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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~~

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

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