

30:13-1

LEGISLATIVE HISTORY CHECKLIST
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(Nursing homes--
security deposits)

LAWS OF: 1991

CHAPTER: 262

Bill No: S1560

Sponsor(s): Cardinale & Connors

Date Introduced: Pre-filed

Committee: Assembly: Senior Citizen

Senate: Senior Citizen

Amended during passage: No

Date of Passage: Assembly: June 24, 1991

Senate: March 25, 1991

Date of Approval: August 15, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

See newspaper clippings attached:

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§§1,2 -
C.30:13-4.1
& 30:13-4.2
§3-Note to
§§1,2

P.L.1991, CHAPTER 262, approved August 15, 1991

1990 Senate No. 1560

1 AN ACT concerning interest on security deposits held by nursing
2 homes and supplementing P.L.1976, c.120 (C.30:13-1 et seq.).
3

4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. Whenever a nursing home requires a security deposit
7 advanced prior to the admission of a person to the nursing home,
8 the money or other form of security, until repaid or applied to
9 payments in accordance with the terms of the contract or
10 agreement, including the resident's portion of the interest or
11 earnings accumulated thereon as hereinafter provided, shall
12 continue to be the property of the resident and shall be held in
13 trust by the nursing home and shall not be mingled with the
14 personal property or become an asset of the nursing home.

15 a. The nursing home shall: (1) invest that money in shares of
16 an insured money market fund established by an investment
17 company based in this State and registered under the "Investment
18 Company Act of 1940," 54 Stat. 789 (15 U.S.C. § 80a-1 et seq.)
19 whose shares are registered under the "Securities Act of 1933,"
20 48 Stat. 74 (15 U.S.C. § 77a et seq.) and the only investments of
21 which fund are instruments maturing in one year or less, or (2)
22 deposit that money in a State or federally chartered bank, savings
23 bank or savings and loan association in this State insured by an
24 agency of the federal government in an account bearing a
25 variable rate of interest, which shall be established at least
26 quarterly, which is similar to the average rate of interest on
27 active interest bearing money market transaction accounts paid
28 by the bank or association, or equal to similar accounts of an
29 investment company described in paragraph (1) of this subsection,
30 less an amount not to exceed 1% per annum of the amount so
31 invested or deposited for the costs of servicing and processing the
32 accounts.

33 b. Immediately after the security money is invested, the
34 nursing home shall notify the resident in writing of the name and
35 address of the investment company, State or federally chartered
36 bank, savings bank or savings and loan association in which the
37 deposit or investment of security money is made, and the amount
38 of the deposit.

39 c. All of the money so deposited or advanced may be deposited
40 or invested by the nursing home in one interest-bearing or
41 dividend yielding account as long as the nursing home complies

- 1 with all the other requirements of this act.
- 2 d. The nursing home is entitled to receive as administration
3 expenses, a sum equivalent to 1% per annum thereon or 12.5% of
4 the aggregate interest yield on the security deposit, whichever is
5 greater, less the amount of any service fee charged by an
6 investment company, a State or federally chartered bank, savings
7 bank or savings and loan association for money deposited pursuant
8 to this section, which is in lieu of all other administrative and
9 custodial expenses. The balance of the interest or earnings paid
10 thereon by the investment company, State or federally chartered
11 bank, savings bank or savings and loan association shall belong to
12 the resident and shall be permitted to compound to the benefit of
13 the resident, or be paid to the resident in cash, or be credited
14 toward the payments due on the anniversary of the resident's
15 admission to the nursing home in accordance with the terms of
16 the contract or agreement.
- 17 e. If the nursing home fails to notify the resident of the name
18 and address of the investment company, State or federally
19 chartered bank, savings bank or savings and loan association in
20 which the deposit or investment of the security is made, and the
21 amount thereof, within 30 days after receipt of the money from
22 the resident, the resident may give written notice to the nursing
23 home that the security money shall be applied on account of
24 payments due or to become due from the resident, and thereafter
25 the resident shall be without obligation to make any further
26 security deposit and the nursing home shall not be entitled to
27 make further demand for a security deposit.
- 28 f. Within 60 days after the person is no longer a resident of the
29 nursing home, the nursing home shall return to the former
30 resident or, if appropriate, to the resident's estate, by personal
31 delivery, registered or certified mail the sum so deposited plus
32 the former resident's portion of the interest or earnings
33 accumulated thereon, less any charges expended in accordance
34 with the terms of a contract or agreement. The interest or
35 earnings and any such deductions shall be itemized and the
36 resident or, if appropriate, the resident's estate, notified thereof
37 by personal delivery, registered or certified mail.
- 38 g. The Commissioner of Banking may promulgate rules and
39 regulations with respect to the establishment of the method of
40 computing the interest due to either the nursing home or to the
41 resident pursuant to the provisions of this act in accordance with
42 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
43 et seq.) if the money is deposited in an account or in shares of an
44 investment company upon which the interest varies on a periodic
45 basis.
- 46 2. A person shall have a cause of action against the nursing
47 home for any violation of this act. The Department of Health
48 may maintain an action in the name of the State to enforce the
49 provisions of this act and any rules and regulations promulgated

1 pursuant to this act. The action to recover actual and punitive
2 damages shall be brought in a court of competent jurisdiction. A
3 plaintiff who prevails in an action shall be entitled to recover
4 reasonable attorney's fees and costs of the action.

5 3. This act shall take effect on the first day of the sixth month
6 following enactment.

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8
9 SENIOR CITIZENS

10
11 Requires nursing homes to pay interest on security deposits of
12 residents.

1 pursuant to this act. The action to recover actual and punitive
2 damages shall be brought in a court of competent jurisdiction. A
3 plaintiff who prevails in an action shall be entitled to recover
4 reasonable attorney's fees and costs of the action.

5 3. This act shall take effect on the first day of the sixth month
6 following enactment.

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9 *5/11/01* STATEMENT

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11 This bill requires nursing homes to pay interest on all security
12 deposits advanced by persons seeking admission as residents to
13 those facilities prior to their admittance. Each security deposit,
14 including the resident's portion of the interest or earnings
15 accumulated on that deposit, shall remain the property of the
16 nursing home resident until repaid to the resident or applied to
17 payments to the nursing home in accordance with a contract or
18 agreement between the resident and the nursing home.

19 Specifically, the bill stipulates that a nursing home shall: (1)
20 invest a security deposit advanced by a prospective nursing home
21 resident in an insured money market fund or deposit the money in
22 a variable interest rate account in a State or federally chartered
23 financial institution that has a similar average interest rate; (2)
24 notify each resident in writing of the name and address of the
25 investment company or financial institution in which the money is
26 invested or deposited, as the case may be, and the amount
27 thereof; and (3) within 60 days after the person is no longer a
28 resident of the nursing home, return to the former resident or the
29 resident's estate, as appropriate, the amount of the security
30 deposit plus the former resident's portion of the interest or
31 earnings from the security deposit less any charges expended in
32 accordance with the terms of a contract or agreement.

33 The bill provides that a nursing home is entitled to receive as
34 administration expenses, a sum equivalent to 1% of the security
35 deposit per annum or 12.5% of the aggregate interest yield on the
36 security deposit, whichever is greater, less the amount of any
37 service fee charged by the investment company or the financial
38 institution. The balance of the interest or earnings belongs to the
39 resident and shall be permitted to compound to the resident's
40 benefit, be paid to the resident in cash, or be credited toward the
41 payments due on the anniversary of the resident's admission to
42 the facility under the terms of a contract or agreement.

43 Finally, the bill provides that if a nursing home fails to notify a
44 resident of the name and address of the investment company or
45 financial institution in which the resident's security deposit is
46 invested or deposited and the amount thereof within 30 days after
47 receipt of that money from the resident, the resident may notify
48 the facility in writing that the security deposit shall be applied to
49 any payments due or to become due by the resident. The resident

1 shall then be free of any obligation to make an additional security
2 deposit to the nursing home. Also, a person shall have a cause of
3 action against a nursing home for any violation of the provisions
4 of the substitute.

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7 SENIOR CITIZENS

8

9 Requires nursing homes to pay interest on security deposits of
10 residents.

SENATE SENIOR CITIZEN AND
VETERAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 1560

STATE OF NEW JERSEY

DATED: JANUARY 25, 1990

The Senate Senior Citizen and Veteran Affairs Committee favorably reports Senate Bill No. 1560.

This bill requires nursing homes to pay interest on all security deposits advanced by persons seeking admission as residents to those facilities prior to their admittance. Each security deposit, including the resident's portion of the interest or earnings accumulated on that deposit, shall remain the property of the nursing home resident until repaid to the resident or applied to payments to the nursing home in accordance with a contract or agreement between the resident and the nursing home.

Specifically, the bill stipulates that a nursing home shall: (1) invest a security deposit advanced by a prospective nursing home resident in an insured money market fund or deposit the money in a variable interest rate account in a State or federally chartered financial institution that has a similar average interest rate; (2) notify each resident in writing of the name and address of the investment company or financial institution in which the money is invested or deposited, as the case may be, and the amount thereof; and (3) within 60 days after the person is no longer a resident of the nursing home, return to the former resident or the resident's estate, as appropriate, the amount of the security deposit plus the former resident's portion of the interest or earnings from the security deposit less any charges expended in accordance with the terms of a contract or agreement.

The bill provides that a nursing home is entitled to receive as administration expenses, a sum equivalent to 1% of the security deposit per annum or 12.5% of the aggregate interest yield on the security deposit, whichever is greater, less the amount of any service fee charged by the investment company or the financial institution. The balance of the interest or earnings belongs to the resident and shall be permitted to compound to the resident's benefit, be paid to the resident in cash, or be credited toward the payments due on the anniversary of the resident's admission to the facility under the terms of a contract or agreement.

Finally, the bill provides that if a nursing home fails to notify a resident of the name and address of the investment company or financial institution in which the resident's security deposit is invested or deposited and the amount thereof within 30 days after receipt of that money from the resident, the resident may notify the facility in writing that the security deposit shall be applied to any

payments due or to become due by the resident. The resident shall then be free of any obligation to make an additional security deposit to the nursing home. Also, a person shall have a cause of action against a nursing home for any violation of the provisions of the bill.

This bill is identical to the Senate Committee Substitute for Senate Bill Nos. 1131 and 1276 of 1988-1989.

This bill was pre-filed for introduction in the 1990 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

ASSEMBLY SENIOR CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 1560

STATE OF NEW JERSEY

DATED: JUNE 17, 1991

The Assembly Senior Citizens Committee favorably reports Senate Bill No. 1560.

This bill requires nursing homes to pay interest on all security deposits advanced by persons seeking admission as residents to those facilities prior to their admittance. Each security deposit, including the resident's portion of the interest or earnings accumulated on that deposit, shall remain the property of the nursing home resident until repaid to the resident or applied to payments to the nursing home in accordance with a contract or agreement between the resident and the nursing home.

Specifically, the bill stipulates that a nursing home shall: (1) invest a security deposit advanced by a prospective nursing home resident in an insured money market fund or deposit the money in a variable interest rate account in a State or federally chartered financial institution that has a similar average interest rate; (2) notify each resident in writing of the name and address of the investment company or financial institution in which the money is invested or deposited, as the case may be, and the amount thereof; and (3) within 60 days after the person is no longer a resident of the nursing home, return to the former resident or the resident's estate, as appropriate, the amount of the security deposit plus the former resident's portion of the interest or earnings from the security deposit less any charges expended in accordance with the terms of a contract or agreement.

The bill provides that a nursing home is entitled to receive as administration expenses, a sum equivalent to 1% of the security deposit per annum or 12.5% of the aggregate interest yield on the security deposit, whichever is greater, less the amount of any service fee charged by the investment company or the financial institution. The balance of the interest or earnings belongs to the resident and shall be permitted to compound to the resident's benefit, be paid to the resident in cash, or be credited toward the payments due on the anniversary of the resident's admission to the facility under the terms of a contract or agreement.

Finally, the bill provides that if a nursing home fails to notify a resident of the name and address of the investment company or financial institution in which the resident's security deposit is invested or deposited and the amount thereof within 30 days after receipt of that money from the resident, the resident may notify the facility in writing that the security deposit shall be applied to

any payments due or to become due by the resident. The resident shall then be free of any obligation to make an additional security deposit to the nursing home. Also, a person shall have a cause of action against a nursing home for any violation of the provisions of the bill.

This bill is identical to Assembly Bill No. 4812 which was also released by this committee on this date.