



General Assembly

February Session, 2020

Raised Bill No. 398

LCO No. 2052



Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

AN ACT INCREASING NURSING HOME FUNDING LEVELS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (4) of subsection (f) of section 17b-340 of the
2 2020 supplement to the general statutes is repealed and the following is
3 substituted in lieu thereof (*Effective from passage*):

4 (4) For the fiscal year ending June 30, 1992, (A) no facility shall receive
5 a rate that is less than the rate it received for the rate year ending June
6 30, 1991; (B) no facility whose rate, if determined pursuant to this
7 subsection, would exceed one hundred twenty per cent of the state-wide
8 median rate, as determined pursuant to this subsection, shall receive a
9 rate which is five and one-half per cent more than the rate it received for
10 the rate year ending June 30, 1991; and (C) no facility whose rate, if
11 determined pursuant to this subsection, would be less than one hundred
12 twenty per cent of the state-wide median rate, as determined pursuant
13 to this subsection, shall receive a rate which is six and one-half per cent
14 more than the rate it received for the rate year ending June 30, 1991. For
15 the fiscal year ending June 30, 1993, no facility shall receive a rate that is
16 less than the rate it received for the rate year ending June 30, 1992, or six

17 per cent more than the rate it received for the rate year ending June 30,
18 1992. For the fiscal year ending June 30, 1994, no facility shall receive a
19 rate that is less than the rate it received for the rate year ending June 30,
20 1993, or six per cent more than the rate it received for the rate year
21 ending June 30, 1993. For the fiscal year ending June 30, 1995, no facility
22 shall receive a rate that is more than five per cent less than the rate it
23 received for the rate year ending June 30, 1994, or six per cent more than
24 the rate it received for the rate year ending June 30, 1994. For the fiscal
25 years ending June 30, 1996, and June 30, 1997, no facility shall receive a
26 rate that is more than three per cent more than the rate it received for
27 the prior rate year. For the fiscal year ending June 30, 1998, a facility shall
28 receive a rate increase that is not more than two per cent more than the
29 rate that the facility received in the prior year. For the fiscal year ending
30 June 30, 1999, a facility shall receive a rate increase that is not more than
31 three per cent more than the rate that the facility received in the prior
32 year and that is not less than one per cent more than the rate that the
33 facility received in the prior year, exclusive of rate increases associated
34 with a wage, benefit and staffing enhancement rate adjustment added
35 for the period from April 1, 1999, to June 30, 1999, inclusive. For the fiscal
36 year ending June 30, 2000, each facility, except a facility with an interim
37 rate or replaced interim rate for the fiscal year ending June 30, 1999, and
38 a facility having a certificate of need or other agreement specifying rate
39 adjustments for the fiscal year ending June 30, 2000, shall receive a rate
40 increase equal to one per cent applied to the rate the facility received for
41 the fiscal year ending June 30, 1999, exclusive of the facility's wage,
42 benefit and staffing enhancement rate adjustment. For the fiscal year
43 ending June 30, 2000, no facility with an interim rate, replaced interim
44 rate or scheduled rate adjustment specified in a certificate of need or
45 other agreement for the fiscal year ending June 30, 2000, shall receive a
46 rate increase that is more than one per cent more than the rate the facility
47 received in the fiscal year ending June 30, 1999. For the fiscal year ending
48 June 30, 2001, each facility, except a facility with an interim rate or
49 replaced interim rate for the fiscal year ending June 30, 2000, and a
50 facility having a certificate of need or other agreement specifying rate
51 adjustments for the fiscal year ending June 30, 2001, shall receive a rate

52 increase equal to two per cent applied to the rate the facility received for
53 the fiscal year ending June 30, 2000, subject to verification of wage
54 enhancement adjustments pursuant to subdivision (14) of this
55 subsection. For the fiscal year ending June 30, 2001, no facility with an
56 interim rate, replaced interim rate or scheduled rate adjustment
57 specified in a certificate of need or other agreement for the fiscal year
58 ending June 30, 2001, shall receive a rate increase that is more than two
59 per cent more than the rate the facility received for the fiscal year ending
60 June 30, 2000. For the fiscal year ending June 30, 2002, each facility shall
61 receive a rate that is two and one-half per cent more than the rate the
62 facility received in the prior fiscal year. For the fiscal year ending June
63 30, 2003, each facility shall receive a rate that is two per cent more than
64 the rate the facility received in the prior fiscal year, except that such
65 increase shall be effective January 1, 2003, and such facility rate in effect
66 for the fiscal year ending June 30, 2002, shall be paid for services
67 provided until December 31, 2002, except any facility that would have
68 been issued a lower rate effective July 1, 2002, than for the fiscal year
69 ending June 30, 2002, due to interim rate status or agreement with the
70 department shall be issued such lower rate effective July 1, 2002, and
71 have such rate increased two per cent effective June 1, 2003. For the fiscal
72 year ending June 30, 2004, rates in effect for the period ending June 30,
73 2003, shall remain in effect, except any facility that would have been
74 issued a lower rate effective July 1, 2003, than for the fiscal year ending
75 June 30, 2003, due to interim rate status or agreement with the
76 department shall be issued such lower rate effective July 1, 2003. For the
77 fiscal year ending June 30, 2005, rates in effect for the period ending June
78 30, 2004, shall remain in effect until December 31, 2004, except any
79 facility that would have been issued a lower rate effective July 1, 2004,
80 than for the fiscal year ending June 30, 2004, due to interim rate status
81 or agreement with the department shall be issued such lower rate
82 effective July 1, 2004. Effective January 1, 2005, each facility shall receive
83 a rate that is one per cent greater than the rate in effect December 31,
84 2004. Effective upon receipt of all the necessary federal approvals to
85 secure federal financial participation matching funds associated with
86 the rate increase provided in this subdivision, but in no event earlier

87 than July 1, 2005, and provided the user fee imposed under section 17b-
88 320 is required to be collected, for the fiscal year ending June 30, 2006,
89 the department shall compute the rate for each facility based upon its
90 2003 cost report filing or a subsequent cost year filing for facilities
91 having an interim rate for the period ending June 30, 2005, as provided
92 under section 17-311-55 of the regulations of Connecticut state agencies.
93 For each facility not having an interim rate for the period ending June
94 30, 2005, the rate for the period ending June 30, 2006, shall be determined
95 beginning with the higher of the computed rate based upon its 2003 cost
96 report filing or the rate in effect for the period ending June 30, 2005. Such
97 rate shall then be increased by eleven dollars and eighty cents per day
98 except that in no event shall the rate for the period ending June 30, 2006,
99 be thirty-two dollars more than the rate in effect for the period ending
100 June 30, 2005, and for any facility with a rate below one hundred ninety-
101 five dollars per day for the period ending June 30, 2005, such rate for the
102 period ending June 30, 2006, shall not be greater than two hundred
103 seventeen dollars and forty-three cents per day and for any facility with
104 a rate equal to or greater than one hundred ninety-five dollars per day
105 for the period ending June 30, 2005, such rate for the period ending June
106 30, 2006, shall not exceed the rate in effect for the period ending June 30,
107 2005, increased by eleven and one-half per cent. For each facility with
108 an interim rate for the period ending June 30, 2005, the interim
109 replacement rate for the period ending June 30, 2006, shall not exceed
110 the rate in effect for the period ending June 30, 2005, increased by eleven
111 dollars and eighty cents per day plus the per day cost of the user fee
112 payments made pursuant to section 17b-320 divided by annual resident
113 service days, except for any facility with an interim rate below one
114 hundred ninety-five dollars per day for the period ending June 30, 2005,
115 the interim replacement rate for the period ending June 30, 2006, shall
116 not be greater than two hundred seventeen dollars and forty-three cents
117 per day and for any facility with an interim rate equal to or greater than
118 one hundred ninety-five dollars per day for the period ending June 30,
119 2005, the interim replacement rate for the period ending June 30, 2006,
120 shall not exceed the rate in effect for the period ending June 30, 2005,
121 increased by eleven and one-half per cent. Such July 1, 2005, rate

122 adjustments shall remain in effect unless (i) the federal financial
123 participation matching funds associated with the rate increase are no
124 longer available; or (ii) the user fee created pursuant to section 17b-320
125 is not in effect. For the fiscal year ending June 30, 2007, each facility shall
126 receive a rate that is three per cent greater than the rate in effect for the
127 period ending June 30, 2006, except any facility that would have been
128 issued a lower rate effective July 1, 2006, than for the rate period ending
129 June 30, 2006, due to interim rate status or agreement with the
130 department, shall be issued such lower rate effective July 1, 2006. For the
131 fiscal year ending June 30, 2008, each facility shall receive a rate that is
132 two and nine-tenths per cent greater than the rate in effect for the period
133 ending June 30, 2007, except any facility that would have been issued a
134 lower rate effective July 1, 2007, than for the rate period ending June 30,
135 2007, due to interim rate status or agreement with the department, shall
136 be issued such lower rate effective July 1, 2007. For the fiscal year ending
137 June 30, 2009, rates in effect for the period ending June 30, 2008, shall
138 remain in effect until June 30, 2009, except any facility that would have
139 been issued a lower rate for the fiscal year ending June 30, 2009, due to
140 interim rate status or agreement with the department shall be issued
141 such lower rate. For the fiscal years ending June 30, 2010, and June 30,
142 2011, rates in effect for the period ending June 30, 2009, shall remain in
143 effect until June 30, 2011, except any facility that would have been issued
144 a lower rate for the fiscal year ending June 30, 2010, or the fiscal year
145 ending June 30, 2011, due to interim rate status or agreement with the
146 department, shall be issued such lower rate. For the fiscal years ending
147 June 30, 2012, and June 30, 2013, rates in effect for the period ending June
148 30, 2011, shall remain in effect until June 30, 2013, except any facility that
149 would have been issued a lower rate for the fiscal year ending June 30,
150 2012, or the fiscal year ending June 30, 2013, due to interim rate status
151 or agreement with the department, shall be issued such lower rate. For
152 the fiscal year ending June 30, 2014, the department shall determine
153 facility rates based upon 2011 cost report filings subject to the provisions
154 of this section and applicable regulations except: (I) A ninety per cent
155 minimum occupancy standard shall be applied; (II) no facility shall
156 receive a rate that is higher than the rate in effect on June 30, 2013; and

157 (III) no facility shall receive a rate that is more than four per cent lower
158 than the rate in effect on June 30, 2013, except that any facility that would
159 have been issued a lower rate effective July 1, 2013, than for the rate
160 period ending June 30, 2013, due to interim rate status or agreement
161 with the department, shall be issued such lower rate effective July 1,
162 2013. For the fiscal year ending June 30, 2015, rates in effect for the
163 period ending June 30, 2014, shall remain in effect until June 30, 2015,
164 except any facility that would have been issued a lower rate effective
165 July 1, 2014, than for the rate period ending June 30, 2014, due to interim
166 rate status or agreement with the department, shall be issued such lower
167 rate effective July 1, 2014. For the fiscal years ending June 30, 2016, and
168 June 30, 2017, rates shall not exceed those in effect for the period ending
169 June 30, 2015, except the rate paid to a facility may be higher than the
170 rate paid to the facility for the period ending June 30, 2015, if the
171 commissioner provides, within available appropriations, pro rata fair
172 rent increases, which may, at the discretion of the commissioner, include
173 increases for facilities which have undergone a material change in
174 circumstances related to fair rent additions or moveable equipment
175 placed in service in cost report years ending September 30, 2014, and
176 September 30, 2015, and not otherwise included in rates issued. For the
177 fiscal years ending June 30, 2016, and June 30, 2017, and each succeeding
178 fiscal year, any facility that would have been issued a lower rate, due to
179 interim rate status or agreement with the department, shall be issued
180 such lower rate. For the fiscal year ending June 30, 2018, facilities that
181 received a rate decrease due to the expiration of a 2015 fair rent asset
182 shall receive a rate increase of an equivalent amount effective July 1,
183 2017. For the fiscal year ending June 30, 2018, the department shall
184 determine facility rates based upon 2016 cost report filings subject to the
185 provisions of this section and applicable regulations, provided no
186 facility shall receive a rate that is higher than the rate in effect on
187 December 31, 2016, and no facility shall receive a rate that is more than
188 two per cent lower than the rate in effect on December 31, 2016. For the
189 fiscal year ending June 30, 2019, no facility shall receive a rate that is
190 higher than the rate in effect on June 30, 2018, except the rate paid to a
191 facility may be higher than the rate paid to the facility for the period

192 ending June 30, 2018, if the commissioner provides, within available
193 appropriations, pro rata fair rent increases, which may, at the discretion
194 of the commissioner, include increases for facilities which have
195 undergone a material change in circumstances related to fair rent
196 additions or moveable equipment placed in service in the cost report
197 year ending September 30, 2017, and not otherwise included in rates
198 issued. For the fiscal year ending June 30, 2020, the department shall
199 determine facility rates based upon 2018 cost report filings subject to the
200 provisions of this section, adjusted to reflect any rate increases provided
201 after the cost report year ending September 30, 2018, and applicable
202 regulations, provided no facility shall receive a rate that is higher than
203 the rate in effect on June 30, 2019, except the rate paid to a facility may
204 be higher than the rate paid to the facility for the fiscal year ending June
205 30, 2019, if the commissioner provides, within available appropriations,
206 pro rata fair rent increases, which may, at the discretion of the
207 commissioner, include increases for facilities which have undergone a
208 material change in circumstances related to fair rent additions in the cost
209 report year ending September 30, 2018, and are not otherwise included
210 in rates issued. For the fiscal year ending June 30, 2020, no facility shall
211 receive a rate that is more than two per cent lower than the rate in effect
212 on June 30, 2019, [unless the facility has an occupancy level of less than
213 seventy per cent, as reported in the 2018 cost report, or an overall rating
214 on Medicare's Nursing Home Compare of one star for the three most
215 recent reporting periods as of July 1, 2019,] unless the facility is under
216 an interim rate due to new ownership. For the fiscal year ending June
217 30, 2021, no facility shall receive a rate that is higher than the rate in
218 effect on June 30, 2020, except the rate paid to a facility may be higher
219 than the rate paid to the facility for the fiscal year ending June 30, 2020,
220 if the commissioner provides, within available appropriations, pro rata
221 fair rent increases, which may, at the discretion of the commissioner,
222 include increases for facilities which have undergone a material change
223 in circumstances related to fair rent additions in the cost report year
224 ending September 30, 2019, and are not otherwise included in rates
225 issued. The Commissioner of Social Services shall add fair rent increases
226 to any other rate increases established pursuant to this subdivision for a

227 facility which has undergone a material change in circumstances related
228 to fair rent, except for the fiscal years ending June 30, 2010, June 30, 2011,
229 and June 30, 2012, such fair rent increases shall only be provided to
230 facilities with an approved certificate of need pursuant to section 17b-
231 352, 17b-353, 17b-354 or 17b-355. For the fiscal year ending June 30, 2013,
232 the commissioner may, within available appropriations, provide pro
233 rata fair rent increases for facilities which have undergone a material
234 change in circumstances related to fair rent additions placed in service
235 in cost report years ending September 30, 2008, to September 30, 2011,
236 inclusive, and not otherwise included in rates issued. For the fiscal years
237 ending June 30, 2014, and June 30, 2015, the commissioner may, within
238 available appropriations, provide pro rata fair rent increases, which may
239 include moveable equipment at the discretion of the commissioner, for
240 facilities which have undergone a material change in circumstances
241 related to fair rent additions or moveable equipment placed in service
242 in cost report years ending September 30, 2012, and September 30, 2013,
243 and not otherwise included in rates issued. The commissioner shall add
244 fair rent increases associated with an approved certificate of need
245 pursuant to section 17b-352, 17b-353, 17b-354 or 17b-355. Interim rates
246 may take into account reasonable costs incurred by a facility, including
247 wages and benefits. Notwithstanding the provisions of this section, the
248 Commissioner of Social Services may, subject to available
249 appropriations, increase or decrease rates issued to licensed chronic and
250 convalescent nursing homes and licensed rest homes with nursing
251 supervision. Notwithstanding any provision of this section, the
252 Commissioner of Social Services shall, effective July 1, 2015, within
253 available appropriations, adjust facility rates in accordance with the
254 application of standard accounting principles as prescribed by the
255 commissioner, for each facility subject to subsection (a) of this section.
256 Such adjustment shall provide a pro-rata increase based on direct and
257 indirect care employee salaries reported in the 2014 annual cost report,
258 and adjusted to reflect subsequent salary increases, to reflect reasonable
259 costs mandated by collective bargaining agreements with certified
260 collective bargaining agents, or otherwise provided by a facility to its
261 employees. For purposes of this subsection, "employee" shall not

262 include a person employed as a facility's manager, chief administrator,
263 a person required to be licensed as a nursing home administrator or any
264 individual who receives compensation for services pursuant to a
265 contractual arrangement and who is not directly employed by the
266 facility. The commissioner may establish an upper limit for reasonable
267 costs associated with salary adjustments beyond which the adjustment
268 shall not apply. Nothing in this section shall require the commissioner
269 to distribute such adjustments in a way that jeopardizes anticipated
270 federal reimbursement. Facilities that receive such adjustment but do
271 not provide increases in employee salaries as described in this
272 subsection on or before July 31, 2015, may be subject to a rate decrease
273 in the same amount as the adjustment by the commissioner. Of the
274 amount appropriated for this purpose, no more than nine million
275 dollars shall go to increases based on reasonable costs mandated by
276 collective bargaining agreements. Notwithstanding the provisions of
277 this subsection, effective July 1, 2019, October 1, 2020, and January 1,
278 2021, the commissioner shall, within available appropriations, increase
279 rates for the purpose of wage and benefit enhancements for facility
280 employees. The commissioner shall adjust the rate paid to the facility in
281 the form of a rate adjustment to reflect any rate increases paid after the
282 cost report year ending September 30, 2018. Facilities that receive a rate
283 adjustment for the purpose of wage and benefit enhancements but do
284 not provide increases in employee salaries as described in this
285 subsection on or before September 30, 2019, October 31, 2020, and
286 January 31, 2021, respectively, may be subject to a rate decrease in the
287 same amount as the adjustment by the commissioner.

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|---|---------------------|---------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>from passage</i> | 17b-340(f)(4) |

Statement of Purpose:

To increase funding levels for certain nursing homes by reversing rate cuts tied to occupancy levels and performance on a federal nursing home comparison system.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]