

By Senator Kurth

15-1492-98

1 A bill to be entitled
2 An act relating to rights of nursing home
3 residents; amending s. 400.023, F.S.; providing
4 a limit on the amount of attorney's fees that
5 may be recovered from a licensee who has
6 violated a nursing home resident's rights;
7 providing that an attorney may receive
8 additional fees from his or her client;
9 providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Subsection (1) of section 400.023, Florida
14 Statutes, is amended to read:

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400.023 Civil enforcement.--

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17 (1) Any resident whose rights as specified in this
18 part are deprived or infringed upon shall have a cause of
19 action against any licensee responsible for the violation.
20 The action may be brought by the resident or his or her
21 guardian, by a person or organization acting on behalf of a
22 resident with the consent of the resident or his or her
23 guardian, or by the personal representative of the estate of a
24 deceased resident when the cause of death resulted from the
25 deprivation or infringement of the decedent's rights. The
26 action may be brought in any court of competent jurisdiction
27 to enforce such rights and to recover actual and punitive
28 damages for any deprivation or infringement on the rights of a
29 resident. Any plaintiff who prevails in any such action may be
30 entitled to recover reasonable attorney's fees not to exceed
31 \$25,000, costs of the action, and damages, unless the court
finds that the plaintiff has acted in bad faith, with

1 malicious purpose, and that there was a complete absence of a
2 justiciable issue of either law or fact. Prevailing
3 defendants may be entitled to recover reasonable attorney's
4 fees pursuant to s. 57.105. The remedies provided in this
5 section are in addition to and cumulative with other legal and
6 administrative remedies available to a resident and to the
7 agency. This section does not preclude an attorney from
8 receiving attorney's fees from his or her client in addition
9 to attorney's fees recovered under this section.

10 Section 2. This act shall take effect July 1, 1998.

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12 SENATE SUMMARY

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14 Caps that amount of attorney's fees that an attorney may
15 recover from a nursing home licensee in an action
16 resulting from the licensee's violation of a nursing home
17 resident's rights. That cap will not affect the
18 attorney's right to recover fees from his or her client
19 in addition to those recovered from the licensee.
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