

**SENATE . . . . . No. 593**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act supporting residential care facilities as affordable options for elders and persons with disabilities..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 7 of Chapter 118G of the General Laws is hereby amended in the  
2 first paragraph by adding at the end thereof the following sentence:- A public hearing on  
3 proposed rates for rest homes shall be held no later than August 15th of each year and rates for  
4 rest home shall be certified no later than September 1st of each year.

5 SECTION 2. Section 7 of Chapter 118G of the General Laws is hereby amended in the  
6 second paragraph by striking the following: “In setting such prospective or retrospective rates of  
7 reimbursement, the executive office shall use as base year costs for rate determination purposes  
8 the reported costs of the calendar year not more than four years prior to the current rate year,  
9 adjusted for reasonableness and to incorporate any audit findings applicable to said base year  
10 costs;” and inserting in place thereof the following sentences:- In setting such prospective or  
11 retrospective rates of reimbursement, the executive office shall use as base year costs for rate  
12 determination purposes the reported costs of the most recent calendar year available, which may  
13 not be more than two years prior to the current rate year, adjusted for reasonableness; provided

14 further that the executive office appoint a committee to develop and recommend a methodology  
15 for establishing cost adjustment factors to project for the effect of inflation for every year after a  
16 base year period. The committee shall consist of five independent consultants who are not  
17 otherwise employed by the commonwealth with experience in the field of health care economics.  
18 At least one member of the committee shall be designated by the Massachusetts Aging Services  
19 Association and at least one member of the committee shall be designated by the Massachusetts  
20 Extended Care Federation.

21 SECTION 3. Section 7 of Chapter 118G of the General laws is hereby amended in the  
22 third paragraph by including after the words: “and other means to encourage the cost-efficient  
23 delivery of services” the following words:- provided that the executive office shall not impose a  
24 negative total payment adjustment to rates for rest homes which would have the effect of  
25 capping a provider’s rate increase.

26 SECTION 4. Section 7 of Chapter 118G of the General laws is hereby amended in the  
27 fourth paragraph by striking the following sentence: “Except for ceilings or maximum rates of  
28 reimbursement, which are determined in accordance with rate determination methods imposed  
29 on nursing homes, any ceiling or maximum imposed by the division upon the rate of  
30 reimbursement to be paid to rest homes shall reflect the actual costs of rest home providers and  
31 shall not prevent any such rest home provider from receiving full payment for costs necessarily  
32 incurred in the provision of services in compliance with federal or state regulations and  
33 requirements, or for costs incurred for direct care” and inserting in place thereof the following  
34 sentence:- Except for ceilings or maximum rates of reimbursement, which are determined in  
35 accordance with rate determination methods imposed on nursing homes, any ceiling or  
36 maximum imposed by the division upon the rate of reimbursement to be paid to rest homes shall

37 reflect the actual costs of rest home providers and shall not prevent any such rest home provider  
38 from receiving full payment for costs necessarily incurred in the provision of services in  
39 compliance with federal or state regulations and requirements, or for costs incurred for labor,  
40 energy, and insurance.

41 SECTION 5. Chapter 19A of the General Laws is hereby amended by inserting after  
42 section 13, the following section:- Section 14: Notwithstanding any general or special law to the  
43 contrary, there is hereby established an advisory committee on residential care facilities. The  
44 advisory committee is charged with reviewing the status of residential care facilities in the  
45 Commonwealth, including the number of facility closures, and shall make recommendations to  
46 the Office on Long Term Care relative to funding and reimbursement options to ensure the  
47 stability of residential care facilities as options for elders and persons with disabilities in the  
48 Commonwealth. Specifically, the advisory committee shall study funding and payment options  
49 for residential care facilities which will maximize federal financial participation, including  
50 making residential care a service funded under the section 1915(c) Home and Community Based  
51 Services waiver and amending the state plan to make residential care a reimbursable service.  
52 The advisory committee will also review the status of physical plant needs of residential care  
53 facilities and will consider options for meeting capital improvements necessary to provide  
54 quality care and improve the quality of life for residents in residential care. Based on the results  
55 of the study, the advisory committee shall make a recommendation to the Secretary of Elder  
56 Affairs on actions to be taken, no later than 120 following the passage of this act. The Secretary  
57 of Elder Affairs shall take whatever steps necessary to implement the committee's  
58 recommendation.

59           The advisory committee shall be comprised of the Secretary of Elder Affairs, who will  
60   serve as the chair of the committee, the Commissioner of the Department of Transitional  
61   Assistance or his or her designee, the Commissioner of the Division of Health Care Finance and  
62   Policy or his or her designee, the Director of the Division of Health Care Quality at the  
63   Department of Public Health or his or her designee, the director of the Office for Medicaid or his  
64   or her designee, one state Senator to be appointed by the Senate President, one state  
65   representative to be appointed by the Speaker of the House of Representatives, three individuals  
66   representing residential care providers at least one from the Massachusetts Aging Services  
67   Association (MassAging) and one from the Mass Association of Residential Care Homes  
68   (MARCH). The committee shall meet not less than on a quarterly basis.