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HEALTH AND HUMAN SERVICES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 357, L.D. 538, Bill, “An Act To Align Costs Recognized for Transfer of Nursing Facilities and Residential Care Facilities with Ordinary Commercial and Government Contracting Standards”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 22 MRSA §3175-D, sub-§2 is enacted to read:

2. Methodology. Beginning with the sale of a nursing facility that occurs on or after July 1, 2013, or such other date as approved by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, the department shall calculate depreciation recapture using a methodology that provides percentage credits for buildings, fixed equipment and moveable equipment based on the number of years of operation by the owner of the nursing facility that is consistent with the following:

A. For the purposes of determining depreciation recapture for buildings and fixed equipment, the methodology must determine the number of years of operation by reference to the date on which the owner began operating with the original license;

B. For the purposes of determining depreciation recapture for moveable equipment, the methodology must enable percentage credits to reach 100% after the first 6 years of the assigned useful life; and

C. The methodology must treat as equivalent to the owner of the nursing facility any person or entity that owns or controls the entity that owns the nursing facility and any entity that is owned or controlled by the owner of the nursing facility.

Sec. 2. 22 MRSA §7861, sub-§§2 and 3, as enacted by PL 2001, c. 596, Pt. A, §1 and affected by Pt. B, §25, are amended to read:

2. Compliance with standards and guidelines. Reviewing the compliance of assisted housing programs with standards and guidelines established for the programs; ~~and~~

COMMITTEE AMENDMENT

1 **3. Awarding of grants.** Awarding of grants, when available and necessary, to
2 subsidize the cost of assisted housing programs for eligible clients.

3 For the purposes of this subsection, "eligible clients" means adults who have been
4 determined through an approved assessment by the department to be functionally or
5 cognitively impaired and in need of financial assistance to access assisted housing
6 programs; and

7 **Sec. 3. 22 MRSA §7861, sub-§4** is enacted to read:

8 **4. Residential care facility depreciation.** Calculating depreciation recapture for a
9 residential care facility, as defined in section 7852, subsection 14, that is reimbursed by
10 the department under the rules of reimbursement for room and board costs, including
11 depreciation, when the facility is sold on or after July 1, 2012, using a methodology that
12 provides percentage credits for buildings, fixed equipment and moveable equipment
13 based on the number of years of operation of the residential care facility by the owner that
14 is consistent with the following:

15 A. For the purposes of determining depreciation recapture for buildings and fixed
16 equipment, the methodology must determine the number of years of operation by
17 reference to the date on which the owner began operating with the original license;

18 B. For the purposes of determining depreciation recapture for moveable equipment,
19 the methodology must enable percentage credits to reach 100% after the first 6 years
20 of the assigned useful life; and

21 C. The methodology must treat as equivalent to the owner of the residential care
22 facility any person or entity that owns or controls the entity that owns the residential
23 care facility and any entity that is owned or controlled by the owner of the residential
24 care facility.

25 **Sec. 4. Application for state plan amendment.** By October 1, 2013 the
26 Department of Health and Human Services shall submit to the United States Department
27 of Health and Human Services, Centers for Medicare and Medicaid Services an
28 application for approval of a state plan amendment for the MaineCare program to
29 authorize the methodology for calculating recapture of depreciation in the sale of nursing
30 facilities as enacted in the Maine Revised Statutes, Title 22, section 3175-D, subsection 2
31 to apply to sales occurring on or after July 1, 2013.

32 **Sec. 5. Contingent effective date.** That section of this Act that enacts the Maine
33 Revised Statutes, Title 22, section 3175-D, subsection 2 does not take effect unless the
34 United States Department of Health and Human Services, Centers for Medicare and
35 Medicaid Services approves an application for a state plan amendment for the MaineCare
36 program submitted under this Act. The Commissioner of Health and Human Services
37 shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House and
38 the Revisor of Statutes when the commissioner has received approval of the state plan
39 amendment submitted under this Act from the Centers for Medicare and Medicaid
40 Services.'

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SUMMARY

This amendment is the majority report of the committee. This amendment provides a new methodology under the MaineCare program for calculating recapture of depreciation upon the sale of a nursing facility. The amendment requires the Department of Health and Human Services to apply for a state plan amendment to enable the use of the new methodology and makes the effective date of the provision of law that establishes the new methodology contingent upon the approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services of the state plan amendment. The amendment also provides a new methodology for recapturing depreciation upon the sale of residential care facilities for which reimbursement for room and board costs, including depreciation, is provided by the Department of Health and Human Services. The methodology is similar to the methodology used for nursing facilities.