

AMENDED IN SENATE JUNE 14, 2005

AMENDED IN ASSEMBLY APRIL 4, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 602**

**Introduced by Assembly Member Spitzer  
(Coauthor: Assembly Member Huff)**

February 17, 2005

An act to add Section 1812.96 to the Civil Code, relating to health studios.

LEGISLATIVE COUNSEL'S DIGEST

AB 602, as amended, Spitzer. Health studios.

Existing law governs health studio contracts.

~~This bill would require a seller of health studio services to hold in trust all money received from a consumer if the health studio facility has not yet opened for business, except in certain circumstances, and would prohibit the seller from drawing on, transferring, or encumbering those funds, except as specified~~ *provide that when a health studio facility is transferred or sold to another health studio, a consumer of the health studio facility shall be given the option of receiving a refund of his or her remaining payments on the existing contract or entering into a new contract on the same terms with the new owners of the facility.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1812.96 is added to the Civil Code, to  
2 read:

3     1812.96. When a health studio facility is transferred or sold  
4 to another health studio, a consumer of the health studio facility  
5 shall be given the option of receiving a refund of his or her  
6 remaining payments on the existing contract or entering into a  
7 new contract on the same terms with the new owners of the  
8 facility.

9     ~~SECTION 1. Section 1812.96 is added to the Civil Code, to~~  
10 ~~read:~~

11     ~~1812.96. (a) Except as provided in subdivision (c) or (d), all~~  
12 ~~money received by the seller of health studio services from a~~  
13 ~~consumer for a health studio facility that has not yet opened for~~  
14 ~~business shall be held in trust and shall be deposited in a trust~~  
15 ~~account established in a state or federally chartered bank or~~  
16 ~~savings association. The seller shall not draw, transfer, or~~  
17 ~~encumber any of the money held in trust until five business days~~  
18 ~~after the health studio facility has opened and the seller has fully~~  
19 ~~paid refunds to consumers who canceled their contracts as~~  
20 ~~provided in subdivision (b) or in Section 1812.85.~~

21     ~~(b) In addition to any other cancellation rights, a consumer~~  
22 ~~who pays any money under a contract for health studio services~~  
23 ~~for a health studio facility that has not yet opened for business~~  
24 ~~has the right to cancel the contract and receive a full refund at~~  
25 ~~any time prior to midnight of the fifth business day after the date~~  
26 ~~the health studio opens for business. The cancellation right shall~~  
27 ~~be set forth in the contract. The refund shall be paid within 10~~  
28 ~~days of receipt of notice of cancellation.~~

29     ~~(c) Notwithstanding subdivision (a), a seller of health studio~~  
30 ~~services may draw on money held in trust to pay refunds or may~~  
31 ~~draw, transfer, or encumber funds to the extent that the amount is~~  
32 ~~offset by a bond of equal or greater amount that satisfies this~~  
33 ~~subdivision. The bond shall be issued by a surety insurer~~  
34 ~~admitted to do business in this state and shall be filed with the~~  
35 ~~Secretary of State. The bond shall be in favor of the State of~~  
36 ~~California for the benefit of consumers harmed by a violation of~~  
37 ~~this title.~~

1 ~~(d) Subdivision (a) does not apply to a seller of health studio~~  
2 ~~services that is, at the time money is received from the consumer,~~  
3 ~~operating at least five health studio facilities in this state that~~  
4 ~~have been in operation for a period of at least five years, and that~~  
5 ~~has current tangible assets, based on book value, that exceed~~  
6 ~~current liabilities by at least one million dollars (\$1,000,000).~~

O