

By Senator Saunders

25-727-02

See HB 781

1 A bill to be entitled
2 An act relating to continuing care retirement
3 communities; amending s. 651.015, F.S.;
4 authorizing the Department of Insurance to
5 accept certain documents and information
6 relating to continuing care contracts
7 electronically or by facsimile; authorizing the
8 department to adopt rules; amending s. 651.035,
9 F.S.; revising minimum liquid reserve
10 requirements for continuing care providers;
11 amending s. 651.118, F.S.; authorizing certain
12 sharing of facilities and services between
13 sheltered beds used for extended congregate
14 care and nursing home beds in a continuing care
15 facility; providing an effective date.

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

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

21 651.015 Administration; forms; fees; rules;
22 fines.--The administration of this chapter is vested in the
23 department, which shall:

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

1 department may adopt rules to implement the provisions of this
2 subsection.

3 Section 2. Paragraph (a) of subsection (1) and
4 paragraph (a) of subsection (2) of section 651.035, Florida
5 Statutes, are amended to read:

6 651.035 Minimum liquid reserve requirements.--

7 (1)(a) A provider shall maintain in escrow and as a
8 minimum liquid reserve an amount equal to the aggregate amount
9 of all principal and interest payments due during the fiscal
10 year on any mortgage loan or other long-term financing of the
11 facility, including taxes and insurance as recorded in the
12 audited financial statements required under s. 651.026. The
13 amount shall include any leasehold payments and all costs
14 related to same. If principal payments are not due during the
15 fiscal year, the provider shall maintain in escrow as a
16 minimum liquid reserve an amount equal to interest payments
17 due during the next 12 months on any mortgage loan or other
18 long-term financing of the facility, including taxes and
19 insurance. For the purpose of this paragraph, the amount held
20 in escrow and as a minimum liquid reserve for property
21 insurance shall not include premiums in excess of those paid
22 in calendar year 1999. For providers initially licensed during
23 or after calendar year 1999, the minimum liquid reserve for
24 property insurance shall not exceed the premium amount paid
25 during the first 12 months of facility operation. However,
26 beginning January 1, 2006, and each year thereafter until the
27 amount maintained in escrow attributable to property insurance
28 equals 100 percent of the premium, the provider shall increase
29 the amount maintained in escrow for property insurance by 10
30 percent of the premium paid that year.

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

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

9 Section 3. Subsection (8) of section 651.118, Florida
10 Statutes, is amended to read:

11 651.118 Agency for Health Care Administration;
12 certificates of need; sheltered beds; community beds.--

13 (8) A provider may petition the Agency for Health Care
14 Administration to use a designated number of sheltered nursing
15 home beds to provide extended congregate care as defined in s.
16 400.402 if the beds are in a distinct area of the nursing home
17 which can be adapted to meet the requirements for extended
18 congregate care. The provider may subsequently use such beds
19 as sheltered beds after notifying the agency of the intended
20 change. Any sheltered beds used to provide extended congregate
21 care pursuant to this subsection may share common areas,
22 services, and staff with beds designated for nursing home
23 care, provided that all of the beds are under common
24 ownership. For the purposes of this subsection, fire and life
25 safety codes applicable to nursing home facilities shall
26 apply.

27 Section 4. This act shall take effect July 1, 2002.
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LEGISLATIVE SUMMARY

Authorizes the Department of Insurance, in administering provisions relating to continuing care contracts, to accept certain documents and information electronically or by facsimile. Revises criteria for determining the amounts a continuing care provider must maintain in escrow as minimum liquid reserves for property insurance during the first year of a facility's long-term financing and for operating expenses. Specifies conditions under which a provider's sheltered beds providing extended congregate care may share common areas, services, and staff with the provider's nursing home beds.