

## SENATE BILL No. 436

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DIGEST OF SB 436 (Updated February 2, 1998 9:24 pm - DI 88)

**Citations Affected:** IC 12-7; IC 12-10; noncode.

**Synopsis:** Requires a housing with services establishment to file a disclosure document with the director of the division of disabilities, aging and rehabilitative services. Requires a housing with services establishment contract to contain certain information. Requires a housing with services establishment to use a standardized disclosure document. Provides certain information that must be contained in the disclosure document. Provides that the authority of the state department of health to regulate home health agencies and health facilities is not precluded. Provides that housing with services establishments is not required to file a disclosure document before July 1, 1998.

**Effective:** July 1, 1998.

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January 13, 1998, read first time and referred to Committee on Planning and Public Services.  
January 29, 1998, amended, reported favorably — Do Pass.  
February 2, 1998, read second time, amended, ordered engrossed.

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SB 436—LS 7195/DI 77



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Reprinted  
February 3, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

## SENATE BILL No. 436

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 12-7-2-64 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 64. "Director" refers to  
3 the following:  
4 (1) With respect to a particular division, the director of the  
5 division.  
6 (2) With respect to a particular state institution, the director who  
7 has administrative control of and responsibility for the state  
8 institution.  
9 (3) **For purposes of IC 12-10-15, the term refers to the**  
10 **director of the division of disabilities, aging, and rehabilitative**  
11 **services.**  
12 (↔) (4) For purposes of IC 12-25, the term refers to the director of  
13 the division of mental health.  
14 (↔) (5) For purposes of IC 12-26, the term:  
15 (A) refers to the director who has administrative control of and  
16 responsibility for the appropriate state institution; and  
17 (B) includes the director's designee.

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1           ~~(5)~~ (6) If subdivisions (1) through ~~(4)~~ (5) do not apply, the term  
2           refers to the director of any of the divisions.

3           SECTION 2. IC 12-7-2-103.5 IS ADDED TO THE INDIANA  
4           CODE AS A NEW SECTION TO READ AS FOLLOWS  
5           [EFFECTIVE JULY 1, 1998]: **Sec. 103.5. "Health related services",**  
6           **for purposes of IC 12-10-15, has the meaning set forth in**  
7           **IC 12-10-15-2.**

8           SECTION 3. IC 12-7-2-110.7 IS ADDED TO THE INDIANA  
9           CODE AS A NEW SECTION TO READ AS FOLLOWS  
10          [EFFECTIVE JULY 1, 1998]: **Sec. 110.7. "Housing with services**  
11          **establishment", for purposes of IC 12-10-15, has the meaning set**  
12          **forth in IC 12-10-15-3.**

13          SECTION 4. IC 12-7-2-135.4 IS ADDED TO THE INDIANA  
14          CODE AS A NEW SECTION TO READ AS FOLLOWS  
15          [EFFECTIVE JULY 1, 1998]: **Sec. 135.4. "Operator", for purposes**  
16          **of IC 12-10-15, has the meaning set forth in IC 12-10-15-4.**

17          SECTION 5. IC 12-7-2-164 IS AMENDED TO READ AS  
18          FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 164. "Resident" has the  
19          following meaning:

20                 **(1) For purposes of IC 12-10-15, the meaning set forth in**  
21                 **IC 12-10-15-5.**

22                 ~~(1)~~ (2) For purposes of IC 12-16, except IC 12-16-1, an individual  
23                 who has actually resided in Indiana for at least ninety (90) days.

24                 ~~(2)~~ (3) For purposes of IC 12-20-8, the meaning set forth in  
25                 IC 12-20-8-1.

26                 ~~(3)~~ (4) For purposes of IC 12-24-5, the meaning set forth in  
27                 IC 12-24-5-1.

28          SECTION 6. IC 12-7-2-189.3 IS ADDED TO THE INDIANA  
29          CODE AS A NEW SECTION TO READ AS FOLLOWS  
30          [EFFECTIVE JULY 1, 1998]: **Sec. 189.3. "Supportive services", for**  
31          **purposes of IC 12-10-15, has the meaning set forth in**  
32          **IC 12-10-15-6.**

33          SECTION 7. IC 12-10-15 IS ADDED TO THE INDIANA CODE  
34          AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
35          JULY 1, 1998]:

36                 **Chapter 15. Filing Disclosure Documents for Housing with**  
37                 **Services Establishments**

38                 **Sec. 1. This chapter applies to a person who enters into a**  
39                 **contract or extends the term of an existing contract with an**  
40                 **individual to reside in a housing with services establishment.**

41                 **Sec. 2. As used in this chapter, "health related services" means**  
42                 **home health services as listed under IC 16-27-1-5(b) and**



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1 IC 16-27-1-5(c), attendant and personal care services, professional  
 2 nursing services, and the central storage and distribution of  
 3 medications.

4 Sec. 3. (a) As used in this chapter, "housing with services  
 5 establishment" means an establishment providing sleeping  
 6 accommodations to at least five (5) residents and offering or  
 7 providing for a fee:

8 (1) at least one (1) regularly scheduled health related service;  
 9 or

10 (2) at least two (2) regularly scheduled supportive services;  
 11 whether offered or provided directly by the establishment or by  
 12 another person arranged for by the establishment.

13 (b) The term does not include the following:

14 (1) A comprehensive care facility licensed under IC 16-28-2.

15 (2) A hospital licensed under IC 16-21.

16 (3) A group home licensed under IC 12-17.4 or IC 12-28-4.

17 (4) An establishment that serves as a shelter for battered  
 18 women or other similar purpose.

19 (5) Private homes in which the residents are related by  
 20 kinship, law, or affinity with the person offering the services.

21 (6) An organized condominium, cooperative, common interest  
 22 community, or owner's association where at least eighty  
 23 percent (80%) of the units that comprise the condominium,  
 24 cooperative, or common interest community are occupied by  
 25 individuals who are the owners, members, or shareholders of  
 26 the units.

27 Sec. 4. As used in this chapter, "operator" means a person that  
 28 operates a housing with services establishment.

29 Sec. 5. As used in this chapter, "resident" means an individual  
 30 who has a contract to reside in a housing with services  
 31 establishment.

32 Sec. 6. As used in this chapter, "supportive services" means help  
 33 with personal laundry, handling or assisting with personal funds  
 34 of the residents, or arranging for medical services, health related  
 35 services, or social services. The term does not include making  
 36 referrals, assisting a resident in contacting a service provider of the  
 37 resident's choice, or contacting a service provider in an emergency.

38 Sec. 7. (a) An operator shall file a disclosure document for each  
 39 housing with services establishment with the director.

40 (b) The operator's disclosure document must be filed with the  
 41 director on forms prescribed by the director and must be verified  
 42 by the operator. The disclosure document must contain the

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**following information:**

- (1) An initial disclosure statement, as described in section 12 of this chapter.**
- (2) The contract to be executed between the housing with services establishment and the resident.**
- (3) Any other information required by the director under this chapter.**

**(c) An operator of a housing with services establishment that has filed a disclosure document as provided in this section shall notify the director within thirty (30) days after a change in the:**

- (1) business name or address of the establishment;**
- (2) name or mailing address of the owner or owners; or**
- (3) name or mailing address of the managing agent.**

**The director may not charge a fee for submission of the notice.**

**(d) Upon receipt of a disclosure document, the director shall mark the disclosure document filed.**

**Sec. 8. An operator shall provide the following information concerning the operator's housing for services establishment to the director with the operator's disclosure document:**

- (1) The business name, street address, and mailing address of the establishment.**
- (2) The name and mailing address of the owner or owners of the establishment. If the owner or owners are not natural persons, the operator must provide identification of the type of business entity of the owner or owners, and the name and addresses of the officers and members of the governing body, or comparable persons for other types of business entities of the owner or owners.**
- (3) The name and mailing address of the managing agent, whether through management agreement or lease arrangement, of the establishment, if different from the owner or owners, and the name of the on-site manager, if any.**
- (4) The name and address of at least one (1) individual who is responsible for dealing with the director on all matters subject to this chapter.**

**Sec. 9. (a) Each resident or the resident's representative must be given a complete copy of the contract between the establishment and the resident or the resident's representative and all supporting documents and attachments and any changes whenever changes are made.**

**(b) A housing with services establishment contract must include the following elements in the contract or through supporting**

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documents or attachments in clear and understandable language:

- (1) Name, street address, and mailing address of the housing with services establishment.
- (2) The name and mailing address of the owner or owners of the housing with services establishment and, if the owner or owners are not natural persons, identification of the type of business entity of the owner or owners.
- (3) The name and mailing address of the managing agent, through management agreement or lease arrangement, of the establishment, if different from the owner or owners.
- (4) A statement describing the disclosure document and licensure status, if any, of the housing with services establishment and any person providing health related services or supportive services under arrangement with the operator.
- (5) The term of the contract.
- (6) A description of the services to be provided to the resident in the base rate to be paid by the resident or on the resident's behalf.
- (7) A description of any additional services available for an additional fee from the housing with services establishment directly or through arrangements with the establishment.
- (8) The fee schedules outlining the cost of any additional services.
- (9) A description of the process through which the contract may be modified, amended, or terminated.
- (10) A description of the housing with services establishment's complaint resolution process available to the residents.
- (11) The resident's designated representative, if any.
- (12) A description of the process for assuring that the resident's needs are assessed on admission and periodically thereafter in conjunction with the resident and the resident's representative and for assuring that the resident's physical, mental, and psychosocial needs are met within the terms of the contract.
- (13) The billing and payment procedures and requirements.

(c) The housing with services establishment contract must state that:

- (1) except as stated in the contract, residency in the housing with services establishment may not be terminated due to a change in a resident's health or care needs;
- (2) the ability of a resident to engage in activities away from

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1 the establishment regardless of the time, duration, and  
2 distance of the activities may not be restricted;

3 (3) except to protect the rights and activities of other  
4 residents, the housing with services establishment may not  
5 restrict the ability of the resident to have visitors and to  
6 receive family members and guests; and

7 (4) except as stated in the contract and identified in the  
8 disclosure document, an operator may not:

9 (A) restrict the ability of a resident to use a home health  
10 agency, home health provider, or case management service  
11 of the resident's choice; or

12 (B) require a resident to use home health services.

13 (d) Except where the resident's health or safety or the health or  
14 safety of others are endangered, an operator shall provide at least  
15 thirty (30) days notice to the resident or the resident's designated  
16 representative before terminating the resident's residency.

17 Sec. 10. Unless extended by the written consent of the director,  
18 each year after the initial year in which an operator has filed a  
19 disclosure document under section 7 of this chapter, the operator  
20 shall file with the director within four (4) months after the end of  
21 the operator's fiscal year an annual disclosure document.

22 Sec. 11. (a) An operator shall amend its initial disclosure  
23 document filed with the director under sections 7 and 8 of this  
24 chapter at any time if necessary to prevent the initial or annual  
25 disclosure document from containing any material misstatement  
26 of fact or omission of a material fact.

27 (b) Upon the sale of a housing with services establishment to a  
28 new owner, the new owner shall amend the currently filed  
29 disclosure document to reflect the fact of sale and any other fact  
30 that is required to be disclosed in the disclosure document.

31 Sec. 12. (a) The director shall develop a standardized disclosure  
32 document to be filed by the housing with services establishment.

33 (b) The standardized disclosure document must include the  
34 following:

35 (1) The name and mailing address of the owner or owners of  
36 the housing with services establishment and, if the owner or  
37 owners are not individuals, identification of the type of  
38 business entity of the owner or owners.

39 (2) The name and mailing address of the managing agent,  
40 through management agreement or lease arrangement, of the  
41 establishment, if different from the owner or owners.

42 (3) A description of the services to be provided to the resident



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- 1 in the base rate to be paid by the resident or on the resident's  
 2 behalf.
- 3 (4) A description of additional services available for an  
 4 additional fee from the establishment directly or through  
 5 arrangements with the establishment.
- 6 (5) Fee schedules outlining the cost of additional services.
- 7 (6) A description of the process through which the contract  
 8 may be modified, amended, or terminated.
- 9 (7) A description of the establishment's complaint resolution  
 10 process available to the residents and the establishment's  
 11 referral procedures if the contract is terminated.
- 12 (8) The criteria used by the establishment to determine who  
 13 may continue to reside in the housing with services  
 14 establishment.
- 15 (c) The disclosure document must be:
- 16 (1) provided to a prospective resident or prospective  
 17 resident's legal guardian; and
- 18 (2) made readily available to a resident or a resident's legal  
 19 guardian.
- 20 **Sec. 13. This chapter does not preclude the authority of the state**  
 21 **department of health to regulate:**
- 22 (1) a home health agency, as provided in IC 16-27 and rules  
 23 adopted under IC 16-27; or
- 24 (2) a health facility, as provided in IC 16-28 and rules adopted  
 25 under IC 16-28.
- 26 **Sec. 14. The director shall adopt rules under IC 4-22-2**  
 27 **necessary to carry out this chapter.**
- 28 **SECTION 8. [EFFECTIVE UPON PASSAGE] (a) The director of**  
 29 **the division of disabilities, aging, and rehabilitative services shall**  
 30 **develop the standardized disclosure document specified under**  
 31 **IC 12-10-15-12, as added by this act, before July 1, 1998.**
- 32 (b) A housing with services establishment (as defined by  
 33 IC 12-10-15-3, as added by this act) is not required to file a  
 34 disclosure document under IC 12-10-15, as added by this act,  
 35 before July 1, 1998.
- 36 (c) This SECTION expires July 1, 1998.
- 37 **SECTION 9. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Planning and Public Services, to which was referred Senate Bill 436, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to Senate Bill 436 as introduced.)

JOHNSON, Chairperson

Committee Vote: Yeas 7, Nays 0.

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## SENATE MOTION

Mr. President: I move that Senate Bill 436 be amended to read as follows:

Page 2, delete lines 28 through 34.

Page 2, line 39, delete "IC 12-10-15-7" and insert "**IC 12-10-15-6**".

Page 3, line 1, delete "Registration of" and insert "**Filing Disclosure Documents for**".

Page 3, line 3, delete ":".

Page 3, line 4, delete "(1)".

Page 3, run in lines 3 and 4.

Page 3, line 6, delete "; or" and insert ".".

Page 3, delete lines 7 through 8.

Page 3, delete line 42.

Page 4, delete lines 1 through 7.

Page 4, line 8, delete "7" and insert "**6**".

Page 4, line 14, delete "8" and insert "**7**".

Page 4, line 14, delete "register" and insert "**file a disclosure document for**".

Page 4, line 15, delete "If an operator fails to register a".

Page 4, delete lines 16 through 23.

Page 4, line 24, delete "application for registration" and insert "**disclosure document**".

Page 4, line 25, delete "by the operator".

Page 4, line 25, before "." insert "**and must be verified by the operator**".

Page 4, line 26, delete "application" and insert "**disclosure document**".

Page 4, line 27, delete "15" and insert "**12**".

Page 4, line 33, delete "registered".

Page 4, line 34, after "establishment" insert "**that has filed a disclosure document as provided in this section**".

Page 4, line 40, delete "an application for registration" and insert "**a disclosure document**".

Page 4, line 41, delete "application" and insert "**disclosure document**".

Page 4, line 41, delete "Within sixty (60) days after the".

Page 4, delete line 42.

Page 5, delete lines 1 through 22.

Page 5, line 23, delete "9" and insert "**8**".

Page 5, line 25, delete "application for registration" and insert "**disclosure document**".

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- Page 5, line 30, after "," insert "**the operator must provide**".
- Page 5, line 38, delete ":".
- Page 5, line 39, delete "(A)".
- Page 5, run in lines 38 and 39.
- Page 5, line 40, delete ";" and insert ".".
- Page 5, delete lines 41 through 42.
- Page 6, delete lines 1 through 19.
- Page 6, line 20, delete "The", begin a new paragraph and insert:  
**"Sec. 9. (a) Each**".
- Page 6, line 21, after "contract" insert "**between the establishment and the resident or the resident's representative**".
- Page 6, delete lines 35 through 37.
- Page 6, line 38, delete "(5)" and insert "**(4)**".
- Page 6, line 38, delete "registration" and insert "**disclosure document**".
- Page 6, line 39, after "status" insert ", **if any**".
- Page 6, line 40, after "related" insert "**services**".
- Page 6, line 42, delete "(6)" and insert "**(5)**".
- Page 7, line 1, delete "(7)" and insert "**(6)**".
- Page 7, line 4, delete "(8)" and insert "**(7)**".
- Page 7, line 7, delete "(9)" and insert "**(8)**".
- Page 7, line 9, delete "(10)" and insert "**(9)**".
- Page 7, line 11, delete "(11)" and insert "**(10)**".
- Page 7, line 13, delete "(12)" and insert "**(11)**".
- Page 7, delete lines 14 through 26.
- Page 7, line 27, delete "(15)" and insert "**(12)**".
- Page 7, line 32, delete "criteria for residence as provided in subdivision" and insert ".".
- Page 7, delete line 33.
- Page 7, line 34, delete "(16)" and insert "**(13)**".
- Page 8, line 6, delete "form" and insert "**document**".
- Page 8, line 14, delete "prior to termination of" and insert "**before terminating the resident's**".
- Page 8, delete lines 15 through 23.
- Page 8, line 24, delete "12" and insert "**10**".
- Page 8, line 25, delete "is registered" and insert "**has filed a disclosure document**".
- Page 8, line 26, delete "8" and insert "**7**".
- Page 8, line 28, delete "registration application" and insert "**disclosure document**".
- Page 8, line 29, delete "13" and insert "**11**".
- Page 8, line 29, delete "As used in this subsection, "omission of a

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material".

Page 8, delete lines 30 through 32.

Page 8, line 33, delete "under which they were made, not misleading."

Page 8, line 34, delete "registration application" and insert "**disclosure document**".

Page 8, line 35, delete "8 and 9" and insert "**7 and 8**".

Page 8, line 36, delete "registration application" and insert "**disclosure document**".

Page 8, line 41, delete "registration application" and insert "**disclosure document**".

Page 8, line 42, delete "registration application" and insert "**disclosure document**".

Page 9, delete lines 1 through 27.

Page 9, line 28, delete "15" and insert "**12**".

Page 9, line 29, delete "form" and insert "**document**".

Page 9, line 29, delete "completed" and insert "**filed**".

Page 9, line 29, after "establishment" insert ".".

Page 9, delete line 30.

Page 9, line 31, delete "form" and insert "**document**".

Page 10, line 13, delete "form" and insert "**document**".

Page 10, line 13, after "be" insert ":".

Page 10, line 13, before "provided" begin a new line block indented and insert:

"(1)".

Page 10, line 14, after "guardian" insert ";".

Page 10, line 14, delete "must be", begin a new line block indented and insert:

"(2)".

Page 10, delete lines 16 through 26.

Page 10, line 27, delete "18" and insert "**13**".

Page 10, line 33, delete "19" and insert "**14**".

Page 10, line 35, replace the effective date in SECTION 9 with "[EFFECTIVE UPON PASSAGE]".

Page 10, line 37, delete "form" and insert "**document**".

Page 10, line 38, delete "IC 12-10-15-15" and insert "**IC 12-10-15-12**".

Page 10, line 38, delete "and the process and" and insert "**before July 1, 1998**".

Page 10, delete lines 39 through 40.

Page 10, line 42, delete "be registered" and insert "**file a disclosure document**".



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Page 11, line 1, delete "1999" and insert "**1998**".

Page 11, line 2, delete "1999" and insert "**1998**".

Page 11, after line 2, begin a new paragraph and insert:  
"SECTION 9. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to Senate Bill 436 as printed January 30, 1998.)

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