

By Representatives Rubio and Lacasa

1 A bill to be entitled
2 An act relating to nursing homes; amending s.
3 400.021, F.S.; defining "controlling person";
4 amending s. 400.071, F.S.; providing additional
5 license application requirements relating to
6 the financial ownership interests, background,
7 and qualifications of the applicant and
8 specified others, including a controlling
9 person; amending s. 397.405, F.S.; correcting a
10 cross reference; providing an effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Subsections (5) through (17) of section
15 400.021, Florida Statutes, are renumbered as subsections (6)
16 through (18), respectively, and a new subsection (5) is added
17 to said section to read:

18 400.021 Definitions.--When used in this part, unless
19 the context otherwise requires, the term:

20 (5) "Controlling person" means:

21 (a) A person or entity that has the ability, acting
22 alone or in concert with others, to directly or indirectly
23 influence, direct, or cause the direction of the management,
24 expenditure of money, or policies of an institution or other
25 person.

26 (b) For purposes of this part, "controlling person"
27 includes:

28 1. A management company, landlord, or other entity
29 that operates or contracts with others for the operation of an
30 institution.

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1 2. Any person who is a controlling person of a
2 management company or other entity that operates an
3 institution or that contracts with another person for the
4 operation of an institution.

5 3. Any other individual who, because of a personal,
6 familial, or other relationship with the owner, manager,
7 landlord, tenant, or provider of an institution, is in a
8 position of actual control or authority with respect to the
9 institution, regardless of whether the individual is formally
10 named as an owner, manager, director, officer, provider,
11 consultant, contractor, or employee of the facility.

12 (c) A controlling person described by subparagraph
13 (b)3. does not include a person, such as an employee, lender,
14 secured creditor, or landlord, who does not exercise any
15 influence or control over the operation of an institution and
16 does not operate or contract with others for the operation of
17 an institution.

18 Section 2. Paragraph (d) of subsection (2) of section
19 400.071, Florida Statutes, is amended, paragraph (h) is added
20 to said subsection, subsections (3) through (10) are
21 renumbered as subsections (4) through (11), respectively, and
22 a new subsection (3) is added to said section, to read:

23 400.071 Application for license.--

24 (2) The application shall be under oath and shall
25 contain the following:

26 (d) The name of the person or persons under whose
27 management or supervision the facility will be conducted,
28 including any controlling person, and the name of its licensed
29 administrator.

30 (h) A signed affidavit disclosing any financial or
31 ownership interest that the applicant, or any person listed in

1 paragraph (d), has held within the last 5 years in any entity
2 licensed by this state or any other state to provide health or
3 residential care, which entity closed or ceased to operate as
4 a result of financial problems; has had a receiver appointed
5 or a license denied, suspended, or revoked; was subject to a
6 moratorium on admissions; or has had an injunctive proceeding
7 initiated against it.

8 (3)(a) The applicant or licenseholder must furnish
9 evidence to affirmatively establish the background and
10 qualifications of the following as relevant:

11 1. The applicant or licenseholder.

12 2. A partner, officer, director, or managing employee
13 of the applicant or licenseholder.

14 3. A controlling person with respect to the
15 institution for which a license or license renewal is
16 requested.

17 (b) The agency shall also require the applicant or
18 licenseholder to file information relating to the history of
19 the financial condition of the applicant or licenseholder and
20 any other person described in paragraph (2)(d) with respect to
21 an institution operated in another state or jurisdiction at
22 any time during the 5-year period preceding the date on which
23 the application is made.

24 Section 3. Subsection (2) of section 397.405, Florida
25 Statutes, is amended to read:

26 397.405 Exemptions from licensure.--The following are
27 exempt from the licensing provisions of this chapter:

28 (2) A nursing home facility as defined in s.
29 400.021~~(11)~~.

30 Section 4. This act shall take effect July 1, 2000.

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HOUSE SUMMARY

Defines "controlling person" with respect to the management or other control of a nursing home facility. Requires additional information to be provided in applying for a license to operate such a facility, relating to the financial or ownership interests, background, and qualifications of the applicant and specified others, including a controlling person.