

CHAMBER ACTION

1 The Elder & Long-Term Care Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to continuing care provider minimum liquid  
7 reserve requirements; amending s. 651.035, F.S.; deleting  
8 property insurance premiums from certain debt service  
9 reserve requirements; deleting certain property insurance  
10 debt service reserve limitations; deleting certain  
11 additional minimum debt service reserve requirements for  
12 certain years; including property insurance premiums in  
13 calculating expenses; providing an effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17 Section 1. Paragraphs (a) and (c) of subsection (2) of  
18 section 651.035, Florida Statutes, are amended to read:

19 651.035 Minimum liquid reserve requirements.--

20 (2) (a) A provider shall maintain in escrow as a debt  
21 service reserve an amount equal to the aggregate amount of all  
22 principal and interest payments due during the fiscal year on  
23 any mortgage loan or other long-term financing of the facility,

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24 including taxes ~~and insurance~~ as recorded in the audited  
25 financial statements required under s. 651.026. The amount shall  
26 include any leasehold payments and all costs related to such  
27 payments ~~same~~. If principal payments are not due during the  
28 fiscal year, the provider shall maintain in escrow as a minimum  
29 liquid reserve an amount equal to interest payments due during  
30 the next 12 months on any mortgage loan or other long-term  
31 financing of the facility, including taxes ~~and insurance~~. ~~For~~  
32 ~~the purpose of this paragraph, the amount of property insurance~~  
33 ~~premiums used in calculating the debt service reserve shall not~~  
34 ~~exceed the amount paid in calendar year 1999. For providers~~  
35 ~~initially licensed during or after calendar year 1999, the~~  
36 ~~amount of property insurance premiums used in calculating the~~  
37 ~~debt service reserve shall not exceed the amount paid during the~~  
38 ~~first 12 months of facility operation. However, beginning~~  
39 ~~January 1, 2006, and each year thereafter, until the amount~~  
40 ~~maintained in escrow attributable to property insurance equals~~  
41 ~~100 percent of the premium, the provider shall increase the~~  
42 ~~amount maintained in escrow for property insurance by 10 percent~~  
43 ~~of the premium paid that year.~~

44 (c) Each provider shall maintain in escrow an operating  
45 reserve in an amount equal to 30 percent of the total operating  
46 expenses projected in the feasibility study required by s.  
47 651.023 for the first 12 months of operation. Thereafter, each  
48 provider shall maintain in escrow an operating reserve in an  
49 amount equal to 15 percent of the total operating expenses in  
50 the annual report filed pursuant to s. 651.026. Where a provider  
51 has been in operation for more than 12 months, the total annual

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52 operating expenses shall be determined by averaging the total  
53 annual operating expenses reported to the office by the number  
54 of annual reports filed with the office within the immediate  
55 preceding 3-year period subject to adjustment in the event there  
56 is a change in the number of facilities owned. For purposes of  
57 this subsection, total annual operating expenses shall include  
58 all expenses of the facility except: depreciation and  
59 amortization; interest, ~~insurance~~ and taxes included in  
60 subsection (1); extraordinary expenses which are adequately  
61 explained and documented in accordance with generally accepted  
62 accounting principles; liability insurance premiums in excess of  
63 those paid in calendar year 1999; and changes in the obligation  
64 to provide future services to current residents. For providers  
65 initially licensed during or after calendar year 1999, liability  
66 insurance shall be included in the total operating expenses in  
67 an amount not to exceed the premium paid during the first 12  
68 months of facility operation. Beginning January 1, 1993, the  
69 operating reserves required under this subsection shall be in an  
70 unencumbered account held in escrow for the benefit of the  
71 residents. Such funds may not be encumbered or subject to any  
72 liens or charges by the escrow agent or judgments, garnishments,  
73 or creditors' claims against the provider or facility. However,  
74 if a facility had a lien, mortgage, trust indenture, or similar  
75 debt instrument in place prior to January 1, 1993, which  
76 encumbered all or any part of the reserves required by this  
77 subsection and such funds were used to meet the requirements of  
78 this subsection, then such arrangement may be continued, unless

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79 | a refinancing or acquisition has occurred, and the provider  
80 | shall be in compliance with this subsection.

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