfer or discharge. The facility or complex to which the
4 resident is to be transferred must have accepted the resident for transfer, except in
5 a medical emergency or if the transfer or discharge is for nonpayment of charges
6 following a reasonable opportunity to pay a deficiency. No person may be
7 involuntarily discharged for nonpayment under this paragraph if the person meets
8 all of the following conditions:

9 2. (intro.) The funding of his or her care in the ~~nursing home or~~
10 ~~community-based residential~~ facility under s. 49.45 (6m) is reduced or terminated
11 because of one of the following:

12 a. He or she requires a level or type of care which is not provided by the ~~nursing~~
13 ~~home or community-based residential~~ facility.

14 (L) Receive adequate and appropriate care within the capacity of the facility
15 or complex.

16 **SECTION 7.** 50.09 (1g) [✓] of the statutes is created to read:

17 50.09 (1g) In this section, “complex” means a residential care apartment
18 complex.

19 **SECTION 8.** 50.09 (2), (4) and (5) [✓] of the statutes are amended to read:

20 50.09 (2) The department, in establishing standards for ~~nursing homes and~~
21 ~~community-based residential facilities~~ and complexes may establish, by rule, rights
22 in addition to those specified in sub. (1) (1m) for residents in such facilities or
23 complexes.

24 (4) Each facility or complex shall make available a copy of the rights and
25 responsibilities established under this section and the facility's rules of the facility

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1 or complex to each resident and each resident's legal representative, if any, at or prior
2 to the time of admission to the facility or complex, to each person who is a resident
3 of the facility or complex, and to each member of the facility's staff of the facility or
4 complex. The rights, responsibilities and rules shall be posted in a prominent place
5 in each facility or complex. Each facility or complex shall prepare a written plan and
6 provide appropriate staff training to implement each resident's rights established
7 under this section.

8 (5) Rights established under this section shall not, except as determined by the
9 department of corrections, be applicable to residents in ~~such~~ facilities or complexes,
10 if the resident is in the legal custody of the department of corrections and is a
11 correctional client in ~~such~~ a facility or complex.

12 **SECTION 9.** 50.09 (6) (a), (b) and (d) [✓] of the statutes are amended to read:

13 50.09 (6) (a) Each facility or complex shall establish a system of reviewing
14 complaints and allegations of violations of residents' rights established under this
15 section. The facility or complex shall designate a specific individual who, for the
16 purposes of effectuating this section, shall report to the administrator.

17 (b) Allegations of violations of such rights by persons licensed, certified or
18 registered under chs. 441, 446 to 450, 455 and 456 shall be promptly reported by the
19 facility or complex to the appropriate licensing, examining or affiliated credentialing
20 board and to the person against whom the allegation has been made. Any employee
21 of the facility or complex and any person licensed, certified or registered under chs.
22 441, 446 to 450, 455 and 456 may also report such allegations to the board. ~~Such~~ The
23 board may make further investigation and take such disciplinary action, within the
24 board's statutory authority, as the case requires.

BILL

1 (d) The facility or complex shall attach a statement, which summarizes
2 complaints or allegations of violations of rights established under this section, to the
3 report required under s. 50.03 (4) (c) 1. or 2. The statement shall contain the date
4 of the complaint or allegation, the name of the persons involved, the disposition of
5 the matter and the date of disposition. The department shall consider the statement
6 in reviewing the report.

SECTION 10. Nonstatutory provisions.

8 (1) ASSESSMENTS ON RESIDENTIAL CARE APARTMENT COMPLEXES; RULES.

9 (a) The department of health and family services shall submit in proposed form
10 the rules required under section 50.034 (9) (e) 2. of the statutes, as created by this
11 act, to the legislative council staff under section 227.15 (1) of the statutes no later
12 than the first day of the 4th month beginning after the effective date of this
13 paragraph.

14 (b) Using the procedure under section 227.24 of the statutes, the department
15 of health and family services may promulgate rules required under section 50.034
16 (9) (e) 2. of the statutes, as created by this act, for the period before the effective date
17 of the rules submitted under paragraph (a), but not to exceed the period authorized
18 under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24
19 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide
20 evidence that promulgating a rule under this paragraph as an emergency rule is
21 necessary for the preservation of the public peace, health, safety, or welfare and is
22 not required to provide a finding of emergency for a rule promulgated under this
23 paragraph.

SECTION 11. Initial applicability.

TELEPHONE DRAFTING INSTRUCTIONS

Drafting instructions received by Debora Kennedy.

DATE:

10/1/03

CONVERSATION
WITH:

Jessica Staller

OF:

LFB

TELEPHONE NO:

REGARDING LRB #
OR DRAFT TOPIC:

-0290/4

INSTRUCTIONS:

Redraft

- ① Collect assessment as of July 1, 2004
- ② Create PR, rather than GPR, approx.

TELEPHONE DRAFTING INSTRUCTIONS

Drafting instructions received by Debora Kennedy.

DATE:

10/1/03

CONVERSATION
WITH:

Christian

OF:

Krusick's office

TELEPHONE NO:

REGARDING LRB #
OR DRAFT TOPIC:

0290/4

INSTRUCTIONS:

Reduce the annual assessment
by an amt that will generate enough \$
for 1.0 position.

From Jessica Staller:

Assessment amt = \$12/annually

PR approp 2d year amt = \$48,900



2003 BILL

Regen

1 AN ACT *to renumber and amend* 50.09 (1); *to amend* 50.09 (title), 50.09 (2),
2 (4) and (5) and 50.09 (6) (a), (b) and (d); and *to create* 16.009 (1) (em) 7., 20.432
3 (1) (b), 50.034 (9) and 50.09 (1g) of the statutes; **relating to:** authorizing access
4 by the long-term care ombudsman or his or her representative to a client or
5 resident in a residential care apartment complex, imposing an annual
6 assessment on occupied apartments of residential care apartment complexes,
7 expanding rights of residents of facilities to include residents of residential care
8 apartment complexes, requiring the exercise of rule-making authority, and
9 making an appropriation. ✓

Analysis by the Legislative Reference Bureau

Under current law, under the Long-Term Care Ombudsman Program, the long-term care ombudsman or his or her designated representative may enter a long-term care facility at any time, without notice, and have access to clients and residents of the facility. "Long-term care facility" is defined to be a nursing home, a community-based residential facility, a place in which care is provided under a continuing care contract, a swing bed in an acute care or extended care facility, or an adult family home. The ombudsman or representative may communicate in private

BILL

with a client or resident, review records with consent of the client or resident or his or her legal counsel, and have access to records of the long-term care facility or of the the Department of Health and Family Services (DHFS) concerning regulation of the long-term care facility.

Also under current law, residential care apartment complexes are certified or registered and otherwise regulated by DHFS. A "residential care apartment complex" is defined as a place where five or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen with a stove, and individual bathroom, sleeping and living areas, and that provides to a resident not more than 28 hours per week of supportive, personal, and nursing services.

Lastly, current law specifies rights of residents of nursing homes and community-based residential facilities, including the rights to have private and unrestricted communication with others, to present grievances without justifiable fear of reprisal, and to be fully informed of all services, charges for services, and changes in service.

This bill expands the definition of a long-term care facility, for purposes of activities by the long-term care ombudsman or his or her designated representative, to include residential care apartment complexes.

The bill imposes an assessment on each residential care apartment complex of ~~\$120.00~~ ^(\$12) per year per occupied apartment, which must be paid by the complex to DHFS by ~~April~~ ^{annually} 1, based on occupied apartments for the complex for the preceding ~~March~~ ^{June}. The assessment must be enforced and collected by DHFS and ~~deposited in the general fund of the State of Wisconsin~~ ^{deposited in the} an appropriation of ~~general purpose~~ ^{Program} revenues for expenditure by the Board on Aging and Long-Term Care for activities under the Long-Term Care Ombudsman Program in residential care apartment complexes.

Finally, the bill includes residents of residential care apartment complexes as persons entitled to the rights that are specified under current law for residents of nursing homes and community-based residential facilities.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 SECTION 1. 16.009 (1) (em) 7. of the statutes is created to read:
- 2 16.009 (1) (em) 7. A residential care apartment complex, as defined in s. 50.01
- 3 (1d).
- 4 SECTION 2. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
- 5 the following amounts for the purposes indicated:

BILL

2003-04 2004-05

20.432 Board on aging and long-term care

(1) IDENTIFICATION OF THE NEEDS OF THE AGED AND
DISABLED

(b) Activities in residential care
apartment complexes

PR
~~PR~~ A

-0-
~~10,500~~

48,900
~~102,000~~

SECTION 3. 20.432 (1) (b) of the statutes is created to read:

20.432 (1) (b) *Activities in residential care apartment complexes.* The amounts
in the schedule for long-term care ombudsman program activities in residential care
apartment complexes. *All moneys received under s. 50.034(9) shall be
credited to this appropriation account.*

SECTION 4. 50.034 (9) of the statutes is created to read:

50.034 (9) ASSESSMENT ON OCCUPIED APARTMENTS. (a) In this subsection,
"complex" means a certified or registered residential care apartment complex.

(b) For the privilege of doing business in this state, there is imposed on all
occupied apartments of a complex an annual assessment that shall be ~~deposited in~~
~~the general fund~~ and that is ~~\$2000~~ per apartment. *credited to the
appropriation account under*

(c) By ~~April~~ *g* 1 annually, a complex shall submit to the department the amount *s.*
due under par. (b) for each occupied apartment of the complex for the preceding *20.432*
(1)(gt)

~~MINN.~~ The department shall verify the number of apartments of a complex and, if
necessary, make adjustments to the payment, notify the complex of changes in the
payment owing, and send the complex an invoice for the additional amount due or
send the complex a refund.

June ✓

July ✓

\$12 ~~MINN~~ ✓

BILL

1 (d) Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
2 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under
3 subch. III of ch. 77, apply to the assessment under this subsection.

4 (e) 1. The department shall enforce and collect the assessment under this
5 subsection and shall develop and distribute forms necessary for levying and
6 collection.

7 2. The department shall promulgate rules that establish procedures and
8 requirements for levying the assessment under this subsection.

9 (f) 1. An affected complex may contest an action by the department under this
10 subsection by submitting a written request for a hearing to the department within
11 30 days after the date of the department's action.

12 2. An order or determination made by the department under a hearing as
13 specified in subd. 1. is subject to judicial review as prescribed under ch. 227.

14 **SECTION 5.** 50.09 (title) of the statutes is amended to read:

15 **50.09 (title) Rights of residents in certain facilities and complexes.**

16 **SECTION 6.** 50.09 (1) of the statutes is renumbered 50.09 (1m), and 50.09 (1m)
17 (intro.), (b), (c), (e), (f) 1. and 3., (g), (j) (intro.) and 2. (intro.) and a. and (L), as
18 renumbered, are amended to read:

19 **50.09 (1m) RESIDENTS' RIGHTS.** (intro.) Every resident in a ~~nursing home or~~
20 ~~community-based residential facility or a complex~~ shall, except as provided in sub.
21 (5), have the right to:

22 (b) Present grievances on the resident's own behalf or others to the facility's
23 staff or administrator of the facility or complex, to public officials or to any other
24 person without justifiable fear of reprisal, and to join with other residents or

BILL

1 individuals within or outside of the facility or complex to work for improvements in
2 resident care.

3 (c) Manage the resident's own financial affairs, including any personal
4 allowances under federal or state programs, unless the resident delegates, in
5 writing, such responsibility to the facility or complex and the facility or complex
6 accepts the responsibility or unless the resident delegates to someone else of the
7 resident's choosing and that person accepts the responsibility. The resident shall
8 receive, upon written request by the resident or guardian, a written monthly account
9 of any financial transactions made by the facility or complex under such a delegation
10 of responsibility.

11 (e) Be treated with courtesy, respect and full recognition of the resident's
12 dignity and individuality, by all employees of the facility or complex and licensed,
13 certified or registered providers of health care and pharmacists with whom the
14 resident comes in contact.

15 (f) 1. Privacy for visits by spouse. If both spouses are residents of the same
16 facility or complex, they shall be permitted to share a room or apartment unless
17 medically contraindicated as documented by the resident's physician in the
18 resident's medical record.

19 3. Confidentiality of health and personal records, and the right to approve or
20 refuse their release to any individual outside the facility or complex, except in the
21 case of the resident's transfer to another facility or complex or as required by law or
22 3rd-party payment contracts and except as provided in s. 146.82 (2) and (3).

23 (g) Not to be required to perform services for the facility or complex that are not
24 included for therapeutic purposes in the resident's plan of care.

BILL

1 (j) (intro.) Be transferred or discharged, and be given reasonable advance notice
2 of any planned transfer or discharge, and an explanation of the need for and
3 alternatives to the transfer or discharge. The facility or complex to which the
4 resident is to be transferred must have accepted the resident for transfer, except in
5 a medical emergency or if the transfer or discharge is for nonpayment of charges
6 following a reasonable opportunity to pay a deficiency. No person may be
7 involuntarily discharged for nonpayment under this paragraph if the person meets
8 all of the following conditions:

9 2. (intro.) The funding of his or her care in the ~~nursing home or~~
10 ~~community-based residential~~ facility under s. 49.45 (6m) is reduced or terminated
11 because of one of the following:

12 a. He or she requires a level or type of care which is not provided by the ~~nursing~~
13 ~~home or community-based residential~~ facility.

14 (L) Receive adequate and appropriate care within the capacity of the facility
15 or complex.

16 **SECTION 7.** 50.09 (1g) of the statutes is created to read:

17 50.09 (1g) In this section, “complex” means a residential care apartment
18 complex.

19 **SECTION 8.** 50.09 (2), (4) and (5) of the statutes are amended to read:

20 50.09 (2) The department, in establishing standards for ~~nursing homes and~~
21 ~~community-based residential~~ facilities and complexes may establish, by rule, rights
22 in addition to those specified in sub. (1) (1m) for residents in such facilities or
23 complexes.

24 (4) Each facility or complex shall make available a copy of the rights and
25 responsibilities established under this section and the facility's rules of the facility

BILL

1 or complex to each resident and each resident's legal representative, if any, at or prior
2 to the time of admission to the facility or complex, to each person who is a resident
3 of the facility or complex, and to each member of the ~~facility's~~ staff of the facility or
4 complex. The rights, responsibilities and rules shall be posted in a prominent place
5 in each facility or complex. Each facility or complex shall prepare a written plan and
6 provide appropriate staff training to implement each resident's rights established
7 under this section.

8 (5) Rights established under this section shall not, except as determined by the
9 department of corrections, be applicable to residents in ~~such~~ facilities or complexes,
10 if the resident is in the legal custody of the department of corrections and is a
11 correctional client in ~~such~~ a facility or complex.

12 **SECTION 9.** 50.09 (6) (a), (b) and (d) of the statutes are amended to read:

13 50.09 (6) (a) Each facility or complex shall establish a system of reviewing
14 complaints and allegations of violations of residents' rights established under this
15 section. The facility or complex shall designate a specific individual who, for the
16 purposes of effectuating this section, shall report to the administrator.

17 (b) Allegations of violations of such rights by persons licensed, certified or
18 registered under chs. 441, 446 to 450, 455 and 456 shall be promptly reported by the
19 facility or complex to the appropriate licensing, examining or affiliated credentialing
20 board and to the person against whom the allegation has been made. Any employee
21 of the facility or complex and any person licensed, certified or registered under chs.
22 441, 446 to 450, 455 and 456 may also report such allegations to the board. ~~Such~~ The
23 board may make further investigation and take such disciplinary action, within the
24 board's statutory authority, as the case requires.

BILL

1 (d) The facility or complex shall attach a statement, which summarizes
 2 complaints or allegations of violations of rights established under this section, to the
 3 report required under s. 50.03 (4) (c) 1. or 2. The statement shall contain the date
 4 of the complaint or allegation, the name of the persons involved, the disposition of
 5 the matter and the date of disposition. The department shall consider the statement
 6 in reviewing the report.

7 **INSERT 8-6**

SECTION 10. Nonstatutory provisions.

health and family services [ⓑ]

8 (1) ASSESSMENTS ON RESIDENTIAL CARE APARTMENT COMPLEXES; RULES.

9 (a) The department of health and family services shall submit in proposed form
 10 the rules required under section 50.034 (9) (e) 2. of the statutes, as created by this
 11 act, to the legislative council staff under section 227.15 (1) of the statutes no later
 12 than the first day of the 4th month beginning after the effective date of this
 13 paragraph.

14 (b) Using the procedure under section 227.24 of the statutes, the department
 15 of health and family services may promulgate rules required under section 50.034
 16 (9) (e) 2. of the statutes, as created by this act, for the period before the effective date
 17 of the rules submitted under paragraph (a), but not to exceed the period authorized
 18 under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24
 19 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide
 20 evidence that promulgating a rule under this paragraph as an emergency rule is
 21 necessary for the preservation of the public peace, health, safety, or welfare and is
 22 not required to provide a finding of emergency for a rule promulgated under this
 23 paragraph.

24 **SECTION 11. Initial applicability.**

2003

INSERT 8-6

Nonstat File Sequence: **AAA**

LRB _____/____

NONSTAT SESSLAW

1. In the component bar:

For the action phrase, execute: create → action: → *NS: → nonstat

For the budget action phrase, execute: create → action: → *NS: → 91XX

For a subsection, execute: create → text: → *NS: → sub

For a paragraph, execute: create → text: → *NS: → par

For a subdivision, execute: create → text: → *NS: → subd

For a subdivision paragraph, execute: create → text: → *NS: → subpar

2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9100 department code.

SECTION # 91 ~~111111~~. Nonstatutory provisions; ...

board on aging and long-term care.....

~~#~~ WM RESIDENTIAL CARE APARTMENT COMPLEX ACTIVITIES.

NO A The authorized FTE positions for the board on aging and long-term care are increased by 1.0 PR position on July 1, 2004, to be funded from the appropriation account under section 20.432 (1)(gt) of the statutes, as created by this act, for the purpose of performing long-term care ombudsman activities in residential care apartment complexes.

(end ins)

Kennedy, Debora

From: Moran, Christian
Sent: Friday, October 10, 2003 12:52 PM
To: Kennedy, Debora
Subject: Revision to LRB 0290/5 (Ombudsman-RCAC bill)

Debora:

Please add a provision to the bill draft that mimics § 50.035(6) and § 50.04(2v)(a) of the statutes, requiring that notice be posted in RCACs to assure that residents know of the availability of the Ombudsman and how to contact the program for assistance.

Thanks. Just call with any questions.

Christian
Peggy Krusick's office
6-1733



2003 BILL

Regen

✓
requiring posting of a notice,

1 **AN ACT to renumber and amend** 50.09 (1); **to amend** 50.09 (title), 50.09 (2),
2 (4) and (5) and 50.09 (6) (a), (b) and (d); and **to create** 16.009 (1) (em) 7., 20.432
3 (1) (gt), 50.034 (9) and 50.09 (1g) of the statutes; **relating to:** authorizing access
4 by the long-term care ombudsman or his or her representative to a client or
5 resident in a residential care apartment complex, imposing an annual
6 assessment on occupied apartments of residential care apartment complexes,
7 expanding rights of residents of facilities to include residents of residential care
8 apartment complexes, requiring the exercise of rule-making authority, and
9 making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, under the Long-Term Care Ombudsman Program, the long-term care ombudsman or his or her designated representative may enter a long-term care facility at any time, without notice, and have access to clients and residents of the facility. "Long-term care facility" is defined to be a nursing home, a community-based residential facility, a place in which care is provided under a continuing care contract, a swing bed in an acute care or extended care facility, or an adult family home. The ombudsman or representative may communicate in private

BILL

with a client or resident, review records with consent of the client or resident or his or her legal counsel, and have access to records of the long-term care facility or of the the Department of Health and Family Services (DHFS) concerning regulation of the long-term care facility.

Also under current law, residential care apartment complexes are certified or registered and otherwise regulated by DHFS. A “residential care apartment complex” is defined as a place where five or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen with a stove, and individual bathroom, sleeping and living areas, and that provides to a resident not more than 28 hours per week of supportive, personal, and nursing services.

Lastly, current law specifies rights of residents of nursing homes and community-based residential facilities, including the rights to have private and unrestricted communication with others, to present grievances without justifiable fear of reprisal, and to be fully informed of all services, charges for services, and changes in service.

This bill expands the definition of a long-term care facility, for purposes of activities by the long-term care ombudsman or his or her designated representative, to include residential care apartment complexes.

The bill imposes an assessment on each residential care apartment complex of \$12 per year per occupied apartment, which must be paid annually by the complex to DHFS by July 1, based on occupied apartments for the complex for the preceding June. The assessment must be enforced and collected by DHFS and credited to an appropriation of program revenues for expenditure by the Board on Aging and Long-Term Care for activities under the Long-Term Care Ombudsman Program in residential care apartment complexes.

~~Finally~~, the bill includes residents of residential care apartment complexes as persons entitled to the rights that are specified under current law for residents of nursing homes and community-based residential facilities.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

also

✓
INSERT
A

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 16.009 (1) (em) 7. of the statutes is created to read:
- 2 16.009 (1) (em) 7. A residential care apartment complex, as defined in s. 50.01
- 3 (1d).
- 4 **SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
- 5 the following amounts for the purposes indicated:

BILL

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2003-04 2004-05

20.432 Board on aging and long-term care

(1) IDENTIFICATION OF THE NEEDS OF THE AGED AND
DISABLED

(gt) Activities in residential care

apartment complexes PR A -0- 48,900

SECTION 3. 20.432 (1) (gt) of the statutes is created to read:

20.432 (1) (gt) *Activities in residential care apartment complexes.* The amounts in the schedule for long-term care ombudsman program activities in residential care apartment complexes. All moneys received under s. 50.034 (9) shall be credited to this appropriation account.

SECTION 4. 50.034 (9) of the statutes is created to read:

50.034 (9) ASSESSMENT ON OCCUPIED APARTMENTS. (a) In this subsection, “complex” means a certified or registered residential care apartment complex.

(b) For the privilege of doing business in this state, there is imposed on all occupied apartments of a complex an annual assessment that shall be credited to the appropriation account under s. 20.432 (1) (gt) and that is \$12 per apartment.

(c) By July 1 annually, a complex shall submit to the department the amount due under par. (b) for each occupied apartment of the complex for the preceding June. The department shall verify the number of apartments of a complex and, if necessary, make adjustments to the payment, notify the complex of changes in the payment owing, and send the complex an invoice for the additional amount due or send the complex a refund.

✓
INSERT
3-11

BILL

1 (d) Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
2 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under
3 subch. III of ch. 77, apply to the assessment under this subsection.

4 (e) 1. The department shall enforce and collect the assessment under this
5 subsection and shall develop and distribute forms necessary for levying and
6 collection.

7 2. The department shall promulgate rules that establish procedures and
8 requirements for levying the assessment under this subsection.

9 (f) 1. An affected complex may contest an action by the department under this
10 subsection by submitting a written request for a hearing to the department within
11 30 days after the date of the department's action.

12 2. An order or determination made by the department under a hearing as
13 specified in subd. 1. is subject to judicial review as prescribed under ch. 227.

14 **SECTION 5.** 50.09 (title) of the statutes is amended to read:

15 **50.09 (title) Rights of residents in certain facilities and complexes.**

16 **SECTION 6.** 50.09 (1) of the statutes is renumbered 50.09 (1m), and 50.09 (1m)
17 (intro.), (b), (c), (e), (f) 1. and 3., (g), (j) (intro.) and 2. (intro.) and a. and (L), as
18 renumbered, are amended to read:

19 **50.09 (1m) RESIDENTS' RIGHTS.** (intro.) Every resident in a ~~nursing home or~~
20 ~~community-based residential facility or a complex~~ shall, except as provided in sub.
21 (5), have the right to:

22 (b) Present grievances on the resident's own behalf or others to the facility's
23 staff or administrator of the facility or complex, to public officials or to any other
24 person without justifiable fear of reprisal, and to join with other residents or

BILL

1 individuals within or outside of the facility or complex to work for improvements in
2 resident care.

3 (c) Manage the resident's own financial affairs, including any personal
4 allowances under federal or state programs, unless the resident delegates, in
5 writing, such responsibility to the facility or complex and the facility or complex
6 accepts the responsibility or unless the resident delegates to someone else of the
7 resident's choosing and that person accepts the responsibility. The resident shall
8 receive, upon written request by the resident or guardian, a written monthly account
9 of any financial transactions made by the facility or complex under such a delegation
10 of responsibility.

11 (e) Be treated with courtesy, respect and full recognition of the resident's
12 dignity and individuality, by all employees of the facility or complex and licensed,
13 certified or registered providers of health care and pharmacists with whom the
14 resident comes in contact.

15 (f) 1. Privacy for visits by spouse. If both spouses are residents of the same
16 facility or complex, they shall be permitted to share a room or apartment unless
17 medically contraindicated as documented by the resident's physician in the
18 resident's medical record.

19 3. Confidentiality of health and personal records, and the right to approve or
20 refuse their release to any individual outside the facility or complex, except in the
21 case of the resident's transfer to another facility or complex or as required by law or
22 3rd-party payment contracts and except as provided in s. 146.82 (2) and (3).

23 (g) Not to be required to perform services for the facility or complex that are not
24 included for therapeutic purposes in the resident's plan of care.

BILL

1 (j) (intro.) Be transferred or discharged, and be given reasonable advance notice
2 of any planned transfer or discharge, and an explanation of the need for and
3 alternatives to the transfer or discharge. The facility or complex to which the
4 resident is to be transferred must have accepted the resident for transfer, except in
5 a medical emergency or if the transfer or discharge is for nonpayment of charges
6 following a reasonable opportunity to pay a deficiency. No person may be
7 involuntarily discharged for nonpayment under this paragraph if the person meets
8 all of the following conditions:

9 2. (intro.) The funding of his or her care in the ~~nursing home or~~
10 ~~community-based residential~~ facility under s. 49.45 (6m) is reduced or terminated
11 because of one of the following:

12 a. He or she requires a level or type of care which is not provided by the ~~nursing~~
13 ~~home or community-based residential~~ facility.

14 (L) Receive adequate and appropriate care within the capacity of the facility
15 or complex.

16 **SECTION 7.** 50.09 (1g) of the statutes is created to read:

17 50.09 (1g) In this section, “complex” means a residential care apartment
18 complex.

19 **SECTION 8.** 50.09 (2), (4) and (5) of the statutes are amended to read:

20 50.09 (2) The department, in establishing standards for ~~nursing homes and~~
21 ~~community-based residential~~ facilities and complexes may establish, by rule, rights
22 in addition to those specified in sub. (1) (1m) for residents in such facilities or
23 complexes.

24 (4) Each facility or complex shall make available a copy of the rights and
25 responsibilities established under this section and the facility's rules of the facility

BILL

1 or complex to each resident and each resident's legal representative, if any, at or prior
2 to the time of admission to the facility or complex, to each person who is a resident
3 of the facility or complex, and to each member of the facility's staff of the facility or
4 complex. The rights, responsibilities and rules shall be posted in a prominent place
5 in each facility or complex. Each facility or complex shall prepare a written plan and
6 provide appropriate staff training to implement each resident's rights established
7 under this section.

8 (5) Rights established under this section shall not, except as determined by the
9 department of corrections, be applicable to residents in such facilities or complexes,
10 if the resident is in the legal custody of the department of corrections and is a
11 correctional client in such a facility or complex.

12 **SECTION 9.** 50.09 (6) (a), (b) and (d) of the statutes are amended to read:

13 50.09 (6) (a) Each facility or complex shall establish a system of reviewing
14 complaints and allegations of violations of residents' rights established under this
15 section. The facility or complex shall designate a specific individual who, for the
16 purposes of effectuating this section, shall report to the administrator.

17 (b) Allegations of violations of such rights by persons licensed, certified or
18 registered under chs. 441, 446 to 450, 455 and 456 shall be promptly reported by the
19 facility or complex to the appropriate licensing, examining or affiliated credentialing
20 board and to the person against whom the allegation has been made. Any employee
21 of the facility or complex and any person licensed, certified or registered under chs.
22 441, 446 to 450, 455 and 456 may also report such allegations to the board. ~~Such~~ The
23 board may make further investigation and take such disciplinary action, within the
24 board's statutory authority, as the case requires.

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1 (d) The facility or complex shall attach a statement, which summarizes
2 complaints or allegations of violations of rights established under this section, to the
3 report required under s. 50.03 (4) (c) 1. or 2. The statement shall contain the date
4 of the complaint or allegation, the name of the persons involved, the disposition of
5 the matter and the date of disposition. The department shall consider the statement
6 in reviewing the report.

7 **SECTION 10. Nonstatutory provisions; board on aging and long-term**
8 **care.**

9 (1) RESIDENTIAL CARE APARTMENT COMPLEX ACTIVITIES. The authorized FTE
10 positions for the board on aging and long-term care are increased by 1.0 PR position
11 on July 1, 2004, to be funded from the appropriation account under section 20.432
12 (1) (gt) of the statutes, as created by this act, for the purpose of performing long-term
13 care ombudsman activities in residential care apartment complexes.

14 **SECTION 11. Nonstatutory provisions; health and family services.**

15 (1) ASSESSMENTS ON RESIDENTIAL CARE APARTMENT COMPLEXES; RULES.

16 (a) The department of health and family services shall submit in proposed form
17 the rules required under section 50.034 (9) (e) 2. of the statutes, as created by this
18 act, to the legislative council staff under section 227.15 (1) of the statutes no later
19 than the first day of the 4th month beginning after the effective date of this
20 paragraph.

21 (b) Using the procedure under section 227.24 of the statutes, the department
22 of health and family services may promulgate rules required under section 50.034
23 (9) (e) 2. of the statutes, as created by this act, for the period before the effective date
24 of the rules submitted under paragraph (a), but not to exceed the period authorized
25 under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24

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1 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide
2 evidence that promulgating a rule under this paragraph as an emergency rule is
3 necessary for the preservation of the public peace, health, safety, or welfare and is
4 not required to provide a finding of emergency for a rule promulgated under this
5 paragraph.

SECTION 12. Initial applicability.

6
7 (1) ASSESSMENTS ON RESIDENTIAL CARE APARTMENT COMPLEXES. The treatment of
8 section 50.034 (9) of the statutes first applies to an assessment due from a residential
9 care apartment complex for June 2004.

SECTION 13. Effective date.

10
11 (1) This act takes effect on July 1, 2004.

12 (END)

2003-2004 DRAFTING INSERT
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LEGISLATIVE REFERENCE BUREAU

LRB-0290/6ins
DAK:jld:jf

INSERT A

Finally, the bill requires a residential care apartment complex[✓] to post in a conspicuous location a notice of the name, address, and telephone number of the Long-Term Care Ombudsman Program.[✓]

INSERT 3-11

1 **SECTION 1.** 50.034 (3) (e)[✓] of the statutes is created to read:

2 50.034 (3) (e) Post in a conspicuous location in the residential care apartment
3 complex a notice, provided by the board on aging and[✓] long-term care, of the name,
4 address, and telephone number of the Long-Term Care Ombudsman[✓] Program under
5 s. 16.009 (2) (b).[✓]

Northrop, Lori

From: Moran, Christian
Sent: Friday, October 31, 2003 2:04 PM
To: LRB.Legal
Subject: Draft review: LRB 03-0290/6 Topic: Authorize long-term care ombudsman program to enter residential care apartment complexes

It has been requested by <Moran, Christian> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-0290/6 Topic: Authorize long-term care ombudsman program to enter residential care apartment complexes