

Bill No. SB 1256

Barcode 180658

CHAMBER ACTION

Senate

House

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The Committee on Banking and Insurance (Atwater) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Paragraphs (a) and (c) of subsection (2) of section 651.035, Florida Statutes, are amended to read:

651.035 Minimum liquid reserve requirements.--

(2)(a) A provider shall maintain in escrow as a debt service reserve an amount equal to the aggregate amount of all principal and interest payments due during the fiscal year on any mortgage loan or other long-term financing of the facility, including taxes ~~and insurance~~ as recorded in the audited financial statements required under s. 651.026. The amount shall include any leasehold payments and all costs related to such payments ~~same~~. If principal payments are not due during the fiscal year, the provider shall maintain in escrow as a minimum liquid reserve an amount equal to interest payments due during the next 12 months on any mortgage loan or

Bill No. SB 1256

Barcode 180658

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

15 (c) Each provider shall maintain in escrow an
16 operating reserve in an amount equal to 30 percent of the
17 total operating expenses projected in the feasibility study
18 required by s. 651.023 for the first 12 months of operation.
19 Thereafter, each provider shall maintain in escrow an
20 operating reserve in an amount equal to 15 percent of the
21 total operating expenses in the annual report filed pursuant
22 to s. 651.026. Where a provider has been in operation for more
23 than 12 months, the total annual operating expenses shall be
24 determined by averaging the total annual operating expenses
25 reported to the office by the number of annual reports filed
26 with the office within the immediate preceding 3-year period
27 subject to adjustment in the event there is a change in the
28 number of facilities owned. For purposes of this subsection,
29 total annual operating expenses shall include all expenses of
30 the facility except: depreciation and amortization; interest,
31 ~~insurance~~ and taxes included in subsection (1); extraordinary

Bill No. SB 1256

Barcode 180658

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

Section 2. This act shall take effect July 1, 2006.

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

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

A bill to be entitled

Bill No. SB 1256

Barcode 180658

1 An act relating to minimum liquid-reserve
2 requirements for continuing care providers;
3 amending s. 651.035, F.S.; deleting the
4 requirement that a provider include property
5 insurance premiums within the amount required
6 as debt service reserve; deleting provisions
7 providing for calculating the amount of such
8 premiums; deleting a provision exempting
9 property insurance premiums from the amount
10 that a provider is required to maintain as an
11 operating reserve; providing an effective date.

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