**Section 350.3290 Private Right of Action**

a) Each resident shall have the right to maintain a private right of action against a facility as described in subsections (b) through (i).

b) *The owner and licensee are liable to a resident for any intentional or negligent act or omission of their agents or employees which injures the resident.* (Section 3-601 of the Act)

c) *The licensee shall pay the actual damages and costs and attorney's fees to a facility resident whose rights, as specified in Part l of Article II of* the *Act, are violated.* (Section 3-602 of the Act)

d) *A resident may maintain an action under* the *Act for any other type of relief, including injunctive and declaratory relief, permitted by law.* (Section 3-603 of the Act)

e) *Any damages recoverable under* subsections (b) through (i)*, including minimum damages as provided by* those subsections*, may be recovered in any action which a court may authorize to be brought as a class action pursuant to the Civil Practice Law. The remedies provided in* subsections (b) through (i) *are in addition to and cumulative with any other legal remedies available to a resident. Exhaustion of any available administrative remedies shall not be required prior to commencement of a suit hereunder.* (Section 3-604 of the Act)

f) *The amount of damages recovered by a resident in an action brought under* subsections (b) through (i) *shall be exempt for purposes of determining initial or continuing eligibility for medical assistance under the Illinois Public Aid Code, and shall neither be taken into consideration nor required to be applied toward the payment or partial payment of the cost of medical care or services available under the Illinois Public Aid Code.* (Section 3-605 of the Act)

g) *Any waiver by a resident or his or her legal representative of the right to commence an action under* subsections (b) through (i)*, whether oral or in writing, shall be null and void, and without legal force or effect.* (Section 3-606 of the Act)

h) *Any party to an action brought under* subsections (b) through (i) *shall be entitled to a trial by jury and any waiver of the right to a trial by jury, whether oral or in writing, prior to the commencement of an action, shall be null and void, and without legal force or effect.* (Section 3-607 of the Act)

i) *A licensee or its agents or employees shall not transfer, discharge, evict, harass, dismiss, or retaliate against a resident, a resident's representative, or an employee or agent who makes a report under Section 2-107* of the Act*, brings or testifies in an action under* subsections (b) through (i) of this Section*, or files a complaint under Section 3-702* of the Act*, because of the report, testimony, or complaint.* (Section 3-608 of the Act)

(Source: Amended at 46 Ill. Reg. 10519, effective June 2, 2022)