



May 12, 2025

The Honorable Thomas Stanley, Chair
The Honorable Patricia Jehlen, Chair
Joint Committee on Aging and Independence

Dear Chairs Stanley, Jehlen and Members of the Committee:

On behalf of LeadingAge Massachusetts, I am writing to offer our strong support for **HB-770 An Act Clarifying the Classification of Assisted Living Residences**

LeadingAge Massachusetts is the only statewide association representing the continuum of not-for-profit providers of housing, health care and services for older adults including nursing homes, residential care facilities, assisted living residences, life plan communities (also known as continuing care retirement communities), subsidized senior housing and other community based service providers. Governed by community-based volunteer boards, our members are sponsored by faith-based, ethnic, fraternal and other not-for-profit organizations, many of whom have been providing care to elders in their communities for more than 100 years. We are striving for a future where all older adults shall have an opportunity to live in age friendly communities where they can access the services they need when they need them in the place they call home.

This legislation clarifies that Assisted Living Residences (ALRs) should not be, nor were ever intended to be considered residential properties with a landlord tenant relationship between the Assisted Living Residence and Assisted Living Resident.

The definition of Assisted Living Residence as stated in Chapter 19D of the Mass General Laws, is “any entity, however organized, whether conducted for profit or not for profit, which meets all of the following criteria:

1. Provides room and board; and
2. Provides, directly by employees of the entity or through arrangements with another organization which the entity may or may not control or own, assistance with activities of daily living for three or more adult residents who are not related by consanguinity or affinity to their care providers; and
3. Collects payment or third party reimbursements from or on behalf of residents to pay for the provision of assistance with the activities of daily living or arranges for the same.

From this definition, it is clear that assisted living residences are not mere housing entities but also require the provision and payment for services to support individuals who need assistance with activities of daily living. In fact, the authorizing statute, specifically exempts subsidized “elderly



housing” which is “established primarily to furnish housing rather than housing and personal services”, from the requirements of the Assisted Living law and regulations.

Individuals move to assisted living when they are unable to continue residing independently in their own homes. ALRs have specific programmatic, staffing and service requirements established to meet the needs of a specific resident population, making these settings very different from a typical residential rental dwelling. Most provisions of landlord tenant law are not appropriate for ALRs which are truly programmatic in nature. For example, landlord tenant law prohibits a landlord from entering the premises prior to termination of a lease except for very specific circumstances. Since ALR staff need to be able to access a resident’s apartment to perform specific services including providing personal care, delivering medication reminders and delivering other services such as housekeeping, this would be a clear violation of landlord tenant law.

In recognition of the specific vulnerabilities of the residents living in ALRs during the pandemic, the Commissioner of Public Health imposed orders restricting visitors to ALRs in order to limit the spread of COVID. There was a recognition that these programs are congregate settings where individuals highly vulnerable to COVID reside and where care is being delivered.

In establishing the authorizing statute, the legislature indicated that the one provision of landlord tenant law that did apply to Assisted Living Residences was that of eviction proceedings. According to Subsection 18 of Section 9 of Chapter 19D, residents of Assisted Living Residences have the right “to not be evicted from the assisted living residence except in accordance with the provisions of landlord tenant law as established by chapter one hundred and eighty-six or chapter two hundred and thirty-nine.” This was included as a consumer protection in lieu of specific admission and discharge criteria that would have been required otherwise. This was the only aspect of landlord tenant law that was specifically referenced in the authorizing statute.

Residents of assisted living enjoy strong consumer protections through residents’ rights spelled out in Chapter 19D and through a set of regulations promulgated and overseen by the Executive Office of Aging and Independence. It is critical that the legislature clarify that Assisted Living Residences were never considered mere residential properties with full landlord/tenant authority.

LeadingAge Massachusetts respectfully asks the committee to act favorably on **HB-770**.

Sincerely,

A handwritten signature in black ink that reads "Elissa Sherman".

Elissa Sherman
President