

[First Reprint]

**SENATE, No. 2789**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED JULY 30, 2020

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Co-Sponsored by:**

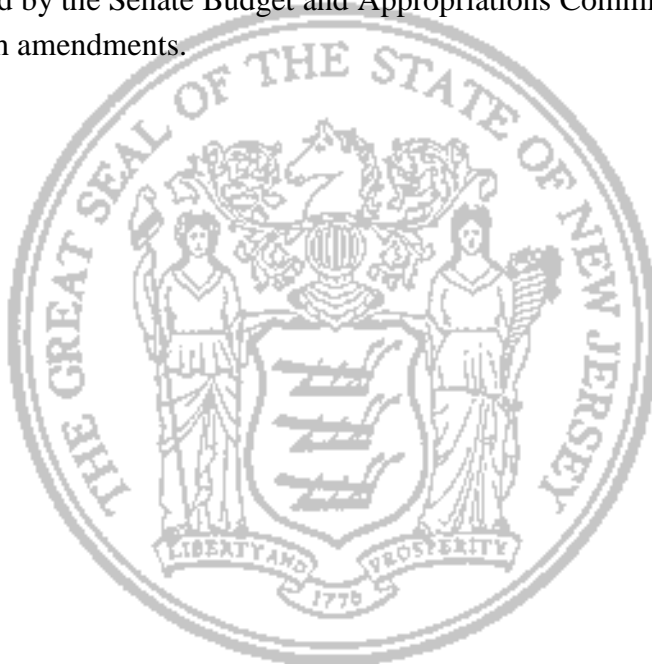
**Senators Pou and Diegnan**

**SYNOPSIS**

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

**VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on January 21, 2021, with amendments.



**(Sponsorship Updated As Of: 2/11/2021)**

1 AN ACT concerning <sup>1</sup>**long-term care facilities** nursing homes<sup>1</sup> ,  
 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 <sup>1</sup>**transfer of**  
 17 a<sup>1</sup> licensed bed that is added by a nursing home in accordance with  
 18 the requirements of this section <sup>1</sup>**to another nursing home**<sup>1</sup> , and no  
 19 <sup>1</sup>**transfer of a**<sup>1</sup> licensed bed that is part of an unimplemented  
 20 certificate of need <sup>1</sup> , may be sold or transferred<sup>1</sup> to any other nursing  
 21 home <sup>1</sup>**, shall be authorized** except upon application for and receipt  
 22 of a certificate of need as provided by P.L.1971, c.136 (C.26:2H-1 et  
 23 seq.). A nursing home that has removed beds from its license within  
 24 the preceding five years shall not be eligible to increase its licensed  
 25 bed capacity under the provisions of this section<sup>1</sup> .

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

27

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

36 b.<sup>1</sup> Prior to transferring ownership of a <sup>1</sup>**long-term care facility**  
 37 nursing home<sup>1</sup> , the prospective new owner shall submit an application  
 38 to the <sup>1</sup>**Long Term Care Licensing and Certification Program**  
 39 Department of Health that meets the requirements of section 3 of this  
 40 act<sup>1</sup> . The application shall include the following items:

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

42 (2) a cover letter stating the applicant's intent to purchase the  
 43 <sup>1</sup>**long-term care facility** nursing home<sup>1</sup> , and identification of the  
 44 <sup>1</sup>**facility** nursing home<sup>1</sup> by name, address, county, and number and  
 45 type of licensed beds;

**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:**

<sup>1</sup>Senate SBA committee amendments adopted January 21, 2021.

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

2 (a) identification of the current owners of the <sup>1</sup>["long-term care  
3 facility"] nursing home<sup>1</sup> ;

4 (b) identification of 100 percent of the proposed new owners,  
5 including the names and addresses of all principals <sup>1</sup>and interested  
6 parties<sup>1</sup> ; and

7 (c) if applicable, a copy of an organizational chart, including  
8 parent corporations and wholly-owned subsidiaries; <sup>1</sup>and<sup>1</sup>

9 (4) a copy of the agreement of sale and, if applicable, a copy of  
10 any lease and management agreements <sup>1</sup>;

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

13 (6) disclosure of any licensed health care facilities owned,  
14 operated, or managed by the proposed owners and principals in any  
15 state or territory of the United States or in the District of Columbia in  
16 the preceding five years, along with audited financial statements for  
17 each such facility for the last three years during which the facility was  
18 owned, operated, or managed by the third party entity. If the owners  
19 or principals own, operate, or manage facilities located outside New  
20 Jersey, the application shall include letters from the regulatory agency  
21 in each jurisdiction in which a facility is owned, operated, or managed,  
22 verifying that the facility was operated in substantial compliance with  
23 the laws of that jurisdiction throughout the preceding five year period  
24 or for such time during that period as the third party entity owned,  
25 operated, or managed the facility, and that the facility has had no  
26 enforcement actions imposed during that period of time] .

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

37 b. Information submitted pursuant to subsection a. of this section  
38 or subsection a. of section 3 of this act by an applicant for transfer of  
39 ownership of a nursing home shall not be used in any adverse licensure  
40 action or disciplinary action against the applicant<sup>1</sup> .

41 c. Approval of a transfer of ownership of a <sup>1</sup>["long-term care  
42 facility"] nursing home<sup>1</sup> is contingent upon:

43 (1) a review of the applicant's <sup>1</sup>["track record by the department,  
44 including a review of the dashboard data published pursuant to  
45 subsection f. of section 3 of P.L. , c. (C. ) (pending before the  
46 Legislature as Senate Bill No. 2759 or Assembly Bill No. 4478 of  
47 2020/2021) for"] history of disciplinary actions assessed in connection

- 1 with<sup>1</sup> any other facility owned, operated, or managed by the proposed  
2 owners and principals in New Jersey, and a determination based on  
3 that review that approval of the transfer of ownership will not present a  
4 material risk to the health, safety, or welfare of residents of the  
5 1[facility] nursing home<sup>1</sup> that is the subject of the transfer application;  
6 and<sup>1</sup>
- 7 (2) payment of all outstanding and issued<sup>1</sup> Medicaid audit claims  
8 and State penalties issued by the department against the current owner,  
9 1[or] unless such claims remain under appeal, in which case, if the  
10 claim remains under appeal, the applicant shall submit<sup>1</sup> written  
11 verification 1[by the applicant]<sup>1</sup> that either<sup>1</sup> the applicant or the  
12 current owners of the nursing home<sup>1</sup> will assume responsibility for  
13 payment of such audit 1[findings] recoveries<sup>1</sup> and State penalties 1[  
14 and
- 15 (3) a criminal history background check of each proposed owner  
16 and principal and a determination that no proposed owner or principal  
17 has a prior conviction involving fraud or any other criminal offense of  
18 a financial nature, or a prior conviction that may bear on the health and  
19 safety of residents of a long-term care facility, including, but not  
20 limited to, a prior conviction involving abuse, neglect, or exploitation  
21 of any person at the conclusion of the appeal<sup>1</sup> .
- 22 d. 1[For the purposes of paragraph (3) of subsection c. of this  
23 section, the department is authorized to exchange fingerprint data with  
24 and receive criminal history record background information from the  
25 Division of State Police and the Federal Bureau of Investigation  
26 consistent with the provisions of applicable federal and State laws,  
27 rules, and regulations. Upon receipt of such notification, the  
28 department shall make a determination as to whether transferring all or  
29 part of the ownership of a long-term care facility to the applicant  
30 would constitute a material risk to the health, safety, or welfare of  
31 residents of the facility. An applicant for a transfer of ownership of a  
32 long-term care facility who is required to complete a criminal history  
33 record background check pursuant to this section shall submit to being  
34 fingerprinted in accordance with applicable State and federal laws,  
35 rules, and regulations. An applicant shall bear the cost for the criminal  
36 history record background check, including all costs of administering  
37 and processing the check.
- 38 e. Transfer 1 (1) A copy of each transfer<sup>1</sup> of ownership  
39 application 1[materials] , or a summary of the application prepared by  
40 the applicant that includes the names of the proposed owners,  
41 principals, and interested parties,<sup>1</sup> shall be<sup>1</sup> published on the  
42 department's Internet website 1[and] no later than 30 days after the  
43 date the department receives the application; provided that the  
44 department shall redact the materials to the extent necessary to ensure  
45 that no proprietary information in the contracts for the sale or  
46 management of the nursing home, and no home addresses, social

1 security numbers, or other personal information of any proposed  
2 owner, principal, or interested party, is included in the materials  
3 published on the department's Internet website.

4 (2) Each application for the transfer of ownership of a nursing  
5 home<sup>1</sup> shall be subject to <sup>1</sup>a<sup>1</sup> public comment <sup>1</sup>【for a<sup>1</sup>】<sup>1</sup> period <sup>1</sup>【of  
6 that shall commence<sup>1</sup> not less than 30 days <sup>1</sup>【following submission  
7 and publication of<sup>1</sup> after the date<sup>1</sup> he application <sup>1</sup>is received by the  
8 department, and which comment period shall remain open for a period  
9 of not less than 30 days. The department shall establish a procedure  
10 for acknowledging receipt of public comments submitted. The text of  
11 comments submitted on a transfer of ownership application shall not  
12 be published on the department's Internet website, but shall be  
13 considered a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et  
14 seq.) or P.L.2001, c.404 (C.47:1A-5 et al.)<sup>1</sup> .

15 <sup>1</sup>【The department may hold a public hearing on the application  
16 upon request by the applicant, the current owner, or at least 15  
17 members of the public, in which case the application may not be  
18 approved until after the public hearing is completed.

19 f. The department shall not issue final approval for a transfer of  
20 ownership of a long-term care facility under this section if the  
21 department identifies any unresolved issues or questions concerning  
22 any proposed owner or principal identified in the application. The  
23 department may issue conditional approval of the transfer pending  
24 final resolution of all unresolved issues and questions, subject to  
25 appointment of a receiver or temporary manager of the facility at the  
26 applicant's expense. The department may enter into a standing  
27 contract with a third party entity to provide receivership or temporary  
28 management services for the purposes of this subsection. A receiver  
29 or temporary manager appointed pursuant to this subsection shall have  
30 the authority to:

31 (1) make any repairs, improvements, or expenditures necessary to  
32 preserve the health and safety of residents and staff at the facility and  
33 to ameliorate any condition presenting a significant risk to the health  
34 or safety of residents or staff of the facility, and to direct the method or  
35 procedures by which this shall be accomplished;

36 (2) hire employees as needed to maintain mandatory staffing  
37 levels;

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

40 (4) continue the business of the facility and the care of the  
41 residents of the facility in all aspects;

42 (5) perform all acts necessary or appropriate to conserve the  
43 property and promote the health, safety, and welfare of the residents of  
44 the facility; and

45 (6) exercise any other powers or authority conferred by the  
46 department by regulation or in the appointment agreement.

1       g.] e. The Department shall complete review of any transfer of  
2 ownership application submitted pursuant to subsection a. of this  
3 section no later than 120 days after the date the application is  
4 received.<sup>1</sup> When a transfer of ownership application has been  
5 reviewed and deemed acceptable, the department shall send<sup>1</sup> an  
6 approval letter from the Long-Term Care Licensing and  
7 Certification Program shall be sent<sup>1</sup> to the applicant along with  
8 licensure application forms<sup>1</sup> .

9       <sup>1</sup> Within five days after the transaction has been  
10 completed, the applicant shall submit the following documents to the  
11 Long-Term Care Licensing and Certification Program:

12       (1) completed licensure application forms;

13       (2) to the department certification of closing from an attorney or<sup>1</sup>  
14 a notarized letter from the applicant<sup>1</sup> stating the date on which the  
15 transaction occurred ; and

16       (3) a copy of a certificate of continuing occupancy from the local  
17 township, or a letter from the township verifying a policy of not  
18 issuing any such document for changes of ownership , along with an  
19 executed bill of sale or assignment. To facilitate the timely transfer of  
20 Medicare and Medicaid provider numbers, the department shall issue  
21 the new license to the applicant no later than 30 days after the date the  
22 notice is received by the department<sup>1</sup> .

23       *h.] i.* The department shall provide for enhanced monitoring of  
24 direct care loss ratios reported by a long-term care facility pursuant to  
25 subsection c. of section 3 of P.L. , c. (C. ) (pending before the  
26 Legislature as Senate Bill No.2758 or Assembly Bill No.4482 of  
27 2020/2021) for three years following a transfer of ownership of the  
28 long-term care facility.

29       j. For a period of six months following the date a transfer of  
30 ownership of a long-term care facility is approved under this section,  
31 no other transfer of ownership of that long-term care facility shall be  
32 approved.

33       k.] g.] No long-term care facility nursing home<sup>1</sup> may delegate  
34 substantial<sup>1</sup> management control<sup>1</sup> of the facility nursing home's  
35 operations<sup>1</sup> to a third party entity without providing<sup>1</sup> prior approval  
36 by written notice to<sup>1</sup> the department. The notice provided by the<sup>1</sup>  
37 owners of the facility shall submit<sup>1</sup> to the department for  
38 approval shall include<sup>1</sup> :

39       (1) a copy of the management agreement;

40       (2) an organizational chart of the third party entity's proposed  
41 management team for the facility nursing home<sup>1</sup> ;

42       (3) the names and addresses of all owners and principals ,  
43 and interested parties<sup>1</sup> of the third party entity; and

44       (4) a list of any other licensed health care facilities owned,  
45 operated, or managed by the third party entity in any state or territory  
46 of the United States or in the District of Columbia for the preceding

1 ~~five~~ three<sup>1</sup> years, along with ~~audited~~ owner-certified<sup>1</sup> financial  
2 statements for each such facility for the last three years during which  
3 the facility was owned, operated, or managed by the third party entity.  
4 If the third party entity owned, operated, or managed facilities located  
5 outside New Jersey in the preceding ~~five~~ three<sup>1</sup> years, the  
6 application shall include ~~letters from the regulatory agency in each~~  
7 jurisdiction in which the third party entity owned, operated, or  
8 managed facility in the preceding five years verifying that the facility  
9 was operated in substantial compliance with the laws of that  
10 jurisdiction throughout the preceding five year period or for such time  
11 during that period as the third party entity owned, operated, or  
12 managed the facility, and that the facility has had no ~~disclosures by~~  
13 the third party entity of any<sup>1</sup> enforcement actions imposed during that  
14 period of time against any facility owned, operated, or managed by  
15 the third party entity in any jurisdiction<sup>1</sup> .

16 ~~l.~~ h.<sup>1</sup> (1) Upon request by the Commissioner of Health and  
17 subject to the provisions of P.L.1968, c.266 (C.52:9M-1 et seq.), the  
18 State Commission of Investigation shall undertake an investigation of  
19 one or more ~~long-term care facilities~~ nursing homes<sup>1</sup> in the State or  
20 the entities owning, operating, or managing one or ~~long-term care~~  
21 ~~facilities~~ more nursing homes<sup>1</sup> in the State, provided that, if the  
22 commission determines that the request for an investigation from  
23 Commissioner of Health exceeds the commission's capacity to perform  
24 such investigations, the commission may advise the Commissioner of  
25 Health as to any requests upon which it finds itself unable to proceed.  
26 The State Commission of Investigation may, at any time, submit to the  
27 Governor, the Commissioners of Health and Human Services, and,  
28 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the  
29 Legislature, recommendations for administrative or legislative action  
30 to improve oversight and transparency in ~~long-term care facilities~~  
31 nursing homes<sup>1</sup> .

32 (2) Upon approval by the Senate President and the Speaker of the  
33 General Assembly, the State Auditor shall undertake an investigation  
34 of one or more ~~long-term care facilities~~ nursing homes<sup>1</sup> in the State  
35 or the entities owning, operating, or managing one or ~~long-term care~~  
36 ~~facilities~~ more nursing homes<sup>1</sup> in the State.

37 (3) The State Auditor shall undertake a review of the oversight of  
38 ~~long-term care facilities~~ nursing homes<sup>1</sup> by the Department of  
39 Health and the Department of Human Services at least once every  
40 three years, with particular focus on compliance with federal  
41 inspection requirements, responses to complaints and response times  
42 in reviewing complaints, and actions taken to follow up on violations  
43 affecting the health, safety, or welfare of residents.

44 ~~m.~~ i.<sup>1</sup> As used in ~~this section and in section 3~~ sections 2  
45 through 4<sup>1</sup> of this act ~~["principal"]~~ :

1        “Interested party”<sup>1</sup> means any individual or entity with an interest of  
2 ’~~five percent or more~~ one percent or more but less than five percent<sup>1</sup>  
3 in an applicant to receive a transfer of ownership of a ~~’long-term care~~  
4 facility] nursing home or the land or other real property on which a  
5 nursing home is located.

6        “Principal” means any individual or entity with an interest of five  
7 percent or more in an applicant to receive a transfer of ownership of a  
8 nursing home or the land or real property on which a nursing home is  
9 located<sup>1</sup> .

10  
11        ’3. (New section) a. A transfer of ownership application  
12 submitted to the Department of Health pursuant to subsection a. of  
13 section 2 of this act shall meet the following requirements:

14        (1) In the case of an application to transfer controlling interest in a  
15 nursing home to an individual or entity that has never previously  
16 owned or operated a licensed health care facility in New Jersey, or for  
17 any application to transfer controlling interest in a nursing home that is  
18 submitted within six months after a prior application for transfer of  
19 controlling interest in the nursing home was approved, the applicant  
20 shall:

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

23        (b) disclose any licensed health care facilities owned, operated, or  
24 managed by the proposed owners and principals in any state or  
25 territory of the United States or in the District of Columbia in the  
26 preceding three years, along with owner-certified financial statements  
27 for each such facility for the last three years during which the facility  
28 was owned, operated, or managed by owner or principal and  
29 disclosures by the applicant as to any enforcement actions imposed  
30 during that period of time against any facility owned, operated, or  
31 managed by the applicant in any jurisdiction;

32        (c) hold a public hearing on the application no earlier than 30 days  
33 after the date the application is received by the department. Notice of  
34 the public hearing shall be published at least seven days in advance of  
35 the public hearing on the Internet websites of the department, the  
36 nursing home, and the applicant, as well as in at least one newspaper  
37 published in each county, if any newspapers are published therein.  
38 The nursing home shall invite the Attorney General and the  
39 Commissioner of Health, or their designated representatives, to attend  
40 the hearing. The transfer of ownership application may not be  
41 approved until after the public hearing is completed; and

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

45        (2) In the case of an application to transfer controlling interest in a  
46 nursing home to an individual or entity that has previously owned or



1 operated a licensed health care facility in New Jersey, the applicant  
2 shall:

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

5 (b) disclose any licensed health care facilities owned, operated, or  
6 managed by the proposed owners and principals in any state or  
7 territory of the United States or in the District of Columbia in the  
8 preceding year, along with owner-certified financial statements for  
9 each facility owned, operated, or managed by the proposed owners and  
10 principals in New Jersey for the last year during which the facility was  
11 owned, operated, or managed by owner or principal;

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

16 (a) disclose any licensed health care facilities owned, operated, or  
17 managed by the proposed owners and principals in any state or  
18 territory of the United States or in the District of Columbia in the  
19 preceding year and any enforcement actions imposed during the  
20 preceding year against any facility owned, operated, or managed by  
21 the applicant in any jurisdiction; and

22 (b) 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; and

25 (4) In the case of an application to transfer less than a controlling  
26 interest in a nursing home to an individual or entity that has previously  
27 owned or operated a licensed health care facility in New Jersey, the  
28 applicant shall disclose any licensed health care facilities owned,  
29 operated, or managed by the proposed owners and principals in any  
30 state or territory of the United States or in the District of Columbia in  
31 the preceding year and any enforcement actions imposed during the  
32 preceding year against any facility owned, operated, or managed by  
33 the applicant in any jurisdiction.

34 b. (1) An applicant for a transfer of ownership of a nursing  
35 home who is required to complete a criminal history record  
36 background check pursuant to subsection a. of this section shall submit  
37 to being fingerprinted in accordance with applicable State and federal  
38 laws, rules, and regulations. An applicant shall bear the cost for the  
39 criminal history record background check, including all costs of  
40 administering and processing the check.

41 (2) For the purposes of subsection a. of this section, the department  
42 is authorized to exchange fingerprint data with and receive criminal  
43 history record background information from the Division of State  
44 Police and the Federal Bureau of Investigation consistent with the  
45 provisions of applicable federal and State laws, rules, and regulations.  
46 Upon receipt of such notification, the department shall make a  
47 determination as to whether transferring all or part of the ownership of  
48 a nursing home to the applicant would constitute a material risk to the

1 health, safety, or welfare of residents of the nursing home, which shall  
2 include determining whether any owner or principal has a prior  
3 conviction involving fraud or any other criminal offense of a financial  
4 nature, or a prior conviction that may bear on the health and safety of  
5 residents of a long-term care facility, including, but not limited to, a  
6 prior conviction involving abuse, neglect, or exploitation of any  
7 person.

8 (3) The Division of State Police shall promptly notify the  
9 department in the event that an individual who was the subject of a  
10 criminal history record background check conducted pursuant to  
11 subsection a. of this section is convicted of a crime or offense in this  
12 State after the date the background check was performed. Upon  
13 receipt of that notification, the department shall make a determination  
14 regarding the continued eligibility for the individual to be an owner or  
15 principal of a nursing home.<sup>1</sup>

16  
17 <sup>1</sup>~~3.~~ <sup>4.</sup> (New section) a. <sup>1</sup>~~The~~ sale or transfer of the land or  
18 other real property on which a long-term care facility is located shall  
19 not require a certificate of need except when the proposed owner does  
20 not satisfy the Department of Health's track record review, including a  
21 review of the dashboard data published pursuant to subsection f. of  
22 section 3 of P.L. , c. (C. ) (pending before the Legislature as  
23 Senate Bill No. 2759 or Assembly Bill No. 4478 of 2020/2021) for the  
24 facility for the preceding three years, if available.

25 b. <sup>1</sup> Prior to selling or transferring ownership of the land or other  
26 real property on which a <sup>1</sup>~~long-term care facility~~ nursing home<sup>1</sup> is  
27 located, the prospective new owner shall submit <sup>1</sup>~~an application to~~  
28 the Long Term Care Licensing and Certification Program. The  
29 application <sup>1</sup>~~notice to the Department of Health and the Department of~~  
30 Human Services, which notice<sup>1</sup> shall include the following items:

31 (1) the sale or transfer of real property fee established by the  
32 <sup>1</sup>~~department~~ Department of Health<sup>1</sup> ;

33 (2) a cover letter stating the applicant's intent to purchase the land  
34 or other real property on which a <sup>1</sup>~~long-term care facility~~ nursing  
35 home<sup>1</sup> is located, and identification of the <sup>1</sup>~~facility~~ nursing home<sup>1</sup>  
36 by name, address, and county;

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

38 (a) identification of the current owners of the land or other real  
39 property on which a <sup>1</sup>~~long-term care facility~~ nursing home<sup>1</sup> is  
40 located;

41 (b) identification of 100 percent of the proposed new owners,  
42 including the names and addresses of all principals <sup>1</sup>~~and interested~~  
43 parties<sup>1</sup> ; and

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

46 (4) a copy of the agreement of sale or transfer, the proposed terms  
47 of the lease, rent, or use agreement with the <sup>1</sup>~~long-term care facility~~

1 nursing home<sup>1</sup> and, if applicable, a copy of any management  
2 agreements; and

3 (5) an attestation <sup>1</sup>~~["that"]~~ <sup>1</sup>by<sup>1</sup> the new owners <sup>1</sup>of the land or other  
4 real property that they<sup>1</sup> will lease, rent, or authorize use of the land or  
5 other real property by the <sup>1</sup>~~["long-term care facility"]~~ nursing home<sup>1</sup> at  
6 a rate that is <sup>1</sup>~~["no more than twice the prevailing"]~~ consistent with the<sup>1</sup>  
7 fair market <sup>1</sup>~~["rate"]~~ value<sup>1</sup> for the lease, rent, or use of <sup>1</sup>~~["real property~~  
8 by a long-term care facility, as compared with comparable uses in  
9 comparable locations and settings at the time the lease, rental, or use  
10 agreement is executed] similar facilities in the same market area.

11 b. A summary of the notice submitted pursuant to subsection a. of  
12 this section, including the names of the prospective new owners, shall  
13 be made available on the Department of Health's Internet website<sup>1</sup> .

14 c. <sup>1</sup>~~["Sale and transfer of ownership application materials for the~~  
15 land or real property on which a long-term care facility is located shall  
16 be made available on the department's Internet website and shall be  
17 subject to public comment for a period of not less than 30 days  
18 following submission and publication of the application. The  
19 department may hold a public hearing on the application upon request  
20 by the applicant, the current owner, or at least 15 members of the  
21 public, in which case the application may not be approved until after  
22 the public hearing is completed.

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

28 e. (1) The owner of land or real property on which a long-term  
29 care facility is located shall submit to the department a copy of any  
30 lease, rent, or use agreement executed by the owner of the land or real  
31 property and the long-term care facility on or after the effective date  
32 of this act, which agreement shall be submitted to the department no  
33 later than 30 days after the date the agreement is executed. The  
34 department shall review the terms of the agreement and determine  
35 whether the amount charged for the lease, rent, or use of the land or  
36 real property exceeds more than twice the fair market value for the  
37 lease, rent, or use of land or real property by a long-term care facility,  
38 based on an assessment of comparable uses in comparable locations  
39 and settings.

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

44 (a) require the owner of the land or real property to reimburse the  
45 long-term care facility the balance of any payments made for the lease,  
46 rent, or use of the land or real property under the current agreement  
47 that were in excess of twice the prevailing fair market value for the

1 lease, rent, or use of the real property by the long-term care facility;  
2 and

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

7 (3) The owner of land or real property on which a long-term care  
8 facility is located may request review of the department's  
9 determination of the prevailing fair market value of the lease, rent, or  
10 use of land or real property by a long-term care facility, which review  
11 shall be conducted by the Commissioner of Health. The  
12 commissioner's determination upon review shall constitute a final  
13 agency decision subject to review by the Appellate Division of the  
14 Superior Court】

15 (1) The Department of Human Services shall utilize the direct care  
16 ratios reported pursuant to subsection c. of section 3 of P.L.2020, c.89  
17 (C.30:4D-7cc) to determine the average rates for the lease, rent, or use  
18 of land or other real property by nursing homes in the State, which  
19 average rates shall be adjusted in each market area to account for  
20 factors that affect the average lease, rent, or use rates in that market  
21 area.

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

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

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

30 (c) require that any lease, rent, or use rate paid by a nursing home  
31 that significantly exceeds the fair market value for the lease, rent, or  
32 use of similar facilities in that market area be reduced, for the duration  
33 of the current lease, rent, or use agreement, to match the average lease,  
34 rent, or use rate for similar facilities in the same market area<sup>1</sup> .

35  
36 <sup>1</sup>【4.】 5.<sup>1</sup> (New section) The Department of Health shall <sup>1</sup>【use  
37 the information reported by long-term care facilities pursuant to  
38 P.L. , c. (C. ) (pending before the Legislature as Senate Bill No.  
39 2759 or Assembly Bill No. 4478 of 2020/2021) to identify facilities】  
40 identify nursing homes<sup>1</sup> that may be in acute financial distress or at  
41 risk of filing for bankruptcy protection <sup>1</sup>【, and】 by requiring each  
42 nursing home to report, within five business days, any default in the  
43 punctual payment when due of any: debt service payment where the  
44 debt is secured by real estate or assets of the nursing home; rent  
45 payment; payroll; or payroll tax obligation . The department shall<sup>1</sup>  
46 develop strategies to assist those <sup>1</sup>【facilities in avoiding bankruptcy or

1 the need to close **】** nursing homes that report a default in a punctual  
2 payment<sup>1</sup> . The department may, as appropriate:  
3 a. Provide management support services and resources, as well as  
4 any other supports as may be necessary and appropriate to avoid  
5 bankruptcy proceedings or cessation of operations;  
6 b. Initiate proceedings in a court of competent jurisdiction for the  
7 appointment of a receiver for the <sup>1</sup>**【long-term care facility】** nursing  
8 home<sup>1</sup> , which receiver shall have the powers and authorities conferred  
9 by the order of receivership, which may include, but shall not be  
10 limited to, the authority to:  
11 (1) hire any consultants or to undertake any studies of the  
12 <sup>1</sup>**【facility】** nursing home<sup>1</sup> the receiver deems appropriate;  
13 (2) make any repairs or improvements as are necessary to ensure  
14 the safety of <sup>1</sup>**【facility】** nursing home<sup>1</sup> residents and staff;  
15 (3) hire or discharge any employees, including the administrator or  
16 manager of the <sup>1</sup>**【facility】** nursing home<sup>1</sup> ;  
17 (4) receive or expend in a reasonable and prudent manner the  
18 revenues of the <sup>1</sup>**【facility】** nursing home<sup>1</sup> due on the date of the entry  
19 of the order of receivership and to become due under such order;  
20 (5) continue the business of the <sup>1</sup>**【facility】** nursing home<sup>1</sup> and the  
21 care of the residents of the <sup>1</sup>**【facility】** nursing home<sup>1</sup> in all its aspects;  
22 (6) do all acts necessary or appropriate to conserve the property  
23 and promote the health, safety, and welfare of the residents of the  
24 <sup>1</sup>**【facility】** nursing home<sup>1</sup> ; and  
25 (7) exercise such other powers as the receiver deems necessary or  
26 appropriate to implement the court order; and  
27 c. Take such other steps and actions as may be available to ensure  
28 continuity of care for, and the safety of, residents of the <sup>1</sup>**【facility】**  
29 nursing home<sup>1</sup> .  
30  
31 <sup>1</sup>**【5.】** 6.<sup>1</sup> This act shall take effect <sup>1</sup>**【60】** 120<sup>1</sup> days after the date  
32 of enactment.