

By Senator Saunders

37-03749-08

20082698\_\_

1 A bill to be entitled

2 An act relating to continuing care contracts; amending s.  
3 651.026, F.S.; requiring continuing care providers to  
4 provide additional information in annual reports to the  
5 Office of Insurance Regulation; applying financial  
6 viability assessment measures to an operator under certain  
7 circumstances; amending s. 651.0261, F.S.; authorizing the  
8 office to require providers to file quarterly financial  
9 statements under certain circumstances; amending s.  
10 651.051, F.S.; permitting the removal of certain assets  
11 and records of a provider from the state if certain notice  
12 is provided to the residents' council; amending ss.  
13 651.081 and 651.083, F.S.; providing additional rights  
14 relating to financial accountability by the provider for  
15 residents of continuing care facilities; amending s.  
16 651.085, F.S.; revising provisions relating to quarterly  
17 meetings between residents and the governing body of the  
18 provider; amending s. 651.091, F.S.; requiring continuing  
19 care facilities to provide certain information to the  
20 public; revising the time period within which the facility  
21 is required to provide an annual report to the residents'  
22 organization; amending s. 651.105, F.S.; authorizing the  
23 office to require additional information from the provider  
24 during examinations and inspections; amending s. 651.106,  
25 F.S.; requiring the office to provide notice prior to  
26 denying, suspending, or revoking certificates of authority  
27 under certain circumstances; amending s. 651.1151, F.S.;  
28 authorizing the office to require providers to submit  
29 certain contracts for review; providing that actions

37-03749-08

20082698\_\_

30 omitted by the office in response to petition by a  
31 residents' organization or resident are subject to review  
32 under ch. 120, F.S., under certain circumstances;  
33 providing an effective date.  
34

35 Be It Enacted by the Legislature of the State of Florida:  
36

37 Section 1. Subsections (2) and (3) of section 651.026,  
38 Florida Statutes, are amended to read:

39 651.026 Annual reports.--

40 (2) The annual report shall be in such form as the  
41 commission prescribes and shall contain at least the following:

42 (a) Any change in status with respect to the information  
43 required to be filed under s. 651.022(2).

44 (b) Financial statements audited by an independent  
45 certified public accountant, which shall contain, for two or more  
46 periods if the facility has been in existence that long, the  
47 following:

48 1. An accountant's opinion and, in accordance with  
49 generally accepted accounting principles:

50 a. A balance sheet;

51 b. A statement of income and expenses;

52 c. A statement of equity or fund balances; ~~and~~

53 d. A statement of changes in cash flows; and

54 e. If the provider's financial statements are consolidated  
55 with those of another entity, a consolidating balance sheet and  
56 consolidating statements of income and expenses, equity or fund  
57 balances, and cash flows, which report in separate columns the

37-03749-08

20082698\_\_

58 separate data for each entity, the eliminations, and the  
59 consolidated data.

60 2. Notes to the financial statements considered customary  
61 or necessary to full disclosure or adequate understanding of the  
62 financial statements, financial condition, and operation.

63 3. A supplemental statement of income and expenses  
64 indicating by department cost center, pursuant to s. 651.085(4),  
65 the income and expenses of each department in sufficient detail  
66 to present to the residents a meaningful summary of operations  
67 for each reporting period and with sufficient consistency to  
68 permit period-to-period comparison by the residents.

69 (c) The following financial information:

70 1. A detailed listing of the assets maintained in the  
71 liquid reserve as required in s. 651.035 and in accordance with  
72 part II of chapter 625;

73 2. An itemized ~~A schedule of giving additional information~~  
74 ~~relating to~~ property, plant, and equipment having an original  
75 cost of at least \$25,000, so as to show in reasonable detail with  
76 respect to each separate facility original costs, accumulated  
77 depreciation, net book value, appraised value or insurable value  
78 and date thereof, insurance coverage, encumbrances, and net  
79 equity of appraised or insured value over encumbrances. Any  
80 property not used in continuing care shall be shown separately  
81 from property used in continuing care;

82 3. The level of participation in Medicare or Medicaid  
83 programs, or both;

84 4. A statement of all fees required of residents,  
85 including, but not limited to, a statement of the entrance fee  
86 charged, the monthly service charges, the proposed application of

37-03749-08

20082698\_\_

87 | the proceeds of the entrance fee by the provider, and the plan by  
88 | which the amount of the entrance fee is determined if the  
89 | entrance fee is not the same in all cases; and

90 |         5. Any change or increase in fees and any change or  
91 | decrease in ~~when the provider changes either the scope of, or the~~  
92 | ~~rates for, care or services,~~ regardless of whether the change in  
93 | fees involves ~~the~~ basic rates and services ~~rate~~ or only those  
94 | services available at additional costs to the resident.

95 |         6.a. If the provider has more than one certificated  
96 | facility, it shall submit a statement of operations for each  
97 | facility as supplemental information to the audited financial  
98 | statements required as part of the annual report.

99 |         b. If the provider has operations that are not Florida  
100 | certificated facilities, the provider shall also submit as  
101 | supplemental information to the audited financial statements,  
102 | balance sheets, statements of changes in equity, and statements  
103 | of cash flows for each Florida certificated facility.

104 |         (d) Such other reasonable data, financial statements, and  
105 | pertinent information as the commission or office may require  
106 | with respect to the provider or the facility, or its directors,  
107 | trustees, members, branches, subsidiaries, or affiliates, to  
108 | determine the financial status of the facility, ~~and~~ the  
109 | management capabilities of its managers and owners, and the  
110 | provider's substantial compliance with the continuing care  
111 | contract filed with the office pursuant to s. 651.091(3).

112 |         (e) Each facility shall file with the office annually,  
113 | together with the annual report required by this section, a  
114 | computation of its minimum liquid reserve calculated in

37-03749-08

20082698\_\_

115 accordance with s. 651.035 on a form prescribed by the  
116 commission.

117 (3) The commission shall adopt by rule meaningful measures  
118 of assessing the financial viability of a provider and, if a  
119 separate entity, an operator. The rule may include the following  
120 factors:

- 121 (a) Debt service coverage ratios.
- 122 (b) Current ratios.
- 123 (c) Adjusted current ratios.
- 124 (d) Cash flows.
- 125 (e) Occupancy rates.
- 126 (f) Other measures, ratios, or trends.
- 127 (g) Other factors as may be appropriate.

128 Section 2. Section 651.0261, Florida Statutes, is amended  
129 to read:

130 651.0261 Quarterly statements.--If the office finds,  
131 pursuant to rules of the commission, that such information is  
132 needed to properly monitor the financial condition of a provider  
133 or facility or is otherwise needed to protect the interests of  
134 the facility's residents or the public interest, the office shall  
135 ~~may~~ require the provider to file, within 45 days after the end of  
136 each fiscal quarter, a quarterly unaudited financial statement of  
137 the provider or of the facility in the form prescribed by the  
138 commission by rule. The commission may by rule require all or  
139 part of the statements or filings required under this section to  
140 be submitted by electronic means in a computer-readable form  
141 compatible with the electronic data format specified by the  
142 commission. The provider shall deliver to the president or chair  
143 of the residents' organization a complete copy of each such

37-03749-08

20082698\_\_

144 quarterly statement within 10 days after the statement is filed  
145 with the office.

146 Section 3. Section 651.051, Florida Statutes, is amended to  
147 read:

148 651.051 Maintenance of assets and records in state.--No  
149 records or assets may be removed from this state by a provider  
150 unless the office consents to such removal in writing before such  
151 removal. Such consent shall be based upon the provider's  
152 submitting satisfactory evidence that the removal will facilitate  
153 and make more economical the operations of the provider and will  
154 not diminish the service or protection thereafter to be given the  
155 provider's residents in this state. Prior to such removal, the  
156 provider shall give notice to the president or chair of the  
157 facility's residents' council. If such removal is part of a cash  
158 management system which has been approved by the office,  
159 disclosure of the system to the residents' council shall meet the  
160 notification requirements.

161 Section 4. Subsection (2) of section 651.081, Florida  
162 Statutes, is renumbered as subsection (3), and a new subsection  
163 (2) is added to that section to read:

164 651.081 Continuing care facilities residents'  
165 organizations.--

166 (2) Residents have the right, exercisable through a  
167 residents' organization, to full accountability by the provider  
168 and operator for the finances of the facility, including all uses  
169 of residents' monthly maintenance fees. If the facility has a  
170 residents' organization, the provider and operator shall provide  
171 the residents' organization with the following:

37-03749-08

20082698\_\_

172       (a) At least quarterly, an accounting of receipts,  
173 expenses, and other uses of funds, by department cost center, as  
174 required under s. 651.085(4).

175       (b) Any accounting or financial information and an  
176 explanation thereof requested by the residents' organization for  
177 a specified account or item.

178       (c) The accounts and records of the facility, for  
179 examination by the residents' organization or by such individuals  
180 or firms as the residents' organization may choose to make such  
181 examinations on its behalf.

182       Section 5. Paragraph (c) of subsection (1) of section  
183 651.083, Florida Statutes, is amended, and paragraphs (h) and (i)  
184 are added to subsection (1) of that section, to read:

185       651.083 Residents' rights.--

186       (1) No resident of any facility shall be deprived of any  
187 civil or legal rights, benefits, or privileges guaranteed by law,  
188 by the State Constitution, or by the United States Constitution  
189 solely by reason of status as a resident of a facility. Each  
190 resident of a facility has the right to:

191       (c) Unrestricted private communication, including receiving  
192 and sending unopened correspondence by electronic and all other  
193 means.

194       (h) Full accountability for the finances of the facility,  
195 recognizing that monthly maintenance fees are resident funds to  
196 be used only for the benefit of residents and accounted for as  
197 such in a consistent format that allows residents to make period-  
198 to-period comparisons.

37-03749-08

20082698\_\_

199        (i) Receive advance notice of all proposed changes in fees,  
200 services, procedures, and policies that may affect the finances  
201 or welfare of residents.

202        Section 6. Section 651.085, Florida Statutes, is amended to  
203 read:

204        651.085 Quarterly meetings between residents and the  
205 governing body of the provider; resident representation before  
206 the governing body of the provider.--

207        (1) The governing body of a provider, or the designated  
208 representative of the provider, shall hold quarterly meetings  
209 with the residents of the continuing care facility for the  
210 purpose of free discussion of subjects including, but not limited  
211 to, income, expenditures, and financial trends and problems as  
212 they apply to the facility, as well as disclosure and a  
213 discussion of all ~~en~~ proposed changes in policies, programs, and  
214 services. Upon request of the residents' organization, a member  
215 of the governing body of the provider, such as a board member, a  
216 general partner, or a principal owner shall attend such meetings.  
217 Residents shall be entitled to at least 7 days' advance notice of  
218 each quarterly meeting. During the advance notice period, the An  
219 agenda and any materials that will be distributed by the  
220 governing body or representative of the provider shall be posted  
221 in a conspicuous place at the facility and shall be available  
222 upon request to residents of the facility. The office shall  
223 request verification from a facility that quarterly meetings are  
224 held and open to all residents when it receives a complaint from  
225 the residents' council that a facility is not in compliance with  
226 the provisions of this subsection. In addition, a facility shall  
227 report to the office in the annual report required under s.



37-03749-08

20082698\_\_

228 651.026 the dates on which quarterly meetings were held during  
229 the reporting period.

230 (2) A residents' organization formed pursuant to s.  
231 651.081, members of which are elected by the residents, may  
232 designate a resident to represent them before the governing body  
233 of the provider or organize a meeting or ballot election of the  
234 residents of the facility to determine whether to elect a  
235 resident to represent them before the governing body of the  
236 provider. If a residents' organization as described in s. 651.081  
237 does not exist, any resident may organize a meeting or ballot  
238 election of the residents of the facility to determine whether to  
239 elect a resident to represent them before the governing body and,  
240 if applicable, elect the representative. The residents'  
241 organization, or the resident that organizes a meeting or ballot  
242 election to elect a representative, shall give all residents of  
243 the facility notice at least 10 business days before the meeting  
244 or election. Notice may be given through internal mailboxes,  
245 communitywide newsletters, bulletin boards, in-house television  
246 stations, and other similar means of communication. An election  
247 of the representative is valid if at least 40 percent of the  
248 total resident population participates in the election and a  
249 majority of the participants vote affirmatively for the  
250 representative. The initial designated representative elected  
251 under this section shall be elected to serve for a period of at  
252 least 12 months.

253 (3) If the provider holding the certificate of authority  
254 for a facility and the operator of the facility are different  
255 individuals or entities, the residents' organization is entitled,  
256 upon request, to designate a majority of the voting members of

37-03749-08

20082698\_\_

257 the governing body of the operator. The designated voting members  
258 ~~representative~~ shall be notified at least 14 days in advance of  
259 all meetings ~~any meeting~~ of the ~~full~~ governing body and at which  
260 ~~proposed changes in resident fees or services will be discussed.~~  
261 ~~The representative shall be~~ entitled ~~invited~~ to attend the entire  
262 meeting and participate in discussions of all matters considered  
263 during the meeting ~~that portion of the meeting designated for the~~  
264 ~~discussion of such changes.~~ Minutes of all meetings of the  
265 operator of the facility shall be available to the residents for  
266 inspection in the facility's office and copies shall be furnished  
267 to residents upon request and payment of a reasonable charge to  
268 cover copying costs.

269 (4) At a quarterly meeting prior to the implementation of  
270 any increase in the monthly maintenance fee, the designated  
271 representative of the provider must provide the reasons, by  
272 department cost centers, for any increase in the fee ~~that exceeds~~  
273 ~~the most recently published Consumer Price Index for all Urban~~  
274 ~~Consumers, all items, Class A Areas of the Southern Region.~~  
275 Nothing in this subsection shall be construed as placing a cap or  
276 limitation on the amount of any increase in the monthly  
277 maintenance fee, ~~establishing a presumption of the~~  
278 ~~appropriateness of the Consumer Price Index as the basis for any~~  
279 ~~increase in the monthly maintenance fee,~~ or limiting or  
280 restricting the right of a provider to establish or set monthly  
281 maintenance fee increases, provided the proposed increases and  
282 the reasons for the increases are fully and accurately disclosed  
283 to the residents in advance.

284 Section 7. Section 651.091, Florida Statutes, is amended to  
285 read:

37-03749-08

20082698\_\_

286           651.091 Availability, distribution, and posting of reports  
287 and records; requirement of full disclosure.--

288           (1) Each continuing care facility shall maintain as public  
289 information, available upon request, records of all cost and  
290 inspection reports pertaining to that facility that have been  
291 filed with or issued by any governmental agency. A copy of each  
292 such report shall be retained in such records for not less than 5  
293 years from the date the provider notifies the residents'  
294 organization in writing that the report has been ~~is~~ filed or  
295 issued. Each facility shall also maintain as public information,  
296 available upon request, all annual reports ~~statements~~ that have  
297 been filed with the office.

298           (2) Every continuing care facility shall:

299           (a) Display the certificate of authority in a conspicuous  
300 place inside the facility.

301           (b) Post in a prominent position in the facility so as to  
302 be accessible to all residents and to the general public a  
303 concise summary of the last examination report issued by the  
304 office, with references to the page numbers of the full report  
305 noting any deficiencies found by the office, and the actions  
306 taken by the provider to rectify such deficiencies, indicating in  
307 such summary where the full report may be inspected in the  
308 facility.

309           (c) Post in a prominent position in the facility so as to  
310 be accessible to all residents and to the general public a  
311 summary of the latest annual report ~~statement~~, indicating in the  
312 summary where the full annual report ~~statement~~ may be inspected  
313 in the facility. Listings, with summaries, ~~A listing~~ of any

37-03749-08

20082698\_\_

314 proposed changes in policies, programs, and services shall also  
315 be posted at least 30 days before the changes are effective.

316 (d) Distribute a copy of the full annual report statement  
317 to the president or chair of the residents' council within 10 ~~30~~  
318 days after the filing of the annual report with the office, and  
319 designate a staff person to provide explanation thereof.

320 (e) Notify the residents' council of any plans filed with  
321 the office to obtain new financing, additional financing, or  
322 refinancing for the facility and of any applications to the  
323 office for any expansion of the facility. If the new financing,  
324 additional financing, or refinancing will or may increase  
325 residents' financial obligations or otherwise be detrimental to  
326 their interests, the provider shall also deliver to the  
327 residents' council, within 10 days after submitting any  
328 information to the office pursuant to s. 651.019, a full and  
329 accurate summary of the information submitted.

330 (3) Before entering into a contract to furnish continuing  
331 care, the provider undertaking to furnish the care, or the agent  
332 of the provider, shall make full disclosure, and provide copies  
333 of all ~~the~~ disclosure documents to the prospective resident or  
334 his or her legal representative, including, but not limited to,  
335 the then-current versions of the following ~~information~~:

336 (a) The contract to furnish continuing care.

337 (b) The summary listed in paragraph (2)(b).

338 (c) All ownership interests, and lease agreements, and  
339 every other agreement between the provider and a person or entity  
340 related to the provider pursuant to s. 651.1151(1), including  
341 information specified in s. 651.022(2)(b)8.

37-03749-08

20082698\_\_

342 (d) In keeping with the intent of this subsection relating  
343 to disclosure, the provider shall make available for review,  
344 master plans approved by the provider's governing board and any  
345 plans for expansion or phased development, to the extent that the  
346 availability of such plans will not put at risk real estate,  
347 financing, acquisition, negotiations, or other implementation of  
348 operational plans and thus jeopardize the success of  
349 negotiations, operations, and development.

350 (e) Copies of the rules and regulations of the facility and  
351 an explanation of the responsibilities of the resident.

352 (f) The policy of the facility with respect to admission to  
353 and discharge from the various levels of health care offered by  
354 the facility.

355 (g) The amount and location of any reserve funds required  
356 by this chapter, and the name of the person or entity having a  
357 claim to such funds in the event of a bankruptcy, foreclosure, or  
358 rehabilitation proceeding.

359 (h) A copy of the resident's rights as described in s.  
360 651.083.

361  
362 A true and complete copy of the full initial, revised, or amended  
363 disclosure document to be used shall be filed with and reviewed  
364 by the office prior to its use. Within 45 days after receipt of  
365 the disclosure document, the office shall notify the provider in  
366 writing of its acceptance of the disclosure document or notify  
367 the provider in writing of its objections to the document. A  
368 resident or prospective resident or his or her legal  
369 representative shall be permitted to inspect the full reports  
370 referred to in paragraph (2) (b); the charter or other agreement

37-03749-08

20082698\_\_

371 | or instrument required to be filed with the office pursuant to s.  
372 | 651.022(2), together with all amendments thereto; and the bylaws  
373 | of the corporation or association, if any. Upon request, copies  
374 | of the reports and information shall be provided to the  
375 | individual requesting them if the individual agrees to pay a  
376 | reasonable charge to cover copying costs.

377 |       Section 8. Subsection (1) of section 651.105, Florida  
378 | Statutes, is amended, subsections (2) through (4) are renumbered  
379 | as subsections (3) through (5), respectively, and a new  
380 | subsection (2) is added to that section, to read:

381 |       651.105 Examination and inspections.--

382 |       (1) The office may at any time, and shall at least once  
383 | every 3 years, examine the business of any applicant for a  
384 | certificate of authority and any provider engaged in the  
385 | execution of care contracts or engaged in the performance of  
386 | obligations under such contracts, in the same manner as is  
387 | provided for examination of insurance companies pursuant to s.  
388 | 624.316. Such examinations shall be made by a representative or  
389 | examiner designated by the office, whose compensation will be  
390 | fixed by the office pursuant to s. 624.320. Routine examinations  
391 | may be made by having the necessary documents submitted to the  
392 | office; and, for this purpose, financial documents and records  
393 | conforming to generally ~~commonly~~ accepted accounting principles  
394 | and practices, as required under s. 651.026, will be deemed  
395 | adequate. The final written report of each such examination shall  
396 | be filed with the office and, when so filed, will constitute a  
397 | public record. Any provider being examined shall, upon request,  
398 | give reasonable and timely access to all of its records. The  
399 | representative or examiner designated by the office may at any

37-03749-08

20082698\_\_

400 time examine the records and affairs and inspect the physical  
401 property of any provider, whether in connection with a formal  
402 examination or not.

403 (2) The office shall issue and require examiners to follow  
404 a comprehensive checklist to use when evaluating continuing care  
405 retirement communities. The checklist shall include, but not be  
406 limited to, a statement verifying that the provider has made all  
407 required disclosures and that all required documents have been  
408 submitted to the office.

409 Section 9. Section 651.106, Florida Statutes, is amended to  
410 read:

411 651.106 Grounds for discretionary refusal, suspension, or  
412 revocation of certificate of authority.--The office, in its  
413 discretion, after giving notice, may deny, suspend, or revoke the  
414 provisional certificate of authority or the certificate of  
415 authority of any applicant or provider if it finds that any one  
416 or more of the following grounds applicable to the applicant or  
417 provider exist:

418 (1) Failure by the provider to continue to meet the  
419 requirements for the authority originally granted.

420 (2) Failure by the provider to meet one or more of the  
421 qualifications for the authority specified by this chapter.

422 (3) Material misstatement, misrepresentation, or fraud in  
423 obtaining the authority, or in attempting to obtain the same.

424 (4) Demonstrated lack of fitness or trustworthiness.

425 (5) Fraudulent or dishonest practices of management in the  
426 conduct of business, including misrepresentation of any reason  
427 for an increase in monthly maintenance fees.

428 (6) Misappropriation, conversion, or withholding of moneys.

37-03749-08

20082698\_\_

429 (7) Failure to comply with, or violation of, any proper  
430 order or rule of the office or commission or violation of any  
431 provision of this chapter.

432 (8) The insolvent condition of the provider or the  
433 provider's being in such condition or using such methods and  
434 practices in the conduct of its business as to render its further  
435 transactions in this state hazardous or injurious to the public.

436 (9) Refusal by the provider to be examined or to produce  
437 its accounts, records, and files for examination, or refusal by  
438 any of its officers to give information with respect to its  
439 affairs or to perform any other legal obligation under this  
440 chapter when required by the office.

441 (10) Failure by the provider to comply with the  
442 requirements of s. 651.026 or s. 651.033.

443 (11) Failure by the provider to maintain escrow accounts or  
444 funds as required by this chapter.

445 (12) Failure by the provider to meet the requirements of  
446 this chapter for disclosure of information to residents  
447 concerning the facility, its ownership, any agreement, including  
448 a lease, between the provider or operator and a person or entity  
449 related to the provider pursuant to s. 651.1151(1), its  
450 management, its development, or its financial condition or  
451 failure to honor its continuing care contracts.

452 (13) Any cause for which issuance of the license could have  
453 been refused had it then existed and been known to the office.

454 (14) Having been found guilty of, or having pleaded guilty  
455 or nolo contendere to, a felony in this state or any other state,  
456 without regard to whether a judgment or conviction has been  
457 entered by the court having jurisdiction of such cases.



37-03749-08

20082698\_\_

458 (15) In the conduct of business under the license, engaging  
459 in unfair methods of competition or in unfair or deceptive acts  
460 or practices prohibited under part IX of chapter 626.

461 (16) A pattern of bankrupt enterprises.

462

463 Revocation of a certificate of authority under this section does  
464 not relieve a provider from the provider's obligation to  
465 residents under the terms and conditions of any continuing care  
466 contract between the provider and residents or the provisions of  
467 this chapter. The provider shall continue to file its annual  
468 statement and pay license fees to the office as required under  
469 this chapter as if the certificate of authority had continued in  
470 full force, but the provider shall not issue any new continuing  
471 care contracts. The office may seek an action in the circuit  
472 court of Leon County to enforce the office's order and the  
473 provisions of this section.

474 Section 10. Section 651.1151, Florida Statutes, is amended  
475 to read:

476 651.1151 Administrative, vendor, and management  
477 contracts.--

478 (1) The office shall ~~may~~ require a provider to submit for  
479 review any contract ~~for administrative, vendor, or management~~  
480 ~~services~~ if the office has information or believes that any party  
481 to a contract is ~~and belief that a provider has entered into a~~  
482 ~~contract with~~ an affiliate of the provider, an entity controlled  
483 by the provider, ~~or~~ an entity controlled by an affiliate of the  
484 provider, or is otherwise related to the provider, if that  
485 relationship or the contract itself, including any renewals or  
486 extensions thereof, has not been disclosed to the office and to

37-03749-08

20082698\_\_

487 the residents of the facility. The office shall determine whether  
488 or not the contract creates or fosters a conflict of interest or  
489 imposes direct or indirect payment and other obligations  
490 detrimental to the facility or its residents ~~which has not been~~  
491 ~~disclosed to the office or which contract requires the provider~~  
492 ~~to pay a fee that is unreasonably high in relation to the service~~  
493 ~~provided.~~

494 (2) If the contract has not been disclosed to the office,  
495 or the residents' organization confirms to the office that the  
496 contract has not been disclosed to the residents ~~After review of~~  
497 ~~the contract, the office shall~~ ~~may~~ order the provider to cancel  
498 the contract in accordance with the terms of the contract and  
499 applicable law ~~if it determines that the fees to be paid are so~~  
500 ~~unreasonably high as compared with similar contracts entered into~~  
501 ~~by other providers in similar circumstances that the contract is~~  
502 ~~detrimental to the facility or its residents.~~

503 (3) If, after reviewing a contract, the office determines  
504 that the contract does not create or foster a conflict of  
505 interest or impose obligations detrimental to the facility or its  
506 residents, the office shall issue an order approving the  
507 contract, stating the reasons for its action, and shall promptly  
508 notify the facility's residents' organization of its order.  
509 However, if the office determines that the contract creates or  
510 fosters a conflict of interest or imposes obligations detrimental  
511 to the facility or its residents, the office shall order the  
512 provider to cancel the contract and promptly notify the  
513 facility's residents' organization of its order.

514 (4) ~~(3)~~ Any contract with an affiliate, an entity controlled  
515 by the provider, or an entity controlled by an affiliate of the

37-03749-08

20082698\_\_

516 provider for administrative, vendor, or management services  
517 entered into or renewed after October 1, 1991, shall contain a  
518 provision that the contract shall be canceled upon issuance of an  
519 order by the office pursuant to this section. A copy of the  
520 current management services contract, pursuant to this section,  
521 if any, must be on file in the marketing office or other  
522 accessible area to residents and the appropriate resident  
523 organizations.

524 (5)~~(4)~~ Any action of the office under this section,  
525 including failure to act when petitioned by the residents'  
526 organization or a resident of the facility, is subject to review  
527 pursuant to the procedures provided in chapter 120.

528 Section 11. This act shall take effect July 1, 2008.