

By Senator Meek

36-1014-00

1 A bill to be entitled
2 An act relating to nursing home facilities;
3 amending s. 400.126, F.S.; providing conditions
4 under which the Agency for Health Care
5 Administration must petition a court for
6 appointment of a receiver for a facility;
7 prescribing the term of receivership;
8 authorizing the agency to adopt rules;
9 providing funds for administering the
10 receivership from the Resident Protection Trust
11 Fund; removing a limitation on the term of
12 appointment of a receiver; providing an
13 effective date.

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

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17 Section 1. Subsection (2) of section 400.126, Florida
18 Statutes, is amended to read:

19 400.126 Receivership proceedings.--

20 (2)(a) The agency shall petition a court of competent
21 jurisdiction for the appointment of a receiver for a facility
22 when:

23 1. The agency has filed an administrative complaint to
24 revoke the facility license; or

25 2. The facility has received a notice to terminate
26 Medicare and has not come into compliance within 10 days after
27 the date of termination.

28 (b) Upon appointment by the court of a receiver, the
29 receiver shall operate the facility in accordance with this
30 section until:

31 1. The facility has been sold to new ownership; or

1 2. The facility has been brought into compliance with
2 all applicable care standards and the licensee has satisfied
3 the agency that it has the intent and means to operate the
4 facility in full compliance with all state and federal
5 standards.

6 (c) The agency may adopt rules necessary to administer
7 this subsection. Funds necessary for administering this
8 subsection are to be provided from the Resident Protection
9 Trust Fund, in accordance with s. 400.063.

10 (d) Petitions for receivership shall take precedence
11 over other court business unless the court determines that
12 some other pending proceeding, having similar statutory
13 precedence, shall have priority. A hearing shall be conducted
14 within 5 days of the filing of the petition, at which time all
15 interested parties shall have the opportunity to present
16 evidence pertaining to the petition. The agency shall notify
17 the owner or administrator of the facility named in the
18 petition of the filing of the petition and the date set for
19 the hearing. The court may grant the petition only upon
20 finding that the health, safety, or welfare of residents of
21 the facility would be threatened if a condition existing at
22 the time the petition was filed is permitted to continue. A
23 receiver may not be appointed when the owner or administrator,
24 or a representative of the owner or administrator, is not
25 present at the hearing on the petition, unless the court
26 determines that one or more of the conditions in subsection
27 (1) exist; that the facility owner or administrator cannot be
28 found; that all reasonable means of locating the owner or the
29 administrator and notifying him or her of the petition and
30 hearing have been exhausted; or that the owner or
31 administrator, after notification of the hearing, chooses not

1 to attend. After such findings, the court may appoint any
2 person qualified by education, training, or experience to
3 carry out the responsibilities of a receiver pursuant to this
4 section, who must either be qualified pursuant to s. 400.20 or
5 who must employ a licensed nursing home administrator in
6 compliance with s. 400.20, except that the court may not
7 appoint any owner or affiliate of the facility which is in
8 receivership. The receiver may be selected from a list of
9 persons qualified to act as receivers developed by the agency
10 and presented to the court with each petition for
11 receivership. ~~Under no circumstances shall the agency or~~
12 ~~designated agency employee be appointed as a receiver for more~~
13 ~~than 60 days; however, the receiver may petition the court,~~
14 ~~one time only, for a 30-day extension. The court shall grant~~
15 ~~the extension upon a showing of good cause.~~

16 Section 2. This act shall take effect July 1, 2000.

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19 SENATE SUMMARY

20 Provides conditions under which the Agency for Health
21 Care Administration must petition a court for the
22 appointment of a receiver for a nursing facility.
23 Prescribes the term of the receivership. Authorizes the
24 Agency to adopt rules. Provides that funds for the
25 administration of a receivership are to come from the
26 Resident Protection Trust Fund. Removes a limitation on
27 the term of appointment of a receiver.
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