By the Committee on Banking and Insurance; and Senator Saunders

597-1739-06

1	A bill to be entitled
2	An act relating to minimum liquid-reserve
3	requirements for continuing care providers;
4	amending s. 651.035, F.S.; deleting the
5	requirement that a provider include property
6	insurance premiums within the amount required
7	as debt service reserve; deleting provisions
8	providing for calculating the amount of such
9	premiums; deleting a provision exempting
10	property insurance premiums from the amount
11	that a provider is required to maintain as an
12	operating reserve; providing an effective date.
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14	Be It Enacted by the Legislature of the State of Florida:
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16	Section 1. Paragraphs (a) and (c) of subsection (2) of
17	section 651.035, Florida Statutes, are amended to read:
18	651.035 Minimum liquid reserve requirements
19	(2)(a) A provider shall maintain in escrow as a debt
20	service reserve an amount equal to the aggregate amount of all
21	principal and interest payments due during the fiscal year on
22	any mortgage loan or other long-term financing of the
23	facility, including taxes and insurance as recorded in the
24	audited financial statements required under s. 651.026. The
25	amount shall include any leasehold payments and all costs
26	related to such payments same. If principal payments are not
27	due during the fiscal year, the provider shall maintain in
28	escrow as a minimum liquid reserve an amount equal to interest
29	payments due during the next 12 months on any mortgage loan or
30	other long-term financing of the facility, including taxes and
31	insurance. For the purpose of this paragraph, the amount of

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property insurance premiums used in calculating the debt service reserve shall not exceed the amount paid in calendar year 1999. For providers initially licensed during or after calendar year 1999, the amount of property insurance premiums used in calculating the debt service reserve shall not exceed the amount paid during the first 12 months of facility operation. However, beginning January 1, 2006, and each year thereafter, until the amount maintained in escrow attributable to property insurance equals 100 percent of the premium, the provider shall increase the amount maintained in escrow for property insurance by 10 percent of the premium paid that year.

(c) Each provider shall maintain in escrow an operating reserve in an amount equal to 30 percent of the total operating expenses projected in the feasibility study required by s. 651.023 for the first 12 months of operation. Thereafter, each provider shall maintain in escrow an operating reserve in an amount equal to 15 percent of the total operating expenses in the annual report filed pursuant to s. 651.026. Where a provider has been in operation for more than 12 months, the total annual operating expenses shall be determined by averaging the total annual operating expenses reported to the office by the number of annual reports filed with the office within the immediate preceding 3-year period subject to adjustment in the event there is a change in the number of facilities owned. For purposes of this subsection, total annual operating expenses shall include all expenses of the facility except: depreciation and amortization; interestinsurance and taxes included in subsection (1); extraordinary expenses which are adequately explained and documented in accordance with generally accepted accounting principles;

1	liability insurance premiums in excess of those paid in
2	calendar year 1999; and changes in the obligation to provide
3	future services to current residents. For providers initially
4	licensed during or after calendar year 1999, liability
5	insurance shall be included in the total operating expenses in
6	an amount not to exceed the premium paid during the first 12
7	months of facility operation. Beginning January 1, 1993, the
8	operating reserves required under this subsection shall be in
9	an unencumbered account held in escrow for the benefit of the
10	residents. Such funds may not be encumbered or subject to any
11	liens or charges by the escrow agent or judgments,
12	garnishments, or creditors' claims against the provider or
13	facility. However, if a facility had a lien, mortgage, trust
14	indenture, or similar debt instrument in place prior to
15	January 1, 1993, which encumbered all or any part of the
16	reserves required by this subsection and such funds were used
17	to meet the requirements of this subsection, then such
18	arrangement may be continued, unless a refinancing or
19	acquisition has occurred, and the provider shall be in
20	compliance with this subsection.
21	Section 2. This act shall take effect July 1, 2006.
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23	STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
24	COMMITTEE SUBSTITUTE FOR Senate Bill 1256
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26	Restructures the treatment of property insurance premiums in
27	the calculation of minimum liquid reserve requirements by removing such premiums from the debt service reserve and
28	placing the premiums into the calculation of the operating reserve of a Continuing Care Retirement Community (CCRC).
29	Deletes the provision capping inclusion of property insurance
30	premiums used in calculation of a CCRC's debt service reserve requirement at the amount paid by a provider for property
31	insurance premiums in calendar year 1999.