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H.774

Introduced by Representative McFaun of Barre Town

Referred to Committee on

Date:

Subject: Human services; nursing homes; receivership

Statement of purpose of bill as introduced: This bill proposes to make miscellaneous amendments to the receivership proceedings for long-term care facilities, including identifying funds available to compensate a receiver and providing for rulemaking authority.

An act relating to receivership proceedings for long-term care facilities

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 33 V.S.A. § 7205 is amended to read:

§ 7205. APPOINTMENT OF RECEIVER; RECOMMENDATIONS BY
LICENSING AGENCY

Not less than two days prior to the hearing on the merits, the Commissioner shall file with the ~~Court~~ court a list of recommended ~~persons~~ individuals or entities to consider for appointment as the receiver, which may include licensed nursing home administrators or other qualified ~~persons~~ individuals or entities with experience in the delivery of health care services and the operation of a long-term care facility. The list shall include a minimum of

1 three recommended ~~persons~~ individuals or entities and shall include the names
2 and the qualifications of the ~~persons~~ individuals or entities.

3 Sec. 2. 33 V.S.A. § 7206 is amended to read:

4 § 7206. APPOINTMENT OF RECEIVER; HEARING AND ORDER

5 (a) After the hearing on the merits, the ~~Court~~ court may appoint a receiver
6 from the list provided by the licensing agency if it finds that one of the grounds
7 in section 7202 of this chapter is satisfied; and that the ~~person~~ individual or
8 entity is qualified to perform the duties of a receiver as provided for in section
9 7205 of this chapter.

10 (b)(1) The ~~Court~~ court shall set a reasonable compensation for the receiver
11 and may require the receiver to furnish a bond with surety as the ~~Court~~ court
12 may require. Any expenditure, including the compensation of the receiver,
13 shall first be paid from the revenues of the facility. Other funds or fees, or
14 both, shall be used to compensate the receiver upon a showing by the receiver
15 to the satisfaction of the court that:

16 (A) the revenues of the facility are not sufficient to compensate the
17 receiver; and

18 (B) there is no other source of payment available.

19 (2) If the State uses funds or fees, or both, to compensate the receiver,
20 the State shall have a claim against the facility for any of the receiver's fees
21 and expenses, and the State's claim shall have priority over all other claims of

1 secured and unsecured creditors, and other persons, regardless of whether the
2 facility is in bankruptcy.

3 * * *

4 Sec. 3. 33 V.S.A. § 7207 is amended to read:

5 § 7207. POWERS AND DUTIES OF RECEIVER

6 (a) A receiver shall not take any actions or assume any responsibilities
7 inconsistent with the purposes of this subchapter or the duties specifically
8 provided for in this section.

9 (b) Unless otherwise ordered by the ~~Court~~ court and subject to the
10 limitations provided for in sections 7208 through 7211 of this chapter, the
11 receiver appointed under this subchapter shall:

12 (1) notify residents of the receivership and shall provide written notice
13 by first-class mail to the last known address of the next of kin after the facility
14 is placed in receivership;

15 (2) operate the facility in accordance with applicable State and federal
16 law, rule, and regulation;

17 (3) remedy the conditions that constituted grounds for the receivership;

18 (4) remedy violations of federal and State regulations governing the
19 operation of the facility;

1 (5) protect the health, safety, and welfare of the residents, including ~~the~~
2 ~~correction~~ correcting or ~~elimination~~ of eliminating any deficiency of the
3 facility that endangers the health, safety, or health welfare of the residents;

4 (6) preserve the assets and property of the residents, the owner, and the
5 licensee;

6 (7) hire, direct, manage, and discharge any employees, including the
7 administrator or manager of the facility;

8 (8)(A) apply the revenues of the facility to current operating expenses;

9 (B) receive and expend in a reasonable and prudent manner the
10 revenues of the facility due during the 30-day period preceding the date of
11 appointment and becoming due thereafter; and

12 (C) to the extent possible, apply the revenues of the facility to debts
13 incurred by the licensee prior to the appointment of the receiver;

14 (9) continue the business of the facility and the care of residents;

15 (10) file monthly reports containing information as required by the
16 licensing agency to the owner and the licensing agency; and

17 (11) exercise such additional powers and perform such additional duties
18 as ordered by the ~~Court~~ court.

1 Sec. 4. 33 V.S.A. § 7217 is amended to read:

2 § 7217. DUTIES OF LICENSING AGENCY

3 The ~~licensing agency~~ Department shall have the duty to provide information
4 to residents of long-term care facilities for which a receiver has been appointed
5 by the ~~Court~~ court. To the extent permitted by law, the State upon receipt of a
6 request from the receiver for information shall provide the requested
7 information to the receiver and the receiver shall share the requested
8 information with the State Long-Term Care Ombudsman. ~~When applicable,~~
9 ~~the licensing agency~~ The Department shall assist in the process of transferring
10 residents to another long-term care facility, provide technical assistance and
11 consultation to the receiver regarding the availability of long-term services and
12 supports, including providing information about facilities with available
13 openings.

14 Sec. 5. 33 V.S.A. § 7218 is added to read:

15 § 7218. RULEMAKING

16 The Department, in consultation with the Office of the Attorney General,
17 may adopt rules it deems necessary to administer this subchapter pursuant to
18 3 V.S.A. chapter 25.

19 Sec. 6. EFFECTIVE DATE

20 This act shall take effect on July 1, 2018.