

HOUSE RESEARCH

Bill Summary

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Overview

This bill changes provisions relating to the commissioner of health becoming a receiver for a nursing home or certified boarding care home. The bill requires that the commissioner become the receiver but allows the commissioner to enter into an agreement with a managing agent. The bill also changes reimbursement provisions relating to facilities that have a receiver.

Section

1 State receivership. Amends § 144A.15 (section was previously titled “Involuntary Receivership”).

Subd. 1. Petition, notice. Requires the commissioner of health to petition a district court as to why the commissioner should not be appointed receiver to operate a nursing home or certified boarding care home (previously allowed the commissioner to allow a designee to be receiver). Expands the causes the commissioner must show in the petition.

Subd. 2. Appointment of receiver, rental. Allows the commissioner to enter into an agreement for a managing agent to work on the commissioner’s behalf during the receivership and requires the commissioner to maintain a list of qualified individuals interested in being the managing agent. Provides exclusions for who may be a managing agent and provides for a reduction in rent paid by the receiver to the appropriate controlling person based on the costs of the receivership that are in excess of the facility rate. Makes conforming changes.

Section

Subd. 2a. Emergency procedure. Requires a court to issue a temporary order for appointment of a receiver within two days after receipt of the petition if there is probable cause to believe an emergency exists in the facility. Current law allows the court five days to make an emergency appointment.

Subd. 3. Powers and duties of a receiver. (a) Requires the receiver to determine whether to close a facility or make other provisions intended to keep it open. Requires the commissioner, if facility closure is the determination, to transfer residents to other facilities pursuant to 144A.161. Allows the commissioner to keep the facility open and require the owners and controlling person operating the facility to agree to necessary measure and conditions. Requires the receiver to pay certain obligations of the facility during the receivership.

(b) States nothing in this section limits civil or criminal liability for an owner, licensee, or controlling person for acts or omissions prior to receivership or limits that person's obligation for taxes or other specified expenses.

Subd. 4. Receiver's fee; liability; commissioner assistance. Allows the commissioner, as the appointed receiver, to hire a managing agent to work on the commissioner's behalf. Makes conforming changes.

Subd. 5. Termination. Makes conforming and technical changes.

Subd. 6. Postreceivership period; facility remaining open. (a) States that the new owner of a facility, should the facility be reopened after receivership is concluded, is only legally responsible for actions after the receivership has concluded.

(b) Allows the commissioner of human services to adjust, reclassify, or disallow costs for a facility that was in receivership for periods of a reporting year.

2 **Facility in receivership.** Amends § 256B.0641, subdivision 3. Removes reference for section 144A.14 (repealed by this bill).

3 **Payment of receivership fees.** Amends § 256B.495, subdivision 1. Allows the commissioner of human services, after having been notified of a receivership by the commissioner to health, to establish a receivership fee that is added to a nursing facility payment. Requires the commissioner of human services to reduce the amount by any amount the commissioner determines is included in the nursing facility's payment rate and that are not specifically required to be paid for expenditures of the nursing facility. Provides for how the receivership fee per diem shall be determined and revised. Makes conforming changes.

4 **Sale or transfer of a nursing facility in receivership after closure.** Amends § 256B.495, subdivision 5. Requires the commissioner of human services to seek to recover from the prior owner, prior licensee, or prior controlling party any amounts paid through payment rate adjustments under subdivision 1. Allows the commissioner to recover amounts paid through the receivership fee by withholding payments due to the prior owner, licensee, or controlling party related to any other medical assistance provider of theirs in Minnesota. Requires the prior owner, licensee, or controlling party to repay private-pay residents the amount the private-pay resident paid for the receivership fee.

Section

- 5** **Revisor's instruction.** Instructs the revisor to remove cross-references to repealed sections and correct grammar.
- 6** **Repealer.** Repeals §§ 144A.14 (voluntary receivership) and 256B.495, subdivision 1a (receivership payment rate adjustment), 2 (deduction of additional receivership payments), and 4 (downsizing and closing nursing facilities).