

SB113\_L.008

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Health & Human Services.

SB26-113 be amended as follows:

- 1 Amend reengrossed bill, page 6, line 11, strike "(2)(e)." and substitute  
2 "(4)(e)."
- 3 Page 6, line 14, strike "ADMINISTRATOR," and substitute "MANAGER,".
- 4 Page 6, line 15, strike "ADMINISTRATOR," and substitute "MANAGER,".
- 5 Page 8, line 27, strike "GOVERNMENT;" and substitute "GOVERNMENT  
6 APPLICABLE TO RESIDENTIAL DWELLINGS OF THE SAME TYPE, SIZE, AND  
7 OCCUPANCY CLASSIFICATION IN THE SAME JURISDICTION."
- 8 Page 9, strike line 1.
- 9 Page 9, lines 3 and 4, strike "REQUIREMENTS, INCLUDING CRIMINAL  
10 HISTORY BACKGROUND CHECK REQUIREMENTS;" and substitute  
11 "REQUIREMENTS;".
- 12 Page 9, strike lines 10 through 16 and substitute "SECTION 27-50-1005  
13 (3); AND".
- 14 Reletter succeeding paragraph accordingly.
- 15 Page 9, strike lines 21 through 27.
- 16 Page 10, strike line 1.
- 17 Renumber succeeding subsections accordingly.
- 18 Page 10, line 4, after "CODES." insert "A RECOVERY RESIDENCE THAT  
19 OPERATES IN A SINGLE-FAMILY OR MULTI-FAMILY RESIDENTIAL  
20 STRUCTURE IS NOT REQUIRED TO COMPLY WITH COMMERCIAL,  
21 INSTITUTIONAL, OR ASSEMBLY OCCUPANCY STANDARDS SOLELY BY  
22 REASON OF ITS LICENSURE UNDER THIS PART 10, REGARDLESS OF THE  
23 JURISDICTION IN WHICH THE RECOVERY RESIDENCE OPERATES."
- 24 Page 13, lines 4 and 5, strike "SECTIONS 24-5-101 AND 12-20-206" and  
25 substitute "SECTION 24-5-101 AND SUBSECTION (5) OF THIS SECTION".
- 26 Page 13, lines 7 and 8, strike "SECTIONS 24-5-101 AND 12-20-206." and  
27 substitute "SECTION 24-5-101 AND SUBSECTION (5) OF THIS SECTION."

1 Page 13, after line 10 insert:

2 "(5) (a) AS USED IN THIS SUBSECTION (5), "DIRECTLY RELATED TO"  
3 MEANS THAT THE CRIMINAL OFFENSE FOR WHICH AN APPLICANT HAS BEEN  
4 CONVICTED IS STILL RELEVANT AT THE TIME OF THE APPLICATION FOR A  
5 LICENSE AND WOULD CREATE AN UNREASONABLE RISK TO PUBLIC SAFETY  
6 BECAUSE THE OFFENSE DIRECTLY RELATES TO THE DUTIES AND  
7 RESPONSIBILITIES OF THE OPERATION OF A RECOVERY RESIDENCE, AS  
8 DETERMINED BY BHA AFTER CONSIDERATION OF ALL EVIDENCE  
9 AVAILABLE TO THE BHA.

10 (b) IF AN APPLICANT HAS BEEN CONVICTED OF A CRIME, THE BHA  
11 MAY ONLY CONSIDER THE APPLICANT'S CONVICTION FOR A THREE-YEAR  
12 PERIOD BEGINNING ON THE DATE OF CONVICTION OR THE END OF  
13 INCARCERATION, WHICHEVER DATE IS LATER, IF THE APPLICANT HAS NOT  
14 BEEN CONVICTED OF ANY OTHER CRIMINAL OFFENSE DURING THE  
15 THREE-YEAR PERIOD. AFTER THE THREE-YEAR PERIOD, THE BHA SHALL  
16 ONLY CONSIDER THE INDIVIDUAL'S APPLICATION FOR LICENSURE IN THE  
17 SAME MANNER AS AN APPLICANT WHO DOES NOT POSSESS A PRIOR  
18 CRIMINAL HISTORY RECORD; EXCEPT THAT THE BHA MAY CONSIDER A  
19 CONVICTION FOR A CRIME THAT IS DIRECTLY RELATED TO THE OPERATION  
20 OF A RECOVERY RESIDENCE.

21 (c) IF THE BHA IS CONSIDERING AN APPLICANT'S CRIMINAL  
22 HISTORY RECORD DURING THE APPLICATION PROCESS FOR LICENSURE, THE  
23 BHA MAY ONLY DENY OR REFUSE TO ISSUE OR RENEW THE LICENSE BASED  
24 ON THE INFORMATION IN THE CRIMINAL HISTORY RECORD IF THE BHA  
25 DETERMINES THAT THE APPLICANT HAS NOT BEEN REHABILITATED AND IS  
26 UNABLE TO PERFORM THE DUTIES AND RESPONSIBILITIES OF THE  
27 OWNERSHIP OR MANAGEMENT OF A RECOVERY RESIDENCE WITHOUT  
28 CREATING AN UNREASONABLE RISK TO PUBLIC SAFETY.

29 (d) AN APPLICANT'S CONVICTION FOR A CRIME DOES NOT, IN AND  
30 OF ITSELF, DISQUALIFY THE APPLICANT FROM BEING ISSUED A LICENSE TO  
31 OPERATE A RECOVERY RESIDENCE.

32 (e) (I) AN APPLICANT OR POTENTIAL APPLICANT WHOSE  
33 CONVICTION MAY AFFECT THEIR APPLICATION FOR LICENSURE MAY  
34 PETITION THE BHA AT ANY TIME, INCLUDING PRIOR TO SUBMITTING AN  
35 APPLICATION, FOR A DECISION AS TO WHETHER THE BHA IS PERMITTED TO  
36 CONSIDER THE APPLICANT'S CONVICTION WHEN REVIEWING THE  
37 APPLICATION FOR LICENSURE.

38 (II) IF THE BHA DETERMINES THAT THE BHA IS PERMITTED TO  
39 CONSIDER AN APPLICANT'S OR POTENTIAL APPLICANT'S CONVICTION, THE  
40 BHA SHALL ADVISE THE APPLICANT OR POTENTIAL APPLICANT OF ANY  
41 ACTIONS THE APPLICANT OR POTENTIAL APPLICANT MAY TAKE TO REMEDY  
42 THE POTENTIAL EFFECT OF THE CONVICTION. IF A REMEDIAL ACTION IS

1 ADVISED BY THE BHA, THE APPLICANT MAY SUBMIT A REVISED PETITION  
2 ON OR BEFORE A DATE DETERMINED BY THE BHA FOR COMPLETION OF THE  
3 REMEDIAL ACTION.

4 (III) IF THE BHA MAKES AN INITIAL DETERMINATION FOR A  
5 POTENTIAL APPLICANT PURSUANT TO THIS SUBSECTION (5)(e), THE BHA  
6 MAY REQUIRE A NEW DETERMINATION AT THE TIME AN INDIVIDUAL  
7 FORMALLY APPLIES FOR LICENSURE.

8 (f) AN APPLICANT WHO PETITIONS THE BHA MUST INCLUDE IN THE  
9 PETITION ANY ADDITIONAL INFORMATION ABOUT THE APPLICANT'S  
10 CURRENT CIRCUMSTANCES, INCLUDING THE TIME SINCE THE CRIMINAL  
11 OFFENSE WAS COMMITTED AND THE SENTENCE WAS COMPLETED, THE  
12 APPLICANT'S AGE AT THE TIME THE OFFENSE WAS COMMITTED, THE  
13 PAYMENT OF ANY COURT-ORDERED RESTITUTION, EVIDENCE OF THE  
14 APPLICANT'S REHABILITATION, TESTIMONIALS, AND THE APPLICANT'S  
15 EMPLOYMENT HISTORY AND EMPLOYMENT ASPIRATIONS.

16 (g) (I) IN ORDER TO DENY AN APPLICATION FOR LICENSURE  
17 PURSUANT TO THIS SECTION BASED ON THE INFORMATION IN AN  
18 APPLICANT'S CRIMINAL HISTORY RECORD, THE BHA HAS THE BURDEN TO  
19 PROVE BY CLEAR AND CONVINCING EVIDENCE THAT THE DENIAL IS  
20 DIRECTLY RELATED TO INFORMATION IN THE APPLICANT'S CRIMINAL  
21 HISTORY RECORD AS IT PERTAINS TO POTENTIAL PERFORMANCE IN, AND  
22 THE POTENTIAL CREATION OF, AN UNREASONABLE RISK TO PUBLIC SAFETY  
23 THROUGH THE OPERATION OR MANAGEMENT OF A RECOVERY RESIDENCE  
24 FOR WHICH THE APPLICANT IS APPLYING FOR LICENSURE.

25 (II) IF AN INDIVIDUAL FILES A PETITION FOR A DETERMINATION  
26 PURSUANT TO THIS SUBSECTION (5), RECEIVES NOTICE OF AN AGENCY  
27 ADJUDICATORY HEARING, FILES AN ANSWER TO THE NOTICE PURSUANT TO  
28 SECTION 24-4-105 (2)(b), AND FAILS TO APPEAR AT THE SCHEDULED TIME  
29 AND PLACE OF THE HEARING, THE ADMINISTRATIVE LAW JUDGE SHALL  
30 ENTER A DEFAULT JUDGMENT IN FAVOR OF THE BHA.

31 (h) THIS SUBSECTION (5) DOES NOT:

32 (I) NEGATE ANY PROVISION FOR LICENSURE IN THIS TITLE 27 THAT  
33 REQUIRES AN APPLICANT TO SUBMIT INFORMATION REGARDING THE  
34 APPLICANT'S CRIMINAL HISTORY RECORD TO THE BHA WITH AN  
35 APPLICATION;

36 (II) NEGATE ANY OTHER REASON SPECIFIED IN THIS TITLE 27 FOR  
37 WHICH THE BHA MAY DENY AN APPLICANT LICENSURE;

38 (III) NEGATE ANY REQUIREMENT UNDER FEDERAL LAW THAT  
39 REQUIRES AN INDIVIDUAL TO OBTAIN OR MAINTAIN A LICENSE; OR

40 (IV) NEGATE THE LIST OF DETERMINING FACTORS THAT MUST NOT  
41 BE CONSIDERED REGARDING AN APPLICANT'S CRIMINAL HISTORY RECORD  
42 PURSUANT TO SECTION 24-5-101 (2)(b)."

- 1 Renumber succeeding subsections accordingly.
- 2 Page 13, line 11, strike "(6)" and substitute "(7)".
- 3 Page 13, line 17, strike "(6)" and substitute "(7)".
- 4 Page 15, line 27, strike "OWNER, MANAGER," and substitute "OWNER".

\*\* \*\* \*\* \*\* \*\*