RCW 70.129.040 Protection of resident's funds—Financial affairs rights. (1) The resident has the right to manage his or her financial affairs, and the facility may not require residents to deposit their personal funds with the facility.

(2) Upon written authorization of a resident, if the facility agrees to manage the resident's personal funds, the facility must hold, safeguard, manage, and account for the personal funds of the resident deposited with the facility as specified in this section.

(a) The facility must deposit a resident's personal funds in excess of one hundred dollars in an interest-bearing account or accounts that is separate from any of the facility's operating accounts, and that credits all interest earned on residents' funds to that account. In pooled accounts, there must be a separate accounting for each resident's share.

(b) The facility must maintain a resident's personal funds that do not exceed one hundred dollars in a noninterest-bearing account, interest-bearing account, or petty cash fund.

(3) The facility must establish and maintain a system that assures a full and complete and separate accounting of each resident's personal funds entrusted to the facility on the resident's behalf.

(a) The system must preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident.

(b) The individual financial record must be available on request to the resident, or resident representative to the extent provided by law.

(4) Upon the death of a resident with personal funds deposited with the facility, the facility must convey within thirty days the resident's funds, and a final accounting of those funds, to the individual or probate jurisdiction administering the resident's estate; but in the case of a resident who received long-term care services paid for by the state, the funds and accounting shall be sent to the state of Washington, department of social and health services, office of financial recovery. The department shall establish a release procedure for use for burial expenses.

(5) If any funds in excess of one hundred dollars are paid to an adult family home by the resident or resident representative, as a security deposit for performance of the resident's obligations, or as prepayment of charges beyond the first month's residency, the funds shall be deposited by the adult family home in an interest-bearing account that is separate from any of the home's operating accounts, and that credits all interest earned on the resident's funds to that account. In pooled accounts, there must be a separate accounting for each resident's share. The account or accounts shall be in a financial institution as defined by RCW 30A.22.041, and the resident shall be notified in writing of the name, address, and location of the depository. The adult family home may not commingle resident funds from these accounts with the adult family home's funds or with the funds of any person other than another resident. The individual resident's account record shall be available upon request by the resident or resident representative to the extent provided by law.

(6) The adult family home shall provide the resident or resident representative full disclosure in writing, prior to the receipt of any funds for a deposit, security, prepaid charges, or any other fees or charges, specifying what the funds are paid for and the basis for retaining any portion of the funds if the resident dies, is

hospitalized, or is transferred or discharged from the adult family home. The disclosure must be in a language that the resident or resident representative understands, and be acknowledged in writing by the resident or resident representative. The adult family home shall retain a copy of the disclosure and the acknowledgment. The adult family home may not retain funds for reasonable wear and tear by the resident or for any basis that would violate RCW 70.129.150.

(7) Funds paid by the resident or resident representative to the adult family home, which the adult family home in turn pays to a placement agency or person, shall be governed by the disclosure requirements of this section. If the resident then dies, is hospitalized, or is transferred or discharged from the adult family home, and is entitled to any refund of funds under this section or RCW 70.129.150, the adult family home shall refund the funds to the resident or resident representative to the extent provided by law, within thirty days of the resident leaving the adult family home, and may not require the resident to obtain the refund from the placement agency or person.

(8) If, during the stay of the resident, the status of the adult family home licensee or ownership is changed or transferred to another, any funds in the resident's accounts affected by the change or transfer shall simultaneously be deposited in an equivalent account or accounts by the successor or new licensee or owner, who shall promptly notify the resident or resident representative to the extent provided by law, in writing of the name, address, and location of the new depository.

(9) Because it is a matter of great public importance to protect residents who need long-term care from deceptive disclosures and unfair retention of deposits, fees, or prepaid charges by adult family homes, a violation of this section or RCW 70.129.150 shall be construed for purposes of the consumer protection act, chapter 19.86 RCW, to constitute an unfair or deceptive act or practice or an unfair method of competition in the conduct of trade or commerce. The resident's claim to any funds paid under this section shall be prior to that of any creditor of the adult family home, its owner, or licensee, even if such funds are commingled. [2021 c 159 § 24; 2011 1st sp.s. c 3 § 301; 1995 1st sp.s. c 18 § 66; 1994 c 214 § 5.]

Findings—2021 c 159: See note following RCW 18.20.520.

Finding—Intent—2011 1st sp.s. c 3: See note following RCW 70.128.005.

Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18: See notes following RCW 74.39A.030.