



451188

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2010	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Fasano) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

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

(3) ~~(1)~~ “Continuing Care Advisory Council” or “advisory council” means the ~~Continuing Care Advisory~~ council established in ~~by~~ s. 651.121.

(2) “Continuing care” or “care” means, ~~furnishing~~ pursuant



451188

13 to a contract, furnishing shelter and ~~either~~ nursing care or
14 personal services as defined in s. 429.02, whether such nursing
15 care or personal services are provided in the facility or in
16 another setting designated by the contract for continuing care,
17 to an individual not related by consanguinity or affinity to the
18 provider furnishing such care, upon payment of an entrance fee.
19 Other personal services provided must ~~shall~~ be designated in the
20 continuing care contract. Contracts to provide continuing care
21 include agreements to provide care for any duration, including
22 contracts that are terminable by either party.

23 (4) ~~(3)~~ "Entrance fee" means an initial or deferred payment
24 of a sum of money or property made as full or partial payment to
25 assure the resident a place in a facility. An accommodation fee,
26 admission fee, or other fee of similar form and application are
27 ~~shall be~~ considered to be an entrance fee.

28 (5) ~~(4)~~ "Facility" means a place that provides ~~in which it~~
29 ~~is undertaken to provide~~ continuing care.

30 (8) ~~(5)~~ "Licensed" means that the provider has obtained a
31 certificate of authority from the department.

32 (9) ~~(6)~~ "Provider" means the owner or operator, whether a
33 natural person, partnership or other unincorporated association,
34 however organized, trust, or corporation, of an institution,
35 building, residence, or other place, whether operated for profit
36 or not, which owner or operator provides ~~undertakes to provide~~
37 continuing care for a fixed or variable fee, or for any other
38 remuneration of any type, whether fixed or variable, for the
39 period of care, payable in a lump sum or lump sum and monthly
40 maintenance charges or in installments, but does not mean an ~~any~~
41 entity that has existed and continuously operated a facility



451188

42 located on at least ~~no less than~~ 63 acres in this state
43 providing residential lodging to members and their spouses for
44 at least 66 years on or before July 1, 1989, and ~~such facility~~
45 has the residential capacity of 500 persons, is directly or
46 indirectly owned or operated by a nationally recognized
47 fraternal organization, is not open to the public, and accepts
48 only its members and their spouses as residents ~~at such a~~
49 ~~facility~~.

50 (10)~~(7)~~ "Records" means the permanent financial, directory,
51 and personnel information and data maintained by a provider
52 pursuant to this chapter.

53 (11)~~(8)~~ "Resident" means a purchaser of, ~~or~~ a nominee of,
54 or a subscriber to, a continuing care agreement. Such ~~an~~
55 agreement does ~~may not be construed to~~ give the resident a part
56 ownership of the facility in which the resident is to reside,
57 unless expressly provided for in the agreement.

58 (6)~~(9)~~ "Generally accepted accounting principles" means
59 those accounting principles and practices adopted by the
60 Financial Accounting Standards Board and the American Institute
61 of Certified Public Accountants, including Statement of Position
62 90-8 with respect to any full year to which the statement
63 applies.

64 (7)~~(10)~~ "Insolvency" means the condition in which the
65 provider is unable to pay its obligations as they come due in
66 the normal course of business.

67 (1)~~(11)~~ "Advertising" means the dissemination of ~~any~~
68 written, visual, or electronic information by a provider, or any
69 person affiliated with or controlled by a provider, to potential
70 residents or their representatives for the purpose of inducing



451188

71 such persons to subscribe to or enter into a contract to reside
72 in a continuing care community that is subject to this chapter
73 ~~covered by this act.~~

74 Section 2. Section 651.012, Florida Statutes, is amended to
75 read:

76 651.012 Exempted facility; written disclosure of
77 exemption.—Any facility exempted under ss. 632.637(1)(e) and
78 651.011(9) ~~651.011(6)~~ must provide written disclosure of such
79 exemption to each person admitted to the facility after October
80 1, 1996. This disclosure must be written using language likely
81 to be understood by the person and must briefly explain the
82 exemption ~~provisions of ss. 632.637(1)(e) and 651.011(6).~~

83 Section 3. Paragraph (b) of subsection (2) of section
84 651.022, Florida Statutes, is amended, paragraph (g) is added to
85 that subsection, and paragraphs (i) and (j) of subsection (3) of
86 that section are amended, to read:

87 651.022 Provisional certificate of authority; application.—

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

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

92 1. The proprietor, if the applicant or provider is an
93 individual.

94 2. Every partner or member, if the applicant or provider is
95 a partnership or other unincorporated association, however
96 organized, having fewer than 50 partners or members, together
97 with the business name and address of the partnership or other
98 organization.

99 3. The principal partners or members, if the applicant or



451188

100 provider is a partnership or other unincorporated association,
101 however organized, having 50 or more partners or members,
102 together with the business name and business address of the
103 partnership or other organization. If such unincorporated
104 organization has officers and a board of directors, the full
105 name and business address of each officer and director may be
106 set forth in lieu of the full name and business address of its
107 principal members.

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

110 5. Every trustee and officer, if the applicant or provider
111 is a trust.

112 6. The manager, whether an individual, corporation,
113 partnership, or association.

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

117 8. Any person whose name is required to be provided in the
118 application under ~~the provisions of~~ this paragraph and who owns
119 any interest in or receives any remuneration from, ~~either~~
120 directly or indirectly, any professional service firm,
121 association, trust, partnership, or corporation providing goods,
122 leases, or services to the facility for which the application is
123 made, with a real or anticipated value of \$10,000 ~~\$500~~ or more,
124 and the name and address of the professional service firm,
125 association, trust, partnership, or corporation in which such
126 interest is held. The applicant shall describe such goods,
127 leases, or services and the probable cost to the facility or
128 provider and shall describe why such goods, leases, or services



451188

129 should not be purchased from an independent entity.

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

133 10. Any affiliated parent or subsidiary corporation or
134 partnership.

135 (g) The forms of the continuing care residency contracts,
136 reservation contracts, escrow agreements, and wait list
137 contracts, if applicable, which are proposed to be used by the
138 provider in the furnishing of care. If the office finds that the
139 continuing care contracts and escrow agreements comply with ss.
140 651.023(1)(c), 651.033, and 651.055, it shall approve them.
141 Thereafter, no other form of contract or agreement may be used
142 by the provider until it has been submitted to the office and
143 approved.

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

148 ~~(i) The application for a provisional certificate of~~
149 ~~authority shall be accompanied by the forms of the continuing~~
150 ~~care residency and reservation contracts and escrow agreements~~
151 ~~proposed to be used by the provider in the furnishing of care.~~
152 ~~If the office finds that the continuing care contracts and~~
153 ~~escrow agreements comply with ss. 651.023(1)(c), 651.033, and~~
154 ~~651.055, it shall approve them. Thereafter, no other form of~~
155 ~~contract or agreement may be used by the provider until it has~~
156 ~~been submitted to the office and approved.~~

157 (i)-(j) The name of the person who prepared the feasibility



451188

158 study and the experience of such person in preparing similar
159 studies or otherwise consulting in the field of continuing care.

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

162 651.0235 Validity of provisional certificates of authority
163 and certificates of authority.—

164 (2) If the provider fails to meet the requirements of this
165 chapter for a provisional certificate of authority or a
166 certificate of authority, the office may notify the provider of
167 any deficiencies and require the provider to correct such
168 deficiencies within a period to be determined by the office. If
169 such deficiencies are not corrected within 20 days after the
170 notice to the provider, or within less time at the discretion of
171 the office, the office shall notify the Continuing Care Advisory
172 Council, which may assist the facility in formulating a remedial
173 plan to be submitted to the office within ~~no later than~~ 60 days
174 after ~~from~~ the date of notification. The time period for
175 correcting the ~~granted to correct~~ deficiencies may be extended
176 upon submission of a plan for corrective action approved by the
177 office. If such deficiencies have not been cleared by the
178 expiration of such time period, as extended, the office shall
179 petition for a delinquency proceeding or pursue such other
180 relief as ~~is~~ provided ~~for~~ under this chapter, as the
181 circumstances may require.

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

184 651.026 Annual reports.—

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



451188

- 187 (a) Any change in status with respect to the information
188 required to be filed under s. 651.022(2).
- 189 (b) Financial statements audited by an independent
190 certified public accountant, which must ~~shall~~ contain, for two
191 or more periods if the facility has been in existence that long,
192 all of the following:
- 193 1. An accountant's opinion and, in accordance with
194 generally accepted accounting principles:
 - 195 a. A balance sheet;
 - 196 b. A statement of income and expenses;
 - 197 c. A statement of equity or fund balances; and
 - 198 d. A statement of changes in cash flows. ~~;~~ and
 - 199 2. Notes to the financial statements considered customary
200 or necessary for ~~to~~ full disclosure or adequate understanding of
201 the financial statements, financial condition, and operation.
- 202 (c) The following financial information:
- 203 1. A detailed listing of the assets maintained in the
204 liquid reserve as required under ~~in~~ s. 651.035 and in accordance
205 with part II of chapter 625;
 - 206 2. A schedule giving additional information relating to
207 property, plant, and equipment having an original cost of at
208 least \$25,000, so as to show in reasonable detail with respect
209 to each separate facility original costs, accumulated
210 depreciation, net book value, appraised value or insurable value
211 and date thereof, insurance coverage, encumbrances, and net
212 equity of appraised or insured value over encumbrances. Any
213 property not used in continuing care must ~~shall~~ be shown
214 separately from property used in continuing care;
 - 215 3. The level of participation in Medicare or Medicaid



451188

216 programs, or both;

217 4. A statement of all fees required of residents,
218 including, but not limited to, a statement of the entrance fee
219 charged, the monthly service charges, the proposed application
220 of the proceeds of the entrance fee by the provider, and the
221 plan by which the amount of the entrance fee is determined if
222 the entrance fee is not the same in all cases; and

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

227 ~~6.a.~~ If the provider has more than one certificated
228 facility, or has operations that are not licensed under this
229 chapter, it shall submit a balance sheet, statement of income
230 and expenses, statement of equity or fund balances, and
231 statement of cash flows ~~statement of operations~~ for each
232 facility licensed under this chapter as supplemental information
233 to the audited financial statements required under paragraph (b)
234 ~~as part of the annual report.~~

235 ~~b. If the provider has operations that are not Florida~~
236 ~~certificated facilities, the provider shall also submit as~~
237 ~~supplemental information to the audited financial statements,~~
238 ~~balance sheets, statements of changes in equity, and statements~~
239 ~~of cash flows for each Florida certificated facility.~~

240 (d) Such other reasonable data, financial statements, and
241 pertinent information as the commission or office may require
242 with respect to the provider or the facility, or its directors,
243 trustees, members, branches, subsidiaries, or affiliates, to
244 determine the financial status of the facility and the



451188

245 management capabilities of its managers and owners.

246 (e) Each facility shall file with the office annually,
247 together with the annual report required by this section, a
248 computation of its minimum liquid reserve calculated in
249 accordance with s. 651.035 on a form prescribed by the
250 commission.

251 (f) If, due to a change in generally accepted accounting
252 principles, the balance sheet, statement of income and expenses,
253 statement of equity or fund balances, or statement of cash flows
254 is known by any other name or title, the annual report must
255 contain financial statements using the changed names or titles
256 that most closely correspond to a balance sheet, statement of
257 income and expenses, statement of equity or fund balances, and
258 statement of changes in cash flows.

259 Section 6. Paragraph (d) of subsection (1) of section
260 651.033, Florida Statutes, is amended, and paragraph (d) is
261 added to subsection (3) of that section, to read:

262 651.033 Escrow accounts.—

263 (1) When funds are required to be deposited in an escrow
264 account pursuant to s. 651.022, s. 651.023, s. 651.035, or s.
265 651.055:

266 (d) All funds deposited in an escrow account, if invested,
267 shall be invested as set forth in part II of chapter 625;
268 however, such investment may ~~shall~~ not diminish the funds held
269 in escrow below the amount required by this chapter. ~~All~~ Funds
270 deposited in an escrow account are ~~shall~~ not ~~be~~ subject to ~~any~~
271 charges by the escrow agent except escrow agent fees associated
272 with administering the accounts, or subject to any liens,
273 judgments, garnishments, creditor's claims, or other



451188

274 encumbrances against the provider or facility except as provided
275 in s. 651.035(1) ~~651.035(2)~~.

276 (3) In addition, when entrance fees are required to be
277 deposited in an escrow account pursuant to s. 651.022, s.
278 651.023, or s. 651.055:

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

282 Section 7. Section 651.035, Florida Statutes, is amended to
283 read:

284 651.035 Minimum liquid reserve requirements.—

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

288 ~~(2)~~(a) Each A provider shall maintain in escrow as a debt
289 service reserve ~~an amount equal to~~ the aggregate amount of all
290 principal and interest payments due during the fiscal year on
291 any mortgage loan or other long-term financing of the facility,
292 including property taxes as recorded in the audited financial
293 statements required under s. 651.026. The amount must ~~shall~~
294 include any leasehold payments and all costs related to such
295 payments. If principal payments are not due during the fiscal
296 year, the provider shall maintain in escrow as a minimum liquid
297 reserve an amount equal to interest payments due during the next
298 12 months on any mortgage loan or other long-term financing of
299 the facility, including property taxes.

300 (b) A provider that ~~which~~ has outstanding indebtedness that
301 ~~which~~ requires ~~what is normally referred to as a "debt service~~
302 ~~reserve"~~ to be held in escrow pursuant to a trust indenture or



451188

303 mortgage lien on the facility and for which the debt service
304 reserve may only be used to pay principal and interest payments
305 on the debt that ~~which~~ the debtor is obligated to pay, and which
306 may include property taxes and insurance, may include such debt
307 service reserve in computing the ~~its computation of its~~ minimum
308 liquid reserve needed to satisfy this subsection if, ~~provided~~
309 ~~that~~ the provider furnishes to the office a copy of the
310 agreement under which such debt service is held, together with a
311 statement of the amount being held in escrow for the debt
312 service reserve, certified by the lender or trustee and the
313 provider to be correct. The trustee shall provide the office
314 with any information concerning the debt service reserve account
315 upon request of the provider or the office.

316 (c) Each provider shall maintain in escrow an operating
317 reserve ~~in an amount~~ equal to 30 percent of the total operating
318 expenses projected in the feasibility study required by s.
319 651.023 for the first 12 months of operation. Thereafter, each
320 provider shall maintain in escrow an operating reserve ~~in an~~
321 ~~amount~~ equal to 15 percent of the total operating expenses in
322 the annual report filed pursuant to s. 651.026. If ~~Where~~ a
323 provider has been in operation for more than 12 months, the
324 total annual operating expenses shall be determined by averaging
325 the total annual operating expenses reported to the office by
326 the number of annual reports filed with the office within the
327 ~~immediate~~ preceding 3-year period subject to adjustment if ~~in~~
328 ~~the event~~ there is a change in the number of facilities owned.
329 For purposes of this subsection, total annual operating expenses
330 ~~shall~~ include all expenses of the facility except: depreciation
331 and amortization; interest and property taxes included in



451188

332 paragraph (a) subsection (1); extraordinary expenses that ~~which~~
333 are adequately explained and documented in accordance with
334 generally accepted accounting principles; liability insurance
335 premiums in excess of those paid in calendar year 1999; and
336 changes in the obligation to provide future services to current
337 residents. For providers initially licensed during or after
338 calendar year 1999, liability insurance shall be included in the
339 total operating expenses in an amount not to exceed the premium
340 paid during the first 12 months of facility operation. Beginning
341 January 1, 1993, the operating reserves required under this
342 subsection shall be in an unencumbered account held in escrow
343 for the benefit of the residents. Such funds may not be
344 encumbered or subject to any liens or charges by the escrow
345 agent or judgments, garnishments, or creditors' claims against
346 the provider or facility. However, if a facility had a lien,
347 mortgage, trust indenture, or similar debt instrument in place
348 before ~~prior to~~ January 1, 1993, which encumbered all or any
349 part of the reserves required by this subsection and such funds
350 were used to meet the requirements of this subsection, then such
351 arrangement may be continued, unless a refinancing or
352 acquisition has occurred, and the provider shall be in
353 compliance with this subsection.

354 (d) Each provider shall maintain in escrow a renewal and
355 replacement reserve ~~in an amount~~ equal to 15 percent of the
356 total accumulated depreciation based on the audited financial
357 statement required to be filed pursuant to s. 651.026, not to
358 exceed 15 percent of the facility's average operating expenses
359 for the past 3 fiscal years based on the audited financial
360 statements for each of those ~~such~~ years. For a provider who is



451188

361 an operator of a facility but is not the owner and depreciation
362 is not included as part of the provider's financial statement,
363 the renewal and replacement reserve required by this paragraph
364 must ~~shall~~ equal 15 percent of the total operating expenses of
365 the provider, as described in this section. Each provider
366 licensed before ~~prior to~~ October 1, 1983, shall ~~be required to~~
367 fully fund the renewal and replacement reserve by October 1,
368 2003, by multiplying the difference between the former escrow
369 requirement and the present escrow requirement by the number of
370 years the facility has been in operation after October 1, 1983.

371 ~~(3) In lieu of fulfilling the escrow requirements provided~~
372 ~~in subsections (1) and (2), each facility licensed prior to~~
373 ~~October 1, 1983, shall be required to maintain in escrow the~~
374 ~~minimum liquid reserve that would have been required under this~~
375 ~~section as it existed on October 1, 1982, plus 5 percent of the~~
376 ~~difference between the former escrow requirement and the present~~
377 ~~escrow requirement multiplied by the number of years the~~
378 ~~facility has been in operation after October 1, 1983. Beginning~~
379 ~~October 1, 2003, the escrow requirements provided in subsections~~
380 ~~(1) and (2) shall apply in full to facilities licensed before~~
381 ~~October 1, 1983.~~

382 (2)~~(4)~~(a) In facilities where not all residents are under
383 continuing care contracts, the reserve requirements of
384 subsection (1) ~~(2)~~ shall be computed only with respect to the
385 proportional share of operating expenses which are ~~that is~~
386 applicable to residents as defined in s. 651.011. For purposes
387 of this calculation, the proportional share shall be based upon
388 the ratio of residents under continuing care contracts to those
389 residents who do not hold such contracts.



451188

390 (b) In facilities that ~~which~~ have voluntarily and
391 permanently discontinued marketing continuing care contracts,
392 the office may allow a reduced debt service reserve as required
393 in subsection (1) based upon the ratio of residents under
394 continuing care contracts to those residents who do not hold
395 such contracts if the office finds that such reduction is not
396 inconsistent with the security protections intended by this
397 chapter. In making this determination, the office may consider
398 such factors as the financial condition of the facility, the
399 provisions of the outstanding continuing care contracts, the
400 ratio of residents under continuing care agreements to those
401 residents who do not hold a continuing care contract, current
402 occupancy rates, previous sales and marketing efforts, life
403 expectancy of the remaining contract holders, and the written
404 policies of the board of directors of the provider or a similar
405 board.

406 (3)~~(5)~~ If ~~When~~ principal and interest payments are paid to
407 a trust that ~~which~~ is beneficially held by the residents as
408 described in s. 651.023(5), the office may waive all or any
409 portion of the escrow requirements for mortgage principal and
410 interest contained in subsection (1) if the office finds that
411 such waiver is not inconsistent with the security protections
412 intended by this chapter.

413 (4)~~(6)~~ The office, upon approval of a plan for fulfilling
414 the requirements of this section and upon demonstration by the
415 facility of an annual increase in liquid reserves, may extend
416 the time for compliance.

417 (5)~~(7)~~~~(a)~~ A provider may satisfy the minimum liquid reserve
418 requirements of this section by acquiring from a financial



451188

419 institution, as specified in paragraph (b), a clean,
420 unconditional irrevocable letter of credit ~~in an amount~~ equal to
421 the requirements of this section.

422 (a) The letter of credit must ~~shall~~ be issued by a
423 financial institution participating in the State of Florida
424 Treasury Certificate of Deposit Program, and must be approved by
425 ~~the letter of credit shall be subject to the approval of the~~
426 office before ~~prior to~~ issuance and before ~~prior to~~ any renewal
427 or modification thereof. At a minimum, the letter of credit must
428 ~~shall~~ provide for:

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

432 2. Unless otherwise arranged by the provider to the
433 satisfaction of the office, deposit by the financial institution
434 of ~~such~~ letter of credit funds in an account designated by the
435 office no later than 30 days before ~~prior to~~ the expiration of
436 the letter of credit.

437 3. Deposit by the financial institution of ~~such~~ letter of
438 credit funds in an account designated by the office within ~~no~~
439 ~~later than~~ 4 business days following written instructions from
440 the office that, in the sole judgment of the office, funding of
441 the minimum liquid reserve is required.

442 (b) The terms of the ~~such~~ letter of credit must ~~shall~~ be
443 approved by the office and the long-term debt of the financial
444 institution providing such letter of credit must ~~shall~~ be rated
445 in one of their top three long-term debt rating categories by
446 either Moody's Investors Service, Standard & Poor's Corporation,
447 or a recognized securities rating agency acceptable to the



451188

448 office.

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

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

456 (e) If ~~In the event~~ the issuing financial institution no
457 longer participates in the State of Florida Treasury Certificate
458 of Deposit Program, such financial institution shall deposit as
459 collateral with the department eligible securities, as
460 prescribed by s. 625.52, having a market value equal to or
461 greater than 100 percent of the stated amount of the letter of
462 credit.

463 ~~(6)(8)(a)~~ Each fiscal year, a provider may withdraw up to
464 33 percent of the total renewal and replacement reserve
465 available. The reserve available is equal to the market value of
466 the invested reserves at the end of the provider's prior fiscal
467 year. The withdrawal must ~~is to~~ be used for capital items or
468 major repairs, ~~and~~

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

472 1. The amount of the withdrawal and the intended use of the
473 proceeds.

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



451188

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

480 4. Anticipated payment schedule for refunding the renewal
481 and replacement reserve fund.

482 (b) Within 30 days after the withdrawal of funds ~~from the~~
483 ~~renewal and replacement reserve fund~~, the provider must begin
484 refunding the reserve account in equal monthly payments that
485 ~~which~~ allow for a complete funding of the ~~such~~ withdrawal within
486 36 months. If the payment schedule required under subparagraph
487 (a)4. has changed, the provider must update the office with the
488 new payment schedule. If the provider fails to make a required
489 monthly payment or the payment is late, the provider must notify
490 the office within 5 days after the due date of the payment. No
491 additional withdrawals from the renewal and replacement reserve
492 will be allowed until all scheduled payments are current.

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

496 651.055 Contracts; right to rescind.—

497 (1) Each continuing care contract and each addendum to such
498 contract shall be submitted to and approved by the office prior
499 to its use in this state. Thereafter, no other form of contract
500 shall be used by the provider unless it has been submitted to
501 and approved by the office. Each contract shall:

502 (d) Describe the health and financial conditions required
503 for a person to be accepted as a resident and to continue as a
504 resident, once accepted, including the effect of any change in
505 the health or financial condition of the ~~a~~ person between the



451188

506 date of submitting an application for admission to the facility
507 and entering into a continuing care contract and the date of
508 taking occupancy in a unit. If a prospective resident signs a
509 contract but postpones moving into the facility, the individual
510 is deemed to be occupying a unit at the facility when he or she
511 pays the entrance fee or any portion of the fee, other than a
512 reservation deposit, and begins making monthly maintenance fee
513 payments. Such resident may rescind the contract and receive a
514 full refund of any funds paid, without penalty or forfeiture,
515 within 7 days after executing the contract as specified in
516 subsection (2).

517 (g) Provide that the contract may be canceled by ~~upon the~~
518 giving at least 30 days' ~~of~~ written notice of cancellation ~~of at~~
519 ~~least 30 days~~ by the provider, the resident, or the person who
520 provided the transfer of property or funds for the care of such
521 resident; however, if a contract is canceled because there has
522 been a good faith determination that a resident is a danger to
523 himself or herself or others, only such notice as is reasonable
524 under the circumstances is ~~shall be~~ required.

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

529 2. For a resident whose contract with the facility provides
530 that the resident does not receive a transferable membership or
531 ownership right in the facility, and who has occupied his or her
532 unit, the refund shall be calculated on a pro rata basis with
533 the facility retaining up to ~~no more than~~ 2 percent per month of
534 occupancy by the resident and up to a 5 percent ~~no more than a~~



451188

535 ~~4 percent fee for processing fee.~~ Such refund must ~~shall~~ be paid
536 within no later than 120 days after ~~the~~ giving the ~~of~~ notice of
537 intention to cancel.

538 3. In addition to a processing fee, if the contract
539 provides for the facility to retain up to no more than 1 percent
540 per month of occupancy by the resident, it may provide that such
541 refund will be paid from the proceeds of the next entrance fees
542 received by the provider for units for which there are no prior
543 claims by any resident until paid in full or, if the provider
544 has discontinued marketing continuing care contracts, within 200
545 days after the date of notice.

546 4. Unless ~~the provisions of~~ subsection (5) applies apply,
547 for any prospective resident, regardless of whether or not such
548 a resident receives a transferable membership or ownership right
549 in the facility, who cancels the contract before ~~prior to~~
550 occupancy of the unit, ~~the refund shall be~~ the entire amount
551 paid toward the entrance fee shall be refunded, less a
552 processing fee of up to 5 percent ~~not to exceed 4 percent~~ of the
553 entire entrance fee; however, the ~~but in no event shall~~ such
554 processing fee may not exceed the amount paid by the prospective
555 resident. Such refund must ~~shall~~ be paid within no later than 60
556 days after ~~the~~ giving the ~~of~~ notice of intention to cancel. For
557 a resident who has occupied his or her unit and who has received
558 a transferable membership or ownership right in the facility,
559 the foregoing refund provisions do ~~shall~~ not apply but are ~~shall~~
560 ~~be~~ deemed satisfied by the acquisition or receipt of a
561 transferable membership or an ownership right in the facility.
562 The provider may ~~shall~~ not charge any fee for the transfer of
563 membership or sale of an ownership right.



451188

564 (2) A resident has the right to rescind a continuing care
565 contract and receive a full refund of any funds paid, without
566 penalty or forfeiture, within 7 days after executing the
567 contract. A resident may ~~shall~~ not be required to move into the
568 facility designated in the contract before the expiration of the
569 7-day period. During the 7-day period, the resident's funds must
570 be held in an escrow account unless otherwise requested by the
571 resident pursuant to s. 651.033(3)(c).

572 (5) Except for a resident who postpones moving into the
573 facility but is deemed to have occupied a unit as described in
574 paragraph (1)(d), if a prospective resident dies before
575 occupying the facility or, through illness, injury, or
576 incapacity, is precluded from becoming a resident under the
577 terms of the continuing care contract, the contract is
578 automatically canceled, and the prospective resident or his or
579 her ~~the resident's~~ legal representative shall receive a full
580 refund of all moneys paid to the facility, except those costs
581 specifically incurred by the facility at the request of the
582 prospective resident and set forth in writing in a separate
583 addendum, signed by both parties, to the contract.

584 Section 9. Section 651.081, Florida Statutes, is amended to
585 read:

586 651.081 ~~Continuing care facilities~~ Residents' council
587 ~~organizations.~~

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



451188

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

595 (2) A residents' council ~~organization~~ created for the
596 purpose of representing residents on matters set forth in s.
597 651.085 may be established through an election in which the
598 residents, as defined in s. 651.011 ~~this chapter~~, vote by
599 ballot, ~~either~~ physically or by proxy. If the election is to be
600 held during a meeting, a notice of the organizational meeting
601 must be provided to all residents of the community at least 10
602 business days before the meeting. Notice may be given through
603 internal mailboxes, communitywide newsletters, bulletin boards,
604 in-house television stations, and other similar means of
605 communication. An election ~~for~~ creating a residents' council
606 ~~organization~~ is valid if at least 40 percent of the total
607 resident population participates in the election and a majority
608 of the participants vote affirmatively for the council
609 ~~organization~~. The initial residents' council ~~organization~~
610 created under this section is valid for at least 12 months. A
611 residents' organization formalized by ~~If the facility has a~~
612 ~~residents' association, residents' council, or similarly~~
613 ~~organized body with~~ bylaws and elected officials, ~~such~~
614 ~~organization~~ must be recognized as the residents' council
615 ~~organization~~ under this section and s. 651.085. Within 30 days
616 after the election of a newly elected president or chair of the
617 residents' council, the provider shall give the president or
618 chair a copy of this chapter and rules adopted thereunder, or
619 direct him or her to the appropriate public website to obtain
620 this information. ~~There shall be~~ Only one residents' council ~~may~~
621 ~~organization to~~ represent residents before the governing body of



451188

622 the provider as described in s. 651.085(2).

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

627 651.083 Residents' rights.—

628 (1) No resident of any facility shall be deprived of any
629 civil or legal rights, benefits, or privileges guaranteed by
630 law, by the State Constitution, or by the United States
631 Constitution solely by reason of status as a resident of a
632 facility. Each resident of a facility has the right to:

633 (c) Unrestricted private communication, including receiving
634 and sending unopened correspondence. This includes the right to
635 receive memos or announcements from or approved for distribution
636 by the residents' council.

637 (f) Present grievances and recommend changes in policies,
638 procedures, and services to the staff of the facility, governing
639 officials, or any other person without restraint, interference,
640 coercion, discrimination, or reprisal. This right includes
641 access to ombudsman volunteers and advocates and the right to be
642 a member of, and active in, and to associate with, advocacy or
643 special interest groups or associations.

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

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

648 651.085 Quarterly meetings between residents and the
649 governing body of the provider; resident representation before
650 the governing body of the provider.—



451188

651 (1) The governing body of a provider, or the designated
652 representative of the provider, shall hold quarterly meetings
653 with the residents of the continuing care facility for the
654 purpose of free discussion of subjects including, but not
655 limited to, income, expenditures, and financial trends and
656 problems as they apply to the facility, as well as a discussion
657 on proposed changes in policies, programs, and services. At
658 quarterly meetings where monthly maintenance fee increases are
659 discussed, a summary of the reasons for raising the fee as
660 specified in subsection (4) must be provided in writing to the
661 president or chair of the residents' council. Upon request of
662 the residents' council organization, a member of the governing
663 body of the provider, such as a board member, a general partner,
664 ~~or a~~ principal owner, or designated representative shall attend
665 such meetings. Residents are ~~shall be~~ entitled to at least 7
666 days' advance notice of each quarterly meeting. An agenda and
667 any materials that will be distributed by the governing body or
668 representative of the provider shall be posted in a conspicuous
669 place at the facility and shall be available upon request to
670 residents of the facility. The office shall request verification
671 from a facility that quarterly meetings are held and open to all
672 residents if ~~when~~ it receives a complaint from the residents'
673 council that a facility is not in compliance with ~~the provisions~~
674 ~~of~~ this subsection. In addition, a facility shall report to the
675 office in the annual report required under s. 651.026 the dates
676 on which quarterly meetings were held during the reporting
677 period.

678 (2) A residents' council organization formed pursuant to s.
679 651.081, members of which are elected by the residents, may



451188

680 designate a resident to represent them before the governing body
681 of the provider or organize a meeting or ballot election of the
682 residents ~~of the facility~~ to determine whether to elect a
683 resident to represent them before the governing body of the
684 provider. If a residents' council ~~organization as described in~~
685 ~~s. 651.081~~ does not exist, any resident may organize a meeting
686 or ballot election of the residents of the facility to determine
687 whether to elect a resident to represent them before the
688 governing body and, if applicable, elect the representative. The
689 residents' council ~~organization~~, or the resident that organizes
690 a meeting or ballot election to elect a representative, shall
691 give all residents ~~of the facility~~ notice at least 10 business
692 days before the meeting or election. Notice may be given through
693 internal mailboxes, communitywide newsletters, bulletin boards,
694 in-house television stations, and other similar means of
695 communication. An election of the representative is valid if at
696 least 40 percent of the total resident population participates
697 in the election and a majority of the participants vote
698 affirmatively for the representative. The initial designated
699 representative elected under this section shall be elected to
700 serve ~~for a period of~~ at least 12 months.

701 Section 12. Section 651.091, Florida Statutes, is amended
702 to read:

703 651.091 Availability, distribution, and posting of reports
704 and records; requirement of full disclosure.—

705 (1) Each continuing care facility shall maintain as public
706 information, available upon request, records of all cost and
707 inspection reports pertaining to that facility which ~~that~~ have
708 been filed with or issued by any governmental agency. A copy of



451188

709 each ~~such~~ report shall be retained ~~in such records~~ for at least
710 ~~not less than~~ 5 years after ~~from~~ the date the report is filed or
711 issued. Each facility shall also maintain as public information,
712 available upon request, all annual statements that have been
713 filed with the office. For purposes of this section, a
714 management company or operator is considered an agent of the
715 provider.

716 (2) Every continuing care facility shall:

717 (a) Display the certificate of authority in a conspicuous
718 place inside the facility.

719 (b) Post in a prominent position in the facility which is
720 ~~so as to be~~ accessible to all residents and ~~to~~ the general
721 public a concise summary of the last examination report issued
722 by the office, with references to the page numbers of the full
723 report noting any deficiencies found by the office, and the
724 actions taken by the provider to rectify such deficiencies,
725 indicating in such summary where the full report may be
726 inspected in the facility.

727 (c) Post in a prominent position in the facility which is
728 ~~so as to be~~ accessible to all residents and ~~to~~ the general
729 public a summary of the latest annual statement, indicating in
730 the summary where the full annual statement may be inspected in
731 the facility. A listing of any proposed changes in policies,
732 programs, and services must ~~shall~~ also be posted.

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

737 (e) Notify the residents' council of any plans filed with



451188

738 the office to obtain new financing, additional financing, or
739 refinancing for the facility and of any applications to the
740 office for any expansion of the facility.

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

745 (g) Deliver to the president or chair of the residents'
746 council a copy of each quarterly statement within 30 days after
747 the quarterly statement is filed with the office if the facility
748 is required to file quarterly.

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

752 (3) Before entering into a contract to furnish continuing
753 care, the provider undertaking to furnish the care, or the agent
754 of the provider, shall make full disclosure, and provide copies
755 of the disclosure documents to the prospective resident or his
756 or her legal representative, of the following information:

757 (a) The contract to furnish continuing care.

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

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

761 (d) In keeping with the intent of this subsection relating
762 to disclosure, the provider shall make available for review,
763 master plans approved by the provider's governing board and any
764 plans for expansion or phased development, to the extent that
765 the availability of such plans will not put at risk real estate,
766 financing, acquisition, negotiations, or other implementation of



451188

767 operational plans and thus jeopardize the success of
768 negotiations, operations, and development.

769 (e) Copies of the rules and regulations of the facility and
770 an explanation of the responsibilities of the resident.

771 (f) The policy of the facility with respect to admission to
772 and discharge from the various levels of health care offered by
773 the facility.

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

778 (h) A copy of s. 651.071.

779 (i) ~~(h)~~ A copy of the resident's rights as described in s.
780 651.083.

781 (4) A true and complete copy of the full disclosure
782 document to be used must ~~shall~~ be filed with the office before
783 ~~prior to its~~ use. A resident or prospective resident or his or
784 her legal representative may ~~shall be permitted to~~ inspect the
785 full reports referred to in paragraph (2) (b); the charter or
786 other agreement or instrument required to be filed with the
787 office pursuant to s. 651.022(2), together with all amendments
788 thereto; and the bylaws of the corporation or association, if
789 any. Upon request, copies of the reports and information shall
790 be provided to the individual requesting them if the individual
791 agrees to pay a reasonable charge to cover copying costs.

792 Section 13. Subsection (1) of section 651.105, Florida
793 Statutes, is amended, and subsection (5) is added to that
794 section, to read:

795 651.105 Examination and inspections.—



451188

796 (1) The office may at any time, and shall at least once
797 every 5 ~~3~~ years, examine the business of any applicant for a
798 certificate of authority and any provider engaged in the
799 execution of care contracts or engaged in the performance of
800 obligations under such contracts, in the same manner as is
801 provided for the examination of insurance companies pursuant to
802 s. 624.316. Such examinations shall be made by a representative
803 or examiner designated by the office, whose compensation will be
804 fixed by the office pursuant to s. 624.320. Routine examinations
805 may be made by having the necessary documents submitted to the
806 office; and, for this purpose, financial documents and records
807 conforming to commonly accepted accounting principles and
808 practices, as required under s. 651.026, are ~~will be~~ deemed
809 adequate. The final written report of each ~~such~~ examination must
810 ~~shall~~ be filed with the office and, when so filed, constitutes
811 ~~will constitute~~ a public record. Any provider being examined
812 shall, upon request, give reasonable and timely access to all of
813 its records. The representative or examiner designated by the
814 office may at any time examine the records and affairs and
815 inspect the physical property of any provider, whether in
816 connection with a formal examination or not.

817 (5) At the time of the routine examination, the office
818 shall determine if all disclosures required under this chapter
819 have been made to the president or chair of the residents'
820 council.

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

823 651.114 Delinquency proceedings; remedial rights.—

824 (1) Upon determination by the office that a provider is not



451188

825 in compliance with this chapter, the office may notify the chair
826 of the Continuing Care Advisory Council, who may assist the
827 office in formulating a corrective action plan.

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

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

834 (a) Consider and evaluate the plan submitted by the
835 provider.

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

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

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

840 (4) ~~(a)~~ After receiving ~~Upon~~ approval of a plan by the
841 office, the provider shall submit ~~monthly~~ a progress report
842 monthly to the advisory council or the office, or both, in a
843 manner prescribed by the office.

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

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

849 651.1151 Administrative, vendor, and management contracts.—

850 (3) Any contract with an affiliate, an entity controlled by
851 the provider, or an entity controlled by an affiliate of the
852 provider for administrative, vendor, or management services
853 entered into or renewed after October 1, 1991, must include



451188

854 ~~shall contain~~ a provision that the contract will ~~shall~~ be
855 canceled upon issuance of an order by the office pursuant to
856 this section. A copy of the current management services
857 contract, pursuant to this section, if any, must be on file in
858 the marketing office or other area accessible ~~area~~ to residents
859 and the appropriate residents' council ~~resident organizations~~.

860 Section 16. Section 651.121, Florida Statutes, is amended
861 to read:

862 651.121 Continuing Care Advisory Council.—

863 (1) The Continuing Care Advisory Council to the office is
864 created to consist of 10 members who are residents of this state
865 appointed by the Governor and geographically representative of
866 this state. Three members shall be administrators of facilities
867 that ~~which~~ hold valid certificates of authority under this
868 chapter and shall have been actively engaged in the offering of
869 continuing care agreements in this state for 5 years before
870 appointment. The remaining members ~~shall~~ include:

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

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

875 (c) A certified public accountant.

876 (d) An attorney.

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

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

881 (3) The council members shall serve without pay, but shall
882 be reimbursed for per diem and travel expenses by the office in



451188

883 accordance with s. 112.061.

884 (4) Each prospective council member shall submit to the
885 appointing officer a statement detailing any financial interest
886 of 10 percent or more in one or more continuing care facilities,
887 including, but not limited to, ownership interest in a facility,
888 property leased to a facility, and ownership in any company
889 providing goods or services to a facility. This statement shall
890 include the name and address of each facility involved and the
891 extent and character of the financial interest of the applicant.
892 Upon appointment of the council member, this statement shall
893 become a public document.

894 (5) The council shall:

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

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

901 (c) Keep a record of its proceedings. The books and records
902 of the council shall be prima facie evidence of all matters
903 reported therein and, except for proceedings conducted under s.
904 651.018, shall be open to inspection at all times.

905 (d) Act in an advisory capacity to the office on matters
906 pertaining to the operation and regulation of continuing care
907 facilities.

908 (e) Recommend to the office needed changes in statutes and
909 rules.

910 (f) Upon the request of the office, assist, with any
911 corrective action, rehabilitation or cessation of business plan



451188

912 of a provider.

913 (6) A provider shall furnish to the council, no later than
914 14 business days after being requested to do so by the council,
915 all documents and information reasonably requested by the
916 council.

917 (7) The council chair shall report annually the council's
918 findings and recommendations concerning continuing care
919 facilities to the Executive Office of the Governor and the
920 Commissioner of Insurance Regulation.

921 (8) At the council's annual meeting, the office shall
922 provide members with a summary and comparison of data on
923 continuing care facilities submitted in the most recent two
924 annual reports and a summary of the number, type, and status of
925 complaints related to continuing care facilities which were
926 filed with the Division of Consumer Services in the Department
927 of Financial Services during the preceding fiscal year.

928 (9) The office shall notify the council by written
929 memorandum or electronic means of proposed rule changes and
930 scheduled rule workshops and hearings related to the
931 administration of this chapter.

932 Section 17. Section 651.133, Florida Statutes, is repealed.

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

935 628.4615 Specialty insurers; acquisition of controlling
936 stock, ownership interest, assets, or control; merger or
937 consolidation.—

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



451188

941 (a) A motor vehicle service agreement company authorized to
942 issue motor vehicle service agreements as those terms are
943 defined in s. 634.011;

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

946 (c) A service warranty association authorized to issue
947 "service warranties" as those terms are defined in s.
948 634.401(13) and (14);

949 (d) A prepaid limited health service organization
950 authorized to issue prepaid limited health service contracts, as
951 those terms are defined in chapter 636;

952 (e) An authorized health maintenance organization operating
953 pursuant to s. 641.21;

954 (f) An authorized prepaid health clinic operating pursuant
955 to s. 641.405;

956 (g) A legal expense insurance corporation authorized to
957 engage in a legal expense insurance business pursuant to s.
958 642.021;

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

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

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

966 (k) A corporation authorized to accept donor annuity
967 agreements pursuant to s. 627.481.

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

969



451188

970
971 ===== T I T L E A M E N D M E N T =====

972 And the title is amended as follows:

973 Delete everything before the enacting clause
974 and insert:

975 A bill to be entitled
976 An act relating to continuing care facilities;
977 amending s. 651.011, F.S.; revising definitions
978 relating to ch. 651, F.S.; amending s. 651.012, F.S.;
979 conforming cross-references; amending s. 651.022,
980 F.S.; increasing the threshold amount for businesses
981 that must be identified in an application for a
982 provisional certificate of authority; adding wait-list
983 contracts to the forms that must be submitted with the
984 application; amending s. 651.0235, F.S.; conforming
985 provisions to changes made by the act; amending s.
986 651.026, F.S.; revising the financial information that
987 must be submitted annually for each certified
988 facility; requiring the annual report to reflect any
989 changes in accounting principle terminology; amending
990 s. 651.033, F.S.; authorizing a provider to assess a
991 separate, nonrefundable fee for processing an
992 application for continuing care; amending s. 651.035,
993 F.S.; clarifying that the amounts maintained in escrow
994 relating to taxes refer to property taxes; deleting an
995 obsolete provision; amending s. 651.055, F.S.;
996 providing that a resident is deemed to be occupying a
997 unit upon the payment of certain fees; providing a
998 timeframe for rescinding a contract; increasing the



451188

999 application processing fee; conforming provisions to
1000 changes made by the act; amending s. 651.081, F.S.;
1001 renaming residents' organizations as residents'
1002 councils; requiring the provider to provide a newly
1003 elected chair of a council with a copy of ch. 651,
1004 F.S., and related rules; amending s. 651.083, F.S.;
1005 clarifying that a resident has a right to receive
1006 residents' council memos and announcements;
1007 prohibiting a provider from restricting a resident's
1008 access to the council; amending s. 651.085, F.S.;
1009 requiring the provider to provide the reasons for
1010 increasing the maintenance fee to the chair of the
1011 residents' council; allowing a designated
1012 representative to represent the provider at meetings;
1013 amending s. 651.091, F.S.; specifying that a
1014 management company or operator is an agent of the
1015 provider for the purposes of disclosing certain
1016 information to residents; expanding the list of items
1017 that must be provided to the chair of the residents'
1018 council; requiring the provider to provide a copy of
1019 s. 651.071, F.S., relating to receivership or
1020 liquidation, to all prospective residents; amending s.
1021 651.105, F.S.; increasing the amount of time that the
1022 Office of Insurance Regulation has to inspect a
1023 facility; requiring the office to determine if all
1024 disclosures have been made to the chair of the
1025 residents' council; amending ss. 651.114 and 651.1151,
1026 F.S.; conforming provisions to changes made by the
1027 act; amending s. 651.121, F.S.; conforming provisions



451188

1028 to changes made by the act; requiring the chair of the
1029 Continuing Care Advisory Council to report the
1030 council's findings and recommendations to the Governor
1031 and the Commissioner of Insurance Regulation;
1032 requiring the office to provide certain information to
1033 the council; repealing s. 651.133, F.S., relating to
1034 provisional certificates under prior law; amending s.
1035 628.4615, F.S.; conforming cross-references; providing
1036 an effective date.