

[Second Reprint]

ASSEMBLY, No. 4477

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JULY 30, 2020

Sponsored by:

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Assemblyman HERB CONAWAY, JR.

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SYNOPSIS

Revises licensure, operational, and reporting requirements for nursing homes.

CURRENT VERSION OF TEXT

As amended by the General Assembly on March 1, 2021.

(Sponsorship Updated As Of: 3/25/2021)

1 AN ACT concerning ¹**["long-term care facilities"]** nursing homes¹ ,
 2 amending P.L.1987, c.322, and supplementing Title 26 of the
 3 Revised Statutes.

4
 5 **BE IT ENACTED** by the Senate and General Assembly of the State
 6 of New Jersey:

7
 8 1. Section 1 of P.L.1987, c.322 (C.26:2H-7.2) is amended to read
 9 as follows:

10 1. Notwithstanding the provisions of section 7 of P.L.1971, c.136
 11 (C.26:2H-7) to the contrary, a nursing home which proposes to
 12 increase the total number of licensed beds contained therein by not
 13 more than 10 beds or 10% of its licensed bed capacity, whichever is
 14 less, within a period of five years is exempt from the requirement of
 15 obtaining a certificate of need if the nursing home is in compliance
 16 with all State regulations governing its operations. No ¹**["transfer of**
 17 a"]¹ licensed bed that is added by a nursing home in accordance with
 18 the requirements of this section ¹**["to another nursing home"]¹ , and no**
 19 ¹**["transfer of a"]¹ licensed bed that is part of an unimplemented**
 20 certificate of need ¹ , may be sold or transferred¹ to any other nursing
 21 home ¹**["**, shall be authorized except upon application for and receipt of
 22 a certificate of need as provided by P.L.1971, c.136 (C.26:2H-1 et
 23 seq.)² except upon application for and receipt of a certificate of need
 24 as provided by P.L.1971, c.136 (C.26:2H-1 et seq.)² . A nursing
 25 home that has removed beds from its license within the preceding five
 26 years shall not be eligible to increase its licensed bed capacity under
 27 the provisions of this section¹ .

28 (cf: P.L.1987, c.322, s.1)

29

30 2. (New section) a. ¹**["The transfer of ownership of a long-term**
 31 **care facility shall not require a certificate of need except when the**
 32 **proposed owner does not satisfy the Department of Health's track**
 33 **record review, including a review of the dashboard data for the facility**
 34 **published pursuant to subsection f. of section 3 of P.L. ,**
 35 **c. (C.) (pending before the Legislature as Senate Bill No. 2759**
 36 **or Assembly Bill No. 4478 of 2020/2021) for the preceding three**
 37 **years, if available.**

38 b.¹ Prior to transferring ownership of a ¹**["long-term care facility"]**
 39 nursing home¹ , the prospective new owner shall submit an application
 40 to the ¹**["Long Term Care Licensing and Certification Program"]**
 41 Department of Health¹ ²that meets the requirements of section 3 of this
 42 act² . The application shall include the following items:

43 (1) the transfer of ownership fee established by the department;

EXPLANATION – Matter enclosed in bold-faced brackets **["thus"] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted October 26, 2020.

²Assembly floor amendments adopted March 1, 2021.

1 (2) a cover letter stating the applicant's intent to purchase the
2 ¹[[long-term care facility] nursing home¹ , and identification of the
3 ¹[[facility] nursing home¹ by name, address, county, and number and
4 type of licensed beds;

5 (3) a description of the proposed transaction, including:

6 (a) identification of the current owners of the ¹[[long-term care
7 facility] nursing home¹ ;

8 (b) identification of 100 percent of the proposed new owners,
9 including the names and addresses of all principals ¹and interested
10 parties¹ ; and

11 (c) if applicable, a copy of an organizational chart, including
12 parent corporations and wholly-owned subsidiaries; ²and²

13 (4) a copy of the agreement of sale and, if applicable, a copy of
14 any lease and management agreements ²[[

15 (5) a projection of profits and losses for the next three years and a
16 capital budget projection for the next three years; and

17 (6) disclosure of any licensed health care facilities owned,
18 operated, or managed by the proposed owners and principals in any
19 state or territory of the United States or in the District of Columbia in
20 the preceding ¹[[five] three¹ years, along with ¹[[audited] owner-
21 certified¹ financial statements for each such facility for the last three
22 years during which the facility was owned, operated, or managed by
23 ¹[[the third party entity] owner or principal¹ . If the owners or
24 principals own, operate, or manage facilities located outside New
25 Jersey, the application shall include ¹[[letters from the regulatory
26 agency in each jurisdiction in which a facility is owned, operated, or
27 managed, verifying that the facility was operated in substantial
28 compliance with the laws of that jurisdiction throughout the preceding
29 five year period or for such time during that period as the third party
30 entity owned, operated, or managed the facility, and that the facility
31 has had no] disclosures by the applicant as to any¹ enforcement
32 actions imposed during that period of time ¹against any facility owned,
33 operated, or managed by the applicant in any jurisdiction² .

34 The applicant may additionally submit a summary of the
35 application materials that includes such details concerning the
36 application as are required by the department, but that omits any
37 proprietary information in the contracts for the sale or management of
38 the nursing home, and any home addresses, social security numbers, or
39 other personal information of any proposed owner, principal, or
40 interested party. A summary prepared by the applicant may only be
41 used for the purposes of posting information concerning the
42 application on the department's Internet website pursuant to paragraph
43 (1) of subsection ²[[e.] d.² of this section.

44 b. Information submitted pursuant to subsection a. of this section
45 ²or subsection a. of section 3 of this act² by an applicant for transfer of

1 ownership of a nursing home shall not be used in any adverse licensure
2 action or disciplinary action against the applicant¹ .

3 c. Approval of a transfer of ownership of a ¹long-term care
4 facility nursing home¹ is contingent upon:

5 (1) a review of the applicant's ¹track record by the department,
6 including a review of the dashboard data published pursuant to
7 subsection f. of section 3 of P.L. , c. (C.) (pending before the
8 Legislature as Senate Bill No. 2759 or Assembly Bill No. 4478 of
9 2020/2021) for history of disciplinary actions assessed in connection
10 with¹ any other facility owned, operated, or managed by the proposed
11 owners and principals in New Jersey, and a determination based on
12 that review that approval of the transfer of ownership will not present a
13 material risk to the health, safety, or welfare of residents of the
14 ¹facility nursing home¹ that is the subject of the transfer application;
15 ²and²

16 (2) payment of all outstanding ¹and issued¹ Medicaid audit claims
17 and State penalties issued by the department against the current owner,
18 ¹or unless such claims remain under appeal, in which case, if the
19 claim remains under appeal, the applicant shall submit¹ written
20 verification ¹by the applicant¹ that ¹either¹ the applicant ¹or the
21 current owners of the nursing home¹ will assume responsibility for
22 payment of such audit ¹findings recoveries¹ and State penalties ¹at
23 the conclusion of the appeal¹ ²; and

24 (3) ¹consistent with the requirements of subsection d. of this
25 section,¹ a criminal history background check of each proposed owner
26 and principal and a determination that no proposed owner or principal
27 has a prior conviction involving fraud or any other criminal offense of
28 a financial nature, or a prior conviction that may bear on the health and
29 safety of residents of a long-term care facility, including, but not
30 limited to, a prior conviction involving abuse, neglect, or exploitation
31 of any person² .

32 d. ²For the purposes of paragraph (3) of subsection c. of this
33 section, the department is authorized to exchange fingerprint data with
34 and receive criminal history record background information from the
35 Division of State Police and the Federal Bureau of Investigation
36 consistent with the provisions of applicable federal and State laws,
37 rules, and regulations. Upon receipt of such notification, the
38 department shall make a determination as to whether transferring all or
39 part of the ownership of a ¹long-term care facility nursing home¹ to
40 the applicant would constitute a material risk to the health, safety, or
41 welfare of residents of the ¹facility nursing home¹ . An applicant for
42 a transfer of ownership of a ¹long-term care facility nursing home¹
43 who is required to complete a criminal history record background
44 check pursuant to this section shall submit to being fingerprinted in
45 accordance with applicable State and federal laws, rules, and
46 regulations. An applicant shall bear the cost for the criminal history

1 record background check, including all costs of administering and
2 processing the check. ¹The Division of State Police shall promptly
3 notify the department in the event that an individual who was the
4 subject of a criminal history record background check conducted
5 pursuant to paragraph (3) of subsection c. of this section is convicted
6 of a crime or offense in this State after the date the background check
7 was performed. Upon receipt of that notification, the department shall
8 make a determination regarding the continued eligibility for the
9 individual to be an owner or principal of a nursing home.¹

10 e.]² ¹**[Transfer]** (1) A copy of each transfer¹ of ownership
11 application ¹**[materials]** , or a summary of the application prepared by
12 the applicant that includes the names of the proposed owners,
13 principals, and interested parties,¹ shall ¹be¹ published on the
14 department's Internet website ¹**[and]** no later than 30 days after the
15 date the department receives the application; provided that the
16 department shall redact the materials to the extent necessary to ensure
17 that no proprietary information in the contracts for the sale or
18 management of the nursing home, and no home addresses, social
19 security numbers, or other personal information of any proposed
20 owner, principal, or interested party, is included in the materials
21 published on the department's Internet website.

22 (2) Each application for the transfer of ownership of a nursing
23 home¹ shall be subject to ¹a¹ public comment ¹**[for a]** period ¹**[of]**
24 that shall commence¹ not less than 30 days ¹**[following submission**
25 and publication of] after the date¹ the application ¹is received by the
26 department, and which comment period shall remain open for a period
27 of not less than 30 days. The department shall establish a procedure
28 for acknowledging receipt of public comments submitted. The text of
29 comments submitted on a transfer of ownership application shall not
30 be published on the department's Internet website, but shall be
31 considered a ²**[public]** government² record pursuant to P.L.1963, c.73
32 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.)¹ .

33 ¹**[The department may]** ²**[(3)** Each nursing home that is the
34 subject of an application for a transfer of ownership shall¹ hold a
35 public hearing on the application ¹**[upon request by the applicant, the**
36 current owner, or at least 15 members of the public, in which case the]
37 no earlier than 30 days after the date the application is received by the
38 department. Notice of the public hearing shall be published at least
39 seven days in advance of the public hearing on the Internet websites of
40 the department, the nursing home, and the applicant, as well as in at
41 least one newspaper published in each county, if any newspapers are
42 published therein. The nursing home shall invite the Attorney General
43 and the Commissioner of Health, or their designated representatives, to
44 attend the hearing. The transfer of ownership¹ application may not be
45 approved until after the public hearing is completed.

1 f. The department shall not issue final approval for a transfer of
2 ownership of a ¹["long-term care facility"] nursing home¹ under this
3 section if the department identifies any unresolved issues or questions
4 concerning any proposed owner or principal identified in the
5 application. The department may issue conditional approval of the
6 transfer pending final resolution of all unresolved issues and questions,
7 subject to appointment of a receiver or temporary manager of the
8 facility at the applicant's expense.]² ¹["The department may enter into
9 a standing contract with a third party entity to provide receivership or
10 temporary management services for the purposes of this subsection. A
11 receiver or temporary manager appointed pursuant to this subsection
12 shall have the authority to:

13 (1) make any repairs, improvements, or expenditures necessary to
14 preserve the health and safety of residents and staff at the facility and
15 to ameliorate any condition presenting a significant risk to the health
16 or safety of residents or staff of the facility, and to direct the method or
17 procedures by which this shall be accomplished;

18 (2) hire employees as needed to maintain mandatory staffing
19 levels;

20 (3) receive or expend in a reasonable and prudent manner the
21 revenues of the facility during the appointment period;

22 (4) continue the business of the facility and the care of the
23 residents of the facility in all aspects;

24 (5) perform all acts necessary or appropriate to conserve the
25 property and promote the health, safety, and welfare of the residents of
26 the facility; and

27 (6) exercise any other powers or authority conferred by the
28 department by regulation or in the appointment agreement.]]¹

29 ²[g. When] e. The Department shall complete review of any
30 transfer of ownership application submitted pursuant to subsection a.
31 of this section no later than 120 days after the date the application is
32 received. If² a transfer of ownership application has been reviewed
33 and deemed acceptable, ¹the department shall send¹ an approval letter
34 ¹from the Long-Term Care Licensing and Certification Program shall
35 be sent¹ to the applicant ¹along with licensure application forms¹ .

36 ²[h.] f.² Within five days after the transaction has been
37 completed, the applicant shall submit ¹["the following documents to the
38 Long-Term Care Licensing and Certification Program:

39 (1) completed licensure application forms;

40 (2)] to the department certification of closing from an attorney or¹
41 a notarized letter ¹from the applicant¹ stating the date on which the
42 transaction occurred ¹["; and

43 (3) a copy of a certificate of continuing occupancy from the local
44 township, or a letter from the township verifying a policy of not
45 issuing any such document for changes of ownership] , along with an
46 executed bill of sale or assignment. To facilitate the timely transfer of
47 Medicare and Medicaid provider numbers, the department shall issue

1 the new license to the applicant no later than 30 days after the date the
 2 notice is received by the department¹ .

3 ²~~[[i.]]~~² ¹~~[[The department shall provide for enhanced monitoring of~~
 4 ~~direct care loss ratios reported by a long-term care facility pursuant to~~
 5 ~~subsection c. of section 3 of P.L. , c. (C.) (pending before the~~
 6 ~~Legislature as Senate Bill No.2758 or Assembly Bill No.4482 of~~
 7 ~~2020/2021) for three years following a transfer of ownership of the~~
 8 ~~long-term care facility.~~

9 j. For a period of six months following the date a transfer of
 10 ownership of a long-term care facility is approved under this section,
 11 no other transfer of ownership of that long-term care facility shall be
 12 approved.

13 k.]¹ ²~~g.~~² No ¹~~[[long-term care facility]]~~ nursing home¹ may
 14 delegate ¹substantial¹ management ¹control¹ of the ¹~~[[facility]]~~ nursing
 15 home's operations¹ to a third party entity without ¹providing¹ prior
 16 ¹~~[[approval by]]~~ written notice to¹ the department. The ¹notice
 17 provided by the¹ owners of the facility ¹~~[[shall submit]]~~¹ to the
 18 department ¹~~[[for approval]]~~ shall include¹ :

- 19 (1) a copy of the management agreement;
- 20 (2) an organizational chart of the third party entity's proposed
 21 management team for the ¹~~[[facility]]~~ nursing home¹ ;
- 22 (3) the names and addresses of all owners ¹~~[[and]]~~ , ¹ principals ¹ ,
 23 and interested parties¹ of the third party entity; and
- 24 (4) a list of any other licensed health care facilities owned,
 25 operated, or managed by the third party entity in any state or territory
 26 of the United States or in the District of Columbia for the preceding
 27 ¹~~[[five]]~~ three¹ years, along with ¹~~[[audited]]~~ owner-certified¹ financial
 28 statements for each such facility for the last three years during which
 29 the facility was owned, operated, or managed by the third party entity.
 30 If the third party entity owned, operated, or managed facilities located
 31 outside New Jersey in the preceding ¹~~[[five]]~~ three¹ years, the
 32 application shall include ¹~~[[letters from the regulatory agency in each~~
 33 ~~jurisdiction in which the third party entity owned, operated, or~~
 34 ~~managed facility in the preceding five years verifying that the facility~~
 35 ~~was operated in substantial compliance with the laws of that~~
 36 ~~jurisdiction throughout the preceding five year period or for such time~~
 37 ~~during that period as the third party entity owned, operated, or~~
 38 ~~managed the facility, and that the facility has had no]]~~ disclosures by
 39 the third party entity of any¹ enforcement actions imposed during that
 40 period of time ¹against any facility owned, operated, or managed by
 41 the third party entity in any jurisdiction¹ .

42 ¹~~[[l.]]~~ ²~~[[j.]]~~ ¹~~h.~~² (1) Upon request by the Commissioner of Health
 43 and subject to the provisions of P.L.1968, c.266 (C.52:9M-1 et seq.),
 44 the State Commission of Investigation shall undertake an investigation
 45 of one or more ¹~~[[long-term care facilities]]~~ nursing homes¹ in the State
 46 or the entities owning, operating, or managing one or ¹~~[[long-term care~~

1 facilities] more nursing homes¹ in the State, provided that, if the
 2 commission determines that the request for an investigation from
 3 Commissioner of Health exceeds the commission's capacity to perform
 4 such investigations, the commission may advise the Commissioner of
 5 Health as to any requests upon which it finds itself unable to proceed.
 6 The State Commission of Investigation may, at any time, submit to the
 7 Governor, the Commissioners of Health and Human Services, and,
 8 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the
 9 Legislature, recommendations for administrative or legislative action
 10 to improve oversight and transparency in ¹[long-term care facilities]
 11 nursing homes¹ .

12 (2) ²[Upon approval by the Senate President and the Speaker of
 13 the General Assembly, the State Auditor shall undertake an
 14 investigation of one or more ¹[long-term care facilities] nursing
 15 homes¹ in the State or the entities owning, operating, or managing one
 16 or ¹[long-term care facilities] more nursing homes¹ in the State.

17 (3)² The State Auditor shall undertake a review of the oversight
 18 of ¹[long-term care facilities] nursing homes¹ by the Department of
 19 Health and the Department of Human Services at least once every
 20 three years, with particular focus on compliance with federal
 21 inspection requirements, responses to complaints and response times
 22 in reviewing complaints, and actions taken to follow up on violations
 23 affecting the health, safety, or welfare of residents.

24 ¹[m.] ²[k.¹] i.² As used in ²[this section and in section 3]
 25 sections 2 through 4² of this act ¹["principal"]:

26 "Interested party¹ means any individual or entity with an interest of
 27 ¹[five percent or more] one percent or more but less than ²[10] five²
 28 percent¹ in an applicant to receive a transfer of ownership of a ¹[long-
 29 term care facility] nursing home or the land or other real property on
 30 which a nursing home is located.

31 "Principal" means any individual or entity with an interest of
 32 ²[10] five² percent or more in an applicant to receive a transfer of
 33 ownership of a nursing home or the land or real property on which a
 34 nursing home is located¹ .

35
 36 ²3. (New section) a. A transfer of ownership application
 37 submitted to the Department of Health pursuant to subsection a. of
 38 section 2 of this act shall meet the following requirements:

39 (1) In the case of an application to transfer controlling interest in a
 40 nursing home to an individual or entity that has never previously
 41 owned or operated a licensed health care facility in New Jersey, or for
 42 any application to transfer controlling interest in a nursing home that is
 43 submitted within six months after a prior application for transfer of
 44 controlling interest in the nursing home was approved, the applicant
 45 shall:

1 (a) submit a projection of profits and losses for the next three years
2 and a capital budget projection for the next three years;

3 (b) disclose any licensed health care facilities owned, operated, or
4 managed by the proposed owners and principals in any state or
5 territory of the United States or in the District of Columbia in the
6 preceding three years, along with owner-certified financial statements
7 for each such facility for the last three years during which the facility
8 was owned, operated, or managed by owner or principal and
9 disclosures by the applicant as to any enforcement actions imposed
10 during that period of time against any facility owned, operated, or
11 managed by the applicant in any jurisdiction;

12 (c) hold a public hearing on the application no earlier than 30 days
13 after the date the application is received by the department. Notice of
14 the public hearing shall be published at least seven days in advance of
15 the public hearing on the Internet websites of the department, the
16 nursing home, and the applicant, as well as in at least one newspaper
17 published in each county, if any newspapers are published therein.
18 The nursing home shall invite the Attorney General and the
19 Commissioner of Health, or their designated representatives, to attend
20 the hearing. The transfer of ownership application may not be
21 approved until after the public hearing is completed; and

22 (d) consistent with the requirements of subsection b. of this
23 section, submit to a criminal history record background check of each
24 proposed owner and principal;

25 (2) In the case of an application to transfer controlling interest in a
26 nursing home to an individual or entity that has previously owned or
27 operated a licensed health care facility in New Jersey, the applicant
28 shall:

29 (a) submit a projection of profits and losses for the next three years
30 and a capital budget projection for the next three years; and

31 (b) disclose any licensed health care facilities owned, operated, or
32 managed by the proposed owners and principals in any state or
33 territory of the United States or in the District of Columbia in the
34 preceding year, along with owner-certified financial statements for
35 each facility owned, operated, or managed by the proposed owners and
36 principals in New Jersey for the last year during which the facility was
37 owned, operated, or managed by owner or principal;

38 (3) In the case of an application to transfer less than a controlling
39 interest in a nursing home to an individual or entity that has never
40 previously owned or operated a licensed health care facility in New
41 Jersey, the applicant shall:

42 (a) disclose any licensed health care facilities owned, operated, or
43 managed by the proposed owners and principals in any state or
44 territory of the United States or in the District of Columbia in the
45 preceding year and any enforcement actions imposed during the
46 preceding year against any facility owned, operated, or managed by
47 the applicant in any jurisdiction; and

1 (b) consistent with the requirements of subsection b. of this
2 section, submit to a criminal history record background check of each
3 proposed owner and principal; and

4 (4) In the case of an application to transfer less than a controlling
5 interest in a nursing home to an individual or entity that has previously
6 owned or operated a licensed health care facility in New Jersey, the
7 applicant shall disclose any licensed health care facilities owned,
8 operated, or managed by the proposed owners and principals in any
9 state or territory of the United States or in the District of Columbia in
10 the preceding year and any enforcement actions imposed during the
11 preceding year against any facility owned, operated, or managed by
12 the applicant in any jurisdiction.

13 b. (1) An applicant for a transfer of ownership of a nursing home
14 who is required to complete a criminal history record background
15 check pursuant to subsection a. of this section shall submit to being
16 fingerprinted in accordance with applicable State and federal laws,
17 rules, and regulations. An applicant shall bear the cost for the criminal
18 history record background check, including all costs of administering
19 and processing the check.

20 (2) For the purposes of subsection a. of this section, the department
21 is authorized to exchange fingerprint data with and receive criminal
22 history record background information from the Division of State
23 Police and the Federal Bureau of Investigation consistent with the
24 provisions of applicable federal and State laws, rules, and regulations.
25 Upon receipt of such notification, the department shall make a
26 determination as to whether transferring all or part of the ownership of
27 a nursing home to the applicant would constitute a material risk to the
28 health, safety, or welfare of residents of the nursing home, which shall
29 include determining whether any owner or principal has a prior
30 conviction involving fraud or any other criminal offense of a financial
31 nature, or a prior conviction that may bear on the health and safety of
32 residents of a long-term care facility, including, but not limited to, a
33 prior conviction involving abuse, neglect, or exploitation of any
34 person.

35 (3) The Division of State Police shall promptly notify the
36 department in the event that an individual who was the subject of a
37 criminal history record background check conducted pursuant to
38 subsection a. of this section is convicted of a crime or offense in this
39 State after the date the background check was performed. Upon
40 receipt of that notification, the department shall make a determination
41 regarding the continued eligibility for the individual to be an owner or
42 principal of a nursing home.²

43
44 ²**[3.]** 4.² (New section) a. ¹**[**The sale or transfer of the land or
45 other real property on which a long-term care facility is located shall
46 not require a certificate of need except when the proposed owner does
47 not satisfy the Department of Health's track record review, including a
48 review of the dashboard data published pursuant to subsection f. of

1 section 3 of P.L. , c. (C.) (pending before the Legislature as
 2 Senate Bill No. 2759 or Assembly Bill No. 4478 of 2020/2021) for the
 3 facility for the preceding three years, if available.

4 b. ¹ Prior to selling or transferring ownership of the land or other
 5 real property on which a ¹~~long-term care facility~~ nursing home¹ is
 6 located, the prospective new owner shall submit ¹~~an application to~~
 7 the Long Term Care Licensing and Certification Program. The
 8 application ¹~~notice to the Department of Health and the Department of~~
 9 Human Services, which notice¹ shall include the following items:

10 (1) the sale or transfer of real property fee established by the
 11 ¹~~department~~ Department of Health¹ ;

12 (2) a cover letter stating the applicant's intent to purchase the land
 13 or other real property on which a ¹~~long-term care facility~~ nursing
 14 home¹ is located, and identification of the ¹~~facility~~ nursing home¹
 15 by name, address, and county;

16 (3) a description of the proposed transaction, including:

17 (a) identification of the current owners of the land or other real
 18 property on which a ¹~~long-term care facility~~ nursing home¹ is
 19 located;

20 (b) identification of 100 percent of the proposed new owners,
 21 including the names and addresses of all principals ¹~~and interested~~
 22 parties¹ ; and

23 (c) if applicable, a copy of an organizational chart, including
 24 parent corporations and wholly-owned subsidiaries;

25 (4) a copy of the agreement of sale or transfer, the proposed terms
 26 of the lease, rent, or use agreement with the ¹~~long-term care facility~~
 27 nursing home¹ and, if applicable, a copy of any management
 28 agreements; and

29 (5) an attestation ¹~~that~~ by¹ the new owners ¹~~of the land or other~~
 30 real property that they¹ will lease, rent, or authorize use of the land or
 31 other real property by the ¹~~long-term care facility~~ nursing home¹ at
 32 a rate that is ¹~~no more than twice the prevailing~~ consistent with the¹
 33 fair market ¹~~rate~~ value¹ for the lease, rent, or use of ¹~~real property~~
 34 by a long-term care facility, as compared with comparable uses in
 35 comparable locations and settings at the time the lease, rental, or use
 36 agreement is executed ¹~~similar facilities in the same market area.~~

37 b. A summary of the notice submitted pursuant to subsection a. of
 38 this section, including the names of the prospective new owners, shall
 39 be made available on the Department of Health's Internet website¹ .

40 c. ¹~~Sale and transfer of ownership application materials for the~~
 41 land or real property on which a long-term care facility is located shall
 42 be made available on the department's Internet website and shall be
 43 subject to public comment for a period of not less than 30 days
 44 following submission and publication of the application. The
 45 department may hold a public hearing on the application upon request
 46 by the applicant, the current owner, or at least 15 members of the

1 public, in which case the application may not be approved until after
2 the public hearing is completed.

3 d. The department shall not issue final approval for a sale or
4 transfer of ownership of the land or other real property on which a
5 long-term care facility is located under this section if the department
6 identifies any unresolved issues or questions concerning any proposed
7 owner or principal identified in the application.

8 e. (1) The owner of land or real property on which a long-term
9 care facility is located shall submit to the department a copy of any
10 lease, rent, or use agreement executed by the owner of the land or real
11 property and the long-term care facility on or after the effective date of
12 this act, which agreement shall be submitted to the department no later
13 than 30 days after the date the agreement is executed. The department
14 shall review the terms of the agreement and determine whether the
15 amount charged for the lease, rent, or use of the land or real property
16 exceeds more than twice the fair market value for the lease, rent, or
17 use of land or real property by a long-term care facility, based on an
18 assessment of comparable uses in comparable locations and settings.

19 (2) If the department determines that the terms of the lease, rent, or
20 use agreement for land or real property by a long-term care facility
21 exceed twice the prevailing fair market rate for the lease, rent, or use
22 of real property by a long-term care facility, the department may:

23 (a) require the owner of the land or real property to reimburse the
24 long-term care facility the balance of any payments made for the lease,
25 rent, or use of the land or real property under the current agreement
26 that were in excess of twice the prevailing fair market value for the
27 lease, rent, or use of the real property by the long-term care facility;
28 and

29 (b) require the parties to the agreement to execute a revised
30 agreement under lease, rent, or use terms that do not exceed twice the
31 fair market rate for the lease, rent, or use of land or real property by a
32 long-term care facility.

33 (3) The owner of land or real property on which a long-term care
34 facility is located may request review of the department's
35 determination of the prevailing fair market value of the lease, rent, or
36 use of land or real property by a long-term care facility, which review
37 shall be conducted by the Commissioner of Health. The
38 commissioner's determination upon review shall constitute a final
39 agency decision subject to review by the Appellate Division of the
40 Superior Court】

41 ²【(1) The Department of Human Services shall utilize the direct
42 care ratios reported pursuant to subsection c. of section 3 of P.L.2020,
43 c.89 (C.30:4D-7cc) to determine the】 Nursing homes shall report to
44 the Department of Health their rates or² average rates for the lease,
45 rent, or use of land or other real property ²【by nursing homes in the
46 State, which average rates shall be adjusted in each market area to

1 account for factors that affect the average lease, rent, or use rates in
 2 that market area.

3 (2) The Department of Human Services shall have the authority to:

4 (a) establish a cap on the amount that may be paid by a nursing
 5 home for the lease, rent, or use of land or other real property by the
 6 nursing home;

7 (b) determine whether a nursing home is paying a lease, rent, or
 8 use rate for land or other real property that significantly exceeds the
 9 fair market value for similar facilities in the same market area to lease,
 10 rent, or use land or other real property; and

11 (c) require that any lease, rent, or use rate paid by a nursing home
 12 that significantly exceeds the fair market value for the lease, rent, or
 13 use of similar facilities in that market area be reduced, for the duration
 14 of the current lease, rent, or use agreement, to match the average lease,
 15 rent, or use rate for similar facilities in the same market area¹ in a
 16 manner determined by the department. The department shall post the
 17 rates or average rates for the lease, rent, or use of land or other real
 18 property reported by nursing homes on its Internet website².

19
 20 ²**[4.] 5.²** (New section) The Department of ¹**[Health** shall use
 21 the information reported by long-term care facilities pursuant to
 22 P.L. , c. (C.) (pending before the Legislature as Senate Bill No.
 23 2759 or Assembly Bill No. 4478 of 2020/2021) to identify facilities]
 24 ²**[Human Services shall utilize the direct care ratios reported pursuant**
 25 **to subsection c. of section 3 of P.L.2020, c.89 (C.30:4D-7cc) to assist**
 26 **the Department of Health identifying]** **Health shall as necessary, with**
 27 **assistance from the Department of Human Services, identify² nursing**
 28 **homes¹ that may be in acute financial distress or at risk of filing for**
 29 **bankruptcy protection ¹[, and] ²[. The Department of Health shall¹**
 30 **develop strategies to assist those ¹[facilities in avoiding] nursing**
 31 **homes that are determined to be in acute financial distress or at risk of**
 32 **filing for bankruptcy protection to avoid¹ bankruptcy or the need to**
 33 **close]** **by requiring each nursing home to report, within five business**
 34 **days, any default in the punctual payment when due of any: debt**
 35 **service payment where the debt is secured by real estate or assets of**
 36 **the nursing home; rent payment; payroll; or payroll tax obligation².**
 37 The ¹**[department]** ²**[Department of Health¹] department²** may, as
 38 appropriate:

39 a. ²**[Provide]** provide, at the nursing home's expense, or direct
 40 such nursing home to² management support services and resources, as
 41 well as any other supports as may be necessary and appropriate to
 42 avoid bankruptcy proceedings or cessation of operations;

43 b. ²**[Initiate]** if the nursing homes does not take sufficient and
 44 timely action to avoid an impending bankruptcy or closure, and if the
 45 department finds the bankruptcy or closure would have a significant
 46 adverse effect on the health, safety, and welfare of the residents of the

1 nursing home or would leave the area in which the nursing home is
2 located lacking sufficient nursing home services after assessing the
3 need for and availability of other nursing home services in the area,
4 initiate² proceedings in a court of competent jurisdiction for the
5 appointment of a receiver for the ¹**[[long-term care facility]] nursing**
6 **home**¹, which receiver shall have the powers and authorities conferred
7 by the order of receivership, which may include, but shall not be
8 limited to, the authority to:

9 (1) hire any consultants or to undertake any studies of the
10 ¹**[[facility]] nursing home**¹ the receiver deems appropriate;

11 (2) make any repairs or improvements as are necessary to ensure
12 the safety of ¹**[[facility]] nursing home**¹ residents and staff;

13 (3) hire or discharge any employees, including the administrator or
14 manager of the ¹**[[facility]] nursing home**¹ ;

15 (4) receive or expend in a reasonable and prudent manner the
16 revenues of the ¹**[[facility]] nursing home**¹ due on the date of the entry
17 of the order of receivership and to become due under such order;

18 (5) continue the business of the ¹**[[facility]] nursing home**¹ and the
19 care of the residents of the ¹**[[facility]] nursing home**¹ in all its aspects;

20 (6) do all acts necessary or appropriate to conserve the property
21 and promote the health, safety, and welfare of the residents of the
22 ¹**[[facility]] nursing home**¹ ; and

23 (7) exercise such other powers as the receiver deems necessary or
24 appropriate to implement the court order; and

25 c. Take such other steps and actions as may be available to ensure
26 continuity of care for, and the safety of, residents of the ¹**[[facility]]**
27 **nursing home**¹ .

28

29 ²**[[5.]] 6.**² This act shall take effect ¹**[[60]]** ²**[[120¹]]** ¹⁸⁰² days after
30 the date of enactment.