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AB-240 Veterans' homes: lease of property. (2019-2020)

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Assembly Bill No. 240

CHAPTER 61

An act to amend Sections 1012, 1023, 1025, and 1043 of, and to add Sections 1023.1 and 1023.2 to, the Military and Veterans Code, relating to veterans' homes.

[Approved by Governor September 11, 2020. Filed with Secretary of State September 11, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 240, Irwin. Veterans' homes: lease of property.

Existing law establishes the Veterans' Home of California system for the operation of veterans' homes at various sites. Existing law sets forth the duties of the Department of Veterans Affairs regarding the administration and regulation of veterans' homes. Existing law authorizes the Director of General Services to lease or let any real property held by the department for a home, as specified, to any entity or person upon terms and conditions determined to be in the best interests of the home.

This bill would prohibit a lease or let from exceeding 5 years, unless the lessee is a local government or a nonprofit organization that provides services exclusively for veterans of the Armed Forces of the United States and their families, or the contract for the lease was executed before January 1, 2021. The bill would require each use, other than an easement, of real property held by the department for a home by a person or entity, other than the home or a resident of the home, to be in writing and meet certain criteria, including that it provide substantial and direct benefits to the home and its members and be appropriate and compatible with the nature of the home.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1012 of the Military and Veterans Code is amended to read:

1012. (a) Except as provided in Sections 1012.4, 1023, and 1023.1, veterans' homes are for aged or disabled persons who served in the Armed Forces of the United States of America who were discharged or released from active duty under conditions other than dishonorable, who are eligible for health care benefits, hospitalization, or domiciliary care in a veterans' facility in accordance with the rules and regulations of the United States Department of Veterans Affairs, and who are bona fide residents of this state at the time of application; and for the spouses or domestic partners of these persons if all of the following conditions, as are applicable, are satisfied:

(1) Space is available.

(2) Joint residency will be in the best interests of the home member, as determined by the administrator.

(3) The spouse or domestic partner is a bona fide resident of this state at the time of application for admission to the home and either is married to, and has resided with, the veteran applicant for at least one year, or is the widow or widower of a recipient of the Medal of Honor or a former prisoner of war (POW).

(4) The home member and spouse or domestic partner agree to pay the fees and charges for joint residency, or for a widow or widower, for the residency, that the department may establish.

(b) (1) Veterans who qualify for benefits under this chapter due to service during a time of war shall be given priority over veterans who qualify due to service during a time of peace.

(2) Veterans who qualify for benefits under this chapter who are recipients of the Medal of Honor or who were prisoners of war (POWs) shall be given priority over all other qualified veterans, regardless of the level of care required.

(3) Veterans who qualify for benefits under this chapter who have been rated by the United States Department of Veterans Affairs as being 70 percent or greater service-connected disabled may be given priority over other veterans.

(4) The secretary may establish needs-based criteria for admission to the homes, and any veteran meeting those criteria may be given priority over veterans who do not qualify for prioritization under paragraph (2) or (3) and can afford to provide for their own care elsewhere.

(5) Paragraphs (3) and (4) shall not apply to veterans who, as of January 1, 2018, are on a wait list awaiting admission to a veterans' home.

(c) A member spouse or domestic partner may continue residence after the veteran's death so long as they continue to pay all applicable fees.

(d) The property of the home shall be used for this purpose.

SEC. 2. Section 1023 of the Military and Veterans Code is amended to read:

1023. (a) The department may sue and be sued in any of the courts of this state. All property held by the department for a home shall be held in trust for the state and for the use and benefit of the home. The department shall manage the homes and administer their affairs, and, subject to the direction of the secretary, adopt rules and regulations for the government of the homes in conformity, as nearly as possible, to applicable state and federal rules and regulations, including, but not limited to, the United States Department of Veterans Affairs regulations.

(b) With the consent of the secretary, the Director of General Services may lease or let any real property held by the department for a home, and not needed for any direct or immediate purpose of the home, to any entity or person upon terms and conditions determined to be in the best interests of the home and its members. In any leasing or letting, except as provided in Section 1049, all moneys received in connection therewith shall be deposited in the General Fund.

SEC. 3. Section 1023.1 is added to the Military and Veterans Code, to read:

1023.1. (a) A lease of real property held by the department for a home shall not exceed five years, unless one of the following apply:

(1) The lessee is a town, city, county, or city and county, or a political subdivision thereof, where the home is located.

(2) The lessee is a nonprofit organization that provides services exclusively for veterans of the Armed Forces of the United States and their families.

(3) The contract for the lease with the department or the Director of General Services was executed before January 1, 2021.

(b) The department or the Director of General Services and a lessee may renegotiate the terms of the contract described in paragraph (3) of subdivision (a), except that any terms regarding the duration or renewal of the contract shall not be extended, unless those terms meet the requirements of this section.

(c) A lease contract with any other party may be granted for a term greater than five years only with the approval of the Legislature by statute.

SEC. 4. Section 1023.2 is added to the Military and Veterans Code, to read:

1023.2. (a) The general purpose of any use, other than an easement, of real property held by the department for a home by a person or entity, other than the home or a resident of the home, shall meet all of the following criteria, as determined by the secretary:

(1) Provide substantial and direct benefits to the home and its members.

(2) Be appropriate and compatible with the nature of the home.

(3) Compensate the department in an amount that approximates fair market value, taking into consideration the value of the benefit provided to the home's members and the investment by the lessee in the property development of the home.

(4) When the use contemplated carries a reasonable risk of injury or loss to the state, the home, or the members of the home, that use is appropriately insured by the lessee to cover those risks and to insure home residents, the department, and the state against liability.

(b) Each use, other than an easement, of real property held by the department for a home by a person or entity, other than the home or a resident of the home, shall be governed by a written agreement between the department or the Director of General Services and the person or entity using the real property that establishes exactly how the person or entity meets the criteria in subdivision (a).

(c) For the purposes of this section, a benefit may include any function or activity that enhances the morale, welfare, and recreation of the home's members.

SEC. 5. Section 1025 of the Military and Veterans Code is amended to read:

1025. For those services and programs administered by the department and within the purview of the United States Department of Veterans Affairs, appropriate facilities of the home shall be open at any time to the inspection of the Secretary of the United States Department of Veterans Affairs or the secretary's authorized representative.

SEC. 6. Section 1043 of the Military and Veterans Code is amended to read:

1043. With the exception of officers and employees and their families, no person shall be admitted to reside in a home who is not a member eligible under Section 1012.

SEC. 7. Nothing in this act is intended to override or interfere with Section 14671.2 of the Government Code.