

HOME FOR THE AGED REVISIONS

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Senate Bill 378 as passed by the Senate

Sponsor: Sen. Marty Knollenberg

House Committee: Regulatory Reform

Senate Committee: Regulatory Reform

Complete to 9-19-17

Analysis available at

<http://www.legislature.mi.gov>

SUMMARY:

Briefly, Senate Bill 378 would amend the Public Health Code (MCL 333.20106 et al.) to make the following changes regarding a home for the aged (HFA):

- Revise the definition of "home for the aged" to include the provision of supervised care for individuals 55 (lowered from 60) years of age and specify that an HFA would be a facility *at a single address*.
- Require the Bureau of Fire Services to amend the rules to allow a facility in existence on or before the bill's effective date and which was continuously operating up to the time of application for licensure as an HFA to be reviewed and inspected to comply with certain provisions of the National Fire Protection Association standards, but only if residents were assessed as capable of self-preservation or the facility was adequately staffed to evacuate residents in an emergency. Information requested by the Department of Licensing and Regulatory Affairs (LARA) allowing it to verify that the facility had been in existence on or before the bill's effective date would have to be provided.
- Require LARA, after October 1, 2018, if the Department of State Police (MSP) or the FBI charge a fee to conduct a criminal history check, to pay the cost of the charge of up to 40 criminal history checks per year for an HFA with fewer than 100 beds and 50 criminal history checks per year for an HFA with 100 beds or more.
- Update language pertaining to the retention of fingerprints to require the MSP and FBI to store and retain all fingerprints submitted for background checks for employment with a covered facility and to provide an automatic notification if and when subsequent criminal information submitted into the system matches a set of fingerprints previously submitted.
- Beginning on the bill's effective date, require an exemption from licensure be given to an existing facility or a facility under construction at which (1) board is offered through a person not related to the person providing room or supervised personal care, or both, or (2) supervised personal care is offered through any person whether or not the person were related to the person providing room or board, or both, if the supervised personal care arrangement had been in effect for at least 5 consecutive years before the exemption had been requested and residents at the facility have the option to select any supervised personal care provider.

An attestation would have to be provided by the owner or managing company that certifies that the persons described above are not related. An applicant would have to acknowledge that the penalty for submitting a false or inaccurate attestation is an administrative fine of \$5,000.

The exemption would continue for a successor owner, operator, or governing body provided that the successor filed the required attestation. However, after December 31, 2019, an exemption would only be granted to a successor.

LARA would make the determination that a facility is exempt from licensure as an HFA if the owner, operator, or governing body submitted an attestation to LARA that assured certain requirements, as specified in the bill, were met.

- Provide a departmental review of a denial of an application for exemption, issuance of a fine, or exemption revocation upon appeal as provided under the Code or subject to the submission of further information, or both. LARA would have to act on an exemption request as soon as practicable but no later than 60 days after receipt of the exemption request.
- Allow an exemption to be revoked if false or inaccurate information provided in the attestation was material to granting the exemption; the applicant receiving the exemption was found to be negligent resulting in serious physical injury, death of a resident, or serious mental anguish, and a risk to the health and safety of the residents at the facility continued; or the applicant receiving the exemption did not cooperate in LARA's investigation to make a determination under these conditions.
- Define several new terms, including "supervised personal care", "continuing care community", "related", "serious mental anguish", and "serious physical injury".
- Provide for the bill to take effect 90 days after enactment.

FISCAL IMPACT:

Senate Bill 378 would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs (LARA). The bill would establish a cap on the amount that LARA would pay for background checks of employees of homes for the aged facilities. The bill would also create certain licensure exemptions for homes for the aged facilities and a less stringent licensing process for currently operating unlicensed facilities. The impact of these exemptions would depend upon the number of facilities that pursue such exemptions. The bill does not appear to have any significant fiscal impact on other units of state or local government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.