

# SENATE BILL No. 1033

February 7, 2006, Introduced by Senators BASHAM, JACOBS, CLARKE, CLARK-COLEMAN and SCOTT and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
(MCL 333.1101 to 333.25211) by adding section 21736.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           SEC. 21736. (1) EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION  
2           (3) OR (4), IN ACCORDANCE WITH FEDERAL LAWS, RULES, AND  
3           REGULATIONS, A NURSING HOME INITIALLY LICENSED AFTER OCTOBER 1,  
4           1990 SHALL MAINTAIN A TEMPERATURE OF NOT LESS THAN 71 DEGREES  
5           FAHRENHEIT OR MORE THAN 81 DEGREES FAHRENHEIT MEASURED 3 FEET ABOVE  
6           THE FLOOR AT ALL TIMES IN ALL AREAS OF A BUILDING ACCESSIBLE TO  
7           RESIDENTS, EMPLOYEES, AND VISITORS EXCEPT FOR THE KITCHEN OR  
8           LAUNDRY ROOM.

1           (2) EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (3) OR (4),  
2 WITHIN 3 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT  
3 ADDED THIS SECTION, A NURSING HOME LICENSED PRIOR TO OCTOBER 1,  
4 1990 SHALL MAINTAIN A TEMPERATURE OF NOT LESS THAN 71 DEGREES  
5 FAHRENHEIT OR MORE THAN 81 DEGREES FAHRENHEIT MEASURED 3 FEET ABOVE  
6 THE FLOOR AT ALL TIMES IN ALL AREAS OF A BUILDING ACCESSIBLE TO  
7 RESIDENTS, EMPLOYEES, AND VISITORS EXCEPT FOR THE KITCHEN OR  
8 LAUNDRY ROOM. UPON WRITTEN REQUEST OF THE NURSING HOME, THE  
9 DEPARTMENT MAY GRANT AN EXTENSION OF THE TIME PERIOD FOR COMPLIANCE  
10 UNDER THIS SUBSECTION IF EACH OF THE FOLLOWING IS MET:

11           (A) UPON REVIEW OF THE NURSING HOME'S WRITTEN POLICIES AND  
12 PROCEDURES AND EXISTING PLANS OR AGREEMENTS FOR EMERGENCY  
13 SITUATIONS, THE DEPARTMENT DETERMINES THAT THERE ARE ADEQUATE  
14 PROTECTIONS IN PLACE TO ENSURE THE CONTINUED SAFETY AND COMFORT OF  
15 THE RESIDENTS WITHIN THAT NURSING HOME.

16           (B) BUILDING RENOVATIONS HAVE BEGUN TO BRING THE NURSING HOME  
17 INTO COMPLIANCE WITH THIS SECTION OR THE NURSING HOME HAS  
18 SUBMITTED, AND THE DEPARTMENT HAS APPROVED, THE NURSING HOME'S  
19 PLANS FOR RENOVATION, REPAIR, OR REMODELING OF ITS BUILDING TO MEET  
20 THE REQUIREMENTS OF THIS SECTION.

21           (3) IF A NURSING HOME IS LOCATED NORTH OF THE FORTY-FIFTH  
22 PARALLEL OF LATITUDE, THE TEMPERATURES WITHIN THAT NURSING HOME MAY  
23 ON RARE, BRIEF OCCASIONS, AS A RESULT OF RARE, BRIEF EPISODES OF  
24 UNSEASONABLY HOT WEATHER, EXCEED THE UPPER RANGE OF 81 DEGREES  
25 FAHRENHEIT. IF THE TEMPERATURE RANGE EXCEEDS 81 DEGREES FAHRENHEIT,  
26 THE NURSING HOME SHALL MONITOR ITS RESIDENTS AND TAKE ANY  
27 APPROPRIATE MEASURES TO ENSURE THE HEALTH, SAFETY, AND COMFORT OF

1 EACH RESIDENT.

2 (4) IF A NURSING HOME HAS A SEPARATE HEATING AND COOLING  
3 SYSTEM FOR RESIDENT ROOMS THAT ALLOWS A RESIDENT TO CONTROL THE  
4 TEMPERATURE IN HIS OR HER OWN ROOM, THE RESIDENT MAY MAINTAIN HIS  
5 OR HER ROOM AT ANY LEVEL HE OR SHE DESIRES UNLESS THE TEMPERATURE  
6 MAY ADVERSELY AFFECT THE HEALTH, SAFETY, OR COMFORT OF THE RESIDENT  
7 OR ANY OTHER RESIDENT SHARING THAT ROOM, IN WHICH CASE THE NURSING  
8 HOME SHALL INTERVENE AND TAKE APPROPRIATE ACTION TO KEEP THE  
9 RESIDENT OR RESIDENTS SAFE AND COMFORTABLE. IF A RESIDENT CHOOSES  
10 TO MAINTAIN THE TEMPERATURE IN HIS OR HER ROOM AT A TEMPERATURE  
11 LEVEL THAT IS OUTSIDE OF THE TEMPERATURE RANGE REQUIRED UNDER THIS  
12 SECTION, THAT RESIDENT SHALL SUBMIT DOCUMENTATION FROM HIS OR HER  
13 PHYSICIAN APPROVING THOSE TEMPERATURE CONDITIONS. THIS  
14 DOCUMENTATION SHALL BE INCLUDED WITH THAT RESIDENT'S CARE PLAN.

15 (5) WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
16 ACT THAT ADDED THIS SECTION, THE NURSING HOME ADMINISTRATOR SHALL  
17 DEVELOP WRITTEN POLICIES AND PROCEDURES FOR MAINTAINING SAFE AND  
18 COMFORTABLE TEMPERATURES IN THE NURSING HOME, MAINTAIN A COPY OF  
19 THOSE WRITTEN POLICIES AND PROCEDURES ON THE PREMISES, AND SUBMIT A  
20 COPY OF THE POLICIES AND PROCEDURES TO THE DEPARTMENT FOR FILING  
21 WITH ITS MOST RECENT LICENSE OR RENEWAL APPLICATION. THE WRITTEN  
22 POLICIES AND PROCEDURES SHALL INCLUDE AT LEAST ALL OF THE  
23 FOLLOWING:

24 (A) MEASURES TO BE TAKEN TO ENSURE THE HEALTH, SAFETY, AND  
25 COMFORT OF RESIDENTS IN THE NURSING HOME.

26 (B) IDENTIFICATION OF CIRCUMSTANCES THAT REQUIRE NOTIFICATION  
27 OF THE NURSING HOME ADMINISTRATOR OR A PHYSICIAN AND THE

1 APPROPRIATE TIME FRAMES FOR THOSE ACTIONS.

2 (C) IDENTIFICATION OF AVAILABLE SITES WITHIN OR OUTSIDE THE  
3 NURSING HOME TO WHICH RESIDENTS MAY BE RELOCATED IF TEMPERATURES  
4 WITHIN THE NURSING HOME PRESENT A THREAT TO THE HEALTH OR SAFETY OF  
5 THE RESIDENTS.

6 (6) A NURSING HOME SHALL HAVE AN EXISTING AGREEMENT OR PLAN  
7 FOR EMERGENCY SITUATIONS, INCLUDING, BUT NOT LIMITED TO, AN  
8 AGREEMENT OR PLAN FOR THE PROVISION OF EMERGENCY SERVICES AND  
9 REPAIRS IN THE EVENT OF AN ELECTRICAL, HEATING, VENTILATION, OR AIR  
10 CONDITIONING FAILURE OR MALFUNCTION. THE NURSING HOME SHALL  
11 MAINTAIN A COPY OF THESE WRITTEN AGREEMENTS OR PLANS ON THE  
12 PREMISES, AND THOSE SHALL BE MADE AVAILABLE TO THE DEPARTMENT UPON  
13 REQUEST. REPAIR WORK THAT IS NECESSARY TO MAINTAIN THE TEMPERATURE  
14 WITHIN THE RANGE DESCRIBED IN SUBSECTIONS (1) AND (2) SHALL BE  
15 COMPLETED WITHIN 48 HOURS OR LESS. IF, FOR REASONS BEYOND THE  
16 NURSING HOME'S CONTROL, REPAIRS CANNOT BE COMPLETED IN A TIMELY  
17 MANNER, THE NURSING HOME SHALL IMPLEMENT ITS WRITTEN POLICIES AND  
18 PROCEDURES ESTABLISHED PURSUANT TO SUBSECTION (5).

19 (7) WITHIN 6 MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION,  
20 THE DEPARTMENT SHALL ESTABLISH AN AIR CONDITIONING GRANT PROGRAM  
21 FOR THE PURPOSE OF PROVIDING GRANTS TO NURSING HOMES THAT NEED TO  
22 REPLACE, UPDATE, OR REPAIR THEIR HEATING AND COOLING SYSTEM TO  
23 MAINTAIN THE TEMPERATURE STANDARDS ESTABLISHED UNDER SUBSECTION  
24 (2). THE AIR CONDITIONING GRANT PROGRAM SHALL PROVIDE GRANTS TO  
25 NURSING HOMES THAT THE DEPARTMENT CONSIDERS ELIGIBLE WITHIN 60 DAYS  
26 AFTER THE NURSING HOME SUBMITS DOCUMENTATION TO THE DEPARTMENT  
27 VERIFYING THAT THE HEATING AND COOLING SYSTEM HAS BEEN REPLACED,

1 UPDATED, OR REPAIRED TO COMPLY WITH THIS SECTION. ANY BUILDING  
2 MAINTENANCE, REPAIR, UPKEEP, OR REPLACEMENT WITH SIMILAR EQUIPMENT,  
3 IMPLEMENTED AS A RESULT OF THIS SECTION, IS NORMAL BUILDING  
4 MAINTENANCE AND IS NOT A RENOVATION. IN EACH FISCAL YEAR GOVERNED  
5 BY THIS SUBSECTION, THE DEPARTMENT SHALL ONLY EXPEND FUNDS UNDER  
6 THE AIR CONDITIONING GRANT PROGRAM IF THE MEDICAID REIMBURSEMENT  
7 RATES ARE NOT BELOW THE LEVEL OF RATES IN EFFECT ON JULY 1, 2004.

8 (8) IN ACCORDANCE WITH SECTIONS 2262, 2263, AND 21799D, A  
9 NURSING HOME THAT VIOLATES THIS SECTION IS SUBJECT TO A CIVIL  
10 PENALTY.