

House Bill 920

By: Representatives Kelley of the 16th, Powell of the 171st, Fleming of the 121st, Petrea of the 166th, and Cooper of the 43rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated,
2 relating to regulation of hospitals and related institutions, so as to restrict civil actions against
3 passive investors in nursing homes and intermediate care homes; to provide for definitions;
4 to provide for procedure; to provide for insurance or self-insurance trusts as a condition
5 precedent to obtaining or maintaining a permit to operate a nursing home or intermediate care
6 home; to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 Article 1 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to
10 regulation of hospitals and related institutions, is amended by adding two new Code sections
11 to read as follows:

12 "31-7-3.3.

13 (a)(1) 'Licensee' means an individual, corporation, partnership, firm, association,
14 governmental entity, or other entity that is issued a permit or license under this chapter
15 to operate a nursing home or intermediate care home.

16 (2) 'Management or consulting company' means an entity that contracts with or receives
17 a fee from a licensee to provide any of the following services for a nursing home or
18 intermediate care home:

- 19 (A) Hiring or firing of the administrator or director of nursing;
- 20 (B) Controlling the staffing levels at a nursing home or intermediate care home;
- 21 (C) Controlling the budget of a nursing home or intermediate care home;
- 22 (D) Implementing and enforcing the policies and procedures of a nursing home or
23 intermediate care home; or
- 24 (E) Providing direct care or treatment to a resident identified in a civil action or
25 arbitration proceeding.

26 (3) 'Passive investor' means an individual or entity having an ownership interest in a
 27 nursing home, intermediate care home, or management or consulting company that is not
 28 a licensee or management or consulting company.

29 (b) A claim against a nursing home or intermediate care home alleging direct or vicarious
 30 liability for the personal injury or death of one or more residents of such home or a
 31 violation of residents' rights at such home under Article 5 of Chapter 8 of this title shall
 32 only be brought against a licensee or management or consulting company. A civil action
 33 shall not be brought or maintained against a passive investor.

34 (c) A person or entity alleging to be a passive investor shall only be added as a party to a
 35 civil action or arbitration proceeding upon a determination by a court or arbitrator
 36 following an evidentiary hearing wherein there has been sufficient evidence by the plaintiff
 37 or claimant to establish that such person or entity is in fact a licensee or management or
 38 consulting company. For purposes of this subsection, if in a proposed amended pleading
 39 it is asserted that such cause of action arose out of the conduct, transaction, or occurrence
 40 set forth or attempted to be set forth in the original pleading, the amendment, if approved
 41 by the court or arbitrator, shall relate back to the original pleading.

42 (d) When a defendant claiming to be a passive investor files a motion to dismiss or motion
 43 for summary judgment, all discovery, whether relating to the passive investor issue or other
 44 defendants, shall be automatically stayed until the court or arbitrator rules on such motion.
 45 The court or arbitrator shall not permit discovery relating to the motion to dismiss or for
 46 summary judgment and shall order a continuance as permitted under subsection (f) of Code
 47 Section 9-11-56.

48 (e) A defendant which is a licensee or management or consulting company shall not
 49 identify a passive investor as a potentially at-fault nonparty for purposes of apportionment
 50 under Code Section 51-12-33, unless such nonparty has entered into a settlement agreement
 51 with the plaintiff or claimant.

52 31-7-3.4.

53 As a condition precedent to obtaining or maintaining a permit under this article to operate
 54 a nursing home or intermediate care home, such home shall carry accident, casualty,
 55 liability, and property insurance coverages or establish a self-insurance trust for claims
 56 arising out of the personal injury or death of one or more residents of such home."

57 **SECTION 2.**

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