

111TH CONGRESS
1ST SESSION

H. R. 1255

To protect the interests of each resident of intermediate care facilities for the mentally retarded in class action lawsuits on behalf of such resident.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2009

Mr. FRANK of Massachusetts (for himself, Mr. MORAN of Virginia, Mr. POE of Texas, Mr. PAUL, Mr. COHEN, Mr. GOODLATTE, Mr. DREIER, Mr. DANIEL E. LUNGREN of California, Mr. KANJORSKI, and Ms. WASSERMAN SCHULTZ) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To protect the interests of each resident of intermediate care facilities for the mentally retarded in class action lawsuits on behalf of such resident.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. PROTECTING THE INTERESTS OF EACH RESI-**
2 **DENT OF INTERMEDIATE CARE FACILITIES**
3 **FOR THE MENTALLY RETARDED IN CLASS AC-**
4 **TION LAWSUITS ON BEHALF OF SUCH RESI-**
5 **DENT.**

6 (a) IN GENERAL.—Notwithstanding any other provi-
7 sion of law, no entity that receives funds from the Federal
8 Government may use such funds to file a class action law-
9 suit against an intermediate care facility for the mentally
10 retarded on behalf of any resident of such facility unless
11 the resident (or, if there is a legal representative of the
12 resident, such legal representative), after receiving notice
13 of the proposed class action lawsuit, has the opportunity
14 to elect not to have the action apply to the resident.

15 (b) NOTICES; RESIDENT RIGHT OF WITHDRAWAL
16 FROM LAWSUIT.—

17 (1) PLAINTIFF NOTICE OF PROPOSED LAWSUIT
18 TO FACILITY.—If an entity uses funds from the Fed-
19 eral Government to file a class action lawsuit against
20 an intermediate care facility for the mentally re-
21 tarder on behalf of residents of such facility, the en-
22 tity shall provide notice of the proposed lawsuit to
23 the facility at least 90 days before the date of filing
24 of the lawsuit.

25 (2) FACILITY NOTICE OF PROPOSED LAWSUIT
26 TO RESIDENTS.—Not later than 30 days after the

1 date the facility receives such notice, the facility
2 shall provide notice of the proposed lawsuit to each
3 resident of such facility on behalf of which the law-
4 suit is proposed to be filed and, if there is a legal
5 representative of such a resident, to such representa-
6 tive.

7 (3) RESIDENT RIGHT TO WITHDRAW FROM
8 LAWSUIT.—A resident (or, if there is a legal rep-
9 resentative of such a resident, the legal representa-
10 tive) may elect not to be part of such a proposed
11 lawsuit by filing a notice of such decision with the
12 facility within 60 days of the date the facility noti-
13 fies the resident or legal representative of the pro-
14 posed class lawsuit.

15 (c) LEGAL REPRESENTATIVE DEFINED.—In this sec-
16 tion, the term “legal representative” means, with respect
17 to a resident of an intermediate care facility for the men-
18 tally retarded, an individual who has been appointed under
19 State law to be a legal guardian, conservator, or other rep-
20 resentative for the resident and who is authorized under
21 law to make decisions on behalf of the resident with re-
22 spect to care and treatment of the resident in the facility.

23 (d) EFFECTIVE DATE.—This section shall apply to
24 lawsuits filed after the date of the enactment of this Act.

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