

ADULT FOSTER CARE FACILITY AMENDMENTS

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House Bill 4493 as introduced
Sponsor: Rep. Peter J. Lucido
Committee: Families, Children, and Seniors
Complete to 6-9-17

Analysis available at
<http://www.legislature.mi.gov>

REVISED SUMMARY:

House Bill 4493 would amend the Adult Foster Care Facility Licensing Act to address (1) notices by the Department of Licensing and Regulatory Affairs (LARA) to local units of government about the presence of adult foster care facilities; and (2) the extent of the exemption of such facilities from local zoning ordinances.

Notices to Local Units

Currently, LARA must notify the clerk of the city, village, or township where a proposed adult foster facility is to be located at least 45 days before the issuance of the license. The department must notify the clerk of the city, village or township of all newly licensed adult foster care facilities within 30 days after the issuance of a license.

House Bill 4493 would amend the act to require the department notify the clerk of the city, village or township **by first-class mail or electronic mail**. Further, when a new or **renewal license** is issued for an adult foster care facility, the department would have to **immediately notify, by first-class mail or electronic mail**, the local clerk.

The department would also need to notify the local clerk of all licensed adult foster care facilities within a local unit's boundaries **by first-class mail or electronic mail** within 30 days after receipt of a request **for that information from the clerk**.

(The bolded language above represents the changes to statute made by the bill.)

Zoning Ordinances

Currently, Section 33 says that the act "supersedes all local regulations applicable specifically to adult foster care facilities. Local ordinances, regulations, or construction codes regulating institutions shall not be applied to adult foster care large homes, adult foster care small group homes, or adult foster care family homes." The act does not, however, exempt AFCs from local construction codes applicable to private residences.

House Bill 4493 would specify that adult foster care facilities would be exempt from a zoning ordinance only to the extent provided in Section 206 of the Michigan Zoning Enabling Act or as required under federal law.

Section 206 of the state zoning enabling act contains, among other things, the following provisions:

(1) Except as otherwise provided in subsection (2), a state licensed residential facility shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

(2) Subsection (1) does not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

MCL 400.732 & 733

BACKGROUND:

The term "adult foster care facility" refers in the statute to a governmental or nongovernmental establishment that provides foster care to adults. Adult foster care facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care facility does not include a nursing home or a home for the aged.

FISCAL IMPACT:

House Bill 4493 would have an indeterminate, though likely negative, fiscal impact on the Department of Licensing and Regulatory Affairs. The bill would shorten the length of time that the department has to notify municipal clerks of new and renewal license approvals for adult foster care facilities within their jurisdictions, by replacing a thirty-day period with a requirement for "immediate" notice. The Department has indicated that there would be additional labor required to comply with this provision, since notices are currently sent on a monthly basis but would have to be sent on a more frequent basis under this bill. The department currently sends notices for newly licensed facilities, but this bill would also require the department to send notifications for license renewals.

In Fiscal Year 2016, the department received 250 applications for new adult foster care facilities and there are approximately 4,228 adult foster care facilities currently licensed in Michigan. Therefore, requiring the department to provide notices regarding the renewal of existing licenses, in addition to new licenses, would obviously expand the number of notices that the department would have to issue.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.