

Amendment No. (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Green offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause

and insert:

Section 1. Subsection (1) of section 651.015, Florida Statutes, is amended to read:

651.015 Administration; forms; fees; rules; fines.--The administration of this chapter is vested in the department, which shall:

(1) Prepare and furnish all forms necessary under the provisions of this chapter in relation to applications for provisional certificates of authority, certificates of authority or renewals thereof, statements, examinations, and other required reports. The department is authorized to accept any application statement, report, or information submitted electronically or by facsimile to comply with requirements in this chapter or rules adopted under this section. The department may adopt rules to implement the provisions of this subsection.

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1 Section 2. Paragraph (d) of subsection (1) of section
2 651.033, Florida Statutes, is amended to read:

3 651.033 Escrow accounts.--

4 (1) When funds are required to be deposited in an
5 escrow account pursuant to s. 651.022, s. 651.023, s. 651.035,
6 or s. 651.055:

7 (d) All funds deposited in an escrow account, if
8 invested, shall be invested as set forth in part II of chapter
9 625; however, such investment shall not diminish the funds
10 held in escrow below the amount required by this chapter. All
11 funds deposited in an escrow account shall not be subject to
12 any charges by the escrow agent except escrow agent fees
13 associated with administering the accounts, or subject to any
14 liens, judgments, garnishments, creditor's claims, or other
15 encumbrances against the provider or facility except as
16 provided in s. 651.035(2)~~(1)~~.

17 Section 3. Subsections (1) and (2) of section 651.035,
18 Florida Statutes, are amended to read:

19 651.035 Minimum liquid reserve requirements.--

20 (1) A provider shall maintain in escrow a minimum
21 liquid reserve consisting of the applicable reserves specified
22 in subsection (2).

23 ~~(2)(1)~~(a) A provider shall maintain in escrow as a
24 debt service reserve ~~and as a minimum liquid reserve~~ an amount
25 equal to the aggregate amount of all principal and interest
26 payments due during the fiscal year on any mortgage loan or
27 other long-term financing of the facility, including taxes and
28 insurance as recorded in the audited financial statements
29 required under s. 651.026. The amount shall include any
30 leasehold payments and all costs related to same. If
31 principal payments are not due during the fiscal year, the

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1 provider shall maintain in escrow as a minimum liquid reserve
2 an amount equal to interest payments due during the next 12
3 months on any mortgage loan or other long-term financing of
4 the facility, including taxes and insurance. For the purpose
5 of this paragraph, the amount of property insurance premiums
6 used in calculating the debt service reserve shall not exceed
7 the amount paid in calendar year 1999. For providers initially
8 licensed during or after calendar year 1999, the amount of
9 property insurance premiums used in calculating the debt
10 service reserve shall not exceed the amount paid during the
11 first 12 months of facility operation. However, beginning
12 January 1, 2006, and each year thereafter, until the amount
13 maintained in escrow attributable to property insurance equals
14 100 percent of the premium, the provider shall increase the
15 amount maintained in escrow for property insurance by 10
16 percent of the premium paid that year.

17 (b) A provider which has outstanding indebtedness
18 which requires what is normally referred to as a "debt service
19 reserve" to be held in escrow pursuant to a trust indenture or
20 mortgage lien on the facility and for which the debt service
21 reserve may only be used to pay principal and interest
22 payments on the debt which the debtor is obligated to pay, and
23 which may include taxes and insurance, may include such debt
24 service reserve in its computation of its minimum liquid
25 reserve to satisfy this subsection, provided that the provider
26 furnishes to the Department of Insurance a copy of the
27 agreement under which such debt service is held, together with
28 a statement of the amount being held in escrow for the debt
29 service reserve, certified by the lender or trustee and the
30 provider to be correct. The trustee shall provide the
31 department with any information concerning the debt service

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1 reserve account upon request of the provider or the
2 department.

3 ~~(c)(2)(a)~~ Each provider shall maintain in escrow an
4 operating reserve in an amount equal to 30 percent of the
5 total operating expenses projected in the feasibility study
6 required by s. 651.023 for the first 12 months of operation.
7 Thereafter, each provider shall maintain in escrow an
8 operating reserve in an amount equal to 15 percent of the
9 total operating expenses in the annual report filed pursuant
10 to s. 651.026. Where a provider has been in operation for more
11 than 12 months, the total annual operating expenses shall be
12 determined by averaging the total annual operating expenses
13 reported to the department by the number of annual reports
14 filed with the department within the immediate preceding
15 3-year period subject to adjustment in the event there is a
16 change in the number of facilities owned. For purposes of this
17 subsection, total annual operating expenses shall include all
18 expenses of the facility except: depreciation and
19 amortization; interest, insurance and taxes included in
20 subsection (1); extraordinary expenses which are adequately
21 explained and documented in accordance with generally accepted
22 accounting principles; liability insurance premiums in excess
23 of those paid in calendar year 1999;and changes in the
24 obligation to provide future services to current residents.
25 For providers initially licensed during or after calendar year
26 1999, liability insurance shall be included in the total
27 operating expenses in an amount not to exceed the premium paid
28 during the first 12 months of facility operation.Beginning
29 January 1, 1993, the operating reserves required under this
30 subsection shall be in an unencumbered account held in escrow
31 for the benefit of the residents. Such funds may not be

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1 encumbered or subject to any liens or charges by the escrow
2 agent or judgments, garnishments, or creditors' claims against
3 the provider or facility. However, if a facility had a lien,
4 mortgage, trust indenture, or similar debt instrument in place
5 prior to January 1, 1993, which encumbered all or any part of
6 the reserves required by this subsection and such funds were
7 used to meet the requirements of this subsection, then such
8 arrangement may be continued, unless a refinancing or
9 acquisition has occurred, and the provider shall be in
10 compliance with this subsection.

11 (d)~~(b)~~ Each provider shall maintain in escrow a
12 renewal and replacement reserve in an amount equal to 15
13 percent of the total accumulated depreciation based on the
14 audited financial statement required to be filed pursuant to
15 s. 651.026, not to exceed 15 percent of the facility's average
16 operating expenses for the past 3 fiscal years based on the
17 audited financial statements for each of such years. For a
18 provider who is an operator of a facility but is not the owner
19 and depreciation is not included as part of the provider's
20 financial statement, the renewal and replacement reserve
21 required by this paragraph shall equal 15 percent of the total
22 operating expenses of the provider, as described in this
23 section. Each provider licensed prior to October 1, 1983,
24 shall be required to fully fund the renewal and replacement
25 reserve by October 1, 2003, by multiplying the difference
26 between the former escrow requirement and the present escrow
27 requirement by the number of years the facility has been in
28 operation after October 1, 1983.

29 Section 4. Subsection (8) of section 651.118, Florida
30 Statutes, is amended, and subsection (13) is added to said
31 section, to read:

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1 651.118 Agency for Health Care Administration;
2 certificates of need; sheltered beds; community beds.--

3 (8) A provider may petition the Agency for Health Care
4 Administration to use a designated number of sheltered nursing
5 home beds to provide extended congregate care as defined in s.
6 400.402 if the beds are in a distinct area of the nursing home
7 which can be adapted to meet the requirements for extended
8 congregate care. The provider may subsequently use such beds
9 as sheltered beds after notifying the agency of the intended
10 change. Any sheltered beds used to provide extended congregate
11 care pursuant to this subsection may not qualify for funding
12 under the Medicaid waiver. Any sheltered beds used to provide
13 extended congregate care pursuant to this subsection may share
14 common areas, services, and staff with beds designated for
15 nursing home care, provided that all of the beds are under
16 common ownership. For the purposes of this subsection, fire
17 and life safety codes applicable to nursing home facilities
18 shall apply.

19 (13) Residents, as defined in this chapter, are not
20 considered new admissions for the purpose of s.
21 400.141(15)(d).

22 Section 5. This act shall take effect July 1, 2002.

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25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:

27 On page ,
28 remove: the entire title

29
30 and insert:

31 A bill to be entitled

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1 An act relating to continuing care retirement
2 communities; amending s. 651.015, F.S.;
3 authorizing the Department of Insurance to
4 accept certain documents and information
5 relating to continuing care contracts
6 electronically or by facsimile; authorizing the
7 department to adopt rules; amending s. 651.033,
8 F.S.; correcting a cross reference; amending s.
9 651.035, F.S.; revising minimum liquid reserve
10 requirements for continuing care providers;
11 amending s. 651.118, F.S.; providing a funding
12 limitation on sheltered beds used to provide
13 extended congregate care in a continuing care
14 facility; authorizing certain sharing of
15 facilities and services between such sheltered
16 beds and nursing home beds in such facilities;
17 exempting continuing care facility residents
18 from certain calculations relating to
19 moratoriums on new nursing home admissions;
20 providing an effective date.

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