

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. 651.022, F.S.; increasing the
6 threshold amount for businesses that must be identified in
7 an application for a provisional certificate of authority;
8 adding wait-list contracts to the forms that must be
9 submitted with the application; amending s. 651.0235,
10 F.S.; conforming provisions to changes made by the act;
11 amending s. 651.026, F.S.; revising the financial
12 information that must be submitted annually for each
13 certified facility; requiring the annual report to reflect
14 any changes in accounting principle terminology; amending
15 s. 651.033, F.S.; authorizing a provider to assess a
16 separate, nonrefundable fee for processing an application
17 for continuing care; amending s. 651.035, F.S.; clarifying
18 that the amounts maintained in escrow relating to taxes
19 refer to property taxes; deleting an obsolete provision;
20 amending s. 651.055, F.S.; providing that a resident is
21 deemed to be occupying a unit upon the payment of certain
22 fees; providing a timeframe for rescinding a contract;
23 increasing the application processing fee; conforming
24 provisions to changes made by the act; amending s.
25 651.081, F.S.; renaming residents' organizations as
26 residents' councils; requiring the provider to provide a
27 newly elected chair of a council with a copy of ch. 651,
28 F.S., and related rules; amending s. 651.083, F.S.;

29 | clarifying that a resident has a right to receive
30 | residents' council memos and announcements; prohibiting a
31 | provider from restricting a resident's access to the
32 | council; amending s. 651.085, F.S.; requiring the provider
33 | to provide the reasons for increasing the maintenance fee
34 | to the chair of the residents' council; allowing a
35 | designated representative to represent the provider at
36 | meetings; amending s. 651.091, F.S.; specifying that a
37 | management company or operator is an agent of the provider
38 | for the purposes of disclosing certain information to
39 | residents; expanding the list of items that must be
40 | provided to the chair of the residents' council; requiring
41 | the provider to provide a copy of s. 651.071, F.S.,
42 | relating to receivership or liquidation, to all
43 | prospective residents; amending s. 651.105, F.S.;
44 | increasing the amount of time that the Office of Insurance
45 | Regulation has to inspect a facility; requiring the office
46 | to determine if all disclosures have been made to the
47 | chair of the residents' council; amending ss. 651.114 and
48 | 651.1151, F.S.; conforming provisions to changes made by
49 | the act; amending s. 651.121, F.S.; conforming provisions
50 | to changes made by the act; requiring the chair of the
51 | Continuing Care Advisory Council to report the council's
52 | findings and recommendations to the Governor and the
53 | Commissioner of Insurance Regulation; requiring the office
54 | to provide certain information to the council; repealing
55 | s. 651.133, F.S., relating to provisional certificates
56 | under prior law; amending s. 628.4615, F.S.; conforming

57 | cross-references; providing an effective date.

58 |

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

60 |

61 | Section 1. Section 651.011, Florida Statutes, is reordered
62 | and amended to read:

63 | 651.011 Definitions.—For the purposes of this chapter, the
64 | term:

65 | (3)~~(1)~~ "Continuing Care Advisory Council" or "advisory
66 | council" means the ~~Continuing Care Advisory~~ council established
67 | in ~~by~~ s. 651.121.

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

79 | (4)~~(3)~~ "Entrance fee" means an initial or deferred payment
80 | of a sum of money or property made as full or partial payment to
81 | assure the resident a place in a facility. An accommodation fee,
82 | admission fee, or other fee of similar form and application are
83 | ~~shall be~~ considered to be an entrance fee.

84 | (5)~~(4)~~ "Facility" means a place that provides ~~in which it~~

85 ~~is undertaken to provide~~ continuing care.

86 (8)~~(5)~~ "Licensed" means that the provider has obtained a
87 certificate of authority from the department.

88 (9)~~(6)~~ "Provider" means the owner or operator, whether a
89 natural person, partnership or other unincorporated association,
90 however organized, trust, or corporation, of an institution,
91 building, residence, or other place, whether operated for profit
92 or not, which owner or operator provides ~~undertakes to provide~~
93 continuing care for a fixed or variable fee, or for any other
94 remuneration of any type, whether fixed or variable, for the
95 period of care, payable in a lump sum or lump sum and monthly
96 maintenance charges or in installments, but does not mean an ~~any~~
97 entity that has existed and continuously operated a facility
98 located on at least ~~no less than~~ 63 acres in this state
99 providing residential lodging to members and their spouses for
100 at least 66 years on or before July 1, 1989, and ~~such facility~~
101 has the residential capacity of 500 persons, is directly or
102 indirectly owned or operated by a nationally recognized
103 fraternal organization, is not open to the public, and accepts
104 only its members and their spouses as residents ~~at such a~~
105 ~~facility~~.

106 (10)~~(7)~~ "Records" means the permanent financial,
107 directory, and personnel information and data maintained by a
108 provider pursuant to this chapter.

109 (11)~~(8)~~ "Resident" means a purchaser of, ~~or~~ a nominee of,
110 or a subscriber to, a continuing care agreement. Such ~~an~~
111 agreement does ~~may not be construed to~~ give the resident a part
112 ownership of the facility in which the resident is to reside,

113 unless expressly provided for in the agreement.

114 (6)~~(9)~~ "Generally accepted accounting principles" means
 115 those accounting principles and practices adopted by the
 116 Financial Accounting Standards Board and the American Institute
 117 of Certified Public Accountants, including Statement of Position
 118 90-8 with respect to any full year to which the statement
 119 applies.

120 (7)~~(10)~~ "Insolvency" means the condition in which the
 121 provider is unable to pay its obligations as they come due in
 122 the normal course of business.

123 (1)~~(11)~~ "Advertising" means the dissemination of ~~any~~
 124 written, visual, or electronic information by a provider, or any
 125 person affiliated with or controlled by a provider, to potential
 126 residents or their representatives for the purpose of inducing
 127 such persons to subscribe to or enter into a contract to reside
 128 in a continuing care community that is subject to this chapter
 129 ~~covered by this act.~~

130 Section 2. Section 651.012, Florida Statutes, is amended
 131 to read:

132 651.012 Exempted facility; written disclosure of
 133 exemption.—Any facility exempted under ss. 632.637(1)(e) and
 134 651.011(9) ~~651.011(6)~~ must provide written disclosure of such
 135 exemption to each person admitted to the facility after October
 136 1, 1996. This disclosure must be written using language likely
 137 to be understood by the person and must briefly explain the
 138 exemption ~~provisions of ss. 632.637(1)(e) and 651.011(6).~~

139 Section 3. Paragraph (b) of subsection (2) of section
 140 651.022, Florida Statutes, is amended, paragraph (g) is added to

141 that subsection, and paragraphs (i) and (j) of subsection (3) of
142 that section are amended, to read:

143 651.022 Provisional certificate of authority;
144 application.—

145 (2) The application for a provisional certificate of
146 authority shall be on a form prescribed by the commission and
147 shall contain the following information:

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

149 1. The proprietor, if the applicant or provider is an
150 individual.

151 2. Every partner or member, if the applicant or provider
152 is a partnership or other unincorporated association, however
153 organized, having fewer than 50 partners or members, together
154 with the business name and address of the partnership or other
155 organization.

156 3. The principal partners or members, if the applicant or
157 provider is a partnership or other unincorporated association,
158 however organized, having 50 or more partners or members,
159 together with the business name and business address of the
160 partnership or other organization. If such unincorporated
161 organization has officers and a board of directors, the full
162 name and business address of each officer and director may be
163 set forth in lieu of the full name and business address of its
164 principal members.

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

167 5. Every trustee and officer, if the applicant or provider
168 is a trust.

169 6. The manager, whether an individual, corporation,
170 partnership, or association.

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

174 8. Any person whose name is required to be provided in the
175 application under ~~the provisions of~~ this paragraph and who owns
176 any interest in or receives any remuneration from, ~~either~~
177 directly or indirectly, any professional service firm,
178 association, trust, partnership, or corporation providing goods,
179 leases, or services to the facility for which the application is
180 made, with a real or anticipated value of \$10,000 ~~\$500~~ or more,
181 and the name and address of the professional service firm,
182 association, trust, partnership, or corporation in which such
183 interest is held. The applicant shall describe such goods,
184 leases, or services and the probable cost to the facility or
185 provider and shall describe why such goods, leases, or services
186 should not be purchased from an independent entity.

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

190 10. Any affiliated parent or subsidiary corporation or
191 partnership.

192 (g) The forms of the continuing care residency contracts,
193 reservation contracts, escrow agreements, and wait list
194 contracts, if applicable, which are proposed to be used by the
195 provider in the furnishing of care. If the office finds that the
196 continuing care contracts and escrow agreements comply with ss.

197 651.023(1)(c), 651.033, and 651.055, it shall approve them.
 198 Thereafter, no other form of contract or agreement may be used
 199 by the provider until it has been submitted to the office and
 200 approved.

201 (3) In addition to the information required in subsection
 202 (2), an applicant for a provisional certificate of authority
 203 shall submit a market feasibility study. The market feasibility
 204 study shall include at least the following information:

205 ~~(i) The application for a provisional certificate of~~
 206 ~~authority shall be accompanied by the forms of the continuing~~
 207 ~~care residency and reservation contracts and escrow agreements~~
 208 ~~proposed to be used by the provider in the furnishing of care.~~
 209 ~~If the office finds that the continuing care contracts and~~
 210 ~~escrow agreements comply with ss. 651.023(1)(c), 651.033, and~~
 211 ~~651.055, it shall approve them. Thereafter, no other form of~~
 212 ~~contract or agreement may be used by the provider until it has~~
 213 ~~been submitted to the office and approved.~~

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

217 Section 4. Subsection (2) of section 651.0235, Florida
 218 Statutes, is amended to read:

219 651.0235 Validity of provisional certificates of authority
 220 and certificates of authority.—

221 (2) If the provider fails to meet the requirements of this
 222 chapter for a provisional certificate of authority or a
 223 certificate of authority, the office may notify the provider of
 224 any deficiencies and require the provider to correct such

225 deficiencies within a period to be determined by the office. If
 226 such deficiencies are not corrected within 20 days after the
 227 notice to the provider, or within less time at the discretion of
 228 the office, the office shall notify the Continuing Care Advisory
 229 Council, which may assist the facility in formulating a remedial
 230 plan to be submitted to the office within ~~no later than~~ 60 days
 231 after ~~from~~ the date of notification. The time period for
 232 correcting the ~~granted to correct~~ deficiencies may be extended
 233 upon submission of a plan for corrective action approved by the
 234 office. If such deficiencies have not been cleared by the
 235 expiration of such time period, as extended, the office shall
 236 petition for a delinquency proceeding or pursue such other
 237 relief as ~~is~~ provided ~~for~~ under this chapter, as the
 238 circumstances may require.

239 Section 5. Subsection (2) of section 651.026, Florida
 240 Statutes, is amended to read:

241 651.026 Annual reports.—

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

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

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

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

252 a. A balance sheet;

- 253 b. A statement of income and expenses;
- 254 c. A statement of equity or fund balances; and
- 255 d. A statement of changes in cash flows .~~;~~~~and~~
- 256 2. Notes to the financial statements considered customary
- 257 or necessary for ~~to~~ full disclosure or adequate understanding of
- 258 the financial statements, financial condition, and operation.
- 259 (c) The following financial information:
- 260 1. A detailed listing of the assets maintained in the
- 261 liquid reserve as required under ~~in~~ s. 651.035 and in accordance
- 262 with part II of chapter 625;
- 263 2. A schedule giving additional information relating to
- 264 property, plant, and equipment having an original cost of at
- 265 least \$25,000, so as to show in reasonable detail with respect
- 266 to each separate facility original costs, accumulated
- 267 depreciation, net book value, appraised value or insurable value
- 268 and date thereof, insurance coverage, encumbrances, and net
- 269 equity of appraised or insured value over encumbrances. Any
- 270 property not used in continuing care must ~~shall~~ be shown
- 271 separately from property used in continuing care;
- 272 3. The level of participation in Medicare or Medicaid
- 273 programs, or both;
- 274 4. A statement of all fees required of residents,
- 275 including, but not limited to, a statement of the entrance fee
- 276 charged, the monthly service charges, the proposed application
- 277 of the proceeds of the entrance fee by the provider, and the
- 278 plan by which the amount of the entrance fee is determined if
- 279 the entrance fee is not the same in all cases; and
- 280 5. Any change or increase in fees if ~~when~~ the provider

281 | changes ~~either~~ the scope of, or the rates for, care or services,
 282 | regardless of whether the change involves the basic rate or only
 283 | those services available at additional costs to the resident.

284 | ~~6.a.~~ If the provider has more than one certificated
 285 | facility, or has operations that are not licensed under this
 286 | chapter, it shall submit a balance sheet, statement of income
 287 | and expenses, statement of equity or fund balances, and
 288 | statement of cash flows ~~statement of operations~~ for each
 289 | facility licensed under this chapter as supplemental information
 290 | to the audited financial statements required under paragraph (b)
 291 | ~~as part of the annual report.~~

292 | ~~b.~~ If the provider has operations that are not Florida
 293 | ~~certificated facilities, the provider shall also submit as~~
 294 | ~~supplemental information to the audited financial statements,~~
 295 | ~~balance sheets, statements of changes in equity, and statements~~
 296 | ~~of cash flows for each Florida certificated facility.~~

297 | (d) Such other reasonable data, financial statements, and
 298 | pertinent information as the commission or office may require
 299 | with respect to the provider or the facility, or its directors,
 300 | trustees, members, branches, subsidiaries, or affiliates, to
 301 | determine the financial status of the facility and the
 302 | management capabilities of its managers and owners.

303 | (e) Each facility shall file with the office annually,
 304 | together with the annual report required by this section, a
 305 | computation of its minimum liquid reserve calculated in
 306 | accordance with s. 651.035 on a form prescribed by the
 307 | commission.

308 | (f) If, due to a change in generally accepted accounting

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309 principles, the balance sheet, statement of income and expenses,
310 statement of equity or fund balances, or statement of cash flows
311 is known by any other name or title, the annual report must
312 contain financial statements using the changed names or titles
313 that most closely correspond to a balance sheet, statement of
314 income and expenses, statement of equity or fund balances, and
315 statement of changes in cash flows.

316 Section 6. Paragraph (d) of subsection (1) of section
317 651.033, Florida Statutes, is amended, and paragraph (d) is
318 added to subsection (3) of that section, to read:

319 651.033 Escrow accounts.—

320 (1) When funds are required to be deposited in an escrow
321 account pursuant to s. 651.022, s. 651.023, s. 651.035, or s.
322 651.055:

323 (d) All funds deposited in an escrow account, if invested,
324 shall be invested as set forth in part II of chapter 625;
325 however, such investment may ~~shall~~ not diminish the funds held
326 in escrow below the amount required by this chapter. ~~All~~ Funds
327 deposited in an escrow account are ~~shall~~ not ~~be~~ subject to any
328 charges by the escrow agent except escrow agent fees associated
329 with administering the accounts, or subject to any liens,
330 judgments, garnishments, creditor's claims, or other
331 encumbrances against the provider or facility except as provided
332 in s. 651.035(1) ~~651.035(2)~~.

333 (3) In addition, when entrance fees are required to be
334 deposited in an escrow account pursuant to s. 651.022, s.
335 651.023, or s. 651.055:

336 (d) A provider may assess a nonrefundable fee, which is

337 separate from the entrance fee, for processing a prospective
338 resident's application for continuing care.

339 Section 7. Section 651.035, Florida Statutes, is amended
340 to read:

341 651.035 Minimum liquid reserve requirements.—

342 (1) A provider shall maintain in escrow a minimum liquid
343 reserve consisting of the following reserves, as applicable:
344 ~~reserves specified in subsection (2).~~

345 ~~(2)~~(a) Each A provider shall maintain in escrow as a debt
346 service reserve ~~an amount equal to~~ the aggregate amount of all
347 principal and interest payments due during the fiscal year on
348 any mortgage loan or other long-term financing of the facility,
349 including property taxes as recorded in the audited financial
350 statements required under s. 651.026. The amount must ~~shall~~
351 include any leasehold payments and all costs related to such
352 payments. If principal payments are not due during the fiscal
353 year, the provider shall maintain in escrow as a minimum liquid
354 reserve an amount equal to interest payments due during the next
355 12 months on any mortgage loan or other long-term financing of
356 the facility, including property taxes.

357 (b) A provider that ~~which~~ has outstanding indebtedness
358 that ~~which~~ requires ~~what is normally referred to as a "debt~~
359 ~~service reserve"~~ to be held in escrow pursuant to a trust
360 indenture or mortgage lien on the facility and for which the
361 debt service reserve may only be used to pay principal and
362 interest payments on the debt that ~~which~~ the debtor is obligated
363 to pay, and which may include property taxes and insurance, may
364 include such debt service reserve in computing the ~~its~~

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365 ~~computation of its~~ minimum liquid reserve needed to satisfy this
366 subsection ~~if, provided that~~ the provider furnishes to the
367 office a copy of the agreement under which such debt service is
368 held, together with a statement of the amount being held in
369 escrow for the debt service reserve, certified by the lender or
370 trustee and the provider to be correct. The trustee shall
371 provide the office with any information concerning the debt
372 service reserve account upon request of the provider or the
373 office.

374 (c) Each provider shall maintain in escrow an operating
375 reserve ~~in an amount~~ equal to 30 percent of the total operating
376 expenses projected in the feasibility study required by s.
377 651.023 for the first 12 months of operation. Thereafter, each
378 provider shall maintain in escrow an operating reserve ~~in an~~
379 ~~amount~~ equal to 15 percent of the total operating expenses in
380 the annual report filed pursuant to s. 651.026. If ~~Where~~ a
381 provider has been in operation for more than 12 months, the
382 total annual operating expenses shall be determined by averaging
383 the total annual operating expenses reported to the office by
384 the number of annual reports filed with the office within the
385 ~~immediate~~ preceding 3-year period subject to adjustment if ~~in~~
386 ~~the event~~ there is a change in the number of facilities owned.
387 For purposes of this subsection, total annual operating expenses
388 ~~shall~~ include all expenses of the facility except: depreciation
389 and amortization; interest and property taxes included in
390 paragraph (a) subsection (1); extraordinary expenses that ~~which~~
391 are adequately explained and documented in accordance with
392 generally accepted accounting principles; liability insurance

393 premiums in excess of those paid in calendar year 1999; and
 394 changes in the obligation to provide future services to current
 395 residents. For providers initially licensed during or after
 396 calendar year 1999, liability insurance shall be included in the
 397 total operating expenses in an amount not to exceed the premium
 398 paid during the first 12 months of facility operation. Beginning
 399 January 1, 1993, the operating reserves required under this
 400 subsection shall be in an unencumbered account held in escrow
 401 for the benefit of the residents. Such funds may not be
 402 encumbered or subject to any liens or charges by the escrow
 403 agent or judgments, garnishments, or creditors' claims against
 404 the provider or facility. However, if a facility had a lien,
 405 mortgage, trust indenture, or similar debt instrument in place
 406 before ~~prior to~~ January 1, 1993, which encumbered all or any
 407 part of the reserves required by this subsection and such funds
 408 were used to meet the requirements of this subsection, then such
 409 arrangement may be continued, unless a refinancing or
 410 acquisition has occurred, and the provider shall be in
 411 compliance with this subsection.

412 (d) Each provider shall maintain in escrow a renewal and
 413 replacement reserve ~~in an amount~~ equal to 15 percent of the
 414 total accumulated depreciation based on the audited financial
 415 statement required to be filed pursuant to s. 651.026, not to
 416 exceed 15 percent of the facility's average operating expenses
 417 for the past 3 fiscal years based on the audited financial
 418 statements for each of those ~~such~~ years. For a provider who is
 419 an operator of a facility but is not the owner and depreciation
 420 is not included as part of the provider's financial statement,

421 the renewal and replacement reserve required by this paragraph
 422 must ~~shall~~ equal 15 percent of the total operating expenses of
 423 the provider, as described in this section. Each provider
 424 licensed before ~~prior to~~ October 1, 1983, shall ~~be required to~~
 425 fully fund the renewal and replacement reserve by October 1,
 426 2003, by multiplying the difference between the former escrow
 427 requirement and the present escrow requirement by the number of
 428 years the facility has been in operation after October 1, 1983.

429 ~~(3) In lieu of fulfilling the escrow requirements provided~~
 430 ~~in subsections (1) and (2), each facility licensed prior to~~
 431 ~~October 1, 1983, shall be required to maintain in escrow the~~
 432 ~~minimum liquid reserve that would have been required under this~~
 433 ~~section as it existed on October 1, 1982, plus 5 percent of the~~
 434 ~~difference between the former escrow requirement and the present~~
 435 ~~escrow requirement multiplied by the number of years the~~
 436 ~~facility has been in operation after October 1, 1983. Beginning~~
 437 ~~October 1, 2003, the escrow requirements provided in subsections~~
 438 ~~(1) and (2) shall apply in full to facilities licensed before~~
 439 ~~October 1, 1983.~~

440 (2)~~(4)~~(a) In facilities where not all residents are under
 441 continuing care contracts, the reserve requirements of
 442 subsection (1) ~~(2)~~ shall be computed only with respect to the
 443 proportional share of operating expenses which are ~~that is~~
 444 applicable to residents as defined in s. 651.011. For purposes
 445 of this calculation, the proportional share shall be based upon
 446 the ratio of residents under continuing care contracts to those
 447 residents who do not hold such contracts.

448 (b) In facilities that ~~which~~ have voluntarily and

449 permanently discontinued marketing continuing care contracts,
450 the office may allow a reduced debt service reserve as required
451 in subsection (1) based upon the ratio of residents under
452 continuing care contracts to those residents who do not hold
453 such contracts if the office finds that such reduction is not
454 inconsistent with the security protections intended by this
455 chapter. In making this determination, the office may consider
456 such factors as the financial condition of the facility, the
457 provisions of the outstanding continuing care contracts, the
458 ratio of residents under continuing care agreements to those
459 residents who do not hold a continuing care contract, current
460 occupancy rates, previous sales and marketing efforts, life
461 expectancy of the remaining contract holders, and the written
462 policies of the board of directors of the provider or a similar
463 board.

464 ~~(3)-(5)~~ If ~~When~~ principal and interest payments are paid to
465 a trust that ~~which~~ is beneficially held by the residents as
466 described in s. 651.023(5), the office may waive all or any
467 portion of the escrow requirements for mortgage principal and
468 interest contained in subsection (1) if the office finds that
469 such waiver is not inconsistent with the security protections
470 intended by this chapter.

471 ~~(4)-(6)~~ The office, upon approval of a plan for fulfilling
472 the requirements of this section and upon demonstration by the
473 facility of an annual increase in liquid reserves, may extend
474 the time for compliance.

475 ~~(5)-(7)(a)~~ A provider may satisfy the minimum liquid
476 reserve requirements of this section by acquiring from a

477 financial institution, as specified in paragraph (b), a clean,
 478 unconditional irrevocable letter of credit ~~in an amount~~ equal to
 479 the requirements of this section.

480 (a) The letter of credit must ~~shall~~ be issued by a
 481 financial institution participating in the State of Florida
 482 Treasury Certificate of Deposit Program, and must be approved by
 483 ~~the letter of credit shall be subject to the approval of the~~
 484 office before ~~prior to~~ issuance and before ~~prior to~~ any renewal
 485 or modification thereof. At a minimum, the letter of credit must
 486 ~~shall~~ provide for:

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

490 2. Unless otherwise arranged by the provider to the
 491 satisfaction of the office, deposit by the financial institution
 492 of ~~such~~ letter of credit funds in an account designated by the
 493 office no later than 30 days before ~~prior to~~ the expiration of
 494 the letter of credit.

495 3. Deposit by the financial institution of ~~such~~ letter of
 496 credit funds in an account designated by the office within ~~no~~
 497 ~~later than~~ 4 business days following written instructions from
 498 the office that, in the sole judgment of the office, funding of
 499 the minimum liquid reserve is required.

500 (b) The terms of the ~~such~~ letter of credit must ~~shall~~ be
 501 approved by the office and the long-term debt of the financial
 502 institution providing such letter of credit must ~~shall~~ be rated
 503 in one of their top three long-term debt rating categories by
 504 either Moody's Investors Service, Standard & Poor's Corporation,

505 or a recognized securities rating agency acceptable to the
 506 office.

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

509 (d) Notwithstanding any other provision of this section, a
 510 provider using ~~utilizing~~ a letter of credit pursuant to this
 511 subsection shall, at all times, have and maintain in escrow an
 512 operating cash reserve equal to 2 months' operating expenses as
 513 determined pursuant to s. 651.026.

514 (e) If ~~In the event~~ the issuing financial institution no
 515 longer participates in the State of Florida Treasury Certificate
 516 of Deposit Program, such financial institution shall deposit as
 517 collateral with the department eligible securities, as
 518 prescribed by s. 625.52, having a market value equal to or
 519 greater than 100 percent of the stated amount of the letter of
 520 credit.

521 ~~(6)(8)(a)~~ Each fiscal year, a provider may withdraw up to
 522 33 percent of the total renewal and replacement reserve
 523 available. The reserve available is equal to the market value of
 524 the invested reserves at the end of the provider's prior fiscal
 525 year. The withdrawal must ~~is to~~ be used for capital items or
 526 major repairs, ~~and~~

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

- 530 1. The amount of the withdrawal and the intended use of
- 531 the proceeds.
- 532 2. A board resolution and sworn affidavit signed by two

533 officers or general partners of the provider which indicates
 534 approval of the withdrawal and use of the funds.

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

538 4. Anticipated payment schedule for refunding the renewal
 539 and replacement reserve fund.

540 (b) Within 30 days after the withdrawal of funds ~~from the~~
 541 ~~renewal and replacement reserve fund~~, the provider must begin
 542 refunding the reserve account in equal monthly payments that
 543 ~~which~~ allow for a complete funding of the ~~such~~ withdrawal within
 544 36 months. If the payment schedule required under subparagraph
 545 (a)4. has changed, the provider must update the office with the
 546 new payment schedule. If the provider fails to make a required
 547 monthly payment or the payment is late, the provider must notify
 548 the office within 5 days after the due date of the payment. No
 549 additional withdrawals from the renewal and replacement reserve
 550 will be allowed until all scheduled payments are current.

551 Section 8. Paragraphs (d) and (g) of subsection (1) and
 552 subsections (2) and (5) of section 651.055, Florida Statutes,
 553 are amended to read:

554 651.055 Contracts; right to rescind.—

555 (1) Each continuing care contract and each addendum to
 556 such contract shall be submitted to and approved by the office
 557 prior to its use in this state. Thereafter, no other form of
 558 contract shall be used by the provider unless it has been
 559 submitted to and approved by the office. Each contract shall:

560 (d) Describe the health and financial conditions required

561 for a person to be accepted as a resident and to continue as a
 562 resident, once accepted, including the effect of any change in
 563 the health or financial condition of the ~~a~~ person between the
 564 date of submitting an application for admission to the facility
 565 and entering into a continuing care contract ~~and the date of~~
 566 ~~taking occupancy in a unit.~~ If a prospective resident signs a
 567 contract but postpones moving into the facility, the individual
 568 is deemed to be occupying a unit at the facility when he or she
 569 pays the entrance fee or any portion of the fee, other than a
 570 reservation deposit, and begins making monthly maintenance fee
 571 payments. Such resident may rescind the contract and receive a
 572 full refund of any funds paid, without penalty or forfeiture,
 573 within 7 days after executing the contract as specified in
 574 subsection (2).

575 (g) Provide that the contract may be canceled by ~~upon the~~
 576 giving at least 30 days' ~~of~~ written notice of cancellation ~~of at~~
 577 ~~least 30 days~~ by the provider, the resident, or the person who
 578 provided the transfer of property or funds for the care of such
 579 resident; however, if a contract is canceled because there has
 580 been a good faith determination that a resident is a danger to
 581 himself or herself or others, only such notice as is reasonable
 582 under the circumstances is ~~shall be~~ required.

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

587 2. For a resident whose contract with the facility
 588 provides that the resident does not receive a transferable

589 membership or ownership right in the facility, and who has
590 occupied his or her unit, the refund shall be calculated on a
591 pro rata basis with the facility retaining up to ~~no more than~~ 2
592 percent per month of occupancy by the resident and up to a 5
593 percent ~~no more than a 4-percent fee for processing fee~~. Such
594 refund must ~~shall~~ be paid within ~~no later than~~ 120 days after
595 ~~the~~ giving the ~~of~~ notice of intention to cancel.

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

604 4. Unless ~~the provisions of~~ subsection (5) applies apply,
605 for any prospective resident, regardless of whether or not such
606 a resident receives a transferable membership or ownership right
607 in the facility, who cancels the contract before ~~prior to~~
608 occupancy of the unit, ~~the refund shall be~~ the entire amount
609 paid toward the entrance fee shall be refunded, less a
610 processing fee of up to 5 percent ~~not to exceed 4 percent~~ of the
611 entire entrance fee; however, the ~~but in no event shall such~~
612 processing fee may not exceed the amount paid by the prospective
613 resident. Such refund must ~~shall~~ be paid within ~~no later than~~ 60
614 days after ~~the~~ giving the ~~of~~ notice of intention to cancel. For
615 a resident who has occupied his or her unit and who has received
616 a transferable membership or ownership right in the facility,

617 | the foregoing refund provisions do ~~shall~~ not apply but are ~~shall~~
 618 | ~~be~~ deemed satisfied by the acquisition or receipt of a
 619 | transferable membership or an ownership right in the facility.
 620 | The provider may ~~shall~~ not charge any fee for the transfer of
 621 | membership or sale of an ownership right.

622 | (2) A resident has the right to rescind a continuing care
 623 | contract and receive a full refund of any funds paid, without
 624 | penalty or forfeiture, within 7 days after executing the
 625 | contract. A resident may ~~shall~~ not be required to move into the
 626 | facility designated in the contract before the expiration of the
 627 | 7-day period. During the 7-day period, the resident's funds must
 628 | be held in an escrow account unless otherwise requested by the
 629 | resident pursuant to s. 651.033(3)(c).

630 | (5) Except for a resident who postpones moving into the
 631 | facility but is deemed to have occupied a unit as described in
 632 | paragraph (1)(d), if a prospective resident dies before
 633 | occupying the facility or, through illness, injury, or
 634 | incapacity, is precluded from becoming a resident under the
 635 | terms of the continuing care contract, the contract is
 636 | automatically canceled, and the prospective resident or his or
 637 | her the resident's legal representative shall receive a full
 638 | refund of all moneys paid to the facility, except those costs
 639 | specifically incurred by the facility at the request of the
 640 | prospective resident and set forth in writing in a separate
 641 | addendum, signed by both parties, to the contract.

642 | Section 9. Section 651.081, Florida Statutes, is amended
 643 | to read:

644 | 651.081 ~~Continuing care facilities~~ Residents' council

645 ~~organizations.~~—

646 (1) Residents living in a facility holding a valid
647 certificate of authority under this chapter have the right of
648 self-organization, the right to be represented by an individual
649 of their own choosing, and the right to engage in concerted
650 activities for the purpose of keeping informed on the operation
651 of the facility that ~~which~~ is caring for them or for the purpose
652 of other mutual aid or protection.

653 (2) A residents' council ~~organization~~ created for the
654 purpose of representing residents on matters set forth in s.
655 651.085 may be established through an election in which the
656 residents, as defined in s. 651.011 ~~this chapter~~, vote by
657 ballot, ~~either~~ physically or by proxy. If the election is to be
658 held during a meeting, a notice of the organizational meeting
659 must be provided to all residents of the community at least 10
660 business days before the meeting. Notice may be given through
661 internal mailboxes, communitywide newsletters, bulletin boards,
662 in-house television stations, and other similar means of
663 communication. An election ~~for~~ creating a residents' council
664 ~~organization~~ is valid if at least 40 percent of the total
665 resident population participates in the election and a majority
666 of the participants vote affirmatively for the council
667 ~~organization~~. The initial residents' council ~~organization~~
668 created under this section is valid for at least 12 months. A
669 residents' organization formalized by ~~If the facility has a~~
670 ~~residents' association, residents' council, or similarly~~
671 ~~organized body with~~ bylaws and elected officials, ~~such~~
672 ~~organization~~ must be recognized as the residents' council

673 ~~organization~~ under this section and s. 651.085. Within 30 days
 674 after the election of a newly elected president or chair of the
 675 residents' council, the provider shall give the president or
 676 chair a copy of this chapter and rules adopted thereunder, or
 677 direct him or her to the appropriate public website to obtain
 678 this information. ~~There shall be~~ Only one residents' council may
 679 ~~organization to~~ represent residents before the governing body of
 680 the provider as described in s. 651.085(2).

681 Section 10. Paragraphs (c) and (f) of subsection (1) of
 682 section 651.083, Florida Statutes, are amended, present
 683 subsection (5) of that section is redesignated as subsection
 684 (6), and a new subsection (5) is added to that section, to read:

685 651.083 Residents' rights.—

686 (1) No resident of any facility shall be deprived of any
 687 civil or legal rights, benefits, or privileges guaranteed by
 688 law, by the State Constitution, or by the United States
 689 Constitution solely by reason of status as a resident of a
 690 facility. Each resident of a facility has the right to:

691 (c) Unrestricted private communication, including
 692 receiving and sending unopened correspondence. This includes the
 693 right to receive memos or announcements from or approved for
 694 distribution by the residents' council.

695 (f) Present grievances and recommend changes in policies,
 696 procedures, and services to the staff of the facility, governing
 697 officials, or any other person without restraint, interference,
 698 coercion, discrimination, or reprisal. This right includes
 699 access to ombudsman volunteers and advocates and the right to be
 700 a member of, and active in, and to associate with, advocacy or

701 special interest groups or associations.

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

704 Section 11. Subsections (1) and (2) of section 651.085,
 705 Florida Statutes, are amended to read:

706 651.085 Quarterly meetings between residents and the
 707 governing body of the provider; resident representation before
 708 the governing body of the provider.—

709 (1) The governing body of a provider, or the designated
 710 representative of the provider, shall hold quarterly meetings
 711 with the residents of the continuing care facility for the
 712 purpose of free discussion of subjects including, but not
 713 limited to, income, expenditures, and financial trends and
 714 problems as they apply to the facility, as well as a discussion
 715 on proposed changes in policies, programs, and services. At
 716 quarterly meetings where monthly maintenance fee increases are
 717 discussed, a summary of the reasons for raising the fee as
 718 specified in subsection (4) must be provided in writing to the
 719 president or chair of the residents' council. Upon request of
 720 the residents' council ~~organization~~, a member of the governing
 721 body of the provider, such as a board member, ~~a~~ general partner,
 722 ~~or a~~ principal owner, or designated representative shall attend
 723 such meetings. Residents are ~~shall be~~ entitled to at least 7
 724 days' advance notice of each quarterly meeting. An agenda and
 725 any materials that will be distributed by the governing body or
 726 representative of the provider shall be posted in a conspicuous
 727 place at the facility and shall be available upon request to
 728 residents of the facility. The office shall request verification

729 from a facility that quarterly meetings are held and open to all
730 residents if ~~when~~ it receives a complaint from the residents'
731 council that a facility is not in compliance with ~~the provisions~~
732 ~~of~~ this subsection. In addition, a facility shall report to the
733 office in the annual report required under s. 651.026 the dates
734 on which quarterly meetings were held during the reporting
735 period.

736 (2) A residents' council organization ~~organization~~ formed pursuant to
737 s. 651.081, members of which are elected by the residents, may
738 designate a resident to represent them before the governing body
739 of the provider or organize a meeting or ballot election of the
740 residents ~~of the facility~~ to determine whether to elect a
741 resident to represent them before the governing body of the
742 provider. If a residents' council organization ~~as described in~~
743 ~~s. 651.081~~ does not exist, any resident may organize a meeting
744 or ballot election of the residents of the facility to determine
745 whether to elect a resident to represent them before the
746 governing body and, if applicable, elect the representative. The
747 residents' council organization, or the resident that organizes
748 a meeting or ballot election to elect a representative, shall
749 give all residents ~~of the facility~~ notice at least 10 business
750 days before the meeting or election. Notice may be given through
751 internal mailboxes, communitywide newsletters, bulletin boards,
752 in-house television stations, and other similar means of
753 communication. An election of the representative is valid if at
754 least 40 percent of the total resident population participates
755 in the election and a majority of the participants vote
756 affirmatively for the representative. The initial designated

757 representative elected under this section shall be elected to
 758 serve ~~for a period of~~ at least 12 months.

759 Section 12. Section 651.091, Florida Statutes, is amended
 760 to read:

761 651.091 Availability, distribution, and posting of reports
 762 and records; requirement of full disclosure.—

763 (1) Each continuing care facility shall maintain as public
 764 information, available upon request, records of all cost and
 765 inspection reports pertaining to that facility which ~~that~~ have
 766 been filed with or issued by any governmental agency. A copy of
 767 each ~~such~~ report shall be retained ~~in such records~~ for at least
 768 ~~not less than~~ 5 years after ~~from~~ the date the report is filed or
 769 issued. Each facility shall also maintain as public information,
 770 available upon request, all annual statements that have been
 771 filed with the office. For purposes of this section, a
 772 management company or operator is considered an agent of the
 773 provider.

774 (2) Every continuing care facility shall:

775 (a) Display the certificate of authority in a conspicuous
 776 place inside the facility.

777 (b) Post in a prominent position in the facility which is
 778 ~~so as to be~~ accessible to all residents and ~~to~~ the general
 779 public a concise summary of the last examination report issued
 780 by the office, with references to the page numbers of the full
 781 report noting any deficiencies found by the office, and the
 782 actions taken by the provider to rectify such deficiencies,
 783 indicating in such summary where the full report may be
 784 inspected in the facility.

785 (c) Post in a prominent position in the facility which is
 786 ~~so as to be~~ accessible to all residents and ~~to~~ the general
 787 public a summary of the latest annual statement, indicating in
 788 the summary where the full annual statement may be inspected in
 789 the facility. A listing of any proposed changes in policies,
 790 programs, and services must ~~shall~~ also be posted.

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

795 (e) Notify the residents' council of any plans filed with
 796 the office to obtain new financing, additional financing, or
 797 refinancing for the facility and of any applications to the
 798 office for any expansion of the facility.

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

803 (g) Deliver to the president or chair of the residents'
 804 council a copy of each quarterly statement within 30 days after
 805 the quarterly statement is filed with the office if the facility
 806 is required to file quarterly.

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

810 (3) Before entering into a contract to furnish continuing
 811 care, the provider undertaking to furnish the care, or the agent
 812 of the provider, shall make full disclosure, and provide copies

813 of the disclosure documents to the prospective resident or his
 814 or her legal representative, of the following information:

815 (a) The contract to furnish continuing care.

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

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

819 (d) In keeping with the intent of this subsection relating
 820 to disclosure, the provider shall make available for review,
 821 master plans approved by the provider's governing board and any
 822 plans for expansion or phased development, to the extent that
 823 the availability of such plans will not put at risk real estate,
 824 financing, acquisition, negotiations, or other implementation of
 825 operational plans and thus jeopardize the success of
 826 negotiations, operations, and development.

827 (e) Copies of the rules and regulations of the facility
 828 and an explanation of the responsibilities of the resident.

829 (f) The policy of the facility with respect to admission
 830 to and discharge from the various levels of health care offered
 831 by the facility.

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

836 (h) A copy of s. 651.071.

837 (i) ~~(h)~~ A copy of the resident's rights as described in s.
 838 651.083.

839 (4) A true and complete copy of the full disclosure
 840 document to be used must ~~shall~~ be filed with the office before

841 ~~prior to its~~ use. A resident or prospective resident or his or
 842 her legal representative may ~~shall be permitted to~~ inspect the
 843 full reports referred to in paragraph (2)(b); the charter or
 844 other agreement or instrument required to be filed with the
 845 office pursuant to s. 651.022(2), together with all amendments
 846 thereto; and the bylaws of the corporation or association, if
 847 any. Upon request, copies of the reports and information shall
 848 be provided to the individual requesting them if the individual
 849 agrees to pay a reasonable charge to cover copying costs.

850 Section 13. Subsection (1) of section 651.105, Florida
 851 Statutes, is amended, and subsection (5) is added to that
 852 section, to read:

853 651.105 Examination and inspections.-

854 (1) The office may at any time, and shall at least once
 855 every 5 ~~3~~ years, examine the business of any applicant for a
 856 certificate of authority and any provider engaged in the
 857 execution of care contracts or engaged in the performance of
 858 obligations under such contracts, in the same manner as is
 859 provided for the examination of insurance companies pursuant to
 860 s. 624.316. Such examinations shall be made by a representative
 861 or examiner designated by the office, whose compensation will be
 862 fixed by the office pursuant to s. 624.320. Routine examinations
 863 may be made by having the necessary documents submitted to the
 864 office; and, for this purpose, financial documents and records
 865 conforming to commonly accepted accounting principles and
 866 practices, as required under s. 651.026, are ~~will be~~ deemed
 867 adequate. The final written report of each ~~such~~ examination must
 868 ~~shall~~ be filed with the office and, when so filed, constitutes

869 ~~will constitute~~ a public record. Any provider being examined
 870 shall, upon request, give reasonable and timely access to all of
 871 its records. The representative or examiner designated by the
 872 office may at any time examine the records and affairs and
 873 inspect the physical property of any provider, whether in
 874 connection with a formal examination or not.

875 (5) At the time of the routine examination, the office
 876 shall determine if all disclosures required under this chapter
 877 have been made to the president or chair of the residents'
 878 council.

879 Section 14. Subsections (1) through (4) of section
 880 651.114, Florida Statutes, are amended to read:

881 651.114 Delinquency proceedings; remedial rights.—

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

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

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

- 892 (a) Consider and evaluate the plan submitted by the
 893 provider.
- 894 (b) Discuss the problem and solutions with the provider.
- 895 (c) Conduct such other business as is necessary.
- 896 (d) Report its findings and recommendations to the office,

897 | which may require additional modification of the plan.

898 | (4) ~~(a)~~ After receiving ~~Upon~~ approval of a plan by the
 899 | office, the provider shall submit ~~monthly~~ a progress report
 900 | monthly to the advisory council or the office, or both, in a
 901 | manner prescribed by the office.

902 | ~~(b)~~ After ~~a period of~~ 3 months, or at any earlier time
 903 | deemed necessary, the council shall evaluate the progress by the
 904 | provider and shall advise the office of its findings.

905 | Section 15. Subsection (3) of section 651.1151, Florida
 906 | Statutes, is amended to read:

907 | 651.1151 Administrative, vendor, and management
 908 | contracts.—

909 | (3) Any contract with an affiliate, an entity controlled
 910 | by the provider, or an entity controlled by an affiliate of the
 911 | provider for administrative, vendor, or management services
 912 | entered into or renewed after October 1, 1991, must include
 913 | ~~shall contain~~ a provision that the contract will ~~shall~~ be
 914 | canceled upon issuance of an order by the office pursuant to
 915 | this section. A copy of the current management services
 916 | contract, pursuant to this section, if any, must be on file in
 917 | the marketing office or other area accessible ~~area~~ to residents
 918 | and the appropriate residents' council ~~resident organizations~~.

919 | Section 16. Section 651.121, Florida Statutes, is amended
 920 | to read:

921 | 651.121 Continuing Care Advisory Council.—

922 | (1) The Continuing Care Advisory Council to the office is
 923 | created to consist of 10 members who are residents of this state
 924 | appointed by the Governor and geographically representative of

925 | this state. Three members shall be administrators of facilities
926 | that ~~which~~ hold valid certificates of authority under this
927 | chapter and shall have been actively engaged in the offering of
928 | continuing care agreements in this state for 5 years before
929 | appointment. The remaining members ~~shall~~ include:

930 | (a) A representative of the business community whose
931 | expertise is in the area of management.

932 | (b) A representative of the financial community who is not
933 | a facility owner or administrator.

934 | (c) A certified public accountant.

935 | (d) An attorney.

936 | (e) Three residents who hold continuing care agreements
937 | with a facility certified in this state.

938 | (2) The term of office for each member shall be 3 years,
939 | or until the member's successor has been appointed and
940 | qualifies.

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

944 | (4) Each prospective council member shall submit to the
945 | appointing officer a statement detailing any financial interest
946 | of 10 percent or more in one or more continuing care facilities,
947 | including, but not limited to, ownership interest in a facility,
948 | property leased to a facility, and ownership in any company
949 | providing goods or services to a facility. This statement shall
950 | include the name and address of each facility involved and the
951 | extent and character of the financial interest of the applicant.
952 | Upon appointment of the council member, this statement shall

953 | become a public document.

954 | (5) The council shall:

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

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

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

965 | (d) Act in an advisory capacity to the office on matters
 966 | pertaining to the operation and regulation of continuing care
 967 | facilities.

968 | (e) Recommend to the office needed changes in statutes and
 969 | rules.

970 | (f) Upon the request of the office, assist, with any
 971 | corrective action, rehabilitation or cessation of business plan
 972 | of a provider.

973 | (6) A provider shall furnish to the council, no later than
 974 | 14 business days after being requested to do so by the council,
 975 | all documents and information reasonably requested by the
 976 | council.

977 | (7) The council chair shall report annually the council's
 978 | findings and recommendations concerning continuing care
 979 | facilities to the Executive Office of the Governor and the
 980 | Commissioner of Insurance Regulation.

981 (8) At the council's annual meeting, the office shall
 982 provide members with a summary and comparison of data on
 983 continuing care facilities submitted in the most recent two
 984 annual reports and a summary of the number, type, and status of
 985 complaints related to continuing care facilities which were
 986 filed with the Division of Consumer Services in the Department
 987 of Financial Services during the preceding fiscal year.

988 (9) The office shall notify the council by written
 989 memorandum or electronic means of proposed rule changes and
 990 scheduled rule workshops and hearings related to the
 991 administration of this chapter.

992 Section 17. Section 651.133, Florida Statutes, is
 993 repealed.

994 Section 18. Subsection (1) of section 628.4615, Florida
 995 Statutes, is amended to read:

996 628.4615 Specialty insurers; acquisition of controlling
 997 stock, ownership interest, assets, or control; merger or
 998 consolidation.—

999 (1) For the purposes of this section, the term "specialty
 1000 insurer" means any person holding a license or certificate of
 1001 authority as:

1002 (a) A motor vehicle service agreement company authorized
 1003 to issue motor vehicle service agreements as those terms are
 1004 defined in s. 634.011;

1005 (b) A home warranty association authorized to issue "home
 1006 warranties" as those terms are defined in s. 634.301(3) and (4);

1007 (c) A service warranty association authorized to issue
 1008 "service warranties" as those terms are defined in s.

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1009 634.401(13) and (14);

1010 (d) A prepaid limited health service organization
 1011 authorized to issue prepaid limited health service contracts, as
 1012 those terms are defined in chapter 636;

1013 (e) An authorized health maintenance organization
 1014 operating pursuant to s. 641.21;

1015 (f) An authorized prepaid health clinic operating pursuant
 1016 to s. 641.405;

1017 (g) A legal expense insurance corporation authorized to
 1018 engage in a legal expense insurance business pursuant to s.
 1019 642.021;

1020 (h) A provider that ~~which~~ is licensed to operate a
 1021 facility that ~~which~~ undertakes to provide continuing care as
 1022 those terms are defined in s. 651.011~~(2), (4), (5), and (6)~~;

1023 (i) A multiple-employer welfare arrangement operating
 1024 pursuant to ss. 624.436-624.446;

1025 (j) A premium finance company authorized to finance
 1026 insurance premiums pursuant to s. 627.828; or

1027 (k) A corporation authorized to accept donor annuity
 1028 agreements pursuant to s. 627.481.

1029 Section 19. This act shall take effect July 1, 2010.