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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/16/2018	.	
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The Committee on Banking and Insurance (Lee) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

651.011 Definitions.—As used in this chapter, the term:

(1) "Actuarial opinion" means an opinion issued by an  
actuary in accordance with Actuarial Standards of Practice No. 3  
for Continuing Care Retirement Communities, Revised Edition,



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11 effective May 1, 2011, or any future amendments or replacements  
12 to this standard which may be adopted by the Actuarial Standards  
13 Board.

14 (2) "Actuarial study" means an analysis prepared for an  
15 individual facility, or consolidated for multiple facilities,  
16 for either a certified provider, as of a current valuation date  
17 or the most recent fiscal year, or for an applicant, as of a  
18 projected future valuation date, which includes an actuary's  
19 opinion as to whether such provider or applicant is in  
20 satisfactory actuarial balance in accordance with Actuarial  
21 Standards of Practice No. 3 for Continuing Care Retirement  
22 Communities, Revised Edition, effective May 1, 2011, or any  
23 future amendments or replacements to this standard which may be  
24 adopted by the Actuarial Standards Board.

25 (3) "Actuary" means an individual who is qualified to sign  
26 an actuarial opinion in accordance with the American Academy of  
27 Actuaries' qualification standards and who is a member in good  
28 standing of the American Academy of Actuaries.

29 (4)-~~1~~ "Advertising" means the dissemination of written,  
30 visual, or electronic information by a provider, or any person  
31 affiliated with or controlled by a provider, to potential  
32 residents or their representatives for the purpose of inducing  
33 such persons to subscribe to or enter into a contract for  
34 continuing care or continuing care at-home.

35 (5)-~~2~~ "Continuing care" or "care" means, pursuant to a  
36 contract, furnishing shelter and nursing care or personal  
37 services to a resident who resides in a facility, whether such  
38 nursing care or personal services are provided in the facility  
39 or in another setting designated in the contract for continuing



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40 care, by an individual not related by consanguinity or affinity  
41 to the resident, upon payment of an entrance fee. The terms may  
42 also be referred to as a "life plan."

43 (6) ~~(3)~~ "Continuing Care Advisory Council" or "advisory  
44 council" means the council established in s. 651.121.

45 (7) ~~(4)~~ "Continuing care at-home" means, pursuant to a  
46 contract other than a contract described in subsection (5) ~~(2)~~,  
47 furnishing to a resident who resides outside the facility the  
48 right to future access to shelter and nursing care or personal  
49 services, whether such services are provided in the facility or  
50 in another setting designated in the contract, by an individual  
51 not related by consanguinity or affinity to the resident, upon  
52 payment of an entrance fee. The term may also be referred to as  
53 a "life plan at-home."

54 (8) "Corrective order" means an order issued by the office  
55 which specifies corrective actions the office has determined are  
56 required.

57 (9) "Days cash on hand" means, for a facility or obligated  
58 group, the quotient obtained by dividing the value of paragraph  
59 (a) by the value of paragraph (b).

60 (a) The sum of unrestricted cash, unrestricted short-term  
61 and long-term investments, provider restricted funds, and the  
62 minimum liquid reserve as of the reporting period.

63 (b) Operating expenses less depreciation, amortization, and  
64 other noncash expenses and nonoperating losses, divided by 365.  
65 Operating expenses, depreciation, amortization, and other  
66 noncash expenses and nonoperating losses are each the sum of  
67 their respective values over the 12-month period immediately  
68 preceding the reporting date.



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69  
70 With prior written approval of the office, a demand note or  
71 other parental guarantee may be considered a short-term or long-  
72 term investment for the purposes of paragraph (a). However, the  
73 total of all demand notes issued by the parent may not, at any  
74 time, be more than the sum of unrestricted cash and unrestricted  
75 short-term and long-term investments held by the parent.

76 (10) "Debt service coverage ratio" means, for a facility or  
77 obligated group, the quotient obtained by dividing the value of  
78 paragraph (a) by the value of paragraph (b).

79 (a) The sum of total expenses less interest expense on the  
80 facility, depreciation, amortization, and other noncash expenses  
81 and nonoperating losses, subtracted from the sum of total  
82 revenues and gross entrance fees received less earned entrance  
83 fees and refunds paid. Expenses, interest expense on the  
84 facility, depreciation, amortization, other noncash expenses and  
85 nonoperating losses, revenues, noncash revenues, nonoperating  
86 gains, gross entrance fees, earned entrance fees, and refunds  
87 are each the sum of their respective values over the 12-month  
88 period immediately preceding the reporting date.

89 (b) Total annual principal and interest expense due on the  
90 facility or obligated group over the 12-month period immediately  
91 preceding the reporting date. For purposes of this paragraph,  
92 principal excludes any balloon principal payment amounts, and  
93 interest expense due is the sum of the interest over the 12-  
94 month period immediately preceding the reporting date which is  
95 reflected in the provider's audit.

96 (11)-(5) "Entrance fee" means an initial or deferred payment  
97 of a sum of money or property made as full or partial payment



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98 for continuing care or continuing care at-home. An accommodation  
99 fee, admission fee, member fee, or other fee of similar form and  
100 application are considered to be an entrance fee.

101 (12)~~(6)~~ "Facility" means a place where continuing care is  
102 furnished and may include one or more physical plants on a  
103 primary or contiguous site or an immediately accessible site. As  
104 used in this subsection, the term "immediately accessible site"  
105 means a parcel of real property separated by a reasonable  
106 distance from the facility as measured along public  
107 thoroughfares, and the term "primary or contiguous site" means  
108 the real property contemplated in the feasibility study required  
109 by this chapter.

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

116 (13) "Impaired" means that any of the following have  
117 occurred:

118 (a) A provider has failed to maintain its minimum liquid  
119 reserve as required in s. 651.035, unless the provider has  
120 received prior written approval from the office for a withdrawal  
121 pursuant to s. 651.035(6) and is compliant with the approved  
122 payment schedule; or

123 (b) Beginning July 1, 2019:

124 1. For a provider with mortgage financing from a third-  
125 party lender or public bond issue, the provider's debt service  
126 coverage ratio is less than 1.00:1 and the provider's days cash



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127 on hand is less than 90; or

128 2. For a provider without mortgage financing from a third-  
129 party lender or public bond issue, the provider's days cash on  
130 hand is less than 90.

131 (14)-(8) "Insolvency" means the condition in which a ~~the~~  
132 provider is unable to pay its obligations as they come due in  
133 the normal course of business.

134 (15)-(9) "Licensed" means that a ~~the~~ provider has obtained a  
135 certificate of authority from the ~~office~~ ~~department~~.

136 (16) "Manager" or "management company" means a person who  
137 administers the day-to-day business operations of a facility for  
138 a provider, subject to the policies, directives, and oversight  
139 of the provider.

140 (17)-(10) "Nursing care" means those services or acts  
141 rendered to a resident by an individual licensed or certified  
142 pursuant to chapter 464.

143 (18) "Obligated group" means one or more entities that  
144 jointly agree to be bound by a financing structure containing  
145 security provisions and covenants applicable to the group. For  
146 purposes of this subsection, debt issued under such a financing  
147 structure must be a joint and several obligation of each member  
148 of the group.

149 (19) "Occupancy" means the total number of occupied  
150 independent living, assisted living, and skilled nursing units  
151 in a facility divided by the total number of units in that  
152 facility, excluding units that are unavailable to market or  
153 reserve, as of the most recent annual report.

154 (20)-(11) "Personal services" has the same meaning as in s.  
155 429.02.



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156        (21)~~(12)~~ "Provider" means the owner or operator, whether a  
157 natural person, partnership or other unincorporated association,  
158 however organized, trust, or corporation, of an institution,  
159 building, residence, or other place, whether operated for profit  
160 or not, which owner or operator provides continuing care or  
161 continuing care at-home for a fixed or variable fee, or for any  
162 other remuneration of any type, whether fixed or variable, for  
163 the period of care, payable in a lump sum or lump sum and  
164 monthly maintenance charges or in installments. The term does  
165 not apply to an entity that has existed and continuously  
166 operated a facility located on at least 63 acres in this state  
167 providing residential lodging to members and their spouses for  
168 at least 66 years on or before July 1, 1989, and has the  
169 residential capacity of 500 persons, is directly or indirectly  
170 owned or operated by a nationally recognized fraternal  
171 organization, is not open to the public, and accepts only its  
172 members and their spouses as residents.

173        (22)~~(13)~~ "Records" means all documents, correspondence, and  
174 the permanent financial, directory, and personnel information  
175 and data maintained by a provider pursuant to this chapter,  
176 regardless of the physical form, characteristics, or means of  
177 transmission.

178        (23) "Regulatory action level event" means that any two of  
179 the following have occurred:

180        (a) The provider's debt service coverage ratio is less than  
181 the minimum ratio specified in the provider's bond covenants or  
182 lending agreement for long-term financing, or, if the provider  
183 does not have a debt service coverage ratio required by its  
184 lending institution, the provider's debt service coverage ratio



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185 is less than 1.20:1 as of the most recent annual report filed  
186 with the office. If the provider is a member of an obligated  
187 group having cross-collateralized debt and the obligated group  
188 has obtained an investment grade credit rating from a nationally  
189 recognized credit rating agency, as applicable, from Moody's  
190 Investors Service, Standard & Poor's, or Fitch Ratings, the  
191 obligated group's debt service coverage ratio will be used as  
192 the provider's debt service coverage ratio.

193 (b) The provider's days cash on hand is less than the  
194 minimum number of days cash on hand specified in the provider's  
195 bond covenants or lending agreement for long-term financing. If  
196 the provider does not have a days cash on hand required by its  
197 lending institution, the days cash on hand may not be less than  
198 100 as of the most recent annual report filed with the office.  
199 If the provider is a member of an obligated group having cross-  
200 collateralized debt and the obligated group has obtained an  
201 investment grade credit rating from a nationally recognized  
202 credit rating agency, as applicable, from Moody's Investors  
203 Service, Standard & Poor's, or Fitch Ratings, the days cash on  
204 hand of the obligated group will be used as the provider's days  
205 cash on hand.

206 (c) The occupancy at the provider's facility is less than  
207 80 percent, averaged over the 12-month period immediately  
208 preceding the reporting date.

209 (24)-(14) "Resident" means a purchaser of, a nominee of, or  
210 a subscriber to a continuing care or continuing care at-home  
211 contract. Such contract does not give the resident a part  
212 ownership of the facility in which the resident is to reside,  
213 unless expressly provided in the contract.





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214           ~~(25)-(15)~~ "Shelter" means an independent living unit, room,  
215 apartment, cottage, villa, personal care unit, nursing bed, or  
216 other living area within a facility set aside for the exclusive  
217 use of one or more identified residents.

218           Section 2. Section 651.012, Florida Statutes, is amended to  
219 read:

220           651.012 Exempted facility; written disclosure of  
221 exemption.—Any facility exempted under ss. 632.637(1)(e) and  
222 651.011(21) ~~651.011(12)~~ must provide written disclosure of such  
223 exemption to each person admitted to the facility ~~after October~~  
224 ~~1, 1996~~. This disclosure must be written using language likely  
225 to be understood by the person and must briefly explain the  
226 exemption.

227           Section 3. Subsection (2) of section 651.013, Florida  
228 Statutes, is amended to read:

229           651.013 Chapter exclusive; applicability of other laws.—

230           (2) In addition to other applicable provisions cited in  
231 this chapter, the office has the authority granted under ss.  
232 624.302 and 624.303, 624.307-624.312, 624.318 ~~624.308-624.312,~~  
233 624.319(1)-(3), 624.320-624.321, 624.324, ~~and~~ 624.34, ~~and~~  
234 624.422 of the Florida Insurance Code to regulate providers of  
235 continuing care and continuing care at-home.

236           Section 4. Section 651.019, Florida Statutes, is amended to  
237 read:

238           651.019 New financing, additional financing, or  
239 refinancing.—

240           (1)(a) A provider shall provide notice to the residents'  
241 council of any new financing or refinancing at least 30 days  
242 before the closing date of the financing or refinancing



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243 transaction. The notice must include a general outline of the  
244 amount and terms of the financing or refinancing and the  
245 intended use of proceeds.

246 (b) If the facility does not have a residents' council, the  
247 facility must make available, in the same manner as other  
248 community notices, the information required by paragraph (a)  
249 ~~After issuance of a certificate of authority, the provider shall~~  
250 ~~submit to the office a general outline, including intended use~~  
251 ~~of proceeds, with respect to any new financing, additional~~  
252 ~~financing, or refinancing at least 30 days before the closing~~  
253 ~~date of such financing transaction.~~

254 (2) Within 30 days after the closing date of such financing  
255 or refinancing transaction, The provider shall furnish any  
256 ~~information the office may reasonably request in connection with~~  
257 ~~any new financing, additional financing, or refinancing,~~  
258 ~~including, but not limited to, the financing agreements and any~~  
259 ~~related documents, escrow or trust agreements, and statistical~~  
260 ~~or financial data. the provider shall also submit to the office~~  
261 copies of executed financing documents and escrow or trust  
262 agreements prepared in support of such financing or refinancing  
263 transaction, and a copy of all documents required to be  
264 submitted to the residents' council under paragraph (1) (a)  
265 ~~within 30 days after the closing date.~~

266 Section 5. Section 651.021, Florida Statutes, is amended to  
267 read:

268 651.021 Certificate of authority required.—

269 ~~(1)~~ A ~~No~~ person may not engage in the business of providing  
270 continuing care, issuing contracts for continuing care or  
271 continuing care at-home, or constructing a facility for the



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272 purpose of providing continuing care in this state without a  
273 certificate of authority obtained from the office as provided in  
274 this chapter. This section ~~subsection~~ does not prohibit the  
275 preparation of a construction site or construction of a model  
276 residence unit for marketing purposes, or both. The office may  
277 allow the purchase of an existing building for the purpose of  
278 providing continuing care if the office determines that the  
279 purchase is not being made to circumvent the prohibitions in  
280 this section.

281 ~~(2) Written approval must be obtained from the office~~  
282 ~~before commencing construction or marketing for an expansion of~~  
283 ~~a certificated facility equivalent to the addition of at least~~  
284 ~~20 percent of existing units or 20 percent or more in the number~~  
285 ~~of continuing care at-home contracts. This provision does not~~  
286 ~~apply to construction for which a certificate of need from the~~  
287 ~~Agency for Health Care Administration is required.~~

288 ~~(a) For providers that offer both continuing care and~~  
289 ~~continuing care at-home, the 20 percent is based on the total of~~  
290 ~~both existing units and existing contracts for continuing care~~  
291 ~~at-home. For purposes of this subsection, an expansion includes~~  
292 ~~increases in the number of constructed units or continuing care~~  
293 ~~at-home contracts or a combination of both.~~

294 ~~(b) The application for such approval shall be on forms~~  
295 ~~adopted by the commission and provided by the office. The~~  
296 ~~application must include the feasibility study required by s.~~  
297 ~~651.022(3) or s. 651.023(1)(b) and such other information as~~  
298 ~~required by s. 651.023. If the expansion is only for continuing~~  
299 ~~care at-home contracts, an actuarial study prepared by an~~  
300 ~~independent actuary in accordance with standards adopted by the~~



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301 ~~American Academy of Actuaries which presents the financial~~  
302 ~~impact of the expansion may be substituted for the feasibility~~  
303 ~~study.~~

304 ~~(c) In determining whether an expansion should be approved,~~  
305 ~~the office shall use the criteria provided in ss. 651.022(6) and~~  
306 ~~651.023(4).~~

307 Section 6. Section 651.0215, Florida Statutes, is created  
308 to read:

309 651.0215 Consolidated application for provisional  
310 certificate of authority and certificate of authority; required  
311 restrictions on use of entrance fees.-

312 (1) For an applicant to qualify for a certificate of  
313 authority without first obtaining a provisional certificate of  
314 authority, the following conditions must be met:

315 (a) All reservation deposits and entrance fees must be  
316 placed in escrow in accordance with s. 651.033. The applicant  
317 may not use or pledge any part of an initial entrance fee for  
318 the construction or purchase of the facility or as security for  
319 long-term financing.

320 (b) The reservation deposit may not exceed \$5,000 upon a  
321 resident's selection of a unit and must be refundable at any  
322 time before the resident takes occupancy of the selected unit.

323 (c) The resident contract must state that collection of the  
324 balance of the entrance fee is to occur after the resident is  
325 notified that his or her selected unit is available for  
326 occupancy and on or before the occupancy date.

327 (2) The consolidated application must be on a form  
328 prescribed by the commission and must contain all of the  
329 following information:



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330 (a) All of the information required under s 651.022(2).

331 (b) A feasibility study prepared by an independent  
332 consultant which contains all of the information required by s.  
333 651.022(3) and financial forecasts or projections prepared in  
334 accordance with standards adopted by the American Institute of  
335 Certified Public Accountants or in accordance with standards for  
336 feasibility studies for continuing care retirement communities  
337 adopted by the Actuarial Standards Board.

338 1. The feasibility study must take into account project  
339 costs, actual marketing results to date and marketing  
340 projections, resident fees and charges, competition, resident  
341 contract provisions, and other factors that affect the  
342 feasibility of operating the facility.

343 2. If the feasibility study is prepared by an independent  
344 certified public accountant, it must contain an examination  
345 report, or a compilation report acceptable to the office,  
346 containing a financial forecast or projections for the first 5  
347 years of operations which take into account an actuary's  
348 mortality and morbidity assumptions as the study relates to  
349 turnover, rates, fees, and charges. If the study is prepared by  
350 an independent consulting actuary, it must contain mortality and  
351 morbidity assumptions as it relates to turnover, rates, fees,  
352 and charges and an actuary's signed opinion that the project as  
353 proposed is feasible and that the study has been prepared in  
354 accordance with Actuarial Standards of Practice No. 3 for  
355 Continuing Care Retirement Communities, Revised Edition,  
356 effective May 1, 2011.

357 (c) Documents evidencing that commitments have been secured  
358 for construction financing and long-term financing or that a



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359 documented plan acceptable to the office has been adopted by the  
360 applicant for long-term financing.

361 (d) Documents evidencing that all conditions of the lender  
362 have been satisfied to activate the commitment to disburse  
363 funds, other than the obtaining of the certificate of authority,  
364 the completion of construction, or the closing of the purchase  
365 of realty or buildings for the facility.

366 (e) Documents evidencing that the aggregate amount of  
367 entrance fees received by or pledged to the applicant, plus  
368 anticipated proceeds from any long-term financing commitment and  
369 funds from all other sources in the actual possession of the  
370 applicant, equal at least 100 percent of the aggregate cost of  
371 constructing or purchasing, equipping, and furnishing the  
372 facility plus 100 percent of the anticipated startup losses of  
373 the facility.

374 (f) A complete audited financial report of the applicant,  
375 prepared by an independent certified public accountant in  
376 accordance with generally accepted accounting principles, as of  
377 the date the applicant commenced business operations or for the  
378 fiscal year that ended immediately preceding the date of  
379 application, whichever is later, and complete unaudited  
380 quarterly financial statements attested to by the applicant  
381 after the date of the last audit.

382 (g) Documents evidencing that the applicant will be able to  
383 comply with s. 651.035.

384 (h) Such other reasonable data, financial statements, and  
385 pertinent information as the commission or office may require  
386 with respect to the applicant or the facility to determine the  
387 financial status of the facility and the management capabilities



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388 of its managers and owners.

389 (3) If an applicant has or proposes to have more than one  
390 facility offering continuing care or continuing care at-home, a  
391 separate certificate of authority must be obtained for each  
392 facility.

393 (4) Within 45 days after receipt of the information  
394 required under subsection (2), the office shall examine the  
395 information and notify the applicant in writing, specifically  
396 requesting any additional information that the office is  
397 authorized to require. An application is deemed complete when  
398 the office receives all requested information and the applicant  
399 corrects any error or omission of which the applicant was timely  
400 notified or when the time for such notification has expired.  
401 Within 15 days after receipt of all of the requested additional  
402 information, the office shall notify the applicant in writing  
403 that all of the requested information has been received and that  
404 the application is deemed to be complete as of the date of the  
405 notice. Failure to notify the applicant in writing within the  
406 15-day period constitutes acknowledgment by the office that it  
407 has received all requested additional information, and the  
408 application is deemed complete for purposes of review on the  
409 date the applicant files all of the required additional  
410 information.

411 (5) Within 45 days after an application is deemed complete  
412 as set forth in subsection (4) and upon completion of the  
413 remaining requirements of this section, the office shall  
414 complete its review and issue or deny a certificate of authority  
415 to the applicant. The period for review by the office may not be  
416 tolled if the office requests additional information and the



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417 applicant provides the requested information within 5 business  
418 days. If a certificate of authority is denied, the office must  
419 notify the applicant in writing, citing the specific failures to  
420 satisfy this chapter, and the applicant is entitled to an  
421 administrative hearing pursuant to chapter 120.

422 (6) The office shall issue a certificate of authority upon  
423 determining that the applicant meets all requirements of law and  
424 has submitted all of the information required under this  
425 section, that all escrow requirements have been satisfied, and  
426 that the fees prescribed in s. 651.015(2) have been paid.

427 (7) The issuance of a certificate of authority entitles the  
428 applicant to begin construction and collect reservation deposits  
429 and entrance fees from prospective residents. The reservation  
430 contract must state the cancellation policy and the terms of the  
431 continuing care contract to be entered into. All or any part of  
432 an entrance fee or reservation deposit collected must be placed  
433 in an escrow account or on deposit with the department pursuant  
434 to s. 651.033.

435 (8) The provider is entitled to secure release of the  
436 moneys held in escrow within 7 days after the office receives an  
437 affidavit from the provider, along with appropriate  
438 documentation to verify, and notification is provided to the  
439 escrow agent by certified mail, that the following conditions  
440 have been satisfied:

441 (a) A certificate of occupancy has been issued.

442 (b) Payment in full has been received for at least 70  
443 percent of the total units of a phase or of the total of the  
444 combined phases constructed. If a provider offering continuing  
445 care at-home is applying for a release of escrowed entrance





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446 fees, the same minimum requirement must be met for the  
447 continuing care and continuing care at-home contracts  
448 independently of each other.

449 (c) The provider has evidence of sufficient funds to meet  
450 the requirements of s. 651.035, which may include funds  
451 deposited in the initial entrance fee account.

452 (d) Documents evidencing the intended application of the  
453 proceeds upon release and documents evidencing that the entrance  
454 fees, when released, will be applied as represented to the  
455 office.

456  
457 Notwithstanding chapter 120, a person, other than the provider,  
458 the escrow agent, and the office, may not have a substantial  
459 interest in any decision by the office regarding the release of  
460 escrow funds in any proceeding under chapter 120 or this  
461 chapter.

462 (9) The office may not approve any application that  
463 includes in the plan of financing any encumbrance of the  
464 operating reserves or renewal and replacement reserves required  
465 by this chapter.

466 (10) The office may not issue a certificate of authority to  
467 a facility that does not have a component that is to be licensed  
468 pursuant to part II of chapter 400 or part I of chapter 429, or  
469 that does not offer personal services or nursing services  
470 through written contractual agreement. A written contractual  
471 agreement must be disclosed in the contract for continuing care  
472 or continuing care at-home and is subject to s. 651.1151.

473 Section 7. Subsection (2) and present subsections (6) and  
474 (8) of section 651.022, Florida Statutes, are amended, present



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475 subsections (3) through (8) of that section are redesignated as  
476 subsections (4) through (9), respectively, and a new subsection  
477 (3) is added to that section, to read:

478 651.022 Provisional certificate of authority; application.-

479 (2) The application for a provisional certificate of  
480 authority must ~~shall~~ be on a form prescribed by the commission  
481 and must ~~shall~~ contain the following information:

482 (a) If the applicant or provider is a corporation, a copy  
483 of the articles of incorporation and bylaws; if the applicant or  
484 provider is a partnership or other unincorporated association, a  
485 copy of the partnership agreement, articles of association, or  
486 other membership agreement; and, if the applicant or provider is  
487 a trust, a copy of the trust agreement or instrument.

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

489 1. The proprietor, if the applicant or provider is an  
490 individual.

491 2. Every partner or member, if the applicant or provider is  
492 a partnership or other unincorporated association, however  
493 organized, having fewer than 50 partners or members, together  
494 with the business name and address of the partnership or other  
495 organization.

496 3. The principal partners or members, if the applicant or  
497 provider is a partnership or other unincorporated association,  
498 however organized, having 50 or more partners or members,  
499 together with the business name and business address of the  
500 partnership or other organization. If such unincorporated  
501 organization has officers and a board of directors, the full  
502 name and business address of each officer and director may be  
503 set forth in lieu of the full name and business address of its



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504 principal members.

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

507 5. Every trustee and officer, if the applicant or provider  
508 is a trust.

509 6. The manager, whether an individual, corporation,  
510 partnership, or association.

511 7. Any stockholder holding at least a 10 percent interest  
512 in the operations of the facility in which the care is to be  
513 offered.

514 8. Any person whose name is required to be provided in the  
515 application under this paragraph and who owns any interest in or  
516 receives any remuneration from, directly or indirectly, any  
517 professional service firm, association, trust, partnership, or  
518 corporation providing goods, leases, or services to the facility  
519 for which the application is made, with a real or anticipated  
520 value of \$10,000 or more, and the name and address of the  
521 professional service firm, association, trust, partnership, or  
522 corporation in which such interest is held. The applicant shall  
523 describe such goods, leases, or services and the probable cost  
524 to the facility or provider and shall describe why such goods,  
525 leases, or services should not be purchased from an independent  
526 entity.

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

530 10. Any affiliated parent or subsidiary corporation or  
531 partnership.

532 (c)1. Evidence that the applicant is reputable and of



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533 responsible character. If the applicant is a firm, association,  
534 organization, partnership, business trust, corporation, or  
535 company, the form must ~~shall~~ require evidence that the members  
536 or shareholders ~~are reputable and of responsible character,~~ and  
537 the person in charge of providing care under a certificate of  
538 authority are ~~shall likewise be required to produce evidence of~~  
539 ~~being~~ reputable and of responsible character.

540 2. Evidence satisfactory to the office of the ability of  
541 the applicant to comply with ~~the provisions of~~ this chapter and  
542 with rules adopted by the commission pursuant to this chapter.

543 3. A statement of whether a person identified in the  
544 application for a provisional certificate of authority or the  
545 administrator or manager of the facility, if such person has  
546 been designated, or any such person living in the same location:

547 a. Has been convicted of a felony or has pleaded nolo  
548 contendere to a felony charge, or has been held liable or has  
549 been enjoined in a civil action by final judgment, if the felony  
550 or civil action involved fraud, embezzlement, fraudulent  
551 conversion, or misappropriation of property.

552 b. Is subject to a currently effective injunctive or  
553 restrictive order or federal or state administrative order  
554 relating to business activity or health care as a result of an  
555 action brought by a public agency or department, including,  
556 without limitation, an action affecting a license under chapter  
557 400 or chapter 429.

558  
559 The statement must ~~shall~~ set forth the court or agency, the date  
560 of conviction or judgment, and the penalty imposed or damages  
561 assessed, or the date, nature, and issuer of the order. Before



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562 determining whether a provisional certificate of authority is to  
563 be issued, the office may make an inquiry to determine the  
564 accuracy of the information submitted pursuant to subparagraphs  
565 1., 2., and 3. ~~1. and 2.~~

566 (d) The contracts for continuing care and continuing care  
567 at-home to be entered into between the provider and residents  
568 which meet the minimum requirements of s. 651.055 or s. 651.057  
569 and which include a statement describing the procedures required  
570 by law relating to the release of escrowed entrance fees. Such  
571 statement may be furnished through an addendum.

572 (e) Any advertisement or other written material proposed to  
573 be used in the solicitation of residents.

574 (f) Such other reasonable data, financial statements, and  
575 pertinent information as the commission or office may reasonably  
576 require with respect to the provider or the facility, including  
577 the most recent audited financial report ~~statements~~ of  
578 comparable facilities currently or previously owned, managed, or  
579 developed by the applicant or its principal, to assist in  
580 determining the financial viability of the project and the  
581 management capabilities of its managers and owners.

582 (g) The forms of the residency contracts, reservation  
583 contracts, escrow agreements, and wait list contracts, if  
584 applicable, which are proposed to be used by the provider in the  
585 furnishing of care. The office shall approve contracts and  
586 escrow agreements that comply with ss. 651.023(1)(c), 651.033,  
587 651.055, and 651.057. Thereafter, no other form of contract or  
588 agreement may be used by the provider until it has been  
589 submitted to the office and approved.

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591 If any material change occurs in the facts set forth in an  
592 application filed with the office pursuant to this subsection,  
593 an amendment setting forth such change must be filed with the  
594 office within 10 business days after the applicant becomes aware  
595 of such change, and a copy of the amendment must be sent by  
596 registered mail to the principal office of the facility and to  
597 the principal office of the controlling company.

598 (3) In addition to the information required in subsection  
599 (2), an applicant for a provisional certificate of authority  
600 must submit a feasibility study with appropriate financial,  
601 marketing, and actuarial assumptions for the first 5 years of  
602 operations. The feasibility study must include at least the  
603 following information:

604 (a) A description of the proposed facility, including the  
605 location, size, anticipated completion date, and the proposed  
606 construction program.

607 (b) Identification and an evaluation of the primary and, if  
608 appropriate, the secondary market areas of the facility and the  
609 projected unit sales per month.

610 (c) Projected revenues, including anticipated entrance  
611 fees; monthly service fees; nursing care revenues, if  
612 applicable; and all other sources of revenue.

613 (d) Projected expenses, including staffing requirements and  
614 salaries; cost of property, plant, and equipment, including  
615 depreciation expense; interest expense; marketing expense; and  
616 other operating expenses.

617 (e) A projected balance sheet of the applicant.

618 (f) Expectations of the financial condition of the project,  
619 including the projected cash flow, and an estimate of the funds



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620 anticipated to be necessary to cover startup losses.  
621 (g) The inflation factor, if any, assumed in the  
622 feasibility study for the proposed facility and how and where it  
623 is applied.  
624 (h) Project costs and the total amount of debt financing  
625 required, marketing projections, resident fees and charges, the  
626 competition, resident contract provisions, and other factors  
627 that affect the feasibility of the facility.  
628 (i) Appropriate population projections, including morbidity  
629 and mortality assumptions.  
630 (j) The name of the person who prepared the feasibility  
631 study and the experience of such person in preparing similar  
632 studies or otherwise consulting in the field of continuing care.  
633 The preparer of the feasibility study may be the provider or a  
634 contracted third party.  
635 (k) Any other information that the applicant deems relevant  
636 and appropriate to enable the office to make a more informed  
637 determination.  
638 (7) ~~(6)~~ Within 45 days after the date an application is  
639 deemed complete as set forth in paragraph (6) (b) ~~(5) (b)~~, the  
640 office shall complete its review and issue a provisional  
641 certificate of authority to the applicant based upon its review  
642 and a determination that the application meets all requirements  
643 of law, that the feasibility study was based on sufficient data  
644 and reasonable assumptions, and that the applicant will be able  
645 to provide continuing care or continuing care at-home as  
646 proposed and meet all financial and contractual obligations  
647 related to its operations, including the financial requirements  
648 of this chapter. The period for review by the office may not be



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649 tolled if the office requests additional information and the  
650 applicant provides the requested information within 5 business  
651 days. If the application is denied, the office shall notify the  
652 applicant in writing, citing the specific failures to meet the  
653 provisions of this chapter. Such denial entitles the applicant  
654 to a hearing pursuant to chapter 120.

655 ~~(9)-(8)~~ The office may ~~shall~~ not approve any application  
656 that ~~which~~ includes in the plan of financing any encumbrance of  
657 the operating reserves or renewal and replacement reserves  
658 required by this chapter.

659 Section 8. Subsections (1) through (4), paragraph (b) of  
660 subsection (5), and subsections (6), (8), and (9) of section  
661 651.023, Florida Statutes, are amended to read:

662 651.023 Certificate of authority; application.—

663 (1) After issuance of a provisional certificate of  
664 authority, the office shall issue to the holder of such  
665 provisional certificate a certificate of authority if the holder  
666 of the provisional certificate provides the office with the  
667 following information:

668 (a) Any material change in status with respect to the  
669 information required to be filed under s. 651.022(2) in the  
670 application for the provisional certificate.

671 (b) A feasibility study prepared by an independent  
672 consultant which contains all of the information required by s.  
673 651.022(4) ~~s. 651.022(3)~~ and financial forecasts or projections  
674 prepared in accordance with standards adopted by the American  
675 Institute of Certified Public Accountants or in accordance with  
676 standards for feasibility studies or continuing care retirement  
677 communities adopted by the Actuarial Standards Board.





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678           ~~1. The study must also contain an independent evaluation~~  
679 ~~and examination opinion, or a comparable opinion acceptable to~~  
680 ~~the office, by the consultant who prepared the study, of the~~  
681 ~~underlying assumptions used as a basis for the forecasts or~~  
682 ~~projections in the study and that the assumptions are reasonable~~  
683 ~~and proper and the project as proposed is feasible.~~

684           1.2. The study must take into account project costs, actual  
685 marketing results to date and marketing projections, resident  
686 fees and charges, competition, resident contract provisions, and  
687 any other factors which affect the feasibility of operating the  
688 facility.

689           ~~2.3.~~ If the study is prepared by an independent certified  
690 public accountant, it must contain an examination opinion, or a  
691 compilation report acceptable to the office, containing a  
692 financial forecast or projections for the first 5 3 years of  
693 operations which take into account an actuary's mortality and  
694 morbidity assumptions as the study relates to turnover, rates,  
695 fees, and charges and financial projections having a compilation  
696 opinion for the next 3 years. If the study is prepared by an  
697 independent consulting actuary, it must contain mortality and  
698 morbidity assumptions as the study relates to turnover, rates,  
699 fees, and charges, data and an actuary's signed opinion that the  
700 project as proposed is feasible and that the study has been  
701 prepared in accordance with standards adopted by the American  
702 Academy of Actuaries.

703           (c) Subject to subsection (4), a provider may submit an  
704 application for a certificate of authority and any required  
705 exhibits upon submission of documents evidencing proof that the  
706 project has a minimum of 30 percent of the units reserved for



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707 which the provider is charging an entrance fee. ~~This does not~~  
708 ~~apply to an application for a certificate of authority for the~~  
709 ~~acquisition of a facility for which a certificate of authority~~  
710 ~~was issued before October 1, 1983, to a provider who~~  
711 ~~subsequently becomes a debtor in a case under the United States~~  
712 ~~Bankruptcy Code, 11 U.S.C. ss. 101 et seq., or to a provider for~~  
713 ~~which the department has been appointed receiver pursuant to~~  
714 ~~part II of chapter 631.~~

715 (d) Documents evidencing Proof that commitments have been  
716 secured for both construction financing and long-term financing  
717 or a documented plan acceptable to the office has been adopted  
718 by the applicant for long-term financing.

719 (e) Documents evidencing Proof that all conditions of the  
720 lender have been satisfied to activate the commitment to  
721 disburse funds other than the obtaining of the certificate of  
722 authority, the completion of construction, or the closing of the  
723 purchase of realty or buildings for the facility.

724 (f) Documents evidencing Proof that the aggregate amount of  
725 entrance fees received by or pledged to the applicant, plus  
726 anticipated proceeds from any long-term financing commitment,  
727 plus funds from all other sources in the actual possession of  
728 the applicant, equal at least 100 percent of the aggregate cost  
729 of constructing or purchasing, equipping, and furnishing the  
730 facility plus 100 percent of the anticipated startup losses of  
731 the facility.

732 (g) A complete audited financial report statements of the  
733 applicant, prepared by an independent certified public  
734 accountant in accordance with generally accepted accounting  
735 principles, as of the date the applicant commenced business



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736 operations or for the fiscal year that ended immediately  
737 preceding the date of application, whichever is later, and  
738 complete unaudited quarterly financial statements attested to by  
739 the applicant after the date of the last audit.

740 (h) Documents evidencing Proof that the applicant has  
741 complied with the escrow requirements of subsection (5) or  
742 subsection (7) and will be able to comply with s. 651.035.

743 (i) Such other reasonable data, financial statements, and  
744 pertinent information as the commission or office may require  
745 with respect to the applicant or the facility, to determine the  
746 financial status of the facility and the management capabilities  
747 of its managers and owners.

748  
749 If any material change occurs in the facts set forth in an  
750 application filed with the office pursuant to this subsection,  
751 an amendment setting forth such change must be filed with the  
752 office within 10 business days, and a copy of the amendment must  
753 be sent by registered mail to the principal office of the  
754 facility and to the principal office of the controlling company.

755 (2) Within 30 days after receipt of the information  
756 required under subsection (1), the office shall examine such  
757 information and notify the provider in writing, specifically  
758 requesting any additional information the office is permitted by  
759 law to require. Within 15 days after receipt of all of the  
760 requested additional information, the office shall notify the  
761 provider in writing that all of the requested information has  
762 been received, and the application is deemed to be complete as  
763 of the date of the notice. Failure to notify the provider in  
764 writing within the 15-day period constitutes acknowledgment by



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765 the office that it has received all requested additional  
766 information, and the application is deemed complete for purposes  
767 of review on the date of filing all of the required additional  
768 information ~~Within 15 days after receipt of all of the requested~~  
769 ~~additional information, the office shall notify the provider in~~  
770 ~~writing that all of the requested information has been received~~  
771 ~~and the application is deemed to be complete as of the date of~~  
772 ~~the notice. Failure to notify the applicant in writing within~~  
773 ~~the 15-day period constitutes acknowledgment by the office that~~  
774 ~~it has received all requested additional information, and the~~  
775 ~~application shall be deemed complete for purposes of review on~~  
776 ~~the date of filing all of the required additional information.~~

777 (3) Within 45 days after an application is deemed complete  
778 as set forth in subsection (2), and upon completion of the  
779 remaining requirements of this section, the office shall  
780 complete its review and issue or deny a certificate of authority  
781 to the holder of a provisional certificate of authority. If a  
782 certificate of authority is denied, the office must notify the  
783 holder of the provisional certificate in writing, citing the  
784 specific failures to satisfy the provisions of this chapter. The  
785 period for review by the office may not be tolled if the office  
786 requests additional information and the applicant provides the  
787 requested information within 5 business days. If denied, the  
788 holder of the provisional certificate is entitled to an  
789 administrative hearing pursuant to chapter 120.

790 (4) The office shall issue a certificate of authority upon  
791 determining that the applicant meets all requirements of law and  
792 has submitted all of the information required by this section,  
793 that all escrow requirements have been satisfied, and that the



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794 fees prescribed in s. 651.015(2) have been paid.

795 (a) ~~A Notwithstanding satisfaction of the 30-percent~~  
796 ~~minimum reservation requirement of paragraph (1)(c), no~~  
797 ~~certificate of authority may not shall~~ be issued until  
798 documentation evidencing that the project has a minimum of 50  
799 percent of the units reserved for which the provider is charging  
800 an entrance fee, ~~and proof~~ is provided to the office. If a  
801 provider offering continuing care at-home is applying for a  
802 certificate of authority ~~or approval of an expansion pursuant to~~  
803 ~~s. 651.021(2)~~, the same minimum reservation requirements must be  
804 met for the continuing care and continuing care at-home  
805 contracts, independently of each other.

806 (b) In order for a unit to be considered reserved under  
807 this section, the provider must collect a minimum deposit of the  
808 lesser of \$40,000 or 10 percent of the then-current entrance fee  
809 for that unit, and may assess a forfeiture penalty of 2 percent  
810 of the entrance fee due to termination of the reservation  
811 contract after 30 days for any reason other than the death or  
812 serious illness of the resident, the failure of the provider to  
813 meet its obligations under the reservation contract, or other  
814 circumstances beyond the control of the resident that equitably  
815 entitle the resident to a refund of the resident's deposit. The  
816 reservation contract must state the cancellation policy and the  
817 terms of the continuing care or continuing care at-home contract  
818 to be entered into.

819 (5) Up to 25 percent of the moneys paid for all or any part  
820 of an initial entrance fee may be included or pledged for the  
821 construction or purchase of the facility or as security for  
822 long-term financing. The term "initial entrance fee" means the



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823 total entrance fee charged by the facility to the first occupant  
824 of a unit.

825 (b) For an expansion as provided in s. 651.0246 ~~s.~~  
826 ~~651.021(2)~~, a minimum of 75 percent of the moneys paid for all  
827 or any part of an initial entrance fee collected for continuing  
828 care and 50 percent of the moneys paid for all or any part of an  
829 initial fee collected for continuing care at-home shall be  
830 placed in an escrow account or on deposit with the department as  
831 prescribed in s. 651.033.

832 (6) The provider is entitled to secure release of the  
833 moneys held in escrow within 7 days after receipt by the office  
834 of an affidavit from the provider, along with appropriate copies  
835 to verify, and notification to the escrow agent by certified  
836 mail, that the following conditions have been satisfied:

837 (a) A certificate of occupancy has been issued.

838 (b) Payment in full has been received for at least 70  
839 percent of the total units of a phase or of the total of the  
840 combined phases constructed. If a provider offering continuing  
841 care at-home is applying for a release of escrowed entrance  
842 fees, the same minimum requirement must be met for the  
843 continuing care and continuing care at-home contracts,  
844 independently of each other.

845 ~~(c) The consultant who prepared the feasibility study~~  
846 ~~required by this section or a substitute approved by the office~~  
847 ~~certifies within 12 months before the date of filing for office~~  
848 ~~approval that there has been no material adverse change in~~  
849 ~~status with regard to the feasibility study. If a material~~  
850 ~~adverse change exists at the time of submission, sufficient~~  
851 ~~information acceptable to the office and the feasibility~~



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852 ~~consultant must be submitted which remedies the adverse~~  
853 ~~condition.~~

854 (c) ~~(d)~~ Documents evidencing Proof that commitments have  
855 been secured or a documented plan adopted by the applicant has  
856 been approved by the office for long-term financing.

857 (d) ~~(e)~~ Documents evidencing Proof that the provider has  
858 sufficient funds to meet the requirements of s. 651.035, which  
859 may include funds deposited in the initial entrance fee account.

860 (e) ~~(f)~~ Documents evidencing Proof as to the intended  
861 application of the proceeds upon release and documentation proof  
862 that the entrance fees when released will be applied as  
863 represented to the office.

864 (f) If any material change occurred in the facts set forth  
865 in the application filed with the office pursuant to subsection  
866 (1), the applicant timely filed the amendment setting forth such  
867 change with the office and sent copies of the amendment to the  
868 principal office of the facility and to the principal office of  
869 the controlling company as required under that subsection.

870  
871 Notwithstanding chapter 120, no person, other than the provider,  
872 the escrow agent, and the office, may have a substantial  
873 interest in any office decision regarding release of escrow  
874 funds in any proceedings under chapter 120 or this chapter  
875 regarding release of escrow funds.

876 ~~(8) The timeframes provided under s. 651.022(5) and (6)~~  
877 ~~apply to applications submitted under s. 651.021(2).~~ The office  
878 may not issue a certificate of authority to a facility that does  
879 not have a component that is to be licensed pursuant to part II  
880 of chapter 400 or to part I of chapter 429 or that does not



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881 offer personal services or nursing services through written  
882 contractual agreement. A written contractual agreement must be  
883 disclosed in the contract for continuing care or continuing care  
884 at-home and is subject to ~~the provisions of~~ s. 651.1151,  
885 relating to administrative, vendor, and management contracts.

886 (9) The office may not approve an application that includes  
887 in the plan of financing any encumbrance of the operating  
888 reserves or renewal and replacement reserves required by this  
889 chapter.

890 Section 9. Section 651.024, Florida Statutes, is amended to  
891 read:

892 651.024 Acquisition.—

893 (1) A person who seeks to assume the role of general  
894 partner of a provider or otherwise assume ownership or  
895 possession of, or control over, 10 percent or more of a  
896 provider's assets, based on the balance sheet from the most  
897 recent financial audit filed with the office, is issued a  
898 certificate of authority to operate a continuing care facility  
899 or a provisional certificate of authority shall be subject to  
900 the provisions of s. 628.4615 and is not required to make  
901 filings pursuant to s. 651.022, s. 651.023, or s. 651.0245.

902 (2) A person who seeks to acquire and become the provider  
903 for a facility is subject to s. 651.0245 and is not required to  
904 make filings pursuant to ss. 628.4615, 651.022, and 651.023.

905 (3) A person may rebut a presumption of control by filing a  
906 disclaimer of control with the office on a form prescribed by  
907 the commission. The disclaimer must fully disclose all material  
908 relationships and bases for affiliation between the person and  
909 the provider or facility, as well as the basis for disclaiming





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910 the affiliation. In lieu of such form, a person or acquiring  
911 party may file with the office a copy of a Schedule 13G filed  
912 with the Securities and Exchange Commission pursuant to Rule  
913 13d-1(b) or (c), 17 C.F.R. s. 240.13d-1, under the Securities  
914 Exchange Act of 1934, as amended. After a disclaimer has been  
915 filed, the provider or facility is relieved of any duty to  
916 register or report under this section which may arise out of the  
917 provider's or facility's relationship with the person, unless  
918 the office disallows the disclaimer.

919 (4) As used in this section, the term:

920 (a) "Controlling company" means any corporation, trust, or  
921 association that directly or indirectly owns 25 percent or more  
922 of the voting securities of one or more facilities that are  
923 stock corporations, or 25 percent or more of the ownership  
924 interest of one or more facilities that are not stock  
925 corporations.

926 (b) "Natural person" means an individual.

927 (c) "Person" includes a natural person, corporation,  
928 association, trust, general partnership, limited partnership,  
929 joint venture, firm, proprietorship, or any other entity that  
930 may hold a license or certificate as a facility.

931 (5) In addition to the facility or the controlling company,  
932 the office has standing to petition a circuit court as described  
933 in s. 628.4615(9).

934 Section 10. Section 651.0245, Florida Statutes, is created  
935 to read:

936 651.0245 Application for the simultaneous acquisition of a  
937 facility and issuance of a certificate of authority.-

938 (1) Except with the prior written approval of the office, a



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939 person may not, individually or in conjunction with any  
940 affiliated person of such person, directly or indirectly acquire  
941 a facility operating under a subsisting certificate of authority  
942 and engage in the business of providing continuing care.

943 (2) An applicant seeking simultaneous acquisition of a  
944 facility and issuance of a certificate of authority must:

945 (a) Comply with the notice requirements of s.  
946 628.4615(2) (a); and

947 (b) File an application in the form required by the office  
948 and cooperate with the office's review of the application.

949 (3) The commission shall adopt by rule application  
950 requirements equivalent to those described in ss. 628.4615(4)  
951 and (5), 651.022(2) (a)-(g), and 651.023(1) (b). The office shall  
952 review the application and issue an approval or disapproval of  
953 the filing in accordance with ss. 628.4615(6) (a) and (c), (7)-  
954 (10), and (14); 651.022(9); and 651.023(1) (b).

955 (4) As used in this section, the term:

956 (a) "Controlling company" means any corporation, trust, or  
957 association that directly or indirectly owns 25 percent or more  
958 of the voting securities of one or more facilities that are  
959 stock corporations, or 25 percent or more of the ownership  
960 interest of one or more facilities that are not stock  
961 corporations.

962 (b) "Natural person" means an individual.

963 (c) "Person" includes a natural person, corporation,  
964 association, trust, general partnership, limited partnership,  
965 joint venture, firm, proprietorship, or any other entity that  
966 may hold a license or certificate as a facility.

967 (5) In addition to the facility or the controlling company,



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968 the office has standing to petition a circuit court as described  
969 in s. 628.4615(9).

970 (6) A person may rebut a presumption of control by filing a  
971 disclaimer of control with the office on a form prescribed by  
972 the commission. The disclaimer must fully disclose all material  
973 relationships and bases for affiliation between the person and  
974 the provider or facility, as well as the basis for disclaiming  
975 the affiliation. In lieu of such form, a person or acquiring  
976 party may file with the office a copy of a Schedule 13G filed  
977 with the Securities and Exchange Commission pursuant to Rule  
978 13d-1(b) or (c), 17 C.F.R. s. 240.13d-1, under the Securities  
979 Exchange Act of 1934, as amended. After a disclaimer has been  
980 filed, the provider or facility is relieved of any duty to  
981 register or report under this section which may arise out of the  
982 provider's or facility's relationship with the person, unless  
983 the office disallows the disclaimer.

984 (7) The commission may adopt, amend, or repeal rules as  
985 necessary to administer this section.

986 Section 11. Section 651.0246, Florida Statutes, is created  
987 to read:

988 651.0246 Expansions.—

989 (1) (a) A provider must obtain written approval from the  
990 office before commencing construction or marketing for an  
991 expansion of a certificated facility equivalent to the addition  
992 of at least 20 percent of existing units or 20 percent or more  
993 in the number of continuing care at-home contracts. If the  
994 provider has exceeded the current statewide median for days cash  
995 on hand, debt service coverage ratio, and total campus occupancy  
996 for two consecutive annual reporting periods, the provider is



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997 automatically granted approval to expand the total number of  
998 existing units by up to 35 percent upon submitting a letter to  
999 the office indicating the total number of planned units in the  
1000 expansion, the proposed sources and uses of funds, and an  
1001 attestation that the provider understands and pledges to comply  
1002 with all minimum liquid reserve and escrow account requirements.  
1003 As used in this section, the term "existing units" means the sum  
1004 of the total number of independent living units and assisted  
1005 living units identified in the most recent annual report filed  
1006 with the office pursuant to s. 651.026. For purposes of this  
1007 section, the statewide median for days cash on hand, debt  
1008 service coverage ratio, and total campus occupancy is the median  
1009 calculated in the most recent annual report submitted by the  
1010 office to the Continuing Care Advisory Council pursuant to s.  
1011 651.121(8). This section does not apply to construction for  
1012 which a certificate of need from the Agency for Health Care  
1013 Administration is required.

1014 (b) The application for such approval must be on forms  
1015 adopted by the commission and provided by the office. The  
1016 application must include the feasibility study required by this  
1017 section and such other information as reasonably requested by  
1018 the office. If the expansion is only for continuing care at-home  
1019 contracts, an actuarial study prepared by an independent actuary  
1020 in accordance with standards adopted by the American Academy of  
1021 Actuaries which presents the financial impact of the expansion  
1022 may be substituted for the feasibility study.

1023 (c) In determining whether an expansion should be approved,  
1024 the office shall consider:

1025 1. Whether the application meets all requirements of law;



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1026 2. Whether the feasibility study was based on sufficient  
1027 data and reasonable assumptions; and

1028 3. Whether the applicant will be able to provide continuing  
1029 care or continuing care at-home as proposed and meet all  
1030 financial obligations related to its operations, including the  
1031 financial requirements of this chapter.

1032  
1033 If the application is denied, the office must notify the  
1034 applicant in writing, citing the specific failures to meet the  
1035 provisions of this chapter. A denial entitles the applicant to a  
1036 hearing pursuant to chapter 120.

1037 (2) A provider applying for expansion of a certificated  
1038 facility must submit all of the following:

1039 (a) A feasibility study prepared by an independent  
1040 certified public accountant. The feasibility study must include  
1041 at least the following information:

1042 1. A description of the facility and proposed expansion,  
1043 including the location, size, anticipated completion date, and  
1044 the proposed construction program.

1045 2. An identification and evaluation of the primary and, if  
1046 applicable, secondary market areas of the facility and the  
1047 projected unit sales per month.

1048 3. Projected revenues, including anticipated entrance fees;  
1049 monthly service fees; nursing care rates, if applicable; and all  
1050 other sources of revenue.

1051 4. Projected expenses, including for staffing requirements  
1052 and salaries; the cost of property, plant, and equipment,  
1053 including depreciation expense; interest expense; marketing  
1054 expense; and other operating expenses.



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- 1055       5. A projected balance sheet of the applicant.
- 1056       6. Expectations of the financial condition of the project,  
1057 including the projected cash flow and an estimate of the funds  
1058 anticipated to be necessary to cover startup losses.
- 1059       7. The inflation factor, if any, assumed in the study for  
1060 the proposed expansion and how and where it is applied.
- 1061       8. Project costs, the total amount of debt financing  
1062 required, marketing projections, resident fees and charges, the  
1063 competition, resident contract provisions, and other factors  
1064 that affect the feasibility of the facility.
- 1065       9. Appropriate population projections, including morbidity  
1066 and mortality assumptions.
- 1067       10. The name of the person who prepared the feasibility  
1068 study and his or her experience in preparing similar studies or  
1069 otherwise consulting in the field of continuing care.
- 1070       11. Financial forecasts or projections prepared in  
1071 accordance with standards adopted by the American Institute of  
1072 Certified Public Accountants or in accordance with standards for  
1073 feasibility studies for continuing care retirement communities  
1074 adopted by the Actuarial Standards Board.
- 1075       12. An independent evaluation and examination opinion for  
1076 the first 5 years of operations, or a comparable opinion  
1077 acceptable to the office, by the consultant who prepared the  
1078 study, of the underlying assumptions used as a basis for the  
1079 forecasts or projections in the study and that the assumptions  
1080 are reasonable and proper and the project as proposed is  
1081 feasible.
- 1082       13. Any other information that the provider deems relevant  
1083 and appropriate to provide to enable the office to make a more



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1084 informed determination.

1085 (b) Such other reasonable data, financial statements, and  
1086 pertinent information as the commission or office may require  
1087 with respect to the applicant or the facility to determine the  
1088 financial status of the facility and the management capabilities  
1089 of its managers and owners.

1090 (3) A minimum of 75 percent of the moneys paid for all or  
1091 any part of an initial entrance fee or reservation deposit  
1092 collected for continuing care and 50 percent of the moneys paid  
1093 for all or any part of an initial fee collected for continuing  
1094 care at-home must be placed in an escrow account or on deposit  
1095 with the department as prescribed in s. 651.033. Up to 25  
1096 percent of the moneys paid for all or any part of an initial  
1097 entrance fee or reservation deposit may be included or pledged  
1098 for the construction or purchase of the facility or as security  
1099 for long-term financing. As used in this section, the term  
1100 "initial entrance fee" means the total entrance fee charged by  
1101 the facility to the first occupant of a unit.

1102  
1103 Entrance fees and reservation deposits collected for expansions  
1104 must be held pursuant to the escrow requirements of s.  
1105 651.023(5) and (6).

1106 (4) The provider is entitled to secure release of the  
1107 moneys held in escrow within 7 days after receipt by the office  
1108 of an affidavit from the provider, along with appropriate copies  
1109 to verify, and notification to the escrow agent by certified  
1110 mail that the following conditions have been satisfied:

1111 (a) A certificate of occupancy has been issued.

1112 (b) Payment in full has been received for at least 50



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1113 percent of the total units of a phase or of the total of the  
1114 combined phases constructed. If a provider offering continuing  
1115 care at-home is applying for a release of escrowed entrance  
1116 fees, the same minimum requirement must be met for the  
1117 continuing care and continuing care at-home contracts  
1118 independently of each other.

1119 (c) Documents evidencing that commitments have been secured  
1120 or that a documented plan adopted by the applicant has been  
1121 approved by the office for long-term financing.

1122 (d) Documents evidencing that the provider has sufficient  
1123 funds to meet the requirements of s. 651.035, which may include  
1124 funds deposited in the initial entrance fee account.

1125 (e) Documents evidencing the intended application of the  
1126 proceeds upon release and documentation that the entrance fees,  
1127 when released, will be applied as represented to the office.

1128  
1129 Notwithstanding chapter 120, only the provider, the escrow  
1130 agent, and the office have a substantial interest in any office  
1131 decision regarding release of escrow funds in any proceedings  
1132 under chapter 120 or this chapter.

1133 (5) (a) Within 30 days after receipt of an application for  
1134 expansion, the office shall examine the application and shall  
1135 notify the applicant in writing, specifically setting forth and  
1136 specifically requesting any additional information that the  
1137 office is authorized to require. Within 15 days after the office  
1138 receives all the requested additional information, the office  
1139 shall notify the applicant in writing that the requested  
1140 information has been received and that the application is deemed  
1141 to be complete as of the date of the notice. If the office





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1142 chooses not to notify the applicant within the 15-day period,  
1143 then the application is deemed complete for purposes of review  
1144 on the date the applicant files the additional requested  
1145 information. If the application submitted is determined by the  
1146 office to be substantially incomplete so as to require  
1147 substantial additional information, including biographical  
1148 information, the office may return the application to the  
1149 applicant with a written notice that the application as received  
1150 is substantially incomplete and therefore unacceptable for  
1151 filing without further action required by the office. Any filing  
1152 fee received must be refunded to the applicant.

1153 (b) An application is deemed complete upon the office  
1154 receiving all requested information and the applicant correcting  
1155 any error or omission of which the applicant was timely notified  
1156 or when the time for such notification has expired. The office  
1157 shall notify the applicant in writing of the date on which the  
1158 application was deemed complete.

1159 (6) Within 45 days after the date on which an application  
1160 is deemed complete as set forth in paragraph (5) (b), the office  
1161 shall complete its review and, based upon its review, approve an  
1162 expansion by the applicant and issue a determination that the  
1163 application meets all requirements of law, that the feasibility  
1164 study was based on sufficient data and reasonable assumptions,  
1165 and that the applicant will be able to provide continuing care  
1166 or continuing care at-home as proposed and meet all financial  
1167 and contractual obligations related to its operations, including  
1168 the financial requirements of this chapter. The period for  
1169 review by the office may not be tolled if the office requests  
1170 additional information and the applicant provides information



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1171 acceptable to the office within 5 business days. If the  
1172 application is denied, the office must notify the applicant in  
1173 writing, citing the specific failures to meet the provisions of  
1174 this chapter. The denial entitles the applicant to a hearing  
1175 pursuant to chapter 120.

1176 Section 12. Paragraph (c) of subsection (2) and subsection  
1177 (3) of section 651.026, Florida Statutes, are amended,  
1178 subsection (10) is added to that section, and paragraph (a) of  
1179 subsection (2) of that section is republished, to read:

1180 651.026 Annual reports.—

1181 (2) The annual report shall be in such form as the  
1182 commission prescribes and shall contain at least the following:

1183 (a) Any change in status with respect to the information  
1184 required to be filed under s. 651.022(2).

1185 (c) The following financial information:

1186 1. A detailed listing of the assets maintained in the  
1187 liquid reserve as required under s. 651.035 and in accordance  
1188 with part II of chapter 625;

1189 2. A schedule giving additional information relating to  
1190 property, plant, and equipment having an original cost of at  
1191 least \$25,000, so as to show in reasonable detail with respect  
1192 to each separate facility original costs, accumulated  
1193 depreciation, net book value, appraised value or insurable value  
1194 and date thereof, insurance coverage, encumbrances, and net  
1195 equity of appraised or insured value over encumbrances. Any  
1196 property not used in continuing care must be shown separately  
1197 from property used in continuing care;

1198 3. The level of participation in Medicare or Medicaid  
1199 programs, or both;



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1200           4. A statement of all fees required of residents,  
1201 including, but not limited to, a statement of the entrance fee  
1202 charged, the monthly service charges, the proposed application  
1203 of the proceeds of the entrance fee by the provider, and the  
1204 plan by which the amount of the entrance fee is determined if  
1205 the entrance fee is not the same in all cases; and

1206           5. Any change or increase in fees if the provider changes  
1207 the scope of, or the rates for, care or services, regardless of  
1208 whether the change involves the basic rate or only those  
1209 services available at additional costs to the resident.

1210           6. If the provider has more than one certificated facility,  
1211 or has operations that are not licensed under this chapter, it  
1212 shall submit a balance sheet, statement of income and expenses,  
1213 statement of equity or fund balances, and statement of cash  
1214 flows for each facility licensed under this chapter as  
1215 supplemental information to the audited financial report  
1216 ~~statements~~ required under paragraph (b).

1217           7. The management's calculation of the provider's debt  
1218 service coverage ratio and days cash on hand for the current  
1219 reporting period, and an opinion from an independent certified  
1220 public accountant of the management's calculations.

1221           (3) The commission shall adopt by rule additional  
1222 ~~meaningful~~ measures of assessing the financial viability of a  
1223 provider. ~~The rule may include the following factors:~~

1224           ~~(a) Debt service coverage ratios.~~

1225           ~~(b) Current ratios.~~

1226           ~~(c) Adjusted current ratios.~~

1227           ~~(d) Cash flows.~~

1228           ~~(e) Occupancy rates.~~



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1229 ~~(f) Other measures, ratios, or trends.~~  
1230 ~~(g) Other factors as may be appropriate.~~  
1231 (10) Within 90 days after the conclusion of each annual  
1232 reporting period, the office shall publish an industry  
1233 benchmarking report that contains all of the following:  
1234 (a) The median days cash on hand for all providers.  
1235 (b) The median debt service coverage ratio for all  
1236 providers.  
1237 (c) The median occupancy rate for all providers by setting,  
1238 including independent living, assisted living, skilled nursing,  
1239 and the entire campus.  
1240 Section 13. Section 651.0261, Florida Statutes, is amended  
1241 to read:  
1242 651.0261 Quarterly and monthly statements.—  
1243 (1) Within 45 days after the end of each fiscal quarter,  
1244 each provider shall file a quarterly unaudited financial  
1245 statement of the provider or of the facility in the form  
1246 prescribed by rule of the commission and a detailed listing of  
1247 the assets maintained in the liquid reserve as required under s.  
1248 651.035. This requirement may be waived by the office upon  
1249 written request from a provider that is accredited or that has  
1250 obtained an investment grade credit rating from a United States  
1251 credit rating agency as authorized under s. 651.028. The last  
1252 quarterly statement for a fiscal year is not required if a  
1253 provider does not have pending a regulatory action level event  
1254 or corrective action plan.  
1255 ~~(2) If the office finds, pursuant to rules of the~~  
1256 ~~commission,~~ that such information is needed to properly monitor  
1257 the financial condition of a provider or facility or is



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1258 otherwise needed to protect the public interest, the office may  
1259 require the provider to file:

1260 (a) Within 25 days after the end of each month, a monthly  
1261 unaudited financial statement of the provider or of the facility  
1262 in the form prescribed by the commission by rule and a detailed  
1263 listing of the assets maintained in the liquid reserve as  
1264 required under s. 651.035, within 45 days after the end of each  
1265 fiscal quarter, a quarterly unaudited financial statement of the  
1266 provider or of the facility in the form prescribed by the  
1267 commission by rule. The commission may by rule require all or  
1268 part of the statements or filings required under this section to  
1269 be submitted by electronic means in a computer-readable form  
1270 compatible with the electronic data format specified by the  
1271 commission.

1272 (b) Such other data, financial statements, and pertinent  
1273 information as the commission or office may reasonably require  
1274 with respect to the provider or the facility, or its directors,  
1275 trustees, members, branches, subsidiaries, or affiliates, to  
1276 determine the financial status of the provider or of the  
1277 facility and the management capabilities of its managers and  
1278 owners.

1279 (3) A filing under subsection (2) may be required if any of  
1280 the following apply:

1281 (a) The facility has been operational for less than 2  
1282 years.

1283 (b) The provider is:

1284 1. Subject to administrative supervision proceedings;

1285 2. Subject to a corrective action plan resulting from a  
1286 regulatory action level event for up to 2 years after the



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1287 factors that caused the regulatory action level event have been  
1288 corrected; or

1289 3. Subject to delinquency or receivership proceedings.

1290 (c) The provider or facility displays a declining financial  
1291 position.

1292 (d) A change of ownership of the provider or facility has  
1293 occurred within the previous 2 years.

1294 (e) The facility is deemed to be impaired.

1295 (4) The commission may by rule require all or part of the  
1296 statements or filings required under this section to be  
1297 submitted by electronic means in a computer-readable form  
1298 compatible with an electronic data format specified by the  
1299 commission.

1300 Section 14. Section 651.028, Florida Statutes, is amended  
1301 to read:

1302 651.028 Accredited or certain credit-rated facilities.—If a  
1303 provider or obligated group is accredited without stipulations  
1304 or conditions by a process found by the office to be acceptable  
1305 and substantially equivalent to the provisions of this chapter  
1306 or has obtained an investment grade credit rating from a  
1307 nationally recognized credit rating agency, as applicable, from  
1308 Moody's Investors Service, Standard & Poor's, or Fitch Ratings,  
1309 the office may, pursuant to rule of the commission, waive any  
1310 requirements of this chapter with respect to the provider if the  
1311 office finds that such waivers are not inconsistent with the  
1312 security protections intended by this chapter.

1313 Section 15. Paragraphs (a), (c), and (d) of subsection (1)  
1314 and subsections (2) and (3) of section 651.033, Florida  
1315 Statutes, are amended, and subsection (6) is added to that



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1316 section, to read:

1317 651.033 Escrow accounts.—

1318 (1) When funds are required to be deposited in an escrow  
1319 account pursuant to s. 651.022, s. 651.023, s. 651.035, or s.  
1320 651.055:

1321 (a) The escrow account must ~~shall~~ be established in a  
1322 Florida bank, Florida savings and loan association, ~~or~~ Florida  
1323 trust company, or a national bank that is chartered and  
1324 supervised by the Office of the Comptroller of the Currency  
1325 within the United States Department of the Treasury and that has  
1326 either a branch or a license to operate in this state which is  
1327 acceptable to the office, or such funds must be deposited ~~on~~  
1328 deposit with the department, and the funds deposited therein  
1329 ~~shall~~ be kept and maintained in an account separate and apart  
1330 from the provider's business accounts.

1331 (c) Any agreement establishing an escrow account required  
1332 under ~~the provisions of~~ this chapter is ~~shall~~ be subject to  
1333 approval by the office. The agreement must ~~shall~~ be in writing  
1334 and ~~shall~~ contain, in addition to any other provisions required  
1335 by law, a provision whereby the escrow agent agrees to abide by  
1336 the duties imposed by paragraphs (b) and (e), (3) (a), (3) (b),  
1337 and (5) (a) and subsection (6) under this section.

1338 (d) All funds deposited in an escrow account, if invested,  
1339 must ~~shall~~ be invested in cash, cash equivalents, mutual funds,  
1340 equities, or investment grade bonds as set forth in part II of  
1341 ~~chapter 625~~; however, such investment may not diminish the funds  
1342 held in escrow below the amount required by this chapter. Funds  
1343 deposited in an escrow account are not subject to charges by the  
1344 escrow agent except escrow agent fees associated with



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1345 administering the accounts, or subject to any liens, judgments,  
1346 garnishments, creditor's claims, or other encumbrances against  
1347 the provider or facility except as provided in s. 651.035(1).

1348 (2) Notwithstanding s. 651.035(7), ~~In addition, the escrow~~  
1349 ~~agreement shall provide that the escrow agent or another person~~  
1350 ~~designated to act in the escrow agent's place and the provider,~~  
1351 ~~except as otherwise provided in s. 651.035, shall notify the~~  
1352 ~~office in writing at least 10 days before the withdrawal of any~~  
1353 ~~portion of any funds required to be escrowed under the~~  
1354 ~~provisions of s. 651.035. However,~~ in the event of an emergency  
1355 and upon petition by the provider, the office may ~~waive the 10-~~  
1356 ~~day notification period~~ and allow a withdrawal of up to 10  
1357 percent of the required minimum liquid reserve. The office shall  
1358 have 3 working days to deny the petition for the emergency 10-  
1359 percent withdrawal. If the office fails to deny the petition  
1360 within 3 working days, the petition is ~~shall be~~ deemed to have  
1361 been granted by the office. For purposes ~~the purpose~~ of this  
1362 section, "working day" means each day that is not a Saturday,  
1363 Sunday, or legal holiday as defined by Florida law. Also, for  
1364 purposes ~~the purpose~~ of this section, the day the petition is  
1365 received by the office is ~~shall~~ not ~~be~~ counted as one of the 3  
1366 days.

1367 (3) ~~In addition,~~ When entrance fees are required to be  
1368 deposited in an escrow account pursuant to s. 651.022, s.  
1369 651.023, or s. 651.055:

1370 (a) The provider shall deliver to the resident a written  
1371 receipt. The receipt must show the payor's name and address, the  
1372 date, the price of the care contract, and the amount of money  
1373 paid. A copy of each receipt, together with the funds, must





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1374 ~~shall~~ be deposited with the escrow agent or as provided in  
1375 paragraph (c). The escrow agent must ~~shall~~ release such funds to  
1376 the provider 7 days after the date of receipt of the funds by  
1377 the escrow agent if the provider, operating under a certificate  
1378 of authority issued by the office, has met the requirements of  
1379 s. 651.023(6). However, if the resident rescinds the contract  
1380 within the 7-day period, the escrow agent must ~~shall~~ release the  
1381 escrowed fees to the resident.

1382 (b) At the request of an individual resident of a facility,  
1383 the escrow agent shall issue a statement indicating the status  
1384 of the resident's portion of the escrow account.

1385 (c) At the request of an individual resident of a facility,  
1386 the provider may hold the check for the 7-day period and may  
1387 ~~shall~~ not deposit it during this time period. If the resident  
1388 rescinds the contract within the 7-day period, the check must  
1389 ~~shall~~ be immediately returned to the resident. Upon the  
1390 expiration of the 7 days, the provider shall deposit the check.

1391 (d) A provider may assess a nonrefundable fee, which is  
1392 separate from the entrance fee, for processing a prospective  
1393 resident's application for continuing care or continuing care  
1394 at-home.

1395 (6) Except as described in paragraph (3) (a), the escrow  
1396 agent may not release or otherwise allow the transfer of funds  
1397 without the written approval of the office, unless the  
1398 withdrawal is from funds in excess of the amounts required by  
1399 ss. 651.022, 651.023, 651.035, and 651.055.

1400 Section 16. Section 651.034, Florida Statutes, is created  
1401 to read:

1402 651.034 Financial and operating requirements for



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1403 providers.-

1404 (1) (a) If a regulatory action level event occurs, the  
1405 office must:

1406 1. Require the provider to prepare and submit a corrective  
1407 action plan or, if applicable, a revised corrective action plan;

1408 2. Perform an examination pursuant to s. 651.105 or an  
1409 analysis, as the office considers necessary, of the assets,  
1410 liabilities, and operations of the provider, including a review  
1411 of the corrective action plan or the revised corrective action  
1412 plan; and

1413 3. After the examination or analysis, issue a corrective  
1414 order specifying any corrective actions that the office  
1415 determines are required.

1416 (b) In determining corrective actions, the office shall  
1417 consider any factor relevant to the provider based upon the  
1418 office's examination or analysis of the assets, liabilities, and  
1419 operations of the provider. The provider must submit the  
1420 corrective action plan or the revised corrective action plan  
1421 within 30 days after the occurrence of the regulatory action  
1422 level event. The office shall review and approve or disapprove  
1423 the corrective action plan within 15 business days.

1424 (c) The office may use members of the Continuing Care  
1425 Advisory Council, individually or as a group, or may retain  
1426 actuaries, investment experts, and other consultants to review a  
1427 provider's corrective action plan or revised corrective action  
1428 plan, examine or analyze the assets, liabilities, and operations  
1429 of a provider, and formulate the corrective order with respect  
1430 to the provider. The fees, costs, and expenses relating to  
1431 consultants must be borne by the affected provider.



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1432           (2) If an impairment occurs, the office must take any  
1433 action necessary to place the provider under regulatory control,  
1434 including any remedy available under chapter 631. An impairment  
1435 is sufficient grounds for the department to be appointed as  
1436 receiver as provided in chapter 631. Notwithstanding s. 631.011,  
1437 impairment of a provider, for purposes of s. 631.051, is defined  
1438 according to the term "impaired" under s. 651.011. The office  
1439 may forego taking action for up to 180 days after the impairment  
1440 if the office finds there is a reasonable expectation that the  
1441 impairment may be eliminated within the 180-day period.

1442           (3) There is no liability on the part of, and a cause of  
1443 action may not arise against, the commission, department, or  
1444 office, or their employees or agents, for any action they take  
1445 in the performance of their powers and duties under this  
1446 section.

1447           (4) The office shall transmit any notice that may result in  
1448 regulatory action by registered mail, certified mail, or any  
1449 other method of transmission which includes documentation of  
1450 receipt by the provider. Notice is effective when the provider  
1451 receives it.

1452           (5) This section is supplemental to the other laws of this  
1453 state and does not preclude or limit any power or duty of the  
1454 department or office under those laws or under the rules adopted  
1455 pursuant to those laws.

1456           (6) The office may exempt a provider from subsection (1) or  
1457 subsection (2) until stabilized occupancy is reached or until  
1458 the time projected to achieve stabilized occupancy as reported  
1459 in the last feasibility study required by the office as part of  
1460 an application filing under s. 651.023, s. 651.024, s. 651.0245,



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1461 or s. 651.0246 has elapsed, but for no longer than 5 years from  
1462 the date of issuance of the certificate of occupancy.

1463 (7) The commission may adopt rules to administer this  
1464 section, including, but not limited to, rules regarding  
1465 corrective action plans, revised corrective action plans,  
1466 corrective orders, and procedures to be followed in the event of  
1467 a regulatory action level event or an impairment.

1468 Section 17. Paragraphs (a), (b), and (c) of subsection (1)  
1469 of section 651.035, Florida Statutes, are amended, and  
1470 subsections (7) through (10) are added to that section, to read:

1471 651.035 Minimum liquid reserve requirements.—

1472 (1) A provider shall maintain in escrow a minimum liquid  
1473 reserve consisting of the following reserves, as applicable:

1474 (a) Each provider shall maintain in escrow as a debt  
1475 service reserve the aggregate amount of all principal and  
1476 interest payments due during the fiscal year on any mortgage  
1477 loan or other long-term financing of the facility, including  
1478 property taxes as recorded in the audited financial report  
1479 ~~statements~~ required under s. 651.026. The amount must include  
1480 any leasehold payments and all costs related to such payments.  
1481 If principal payments are not due during the fiscal year, the  
1482 provider must ~~shall~~ maintain in escrow as a minimum liquid  
1483 reserve an amount equal to interest payments due during the next  
1484 12 months on any mortgage loan or other long-term financing of  
1485 the facility, including property taxes. If a provider does not  
1486 have a mortgage loan or other financing on the facility, the  
1487 provider must deposit monthly in escrow as a minimum liquid  
1488 reserve an amount equal to one-twelfth of the annual property  
1489 tax liability as indicated in the most recent tax notice



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1490 provided pursuant to s. 197.322(3).

1491 (b) A provider that has outstanding indebtedness that  
1492 requires a debt service reserve to be held in escrow pursuant to  
1493 a trust indenture or mortgage lien on the facility and for which  
1494 the debt service reserve may only be used to pay principal and  
1495 interest payments on the debt that the debtor is obligated to  
1496 pay, and which may include property taxes and insurance, may  
1497 include such debt service reserve in computing the minimum  
1498 liquid reserve needed to satisfy this subsection if the provider  
1499 furnishes to the office a copy of the agreement under which such  
1500 debt service is held, together with a statement of the amount  
1501 being held in escrow for the debt service reserve, certified by  
1502 the lender or trustee and the provider to be correct. The  
1503 trustee shall provide the office with any information concerning  
1504 the debt service reserve account upon request of the provider or  
1505 the office. Such separate debt service reserves, if any, are not  
1506 subject to the transfer provisions set forth in subsection (8).

1507 (c) Each provider shall maintain in escrow an operating  
1508 reserve equal to 30 percent of the total operating expenses  
1509 projected in the feasibility study required by s. 651.023 for  
1510 the first 12 months of operation. Thereafter, each provider  
1511 shall maintain in escrow an operating reserve equal to 15  
1512 percent of the total operating expenses in the annual report  
1513 filed pursuant to s. 651.026. If a provider has been in  
1514 operation for more than 12 months, the total annual operating  
1515 expenses must ~~shall~~ be determined by averaging the total annual  
1516 operating expenses reported to the office by the number of  
1517 annual reports filed with the office within the preceding 3-year  
1518 period subject to adjustment if there is a change in the number



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1519 of facilities owned. For purposes of this subsection, total  
1520 annual operating expenses include all expenses of the facility  
1521 except ~~+~~ depreciation and amortization; interest and property  
1522 taxes included in paragraph (a); extraordinary expenses that are  
1523 adequately explained and documented in accordance with generally  
1524 accepted accounting principles; liability insurance premiums in  
1525 excess of those paid in calendar year 1999; and changes in the  
1526 obligation to provide future services to current residents. For  
1527 providers initially licensed during or after calendar year 1999,  
1528 liability insurance must ~~shall~~ be included in the total  
1529 operating expenses in an amount not to exceed the premium paid  
1530 during the first 12 months of facility operation. ~~Beginning~~  
1531 ~~January 1, 1993,~~ The operating reserves required under this  
1532 subsection must ~~shall~~ be in an unencumbered account held in  
1533 escrow for the benefit of the residents. Such funds may not be  
1534 encumbered or subject to any liens or charges by the escrow  
1535 agent or judgments, garnishments, or creditors' claims against  
1536 the provider or facility. However, if a facility had a lien,  
1537 mortgage, trust indenture, or similar debt instrument in place  
1538 before January 1, 1993, which encumbered all or any part of the  
1539 reserves required by this subsection and such funds were used to  
1540 meet the requirements of this subsection, then such arrangement  
1541 may be continued, unless a refinancing or acquisition has  
1542 occurred, and the provider is ~~shall be~~ in compliance with this  
1543 subsection.

1544 (7) (a) A provider may withdraw funds held in escrow without  
1545 the approval of the office if the amount held in escrow exceeds  
1546 the requirements of this section and if the withdrawal will not  
1547 affect compliance with this section.



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1548       (b)1. For all other proposed withdrawals, in order to  
1549 receive the consent of the office, the provider must file  
1550 documentation showing why the withdrawal is necessary for the  
1551 continued operation of the facility and such additional  
1552 information as the office reasonably requires.

1553       2. The office shall notify the provider when the filing is  
1554 deemed complete. If the provider has complied with all prior  
1555 requests for information, the filing is deemed complete after 30  
1556 days without communication from the office.

1557       3. Within 30 days after the date a file is deemed complete,  
1558 the office shall provide the provider with written notice of its  
1559 approval or disapproval of the request. The office may  
1560 disapprove any request to withdraw such funds if it determines  
1561 that the withdrawal is not in the best interest of the  
1562 residents.

1563       (8) The office may order the immediate transfer of up to  
1564 100 percent of the funds held in the minimum liquid reserve to  
1565 the custody of the department pursuant to part III of chapter  
1566 625 if the office finds that the provider is impaired or  
1567 insolvent. The office may order such a transfer regardless of  
1568 whether the office has suspended or revoked, or intends to  
1569 suspend or revoke, the certificate of authority of the provider.

1570       (9) Each facility shall file with the office annually,  
1571 together with the annual report required by s. 651.026, a  
1572 calculation of its minimum liquid reserve, determined in  
1573 accordance with this section, on a form prescribed by the  
1574 commission. The minimum liquid reserve must be maintained at the  
1575 calculated level within 60 days after filing the annual report.

1576       (10) If the balance of the minimum liquid reserve is below



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1577 the required amount at the end of any month, the provider must  
1578 fund the shortfall in the reserve within 10 business days after  
1579 the beginning of the following month. If the balance of the  
1580 minimum liquid reserve is not restored to the required amount  
1581 within such time, the provider will be deemed out of compliance  
1582 with this section.

1583 Section 18. Section 651.043, Florida Statutes, is created  
1584 to read:

1585 651.043 Approval of change in management.—

1586 (1) As used in this section, the term "management" means:

1587 (a) A manager or management company; or

1588 (b) A person who exercises or who has the ability to  
1589 exercise effective control of the provider or organization, or  
1590 who influences or has the ability to influence the transaction  
1591 of the business of the provider.

1592 (2) A contract for management entered into after July 1,  
1593 2018, must be in writing and include a provision that the  
1594 contract will be canceled upon issuance of an order by the  
1595 office pursuant to this section without the application of any  
1596 cancellation fee or penalty. If a provider contracts with a  
1597 management company, a separate written contract is not required  
1598 for the individual manager employed by the management company to  
1599 oversee a facility.

1600 (3) A provider must notify the office, in writing or  
1601 electronically, of any change in management within 10 business  
1602 days. For each new management appointment, the provider must  
1603 submit the information required by s. 651.022(2) and a copy of  
1604 the written management contract, if applicable.

1605 (4) For a provider that is deemed to be impaired or that





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1606 has a regulatory action level event pending, the office may  
1607 disapprove new management and order the provider to remove the  
1608 new management after reviewing the information required in  
1609 subsection (3).

1610 (5) For a provider other than that specified in subsection  
1611 (4), the office may disapprove new management and order the  
1612 provider to remove the new management after receiving the  
1613 required information in subsection (3) if the office:

1614 (a) Finds that the new management is incompetent or  
1615 untrustworthy;

1616 (b) Finds that the new management is so lacking in relevant  
1617 managerial experience as to make the proposed operation  
1618 hazardous to the residents or potential residents;

1619 (c) Finds that the new management is so lacking in relevant  
1620 experience, ability, and standing as to jeopardize the  
1621 reasonable promise of successful operation; or

1622 (d) Has good reason to believe that the new management is  
1623 affiliated directly or indirectly through ownership, control, or  
1624 business relations with any person or persons whose business  
1625 operations are or have been marked by manipulation of assets or  
1626 accounts or by bad faith, to the detriment of residents,  
1627 stockholders, investors, creditors, or the public.

1628  
1629 The office shall complete its review as required under  
1630 subsections (4) and (5) and, if applicable, issue notice of  
1631 disapproval of the new management within 15 business days after  
1632 the filing is deemed complete. A filing is deemed complete upon  
1633 the office's receipt of all requested information and the  
1634 provider's correction of any error or omission for which the



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1635 provider was timely notified. If the office does not issue  
1636 notice of disapproval of the new management within 15 business  
1637 days after the filing is deemed complete, then the new  
1638 management is deemed approved.

1639 (6) Management disapproved by the office must be removed  
1640 within 30 days after receipt by the provider of notice of such  
1641 disapproval.

1642 (7) The office may revoke, suspend, or take other  
1643 administrative action against the certificate of authority of  
1644 the provider if the provider:

1645 (a) Fails to timely remove management disapproved by the  
1646 office;

1647 (b) Fails to timely notify the office of a change in  
1648 management;

1649 (c) Appoints new management without a written contract; or

1650 (d) Repeatedly appoints management that was previously  
1651 disapproved by the office or that is not approvable pursuant to  
1652 subsection (5).

1653 (8) The provider shall remove any management immediately  
1654 upon discovery of any of the following conditions, if the  
1655 conditions were not disclosed in the notice to the office  
1656 required in subsection (3):

1657 (a) That any person who exercises or has the ability to  
1658 exercise effective control of the provider, or who influences or  
1659 has the ability to influence the transaction of the business of  
1660 the provider, has been found guilty of, or has pled guilty or no  
1661 contest to, any felony or crime punishable by imprisonment of 1  
1662 year or more under the laws of the United States or any state  
1663 thereof or under the laws of any other country which involves



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1664 moral turpitude, without regard to whether a judgment or  
1665 conviction has been entered by the court having jurisdiction in  
1666 such case.

1667 (b) That any person who exercises or has the ability to  
1668 exercise effective control of the organization, or who  
1669 influences or has the ability to influence the transaction of  
1670 the business of the provider, is now or was in the past  
1671 affiliated, directly or indirectly, through ownership interest  
1672 of 10 percent or more in, or control of, any business,  
1673 corporation, or other entity that has been found guilty of or  
1674 has pled guilty or no contest to any felony or crime punishable  
1675 by imprisonment for 1 year or more under the laws of the United  
1676 States, any state, or any other country, regardless of  
1677 adjudication.

1678  
1679 The failure to remove such management is grounds for revocation  
1680 or suspension of the provider's certificate of authority.

1681 Section 19. Section 651.051, Florida Statutes, is amended  
1682 to read:

1683 651.051 Maintenance of assets and records in state.—All  
1684 records and assets of a provider must be maintained in this  
1685 state, or, if the provider's corporate office is located in  
1686 another state, must be electronically stored in a manner that  
1687 will ensure that the records are readily accessible to the  
1688 office. No records or assets may be removed from this state by a  
1689 provider unless the office consents to such removal in writing  
1690 before such removal. Such consent must ~~shall~~ be based upon the  
1691 provider's submitting satisfactory evidence that the removal  
1692 will facilitate and make more economical the operations of the



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1693 provider and will not diminish the service or protection  
1694 thereafter to be given the provider's residents in this state.  
1695 ~~Before~~ Prior to such removal, the provider shall give notice to  
1696 the president or chair of the facility's residents' council. If  
1697 such removal is part of a cash management system which has been  
1698 approved by the office, disclosure of the system must ~~shall~~ meet  
1699 the notification requirements. The electronic storage of records  
1700 on a web-based, secured storage platform by contract with a  
1701 third party is acceptable if the records are readily accessible  
1702 to the office.

1703 Section 20. Subsection (2) of section 651.057, Florida  
1704 Statutes, is amended to read:

1705 651.057 Continuing care at-home contracts.-

1706 (2) A provider that holds a certificate of authority and  
1707 wishes to offer continuing care at-home must also:

1708 (a) Submit a business plan to the office with the following  
1709 information:

1710 1. A description of the continuing care at-home services  
1711 that will be provided, the market to be served, and the fees to  
1712 be charged;

1713 2. A copy of the proposed continuing care at-home contract;

1714 3. An actuarial study prepared by an independent actuary in  
1715 accordance with the standards adopted by the American Academy of  
1716 Actuaries which presents the impact of providing continuing care  
1717 at-home on the overall operation of the facility; and

1718 4. A market feasibility study that meets the requirements  
1719 of s. 651.022(4) ~~s. 651.022(3)~~ and documents that there is  
1720 sufficient interest in continuing care at-home contracts to  
1721 support such a program;



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1722 (b) Demonstrate to the office that the proposal to offer  
1723 continuing care at-home contracts to individuals who do not  
1724 immediately move into the facility will not place the provider  
1725 in an unsound financial condition;

1726 (c) Comply with the requirements of s. 651.0246(1) ~~s.~~  
1727 ~~651.021(2)~~, except that an actuarial study may be substituted  
1728 for the feasibility study; and

1729 (d) Comply with the requirements of this chapter.

1730 Section 21. Subsection (1) of section 651.071, Florida  
1731 Statutes, is amended to read:

1732 651.071 Contracts as preferred claims on liquidation or  
1733 receivership.—

1734 (1) In the event of receivership or liquidation proceedings  
1735 against a provider, all continuing care and continuing care at-  
1736 home contracts executed by a provider are ~~shall be~~ deemed  
1737 preferred claims or policyholder loss preferred claims pursuant  
1738 to s. 631.271(1)(b) against all assets owned by the provider;  
1739 however, such claims are subordinate to any secured claim.

1740 Section 22. Subsection (2) and present paragraph (g) of  
1741 subsection (3) of section 651.091, Florida Statutes, are  
1742 amended, present paragraphs (h) and (i) of subsection (3) of  
1743 that section are redesignated as paragraphs (g) and (h),  
1744 respectively, a new paragraph (i) and paragraphs (j), (k), and  
1745 (l) are added to that subsection, and paragraph (d) of  
1746 subsection (3) and subsection (4) of that section are  
1747 republished, to read:

1748 651.091 Availability, distribution, and posting of reports  
1749 and records; requirement of full disclosure.—

1750 (2) Every continuing care facility shall:



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1751 (a) Display the certificate of authority in a conspicuous  
1752 place inside the facility.

1753 (b) Post in a prominent position in the facility which is  
1754 accessible to all residents and the general public a concise  
1755 summary of the last examination report issued by the office,  
1756 with references to the page numbers of the full report noting  
1757 any deficiencies found by the office, and the actions taken by  
1758 the provider to rectify such deficiencies, indicating in such  
1759 summary where the full report may be inspected in the facility.

1760 (c) Provide notice to the president or chair of the  
1761 residents' council within 10 business days after issuance of a  
1762 final examination report or the initiation of any legal or  
1763 administrative proceeding by the office or the department and  
1764 include a copy of such document.

1765 (d)~~(e)~~ Post in a prominent position in the facility which  
1766 is accessible to all residents and the general public a summary  
1767 of the latest annual statement, indicating in the summary where  
1768 the full annual statement may be inspected in the facility. A  
1769 listing of any proposed changes in policies, programs, and  
1770 services must also be posted.

1771 (e)~~(d)~~ Distribute a copy of the full annual statement and a  
1772 copy of the most recent third-party ~~third-party~~ financial audit  
1773 filed with the annual report to the president or chair of the  
1774 residents' council within 30 days after filing the annual report  
1775 with the office, and designate a staff person to provide  
1776 explanation thereof.

1777 (f)~~(e)~~ Deliver the information described in s. 651.085(4)  
1778 in writing to the president or chair of the residents' council  
1779 and make supporting documentation available upon request ~~Notify~~



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1780 ~~the residents' council of any plans filed with the office to~~  
1781 ~~obtain new financing, additional financing, or refinancing for~~  
1782 ~~the facility and of any applications to the office for any~~  
1783 ~~expansion of the facility.~~

1784 (g) ~~(f)~~ Deliver to the president or chair of the residents'  
1785 council a summary of entrance fees collected and refunds made  
1786 during the time period covered in the annual report and the  
1787 refund balances due at the end of the report period.

1788 (h) ~~(g)~~ Deliver to the president or chair of the residents'  
1789 council a copy of each quarterly statement within 30 days after  
1790 the quarterly statement is filed with the office if the facility  
1791 is required to file quarterly.

1792 (i) ~~(h)~~ Upon request, deliver to the president or chair of  
1793 the residents' council a copy of any newly approved continuing  
1794 care or continuing care at-home contract within 30 days after  
1795 approval by the office.

1796 (j) Provide to the president or chair of the residents'  
1797 council a copy of any notice filed with the office relating to  
1798 any change in ownership within 10 business days after such  
1799 filing by the provider.

1800 (k) Make the information available to prospective residents  
1801 pursuant to paragraph (3) (d) available to current residents and  
1802 provide notice of changes to that information to the president  
1803 or chair of the residents' council within 3 business days.

1804 (3) Before entering into a contract to furnish continuing  
1805 care or continuing care at-home, the provider undertaking to  
1806 furnish the care, or the agent of the provider, shall make full  
1807 disclosure, and provide copies of the disclosure documents to  
1808 the prospective resident or his or her legal representative, of



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1809 the following information:

1810 (d) In keeping with the intent of this subsection relating  
1811 to disclosure, the provider shall make available for review  
1812 master plans approved by the provider's governing board and any  
1813 plans for expansion or phased development, to the extent that  
1814 the availability of such plans does not put at risk real estate,  
1815 financing, acquisition, negotiations, or other implementation of  
1816 operational plans and thus jeopardize the success of  
1817 negotiations, operations, and development.

1818 ~~(g) The amount and location of any reserve funds required~~  
1819 ~~by this chapter, and the name of the person or entity having a~~  
1820 ~~claim to such funds in the event of a bankruptcy, foreclosure,~~  
1821 ~~or rehabilitation proceeding.~~

1822 (i) Notice of the issuance of a final examination report or  
1823 the initiation of any legal or administrative proceeding by the  
1824 office or the department, including where the report or filing  
1825 may be inspected in the facility, and that upon request, an  
1826 electronic copy or specific website address will be provided  
1827 where the document can be downloaded at no cost.

1828 (j) Notice that the entrance fee is the property of the  
1829 provider after the expiration of the 7-day escrow requirement  
1830 under s. 651.055(2).

1831 (k) If the provider operates multiple facilities, a  
1832 disclosure of any distribution of assets or income between  
1833 facilities that may occur and the manner in which such  
1834 distributions would be made, or a statement that such  
1835 distributions will not occur.

1836 (l) Notice of any holding company system or obligated group  
1837 of which the provider is a member.





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1838 (4) A true and complete copy of the full disclosure  
1839 document to be used must be filed with the office before use. A  
1840 resident or prospective resident or his or her legal  
1841 representative may inspect the full reports referred to in  
1842 paragraph (2) (b); the charter or other agreement or instrument  
1843 required to be filed with the office pursuant to s. 651.022(2),  
1844 together with all amendments thereto; and the bylaws of the  
1845 corporation or association, if any. Upon request, copies of the  
1846 reports and information shall be provided to the individual  
1847 requesting them if the individual agrees to pay a reasonable  
1848 charge to cover copying costs.

1849 Section 23. Subsections (1) and (5) of section 651.105,  
1850 Florida Statutes, are amended, and subsections (7) and (8) are  
1851 added to that section, to read:

1852 651.105 Examination and inspections.—

1853 (1) The office may at any time, and shall at least once  
1854 every 3 years, examine the business of any applicant for a  
1855 certificate of authority and any provider engaged in the  
1856 execution of care contracts or engaged in the performance of  
1857 obligations under such contracts, in the same manner as is  
1858 provided for the examination of insurance companies pursuant to  
1859 ss. 624.316 and 624.318 ~~s. 624.316~~. For a provider as described  
1860 ~~defined~~ in s. 651.028, such examinations must ~~shall~~ take place  
1861 at least once every 5 years. Such examinations must ~~shall~~ be  
1862 made by a representative or examiner designated by the office  
1863 whose compensation will be fixed by the office pursuant to s.  
1864 624.320. Routine examinations may be made by having the  
1865 necessary documents submitted to the office; and, for this  
1866 purpose, financial documents and records conforming to commonly



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1867 accepted accounting principles and practices, as required under  
1868 s. 651.026, are deemed adequate. The final written report of  
1869 each examination must be filed with the office and, when so  
1870 filed, constitutes a public record. Any provider being examined  
1871 shall, upon request, give reasonable and timely access to all of  
1872 its records. The representative or examiner designated by the  
1873 office may at any time examine the records and affairs and  
1874 inspect the physical property of any provider, whether in  
1875 connection with a formal examination or not.

1876 (5) A provider must respond to written correspondence from  
1877 the office and provide data, financial statements, and pertinent  
1878 information as requested by the office or by the office's  
1879 investigators, examiners, or inspectors. The office has standing  
1880 to petition a circuit court for mandatory injunctive relief to  
1881 compel access to and require the provider to produce the  
1882 documents, data, records, and other information requested by the  
1883 office or its investigators, examiners, or inspectors. The  
1884 office may petition the circuit court in the county in which the  
1885 facility is situated or the Circuit Court of Leon County to  
1886 enforce this section ~~At the time of the routine examination, the~~  
1887 ~~office shall determine if all disclosures required under this~~  
1888 ~~chapter have been made to the president or chair of the~~  
1889 ~~residents' council and the executive officer of the governing~~  
1890 ~~body of the provider.~~

1891 (7) Unless a provider or facility is impaired or subject to  
1892 a regulatory action level event, any parent, subsidiary, or  
1893 affiliate is not subject to examination by the office as part of  
1894 a routine examination. However, if a provider or facility relies  
1895 on a contractual or financial relationship with a parent,



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1896 subsidiary, or affiliate in order to demonstrate the provider or  
1897 facility's financial condition is in compliance with this  
1898 chapter, the office may examine any parent, subsidiary, or  
1899 affiliate that has a contractual or financial relationship with  
1900 the provider or facility to the extent necessary to ascertain  
1901 the financial condition of the provider.

1902 (8) If a provider voluntarily contracts with an actuary for  
1903 an actuarial study or review at regular intervals, the office  
1904 may not use any recommendations made by the actuary as a measure  
1905 of performance when conducting an examination or inspection. The  
1906 office may not request, as part of the examination or  
1907 inspection, documents associated with an actuarial study or  
1908 review marked "restricted distribution" if the study or review  
1909 is not required by this chapter.

1910 Section 24. Section 651.106, Florida Statutes, is amended  
1911 to read:

1912 651.106 Grounds for discretionary refusal, suspension, or  
1913 revocation of certificate of authority.—The office may deny an  
1914 application or~~7~~ suspend~~7~~ or revoke the provisional certificate  
1915 of authority or the certificate of authority of any applicant or  
1916 provider if it finds that any one or more of the following  
1917 grounds applicable to the applicant or provider exist:

1918 (1) Failure by the provider to continue to meet the  
1919 requirements for the authority originally granted.

1920 (2) Failure by the provider to meet one or more of the  
1921 qualifications for the authority specified by this chapter.

1922 (3) Material misstatement, misrepresentation, or fraud in  
1923 obtaining the authority, or in attempting to obtain the same.

1924 (4) Demonstrated lack of fitness or trustworthiness.



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1925           (5) Fraudulent or dishonest practices of management in the  
1926 conduct of business.

1927           (6) Misappropriation, conversion, or withholding of moneys.

1928           (7) Failure to comply with, or violation of, any proper  
1929 order or rule of the office or commission or violation of any  
1930 provision of this chapter.

1931           (8) The insolvent or impaired condition of the provider or  
1932 the provider's being in such condition or using such methods and  
1933 practices in the conduct of its business as to render its  
1934 further transactions in this state hazardous or injurious to the  
1935 public.

1936           (9) Refusal by the provider to be examined or to produce  
1937 its accounts, records, and files for examination, or refusal by  
1938 any of its officers to give information with respect to its  
1939 affairs or to perform any other legal obligation under this  
1940 chapter when required by the office.

1941           (10) Failure by the provider to comply with the  
1942 requirements of s. 651.026 or s. 651.033.

1943           (11) Failure by the provider to maintain escrow accounts or  
1944 funds as required by this chapter.

1945           (12) Failure by the provider to meet the requirements of  
1946 this chapter for disclosure of information to residents  
1947 concerning the facility, its ownership, its management, its  
1948 development, or its financial condition or failure to honor its  
1949 continuing care or continuing care at-home contracts.

1950           (13) Any cause for which issuance of the license could have  
1951 been refused had it then existed and been known to the office.

1952           (14) Having been found guilty of, or having pleaded guilty  
1953 or nolo contendere to, a felony in this state or any other



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1954 state, without regard to whether a judgment or conviction has  
1955 been entered by the court having jurisdiction of such cases.

1956 (15) In the conduct of business under the license, engaging  
1957 in unfair methods of competition or in unfair or deceptive acts  
1958 or practices prohibited under part IX of chapter 626.

1959 (16) A pattern of bankrupt enterprises.

1960 (17) The ownership, control, or management of the  
1961 organization includes any person:

1962 (a) Who is not reputable and of responsible character;

1963 (b) Who is so lacking in management expertise as to make  
1964 the operation of the provider hazardous to potential and  
1965 existing residents;

1966 (c) Who is so lacking in management experience, ability,  
1967 and standing as to jeopardize the reasonable promise of  
1968 successful operation;

1969 (d) Who is affiliated, directly or indirectly, through  
1970 ownership or control, with any person whose business operations  
1971 are or have been marked by business practices or conduct that is  
1972 detrimental to the public, stockholders, investors, or  
1973 creditors; or

1974 (e) Whose business operations are or have been marked by  
1975 business practices or conduct that is detrimental to the public,  
1976 stockholders, investors, or creditors.

1977 (18) The provider has not filed a notice of change in  
1978 management, fails to remove a disapproved manager, or persists  
1979 in appointing disapproved managers.

1980  
1981 Revocation of a certificate of authority under this section does  
1982 not relieve a provider from the provider's obligation to



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1983 residents under the terms and conditions of any continuing care  
1984 or continuing care at-home contract between the provider and  
1985 residents or the provisions of this chapter. The provider shall  
1986 continue to file its annual statement and pay license fees to  
1987 the office as required under this chapter as if the certificate  
1988 of authority had continued in full force, but the provider shall  
1989 not issue any new contracts. The office may seek an action in  
1990 the Circuit Court of Leon County to enforce the office's order  
1991 and the provisions of this section.

1992 Section 25. Section 651.1065, Florida Statutes, is created  
1993 to read:

1994 651.1065 Soliciting or accepting new continuing care  
1995 contracts by impaired or insolvent facilities or providers.-

1996 (1) Regardless of whether delinquency proceedings as to a  
1997 continuing care retirement community have been or are to be  
1998 initiated, a proprietor, general partner, member, officer,  
1999 director, trustee, or manager of a continuing care retirement  
2000 community may not actively solicit, approve the solicitation or  
2001 acceptance of, or accept new continuing care contracts in this  
2002 state after the proprietor, general partner, member, officer,  
2003 director, trustee, or manager knew, or reasonably should have  
2004 known, that the continuing care retirement community was  
2005 impaired or insolvent, except with the written permission of the  
2006 office, unless the facility has declared bankruptcy, in which  
2007 case the bankruptcy court or trustee appointed by the court has  
2008 jurisdiction over such matters. The office must approve or  
2009 disapprove the continued marketing of new contracts within 15  
2010 days after receiving a request from a provider.

2011 (2) A proprietor, general partner, member, officer,



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2012 director, trustee, or manager who violates this section commits  
2013 a felony of the third degree, punishable as provided in s.  
2014 775.082, s. 775.083, or s. 775.084.

2015 Section 26. Section 651.111, Florida Statutes, is amended  
2016 to read:

2017 651.111 Requests for inspections.—

2018 (1) Any interested party may request an inspection of the  
2019 records and related financial affairs of a provider providing  
2020 care in accordance with ~~the provisions of~~ this chapter by  
2021 transmitting to the office notice of an alleged violation of  
2022 applicable requirements prescribed by statute or by rule,  
2023 specifying to a reasonable extent the details of the alleged  
2024 violation, which notice must ~~shall~~ be signed by the complainant.

2025 (2) The substance of the complaint must ~~shall~~ be given to  
2026 the provider no earlier than the time of the inspection. Unless  
2027 the complainant specifically requests otherwise, neither the  
2028 substance of the complaint which is provided to the provider nor  
2029 any copy of the complaint, closure statement, or any record  
2030 which is published, released, or otherwise made available to the  
2031 provider may ~~shall~~ disclose the name of any person mentioned in  
2032 the complaint except the name of any duly authorized officer,  
2033 employee, or agent of the office conducting the investigation or  
2034 inspection pursuant to this chapter.

2035 (3) Upon receipt of a complaint, the office shall make a  
2036 preliminary review; and, unless the office determines that the  
2037 complaint is without any reasonable basis or the complaint does  
2038 not request an inspection, the office shall make an inspection.  
2039 The office shall provide the complainant with a written  
2040 acknowledgment of the complaint within 15 days after receipt by



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2041 the office. Such acknowledgment must include the case number  
2042 assigned by the office to the complaint and the name and contact  
2043 information of any duly authorized officer, employee, or agent  
2044 of the office conducting the investigation or inspection  
2045 pursuant to this chapter. The complainant must ~~shall~~ be advised,  
2046 within 30 days after the receipt of the complaint by the office,  
2047 of the proposed course of action of the office, including an  
2048 estimated timeframe for the handling of the complaint. If the  
2049 office does not conclude its inspection or investigation within  
2050 the office's estimated timeframe, the office must advise the  
2051 complainant in writing within 15 days after any revised course  
2052 of action, including a revised estimated timeframe for the  
2053 handling of the complaint. Within 15 days after the office  
2054 completes its inspection or concludes its investigation, the  
2055 office shall provide the complainant and the provider a written  
2056 closure statement specifying the office's findings and the  
2057 results of any inspection or investigation.

2058 (4) A ~~No~~ provider operating under a certificate of  
2059 authority under this chapter may not discriminate or retaliate  
2060 in any manner against a resident or an employee of a facility  
2061 providing care because such resident or employee or any other  
2062 person has initiated a complaint pursuant to this section.

2063 Section 27. Section 651.114, Florida Statutes, is amended  
2064 to read:

2065 651.114 Delinquency proceedings; remedial rights.—

2066 (1) Upon determination by the office that a provider is not  
2067 in compliance with this chapter, the office may notify the chair  
2068 of the Continuing Care Advisory Council, who may assist the  
2069 office in formulating a corrective action plan.





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2070           (2) Within 30 days after a request by either the advisory  
2071 council or the office, a provider shall make a plan for  
2072 obtaining compliance or solvency available to the advisory  
2073 council and the office, ~~within 30 days after being requested to~~  
2074 ~~do so by the council, a plan for obtaining compliance or~~  
2075 ~~solvency.~~

2076           (3) Within 30 days after receipt of a plan for obtaining  
2077 compliance or solvency, the office, or notification, the  
2078 advisory council at the request of the office, shall:

2079           (a) Consider and evaluate the plan submitted by the  
2080 provider.

2081           (b) Discuss the problem and solutions with the provider.

2082           (c) Conduct such other business as is necessary.

2083           (d) Report its findings and recommendations to the office,  
2084 which may require additional modification of the plan.

2085  
2086 This subsection may not be interpreted so as to delay or prevent  
2087 the office from taking any regulatory measures it deems  
2088 necessary regarding the provider that submitted the plan.

2089           (4) If the financial condition of a continuing care  
2090 facility or provider is impaired or is such that if not modified  
2091 or corrected, its continued operation would result in  
2092 insolvency, the office may direct the provider to formulate and  
2093 file with the office a corrective action plan. If the provider  
2094 fails to submit a plan within 30 days after the office's  
2095 directive, or submits a plan that is insufficient to correct the  
2096 condition, the office may specify a plan and direct the provider  
2097 to implement the plan. Before specifying a plan, the office may  
2098 seek a recommended plan from the advisory council.



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2099            (5)~~(4)~~ After receiving approval of a plan by the office,  
2100 the provider shall submit a progress report monthly to the  
2101 advisory council or the office, or both, in a manner prescribed  
2102 by the office. After 3 months, or at any earlier time deemed  
2103 necessary, the council shall evaluate the progress by the  
2104 provider and shall advise the office of its findings.

2105            (6)~~(5)~~ ~~If should~~ the office finds ~~find~~ that sufficient  
2106 grounds exist for rehabilitation, liquidation, conservation,  
2107 reorganization, seizure, or summary proceedings of an insurer as  
2108 set forth in ss. 631.051, 631.061, and 631.071, the department  
2109 ~~office~~ may petition for an appropriate court order or may pursue  
2110 such other relief as is afforded in part I of chapter 631.  
2111 Before invoking its powers under part I of chapter 631, the  
2112 department ~~office~~ shall notify the chair of the advisory  
2113 council.

2114            (7) Notwithstanding s. 631.011, impairment of a provider,  
2115 for purposes of s. 631.051, is defined according to the term  
2116 "impaired" in s. 651.011.

2117            (8)~~(6)~~ In the event an order of conservation,  
2118 rehabilitation, liquidation, or ~~conservation, reorganization,~~  
2119 ~~seizure, or summary proceeding~~ has been entered against a  
2120 provider, the department and office are vested with all of the  
2121 powers and duties they have under ~~the provisions of~~ part I of  
2122 chapter 631 in regard to delinquency proceedings of insurance  
2123 companies. A provider shall give written notice of the  
2124 proceeding to its residents within 3 business days after the  
2125 initiation of a delinquency proceeding under chapter 631 and  
2126 shall include a notice of the delinquency proceeding in any  
2127 written materials provided to prospective residents.



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2128 ~~(7) If the financial condition of the continuing care~~  
2129 ~~facility or provider is such that, if not modified or corrected,~~  
2130 ~~its continued operation would result in insolvency, the office~~  
2131 ~~may direct the provider to formulate and file with the office a~~  
2132 ~~corrective action plan. If the provider fails to submit a plan~~  
2133 ~~within 30 days after the office's directive or submits a plan~~  
2134 ~~that is insufficient to correct the condition, the office may~~  
2135 ~~specify a plan and direct the provider to implement the plan.~~

2136 (9) A provider subject to an order to show cause entered  
2137 pursuant to chapter 631 must file its written response to the  
2138 order, together with any defenses it may have to the  
2139 department's allegations, no later than 20 days after service of  
2140 the order to show cause, but no less than 15 days before the  
2141 date of the hearing set by the order to show cause.

2142 (10) A hearing held pursuant to chapter 631 to determine  
2143 whether cause exists for the department to be appointed receiver  
2144 must be commenced within 60 days after an order directing a  
2145 provider to show cause.

2146 (11) (a) ~~(8) (a)~~ The rights of the office described in this  
2147 section are subordinate to the rights of a trustee or lender  
2148 pursuant to the terms of a resolution, ordinance, loan  
2149 agreement, indenture of trust, mortgage, lease, security  
2150 agreement, or other instrument creating or securing bonds or  
2151 notes issued to finance a facility, and the office, subject to  
2152 the provisions of paragraph (c), may ~~shall~~ not exercise its  
2153 remedial rights provided under this section and ss. 651.018,  
2154 651.106, 651.108, and 651.116 with respect to a facility that is  
2155 not in default of any financial or contractual obligation other  
2156 than ~~subject to~~ a lien, mortgage, lease, or other encumbrance or



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2157 trust indenture securing bonds or notes issued in connection  
2158 with the financing of the facility, if the trustee or lender, by  
2159 inclusion or by amendment to the loan documents or by a separate  
2160 contract with the office, agrees that the rights of residents  
2161 under a continuing care or continuing care at-home contract will  
2162 be honored and will not be disturbed by a foreclosure or  
2163 conveyance in lieu thereof as long as the resident:

2164 1. Is current in the payment of all monetary obligations  
2165 required by the contract;

2166 2. Is in compliance and continues to comply with all  
2167 provisions of the contract; and

2168 3. Has asserted no claim inconsistent with the rights of  
2169 the trustee or lender.

2170 (b) This subsection does not require a trustee or lender  
2171 to:

2172 1. Continue to engage in the marketing or resale of new  
2173 continuing care or continuing care at-home contracts;

2174 2. Pay any rebate of entrance fees as may be required by a  
2175 resident's continuing care or continuing care at-home contract  
2176 as of the date of acquisition of the facility by the trustee or  
2177 lender and until expiration of the period described in paragraph  
2178 (d);

2179 3. Be responsible for any act or omission of any owner or  
2180 operator of the facility arising before the acquisition of the  
2181 facility by the trustee or lender; or

2182 4. Provide services to the residents to the extent that the  
2183 trustee or lender would be required to advance or expend funds  
2184 that have not been designated or set aside for such purposes.

2185 (c) Should the office determine, at any time during the



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2186 suspension of its remedial rights as provided in paragraph (a),  
2187 that the trustee or lender is not in compliance with paragraph  
2188 (a), or that a lender or trustee has assigned or has agreed to  
2189 assign all or a portion of a delinquent or defaulted loan to a  
2190 third party without the office's written consent, the office  
2191 shall notify the trustee or lender in writing of its  
2192 determination, setting forth the reasons giving rise to the  
2193 determination and specifying those remedial rights afforded to  
2194 the office which the office shall then reinstate.

2195 (d) Upon acquisition of a facility by a trustee or lender  
2196 and evidence satisfactory to the office that the requirements of  
2197 paragraph (a) have been met, the office shall issue a 90-day  
2198 temporary certificate of authority granting the trustee or  
2199 lender the authority to engage in the business of providing  
2200 continuing care or continuing care at-home and to issue  
2201 continuing care or continuing care at-home contracts subject to  
2202 the office's right to immediately suspend or revoke the  
2203 temporary certificate of authority if the office determines that  
2204 any of the grounds described in s. 651.106 apply to the trustee  
2205 or lender or that the terms of the contract used as the basis  
2206 for the issuance of the temporary certificate of authority by  
2207 the office have not been or are not being met by the trustee or  
2208 lender since the date of acquisition.

2209 Section 28. Section 651.1141, Florida Statutes, is created  
2210 to read:

2211 651.1141 Immediate final orders.—The office may issue an  
2212 immediate final order to cease and desist if the office finds  
2213 that installation of a general partner of a provider or  
2214 assumption of ownership or possession or control of 10 percent



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2215 or more of a provider's assets in violation of s. 651.024 or s.  
2216 651.0245, the removal or commitment of 10 percent or more of the  
2217 required minimum liquid reserve funds in violation of s.  
2218 651.035, or the assumption of control over a facility's  
2219 operations in violation of s. 651.043 has occurred.

2220 Section 29. Paragraphs (d) and (e) of subsection (1) of  
2221 section 651.121, Florida Statutes, are amended to read:

2222 651.121 Continuing Care Advisory Council.—

2223 (1) The Continuing Care Advisory Council to the office is  
2224 created consisting of 10 members who are residents of this state  
2225 appointed by the Governor and geographically representative of  
2226 this state. Three members shall be administrators of facilities  
2227 that hold valid certificates of authority under this chapter and  
2228 shall have been actively engaged in the offering of continuing  
2229 care contracts in this state for 5 years before appointment. The  
2230 remaining members include:

2231 ~~(d) An attorney.~~

2232 ~~(d)(e)~~ Four ~~Three~~ residents who hold continuing care or  
2233 continuing care at-home contracts with a facility certified in  
2234 this state.

2235 Section 30. Subsections (1) and (4) of section 651.125,  
2236 Florida Statutes, are amended to read:

2237 651.125 Criminal penalties; injunctive relief.—

2238 (1) Any person who maintains, enters into, or, as manager  
2239 or officer or in any other administrative capacity, assists in  
2240 entering into, maintaining, or performing any continuing care or  
2241 continuing care at-home contract subject to this chapter without  
2242 ~~doing so in pursuance of a valid~~ provisional certificate of  
2243 authority or certificate of authority ~~or renewal thereof~~, as



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2244 contemplated by or provided in this chapter, or who otherwise  
2245 violates any provision of this chapter or rule adopted in  
2246 pursuance of this chapter, commits a felony of the third degree,  
2247 punishable as provided in s. 775.082 or s. 775.083. Each  
2248 violation of this chapter constitutes a separate offense.

2249 (4) Any action brought by the office against a provider  
2250 shall not abate by reason of a sale or other transfer of  
2251 ownership of the facility used to provide care, which provider  
2252 is a party to the action, except with the express written  
2253 consent of the ~~director of the~~ office.

2254 Section 31. This act shall take effect July 1, 2018.

2255

2256 ===== T I T L E A M E N D M E N T =====

2257 And the title is amended as follows:

2258 Delete everything before the enacting clause  
2259 and insert:

2260

A bill to be entitled

2261 An act relating to continuing care contracts; amending  
2262 s. 651.011, F.S.; defining and redefining terms;  
2263 amending s. 651.012, F.S.; conforming a cross-  
2264 reference; deleting an obsolete date; amending s.  
2265 651.013, F.S.; revising applicability of specified  
2266 provisions of the Florida Insurance Code to the Office  
2267 of Insurance Regulation's authority to regulate  
2268 providers of continuing care and continuing care at-  
2269 home; amending s. 651.019, F.S.; revising notice and  
2270 filing requirements for providers and facilities with  
2271 respect to new and additional financing and  
2272 refinancing; amending s. 651.021, F.S.; conforming



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2273 provisions to changes made by the act; creating s.  
2274 651.0215, F.S.; specifying conditions that qualify an  
2275 applicant for a certificate of authority without first  
2276 obtaining a provisional certificate of authority;  
2277 specifying requirements for the consolidated  
2278 application; requiring an applicant to obtain separate  
2279 certificates of authority for multiple facilities;  
2280 specifying procedures and requirements for the  
2281 office's review of such applications and issuance or  
2282 denial of certificates of authority; providing  
2283 requirements for reservation contracts, entrance fees,  
2284 and reservation deposits; authorizing a provider to  
2285 secure release of moneys held in escrow under  
2286 specified circumstances; providing construction  
2287 relating to the release of escrow funds; amending s.  
2288 651.022, F.S.; revising the office's authority to make  
2289 certain inquiries in the review of applications for  
2290 provisional certificates of authority; specifying  
2291 requirements for application amendments if material  
2292 changes occur; requiring applicants to submit a  
2293 specified feasibility study; revising procedures and  
2294 requirements for the office's review of such  
2295 applications; conforming a provision to changes made  
2296 by the act; making a technical change; conforming  
2297 cross-references; amending s. 651.023, F.S.; revising  
2298 requirements for an application for a certificate of  
2299 authority; specifying requirements for application  
2300 amendments if material changes occur; revising  
2301 procedures and requirements for the office's review of





2302 such applications; revising minimum unit reservation  
2303 and minimum deposit requirements; revising conditions  
2304 under which a provider is entitled to secure release  
2305 of certain moneys held in escrow; conforming  
2306 provisions to changes made by the act; conforming  
2307 cross-references; amending s. 651.024, F.S.; providing  
2308 and revising applicability of certain provisions to a  
2309 person seeking to assume the role of general partner  
2310 of a provider or seeking specified ownership,  
2311 possession, or control of a provider's assets;  
2312 providing applicability of certain provisions to a  
2313 person seeking to acquire and become the provider for  
2314 a facility; providing procedures for filing a  
2315 disclaimer of control; defining terms; providing  
2316 standing to the office to petition a circuit court in  
2317 certain proceedings; creating s. 651.0245, F.S.;  
2318 prohibiting a person, without the office's prior  
2319 written approval, from acquiring a facility operating  
2320 under a subsisting certificate of authority and  
2321 engaging in the business of providing continuing care;  
2322 providing requirements for an applicant seeking  
2323 simultaneous acquisition of a facility and issuance of  
2324 a certificate of authority; requiring the Financial  
2325 Services Commission to adopt by rule certain  
2326 application requirements; requiring the office to  
2327 review applications and issue approvals or  
2328 disapprovals of filings in accordance with specified  
2329 provisions; defining terms; providing standing to the  
2330 office to petition a specified circuit court under



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2331 certain circumstances; providing procedures for filing  
2332 a disclaimer of control; providing construction;  
2333 authorizing the commission to adopt, amend, and repeal  
2334 rules; creating s. 651.0246, F.S.; requiring a  
2335 provider to obtain written approval from the office  
2336 before commencing construction or marketing for  
2337 specified expansions of a certificated facility;  
2338 providing that a provider is automatically granted  
2339 approval for certain expansions under specified  
2340 circumstances; defining the term "existing units";  
2341 providing applicability; specifying requirements for  
2342 applying for such approval; requiring the office to  
2343 consider certain factors in reviewing such  
2344 applications; providing procedures and requirements  
2345 for the office's review of applications and approval  
2346 or denial of expansions; specifying requirements for  
2347 escrowed moneys and for the release of the moneys;  
2348 defining the term "initial entrance fee"; providing  
2349 construction; amending s. 651.026, F.S.; revising  
2350 requirements for annual reports that providers file  
2351 with the office; revising guidelines for commission  
2352 rulemaking; requiring the office to publish, within  
2353 specified timeframes, a specified annual report;  
2354 amending s. 651.0261, F.S.; revising requirements for  
2355 quarterly statements filed by providers and facilities  
2356 with the office; authorizing the office to waive  
2357 certain filing requirements under certain  
2358 circumstances; authorizing the office to require,  
2359 under certain circumstances, providers or facilities



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2360 to file monthly unaudited financial statements and  
2361 certain other information; authorizing the commission  
2362 to adopt certain rules; amending s. 651.028, F.S.;  
2363 authorizing the office, under certain circumstances,  
2364 to waive any requirement of ch. 651, F.S., for  
2365 providers or obligated groups having certain  
2366 accreditations or credit ratings; amending s. 651.033,  
2367 F.S.; revising requirements for escrow accounts and  
2368 escrow agreements; revising requirements for, and  
2369 restrictions on, agents of escrow accounts; revising  
2370 permissible investments for funds in an escrow  
2371 account; revising requirements for the withdrawal of  
2372 escrowed funds under certain circumstances; creating  
2373 s. 651.034, F.S.; specifying requirements and  
2374 procedures for the office if a regulatory action level  
2375 event occurs; authorizing the office to use members of  
2376 the Continuing Care Advisory Council or retain  
2377 consultants for specified purposes; requiring affected  
2378 providers to bear fees, costs, and expenses for such  
2379 consultants; requiring the office to take certain  
2380 actions if an impairment occurs; authorizing the  
2381 office to forego taking action for a certain timeframe  
2382 under certain circumstances; providing immunity from  
2383 liability to the commission, the Department of  
2384 Financial Services, the office, and their employees or  
2385 agents for certain actions; requiring the office to  
2386 transmit any notice that may result in regulatory  
2387 action by certain methods; authorizing the office to  
2388 exempt a provider from specified requirements under



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2389 certain circumstances and for a specified timeframe;  
2390 authorizing the commission to adopt rules; providing  
2391 construction; amending s. 651.035, F.S.; revising  
2392 provider minimum liquid reserve requirements under  
2393 specified circumstances; deleting an obsolete date;  
2394 authorizing providers, under certain circumstances, to  
2395 withdraw funds held in escrow without the office's  
2396 approval; providing procedures and requirements to  
2397 request approval for certain withdrawals; providing  
2398 procedures and requirements for the office's review of  
2399 such requests; authorizing the office, under certain  
2400 circumstances, to order the immediate transfer of  
2401 funds in the minimum liquid reserve to the custody of  
2402 the department; providing that certain debt service  
2403 reserves of a provider are not subject to such  
2404 transfer provision; requiring facilities to file  
2405 annual calculations of their minimum liquid reserves  
2406 with the office and maintain such reserves beginning  
2407 at specified periods; requiring providers to fund  
2408 reserve shortfalls within a specified timeframe;  
2409 providing construction; creating s. 651.043, F.S.;  
2410 defining the term "management"; providing requirements  
2411 for a contract for management made after a certain  
2412 date; specifying procedures and requirements for  
2413 providers filing notices of change in management with  
2414 the office; specifying procedures, requirements, and  
2415 factors for the office's review of such changes and  
2416 approval or disapproval of the new management;  
2417 requiring management disapproved by the office to be



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2418 removed within a specified timeframe; authorizing the  
2419 office to take certain disciplinary actions under  
2420 certain circumstances; requiring providers to  
2421 immediately remove management under certain  
2422 circumstances; amending s. 651.051, F.S.; revising  
2423 requirements for the maintenance of a provider's  
2424 records and assets; amending s. 651.057, F.S.;

2425 conforming cross-references; amending s. 651.071,  
2426 F.S.; revising construction as to the priority of  
2427 continuing care and continuing care at-home contracts  
2428 in the event of receivership or liquidation  
2429 proceedings against a provider; amending s. 651.091,  
2430 F.S.; revising requirements for continuing care  
2431 facilities and providers relating to the availability,  
2432 distribution, and posting of reports and records;  
2433 amending s. 651.105, F.S.; providing applicability of  
2434 a provision of the Insurance Code relating to  
2435 examinations and investigations to the office's  
2436 authority in examining certain applicants and  
2437 providers; requiring providers to respond to written  
2438 correspondence from the office and provide certain  
2439 information; declaring that the office has standing to  
2440 petition a circuit court for certain injunctive  
2441 relief; specifying venue; deleting a requirement for  
2442 the office to determine if certain disclosures have  
2443 been made; providing that a provider's or facility's  
2444 parent, subsidiary, or affiliate is not subject to  
2445 routine examination by the office except under certain  
2446 circumstances; authorizing the office to examine



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2447 certain parents, subsidiaries, or affiliates to  
2448 ascertain the financial condition of a provider under  
2449 certain circumstances; prohibiting the office, when  
2450 conducting an examination or inspection, from using  
2451 certain actuary recommendations for a certain purpose  
2452 or requesting certain documents under certain  
2453 circumstances; amending s. 651.106, F.S.; authorizing  
2454 the office to deny an application for a provisional  
2455 certificate of authority or a certificate of authority  
2456 on certain grounds; revising and adding grounds for  
2457 application denial or disciplinary action by the  
2458 office; creating s. 651.1065, F.S.; prohibiting  
2459 certain persons of a continuing care retirement  
2460 community, except with the office's written  
2461 permission, from actively soliciting, approving the  
2462 solicitation or acceptance of, or accepting new  
2463 continuing care contracts if they knew or should have  
2464 known that the retirement community was impaired or  
2465 insolvent; providing an exception; requiring the  
2466 office to approve or disapprove the continued  
2467 marketing of new contracts within a specified  
2468 timeframe; providing a criminal penalty; amending s.  
2469 651.111, F.S.; revising procedures and requirements  
2470 for the office's review of complaints requesting  
2471 inspections of records and related financial affairs  
2472 of a provider; amending s. 651.114, F.S.; providing  
2473 that certain duties relating to a certain compliance  
2474 or solvency plan must be performed by the office, or  
2475 the Continuing Care Advisory Council at the request of



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2476 the office, rather than solely by the council;  
2477 providing construction relating to the office's  
2478 authority to take certain measures; authorizing the  
2479 office to seek a recommended plan from the advisory  
2480 council; replacing the office with the department as  
2481 the entity taking certain actions under ch. 631, F.S.;  
2482 providing construction; revising circumstances under  
2483 which the department and office are vested with  
2484 certain powers and duties in regard to delinquency  
2485 proceedings; specifying requirements for providers to  
2486 notify residents and prospective residents of  
2487 delinquency proceedings; specifying procedures  
2488 relating to orders to show cause and hearings pursuant  
2489 to ch. 631, F.S.; revising facilities with respect to  
2490 which the office may not exercise certain remedial  
2491 rights; creating s. 651.1141, F.S.; authorizing the  
2492 office to issue an immediate final order for a  
2493 provider to cease and desist from specified  
2494 violations; amending s. 651.121, F.S.; revising the  
2495 composition of the Continuing Care Advisory Council;  
2496 amending s. 651.125, F.S.; providing a criminal  
2497 penalty for certain actions performed without a valid  
2498 provisional certificate of authority; making a  
2499 technical change; providing an effective date.