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CS/HB 1253, Engrossed 1

2010 Legislature

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.;

## ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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 required time period for examinations for  
45 | certain providers; requiring the office to determine if  
46 | all disclosures have been made to the chair of the  
47 | residents' council; amending ss. 651.114 and 651.1151,  
48 | F.S.; conforming provisions to changes made by the act;  
49 | amending s. 651.121, F.S.; conforming provisions to  
50 | 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

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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~~

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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,

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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.

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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.

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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



ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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;

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

- 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

## ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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~~

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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

## ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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,

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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



ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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,

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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,

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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



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CS/HB 1253, Engrossed 1

2010 Legislature

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

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CS/HB 1253, Engrossed 1

2010 Legislature

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

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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~~ 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

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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.

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

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 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. For a provider as defined in s. 651.028, such  
 861 examinations shall take place at least once every 5 years. Such  
 862 examinations shall be made by a representative or examiner  
 863 designated by the office, whose compensation will be fixed by  
 864 the office pursuant to s. 624.320. Routine examinations may be  
 865 made by having the necessary documents submitted to the office;  
 866 and, for this purpose, financial documents and records  
 867 conforming to commonly accepted accounting principles and  
 868 practices, as required under s. 651.026, are ~~will be~~ deemed

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

869 adequate. The final written report of each ~~such~~ examination must  
 870 ~~shall~~ be filed with the office and, when so filed, constitutes  
 871 ~~will constitute~~ a public record. Any provider being examined  
 872 shall, upon request, give reasonable and timely access to all of  
 873 its records. The representative or examiner designated by the  
 874 office may at any time examine the records and affairs and  
 875 inspect the physical property of any provider, whether in  
 876 connection with a formal examination or not.

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

881 Section 14. Subsections (1) through (4) of section  
 882 651.114, Florida Statutes, are amended to read:

883 651.114 Delinquency proceedings; remedial rights.—

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

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

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

894 (a) Consider and evaluate the plan submitted by the  
 895 provider.

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



ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

897 (c) Conduct such other business as is necessary.  
 898 (d) Report its findings and recommendations to the office,  
 899 which may require additional modification of the plan.

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

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

907 Section 15. Subsection (3) of section 651.1151, Florida  
 908 Statutes, is amended to read:

909 651.1151 Administrative, vendor, and management  
 910 contracts.—

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

921 Section 16. Section 651.121, Florida Statutes, is amended  
 922 to read:

923 651.121 Continuing Care Advisory Council.—

924 (1) The Continuing Care Advisory Council to the office is

## ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

925 created to consist of 10 members who are residents of this state  
926 appointed by the Governor and geographically representative of  
927 this state. Three members shall be administrators of facilities  
928 that ~~which~~ hold valid certificates of authority under this  
929 chapter and shall have been actively engaged in the offering of  
930 continuing care agreements in this state for 5 years before  
931 appointment. The remaining members ~~shall~~ include:

932 (a) A representative of the business community whose  
933 expertise is in the area of management.

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

936 (c) A certified public accountant.

937 (d) An attorney.

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

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

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

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

## ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

953 extent and character of the financial interest of the applicant.  
954 Upon appointment of the council member, this statement shall  
955 become a public document.

956 (5) The council shall:

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

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

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

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

970 (e) Recommend to the office needed changes in statutes and  
971 rules.

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

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

979 (7) The council chair shall report annually the council's  
980 findings and recommendations concerning continuing care

ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

981 facilities to the Executive Office of the Governor and the  
 982 Commissioner of Insurance Regulation.

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

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

994 Section 17. Section 651.133, Florida Statutes, is  
 995 repealed.

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

998 628.4615 Specialty insurers; acquisition of controlling  
 999 stock, ownership interest, assets, or control; merger or  
 1000 consolidation.—

1001 (1) For the purposes of this section, the term "specialty  
 1002 insurer" means any person holding a license or certificate of  
 1003 authority as:

1004 (a) A motor vehicle service agreement company authorized  
 1005 to issue motor vehicle service agreements as those terms are  
 1006 defined in s. 634.011;

1007 (b) A home warranty association authorized to issue "home  
 1008 warranties" as those terms are defined in s. 634.301(3) and (4);

## ENROLLED

CS/HB 1253, Engrossed 1

2010 Legislature

- 1009 (c) A service warranty association authorized to issue  
1010 "service warranties" as those terms are defined in s.  
1011 634.401(13) and (14);
- 1012 (d) A prepaid limited health service organization  
1013 authorized to issue prepaid limited health service contracts, as  
1014 those terms are defined in chapter 636;
- 1015 (e) An authorized health maintenance organization  
1016 operating pursuant to s. 641.21;
- 1017 (f) An authorized prepaid health clinic operating pursuant  
1018 to s. 641.405;
- 1019 (g) A legal expense insurance corporation authorized to  
1020 engage in a legal expense insurance business pursuant to s.  
1021 642.021;
- 1022 (h) A provider that ~~which~~ is licensed to operate a  
1023 facility that ~~which~~ undertakes to provide continuing care as  
1024 those terms are defined in s. 651.011(2), (4), (5), and (6);
- 1025 (i) A multiple-employer welfare arrangement operating  
1026 pursuant to ss. 624.436-624.446;
- 1027 (j) A premium finance company authorized to finance  
1028 insurance premiums pursuant to s. 627.828; or
- 1029 (k) A corporation authorized to accept donor annuity  
1030 agreements pursuant to s. 627.481.
- 1031 Section 19. This act shall take effect July 1, 2010.