

1 A bill to be entitled
2 An act relating to continuing care facilities; amending s.
3 651.011, F.S.; revising definitions relating to ch. 651,
4 F.S.; amending s. 651.012, F.S.; conforming cross-
5 references; amending s. 651.015, F.S.; increasing the fees
6 for a certificate of authority and a provisional
7 certificate of authority to operate a continuing care
8 facility; amending s. 651.022, F.S.; increasing the
9 threshold amount for businesses that must be identified in
10 an application for a provisional certificate of authority;
11 adding wait-list contracts to the forms that must be
12 submitted with the application; amending s. 651.0235,
13 F.S.; conforming provisions to changes made by the act;
14 amending s. 651.026, F.S.; revising the financial
15 information that must be submitted annually for each
16 certified facility; requiring the annual report to reflect
17 any changes in accounting principle terminology; amending
18 s. 651.033, F.S.; authorizing a provider to assess a
19 separate, nonrefundable fee for processing an application
20 for continuing care; amending s. 651.035, F.S.; clarifying
21 that the amounts maintained in escrow relating to taxes
22 refer to property taxes; deleting an obsolete provision;
23 amending s. 651.055, F.S.; providing that a resident is
24 deemed to be occupying a unit upon the payment of certain
25 fees; providing a timeframe for rescinding a contract;
26 increasing the application processing fee; conforming
27 provisions to changes made by the act; amending s.
28 651.081, F.S.; renaming residents' organizations as

29 residents' councils; requiring the provider to provide a
30 newly elected chair of a council with a copy of ch. 651,
31 F.S., and related rules; amending s. 651.083, F.S.;
32 clarifying that a resident has a right to receive
33 residents' council memos and announcements; prohibiting a
34 provider from restricting a resident's access to the
35 council; amending s. 651.085, F.S.; requiring the provider
36 to provide the reasons for increasing the maintenance fee
37 to the chair of the residents' council; allowing a
38 designated representative to represent the provider at
39 meetings; amending s. 651.091, F.S.; specifying that a
40 management company or operator is an agent of the provider
41 for the purposes of disclosing certain information to
42 residents; expanding the list of items that must be
43 provided to the chair of the residents' council; requiring
44 the provider to provide a copy of s. 651.071, F.S.,
45 relating to receivership or liquidation, to all
46 prospective residents; amending s. 651.105, F.S.;
47 increasing the amount of time that the Office of Insurance
48 Regulation has to inspect a facility; requiring the office
49 to determine if all disclosures have been made to the
50 chair of the residents' council; amending ss. 651.114 and
51 651.1151, F.S.; conforming provisions to changes made by
52 the act; amending s. 651.121, F.S.; conforming provisions
53 to changes made by the act; requiring the chair of the
54 Continuing Care Advisory Council to report the council's
55 findings and recommendations to the Governor and the
56 Commissioner of Insurance Regulation; requiring the office

57 | to provide certain information to the council; repealing
 58 | s. 651.133, F.S., relating to provisional certificates
 59 | under prior law; amending s. 628.4615, F.S.; conforming
 60 | cross-references; providing an effective date.

61 |

62 | Be It Enacted by the Legislature of the State of Florida:

63 |

64 | Section 1. Section 651.011, Florida Statutes, is reordered
 65 | and amended to read:

66 | 651.011 Definitions.—For the purposes of this chapter, the
 67 | term:

68 | (3)~~(1)~~ "Continuing Care Advisory Council" or "advisory
 69 | council" means the ~~Continuing Care Advisory~~ council established
 70 | in ~~by~~ s. 651.121.

71 | (2) "Continuing care" or "care" means, furnishing pursuant
 72 | to a contract, furnishing shelter and ~~either~~ nursing care or
 73 | personal services as defined in s. 429.02, whether such nursing
 74 | care or personal services are provided in the facility or in
 75 | another setting designated by the contract for continuing care,
 76 | to an individual not related by consanguinity or affinity to the
 77 | provider furnishing such care, upon payment of an entrance fee.
 78 | Other personal services provided must ~~shall~~ be designated in the
 79 | continuing care contract. Contracts to provide continuing care
 80 | include agreements to provide care for any duration, including
 81 | contracts that are terminable by either party.

82 | (4)~~(3)~~ "Entrance fee" means an initial or deferred payment
 83 | of a sum of money or property made as full or partial payment to
 84 | assure the resident a place in a facility. An accommodation fee,

85 admission fee, or other fee of similar form and application are
 86 ~~shall be~~ considered to be an entrance fee.

87 (5)-(4) "Facility" means a place that provides ~~in which it~~
 88 ~~is undertaken to provide~~ continuing care.

89 (8)-(5) "Licensed" means that the provider has obtained a
 90 certificate of authority from the department.

91 (9)-(6) "Provider" means the owner or operator, whether a
 92 natural person, partnership or other unincorporated association,
 93 however organized, trust, or corporation, of an institution,
 94 building, residence, or other place, whether operated for profit
 95 or not, which owner or operator provides ~~undertakes to provide~~
 96 continuing care for a fixed or variable fee, or for any other
 97 remuneration of any type, whether fixed or variable, for the
 98 period of care, payable in a lump sum or lump sum and monthly
 99 maintenance charges or in installments, but does not mean an ~~any~~
 100 entity that has existed and continuously operated a facility
 101 located on at least ~~no less than~~ 63 acres in this state
 102 providing residential lodging to members and their spouses for
 103 at least 66 years on or before July 1, 1989, and ~~such facility~~
 104 has the residential capacity of 500 persons, is directly or
 105 indirectly owned or operated by a nationally recognized
 106 fraternal organization, is not open to the public, and accepts
 107 only its members and their spouses as residents ~~at such a~~
 108 ~~facility~~.

109 (10)-(7) "Records" means the permanent financial,
 110 directory, and personnel information and data maintained by a
 111 provider pursuant to this chapter.

112 (11)-(8) "Resident" means a purchaser of, ~~or~~ a nominee of,

113 or a subscriber to, a continuing care agreement. Such ~~an~~
 114 agreement does ~~may not be construed to~~ give the resident a part
 115 ownership of the facility in which the resident is to reside,
 116 unless expressly provided for in the agreement.

117 ~~(6)-(9)~~ "Generally accepted accounting principles" means
 118 those accounting principles and practices adopted by the
 119 Financial Accounting Standards Board and the American Institute
 120 of Certified Public Accountants, including Statement of Position
 121 90-8 with respect to any full year to which the statement
 122 applies.

123 ~~(7)-(10)~~ "Insolvency" means the condition in which the
 124 provider is unable to pay its obligations as they come due in
 125 the normal course of business.

126 ~~(1)-(11)~~ "Advertising" means the dissemination of ~~any~~
 127 written, visual, or electronic information by a provider, or any
 128 person affiliated with or controlled by a provider, to potential
 129 residents or their representatives for the purpose of inducing
 130 such persons to subscribe to or enter into a contract to reside
 131 in a continuing care community that is subject to this chapter
 132 ~~covered by this act.~~

133 Section 2. Section 651.012, Florida Statutes, is amended
 134 to read:

135 651.012 Exempted facility; written disclosure of
 136 exemption.—Any facility exempted under ss. 632.637(1)(e) and
 137 651.011(9) ~~651.011(6)~~ must provide written disclosure of such
 138 exemption to each person admitted to the facility after October
 139 1, 1996. This disclosure must be written using language likely
 140 to be understood by the person and must briefly explain the

141 ~~exemption provisions of ss. 632.637(1)(e) and 651.011(6).~~

142 Section 3. Subsection (2) of section 651.015, Florida
 143 Statutes, is amended to read:

144 651.015 Administration; forms; fees; rules; fines.—The
 145 administration of this chapter is vested in the commission,
 146 office, and department, which shall:

147 (2) Collect in advance, and the applicant shall pay in
 148 advance, the following fees:

149 (a) At the time of filing an application for a certificate
 150 of authority, an application fee ~~in the amount of \$5,000~~ \$75 for
 151 each facility.

152 (b) At the time of filing the annual report required by s.
 153 651.026, a fee ~~in the amount of \$100~~ for each year or part
 154 thereof for each facility.

155 (c) A late fee not to exceed \$50 per a day for each day of
 156 noncompliance.

157 (d) A fee to cover the actual cost of a credit report and
 158 fingerprint processing.

159 (e) At the time of filing an application for a provisional
 160 certificate of authority, a fee ~~in the amount of \$5,000~~ \$50.

161 Section 4. Paragraph (b) of subsection (2) of section
 162 651.022, Florida Statutes, is amended, paragraph (g) is added to
 163 that subsection, and paragraphs (i) and (j) of subsection (3) of
 164 that section are amended, to read:

165 651.022 Provisional certificate of authority;
 166 application.—

167 (2) The application for a provisional certificate of
 168 authority shall be on a form prescribed by the commission and

169 shall contain the following information:

170 (b) The full names, residences, and business addresses of:

171 1. The proprietor, if the applicant or provider is an
172 individual.

173 2. Every partner or member, if the applicant or provider
174 is a partnership or other unincorporated association, however
175 organized, having fewer than 50 partners or members, together
176 with the business name and address of the partnership or other
177 organization.

178 3. The principal partners or members, if the applicant or
179 provider is a partnership or other unincorporated association,
180 however organized, having 50 or more partners or members,
181 together with the business name and business address of the
182 partnership or other organization. If such unincorporated
183 organization has officers and a board of directors, the full
184 name and business address of each officer and director may be
185 set forth in lieu of the full name and business address of its
186 principal members.

187 4. The corporation and each officer and director thereof,
188 if the applicant or provider is a corporation.

189 5. Every trustee and officer, if the applicant or provider
190 is a trust.

191 6. The manager, whether an individual, corporation,
192 partnership, or association.

193 7. Any stockholder holding at least a 10 percent ~~10-~~
194 ~~percent~~ interest in the operations of the facility in which the
195 care is to be offered.

196 8. Any person whose name is required to be provided in the

197 application under ~~the provisions of~~ this paragraph and who owns
 198 any interest in or receives any remuneration from, ~~either~~
 199 directly or indirectly, any professional service firm,
 200 association, trust, partnership, or corporation providing goods,
 201 leases, or services to the facility for which the application is
 202 made, with a real or anticipated value of \$10,000 ~~\$500~~ or more,
 203 and the name and address of the professional service firm,
 204 association, trust, partnership, or corporation in which such
 205 interest is held. The applicant shall describe such goods,
 206 leases, or services and the probable cost to the facility or
 207 provider and shall describe why such goods, leases, or services
 208 should not be purchased from an independent entity.

209 9. Any person, corporation, partnership, association, or
 210 trust owning land or property leased to the facility, along with
 211 a copy of the lease agreement.

212 10. Any affiliated parent or subsidiary corporation or
 213 partnership.

214 (g) The forms of the continuing care residency contracts,
 215 reservation contracts, escrow agreements, and wait list
 216 contracts, if applicable, which are proposed to be used by the
 217 provider in the furnishing of care. If the office finds that the
 218 continuing care contracts and escrow agreements comply with ss.
 219 651.023(1)(c), 651.033, and 651.055, it shall approve them.
 220 Thereafter, no other form of contract or agreement may be used
 221 by the provider until it has been submitted to the office and
 222 approved.

223 (3) In addition to the information required in subsection
 224 (2), an applicant for a provisional certificate of authority

225 shall submit a market feasibility study. The market feasibility
 226 study shall include at least the following information:

227 ~~(i) The application for a provisional certificate of~~
 228 ~~authority shall be accompanied by the forms of the continuing~~
 229 ~~care residency and reservation contracts and escrow agreements~~
 230 ~~proposed to be used by the provider in the furnishing of care.~~
 231 ~~If the office finds that the continuing care contracts and~~
 232 ~~escrow agreements comply with ss. 651.023(1)(c), 651.033, and~~
 233 ~~651.055, it shall approve them. Thereafter, no other form of~~
 234 ~~contract or agreement may be used by the provider until it has~~
 235 ~~been submitted to the office and approved.~~

236 (i)~~(j)~~ The name of the person who prepared the feasibility
 237 study and the experience of such person in preparing similar
 238 studies or otherwise consulting in the field of continuing care.

239 Section 5. Subsection (2) of section 651.0235, Florida
 240 Statutes, is amended to read:

241 651.0235 Validity of provisional certificates of authority
 242 and certificates of authority.—

243 (2) If the provider fails to meet the requirements of this
 244 chapter for a provisional certificate of authority or a
 245 certificate of authority, the office may notify the provider of
 246 any deficiencies and require the provider to correct such
 247 deficiencies within a period to be determined by the office. If
 248 such deficiencies are not corrected within 20 days after the
 249 notice to the provider, or within less time at the discretion of
 250 the office, the office shall notify the Continuing Care Advisory
 251 Council, which may assist the facility in formulating a remedial
 252 plan to be submitted to the office within ~~no later than~~ 60 days

253 after ~~from~~ the date of notification. The time period for
 254 correcting the ~~granted to correct~~ deficiencies may be extended
 255 upon submission of a plan for corrective action approved by the
 256 office. If such deficiencies have not been cleared by the
 257 expiration of such time period, as extended, the office shall
 258 petition for a delinquency proceeding or pursue such other
 259 relief as ~~is~~ provided for under this chapter, as the
 260 circumstances may require.

261 Section 6. Subsection (2) of section 651.026, Florida
 262 Statutes, is amended to read:

263 651.026 Annual reports.—

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

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

268 (b) Financial statements audited by an independent
 269 certified public accountant, ~~which~~ must ~~shall~~ contain, for two
 270 or more periods if the facility has been in existence that long,
 271 all of the following:

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

- 274 a. A balance sheet;
- 275 b. A statement of income and expenses;
- 276 c. A statement of equity or fund balances; and
- 277 d. A statement of changes in cash flows. ~~;~~ and

278 2. Notes to the financial statements considered customary
 279 or necessary for ~~to~~ full disclosure or adequate understanding of
 280 the financial statements, financial condition, and operation.

HB 1253

2010

281 (c) The following financial information:

282 1. A detailed listing of the assets maintained in the
283 liquid reserve as required under ~~in~~ s. 651.035 and in accordance
284 with part II of chapter 625;

285 2. A schedule giving additional information relating to
286 property, plant, and equipment having an original cost of at
287 least \$25,000, so as to show in reasonable detail with respect
288 to each separate facility original costs, accumulated
289 depreciation, net book value, appraised value or insurable value
290 and date thereof, insurance coverage, encumbrances, and net
291 equity of appraised or insured value over encumbrances. Any
292 property not used in continuing care must ~~shall~~ be shown
293 separately from property used in continuing care;

294 3. The level of participation in Medicare or Medicaid
295 programs, or both;

296 4. A statement of all fees required of residents,
297 including, but not limited to, a statement of the entrance fee
298 charged, the monthly service charges, the proposed application
299 of the proceeds of the entrance fee by the provider, and the
300 plan by which the amount of the entrance fee is determined if
301 the entrance fee is not the same in all cases; and

302 5. Any change or increase in fees if ~~when~~ the provider
303 changes ~~either~~ the scope of, or the rates for, care or services,
304 regardless of whether the change involves the basic rate or only
305 those services available at additional costs to the resident.

306 6.~~a~~. If the provider has more than one certificated
307 facility, or has operations that are not licensed under this
308 chapter, it shall submit a balance sheet, statement of income

309 and expenses, statement of equity or fund balances, and
 310 statement of cash flows ~~statement of operations~~ for each
 311 facility licensed under this chapter as supplemental information
 312 to the audited financial statements required under paragraph (b)
 313 ~~as part of the annual report.~~

314 ~~b. If the provider has operations that are not Florida~~
 315 ~~certificated facilities, the provider shall also submit as~~
 316 ~~supplemental information to the audited financial statements,~~
 317 ~~balance sheets, statements of changes in equity, and statements~~
 318 ~~of cash flows for each Florida certificated facility.~~

319 (d) Such other reasonable data, financial statements, and
 320 pertinent information as the commission or office may require
 321 with respect to the provider or the facility, or its directors,
 322 trustees, members, branches, subsidiaries, or affiliates, to
 323 determine the financial status of the facility and the
 324 management capabilities of its managers and owners.

325 (e) Each facility shall file with the office annually,
 326 together with the annual report required by this section, a
 327 computation of its minimum liquid reserve calculated in
 328 accordance with s. 651.035 on a form prescribed by the
 329 commission.

330 (f) If, due to a change in generally accepted accounting
 331 principles, the balance sheet, statement of income and expenses,
 332 statement of equity or fund balances, or statement of cash flows
 333 is known by any other name or title, the annual report must
 334 contain financial statements using the changed names or titles
 335 that most closely correspond to a balance sheet, statement of
 336 income and expenses, statement of equity or fund balances, and

337 statement of changes in cash flows.

338 Section 7. Paragraph (d) of subsection (1) of section
 339 651.033, Florida Statutes, is amended, and paragraph (d) is
 340 added to subsection (3) of that section, to read:

341 651.033 Escrow accounts.—

342 (1) When funds are required to be deposited in an escrow
 343 account pursuant to s. 651.022, s. 651.023, s. 651.035, or s.
 344 651.055:

345 (d) All funds deposited in an escrow account, if invested,
 346 shall be invested as set forth in part II of chapter 625;
 347 however, such investment may ~~shall~~ not diminish the funds held
 348 in escrow below the amount required by this chapter. ~~All~~ Funds
 349 deposited in an escrow account are ~~shall~~ not be subject to ~~any~~
 350 charges by the escrow agent except escrow agent fees associated
 351 with administering the accounts, or subject to any liens,
 352 judgments, garnishments, creditor's claims, or other
 353 encumbrances against the provider or facility except as provided
 354 in s. 651.035(1) ~~651.035(2)~~.

355 (3) In addition, when entrance fees are required to be
 356 deposited in an escrow account pursuant to s. 651.022, s.
 357 651.023, or s. 651.055:

358 (d) A provider may assess a nonrefundable fee, which is
 359 separate from the entrance fee, for processing a prospective
 360 resident's application for continuing care.

361 Section 8. Section 651.035, Florida Statutes, is amended
 362 to read:

363 651.035 Minimum liquid reserve requirements.—

364 (1) A provider shall maintain in escrow a minimum liquid

365 reserve consisting of the following reserves, as applicable:
 366 ~~reserves specified in subsection (2).~~

367 ~~(2)~~(a) Each A provider shall maintain in escrow as a debt
 368 service reserve ~~an amount equal to~~ the aggregate amount of all
 369 principal and interest payments due during the fiscal year on
 370 any mortgage loan or other long-term financing of the facility,
 371 including property taxes as recorded in the audited financial
 372 statements required under s. 651.026. The amount must ~~shall~~
 373 include any leasehold payments and all costs related to such
 374 payments. If principal payments are not due during the fiscal
 375 year, the provider shall maintain in escrow as a minimum liquid
 376 reserve an amount equal to interest payments due during the next
 377 12 months on any mortgage loan or other long-term financing of
 378 the facility, including property taxes.

379 (b) A provider that ~~which~~ has outstanding indebtedness
 380 that ~~which~~ requires ~~what is normally referred to as~~ a "debt
 381 service reserve" to be held in escrow pursuant to a trust
 382 indenture or mortgage lien on the facility and for which the
 383 debt service reserve may only be used to pay principal and
 384 interest payments on the debt that ~~which~~ the debtor is obligated
 385 to pay, and which may include property taxes and insurance, may
 386 include such debt service reserve in computing the ~~its~~
 387 ~~computation of its~~ minimum liquid reserve needed to satisfy this
 388 subsection ~~if, provided that~~ the provider furnishes to the
 389 office a copy of the agreement under which such debt service is
 390 held, together with a statement of the amount being held in
 391 escrow for the debt service reserve, certified by the lender or
 392 trustee and the provider to be correct. The trustee shall

HB 1253

2010

393 provide the office with any information concerning the debt
394 service reserve account upon request of the provider or the
395 office.

396 (c) Each provider shall maintain in escrow an operating
397 reserve ~~in an amount~~ equal to 30 percent of the total operating
398 expenses projected in the feasibility study required by s.
399 651.023 for the first 12 months of operation. Thereafter, each
400 provider shall maintain in escrow an operating reserve ~~in an~~
401 ~~amount~~ equal to 15 percent of the total operating expenses in
402 the annual report filed pursuant to s. 651.026. If ~~where~~ a
403 provider has been in operation for more than 12 months, the
404 total annual operating expenses shall be determined by averaging
405 the total annual operating expenses reported to the office by
406 the number of annual reports filed with the office within the
407 ~~immediate~~ preceding 3-year period subject to adjustment if ~~in~~
408 ~~the event~~ there is a change in the number of facilities owned.
409 For purposes of this subsection, total annual operating expenses
410 ~~shall~~ include all expenses of the facility except: depreciation
411 and amortization; interest and property taxes included in
412 paragraph (a) subsection (1); extraordinary expenses that ~~which~~
413 are adequately explained and documented in accordance with
414 generally accepted accounting principles; liability insurance
415 premiums in excess of those paid in calendar year 1999; and
416 changes in the obligation to provide future services to current
417 residents. For providers initially licensed during or after
418 calendar year 1999, liability insurance shall be included in the
419 total operating expenses in an amount not to exceed the premium
420 paid during the first 12 months of facility operation. Beginning

HB 1253

2010

421 January 1, 1993, the operating reserves required under this
422 subsection shall be in an unencumbered account held in escrow
423 for the benefit of the residents. Such funds may not be
424 encumbered or subject to any liens or charges by the escrow
425 agent or judgments, garnishments, or creditors' claims against
426 the provider or facility. However, if a facility had a lien,
427 mortgage, trust indenture, or similar debt instrument in place
428 before ~~prior to~~ January 1, 1993, which encumbered all or any
429 part of the reserves required by this subsection and such funds
430 were used to meet the requirements of this subsection, then such
431 arrangement may be continued, unless a refinancing or
432 acquisition has occurred, and the provider shall be in
433 compliance with this subsection.

434 (d) Each provider shall maintain in escrow a renewal and
435 replacement reserve ~~in an amount~~ equal to 15 percent of the
436 total accumulated depreciation based on the audited financial
437 statement required to be filed pursuant to s. 651.026, not to
438 exceed 15 percent of the facility's average operating expenses
439 for the past 3 fiscal years based on the audited financial
440 statements for each of those ~~such~~ years. For a provider who is
441 an operator of a facility but is not the owner and depreciation
442 is not included as part of the provider's financial statement,
443 the renewal and replacement reserve required by this paragraph
444 must ~~shall~~ equal 15 percent of the total operating expenses of
445 the provider, as described in this section. Each provider
446 licensed before ~~prior to~~ October 1, 1983, shall ~~be required to~~
447 fully fund the renewal and replacement reserve by October 1,
448 2003, by multiplying the difference between the former escrow

449 requirement and the present escrow requirement by the number of
 450 years the facility has been in operation after October 1, 1983.

451 ~~(3) In lieu of fulfilling the escrow requirements provided~~
 452 ~~in subsections (1) and (2), each facility licensed prior to~~
 453 ~~October 1, 1983, shall be required to maintain in escrow the~~
 454 ~~minimum liquid reserve that would have been required under this~~
 455 ~~section as it existed on October 1, 1982, plus 5 percent of the~~
 456 ~~difference between the former escrow requirement and the present~~
 457 ~~escrow requirement multiplied by the number of years the~~
 458 ~~facility has been in operation after October 1, 1983. Beginning~~
 459 ~~October 1, 2003, the escrow requirements provided in subsections~~
 460 ~~(1) and (2) shall apply in full to facilities licensed before~~
 461 ~~October 1, 1983.~~

462 (2)~~(4)~~(a) In facilities where not all residents are under
 463 continuing care contracts, the reserve requirements of
 464 subsection (1) ~~(2)~~ shall be computed only with respect to the
 465 proportional share of operating expenses which are ~~that is~~
 466 applicable to residents as defined in s. 651.011. For purposes
 467 of this calculation, the proportional share shall be based upon
 468 the ratio of residents under continuing care contracts to those
 469 residents who do not hold such contracts.

470 (b) In facilities that ~~which~~ have voluntarily and
 471 permanently discontinued marketing continuing care contracts,
 472 the office may allow a reduced debt service reserve as required
 473 in subsection (1) based upon the ratio of residents under
 474 continuing care contracts to those residents who do not hold
 475 such contracts if the office finds that such reduction is not
 476 inconsistent with the security protections intended by this

HB 1253

2010

477 chapter. In making this determination, the office may consider
478 such factors as the financial condition of the facility, the
479 provisions of the outstanding continuing care contracts, the
480 ratio of residents under continuing care agreements to those
481 residents who do not hold a continuing care contract, current
482 occupancy rates, previous sales and marketing efforts, life
483 expectancy of the remaining contract holders, and the written
484 policies of the board of directors of the provider or a similar
485 board.

486 (3)~~(5)~~ If ~~When~~ principal and interest payments are paid to
487 a trust that ~~which~~ is beneficially held by the residents as
488 described in s. 651.023(5), the office may waive all or any
489 portion of the escrow requirements for mortgage principal and
490 interest contained in subsection (1) if the office finds that
491 such waiver is not inconsistent with the security protections
492 intended by this chapter.

493 (4)~~(6)~~ The office, upon approval of a plan for fulfilling
494 the requirements of this section and upon demonstration by the
495 facility of an annual increase in liquid reserves, may extend
496 the time for compliance.

497 (5)~~(7)~~~~(a)~~ A provider may satisfy the minimum liquid
498 reserve requirements of this section by acquiring from a
499 financial institution, as specified in paragraph (b), a clean,
500 unconditional irrevocable letter of credit ~~in an amount~~ equal to
501 the requirements of this section.

502 (a) The letter of credit must ~~shall~~ be issued by a
503 financial institution participating in the State of Florida
504 Treasury Certificate of Deposit Program, and must be approved by

HB 1253

2010

505 ~~the letter of credit shall be subject to the approval of the~~
506 office before ~~prior to~~ issuance and before ~~prior to~~ any renewal
507 or modification thereof. At a minimum, the letter of credit must
508 ~~shall~~ provide for:

509 1. Ninety days' prior written notice to both the provider
510 and the office of the financial institution's determination not
511 to renew or extend the term of the letter of credit.

512 2. Unless otherwise arranged by the provider to the
513 satisfaction of the office, deposit by the financial institution
514 of ~~such~~ letter of credit funds in an account designated by the
515 office no later than 30 days before ~~prior to~~ the expiration of
516 the letter of credit.

517 3. Deposit by the financial institution of ~~such~~ letter of
518 credit funds in an account designated by the office within ~~no~~
519 ~~later than~~ 4 business days following written instructions from
520 the office that, in the sole judgment of the office, funding of
521 the minimum liquid reserve is required.

522 (b) The terms of the ~~such~~ letter of credit must ~~shall~~ be
523 approved by the office and the long-term debt of the financial
524 institution providing such letter of credit must ~~shall~~ be rated
525 in one of their top three long-term debt rating categories by
526 either Moody's Investors Service, Standard & Poor's Corporation,
527 or a recognized securities rating agency acceptable to the
528 office.

529 (c) The letter of credit must ~~shall~~ name the office as
530 beneficiary.

531 (d) Notwithstanding any other provision of this section, a
532 provider using ~~utilizing~~ a letter of credit pursuant to this

HB 1253

2010

533 subsection shall, at all times, have and maintain in escrow an
534 operating cash reserve equal to 2 months' operating expenses as
535 determined pursuant to s. 651.026.

536 (e) If ~~In the event~~ the issuing financial institution no
537 longer participates in the State of Florida Treasury Certificate
538 of Deposit Program, such financial institution shall deposit as
539 collateral with the department eligible securities, as
540 prescribed by s. 625.52, having a market value equal to or
541 greater than 100 percent of the stated amount of the letter of
542 credit.

543 ~~(6)-(8)-(a)~~ Each fiscal year, a provider may withdraw up to
544 33 percent of the total renewal and replacement reserve
545 available. The reserve available is equal to the market value of
546 the invested reserves at the end of the provider's prior fiscal
547 year. The withdrawal must ~~is to~~ be used for capital items or
548 major repairs, ~~and~~

549 (a) Before any funds are eligible for withdrawal, the
550 provider must obtain written permission from the office by
551 submitting the following ~~information~~:

552 1. The amount of the withdrawal and the intended use of
553 the proceeds.

554 2. A board resolution and sworn affidavit signed by two
555 officers or general partners of the provider which indicates
556 approval of the withdrawal and use of the funds.

557 3. Proof that the provider has met all funding
558 requirements for the operating, debt service, and renewal and
559 replacement reserves computed for the previous fiscal year.

560 4. Anticipated payment schedule for refunding the renewal

561 and replacement reserve fund.

562 (b) Within 30 days after the withdrawal of funds ~~from the~~
 563 ~~renewal and replacement reserve fund~~, the provider must begin
 564 refunding the reserve account in equal monthly payments that
 565 ~~which~~ allow for a complete funding of the ~~such~~ withdrawal within
 566 36 months. If the payment schedule required under subparagraph
 567 (a)4. has changed, the provider must update the office with the
 568 new payment schedule. If the provider fails to make a required
 569 monthly payment or the payment is late, the provider must notify
 570 the office within 5 days after the due date of the payment. No
 571 additional withdrawals from the renewal and replacement reserve
 572 will be allowed until all scheduled payments are current.

573 Section 9. Paragraphs (d) and (g) of subsection (1) and
 574 subsections (2) and (5) of section 651.055, Florida Statutes,
 575 are amended to read:

576 651.055 Contracts; right to rescind.-

577 (1) Each continuing care contract and each addendum to
 578 such contract shall be submitted to and approved by the office
 579 prior to its use in this state. Thereafter, no other form of
 580 contract shall be used by the provider unless it has been
 581 submitted to and approved by the office. Each contract shall:

582 (d) Describe the health and financial conditions required
 583 for a person to be accepted as a resident and to continue as a
 584 resident, once accepted, including the effect of any change in
 585 the health or financial condition of the ~~a~~ person between the
 586 date of submitting an application for admission to the facility
 587 and entering into a continuing care contract ~~and the date of~~
 588 ~~taking occupancy in a unit.~~ If a prospective resident signs a

589 contract but postpones moving into the facility, the individual
 590 is deemed to be occupying a unit at the facility when he or she
 591 pays the entrance fee or any portion of the fee, other than a
 592 reservation deposit, and begins making monthly maintenance fee
 593 payments. Such resident may rescind the contract and receive a
 594 full refund of any funds paid, without penalty or forfeiture,
 595 within 7 days after executing the contract as specified in
 596 subsection (2).

597 (g) Provide that the contract may be canceled by ~~upon the~~
 598 ~~giving~~ at least 30 days' ~~of~~ written notice of cancellation ~~of at~~
 599 ~~least 30 days~~ by the provider, the resident, or the person who
 600 provided the transfer of property or funds for the care of such
 601 resident; however, if a contract is canceled because there has
 602 been a good faith determination that a resident is a danger to
 603 himself or herself or others, only such notice as is reasonable
 604 under the circumstances is ~~shall be~~ required.

605 1. The contract must also ~~shall further~~ provide in clear
 606 and understandable language, in print no smaller than the
 607 largest type used in the body of the contract, the terms
 608 governing the refund of any portion of the entrance fee.

609 2. For a resident whose contract with the facility
 610 provides that the resident does not receive a transferable
 611 membership or ownership right in the facility, and who has
 612 occupied his or her unit, the refund shall be calculated on a
 613 pro rata basis with the facility retaining up to ~~no more than~~ 2
 614 percent per month of occupancy by the resident and up to a 5
 615 percent ~~no more than a 4 percent fee for processing fee~~. Such
 616 refund must ~~shall~~ be paid within ~~no later than~~ 120 days after

HB 1253

2010

617 ~~the~~ giving the ~~of~~ notice of intention to cancel.

618 3. In addition to a processing fee, if the contract
619 provides for the facility to retain up to ~~no more than~~ 1 percent
620 per month of occupancy by the resident, it may provide that such
621 refund will be paid from the proceeds of the next entrance fees
622 received by the provider for units for which there are no prior
623 claims by any resident until paid in full or, if the provider
624 has discontinued marketing continuing care contracts, within 200
625 days after the date of notice.

626 4. Unless ~~the provisions of~~ subsection (5) applies apply,
627 for any prospective resident, regardless of whether or not such
628 a resident receives a transferable membership or ownership right
629 in the facility, who cancels the contract before ~~prior to~~
630 occupancy of the unit, ~~the refund shall be~~ the entire amount
631 paid toward the entrance fee shall be refunded, less a
632 processing fee of up to 5 percent ~~not to exceed 4 percent~~ of the
633 entire entrance fee; however, the ~~but in no event shall such~~
634 processing fee may not exceed the amount paid by the prospective
635 resident. Such refund must ~~shall~~ be paid within ~~no later than~~ 60
636 days after ~~the~~ giving the ~~of~~ notice of intention to cancel. For
637 a resident who has occupied his or her unit and who has received
638 a transferable membership or ownership right in the facility,
639 the foregoing refund provisions do ~~shall~~ not apply but are ~~shall~~
640 ~~be~~ deemed satisfied by the acquisition or receipt of a
641 transferable membership or an ownership right in the facility.
642 The provider may ~~shall~~ not charge any fee for the transfer of
643 membership or sale of an ownership right.

644 (2) A resident has the right to rescind a continuing care

HB 1253

2010

645 contract and receive a full refund of any funds paid, without
646 penalty or forfeiture, within 7 days after executing the
647 contract. A resident may ~~shall~~ not be required to move into the
648 facility designated in the contract before the expiration of the
649 7-day period. During the 7-day period, the resident's funds must
650 be held in an escrow account unless otherwise requested by the
651 resident pursuant to s. 651.033(3)(c).

652 (5) Except for a resident who postpones moving into the
653 facility but is deemed to have occupied a unit as described in
654 paragraph (1)(d), if a prospective resident dies before
655 occupying the facility or, through illness, injury, or
656 incapacity, is precluded from becoming a resident under the
657 terms of the continuing care contract, the contract is
658 automatically canceled, and the prospective resident or his or
659 her ~~the resident's~~ legal representative shall receive a full
660 refund of all moneys paid to the facility, except those costs
661 specifically incurred by the facility at the request of the
662 prospective resident and set forth in writing in a separate
663 addendum, signed by both parties, to the contract.

664 Section 10. Section 651.081, Florida Statutes, is amended
665 to read:

666 651.081 ~~Continuing care facilities~~ Residents' council
667 ~~organizations.~~

668 (1) Residents living in a facility holding a valid
669 certificate of authority under this chapter have the right of
670 self-organization, the right to be represented by an individual
671 of their own choosing, and the right to engage in concerted
672 activities for the purpose of keeping informed on the operation

673 of the facility that ~~which~~ is caring for them or for the purpose
 674 of other mutual aid or protection.

675 (2) A residents' council ~~organization~~ created for the
 676 purpose of representing residents on matters set forth in s.
 677 651.085 may be established through an election in which the
 678 residents, as defined in s. 651.011 ~~this chapter~~, vote by
 679 ballot, ~~either~~ physically or by proxy. If the election is to be
 680 held during a meeting, a notice of the organizational meeting
 681 must be provided to all residents of the community at least 10
 682 business days before the meeting. Notice may be given through
 683 internal mailboxes, communitywide newsletters, bulletin boards,
 684 in-house television stations, and other similar means of
 685 communication. An election ~~for~~ creating a residents' council
 686 ~~organization~~ is valid if at least 40 percent of the total
 687 resident population participates in the election and a majority
 688 of the participants vote affirmatively for the council
 689 ~~organization~~. The initial residents' council ~~organization~~
 690 created under this section is valid for at least 12 months. A
 691 residents' organization formalized by ~~If the facility has a~~
 692 ~~residents' association, residents' council, or similarly~~
 693 ~~organized body with~~ bylaws and elected officials, ~~such~~
 694 ~~organization~~ must be recognized as the residents' council
 695 ~~organization~~ under this section and s. 651.085. Within 30 days
 696 after the election of a newly elected president or chair of the
 697 residents' council, the provider shall give the president or
 698 chair a copy of this chapter and rules adopted thereunder, or
 699 direct him or her to the appropriate public website to obtain
 700 this information. ~~There shall be~~ Only one residents' council may

701 ~~organization to~~ represent residents before the governing body of
 702 the provider as described in s. 651.085(2).

703 Section 11. Paragraphs (c) and (f) of subsection (1) of
 704 section 651.083, Florida Statutes, are amended, present
 705 subsection (5) of that section is redesignated as subsection
 706 (6), and a new subsection (5) is added to that section, to read:

707 651.083 Residents' rights.—

708 (1) No resident of any facility shall be deprived of any
 709 civil or legal rights, benefits, or privileges guaranteed by
 710 law, by the State Constitution, or by the United States
 711 Constitution solely by reason of status as a resident of a
 712 facility. Each resident of a facility has the right to:

713 (c) Unrestricted private communication, including
 714 receiving and sending unopened correspondence. This includes the
 715 right to receive memos or announcements from or approved for
 716 distribution by the residents' council.

717 (f) Present grievances and recommend changes in policies,
 718 procedures, and services to the staff of the facility, governing
 719 officials, or any other person without restraint, interference,
 720 coercion, discrimination, or reprisal. This right includes
 721 access to ombudsman volunteers and advocates and the right to be
 722 a member of, and active in, and to associate with, advocacy or
 723 special interest groups or associations.

724 (5) The provider may not restrict a resident's access to
 725 the residents' council.

726 Section 12. Subsections (1) and (2) of section 651.085,
 727 Florida Statutes, are amended to read:

728 651.085 Quarterly meetings between residents and the

729 governing body of the provider; resident representation before
730 the governing body of the provider.—

731 (1) The governing body of a provider, or the designated
732 representative of the provider, shall hold quarterly meetings
733 with the residents of the continuing care facility for the
734 purpose of free discussion of subjects including, but not
735 limited to, income, expenditures, and financial trends and
736 problems as they apply to the facility, as well as a discussion
737 on proposed changes in policies, programs, and services. At
738 quarterly meetings where monthly maintenance fee increases are
739 discussed, a summary of the reasons for raising the fee as
740 specified in subsection (4) must be provided in writing to the
741 president or chair of the residents' council. Upon request of
742 the residents' council ~~organization~~, a member of the governing
743 body of the provider, such as a board member, a general partner,
744 ~~or a~~ principal owner, or designated representative shall attend
745 such meetings. Residents are ~~shall be~~ entitled to at least 7
746 days' advance notice of each quarterly meeting. An agenda and
747 any materials that will be distributed by the governing body or
748 representative of the provider shall be posted in a conspicuous
749 place at the facility and shall be available upon request to
750 residents of the facility. The office shall request verification
751 from a facility that quarterly meetings are held and open to all
752 residents if ~~when~~ it receives a complaint from the residents'
753 council that a facility is not in compliance with ~~the provisions~~
754 ~~of~~ this subsection. In addition, a facility shall report to the
755 office in the annual report required under s. 651.026 the dates
756 on which quarterly meetings were held during the reporting

HB 1253

2010

757 period.

758 (2) A residents' council ~~organization~~ formed pursuant to
759 s. 651.081, members of which are elected by the residents, may
760 designate a resident to represent them before the governing body
761 of the provider or organize a meeting or ballot election of the
762 residents ~~of the facility~~ to determine whether to elect a
763 resident to represent them before the governing body of the
764 provider. If a residents' council ~~organization as described in~~
765 ~~s. 651.081~~ does not exist, any resident may organize a meeting
766 or ballot election of the residents of the facility to determine
767 whether to elect a resident to represent them before the
768 governing body and, if applicable, elect the representative. The
769 residents' council ~~organization~~, or the resident that organizes
770 a meeting or ballot election to elect a representative, shall
771 give all residents ~~of the facility~~ notice at least 10 business
772 days before the meeting or election. Notice may be given through
773 internal mailboxes, communitywide newsletters, bulletin boards,
774 in-house television stations, and other similar means of
775 communication. An election of the representative is valid if at
776 least 40 percent of the total resident population participates
777 in the election and a majority of the participants vote
778 affirmatively for the representative. The initial designated
779 representative elected under this section shall be elected to
780 serve ~~for a period of~~ at least 12 months.

781 Section 13. Section 651.091, Florida Statutes, is amended
782 to read:

783 651.091 Availability, distribution, and posting of reports
784 and records; requirement of full disclosure.—

785 (1) Each continuing care facility shall maintain as public
 786 information, available upon request, records of all cost and
 787 inspection reports pertaining to that facility which ~~that~~ have
 788 been filed with or issued by any governmental agency. A copy of
 789 each ~~such~~ report shall be retained ~~in such records~~ for at least
 790 ~~not less than~~ 5 years after ~~from~~ the date the report is filed or
 791 issued. Each facility shall also maintain as public information,
 792 available upon request, all annual statements that have been
 793 filed with the office. For purposes of this section, a
 794 management company or operator is considered an agent of the
 795 provider.

796 (2) Every continuing care facility shall:

797 (a) Display the certificate of authority in a conspicuous
 798 place inside the facility.

799 (b) Post in a prominent position in the facility which is
 800 ~~so as to be~~ accessible to all residents and ~~to~~ the general
 801 public a concise summary of the last examination report issued
 802 by the office, with references to the page numbers of the full
 803 report noting any deficiencies found by the office, and the
 804 actions taken by the provider to rectify such deficiencies,
 805 indicating in such summary where the full report may be
 806 inspected in the facility.

807 (c) Post in a prominent position in the facility which is
 808 ~~so as to be~~ accessible to all residents and ~~to~~ the general
 809 public a summary of the latest annual statement, indicating in
 810 the summary where the full annual statement may be inspected in
 811 the facility. A listing of any proposed changes in policies,
 812 programs, and services must ~~shall~~ also be posted.

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

817 (e) Notify the residents' council of any plans filed with
 818 the office to obtain new financing, additional financing, or
 819 refinancing for the facility and of any applications to the
 820 office for any expansion of the facility.

821 (f) Deliver to the president or chair of the residents'
 822 council a summary of entrance fees collected and refunds made
 823 during the time period covered in the annual report and the
 824 refund balances due at the end of the report period.

825 (g) Deliver to the president or chair of the residents'
 826 council a copy of each quarterly statement within 30 days after
 827 the quarterly statement is filed with the office if the facility
 828 is required to file quarterly.

829 (h) Upon request, deliver to the president or chair of the
 830 residents' council a copy of any newly approved continuing care
 831 contract within 30 days after approval by the office.

832 (3) Before entering into a contract to furnish continuing
 833 care, the provider undertaking to furnish the care, or the agent
 834 of the provider, shall make full disclosure, and provide copies
 835 of the disclosure documents to the prospective resident or his
 836 or her legal representative, of the following information:

837 (a) The contract to furnish continuing care.

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

839 (c) All ownership interests and lease agreements,
 840 including information specified in s. 651.022(2)(b)8.

841 (d) In keeping with the intent of this subsection relating
 842 to disclosure, the provider shall make available for review,
 843 master plans approved by the provider's governing board and any
 844 plans for expansion or phased development, to the extent that
 845 the availability of such plans will not put at risk real estate,
 846 financing, acquisition, negotiations, or other implementation of
 847 operational plans and thus jeopardize the success of
 848 negotiations, operations, and development.

849 (e) Copies of the rules and regulations of the facility
 850 and an explanation of the responsibilities of the resident.

851 (f) The policy of the facility with respect to admission
 852 to and discharge from the various levels of health care offered
 853 by the facility.

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

858 (h) A copy of s. 651.071.

859 (i)~~(h)~~ A copy of the resident's rights as described in s.
 860 651.083.

861 (4) A true and complete copy of the full disclosure
 862 document to be used must ~~shall~~ be filed with the office before
 863 ~~prior to its~~ use. A resident or prospective resident or his or
 864 her legal representative may ~~shall be permitted to~~ inspect the
 865 full reports referred to in paragraph (2) (b); the charter or
 866 other agreement or instrument required to be filed with the
 867 office pursuant to s. 651.022(2), together with all amendments
 868 thereto; and the bylaws of the corporation or association, if

HB 1253

2010

869 any. Upon request, copies of the reports and information shall
870 be provided to the individual requesting them if the individual
871 agrees to pay a reasonable charge to cover copying costs.

872 Section 14. Subsection (1) of section 651.105, Florida
873 Statutes, is amended, and subsection (5) is added to that
874 section, to read:

875 651.105 Examination and inspections.—

876 (1) The office may at any time, and shall at least once
877 every 5 ~~3~~ years, examine the business of any applicant for a
878 certificate of authority and any provider engaged in the
879 execution of care contracts or engaged in the performance of
880 obligations under such contracts, in the same manner as is
881 provided for the examination of insurance companies pursuant to
882 s. 624.316. Such examinations shall be made by a representative
883 or examiner designated by the office, whose compensation will be
884 fixed by the office pursuant to s. 624.320. Routine examinations
885 may be made by having the necessary documents submitted to the
886 office; and, for this purpose, financial documents and records
887 conforming to commonly accepted accounting principles and
888 practices, as required under s. 651.026, are ~~will be~~ deemed
889 adequate. The final written report of each ~~such~~ examination must
890 ~~shall~~ be filed with the office and, when so filed, constitutes
891 ~~will constitute~~ a public record. Any provider being examined
892 shall, upon request, give reasonable and timely access to all of
893 its records. The representative or examiner designated by the
894 office may at any time examine the records and affairs and
895 inspect the physical property of any provider, whether in
896 connection with a formal examination or not.

897 (5) At the time of the routine examination, the office
 898 shall determine if all disclosures required under this chapter
 899 have been made to the president or chair of the residents'
 900 council.

901 Section 15. Subsections (1) through (4) of section
 902 651.114, Florida Statutes, are amended to read:

903 651.114 Delinquency proceedings; remedial rights.—

904 (1) Upon determination by the office that a provider is
 905 not in compliance with this chapter, the office may notify the
 906 chair of the Continuing Care Advisory Council, who may assist
 907 the office in formulating a corrective action plan.

908 (2) A provider shall make available to the advisory
 909 council, within no later than 30 days after being requested to
 910 do so by the ~~advisory~~ council, a plan for obtaining compliance
 911 or solvency.

912 (3) Within ~~The council shall, no later than~~ 30 days after
 913 notification, the advisory council shall:

914 (a) Consider and evaluate the plan submitted by the
 915 provider.

916 (b) Discuss the problem and solutions with the provider.

917 (c) Conduct such other business as is necessary.

918 (d) Report its findings and recommendations to the office,
 919 which may require additional modification of the plan.

920 (4) ~~(a)~~ After receiving ~~Upon~~ approval of a plan by the
 921 office, the provider shall submit ~~monthly~~ a progress report
 922 monthly to the advisory council or the office, or both, in a
 923 manner prescribed by the office.

924 ~~(b)~~ After ~~a period of~~ 3 months, or at any earlier time

HB 1253

2010

925 deemed necessary, the council shall evaluate the progress by the
 926 provider and shall advise the office of its findings.

927 Section 16. Subsection (3) of section 651.1151, Florida
 928 Statutes, is amended to read:

929 651.1151 Administrative, vendor, and management
 930 contracts.—

931 (3) Any contract with an affiliate, an entity controlled
 932 by the provider, or an entity controlled by an affiliate of the
 933 provider for administrative, vendor, or management services
 934 entered into or renewed after October 1, 1991, must include
 935 ~~shall contain~~ a provision that the contract will ~~shall~~ be
 936 canceled upon issuance of an order by the office pursuant to
 937 this section. A copy of the current management services
 938 contract, pursuant to this section, if any, must be on file in
 939 the marketing office or other area accessible ~~area~~ to residents
 940 and the appropriate residents' council ~~resident organizations~~.

941 Section 17. Section 651.121, Florida Statutes, is amended
 942 to read:

943 651.121 Continuing Care Advisory Council.—

944 (1) The Continuing Care Advisory Council to the office is
 945 created to consist of 10 members who are residents of this state
 946 appointed by the Governor and geographically representative of
 947 this state. Three members shall be administrators of facilities
 948 that ~~which~~ hold valid certificates of authority under this
 949 chapter and shall have been actively engaged in the offering of
 950 continuing care agreements in this state for 5 years before
 951 appointment. The remaining members ~~shall~~ include:

952 (a) A representative of the business community whose

953 expertise is in the area of management.

954 (b) A representative of the financial community who is not
955 a facility owner or administrator.

956 (c) A certified public accountant.

957 (d) An attorney.

958 (e) Three residents who hold continuing care agreements
959 with a facility certified in this state.

960 (2) The term of office for each member shall be 3 years,
961 or until the member's successor has been appointed and
962 qualifies.

963 (3) The council members shall serve without pay, but shall
964 be reimbursed for per diem and travel expenses by the office in
965 accordance with s. 112.061.

966 (4) Each prospective council member shall submit to the
967 appointing officer a statement detailing any financial interest
968 of 10 percent or more in one or more continuing care facilities,
969 including, but not limited to, ownership interest in a facility,
970 property leased to a facility, and ownership in any company
971 providing goods or services to a facility. This statement shall
972 include the name and address of each facility involved and the
973 extent and character of the financial interest of the applicant.
974 Upon appointment of the council member, this statement shall
975 become a public document.

976 (5) The council shall:

977 (a) Meet at least once a year and, at such annual meeting,
978 elect a chair from their number and elect or appoint a vice
979 chair ~~secretary~~, each of whom shall hold office for 1 year and
980 thereafter until a successor is elected and qualified.

981 (b) Hold other meetings at such times and places as the
 982 office or the chair of the council may direct.

983 (c) Keep a record of its proceedings. The books and
 984 records of the council shall be prima facie evidence of all
 985 matters reported therein and, except for proceedings conducted
 986 under s. 651.018, shall be open to inspection at all times.

987 (d) Act in an advisory capacity to the office on matters
 988 pertaining to the operation and regulation of continuing care
 989 facilities.

990 (e) Recommend to the office needed changes in statutes and
 991 rules.

992 (f) Upon the request of the office, assist, with any
 993 corrective action, rehabilitation or cessation of business plan
 994 of a provider.

995 (6) A provider shall furnish to the council, no later than
 996 14 business days after being requested to do so by the council,
 997 all documents and information reasonably requested by the
 998 council.

999 (7) The council chair shall report annually the council's
 1000 findings and recommendations concerning continuing care
 1001 facilities to the Executive Office of the Governor and the
 1002 Commissioner of Insurance Regulation.

1003 (8) At the council's annual meeting, the office shall
 1004 provide members with a summary and comparison of data on
 1005 continuing care facilities submitted in the most recent two
 1006 annual reports and a summary of the number, type, and status of
 1007 complaints related to continuing care facilities which were
 1008 filed with the Division of Consumer Services in the Department

1009 of Financial Services during the preceding fiscal year.

1010 (9) The office shall notify the council by written
 1011 memorandum or electronic means of proposed rule changes and
 1012 scheduled rule workshops and hearings related to the
 1013 administration of this chapter.

1014 Section 18. Section 651.133, Florida Statutes, is
 1015 repealed.

1016 Section 19. Subsection (1) of section 628.4615, Florida
 1017 Statutes, is amended to read:

1018 628.4615 Specialty insurers; acquisition of controlling
 1019 stock, ownership interest, assets, or control; merger or
 1020 consolidation.—

1021 (1) For the purposes of this section, the term "specialty
 1022 insurer" means any person holding a license or certificate of
 1023 authority as:

1024 (a) A motor vehicle service agreement company authorized
 1025 to issue motor vehicle service agreements as those terms are
 1026 defined in s. 634.011;

1027 (b) A home warranty association authorized to issue "home
 1028 warranties" as those terms are defined in s. 634.301(3) and (4);

1029 (c) A service warranty association authorized to issue
 1030 "service warranties" as those terms are defined in s.
 1031 634.401(13) and (14);

1032 (d) A prepaid limited health service organization
 1033 authorized to issue prepaid limited health service contracts, as
 1034 those terms are defined in chapter 636;

1035 (e) An authorized health maintenance organization
 1036 operating pursuant to s. 641.21;

HB 1253

2010

1037 (f) An authorized prepaid health clinic operating pursuant
 1038 to s. 641.405;

1039 (g) A legal expense insurance corporation authorized to
 1040 engage in a legal expense insurance business pursuant to s.
 1041 642.021;

1042 (h) A provider that ~~which~~ is licensed to operate a
 1043 facility that ~~which~~ undertakes to provide continuing care as
 1044 those terms are defined in s. 651.011~~(2), (4), (5), and (6)~~;

1045 (i) A multiple-employer welfare arrangement operating
 1046 pursuant to ss. 624.436-624.446;

1047 (j) A premium finance company authorized to finance
 1048 insurance premiums pursuant to s. 627.828; or

1049 (k) A corporation authorized to accept donor annuity
 1050 agreements pursuant to s. 627.481.

1051 Section 20. This act shall take effect July 1, 2010.