

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on Insurance offered the following:

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 (a) of subsection (1) and
2 subsection (2) of section 651.035, Florida Statutes, are
3 amended to read:

4 651.035 Minimum liquid reserve requirements.--

5 (1) A provider shall maintain in escrow a minimum
6 liquid reserve consisting of the applicable reserves specified
7 in subsection (2).

8 ~~(2)(1)~~(a) A provider shall maintain in escrow as a
9 debt service reserve in ~~and as a minimum liquid reserve~~ an
10 amount equal to the aggregate amount of all principal and
11 interest payments due during the fiscal year on any mortgage
12 loan or other long-term financing of the facility, including
13 taxes and insurance as recorded in the audited financial
14 statements required under s. 651.026. The amount shall
15 include any leasehold payments and all costs related to same.
16 If principal payments are not due during the fiscal year, the
17 provider shall maintain in escrow as a minimum liquid reserve
18 an amount equal to interest payments due during the next 12
19 months on any mortgage loan or other long-term financing of
20 the facility, including taxes and insurance. For the purpose
21 of this paragraph, the amount of property insurance premiums
22 used in calculating the debt service reserve shall not exceed
23 the amount paid in calendar year 1999. For providers initially
24 licensed during or after calendar year 1999, the amount of
25 property insurance premiums used in calculating the debt
26 service reserve shall not exceed the amount paid during the
27 first 12 months of facility operation. However, beginning
28 January 1, 2006, and each year thereafter, until the amount
29 maintained in escrow attributable to property insurance equals
30 100 percent of the premium, the provider shall increase the
31 amount maintained in escrow for property insurance by 10

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1 percent of the premium paid that year.

2 (b) A provider which has outstanding indebtedness
3 which requires what is normally referred to as a "debt service
4 reserve offset" to be held in escrow pursuant to a trust
5 indenture or mortgage lien on the facility and for which the
6 debt service reserve may only be used to pay principal and
7 interest payments on the debt which the debtor is obligated to
8 pay, and which may include taxes and insurance, may include
9 such debt service reserve in its computation of its minimum
10 liquid reserve to satisfy this subsection, provided that the
11 provider furnishes to the Department of Insurance a copy of
12 the agreement under which such debt service is held, together
13 with a statement of the amount being held in escrow for the
14 debt service reserve, certified by the lender or trustee and
15 the provider to be correct. The trustee shall provide the
16 department with any information concerning the debt service
17 reserve offset account upon request of the provider or the
18 department.

19 ~~(c)(2)(a)~~ Each provider shall maintain in escrow an
20 operating reserve in an amount equal to 30 percent of the
21 total operating expenses projected in the feasibility study
22 required by s. 651.023 for the first 12 months of operation.
23 Thereafter, each provider shall maintain in escrow an
24 operating reserve in an amount equal to 15 percent of the
25 total operating expenses in the annual report filed pursuant
26 to s. 651.026. Where a provider has been in operation for
27 more than 12 months, the total annual operating expenses shall
28 be determined by averaging the total annual operating expenses
29 reported to the department by the number of annual reports
30 filed with the department within the immediate preceding
31 3-year period subject to adjustment in the event there is a

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1 change in the number of facilities owned. For purposes of
2 this subsection, total annual operating expenses shall include
3 all expenses of the facility except: depreciation and
4 amortization; interest, insurance and taxes included in
5 subsection (1); extraordinary expenses which are adequately
6 explained and documented in accordance with generally accepted
7 accounting principles; liability insurance premiums in excess
8 of those paid in calendar year 1999;and changes in the
9 obligation to provide future services to current residents.
10 For providers initially licensed during or after calendar year
11 1999, liability insurance shall be included in the total
12 operating expenses in an amount not to exceed the premium paid
13 during the first 12 months of facility operation.Beginning
14 January 1, 1993, the operating reserves required under this
15 subsection shall be in an unencumbered account held in escrow
16 for the benefit of the residents. Such funds may not be
17 encumbered or subject to any liens or charges by the escrow
18 agent or judgments, garnishments, or creditors' claims against
19 the provider or facility. However, if a facility had a lien,
20 mortgage, trust indenture, or similar debt instrument in place
21 prior to January 1, 1993, which encumbered all or any part of
22 the reserves required by this subsection and such funds were
23 used to meet the requirements of this subsection, then such
24 arrangement may be continued, unless a refinancing or
25 acquisition has occurred, and the provider shall be in
26 compliance with this subsection.

27 (d)(b) Each provider shall maintain in escrow a
28 renewal and replacement reserve in an amount equal to 15
29 percent of the total accumulated depreciation based on the
30 audited financial statement required to be filed pursuant to
31 s. 651.026, not to exceed 15 percent of the facility's average

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1 operating expenses for the past 3 fiscal years based on the
2 audited financial statements for each of such years. For a
3 provider who is an operator of a facility but is not the owner
4 and depreciation is not included as part of the provider's
5 financial statement, the renewal and replacement reserve
6 required by this paragraph shall equal 15 percent of the total
7 operating expenses of the provider, as described in this
8 section. Each provider licensed prior to October 1, 1983,
9 shall be required to fully fund the renewal and replacement
10 reserve by October 1, 2003, by multiplying the difference
11 between the former escrow requirement and the present escrow
12 requirement by the number of years the facility has been in
13 operation after October 1, 1983.

14 Section 3. Subsection (8) of section 651.118, Florida
15 Statutes, is amended, and subsection (13) is added to said
16 section, to read:

17 651.118 Agency for Health Care Administration;
18 certificates of need; sheltered beds; community beds.--

19 (8) A provider may petition the Agency for Health Care
20 Administration to use a designated number of sheltered nursing
21 home beds to provide extended congregate care as defined in s.
22 400.402 if the beds are in a distinct area of the nursing home
23 which can be adapted to meet the requirements for extended
24 congregate care. The provider may subsequently use such beds
25 as sheltered beds after notifying the agency of the intended
26 change. Any sheltered beds used to provide extended congregate
27 care pursuant to this subsection may only be provided to
28 residents. Any sheltered beds used to provide extended
29 congregate care pursuant to this subsection may share common
30 areas, services, and staff with beds designated for nursing
31 home care, provided that all of the beds are under common

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1 ownership. For the purposes of this subsection, fire and life
2 safety codes applicable to nursing home facilities shall
3 apply.

4 (13) Residents, as defined in this chapter, are not
5 considered new admissions for the purpose of s.
6 400.141(15)(d).

7 Section 4. This act shall take effect July 1, 2002.

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