

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

---

1 Committee/Subcommittee hearing bill: Health & Human Services  
 2 Committee

3 Representative Grant, J. offered the following:

4  
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (10) of section 451.1055, Florida  
 8 Statutes, is amended to read:

9 415.1055 Notification to administrative entities.—

10 (10) When a report has been received and the department  
 11 has reason to believe that a vulnerable adult resident of a  
 12 facility licensed by the Agency for Health Care Administration  
 13 or the Agency for Persons with Disabilities or a vulnerable  
 14 adult resident of a provider licensed by the Office of Insurance  
 15 Regulation under chapter 651 has been the victim of abuse,  
 16 neglect, or exploitation, the department shall provide a copy of

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17 its investigation to the appropriate agency. If the  
18 investigation determines that a health professional licensed or  
19 certified under the Department of Health may have abused,  
20 neglected, or exploited a vulnerable adult, the department shall  
21 also provide a copy to the Department of Health.

22 Section 2. Section 651.011, Florida Statutes, is amended  
23 to read:

24 651.011 Definitions.—As used in this chapter, the term:

25 (1) "Actuarial opinion" means an opinion issued by an  
26 actuary in accordance with Actuarial Standards of Practice No. 3  
27 for Continuing Care Retirement Communities, Revised Edition,  
28 effective May 1, 2011.

29 (2) "Actuarial study" means an analysis prepared for an  
30 individual facility, or consolidated for multiple facilities,  
31 for either a certified provider as of a current valuation date  
32 or the most recent fiscal year, or for an applicant as of a  
33 projected future valuation date, which includes an actuary's  
34 opinion as to whether such provider or applicant is in  
35 satisfactory actuarial balance in accordance with Actuarial  
36 Standards of Practice No. 3 for Continuing Care Retirement  
37 Communities, Revised Edition, effective May 1, 2011.

38 (3) "Actuary" means an individual who is qualified to sign  
39 an actuarial opinion in accordance with the American Academy of  
40 Actuaries' qualification standards and who is a member in good  
41 standing of the American Academy of Actuaries.

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42        ~~(4)-(1)~~ "Advertising" means the dissemination of written,  
43 visual, or electronic information by a provider, or any person  
44 affiliated with or controlled by a provider, to potential  
45 residents or their representatives for the purpose of inducing  
46 such persons to subscribe to or enter into a contract for  
47 continuing care or continuing care at-home.

48        ~~(5)-(2)~~ "Continuing care" or "care" means, pursuant to a  
49 contract, furnishing shelter and nursing care or personal  
50 services to a resident who resides in a facility, whether such  
51 nursing care or personal services are provided in the facility  
52 or in another setting designated in the contract for continuing  
53 care, by an individual not related by consanguinity or affinity  
54 to the resident, upon payment of an entrance fee.

55        ~~(6)-(3)~~ "Continuing Care Advisory Council" or "advisory  
56 council" means the council established in s. 651.121.

57        ~~(7)-(4)~~ "Continuing care at-home" means, pursuant to a  
58 contract other than a contract described in subsection (2),  
59 furnishing to a resident who resides outside the facility the  
60 right to future access to shelter and nursing care or personal  
61 services, whether such services are provided in the facility or  
62 in another setting designated in the contract, by an individual  
63 not related by consanguinity or affinity to the resident, upon  
64 payment of an entrance fee.

65        (8) "Controlling company" means any corporation, trust, or  
66 association that directly or indirectly owns 25 percent or more

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67 of the voting securities of one or more facilities that are  
68 stock corporations, or 25 percent or more of the ownership  
69 interest of one or more facilities that are not stock  
70 corporations.

71 (9) "Corrective order" means an order issued by the office  
72 which specifies corrective actions the office has determined are  
73 required.

74 (10) "Days cash on hand" means the quotient obtained by  
75 dividing the value of paragraph (a) by the value of paragraph  
76 (b).

77 (a) The sum of unrestricted cash, unrestricted short-term  
78 and long-term investments, provider restricted funds, and the  
79 liquid reserve as required under s. 651.035 as of the reporting  
80 period.

81 (b) Operating expenses less depreciation, amortization,  
82 and other noncash expenses and nonoperating losses, divided by  
83 365. Operating expenses, depreciation, amortization, and other  
84 noncash expenses and nonoperating losses are each the sum of  
85 their respective values over the 12-month period ending with the  
86 reporting date.

87  
88 With prior written approval of the office, a demand note or  
89 other parental guarantee may be considered a short-term or long-  
90 term investment for the purposes of paragraph (a). However, the  
91 total of all demand notes issued by the parent may not, at any

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92 time, be more than the sum of unrestricted cash and unrestricted  
93 short-term and long-term investments held by the parent.

94 (11) "Debt service coverage ratio" means the quotient  
95 obtained by dividing the value of paragraph (a) by the value of  
96 paragraph (b).

97 (a) The sum of total expenses less interest expense on the  
98 facility, depreciation, amortization, and other noncash expenses  
99 and nonoperating losses, subtracted from the sum of total  
100 revenues (excluding noncash revenues and nonoperating gains) and  
101 gross entrance fees received less earned entrance fees and  
102 refunds paid. Expenses, interest expense on the facility,  
103 depreciation, amortization, other noncash expenses and  
104 nonoperating losses, revenues, noncash revenues, nonoperating  
105 gains, gross entrance fees, earned entrance fees, and refunds  
106 are each the sum of their respective values over the 12-month  
107 period ending with the reporting date.

108 (b) Total annual principal and interest expense due on the  
109 facility over the 12-month period ending with the reporting  
110 date. For purposes of this paragraph, principal excludes any  
111 balloon principal payment amounts, and interest expense due is  
112 the sum of the interest over the 12-month period ending with the  
113 reporting date which is reflected in the provider's audit.

114 (12)-(5) "Entrance fee" means an initial or deferred  
115 payment of a sum of money or property made as full or partial  
116 payment for continuing care or continuing care at-home. An

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117 accommodation fee, admission fee, member fee, or other fee of  
118 similar form and application are considered to be an entrance  
119 fee.

120 ~~(13)(6)~~ "Facility" means a place where continuing care is  
121 furnished and may include one or more physical plants on a  
122 primary or contiguous site or an immediately accessible site. As  
123 used in this subsection, the term "immediately accessible site"  
124 means a parcel of real property separated by a reasonable  
125 distance from the facility as measured along public  
126 thoroughfares, and the term "primary or contiguous site" means  
127 the real property contemplated in the feasibility study required  
128 by this chapter.

129 ~~(7) "Generally accepted accounting principles" means those~~  
130 ~~accounting principles and practices adopted by the Financial~~  
131 ~~Accounting Standards Board and the American Institute of~~  
132 ~~Certified Public Accountants, including Statement of Position~~  
133 ~~90-8 with respect to any full year to which the statement~~  
134 ~~applies.~~

135 (14) "Impaired" or "impairment" means that any of the  
136 following have occurred:

137 (a) A provider has failed to maintain the liquid reserve  
138 as required in s. 651.035, unless the provider has received  
139 prior written approval from the office for a withdrawal pursuant  
140 to s. 651.035(6) and is compliant with the approved payment  
141 schedule; or

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142 (b) Beginning July 1, 2019:

143 1. For a provider with mortgage financing from a third-  
144 party lender or public bond issue, the provider's debt service  
145 coverage ratio is less than 1.00:1 and the provider's days cash  
146 on hand is less than 90; or

147 2. For a provider without mortgage financing from a third-  
148 party lender or public bond issue, the provider's days cash on  
149 hand is less than 90.

150 (15)-(8) "Insolvency" means the condition in which the  
151 provider is unable to pay its obligations as they come due in  
152 the normal course of business.

153 (16)-(9) "Licensed" means that the provider has obtained a  
154 certificate of authority from the office ~~department~~.

155 (17) "Manager" or "management" means a person who  
156 administers the day-to-day business operations of a facility for  
157 a provider, subject to the policies, directives, and oversight  
158 of the provider; a person who exercises or has the ability to  
159 exercise effective control of the provider; or a person who  
160 influences or has the ability to influence the transaction of  
161 the business of the provider.

162 (18)-(10) "Nursing care" means those services or acts  
163 rendered to a resident by an individual licensed or certified  
164 pursuant to chapter 464.

165 (19) "Obligated group" means a group of entities that have  
166 jointly agree to be bound by a financing structure containing

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167 security provisions and covenants applicable to the group, and  
168 debt issued under such a financing structure is a joint and  
169 several obligation of each member of the group.

170 (20) "Occupancy" means the total number of occupied  
171 independent living, assisted living, and skilled nursing units  
172 in a facility divided by the total number of units in that  
173 facility, excluding units that are unavailable to market or  
174 reserve, as of the most recent report filed with the office or  
175 the most recent examination by the office.

176 (21)-(11) "Personal services" has the same meaning as in s.  
177 429.02.

178 (22)-(12) "Provider" means the owner or operator, whether a  
179 natural person, partnership or other unincorporated association,  
180 however organized, trust, or corporation, of an institution,  
181 building, residence, or other place, whether operated for profit  
182 or not, which owner or operator provides continuing care or  
183 continuing care at-home for a fixed or variable fee, or for any  
184 other remuneration of any type, whether fixed or variable, for  
185 the period of care, payable in a lump sum or lump sum and  
186 monthly maintenance charges or in installments. The term does  
187 not apply to an entity that has existed and continuously  
188 operated a facility located on at least 63 acres in this state  
189 providing residential lodging to members and their spouses for  
190 at least 66 years on or before July 1, 1989, and has the  
191 residential capacity of 500 persons, is directly or indirectly

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192 owned or operated by a nationally recognized fraternal  
193 organization, is not open to the public, and accepts only its  
194 members and their spouses as residents.

195 ~~(23)(13)~~ "Records" means all documents, correspondence,  
196 and the permanent financial, directory, and personnel  
197 information and data maintained by a provider pursuant to this  
198 chapter, regardless of the physical form, characteristics, or  
199 means of transmission.

200 (24) "Regulatory action level event" means that at least  
201 two of the following have occurred:

202 (a) The provider's debt service coverage ratio is less  
203 than the minimum ratio specified in the provider's bond  
204 covenants or lending agreement for long-term financing, or, if  
205 the provider does not have a debt service coverage ratio  
206 required by its lending institution, the provider's debt service  
207 coverage ratio is less than 1.20:1 as of the most recent report  
208 filed with the office or the most recent examination by the  
209 office. For a provider that is a member of an obligated group  
210 having cross-collateralized debt and an investment grade credit  
211 rating from a nationally recognized credit rating agency, as  
212 applicable, from Moody's Investors Service, Standard & Poor's,  
213 or Fitch Ratings, the obligated group's debt service coverage  
214 ratio may be used as the provider's debt service coverage ratio  
215 if the provider furnishes documentation to the satisfaction of  
216 the office.

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217        (b) The provider's days cash on hand is less than the  
218 minimum number of days cash on hand specified in the provider's  
219 bond covenants or lending agreement for long-term financing. If  
220 the provider does not have a days cash on hand required by its  
221 lending institution, the days cash on hand may not be less than  
222 100 as of the most recent report filed with the office or the  
223 most recent examination by the office. For a provider that is a  
224 member of an obligated group having cross-collateralized debt  
225 and an investment grade credit rating from a nationally  
226 recognized credit rating agency, as applicable, from Moody's  
227 Investors Service, Standard & Poor's, or Fitch Ratings, the days  
228 cash on hand of the obligated group may be used as the  
229 provider's days cash on hand if the provider furnishes  
230 documentation to the satisfaction of the office.

231        (c) The occupancy at the provider's facility is less than  
232 80 percent, averaged over the 12-month period ending with the  
233 reporting date.

234        (25)-(14) "Resident" means a purchaser of, a nominee of, or  
235 a subscriber to a continuing care or continuing care at-home  
236 contract. Such contract does not give the resident a part  
237 ownership of the facility in which the resident is to reside,  
238 unless expressly provided in the contract.

239        (26)-(15) "Shelter" means an independent living unit, room,  
240 apartment, cottage, villa, personal care unit, nursing bed, or  
241 other living area within a facility set aside for the exclusive

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242 use of one or more identified residents.

243 Section 3. Section 651.012, Florida Statutes, is amended  
244 to read:

245 651.012 Exempted facility; written disclosure of  
246 exemption.—Any facility exempted under ss. 632.637(1)(e) and  
247 651.011(22) ~~651.011(12)~~ must provide written disclosure of such  
248 exemption to each person admitted to the facility ~~after October~~  
249 ~~1, 1996~~. This disclosure must be written using language likely  
250 to be understood by the person and must briefly explain the  
251 exemption.

252 Section 4. Subsection (2) of section 651.013, Florida  
253 Statutes, is amended to read:

254 651.013 Chapter exclusive; applicability of other laws.—

255 (2) In addition to other applicable provisions cited in  
256 this chapter, the office has the authority granted under ss.  
257 624.302 and 624.303, 624.307-624.312, 624.318 ~~624.308-624.312,~~  
258 624.319(1)-(3), 624.320-624.321, 624.324, and 624.34, and  
259 624.422 of the Florida Insurance Code to regulate providers of  
260 continuing care and continuing care at-home.

261 Section 5. Section 651.0215, Florida Statutes, is created  
262 to read:

263 651.0215 Consolidated application for provisional  
264 certificate of authority and certificate of authority; required  
265 restrictions on use of entrance fees.—

266 (1) For an applicant to qualify for a certificate of

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267 authority without first obtaining a provisional certificate of  
268 authority, the following conditions must be met:

269 (a) All reservation deposits and entrance fees must be  
270 placed in escrow in accordance with s. 651.033. The applicant  
271 may not use or pledge any part of an initial entrance fee for  
272 the construction or purchase of the facility or as security for  
273 long-term financing.

274 (b) The reservation deposit may not exceed \$5,000 upon a  
275 resident's selection of a unit and must be refundable at any  
276 time before the resident takes occupancy of the selected unit.

277 (c) The resident contract must state that collection of  
278 the balance of the entrance fee is to occur after the resident  
279 is notified that his or her selected unit is available for  
280 occupancy and on or before the occupancy date.

281 (2) The consolidated application must be on a form  
282 prescribed by the commission and must contain all of the  
283 following information:

284 (a) All of the information required pursuant to s  
285 651.022(2).

286 (b) A feasibility study prepared by an independent  
287 consultant which contains all of the information required  
288 pursuant to s. 651.022(3) and financial forecasts or projections  
289 prepared in accordance with standards adopted by the American  
290 Institute of Certified Public Accountants or in accordance with  
291 standards for feasibility studies for continuing care retirement

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292 communities adopted by the Actuarial Standards Board.

293 1. The feasibility study must take into account project  
294 costs, actual marketing results to date and marketing  
295 projections, resident fees and charges, competition, resident  
296 contract provisions, and other factors that affect the  
297 feasibility of operating the facility.

298 2. If the feasibility study is prepared by an independent  
299 certified public accountant, it must contain an examination  
300 report, or a compilation report acceptable to the office,  
301 containing a financial forecast or projections for the first 5  
302 years of operations which take into account an actuary's  
303 mortality and morbidity assumptions as the study relates to  
304 turnover, rates, fees, and charges. If the study is prepared by  
305 an independent consulting actuary, it must contain mortality and  
306 morbidity assumptions as it relates to turnover, rates, fees,  
307 and charges and an actuary's signed opinion that the project as  
308 proposed is feasible and that the study has been prepared in  
309 accordance with Actuarial Standards of Practice No. 3 for  
310 Continuing Care Retirement Communities, Revised Edition,  
311 effective May 1, 2011.

312 (c) Documents evidencing that commitments have been  
313 secured for construction financing and long-term financing or  
314 that a documented plan acceptable to the office has been adopted  
315 by the applicant for long-term financing.

316 (d) Documents evidencing that all conditions of the lender

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317 have been satisfied to activate the commitment to disburse  
318 funds, other than the obtaining of the certificate of authority,  
319 the completion of construction, or the closing of the purchase  
320 of realty or buildings for the facility.

321 (e) Documents evidencing that the aggregate amount of  
322 entrance fees received by or pledged to the applicant, plus  
323 anticipated proceeds from any long-term financing commitment and  
324 funds from all other sources in the actual possession of the  
325 applicant, equal at least 100 percent of the aggregate cost of  
326 constructing or purchasing, equipping, and furnishing the  
327 facility plus 100 percent of the anticipated startup losses of  
328 the facility.

329 (f) A complete audited financial report of the applicant,  
330 prepared by an independent certified public accountant in  
331 accordance with generally accepted accounting principles, as of  
332 the date the applicant commenced business operations or for the  
333 fiscal year that ended immediately preceding the date of  
334 application, whichever is later, and complete unaudited  
335 quarterly financial statements attested to by the applicant  
336 after the date of the last audit.

337 (g) Documents evidencing that the applicant will be able  
338 to comply with s. 651.035.

339 (h) Such other reasonable data, financial statements, and  
340 pertinent information as the commission or office may require  
341 with respect to the applicant or the facility to determine the

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342 financial status of the facility and the management capabilities  
343 of its managers and owners.

344  
345 If any material change occurs in the facts set forth in an  
346 application filed with the office pursuant to this subsection,  
347 an amendment setting forth such change must be filed with the  
348 office within 10 business days after the applicant becomes aware  
349 of such change, and a copy of the amendment must be sent by  
350 registered mail to the principal office of the facility and to  
351 the principal office of the controlling company.

352 (3) If an applicant has or proposes to have more than one  
353 facility offering continuing care or continuing care at-home, a  
354 separate certificate of authority must be obtained for each  
355 facility.

356 (4) Within 45 days after receipt of the information  
357 required under subsection (2), the office must examine the  
358 information and notify the applicant in writing, specifically  
359 requesting any additional information that the office is  
360 authorized to require. An application is deemed complete when  
361 the office receives all requested information and the applicant  
362 corrects any error or omission of which the applicant was timely  
363 notified or when the time for such notification has expired.  
364 Within 15 days after receipt of all of the requested additional  
365 information, the office must notify the applicant in writing  
366 that all of the requested information has been received and that

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367 the application is deemed to be complete as of the date of the  
368 notice.

369 (5) Within 45 days after an application is deemed complete  
370 under subsection (4) and upon completion of the remaining  
371 requirements of this section, the office must complete its  
372 review and issue or deny a certificate of authority to the  
373 applicant. If a certificate of authority is denied, the office  
374 must notify the applicant in writing, citing the specific  
375 failures to satisfy this chapter, and the applicant is entitled  
376 to an administrative hearing pursuant to chapter 120.

377 (6) The office must issue a certificate of authority upon  
378 determining that the applicant meets all requirements of law and  
379 has submitted all of the information required under this  
380 section, that all escrow requirements have been satisfied, and  
381 that the fees prescribed in s. 651.015(2) have been paid.

382 (7) The issuance of a certificate of authority entitles  
383 the applicant to begin construction and collect reservation  
384 deposits and entrance fees from prospective residents. The  
385 reservation contract must state the cancellation policy and the  
386 terms of the continuing care contract to be entered into. All or  
387 any part of an entrance fee or reservation deposit collected  
388 must be placed in an escrow account or on deposit with the  
389 department pursuant to s. 651.033.

390 (8) The provider is entitled to secure release of the  
391 moneys held in escrow within 7 days after the office receives an



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392 affidavit from the provider, along with appropriate  
393 documentation to verify, and notification is provided to the  
394 escrow agent by certified mail, that the following conditions  
395 have been satisfied:

396 (a) A certificate of occupancy has been issued.

397 (b) Payment in full has been received for at least 70  
398 percent of the total units of a phase or of the total of the  
399 combined phases constructed. If a provider offering continuing  
400 care at-home is applying for a release of escrowed entrance  
401 fees, the same minimum requirement must be met for the  
402 continuing care and continuing care at-home contracts  
403 independently of each other.

404 (c) The provider has evidence of sufficient funds to meet  
405 the requirements of s. 651.035, which may include funds  
406 deposited in the initial entrance fee account.

407 (d) Documents evidencing the intended application of the  
408 proceeds upon release and documents evidencing that the entrance  
409 fees, when released, will be applied as represented to the  
410 office.

411  
412 Notwithstanding chapter 120, a person, other than the provider,  
413 the escrow agent, and the office, may not have a substantial  
414 interest in any decision by the office regarding the release of  
415 escrow funds in any proceeding under chapter 120 or this  
416 chapter.

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417       (9) The office may not approve any application that  
418 includes in the plan of financing any encumbrance of the  
419 operating reserves or renewal and replacement reserves required  
420 by this chapter.

421       (10) The office may not issue a certificate of authority  
422 to a facility that does not have a component that is to be  
423 licensed pursuant to part II of chapter 400 or part I of chapter  
424 429, or that does not offer personal services or nursing  
425 services through written contractual agreement. A written  
426 contractual agreement must be disclosed in the contract for  
427 continuing care or continuing care at-home and is subject to s.  
428 651.1151.

429       Section 6. Paragraphs (c) and (f) of subsection (2) and  
430 subsection (8) of section 651.022, Florida Statutes, are  
431 amended, and subsection (9) is added to that section, to read:

432       651.022 Provisional certificate of authority;  
433 application.—

434       (2) The application for a provisional certificate of  
435 authority shall be on a form prescribed by the commission and  
436 shall contain the following information:

437       (c)1. Evidence that the applicant is competent and  
438 trustworthy ~~reputable and of responsible character~~. If the  
439 applicant is a firm, association, organization, partnership,  
440 business trust, corporation, or company, the form must ~~shall~~  
441 require evidence that the members or shareholders are competent

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442 and trustworthy ~~reputable and of responsible~~ character, and the  
443 person in charge of providing care under a certificate of  
444 authority must ~~shall~~ likewise be required to produce evidence of  
445 being competent and trustworthy ~~reputable and of responsible~~  
446 character.

447 2. Evidence satisfactory to the office of the ability of  
448 the applicant to comply with ~~the provisions of~~ this chapter and  
449 with rules adopted by the commission pursuant to this chapter.

450 3. A statement of whether a person identified in the  
451 application for a provisional certificate of authority or the  
452 administrator or manager of the facility, if such person has  
453 been designated, or any such person living in the same location:

454 a. Has been convicted of a felony or has pleaded nolo  
455 contendere to a felony charge, or has been held liable or has  
456 been enjoined in a civil action by final judgment, if the felony  
457 or civil action involved fraud, embezzlement, fraudulent  
458 conversion, or misappropriation of property.

459 b. Is subject to a currently effective injunctive or  
460 restrictive order or federal or state administrative order  
461 relating to business activity or health care as a result of an  
462 action brought by a public agency or department, including,  
463 without limitation, an action affecting a license under chapter  
464 400 or chapter 429.

465  
466 The statement must ~~shall~~ set forth the court or agency, the date

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467 of conviction or judgment, and the penalty imposed or damages  
468 assessed, or the date, nature, and issuer of the order. Before  
469 determining whether a provisional certificate of authority is to  
470 be issued, the office may make an inquiry to determine the  
471 accuracy of the information submitted pursuant to this paragraph  
472 ~~subparagraphs 1. and 2.~~

473 (f) Such other reasonable documents, data, records,  
474 financial statements, and pertinent information as the  
475 commission or office may reasonably require with respect to the  
476 provider or the facility, including the most recent audited  
477 financial statements of comparable facilities currently or  
478 previously owned, managed, or developed by the applicant or its  
479 principal, to assist in determining the financial viability of  
480 the project and the management capabilities of its managers and  
481 owners.

482 (8) The office ~~may shall~~ not approve any application that  
483 ~~which~~ includes in the plan of financing any encumbrance of the  
484 operating reserves or renewal and replacement reserves required  
485 by this chapter.

486 (9) If any material change occurs in the facts set forth  
487 in an application filed with the office pursuant to this  
488 section, an amendment setting forth such change must be filed  
489 with the office within 10 business days after the applicant  
490 becomes aware of such change, and a copy of the amendment must  
491 be sent by registered mail to the principal office of the

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492 facility and to the principal office of the controlling company.

493 Section 7. Paragraph (i) of subsection (1) and subsection  
494 (9) of section 651.023, Florida Statutes, are amended, and  
495 subsection (10) is added to that section, to read:

496 651.023 Certificate of authority; application.—

497 (1) After issuance of a provisional certificate of  
498 authority, the office shall issue to the holder of such  
499 provisional certificate a certificate of authority if the holder  
500 of the provisional certificate provides the office with the  
501 following information:

502 (i) Such other reasonable documents, data, records,  
503 financial statements, and pertinent information as the  
504 commission or office may require with respect to the applicant  
505 or the facility, to determine the financial status of the  
506 facility and the management capabilities of its managers and  
507 owners.

508 (9) The office may not approve an application that  
509 includes in the plan of financing any encumbrance of the  
510 operating reserves or renewal and replacement reserves required  
511 by this chapter.

512 (10) If any material change occurs in the facts set forth  
513 in an application filed with the office pursuant to this  
514 section, an amendment setting forth such change must be filed  
515 with the office within 10 business days after the applicant  
516 becomes aware of such change, and a copy of the amendment must

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517 be sent by registered mail to the principal office of the  
518 facility and to the principal office of the controlling company.

519 Section 8. Section 651.024, Florida Statutes, is amended  
520 to read:

521 651.024 Acquisition.—

522 (1) Except with the prior written approval of the office,  
523 a person may not, individually or in conjunction with an  
524 affiliated person of such person, directly or indirectly acquire  
525 a facility operating under a subsisting certificate of authority  
526 and engage in the business of providing continuing care.

527 (2) A person who seeks to assume the role of general  
528 partner of a provider or otherwise assume ownership or  
529 possession of, or control over, 10 percent or more of a  
530 provider's assets, based on the balance sheet from the most  
531 recent audited financial statement filed with the office, or who  
532 seeks to acquire 10 percent or more of the ownership interest of  
533 a provider is subject to s. 628.4615.

534 (3) A person may rebut a presumption of control by filing  
535 a disclaimer of control with the office on a form prescribed by  
536 the commission. The disclaimer must fully disclose all material  
537 relationships and bases for affiliation between the person and  
538 the provider or facility, as well as the basis for disclaiming  
539 the affiliation. In lieu of such form, a person or acquiring  
540 party may file with the office a copy of a Schedule 13G filed  
541 with the Securities and Exchange Commission pursuant to Rule

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542 13d-1(b) or (c), 17 C.F.R. s. 240.13d-1, under the Securities  
543 Exchange Act of 1934, as amended. A person issued a certificate  
544 of authority to operate a continuing care facility or a  
545 provisional certificate of authority shall be subject to the  
546 provisions of s. 628.4615.

547 Section 9. Section 651.0245, Florida Statutes, is created  
548 to read:

549 651.0245 Application for the simultaneous acquisition of a  
550 facility and issuance of a certificate of authority.-

551 (1) An applicant seeking simultaneous acquisition of a  
552 facility and issuance of a certificate of authority must:

553 (a) Comply with the notice requirements of s.  
554 628.4615(2) (a).

555 (b) File an application in the form prescribed by the  
556 commission.

557 (2) The commission must adopt by rule application  
558 requirements equivalent to those described in ss. 628.4615(4)  
559 and (5), 651.022(2), and 651.023(1) (b). The office must review  
560 the application and issue an approval or disapproval of the  
561 filing in accordance with ss. 628.4615(6) (a) and (c), (7)-(10),  
562 and (14); 651.022(9); and 651.023(1) (b).

563 (3) In addition to the facility or the controlling  
564 company, the office has standing to petition a circuit court as  
565 described in s. 628.4615(9).

566 (4) A person may rebut a presumption of control by filing

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567 a disclaimer of control with the office on a form prescribed by  
568 the commission. The disclaimer must fully disclose all material  
569 relationships and bases for affiliation between the person and  
570 the provider or facility, as well as the basis for disclaiming  
571 the affiliation. In lieu of such form, a person or acquiring  
572 party may file with the office a copy of a Schedule 13G filed  
573 with the Securities and Exchange Commission pursuant to Rule  
574 13d-1(b) or (c), 17 C.F.R. s. 240.13d-1, under the Securities  
575 Exchange Act of 1934, as amended. After a disclaimer has been  
576 filed, the provider or facility is relieved of any duty to  
577 register or report under this section which may arise out of the  
578 provider's or facility's relationship with the person, unless  
579 the office disallows the disclaimer.

580 (5) The commission may adopt rules that are necessary to  
581 administer this section.

582 Section 10. Subsections (2) and (3) of section 651.026,  
583 Florida Statutes, are amended, and subsection (10) is added to  
584 that section, to read:

585 651.026 Annual reports.—

586 (2) The annual report must ~~shall~~ be in such form as the  
587 commission prescribes and must ~~shall~~ contain at least the  
588 following:

589 (a) Any change in status with respect to the information  
590 required to be filed under s. 651.022(2).

591 (b) Financial statements audited by an independent

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592 certified public accountant which must contain, for two or more  
593 periods if the facility has been in existence that long, all of  
594 the following:

595 1. An accountant's opinion and, in accordance with  
596 generally accepted accounting principles:

597 a. A balance sheet;

598 b. A statement of income and expenses;

599 c. A statement of equity or fund balances; and

600 d. A statement of changes in cash flows.

601 2. Notes to the financial statements considered customary  
602 or necessary for full disclosure or adequate understanding of  
603 the financial statements, financial condition, and operation.

604 (c) The following financial information:

605 1. A detailed listing of the assets maintained in the  
606 liquid reserve as required under s. 651.035 and in accordance  
607 with part II of chapter 625;

608 2. A schedule giving additional information relating to  
609 property, plant, and equipment having an original cost of at  
610 least \$25,000, so as to show in reasonable detail with respect  
611 to each separate facility original costs, accumulated  
612 depreciation, net book value, appraised value or insurable value  
613 and date thereof, insurance coverage, encumbrances, and net  
614 equity of appraised or insured value over encumbrances. Any  
615 property not used in continuing care must be shown separately  
616 from property used in continuing care;

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617 3. The level of participation in Medicare or Medicaid  
618 programs, or both;

619 4. A statement of all fees required of residents,  
620 including, but not limited to, a statement of the entrance fee  
621 charged, the monthly service charges, the proposed application  
622 of the proceeds of the entrance fee by the provider, and the  
623 plan by which the amount of the entrance fee is determined if  
624 the entrance fee is not the same in all cases; ~~and~~

625 5. Any change or increase in fees if the provider changes  
626 the scope of, or the rates for, care or services, regardless of  
627 whether the change involves the basic rate or only those  
628 services available at additional costs to the resident; ~~and~~

629 6. If the provider has more than one certificated  
630 facility, or has operations that are not licensed under this  
631 chapter, ~~it shall submit~~ a balance sheet, statement of income  
632 and expenses, statement of equity or fund balances, and  
633 statement of cash flows for each facility licensed under this  
634 chapter as supplemental information to the audited financial  
635 statements required under paragraph (b); ~~and~~

636 7. Calculation of the provider's debt service coverage  
637 ratio and days cash on hand for the current reporting period,  
638 and an opinion from an independent certified public accountant  
639 of such calculations.

640 (d) The provider's occupancy at each facility.

641 (e) ~~(d)~~ Such other reasonable documents, data, records,

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642 financial statements, and pertinent information as the  
643 commission or office may require with respect to the provider or  
644 the facility, or its directors, trustees, members, branches,  
645 subsidiaries, or affiliates, to determine the financial status  
646 of the facility and the management capabilities of its managers  
647 and owners.

648 ~~(f)(e)~~ For each facility, the provider must ~~shall~~ file  
649 with the office annually, together with the annual report  
650 required by this section, a computation of its minimum liquid  
651 reserve calculated in accordance with s. 651.035 on a form  
652 prescribed by the commission.

653 ~~(g)(f)~~ If, due to a change in generally accepted  
654 accounting principles, the balance sheet, statement of income  
655 and expenses, statement of equity or fund balances, or statement  
656 of cash flows is known by any other name or title, the annual  
657 report must contain financial statements using the changed names  
658 or titles that most closely correspond to a balance sheet,  
659 statement of income and expenses, statement of equity or fund  
660 balances, and statement of changes in cash flows.

661 (3) The commission must ~~shall~~ adopt by rule additional  
662 ~~meaningful~~ measures of assessing the financial viability of a  
663 provider. ~~The rule may include the following factors:~~

664 ~~(a) Debt service coverage ratios.~~

665 ~~(b) Current ratios.~~

666 ~~(c) Adjusted current ratios.~~

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- 667 ~~(d) Cash flows.~~  
668 ~~(e) Occupancy rates.~~  
669 ~~(f) Other measures, ratios, or trends.~~  
670 ~~(g) Other factors as may be appropriate.~~  
671 (10) Within 90 days after the conclusion of each annual  
672 reporting period, the office must publish an industry  
673 benchmarking report that contains all of the following:  
674 (a) The median days cash on hand for all providers.  
675 (b) The median debt service coverage ratio for all  
676 providers.  
677 (c) The median occupancy rate for all providers by  
678 setting, including independent living, assisted living, skilled  
679 nursing, and the entire facility.  
680 Section 11. Section 651.0261, Florida Statutes, is amended  
681 to read:  
682 651.0261 Quarterly and monthly statements.—  
683 (1) Within 45 days after the end of each fiscal quarter,  
684 each provider must file a quarterly unaudited financial  
685 statement in the form prescribed by rule of the commission and a  
686 detailed listing of the assets maintained in the liquid reserve  
687 as required pursuant to s. 651.035.  
688 (2) If the office finds that such information is needed to  
689 properly monitor the financial condition of a provider or  
690 facility or is otherwise needed to protect the public interest,  
691 the office may require the provider to file:

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692        (a) Within 25 days after the end of each month, a monthly  
693 unaudited financial statement of the provider or of the facility  
694 in the form prescribed by the commission by rule, a detailed  
695 listing of the assets maintained in the liquid reserve as  
696 required pursuant to s. 651.035, calculation of the provider's  
697 debt service coverage ratio and days cash on hand for the  
698 current reporting period, an opinion from an independent  
699 certified public accountant of such calculations, and the  
700 provider's occupancy at each facility.

701        (b) Such other reasonable documents, data, records,  
702 financial statements, and pertinent information as the  
703 commission or office may reasonably require with respect to the  
704 provider or the facility, or its directors, trustees, members,  
705 branches, subsidiaries, or affiliates, to determine the  
706 financial status of the provider or of the facility and the  
707 management capabilities of its managers and owners.

708        (3) A filing under subsection (2) may be required if any  
709 of the following apply:

710        (a) The facility has been operational for less than 2  
711 years;

712        (b) The provider is:

713        1. Subject to administrative supervision proceedings;

714        2. Subject to a corrective action plan resulting from a  
715 regulatory action level event and for up to 2 years after the  
716 factors that caused the regulatory action level event have been

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717 corrected; or

718 3. Subject to delinquency, receivership, or bankruptcy  
719 proceedings;

720 (c) The provider or facility displays an adverse material  
721 change in financial condition;

722 (d) A change of ownership subject to s. 651.024(2) has  
723 occurred within the previous 2 years; or

724 (e) The facility is found to be impaired.

725 ~~(4) If the office finds, pursuant to rules of the~~  
726 ~~commission, that such information is needed to properly monitor~~  
727 ~~the financial condition of a provider or facility or is~~  
728 ~~otherwise needed to protect the public interest, the office may~~  
729 ~~require the provider to file, within 45 days after the end of~~  
730 ~~each fiscal quarter, a quarterly unaudited financial statement~~  
731 ~~of the provider or of the facility in the form prescribed by the~~  
732 ~~commission by rule. The commission may by rule require all or~~  
733 ~~part of the statements or filings required under this section to~~  
734 ~~be submitted by electronic means in a computer-readable form~~  
735 ~~compatible with the electronic data format specified by the~~  
736 ~~commission.~~

737 Section 12. Paragraph (a) of subsection (1) and subsection  
738 (2) of section 651.033, Florida Statutes, are amended, and  
739 subsections (6) and (7) are added to that section, to read:

740 651.033 Escrow accounts.—

741 (1) When funds are required to be deposited in an escrow

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742 account pursuant to s. 651.022, s. 651.023, s. 651.035, or s.  
743 651.055:

744 (a) The escrow account must ~~shall~~ be established in a  
745 Florida bank, Florida savings and loan association, ~~or~~ Florida  
746 trust company, or a national bank that is chartered and  
747 supervised by the Office of the Comptroller of the Currency  
748 within the United States Department of the Treasury and that has  
749 a branch in this state which is acceptable to the office, or  
750 such funds must be deposited ~~on deposit~~ with the department; and  
751 the funds deposited therein must ~~shall~~ be kept and maintained in  
752 an account separate and apart from the provider's business  
753 accounts.

754 (2) (a)1. A provider may withdraw funds held in escrow  
755 without the approval of the office if the amount held in escrow  
756 exceeds the requirements of this section and if the withdrawal  
757 will not affect compliance with s. 651.035.

758 2. For all other proposed withdrawals, in order to receive  
759 the consent of the office, the provider must file documentation  
760 showing why the withdrawal is necessary for the continued  
761 operation of the facility and file such additional information  
762 as the office reasonably requires. A filing is deemed complete  
763 upon the office's receipt of all requested information and the  
764 provider's correction of any error or omission for which the  
765 provider was timely notified. The office must notify the  
766 provider when the filing is deemed complete. Within 30 days

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767 after the filing is deemed complete, the office must provide the  
768 provider with written notice of its approval or disapproval of  
769 the request. The office may disapprove any request to withdraw  
770 such funds if it determines that the withdrawal is not in the  
771 best interest of the residents. In addition, the escrow  
772 agreement shall provide that the escrow agent or another person  
773 designated to act in the escrow agent's place and the provider,  
774 except as otherwise provided in s. 651.035, shall notify the  
775 office in writing at least 10 days before the withdrawal of any  
776 portion of any funds required to be escrowed under the  
777 provisions of s. 651.035. However,

778 (b) In the event of an emergency and upon petition by the  
779 provider, the office may waive the 10-day notification period  
780 and allow a withdrawal of up to 10 percent of the required  
781 minimum liquid reserve. The office shall have 3 working days to  
782 deny the petition for the emergency 10-percent withdrawal. If  
783 the office fails to deny the petition within 3 working days, the  
784 petition is shall be deemed to have been granted by the office.  
785 For purposes the purpose of this section, "working day" means  
786 each day that is not a Saturday, Sunday, or legal holiday as  
787 defined by Florida law. Also, for purposes the purpose of this  
788 section, the day the petition is received by the office is shall  
789 not be counted as one of the 3 days.

790 (6) The escrow agent may not release or otherwise allow  
791 the transfer of funds without the written approval of the

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792 office, unless the withdrawal is made pursuant to paragraph  
793 (3) (a) or the withdrawal is from funds in excess of the amounts  
794 required by s. 651.022, s. 651.023, s. 651.035, or s. 651.055.

795 (7) If the office finds that the provider is impaired or  
796 insolvent, the office may order the immediate transfer to the  
797 custody of the department, pursuant to part III of chapter 625,  
798 up to 100 percent of the funds required under s. 651.035 to be  
799 held in escrow for purposes of the minimum liquid reserve. The  
800 office may order such a transfer regardless of whether the  
801 office has suspended or revoked, or intends to suspend or  
802 revoke, the provisional certificate of authority or the  
803 certificate of authority of the provider.

804 Section 13. Section 651.034, Florida Statutes, is created  
805 to read:

806 651.034 Financial and operating requirements for  
807 providers.—

808 (1) (a) If a regulatory action level event occurs, the  
809 office must:

810 1. Require the provider to prepare and submit a corrective  
811 action plan or, if applicable, a revised corrective action plan.

812 2. Perform an examination pursuant to s. 651.105 or an  
813 analysis of the assets, liabilities, and operations of the  
814 provider, including a review of the corrective action plan or  
815 the revised corrective action plan.

816 3. After the examination or analysis, issue a corrective

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817 order specifying any corrective actions that the office  
818 determines are required.

819 (b) In determining corrective actions, the office may  
820 consider any factor relevant to the provider based upon the  
821 office's examination or analysis of the assets, liabilities, and  
822 operations of the provider. The provider must submit the  
823 corrective action plan or the revised corrective action plan  
824 within 30 days after the occurrence of the regulatory action  
825 level event. The office must review and approve or disapprove  
826 the corrective action plan within 15 business days after receipt  
827 of the plan. If the office disapproves the corrective action  
828 plan, the office must notify the provider of the deficiencies  
829 that led to the disapproval. The provider must, within 30 days  
830 after notification of the disapproval and deficiencies, correct  
831 the deficiencies and resubmit the corrective action plan.

832 (c) The office may consult members of the Continuing Care  
833 Advisory Council, individually or as a group, or may retain  
834 actuaries, investment experts, and other consultants to review a  
835 provider's corrective action plan or revised corrective action  
836 plan; examine or analyze the assets, liabilities, and operations  
837 of a provider; and formulate the corrective order with respect  
838 to the provider. The fees, costs, and expenses relating to  
839 consultants must be borne by the affected provider.

840 (2) If an impairment occurs, the office may take any  
841 action available to it, including any remedy available under

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842 chapter 631. An impairment is sufficient grounds for the  
843 department to be appointed as receiver as provided in chapter  
844 631. A provider that meets the definition of "impaired" as  
845 defined in s. 651.011 is deemed impaired for purposes of s.  
846 631.051. The office may forego taking action for up to 180 days  
847 after the impairment if the office finds there is a reasonable  
848 expectation that the impairment may be eliminated within the  
849 180-day period.

850 (3) The office may exempt a provider from subsection (1)  
851 or subsection (2) for up to 5 years from the date of issuance of  
852 the certificate of authority.

853 (4) The commission may adopt rules to administer this  
854 section, including, but not limited to, rules regarding  
855 corrective action plans, revised corrective action plans,  
856 corrective orders, and procedures to be followed in the event of  
857 a regulatory action level event or an impairment.

858 Section 14. Paragraphs (a) and (b) of subsection (1) of  
859 section 651.035, Florida Statutes, are amended, to read:

860 651.035 Minimum liquid reserve requirements.—

861 (1) A provider shall maintain in escrow a minimum liquid  
862 reserve consisting of the following reserves, as applicable:

863 (a) Each provider must ~~shall~~ maintain in escrow as a debt  
864 service reserve the aggregate amount of all principal and  
865 interest payments due during the fiscal year on any mortgage  
866 loan or other long-term financing of the facility, including

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867 property taxes as recorded in the audited financial statements  
868 required under s. 651.026. The amount must include any leasehold  
869 payments and all costs related to such payments. If principal  
870 payments are not due during the fiscal year, the provider must  
871 ~~shall~~ maintain in escrow as a minimum liquid reserve an amount  
872 equal to interest payments due during the next 12 months on any  
873 mortgage loan or other long-term financing of the facility,  
874 including property taxes. If a provider does not have a mortgage  
875 loan or other financing on the facility, the provider must  
876 deposit monthly in escrow as a minimum liquid reserve an amount  
877 equal to one-twelfth of the annual property tax liability as  
878 indicated in the most recent tax notice provided pursuant to s.  
879 197.322(3).

880 (b) A provider that has outstanding indebtedness that  
881 requires a debt service reserve to be held in escrow pursuant to  
882 a trust indenture or mortgage lien on the facility and for which  
883 the debt service reserve may only be used to pay principal and  
884 interest payments on the debt that the debtor is obligated to  
885 pay, and which may include property taxes and insurance, may  
886 include such debt service reserve in computing the minimum  
887 liquid reserve needed to satisfy this subsection if the provider  
888 furnishes to the office a copy of the agreement under which such  
889 debt service is held, together with a statement of the amount  
890 being held in escrow for the debt service reserve, certified by  
891 the lender or trustee and the provider to be correct. The

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892 trustee must ~~shall~~ provide the office with any information  
893 concerning the debt service reserve account upon request of the  
894 provider or the office. Such separate debt service reserves, if  
895 any, are not subject to the transfer provisions set forth in s.  
896 651.033(7).

897 Section 15. Section 651.043, Florida Statutes, is created  
898 to read:

899 651.043 Approval of change in third-party management.-

900 (1) A contract for third-party management entered into  
901 after January 1, 2019, must be in writing and include a  
902 provision that the contract will be canceled, without the  
903 application of any cancellation fee or penalty, upon issuance of  
904 an order by the office pursuant to this section.

905 (2) A provider must notify the office, in writing or  
906 electronically, of any change in third-party management within  
907 10 business days after the earlier of the execution of a  
908 management contract or the effective date of the change in  
909 management. For each new third-party management appointment, the  
910 provider must submit the information required by s. 651.022(2)  
911 and a copy of the written management contract, if applicable.

912 (3) For a provider that is found to be impaired or that is  
913 under a regulatory action level event, the office may disapprove  
914 the new management and order the provider to remove the new  
915 management after reviewing the information required in  
916 subsection (2).

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917 (4) For a provider other than that specified in subsection  
918 (3), the office may disapprove the new management and order the  
919 provider to remove the new management after receiving the  
920 required information in subsection (2) if the office:

921 (a) Finds that the new management is incompetent or  
922 untrustworthy;

923 (b) Finds that the new management is so lacking in  
924 relevant managerial experience as to make the proposed operation  
925 hazardous to the residents or potential residents;

926 (c) Finds that the new management is so lacking in  
927 relevant experience, ability, and standing as to jeopardize the  
928 reasonable promise of successful operation; or

929 (d) Has good reason to believe that the new management is  
930 affiliated directly or indirectly through ownership, control, or  
931 business relations with any person or persons whose business  
932 operations are or have been marked, to the detriment of  
933 residents, stockholders, investors, creditors, or the public, by  
934 manipulation of assets or accounts or by bad faith.

935 (5) The office must complete its review as required under  
936 subsections (3) and (4) and issue any notice of disapproval of  
937 the new management within 15 business days after the filing is  
938 deemed complete. A filing is deemed complete upon the office's  
939 receipt of all requested information and the provider's  
940 correction of any error or omission of which the provider was  
941 timely notified. If the office does not issue notice of

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942 disapproval of the new management within 15 business days after  
943 the filing is deemed complete, then the new management is deemed  
944 approved. If any material change occurs in the facts set forth  
945 in information filed with the office pursuant subsection (2), a  
946 notice setting forth such change must be filed with the office  
947 within 10 business days after the provider becomes aware of such  
948 change. The office may disapprove the previously approved  
949 management based upon the information contained in such notice  
950 or upon its own discovery of a material change to the facts set  
951 for in information filed pursuant to subsection (2).

952 (6) Management disapproved by the office under this  
953 section must be removed within 30 days after receipt by the  
954 provider of notice of such disapproval.

955 (7) The provider must remove the management immediately  
956 upon discovery of any of the following conditions, if the  
957 conditions were not disclosed in the notice to the office  
958 required in subsection (2):

959 (a) That any manager or other person acting in such  
960 capacity, has been found guilty of, or has pled guilty or no  
961 contest to, regardless of adjudication, any felony or crime  
962 punishable by imprisonment of 1 year or more under the laws of  
963 the United States or any state thereof or under the laws of any  
964 other country which involves moral turpitude.

965 (b) That any person who exercises or has the ability to  
966 exercise effective control of the organization, or acts in the

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967 capacity of a manager, is now or was in the past affiliated,  
968 directly or indirectly, through ownership interest of 10 percent  
969 or more in, or control of, any business, corporation, or other  
970 entity that has been found guilty of or has pled guilty or no  
971 contest to, regardless of adjudication, any felony or crime  
972 punishable by imprisonment for 1 year or more under the laws of  
973 the United States, any state, or any other country.

974 (8) The office may revoke, suspend, or take other  
975 administrative action against the provisional certificate of  
976 authority or the certificate of authority of the provider if the  
977 provider violates this section or persists in appointing  
978 disapproved managers.

979 Section 16. Section 651.051, Florida Statutes, is amended  
980 to read:

981 651.051 Maintenance of assets and records in state.—All  
982 records and assets of a provider must be maintained or readily  
983 accessible in this state, or, if the provider's corporate office  
984 is located in another state, records must be electronically  
985 stored in a manner that will ensure that the records are readily  
986 accessible by the office. No records or assets may be removed  
987 from this state by a provider unless the office consents to such  
988 removal in writing before such removal. Such consent must ~~shall~~  
989 be based upon the provider's submitting satisfactory evidence  
990 that the removal will facilitate and make more economical the  
991 operations of the provider and will not diminish the service or

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992 protection thereafter to be given the provider's residents in  
993 this state. Before ~~Prior to~~ such removal, the provider must  
994 ~~shall~~ give notice to the president or chair of the facility's  
995 residents' council. If such removal is part of a cash management  
996 system which has been approved by the office, disclosure of the  
997 system must ~~shall~~ meet the notification requirements. The  
998 electronic storage of records on a web-based, secured storage  
999 platform by contract with a third party is acceptable if the  
1000 records are readily accessible by the office.

1001 Section 17. Subsection (1) of section 651.071, Florida  
1002 Statutes, is amended to read:

1003 651.071 Contracts as preferred claims on liquidation or  
1004 receivership.—

1005 (1) In the event of receivership or liquidation  
1006 proceedings against a provider, all continuing care and  
1007 continuing care at-home contracts executed by a provider are  
1008 ~~shall be~~ deemed preferred claims against all assets owned by the  
1009 provider; however, such claims are subordinate to any secured  
1010 claim. For purposes of s. 631.271, all continuing care and  
1011 continuing care at-home contracts executed by a provider are  
1012 deemed Class 2 claims.

1013 Section 18. Subsections (1) and (5) of section 651.105,  
1014 Florida Statutes, are amended, to read:

1015 651.105 Examination and inspections.—

1016 (1) (a) The office may at any time, and must ~~shall~~ at least

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1017 once every 3 years, examine the business of any applicant for a  
1018 certificate of authority and any provider engaged in the  
1019 execution of care contracts or engaged in the performance of  
1020 obligations under such contracts, in the same manner as is  
1021 provided for the examination of insurance companies pursuant to  
1022 s. 624.316. For a provider as described ~~defined~~ in s. 651.028,  
1023 such examinations must ~~shall~~ take place at least once every 5  
1024 years. Such examinations must ~~shall~~ be made by a representative  
1025 or examiner designated by the office whose compensation will be  
1026 fixed by the office pursuant to s. 624.320. Routine examinations  
1027 may be made by having the necessary documents submitted to the  
1028 office; and, for this purpose, financial documents and records  
1029 conforming to commonly accepted accounting principles and  
1030 practices, as required under s. 651.026, are deemed adequate.  
1031 The final written report of each examination must be filed with  
1032 the office and, when so filed, constitutes a public record.

1033 (b) Any provider being examined must ~~shall~~, upon request,  
1034 give reasonable and timely access to all of its records. In  
1035 addition, the provider must furnish, upon request, such other  
1036 reasonable documents, data, records, financial statements, and  
1037 pertinent information as the commission or office may reasonably  
1038 require with respect to a provider's or facility's directors,  
1039 trustees, members, branches, subsidiaries, or affiliates, to  
1040 determine the financial status of the provider or of the  
1041 facility and the management capabilities of its managers and

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1042 owners.

1043 (c) The representative or examiner designated by the  
1044 office may at any time examine the records and affairs and  
1045 inspect the physical property of any provider, whether in  
1046 connection with a formal examination or not.

1047 (5) A provider must respond to written correspondence from  
1048 the office and provide documents, data, records, financial  
1049 statements, and pertinent information as required by the  
1050 commission or office. The office has standing to petition a  
1051 circuit court for mandatory injunctive relief to compel access  
1052 to and require the provider to produce such documents, data,  
1053 records, financial statements, and other information. The office  
1054 may petition the circuit court in the county in which the  
1055 facility is situated or the Circuit Court of Leon County to  
1056 enforce this section. ~~At the time of the routine examination,~~  
1057 ~~the office shall determine if all disclosures required under~~  
1058 ~~this chapter have been made to the president or chair of the~~  
1059 ~~residents' council and the executive officer of the governing~~  
1060 ~~body of the provider.~~

1061 Section 19. Section 651.106, Florida Statutes, is amended  
1062 to read:

1063 651.106 Grounds for discretionary denial ~~refusal~~,  
1064 suspension, or revocation of certificate of authority.— The  
1065 office may deny an application or may deny, suspend, or revoke  
1066 the provisional certificate of authority or the certificate of

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1067 authority of any applicant or provider if it finds that any one  
1068 or more of the following grounds applicable to the applicant or  
1069 provider exist:

1070 (1) Failure by the provider to continue to meet the  
1071 requirements for the authority originally granted.

1072 (2) Failure by the provider to meet one or more of the  
1073 qualifications for the authority specified by this chapter.

1074 (3) Material misstatement, misrepresentation, or fraud in  
1075 obtaining the authority, or in attempting to obtain the same.

1076 (4) Demonstrated lack of fitness or trustworthiness.

1077 (5) Fraudulent or dishonest practices of management in the  
1078 conduct of business.

1079 (6) Misappropriation, conversion, or withholding of  
1080 moneys.

1081 (7) Failure to comply with, or violation of, any proper  
1082 order or rule of the office or commission or violation of any  
1083 provision of this chapter.

1084 (8) The insolvent or impaired condition of the provider or  
1085 the provider's being in such condition or using such methods and  
1086 practices in the conduct of its business as to render its  
1087 further transactions in this state hazardous or injurious to the  
1088 public.

1089 (9) Refusal by the provider to be examined or to produce  
1090 its accounts, records, and files for examination, or refusal by  
1091 any of its officers to give information with respect to its

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1092 | affairs or to perform any other legal obligation under this  
1093 | chapter when required by the office.

1094 |       (10) Failure by the provider to comply with the  
1095 | requirements of s. 651.026 or s. 651.033.

1096 |       (11) Failure by the provider to maintain escrow accounts  
1097 | or funds as required by this chapter.

1098 |       (12) Failure by the provider to meet the requirements of  
1099 | this chapter for disclosure of information to residents  
1100 | concerning the facility, its ownership, its management, its  
1101 | development, or its financial condition or failure to honor its  
1102 | continuing care or continuing care at-home contracts.

1103 |       (13) Any cause for which issuance of the license could  
1104 | have been refused had it then existed and been known to the  
1105 | office.

1106 |       (14) Having been found guilty of, or having pleaded guilty  
1107 | or nolo contendere to, a felony in this state or any other  
1108 | state, without regard to whether a judgment or conviction has  
1109 | been entered by the court having jurisdiction of such cases.

1110 |       (15) In the conduct of business under the license,  
1111 | engaging in unfair methods of competition or in unfair or  
1112 | deceptive acts or practices prohibited under part IX of chapter  
1113 | 626.

1114 |       (16) A pattern of bankrupt enterprises.

1115 |       (17) The ownership, control, or third-party management of  
1116 | the organization includes any person:

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- 1117        (a) Who is incompetent or untrustworthy;  
1118        (b) Who causes the operation of the provider to be  
1119 hazardous to potential and existing residents;  
1120        (c) Who jeopardizes the reasonable promise of successful  
1121 operation of the provider or facility;  
1122        (d) Who is affiliated, directly or indirectly, through  
1123 ownership or control, with any person whose business operations  
1124 are or have been marked by manipulation of assets or accounts or  
1125 by bad faith, to the detriment of the public, stockholders,  
1126 investors, or creditors; or  
1127        (e) Whose business operations are or have been marked by  
1128 manipulation of assets or accounts or by bad faith, to the  
1129 detriment of the public, stockholders, investors, or creditors.  
1130        (18) The provider violated s. 651.043 or persists in  
1131 appointing disapproved managers.

1132  
1133 Revocation of a certificate of authority under this section does  
1134 not relieve a provider from the provider's obligation to  
1135 residents under the terms and conditions of any continuing care  
1136 or continuing care at-home contract between the provider and  
1137 residents or the provisions of this chapter. The provider must  
1138 ~~shall~~ continue to file its annual statement and pay license fees  
1139 to the office as required under this chapter as if the  
1140 certificate of authority had continued in full force, but the  
1141 provider may ~~shall~~ not issue any new contracts. The office may

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1142 seek an action in the Circuit Court of Leon County to enforce  
1143 the office's order and the provisions of this section.

1144 Section 20. Section 651.114, Florida Statutes, is amended  
1145 to read:

1146 651.114 Delinquency proceedings; remedial rights.—

1147 (1) Upon determination by the office that a provider is  
1148 not in compliance with this chapter, the office may notify the  
1149 chair of the Continuing Care Advisory Council, who may assist  
1150 the office in formulating a corrective action plan.

1151 (2) Within 30 days after a request by the advisory council  
1152 or the office, a provider must shall make a plan for obtaining  
1153 compliance or solvency available to the advisory council and the  
1154 office, within 30 days after being requested to do so by the  
1155 council, a plan for obtaining compliance or solvency.

1156 (3) Within 30 days after receipt of a plan for obtaining  
1157 compliance or solvency, the office, or notification, the  
1158 advisory council, at the request of the office, must shall:

1159 (a) Consider and evaluate the plan submitted by the  
1160 provider.

1161 (b) Discuss the problem and solutions with the provider.

1162 (c) Conduct such other business as is necessary.

1163 (d) Report its findings and recommendations to the office,  
1164 which may require additional modification of the plan.

1165  
1166 This subsection may not be interpreted so as to delay or prevent

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1167 the office from taking any regulatory measures it deems  
1168 necessary regarding the provider that submitted the plan.

1169 (4) If the financial condition of a continuing care  
1170 facility or provider is impaired or is such that if not modified  
1171 or corrected, its continued operation would result in  
1172 insolvency, the office may direct the provider to formulate and  
1173 file with the office a corrective action plan. If the provider  
1174 fails to submit a plan within 30 days after the office's  
1175 directive, or submits a plan that is insufficient to correct the  
1176 condition, the office may specify a plan and direct the provider  
1177 to implement the plan. Before specifying a plan, the office may  
1178 seek a recommended plan from the advisory council.

1179 (5)-(4) After receiving approval of a plan by the office,  
1180 the provider ~~must~~ ~~shall~~ submit a progress report monthly to the  
1181 advisory council or the office, or both, in a manner prescribed  
1182 by the office. After 3 months, or at any earlier time deemed  
1183 necessary, the council ~~must~~ ~~shall~~ evaluate the progress by the  
1184 provider and ~~must~~ ~~shall~~ advise the office of its findings.

1185 (6)-(5) ~~If Should~~ the office ~~finds~~ ~~find~~ that sufficient  
1186 grounds exist for rehabilitation, liquidation, conservation,  
1187 reorganization, seizure, or summary proceedings of an insurer as  
1188 set forth in ss. 631.051, 631.061, and 631.071, the department  
1189 ~~office~~ may petition for an appropriate court order or may pursue  
1190 such other relief as is afforded in part I of chapter 631. A  
1191 provider that meets the definition of "impaired" as defined in

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1192 s. 651.011 is deemed impaired for purposes of s. 631.051. Before  
1193 invoking its powers under part I of chapter 631, the department  
1194 must ~~office shall~~ notify the chair of the advisory council.

1195 (7)(6) In the event an order of rehabilitation,  
1196 liquidation, conservation, reorganization, seizure, or summary  
1197 proceeding has been entered against a provider, the department  
1198 and office are vested with all of the powers and duties they  
1199 have under ~~the provisions of~~ part I of chapter 631 in regard to  
1200 delinquency proceedings of insurance companies. A provider must  
1201 give written notice of the proceeding to its residents within 3  
1202 business days after the initiation of a delinquency proceeding  
1203 under chapter 631 and must include a notice of the delinquency  
1204 proceeding in any written materials provided to prospective  
1205 residents.

1206 ~~(7) If the financial condition of the continuing care~~  
1207 ~~facility or provider is such that, if not modified or corrected,~~  
1208 ~~its continued operation would result in insolvency, the office~~  
1209 ~~may direct the provider to formulate and file with the office a~~  
1210 ~~corrective action plan. If the provider fails to submit a plan~~  
1211 ~~within 30 days after the office's directive or submits a plan~~  
1212 ~~that is insufficient to correct the condition, the office may~~  
1213 ~~specify a plan and direct the provider to implement the plan.~~

1214 (8) (a) If the petition for rehabilitation, liquidation,  
1215 conservation, reorganization, seizure, or summary proceedings is  
1216 based solely upon the default of the provider under the terms of

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1217 a resolution, ordinance, loan agreement, indenture of trust,  
1218 mortgage, lease, security agreement, or other instrument  
1219 creating or securing bonds or notes issued to finance a  
1220 facility, the rights of the office described in this section are  
1221 subordinate to the rights of a trustee or lender pursuant to the  
1222 terms of a resolution, ordinance, loan agreement, indenture of  
1223 trust, mortgage, lease, security agreement, or other instrument  
1224 creating or securing bonds or notes issued to finance a  
1225 facility, and the office, subject to the provisions of paragraph  
1226 (c), may ~~shall~~ not exercise its remedial rights provided under  
1227 this section and ss. 651.018, 651.106, 651.108, and 651.116 with  
1228 respect to a facility that is subject to a lien, mortgage,  
1229 lease, or other encumbrance or trust indenture securing bonds or  
1230 notes issued in connection with the financing of the facility,  
1231 if the trustee or lender, by inclusion or by amendment to the  
1232 loan documents or by a separate contract with the office, agrees  
1233 that the rights of residents under a continuing care or  
1234 continuing care at-home contract will be honored and will not be  
1235 disturbed by a foreclosure or conveyance in lieu thereof as long  
1236 as the resident:

1237 1. Is current in the payment of all monetary obligations  
1238 required by the contract;

1239 2. Is in compliance and continues to comply with all  
1240 provisions of the contract; and

1241 3. Has asserted no claim inconsistent with the rights of

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1242 the trustee or lender.

1243 (b) This subsection does not require a trustee or lender  
1244 to:

1245 1. Continue to engage in the marketing or resale of new  
1246 continuing care or continuing care at-home contracts;

1247 2. Pay any rebate of entrance fees as may be required by a  
1248 resident's continuing care or continuing care at-home contract  
1249 as of the date of acquisition of the facility by the trustee or  
1250 lender and until expiration of the period described in paragraph  
1251 (d);

1252 3. Be responsible for any act or omission of any owner or  
1253 operator of the facility arising before the acquisition of the  
1254 facility by the trustee or lender; or

1255 4. Provide services to the residents to the extent that  
1256 the trustee or lender would be required to advance or expend  
1257 funds that have not been designated or set aside for such  
1258 purposes.

1259 (c) Should the office determine, at any time during the  
1260 suspension of its remedial rights as provided in paragraph (a),  
1261 that the trustee or lender is not in compliance with paragraph  
1262 (a), or that a lender or trustee has assigned or has agreed to  
1263 assign all or a portion of a delinquent or defaulted loan to a  
1264 third party without the office's written consent, the office  
1265 shall notify the trustee or lender in writing of its  
1266 determination, setting forth the reasons giving rise to the

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1267 determination and specifying those remedial rights afforded to  
1268 the office which the office shall then reinstate.

1269 (d) Upon acquisition of a facility by a trustee or lender  
1270 and evidence satisfactory to the office that the requirements of  
1271 paragraph (a) have been met, the office shall issue a 90-day  
1272 temporary certificate of authority granting the trustee or  
1273 lender the authority to engage in the business of providing  
1274 continuing care or continuing care at-home and to issue  
1275 continuing care or continuing care at-home contracts subject to  
1276 the office's right to immediately suspend or revoke the  
1277 temporary certificate of authority if the office determines that  
1278 any of the grounds described in s. 651.106 apply to the trustee  
1279 or lender or that the terms of the contract used as the basis  
1280 for the issuance of the temporary certificate of authority by  
1281 the office have not been or are not being met by the trustee or  
1282 lender since the date of acquisition.

1283 Section 21. Section 651.1141, Florida Statutes, is created  
1284 to read:

1285 651.1141 Immediate suspension orders; cease and desist  
1286 orders.-

1287 (1) The office may, pursuant to s. 120.60, in its  
1288 discretion and without advance notice or hearing thereon,  
1289 immediately suspend a provisional certificate of authority or  
1290 certificate of authority granted under this chapter if it finds  
1291 that one or more of the following circumstances exist:

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1292 (a) The provider is insolvent or impaired under s.  
1293 651.011(14)(b).

1294 (b) A person has acquired a facility operating under a  
1295 subsisting certificate of authority and is engaging in the  
1296 business of providing continuing care without prior written  
1297 approval of the office, in violation of s. 651.024(1).

1298 (c) Without prior written approval of the office, a person  
1299 has done any of the following in violation of s. 651.024(2):

1300 1. Assumed the role of general partner of a provider.

1301 2. Otherwise assumed ownership or possession of, or  
1302 control over, 10 percent or more of a provider's assets.

1303 3. Acquired 10 percent or more of the ownership interest  
1304 of a provider.

1305 (d) A person has removed or pledged 10 percent or more of  
1306 a provider's minimum liquid reserve required by s. 651.035.

1307 (e) In violation of s. 651.043, a provider has appointed  
1308 previously disapproved third-party managers, has failed to  
1309 remove a third-party manager disapproved by the office, or has  
1310 failed to remove a third-party manager upon discovery of the  
1311 conditions enumerated in s. 651.043(7).

1312 (f) In violation of s. 651.105, a provider has failed to  
1313 produce or give access to documents, data, records, financial  
1314 statements, and pertinent information requested by the office.

1315 (2) The office may issue a cease and desist order upon a  
1316 person that violates any provision of this chapter, rule adopted

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1317 by the commission, order of the office, or written agreement  
1318 entered into with the office.

1319 (3) The office may seek an action in the Circuit Court of  
1320 Leon County to enforce the office's order under the provisions  
1321 of this section.

1322 Section 22. Paragraphs (d) and (e) of subsection (1) of  
1323 section 651.121, Florida Statutes, are amended to read:

1324 651.121 Continuing Care Advisory Council.—

1325 (1) The Continuing Care Advisory Council to the office is  
1326 created consisting of 10 members ~~who are residents of this state~~  
1327 appointed by the Governor and geographically representative of  
1328 this state. Three members shall be representatives  
1329 ~~administrators~~ of facilities that hold valid certificates of  
1330 authority under this chapter and shall have been actively  
1331 engaged in the offering of continuing care contracts in this  
1332 state for 5 years before appointment. The remaining members  
1333 include:

1334 ~~(d) An attorney.~~

1335 (d)(e) Four ~~Three~~ residents who hold continuing care or  
1336 continuing care at-home contracts with a facility certified in  
1337 this state.

1338 Section 23. Subsections (1) and (4) of section 651.125,  
1339 Florida Statutes, are amended to read:

1340 651.125 Criminal penalties; injunctive relief.—

1341 (1) Any person who maintains, enters into, or, as manager

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1342 or officer or in any other administrative capacity, assists in  
1343 entering into, maintaining, or performing any continuing care or  
1344 continuing care at-home contract subject to this chapter without  
1345 ~~doing so in pursuance of~~ a valid provisional certificate of  
1346 authority or certificate of authority ~~or renewal thereof~~, as  
1347 contemplated by or provided in this chapter, or who otherwise  
1348 violates any provision of this chapter or rule adopted in  
1349 pursuance of this chapter, commits a felony of the third degree,  
1350 punishable as provided in s. 775.082 or s. 775.083. Each  
1351 violation of this chapter constitutes a separate offense.

1352 (4) Any action brought by the office against a provider  
1353 shall not abate by reason of a sale or other transfer of  
1354 ownership of the facility used to provide care, which provider  
1355 is a party to the action, except with the express written  
1356 consent of the ~~director of the~~ office.

1357 Section 24. This act shall take effect January 1, 2019.

1358 -----

1359 **T I T L E A M E N D M E N T**

1360 Remove everything before the enacting clause and insert:  
1361 An act relating to continuing care contracts; amending  
1362 s. 415.1055, F.S.; revising a notification to an  
1363 administrative entity relating to vulnerable adults;  
1364 amending s. 651.011, F.S.; providing and amending  
1365 definitions; amending s. 651.012, F.S.; conforming a  
1366 cross-reference; deleting an obsolete date; amending

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1367 s. 651.013, F.S.; revising applicability of specified  
1368 provisions of the Florida Insurance Code as to the  
1369 Office of Insurance Regulation's authority to regulate  
1370 providers of continuing care and continuing care at-  
1371 home; creating s. 651.0215, F.S.; providing  
1372 requirements and procedures for submission and  
1373 issuance of applications for certificates of  
1374 authority; providing for a consolidated application  
1375 and requirements and procedures for material changes  
1376 to the application; providing restrictions for  
1377 entrance fees, reservation deposits, and release of  
1378 escrow moneys; providing that specified persons may  
1379 not have a substantial interest in any decision by the  
1380 office regarding the release of certain escrow funds;  
1381 amending s. 651.022, F.S.; revising information  
1382 required in an application for a provisional  
1383 certificate of authority; specifying requirements for  
1384 review of such applications and for application  
1385 amendments if material changes occur; amending s.  
1386 651.023, F.S.; revising requirements for an  
1387 application for a certificate of authority; revising  
1388 procedures and requirements for the office's review of  
1389 such applications and for application amendments if  
1390 material changes occur; amending s. 651.024, F.S.;  
1391 providing and revising applicability of certain

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 783 (2018)

Amendment No.

1392 requirements for a person seeking to acquire or assume  
1393 a specified role of a provider or seeking specified  
1394 ownership, possession, or control of a provider's  
1395 assets; providing procedures for filing a disclaimer  
1396 of control; providing construction; creating s.  
1397 651.0245, F.S.; providing requirements and procedures  
1398 for submission and review of applications for  
1399 simultaneous acquisition of a facility and issuance of  
1400 a certificate of authority; providing that specified  
1401 parties have standing to petition a circuit to enforce  
1402 the section; authorizing a specified filing to rebut a  
1403 presumption of control; authorizing rulemaking;  
1404 amending s. 651.026, F.S.; revising requirements for  
1405 annual reports filed with the office by providers and  
1406 facilities; requiring a specified annual report by the  
1407 office; amending s. 651.0261, F.S.; providing  
1408 requirements for monthly and quarterly statements  
1409 filed with the office by providers and facilities;  
1410 authorizing the office to require, under certain  
1411 circumstances, providers or facilities to file monthly  
1412 statements and certain other information; amending s.  
1413 651.033, F.S.; revising requirements for and  
1414 restrictions for withdrawals from escrow accounts;  
1415 revising procedures for the office's review and  
1416 approval of specified withdrawals; providing

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1417 construction; authorizing the office to order transfer  
1418 of escrowed funds under specified conditions; creating  
1419 s. 651.034, F.S.; requiring the office to take  
1420 specified actions if a regulatory action level event  
1421 occurs; providing requirements and procedures for  
1422 submission and approval of corrective actions plans;  
1423 authorizing the office to retain consultants for  
1424 specified purposes; requiring affected providers or  
1425 parties directed by the office to bear fees, costs,  
1426 and expenses for such consultants; authorizing the  
1427 office to take certain actions if an impairment  
1428 occurs; authorizing the office to exempt a provider  
1429 from such actions for up to 5 years; authorizing the  
1430 commission to adopt rules; amending s. 651.035, F.S.;  
1431 revising provider minimum liquid reserve requirements  
1432 under specified circumstances; providing construction  
1433 related to specified debt service reserves; creating  
1434 s. 651.043, F.S.; providing requirements for a  
1435 contract for management; providing procedures and  
1436 requirements for providers filing notices of change in  
1437 management with the office; authorizing the office to  
1438 disapprove new management and order the provider to  
1439 remove such management under specified conditions;  
1440 providing requirements and procedures for the office's  
1441 review of new management and issuance of required

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 783 (2018)

Amendment No.

1442 notices; providing timeframes for removal of  
1443 disapproved management under specified conditions;  
1444 authorizing the office to take administrative action  
1445 based on specified violations; amending s. 651.051,  
1446 F.S.; providing requirements for records storage;  
1447 amending s. 651.071, F.S.; revising construction as to  
1448 the priority of continuing care and continuing care  
1449 at-home contracts in the event of receivership or  
1450 liquidation proceedings against a provider; amending  
1451 s. 651.105, F.S.; requiring a provider to furnish  
1452 specified documents related to the provider's or  
1453 facility's financial status and to other specified  
1454 matters; providing that the office has standing in  
1455 court to obtain such documents; amending s. 651.106,  
1456 F.S.; authorizing the office to deny an application on  
1457 certain grounds; revising and adding grounds for  
1458 application denial or disciplinary action by the  
1459 office; amending s. 651.114, F.S.; requiring a  
1460 provider to make a plan for obtaining compliance or  
1461 solvency in delinquency proceedings to the office or  
1462 the advisory council; providing a timeframe for the  
1463 office or council upon receipt of such plan to take  
1464 specified action; providing construction; authorizing  
1465 the office to require the provider to prepare a  
1466 corrective action plan under certain conditions, and

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Amendment No.

1467 to specify such a plan if the provider fails to timely  
1468 submit such a plan; defining the term "impaired";  
1469 requiring a provider to provide, within a specified  
1470 timeframe, a certain notice to residents after the  
1471 initiation of a delinquency proceeding; revising  
1472 conditions under which the office's rights are  
1473 subordinate to the rights of a trustee or lender  
1474 pursuant to certain instruments; creating s. 651.1141,  
1475 F.S.; authorizing the office to issue an immediate  
1476 suspension order or cease and desist order under  
1477 specified conditions; authorizing the office to  
1478 enforce such orders in a specified circuit court;  
1479 amending s. 651.121, F.S.; revising membership  
1480 requirements for the Continuing Care Advisory Council;  
1481 amending s. 651.125, F.S.; providing a criminal  
1482 penalty for certain actions performed without a valid  
1483 provisional certificate of authority; making a  
1484 technical change; providing an effective date.