§ 2805-f. Money deposited or advanced for admittance to nursing homes; waiver void; administration expenses. 1. Whenever money shall be deposited or advanced on a contract or license agreement for admittance to a nursing home as security for performance of the contract or agreement or to be applied to payments upon such contract or agreement when due, such money, with interest accruing thereon, until repaid or so applied, shall continue to be the money of the person making such deposit or advance and shall be held in trust by the person with whom such deposit or advance shall be made and shall not be mingled with the personal moneys or become an asset of the person receiving the same.

2. The person receiving money so deposited or advanced shall deposit such money in an interest bearing account in a banking organization provided, however, that monies which are advanced pursuant to the provisions of subdivision one of this section for the purpose of being applied to payments in performance of a contract or license agreement when due need not be deposited in an interest bearing account until the sixty-first day next succeeding the day upon which such money was deposited or advanced. Such person shall thereupon notify in writing each of the persons making such security deposit or advance, giving the name and address of the banking organization in which the deposit of security money is made, and the amount of such deposit. Such person shall be entitled to receive, as administration expenses, a sum equivalent to one percent per annum upon the security money so deposited, which shall be in lieu of all other administrative and custodial expenses. The balance of the interest paid by the banking organization shall be the money of the person making the deposit or advance.

3. Any provision of such a contract or agreement whereby a person who so deposits or advances money waives any provision of this section is absolutely void.

4. Whoever knowingly and willfully:

(a) charges for any service provided to a recipient pursuant to title eleven of article five of the social services law, or a recipient pursuant to title XVIII of the federal social security act, money or

other consideration at a rate in excess of the rates established by the department of health and certified by the director of the division of budget or established pursuant to title XVIII of the federal social security act, as the case may be; or

(b) charges, solicits, accepts or receives, in addition to any amount otherwise required to be paid pursuant to title eleven of article five of the social services law, or pursuant to title XVIII of the federal social security act, any gift, money, donation or other consideration, other than a charitable, religious or philanthropic contribution from an organization or from a person not acting on behalf of such recipient or applicant for assistance under title eleven of article five of the social services law:

(i) as a precondition, express or implied, to admitting or expediting the admission of such recipient or applicant to a hospital or residential health care facility; or

(ii) as a requirement for the recipient's or applicant's continued stay in such facility,

when the cost of the services, provided therein to the recipient is paid for, in whole or in part, pursuant to title eleven of article five of the social services law, or pursuant to title XVIII of the federal social security act, shall be guilty of a class E felony.