

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Banking and Insurance

CS/CS/HB 1573 — Continuing Care Providers

by Commerce Committee; Insurance and Banking Subcommittee; and Rep. Persons-Mulicka and others (CS/SB 622 by Banking and Insurance Committee and Senator Yarborough)

The bill revises provisions of ch. 651, F.S., of the Florida Insurance Code governing continuing care retirement communities (CCRC). The CCRCs provide lifelong housing, household assistance, and nursing care in exchange for a significant entrance fee and monthly fees. A CCRC can include an independent living apartment or house, as well as an assisted living facility or a nursing home. The Office of Insurance Regulation (OIR) regulates CCRC providers as specialty insurers, while the Agency for Health Care Administration regulates the provision of health care.

Regulatory Oversight of CCRCs

Relating to the regulatory oversight of CCRCs, the bill:

- Allows CCRCs easier access to escrowed resident fees as part of an expansion, by allowing the provider to access the escrowed funds once 75 percent of the proposed units have been reserved rather than once payment in full has been received for 50 percent of the units.
- Reduces the time for the OIR to approve or deny an expansion application from 45 days to 30 days from the date the application is deemed complete.
- Specifies that when a provider is using an escrow account held pursuant to a trust indenture or mortgage lien to meet its minimum liquid reserve requirement, the trust indenture, loan agreement, or escrow agreement must require the provider, trustee, lender, escrow agent, or another person designated to act in their place to notify the OIR in writing at least 10 days before the withdrawal of any portion of the debt service reserve funds required to meet the provider's minimum liquid reserve requirement.
- Removes the requirement for a provider to obtain prior approval from the OIR to withdraw funds from a debt service reserve required to be escrowed pursuant to a trust indenture of mortgage lien if the funds will be used to pay principal and interest payments.
- Expands the types of financial institutions that can provide a letter of credit to a provider to satisfy its minimum liquid reserve requirements by adding state-chartered financial institutions as well as federally-chartered financial institutions.
- Allows a provider to assess a cancellation penalty against a person who signs a residency contract and rescinds it within seven days if the person had previously signed a reservation agreement and did not cancel it within 30 days.
- Requires the OIR to commence examinations of CCRCs within 12 months after the end of the most recent fiscal year covered by the examination. Further, the scope of the examination may include events subsequent to the end of the most recent fiscal year and the events of any prior period, which affects the present financial condition of the provider.

Transparency for Residents

Regarding transparency for residents, the bill:

- Clarifies that residents may participate in residents' council matters, including elections;
- Requires providers that own or operate more than one facility in Florida to have a designated resident representative at each facility;
- Requires the provider notify the designated resident representative at least 14 days in advance of any meeting of the full governing body at which the annual budget and proposed changes in resident fees or services are on the agenda or will be discussed so that the resident can attend and participate in that portion of the meeting;
- Requires each facility to provide written notice to the president or chair of the residents' council within 10 business days after a change in management; and
- Requires each facility to provide a copy of the OIR final examination report and a corrective action plan, if applicable, to the president or chair of the residents' council within 60 days after issuance of the report.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 39-0; House 113-1