

Subject Assisted living facilities; requirements for exempt settings

Authors Lee, K. and Hanson, J.

Analyst Elisabeth Klarqvist

Date March 1, 2024

Overview

This bill requires additional setting types to be licensed as assisted living facilities, if they provide sleeping accommodations and assisted living services to one or more adults. It also makes provisions on responsibilities for housing and services, entering into certain legal relationships with residents, handling resident finances and property, contracts and contract terminations, nonrenewal of housing, appeals, coordinated moves, resident transfers, planned closures, a bill of rights, prohibiting retaliation, and requiring certain notices, apply to certain settings exempt from assisted living facility licensure.

Summary

Section	Description
---------	-------------

1	Assisted living facility.
----------	----------------------------------

Amends § 144G.08, subd. 7. Amends the definition of assisted living facility in chapter 144G, to require the following federally assisted rental housing to be licensed as assisted living facilities if they provide sleeping accommodations to one or more adults and provide assisted living services:

- rental housing developed under federal law as public housing for low-income families or as supportive housing for the elderly;
- rental housing that is designated housing for elderly and disabled families;
- rental housing in a multifamily public housing project that is set aside for elderly or disabled families or families receiving supportive services; and
- rental housing funded under federal laws that fund congregate housing for the elderly or disabled.

Effective date: This section is effective January 1, 2025.

2	Definitions.
----------	---------------------

Amends § 325F.722, subd. 1. In a section establishing consumer protections for certain settings that are exempt from assisted living facility licensure, adds

Section	Description
	<p>definitions of assisted living services and subsidized assisted living contract and amends the definition of exempt setting by removing certain settings from the definition.</p> <p>Effective date: This section is effective January 1, 2025.</p>
3	<p>Responsibility for housing and services.</p> <p>Adds subd. 10 to § 325F.722. Makes an exempt setting subject to a requirement in the assisted living statutes that requires the setting to be directly responsible to the resident of the setting for all housing and services.</p> <p>Effective date: This section is effective January 1, 2025.</p>
4	<p>Facility restrictions.</p> <p>Adds subd. 11 to § 325F.722. Makes an exempt setting subject to a provision in the assisted living statutes that prohibits the setting from accepting power-of-attorney from residents or accepting appointments as guardians or conservators; borrowing resident funds or other property; or serving as a resident’s representative. Allows an exempt setting to accept gifts of minimal value and allows exempt settings that are charitable organizations to accept donations and bequests. Provides this subdivision does not apply to an exempt setting owned by a unit of government (the underlying assisted living facility statute also does not apply to facilities owned by a unit of government).</p> <p>Effective date: This section is effective January 1, 2025.</p>
5	<p>Handling residents’ finances and property.</p> <p>Adds subd. 12 to § 325F.722. Makes an exempt setting subject to a provision in the assisted living facility statutes that allows the setting to assist residents with household budgeting but otherwise prohibits the setting from managing resident property; establishes requirements for funds the resident deposits with the facility; and establishes requirements for parties responsible for managing residents’ personal funds.</p> <p>Effective date: This section is effective January 1, 2025.</p>
6	<p>Contract requirements.</p> <p>Adds subd. 13 to § 325F.722. Requires an exempt setting that offers housing or assisted living services to execute a written subsidized assisted living contract that complies with requirements for assisted living contracts, except the contract is not required to:</p> <ul style="list-style-type: none"><li data-bbox="415 1881 1308 1906">▪ include the name and contact information for the facility licensee;

Section	Description
---------	-------------

- specify the category of assisted living facility license held; or
- maintain the contract for a certain period and make it available to the commissioner

since these settings are not licensed.

Effective date: This section is effective January 1, 2025.

7 Contract terminations.

Adds subd. 14 to § 325F.722. Requires an exempt setting initiating a termination of a subsidized assisted living contract to comply with a statute and rule governing assisted living contract terminations. (These provisions establish steps the setting must take before issuing a notice of termination, allow a setting to initiate a termination due to nonpayment of rent or nonpayment for services or for violating the contract, allow a setting to initiate an expedited termination, require the setting to provide notice of termination, establish requirements for emergency relocation, and require the setting to allow the resident to return in certain circumstances.)

Effective date: This section is effective January 1, 2025.

8 Nonrenewal of housing.

Adds subd. 15 to § 325F.722. Requires an exempt setting that declines to renew a resident's housing under an assisted living contract to comply with a statute and rule governing nonrenewal of housing by an assisted living facility. (These provisions require the facility to either provide 60 days' notice of the nonrenewal and provide assistance with relocation or follow the termination procedure, and allow a resident to choose to move to a location the resident chooses or receive services from a provider the resident chooses.)

Effective date: This section is effective January 1, 2025.

9 Appeals of contract terminations.

Adds subd. 16 to § 325F.722. Provides a resident of an exempt setting has the right to appeal a termination of a subsidized assisted living contract according to a statute and rule governing appeals of assisted living contract terminations, when there is a dispute about whether the facility could permissibly initiate the termination, the termination would result in great harm or the potential for great harm, the resident has cured or can cure the reasons for the termination, or the facility terminated the contract in violation of law. (The assisted living provisions establish an appeals process, provide for the burden of proof and the determination, prohibit housing or services from being terminated while the appeal is pending, and prohibit a resident

Section	Description
---------	-------------

from bringing an action under chapter 504B to challenge a termination upheld by the Office of Administrative Hearings.)

Effective date: This section is effective January 1, 2025.

10 **Coordinated moves.**

Adds subd. 17 to § 325F.722. Requires an exempt setting to follow requirements for a coordinated move of residents if the setting terminates a subsidized assisted living contract, reduces services to the extent the resident needs to move or obtain a new service provider, or conducts a planned closure. (These provisions establish procedures for a coordinated move, require the move to be to a safe location, require a relocation plan to be prepared, and prohibit the setting from asking or requiring the resident to waive these rights.)

Effective date: This section is effective January 1, 2025.

11 **Transfer of resident within the facility.**

Adds subd. 18 to § 325F.722. Requires an exempt setting to comply with requirements in assisted living facility statutes if it seeks to transfer a resident within the setting. (These provisions require an orderly transfer, require notice and consent, establish requirements when there is a change in operations, require reasonable modifications to the resident's new location within the setting, and require the setting to disclose when a transfer may be required.)

Effective date: This section is effective January 1, 2025.

12 **Planned closure.**

Adds subd. 19 to § 325F.722. Requires an exempt setting to comply with requirements in assisted living facility statutes if it chooses to voluntarily close the setting. (These provisions require the setting to have a closure plan, submit the closure plan to the listed ombudspersons, follow certain termination requirements, and provide notice to residents.)

Effective date: This section is effective January 1, 2025.

13 **Subsidized assisted living bill of rights.**

Adds subd. 20 to § 325F.722. Provides the assisted living bill of rights applies to residents of exempt settings.

Effective date: This section is effective January 1, 2025.

Section	Description
14	<p>Retaliation prohibited.</p> <p>Adds subd. 21 to § 325F.722. Prohibits an exempt setting from retaliating against a resident or employee for certain acts, and lists actions that constitute retaliation.</p> <p>Effective date: This section is effective January 1, 2025.</p>
15	<p>Notice of legal and advocacy services.</p> <p>Adds subd. 22 to § 325F.722. Requires an exempt setting to provide residents with the name and contact information for certain ombudspersons and nonprofit organizations that provide advocacy or legal services to residents.</p> <p>Effective date: This section is effective January 1, 2025.</p>
16	<p>Repealer.</p> <p>Repeals the following provisions, effective January 1, 2025:</p> <ul style="list-style-type: none">▪ Section 325F.722, subd. 2 (establishing requirements for contracts between exempt settings and residents);▪ Section 325F.722, subd. 3 (requiring an exempt setting to include contact information for the ombudsman for long-term care when it sends a notice of contract termination); and▪ Section 325F.722, subd. 9 (requiring a state agency to make a good faith effort to resolve disputes with an exempt setting before taking additional enforcement actions, and providing there is no private right of action).



**MN HOUSE
RESEARCH**

Minnesota House Research Department provides nonpartisan legislative, legal, and information services to the Minnesota House of Representatives. This document can be made available in alternative formats.

www.house.mn.gov/hrd | 651-296-6753 | 155 State Office Building | St. Paul, MN 55155