

By Senator Lee

20-00386-18

2018438__

1 A bill to be entitled
2 An act relating to continuing care contracts; amending
3 s. 651.011, F.S.; defining and redefining terms;
4 amending s. 651.012, F.S.; conforming a cross-
5 reference; deleting an obsolete date; amending s.
6 651.013, F.S.; revising applicability of specified
7 provisions of the Florida Insurance Code as to the
8 Office of Insurance Regulation's authority to regulate
9 providers of continuing care and continuing care at-
10 home; amending s. 651.019, F.S.; revising notice and
11 filing requirements for providers and facilities with
12 respect to new and additional financing and
13 refinancing; amending s. 651.021, F.S.; conforming
14 provisions to changes made by the act; amending s.
15 651.022, F.S.; revising information required in an
16 application for a provisional certificate of
17 authority; specifying requirements for application
18 amendments if material changes occur; revising
19 procedures and requirements for the office's review of
20 such applications; making technical changes; amending
21 s. 651.023, F.S.; revising requirements for an
22 application for a certificate of authority; revising
23 procedures and requirements for the office's review of
24 such applications; conforming provisions to changes
25 made by the act; conforming cross-references; amending
26 s. 651.024, F.S.; providing and revising applicability
27 of certain requirements for a person seeking to
28 acquire or assume a specified role of a provider or
29 seeking specified ownership, possession, or control of

20-00386-18

2018438__

30 a provider's assets; providing applicability of
31 certain requirements for a person seeking to acquire
32 and become the provider for a facility; providing
33 procedures for filing a disclaimer of control;
34 providing construction; creating s. 651.0245, F.S.;
35 prohibiting a person, without the office's prior
36 written approval, from acquiring a facility operating
37 under a subsisting certificate of authority and
38 engaging in the business of providing continuing care;
39 specifying requirements for an application for the
40 simultaneous acquisition of a facility and issuance of
41 a certificate of authority and for the applicant;
42 defining terms; providing standing to the office to
43 petition a specified circuit court under certain
44 circumstances; providing procedures for filing a
45 disclaimer of control; providing construction;
46 requiring and authorizing the Financial Services
47 Commission to adopt, amend, and repeal rules; creating
48 s. 651.0246, F.S.; requiring written approval from the
49 office before construction or marketing for specified
50 expansions of a certificated facility may commence;
51 providing applicability; specifying application
52 requirements; requiring the office to consider certain
53 factors in reviewing such applications; specifying
54 requirements for moneys to be escrowed and for the
55 release of the moneys; defining the term "initial
56 entrance fee"; providing procedures and requirements
57 for the office's review of applications; providing
58 construction; creating s. 651.025, F.S.; prohibiting

20-00386-18

2018438__

59 persons who served in specified capacities with
60 insolvent facilities or providers within a specified
61 timeframe from thereafter serving in such capacities,
62 except under certain circumstances; amending s.
63 651.026, F.S.; revising requirements for annual
64 reports filed with the office by providers and
65 facilities; amending s. 651.0261, F.S.; revising
66 requirements for quarterly statements filed with the
67 office by providers and facilities; authorizing the
68 office to require, under certain circumstances,
69 providers or facilities to file monthly statements and
70 certain other information; authorizing the commission
71 to adopt rules; amending s. 651.033, F.S.; revising
72 requirements for and restrictions on agents of escrow
73 accounts; revising permissible investments for funds
74 in an escrow account; creating s. 651.034, F.S.;
75 specifying requirements for providers if a company
76 information level event occurs; specifying procedures
77 and requirements for the office's review of provider
78 company information reports; requiring the office to
79 take specified actions if a regulatory action level
80 event occurs; authorizing the office to retain
81 consultants for specified purposes; requiring affected
82 providers or parties directed by the office to bear
83 fees, costs, and expenses for such consultants;
84 requiring and authorizing the office to take certain
85 actions if an impairment occurs; requiring the office
86 to transmit any notice that may result in regulatory
87 action; providing construction; authorizing the

20-00386-18

2018438__

88 commission to adopt rules; authorizing the office to
89 exempt a provider from specified requirements under
90 certain circumstances; amending s. 651.035, F.S.;
91 revising provider minimum liquid reserve requirements
92 under specified circumstances; deleting an obsolete
93 date; authorizing providers to withdraw funds from
94 specified reserves with the office's consent;
95 providing procedures and requirements to request
96 approval for certain withdrawals; providing procedures
97 and requirements for the office's review of such
98 requests; authorizing the office, under certain
99 circumstances, to order the immediate transfer of
100 funds in the minimum liquid reserve to the custody of
101 the Department of Financial Services; requiring
102 facilities to file annual calculations of their
103 minimum liquid reserves with the office and maintain
104 such reserves beginning at specified periods; creating
105 s. 651.043, F.S.; defining the term "management";
106 providing requirements for a contract for management;
107 specifying procedures and requirements for providers
108 filing notices of change in management with the
109 office; specifying procedures and requirements for the
110 office's review of such changes; requiring management
111 disapproved by the office to be removed within a
112 specified timeframe; authorizing the office to take
113 certain disciplinary actions; requiring providers to
114 immediately remove management under certain
115 circumstances; amending s. 651.051, F.S.; requiring
116 all provider records and assets to be maintained in

20-00386-18

2018438__

117 this state; requiring the office's prior approval for
118 a certain electronic storage platform; amending s.
119 651.057, F.S.; conforming a cross-reference; amending
120 s. 651.071, F.S.; revising construction as to the
121 priority of continuing care and continuing care at-
122 home contracts in the event of receivership or
123 liquidation proceedings against a provider; amending
124 s. 651.091, F.S.; revising requirements for continuing
125 care facilities and providers relating to the
126 availability, distribution, and posting of reports and
127 records; amending s. 651.105, F.S.; providing
128 applicability of a provision of the Insurance Code
129 relating to examinations and investigations to the
130 office's authority in examining certain applicants and
131 providers; authorizing the office to examine certain
132 parents, subsidiaries, or affiliates to ascertain the
133 financial condition of a provider; creating s.
134 651.1055, F.S.; requiring providers to cooperate with
135 the office; amending s. 651.106, F.S.; authorizing the
136 office to deny an application on certain grounds;
137 revising and adding grounds for application denial or
138 disciplinary action by the office; creating s.
139 651.1065, F.S.; prohibiting certain persons of a
140 continuing care retirement community, except with the
141 office's written permission, from permitting the
142 retirement community to solicit or accept new
143 continuing care contracts if they knew or should have
144 known that the retirement community was impaired or
145 insolvent; providing a criminal penalty; amending s.

20-00386-18

2018438__

146 651.111, F.S.; authorizing residents to file
147 complaints that include requests for an inspection of
148 a provider's records and related financial affairs;
149 revising procedures of and requirements for the
150 office's review and response to such complaints;
151 amending s. 651.114, F.S.; authorizing the office to
152 request that a provider make a plan for obtaining
153 compliance or solvency in delinquency proceedings;
154 providing construction; defining the term "impaired";
155 requiring a provider to provide, within a specified
156 timeframe, a certain notice to residents after the
157 initiation of a delinquency proceeding; providing
158 procedures and requirements for providers in
159 delinquency proceedings; revising conditions under
160 which the office's rights are subordinate to the
161 rights of a trustee or lender pursuant to certain
162 instruments; creating s. 651.1141, F.S.; providing
163 that violations of certain provisions constitute an
164 immediate danger to the public health, safety, or
165 welfare; authorizing the office to issue an immediate
166 final order to cease and desist from such violations;
167 amending s. 651.1151, F.S.; requiring providers to
168 submit to the office certain administrative, vendor,
169 and management contracts; authorizing the office to
170 disapprove such contracts under certain circumstances;
171 deleting an obsolete date; amending s. 651.121, F.S.;
172 revising the composition of the Continuing Care
173 Advisory Council; amending s. 651.125, F.S.; providing
174 a criminal penalty for certain actions performed

20-00386-18

2018438__

175 without a valid provisional certificate of authority;
176 making a technical change; providing an effective
177 date.

178

179 Be It Enacted by the Legislature of the State of Florida:

180

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

183 651.011 Definitions.—As used in this chapter, the term:

184 (1) "Actuarial opinion" means an opinion issued by an
185 actuary in accordance with the standards of practice adopted by
186 the Actuarial Standards Board.

187 (2) "Actuarial study" means an analysis addressing the
188 current actuarial financial condition of a provider or the
189 projected actuarial financial condition of an applicant, which
190 is performed by an actuary in accordance with accepted actuarial
191 principles and the standards of practice adopted by the
192 Actuarial Standards Board and which includes all of the
193 following:

194 (a) An actuarial report.

195 (b) A statement of actuarial opinion.

196 (c) An actuarial balance sheet.

197 (d) A cohort pricing analysis.

198 (e) A cash-flow projection.

199 (f) A description of the actuarial methodology, formulas,
200 and assumptions used in the study.

201 (g) Other information as reasonably requested by the
202 office.

203 (3) "Actuary" means an individual who is qualified to sign

20-00386-18

2018438__

204 an actuarial opinion in accordance with the American Academy of
205 Actuaries' qualification standards and who is a member in good
206 standing of the American Academy of Actuaries.

207 (4)~~(1)~~ "Advertising" means the dissemination of written,
208 visual, or electronic information by a provider, or any person
209 affiliated with or controlled by a provider, to potential
210 residents or their representatives for the purpose of inducing
211 such persons to subscribe to or enter into a contract for
212 continuing care or continuing care at-home.

213 (5) "Company information level event" means that any of the
214 following has occurred:

215 (a) A provider's debt service coverage ratio is less than
216 1.3:1.

217 (b) A provider's days cash on hand is less than 125.

218 (c) The occupancy at a provider's facility is less than 80
219 percent, unless the provider's debt service coverage ratio is
220 greater than 3:1 or the provider's days cash on hand is greater
221 than 365.

222 (6)~~(2)~~ "Continuing care" or "care" means, pursuant to a
223 contract, furnishing shelter and nursing care or personal
224 services to a resident who resides in a facility, whether such
225 nursing care or personal services are provided in the facility
226 or in another setting designated in the contract for continuing
227 care, by an individual not related by consanguinity or affinity
228 to the resident, upon payment of an entrance fee.

229 (7)~~(3)~~ "Continuing Care Advisory Council" or "advisory
230 council" means the council established in s. 651.121.

231 (8)~~(4)~~ "Continuing care at-home" means, pursuant to a
232 contract other than a contract described in subsection (6) ~~(2)~~,

20-00386-18

2018438__

233 furnishing to a resident who resides outside the facility the
234 right to future access to shelter and nursing care or personal
235 services, whether such services are provided in the facility or
236 in another setting designated in the contract, by an individual
237 not related by consanguinity or affinity to the resident, upon
238 payment of an entrance fee.

239 (9) "Corrective order" means an order issued by the office
240 which specifies corrective actions the office has determined are
241 required.

242 (10) "Days cash on hand" means the quotient reached by
243 dividing the value of the sum in paragraph (a) by the value of
244 the quotient in paragraph (b):

245 (a) The sum of unrestricted cash, unrestricted short- and
246 long-term investments, and the minimum liquid reserve, where
247 unrestricted cash, unrestricted short- and long-term
248 investments, and minimum liquid reserve are as of the reporting
249 date.

250 (b) Operating expenses less depreciation and amortization,
251 divided by 365. Operating expenses, depreciation, and
252 amortization are each the sum of their respective values over
253 the prior 12 months ending with the reporting date.

254
255 With prior written approval of the office, a demand note or
256 other parental guarantee may be considered a short- or long-term
257 investment for the purposes of paragraph (a). However, the total
258 of all demand notes issued by the parent may not, at any time,
259 be more than the sum of unrestricted cash and unrestricted
260 short- and long-term investments held by the parent.

261 (11) "Debt service coverage ratio" means the quotient

20-00386-18

2018438__

262 reached by dividing the value of the difference in paragraph (a)
263 by the value of the sum in paragraph (b):

264 (a) The sum of total expenses less interest expense on the
265 facility, depreciation, and amortization, subtracted from the
266 sum of total revenues and gross entrance fees received less
267 earned entrance fees and refunds paid. Expenses, interest
268 expense on the facility, depreciation, amortization, revenues,
269 gross entrance fees, earned entrance fees, and refunds are each
270 the sum of their respective values over the prior 12 months
271 ending with the reporting date.

272 (b) Total annual principal and interest expense due on the
273 facility. Principal is as of the reporting date and interest due
274 is the sum of the interest over the prior 12 months ending with
275 the reporting date.

276 (12)-(5) "Entrance fee" means an initial or deferred payment
277 of a sum of money or property made as full or partial payment
278 for continuing care or continuing care at-home. An accommodation
279 fee, admission fee, member fee, or other fee of similar form and
280 application are considered to be an entrance fee.

281 (13)-(6) "Facility" means a place where continuing care is
282 furnished and may include one or more physical plants on a
283 primary or contiguous site or an immediately accessible site. As
284 used in this subsection, the term "immediately accessible site"
285 means a parcel of real property separated by a reasonable
286 distance from the facility as measured along public
287 thoroughfares, and the term "primary or contiguous site" means
288 the real property contemplated in the feasibility study required
289 by this chapter.

290 (14)-(7) "Generally accepted accounting principles" means

20-00386-18

2018438__

291 those accounting principles and practices adopted by the
292 Financial Accounting Standards Board and the American Institute
293 of Certified Public Accountants, including Statement of Position
294 90-8 with respect to any full year to which the statement
295 applies.

296 (15) "Impaired" means that any of the following have
297 occurred:

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

303 (b) Beginning January 1, 2020:

304 1. A provider's debt service coverage ratio is less than
305 1.3:1, the provider's days cash on hand is less than 125, and
306 the occupancy at the provider's facility is less than 80
307 percent;

308 2. A provider's debt service coverage ratio is less than
309 1:1; or

310 3. A provider's days cash on hand is less than 60.

311 (16)-(8) "Insolvency" means the condition in which a ~~the~~
312 provider is unable to pay its obligations as they come due in
313 the normal course of business.

314 (17)-(9) "Licensed" means that a ~~the~~ provider has obtained a
315 certificate of authority from the ~~office~~ department.

316 (18) "Manager" or "management company" means a person who
317 administers the day-to-day business operations of a facility for
318 a provider, subject to the policies, directives, and oversight
319 of the provider.

20-00386-18

2018438__

320 ~~(19)~~~~(10)~~ "Nursing care" means those services or acts
321 rendered to a resident by an individual licensed or certified
322 pursuant to chapter 464.

323 (20) "Occupancy" means the total number of occupied units
324 in a facility divided by the total number of units in the
325 facility.

326 ~~(21)~~~~(11)~~ "Personal services" has the same meaning as in s.
327 429.02.

328 ~~(22)~~~~(12)~~ "Provider" means the owner or operator, whether a
329 natural person, partnership or other unincorporated association,
330 however organized, trust, or corporation, of an institution,
331 building, residence, or other place, whether operated for profit
332 or not, which owner or operator provides continuing care or
333 continuing care at-home for a fixed or variable fee, or for any
334 other remuneration of any type, whether fixed or variable, for
335 the period of care, payable in a lump sum or lump sum and
336 monthly maintenance charges or in installments. The term does
337 not apply to an entity that has existed and continuously
338 operated a facility located on at least 63 acres in this state
339 providing residential lodging to members and their spouses for
340 at least 66 years on or before July 1, 1989, and has the
341 residential capacity of 500 persons, is directly or indirectly
342 owned or operated by a nationally recognized fraternal
343 organization, is not open to the public, and accepts only its
344 members and their spouses as residents.

345 ~~(23)~~~~(13)~~ "Records" means all documents, correspondence, and
346 the permanent financial, directory, and personnel information
347 and data maintained by a provider pursuant to this chapter,
348 regardless of the physical form, characteristics, or means of

20-00386-18

2018438__

349 transmission.

350 (24) "Regulatory action level event" means that any two of
351 the following have occurred:

352 (a) The provider's debt service coverage ratio is less than
353 1.3:1.

354 (b) The provider's days cash on hand is less than 125.

355 (c) The occupancy at the provider's facility is less than
356 80 percent.

357 (25)~~(14)~~ "Resident" means a purchaser of, a nominee of, or
358 a subscriber to a continuing care or continuing care at-home
359 contract. Such contract does not give the resident a part
360 ownership of the facility in which the resident is to reside,
361 unless expressly provided in the contract.

362 (26)~~(15)~~ "Shelter" means an independent living unit, room,
363 apartment, cottage, villa, personal care unit, nursing bed, or
364 other living area within a facility set aside for the exclusive
365 use of one or more identified residents.

366 Section 2. Section 651.012, Florida Statutes, is amended to
367 read:

368 651.012 Exempted facility; written disclosure of
369 exemption.—Any facility exempted under ss. 632.637(1)(e) and
370 651.011(22) ~~651.011(12)~~ must provide written disclosure of such
371 exemption to each person admitted to the facility ~~after October~~
372 ~~1, 1996~~. This disclosure must be written using language likely
373 to be understood by the person and must briefly explain the
374 exemption.

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

377 651.013 Chapter exclusive; applicability of other laws.—

20-00386-18

2018438__

378 (2) In addition to other applicable provisions cited in
 379 this chapter, the office has the authority granted under ss.
 380 624.302 and 624.303, 624.307-624.312, 624.318 ~~624.308-624.312,~~
 381 624.319(1)-(3), 624.320-624.321, 624.324, ~~and 624.34,~~ and
 382 624.422 of the Florida Insurance Code to regulate providers of
 383 continuing care and continuing care at-home.

384 Section 4. Section 651.019, Florida Statutes, is amended to
 385 read:

386 651.019 New financing, additional financing, or
 387 refinancing.-

388 (1) (a) A provider shall provide notice to the residents'
 389 council of any new financing or refinancing at least 30 days
 390 before the closing date of the financing or refinancing
 391 transaction. The notice must include a general outline and the
 392 intended use of proceeds.

393 (b) If the facility does not have a residents' council, the
 394 facility must make available, in the same manner as other
 395 community notices, the information required by paragraph (a)
 396 ~~After issuance of a certificate of authority, the provider shall~~
 397 ~~submit to the office a general outline, including intended use~~
 398 ~~of proceeds, with respect to any new financing, additional~~
 399 ~~financing, or refinancing at least 30 days before the closing~~
 400 ~~date of such financing transaction.~~

401 (2) Within 30 days after the closing date of such financing
 402 or refinancing transaction, ~~The provider shall furnish any~~
 403 ~~information the office may reasonably request in connection with~~
 404 ~~any new financing, additional financing, or refinancing,~~
 405 ~~including, but not limited to, the financing agreements and any~~
 406 ~~related documents, escrow or trust agreements, and statistical~~

20-00386-18

2018438__

407 ~~or financial data.~~ the provider shall also submit to the office
408 copies of executed financing documents, any related documents,
409 escrow or trust agreements, and statistical or financial data
410 prepared in support of such financing or refinancing
411 transaction, and a copy of all documents required to be
412 submitted to the residents' council under paragraph (1) (a)
413 ~~within 30 days after the closing date.~~

414 Section 5. Section 651.021, Florida Statutes, is amended to
415 read:

416 651.021 Certificate of authority required.-

417 ~~(1) A~~ No person may not engage in the business of providing
418 continuing care, issuing contracts for continuing care or
419 continuing care at-home, or constructing a facility for the
420 purpose of providing continuing care in this state without a
421 certificate of authority obtained from the office as provided in
422 this chapter. This section ~~subsection~~ does not prohibit the
423 preparation of a construction site or construction of a model
424 residence unit for marketing purposes, or both. The office may
425 allow the purchase of an existing building for the purpose of
426 providing continuing care if the office determines that the
427 purchase is not being made to circumvent the prohibitions in
428 this section.

429 ~~(2) Written approval must be obtained from the office~~
430 ~~before commencing construction or marketing for an expansion of~~
431 ~~a certificated facility equivalent to the addition of at least~~
432 ~~20 percent of existing units or 20 percent or more in the number~~
433 ~~of continuing care at-home contracts. This provision does not~~
434 ~~apply to construction for which a certificate of need from the~~
435 ~~Agency for Health Care Administration is required.~~

20-00386-18

2018438__

436 ~~(a) For providers that offer both continuing care and~~
437 ~~continuing care at home, the 20 percent is based on the total of~~
438 ~~both existing units and existing contracts for continuing care~~
439 ~~at home. For purposes of this subsection, an expansion includes~~
440 ~~increases in the number of constructed units or continuing care~~
441 ~~at home contracts or a combination of both.~~

442 ~~(b) The application for such approval shall be on forms~~
443 ~~adopted by the commission and provided by the office. The~~
444 ~~application must include the feasibility study required by s.~~
445 ~~651.022(3) or s. 651.023(1)(b) and such other information as~~
446 ~~required by s. 651.023. If the expansion is only for continuing~~
447 ~~care at home contracts, an actuarial study prepared by an~~
448 ~~independent actuary in accordance with standards adopted by the~~
449 ~~American Academy of Actuaries which presents the financial~~
450 ~~impact of the expansion may be substituted for the feasibility~~
451 ~~study.~~

452 ~~(c) In determining whether an expansion should be approved,~~
453 ~~the office shall use the criteria provided in ss. 651.022(6) and~~
454 ~~651.023(4).~~

455 Section 6. Subsection (2), paragraph (b) of subsection (5),
456 and subsections (6) and (8) of section 651.022, Florida
457 Statutes, are amended to read:

458 651.022 Provisional certificate of authority; application.—

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

462 (a) If the applicant or provider is a corporation, a copy
463 of the articles of incorporation and bylaws; if the applicant or
464 provider is a partnership or other unincorporated association, a

20-00386-18

2018438__

465 copy of the partnership agreement, articles of association, or
466 other membership agreement; and, if the applicant or provider is
467 a trust, a copy of the trust agreement or instrument.

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

469 1. The proprietor, if the applicant or provider is an
470 individual.

471 2. Every partner or member, if the applicant or provider is
472 a partnership or other unincorporated association, however
473 organized, having fewer than 50 partners or members, together
474 with the business name and address of the partnership or other
475 organization.

476 3. The principal partners or members, if the applicant or
477 provider is a partnership or other unincorporated association,
478 however organized, having 50 or more partners or members,
479 together with the business name and business address of the
480 partnership or other organization. If such unincorporated
481 organization has officers and a board of directors, the full
482 name and business address of each officer and director may be
483 set forth in lieu of the full name and business address of its
484 principal members.

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

487 5. Every trustee and officer, if the applicant or provider
488 is a trust.

489 6. The manager, whether an individual, corporation,
490 partnership, or association.

491 7. Any stockholder holding at least a 10 percent interest
492 in the operations of the facility in which the care is to be
493 offered.

20-00386-18

2018438__

494 8. Any person whose name is required to be provided in the
495 application under this paragraph and who owns any interest in or
496 receives any remuneration from, directly or indirectly, any
497 professional service firm, association, trust, partnership, or
498 corporation providing goods, leases, or services to the facility
499 for which the application is made, with a real or anticipated
500 value of \$10,000 or more, and the name and address of the
501 professional service firm, association, trust, partnership, or
502 corporation in which such interest is held. The applicant shall
503 describe such goods, leases, or services and the probable cost
504 to the facility or provider and shall describe why such goods,
505 leases, or services should not be purchased from an independent
506 entity.

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

510 10. Any affiliated parent or subsidiary corporation or
511 partnership.

512 (c)1. Evidence that the persons described in paragraph (b)
513 are competent and trustworthy ~~applicant is reputable and of~~
514 ~~responsible character~~. If the applicant is a firm, association,
515 organization, partnership, business trust, corporation, or
516 company, the form must further ~~shall~~ require evidence that the
517 members or shareholders ~~are reputable and of responsible~~
518 ~~character~~, and the person in charge of providing care under a
519 certificate of authority, are competent and trustworthy ~~shall~~
520 ~~likewise be required to produce evidence of being reputable and~~
521 ~~of responsible character~~.

522 2. Evidence satisfactory to the office of the ability of

20-00386-18

2018438__

523 the applicant to comply with ~~the provisions of~~ this chapter and
524 with rules adopted by the commission pursuant to this chapter.

525 3. A statement of whether a person identified in the
526 application for a provisional certificate of authority or the
527 administrator or manager of the facility, if such person has
528 been designated, or any such person living in the same location:

529 a. Has been convicted of a felony or has pleaded nolo
530 contendere to a felony charge, or has been held liable or has
531 been enjoined in a civil action by final judgment, if the felony
532 or civil action involved fraud, embezzlement, fraudulent
533 conversion, or misappropriation of property.

534 b. Is subject to a currently effective injunctive or
535 restrictive order or federal or state administrative order
536 relating to business activity or health care as a result of an
537 action brought by a public agency or department, including,
538 without limitation, an action affecting a license under chapter
539 400 or chapter 429.

540
541 The statement must ~~shall~~ set forth the court or agency, the date
542 of conviction or judgment, and the penalty imposed or damages
543 assessed, or the date, nature, and issuer of the order. Before
544 determining whether a provisional certificate of authority is to
545 be issued, the office may make an inquiry to determine the
546 accuracy of the information submitted pursuant to subparagraphs
547 1., 2., and 3. ~~1. and 2.~~

548 (d) The contracts for continuing care and continuing care
549 at-home to be entered into between the provider and residents
550 which meet the minimum requirements of s. 651.055 or s. 651.057
551 and which include a statement describing the procedures required

20-00386-18

2018438__

552 by law relating to the release of escrowed entrance fees. Such
553 statement may be furnished through an addendum.

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

556 (f) Such other reasonable data, financial statements, and
557 pertinent information as the commission or office may reasonably
558 require with respect to the provider or the facility, including
559 the most recent audited financial statements of comparable
560 facilities currently or previously owned, managed, or developed
561 by the applicant or its principal, to assist in determining the
562 financial viability of the project and the management
563 capabilities of its managers and owners.

564 (g) The forms of the residency contracts, reservation
565 contracts, escrow agreements, and wait list contracts, if
566 applicable, which are proposed to be used by the provider in the
567 furnishing of care. The office shall approve contracts and
568 escrow agreements that comply with ss. 651.023(1)(c), 651.033,
569 651.055, and 651.057. Thereafter, no other form of contract or
570 agreement may be used by the provider until it has been
571 submitted to the office and approved.

572 (h) An actuarial study.

573

574 If any material change occurs in the facts set forth in an
575 application filed with the office pursuant to this subsection,
576 an amendment setting forth such changes must be immediately
577 filed with the office, and a copy of the amendment must be sent
578 by registered mail to the principal office of the facility and
579 to the principal office of the controlling company.

580 (5)

20-00386-18

2018438__

581 (b) An application is deemed complete upon receipt of all
582 requested information and correction of any error or omission of
583 which the applicant was timely notified or when the time for
584 such notification has expired. The office shall notify the
585 applicant in writing of the date on which the application was
586 deemed complete ~~Within 15 days after receipt of all of the~~
587 ~~requested additional information, the office shall notify the~~
588 ~~applicant in writing that all of the requested information has~~
589 ~~been received and the application is deemed to be complete as of~~
590 ~~the date of the notice. Failure to so notify the applicant in~~
591 ~~writing within the 15-day period shall constitute acknowledgment~~
592 ~~by the office that it has received all requested additional~~
593 ~~information, and the application shall be deemed to be complete~~
594 ~~for purposes of review upon the date of the filing of all of the~~
595 ~~requested additional information.~~

596 (6) Within 90 ~~45~~ days after the date an application is
597 deemed complete as set forth in paragraph (5) (b), the office
598 shall complete its review and issue a provisional certificate of
599 authority to the applicant based upon its review and a
600 determination that the application meets all requirements of
601 law, that the feasibility study was based on sufficient data and
602 reasonable assumptions, and that the applicant will be able to
603 provide continuing care or continuing care at-home as proposed
604 and meet all financial and contractual obligations related to
605 its operations, including the financial requirements of this
606 chapter. If the application is denied, the office shall notify
607 the applicant in writing, citing the specific failures to meet
608 the provisions of this chapter. Such denial entitles the
609 applicant to a hearing pursuant to chapter 120.

20-00386-18

2018438__

610 (8) The office may ~~shall~~ not approve any application that
611 ~~which~~ includes in the plan of financing any encumbrance of the
612 ~~operating~~ reserves required by this chapter.

613 Section 7. Paragraph (c) of subsection (1), subsections (2)
614 and (3), paragraph (a) of subsection (4), paragraph (b) of
615 subsection (5), and subsections (8) and (9) of section 651.023,
616 Florida Statutes, are amended, paragraph (i) is added to
617 subsection (1) of that section, and paragraph (a) of subsection
618 (1) of that section is republished, to read:

619 651.023 Certificate of authority; application.—

620 (1) After issuance of a provisional certificate of
621 authority, the office shall issue to the holder of such
622 provisional certificate a certificate of authority if the holder
623 of the provisional certificate provides the office with the
624 following information:

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

628 (c) Subject to subsection (4), a provider may submit an
629 application for a certificate of authority and any required
630 exhibits upon submission of proof that the project has a minimum
631 of 50 ~~30~~ percent of the units reserved for which the provider is
632 charging an entrance fee. ~~This does not apply to an application
633 for a certificate of authority for the acquisition of a facility
634 for which a certificate of authority was issued before October
635 1, 1983, to a provider who subsequently becomes a debtor in a
636 case under the United States Bankruptcy Code, 11 U.S.C. ss. 101
637 et seq., or to a provider for which the department has been
638 appointed receiver pursuant to part II of chapter 631.~~

20-00386-18

2018438__

639 (i) An actuarial study.

640 (2) Within 30 days after receipt of the information
641 required under subsection (1), the office shall examine such
642 information and notify the provider in writing, specifically
643 requesting any additional information the office is permitted by
644 law to require. An application is deemed complete upon receipt
645 of all requested information and correction of any error or
646 omission of which the applicant was timely notified or when the
647 time for such notification has expired. The office shall notify
648 the applicant in writing of the date on which the application
649 was deemed complete ~~Within 15 days after receipt of all of the~~
650 ~~requested additional information, the office shall notify the~~
651 ~~provider in writing that all of the requested information has~~
652 ~~been received and the application is deemed to be complete as of~~
653 ~~the date of the notice. Failure to notify the applicant in~~
654 ~~writing within the 15-day period constitutes acknowledgment by~~
655 ~~the office that it has received all requested additional~~
656 ~~information, and the application shall be deemed complete for~~
657 ~~purposes of review on the date of filing all of the required~~
658 ~~additional information.~~

659 (3) Within 90 ~~45~~ days after an application is deemed
660 complete as set forth in subsection (2), and upon completion of
661 the remaining requirements of this section, the office shall
662 complete its review and issue or deny a certificate of authority
663 to the holder of a provisional certificate of authority. If a
664 certificate of authority is denied, the office must notify the
665 holder of the provisional certificate in writing, citing the
666 specific failures to satisfy the provisions of this chapter. If
667 denied, the holder of the provisional certificate is entitled to

20-00386-18

2018438__

668 an administrative hearing pursuant to chapter 120.

669 (4) The office shall issue a certificate of authority upon
670 determining that the applicant meets all requirements of law and
671 has submitted all of the information required by this section,
672 that all escrow requirements have been satisfied, and that the
673 fees prescribed in s. 651.015(2) have been paid.

674 (a) A ~~Notwithstanding satisfaction of the 30-percent~~
675 ~~minimum reservation requirement of paragraph (1)(c), no~~
676 certificate of authority may not ~~shall~~ be issued until the
677 project has a minimum of 50 percent of the units reserved for
678 which the provider is charging an entrance fee, and proof is
679 provided to the office. If a provider offering continuing care
680 at-home is applying for a certificate of authority ~~or approval~~
681 ~~of an expansion pursuant to s. 651.021(2)~~, the same minimum
682 reservation requirements must be met for the continuing care and
683 continuing care at-home contracts, independently of each other.

684 (5) Up to 25 percent of the moneys paid for all or any part
685 of an initial entrance fee may be included or pledged for the
686 construction or purchase of the facility or as security for
687 long-term financing. The term "initial entrance fee" means the
688 total entrance fee charged by the facility to the first occupant
689 of a unit.

690 (b) For an expansion as provided in s. 651.0246 ~~s.~~
691 ~~651.021(2)~~, a minimum of 75 percent of the moneys paid for all
692 or any part of an initial entrance fee collected for continuing
693 care and 50 percent of the moneys paid for all or any part of an
694 initial fee collected for continuing care at-home shall be
695 placed in an escrow account or on deposit with the department as
696 prescribed in s. 651.033.

20-00386-18

2018438__

697 (8) ~~The timeframes provided under s. 651.022(5) and (6)~~
698 ~~apply to applications submitted under s. 651.021(2).~~ The office
699 may not issue a certificate of authority to a facility that does
700 not have a component that is to be licensed pursuant to part II
701 of chapter 400 or to part I of chapter 429 or that does not
702 offer personal services or nursing services through written
703 contractual agreement. A written contractual agreement must be
704 disclosed in the contract for continuing care or continuing care
705 at-home and is subject to ~~the provisions of~~ s. 651.1151,
706 relating to administrative, vendor, and management contracts.

707 (9) The office may not approve an application that includes
708 in the plan of financing any encumbrance of the ~~operating~~
709 reserves required by this chapter.

710 Section 8. Section 651.024, Florida Statutes, is amended to
711 read:

712 651.024 Acquisition.—

713 (1) A person who seeks to acquire a provider; assume the
714 role of general partner of a provider; or otherwise assume
715 ownership or possession of, or control over, 10 percent or more
716 of a provider's assets is issued a certificate of authority to
717 operate a continuing care facility or a provisional certificate
718 of authority shall be subject to the provisions of s. 628.4615
719 and is not required to make filings pursuant to s. 651.022 or s.
720 651.023.

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

724 (3) A person may rebut a presumption of control by filing a
725 disclaimer of control with the office on a form prescribed by

20-00386-18

2018438__

726 the commission. The disclaimer must fully disclose all material
727 relationships and bases for affiliation between the person and
728 the provider or facility, as well as the basis for disclaiming
729 the affiliation. In lieu of such form, a person or acquiring
730 party may file with the office a copy of a Schedule 13G filed
731 with the Securities and Exchange Commission pursuant to Rule
732 13d-1(b) or (c), 17 C.F.R. s. 240.13d-1, under the Securities
733 Exchange Act of 1934, as amended. After a disclaimer has been
734 filed, the provider or facility is relieved of any duty to
735 register or report under this section which may arise out of the
736 provider's or facility's relationship with the person, unless
737 the office disallows the disclaimer.

738 Section 9. Section 651.0245, Florida Statutes, is created
739 to read:

740 651.0245 Application for the simultaneous acquisition of a
741 facility and issuance of a certificate of authority.-

742 (1) Except with the prior written approval of the office, a
743 person may not, individually or in conjunction with any
744 affiliated person of such person, directly or indirectly acquire
745 a facility operating under a subsisting certificate of authority
746 and engage in the business of providing continuing care.

747 (2) An applicant must:

748 (a) Comply with the notice requirements of s.

749 628.4615(2) (a); and

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

752 (3) The commission shall adopt by rule application
753 requirements equivalent to those described in ss. 628.4615(4)
754 and (5), 651.022(2) (a)-(g) and (3), and 651.023(1) (b). The

20-00386-18

2018438__

755 office shall review the application and issue an approval or
756 disapproval of the filing in accordance with ss. 628.4615(6) (a)
757 and (c), (7)-(12), (13) (c)-(e), and (14); 651.022(8); and
758 651.023(1) (b).

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

760 (a) "Controlling company" means any corporation, trust, or
761 association that directly or indirectly owns 25 percent or more
762 of the voting securities of one or more facilities that are
763 stock corporations, or 25 percent or more of the ownership
764 interest of one or more facilities that are not stock
765 corporations.

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

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

771 (5) In addition to the facility or the controlling party,
772 the office has standing to petition a circuit court as described
773 in s. 628.4615(9).

774 (6) A person may rebut a presumption of control by filing a
775 disclaimer of control with the office on a form prescribed by
776 the commission. The disclaimer must fully disclose all material
777 relationships and bases for affiliation between the person and
778 the provider or facility, as well as the basis for disclaiming
779 the affiliation. In lieu of such form, a person or acquiring
780 party may file with the office a copy of a Schedule 13G filed
781 with the Securities and Exchange Commission pursuant to Rule
782 13d-1(b) or (c), 17 C.F.R. s. 240.13d-1, under the Securities
783 Exchange Act of 1934, as amended. After a disclaimer has been

20-00386-18

2018438__

784 filed, the provider or facility is relieved of any duty to
785 register or report under this section which may arise out of the
786 provider's or facility's relationship with the person, unless
787 the office disallows the disclaimer.

788 (7) The commission may adopt, amend, or repeal rules
789 pursuant to chapter 120 as necessary to administer this section.

790 Section 10. Section 651.0246, Florida Statutes, is created
791 to read:

792 651.0246 Expansions.—

793 (1) (a) A provider must obtain written approval from the
794 office before commencing construction or marketing for an
795 expansion of a certificated facility equivalent to the addition
796 of at least 20 percent of existing units or 20 percent or more
797 in the number of continuing care at-home contracts. This section
798 does not apply to construction for which a certificate of need
799 from the Agency for Health Care Administration is required.

800 (b) The application for such approval must be on forms
801 adopted by the commission and provided by the office. The
802 application must include the feasibility study required by this
803 section and such other information as required by s. 651.023 or
804 as reasonably requested by the office. If the expansion is only
805 for continuing care at-home contracts, an actuarial study
806 prepared by an independent actuary in accordance with standards
807 adopted by the American Academy of Actuaries which presents the
808 financial impact of the expansion may be substituted for the
809 feasibility study.

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

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

20-00386-18

2018438__

- 813 2. Whether the feasibility study was based on sufficient
814 data and reasonable assumptions; and
- 815 3. Whether the applicant will be able to provide continuing
816 care or continuing care at-home as proposed and meet all
817 financial obligations related to its operations, including the
818 financial requirements of this chapter.

819

820 If the application is denied, the office must notify the
821 applicant in writing, citing the specific failures to meet the
822 provisions of this chapter. Such denial entitles the applicant
823 to a hearing pursuant to chapter 120.

824 (2) A provider applying for expansion of a certificated
825 facility shall submit all of the following:

826 (a) An actuarial study.

827 (b) A feasibility study prepared by an independent
828 certified public accountant. The feasibility study must include
829 at least the following information:

830 1. A description of the facility and proposed expansion,
831 including the location, size, anticipated completion date, and
832 the proposed construction program.

833 2. An identification and evaluation of the primary and
834 secondary market areas of the facility and the projected unit
835 sales per month.

836 3. Projected revenues, including anticipated entrance fees;
837 monthly service fees; nursing care rates, if applicable; and all
838 other sources of revenue, including the total amount of debt
839 financing required.

840 4. Projected expenses, including for staffing requirements
841 and salaries; the cost of property, plant, and equipment,

20-00386-18

2018438__

842 including depreciation expense; interest expense; marketing
843 expense; and other operating expenses.

844 5. Current assets and liabilities of the applicant.

845 6. Expectations of the financial condition of the project,
846 including the projected cash flow and a projected balance sheet
847 and an estimate of the funds anticipated to be necessary to
848 cover startup losses.

849 7. The inflation factor, if any, assumed in the study for
850 the proposed expansion and how and where it is applied.

851 8. Project costs, marketing projections, resident fees and
852 charges, the competition, resident contract provisions, and
853 other factors that affect the feasibility of the facility.

854 9. The name of the person who prepared the feasibility
855 study and the experience of such person in preparing similar
856 studies or otherwise consulting in the field of continuing care.

857 10. Financial forecasts or projections prepared in
858 accordance with standards adopted by the American Institute of
859 Certified Public Accountants or in accordance with standards for
860 feasibility studies for continuing care retirement communities
861 adopted by the Actuarial Standards Board.

862 11. An independent evaluation and examination opinion, or a
863 comparable opinion acceptable to the office, by the independent
864 certified public accountant who prepared the study, of the
865 underlying assumptions used as a basis for the forecasts or
866 projections in the study and that the assumptions are reasonable
867 and proper and the project as proposed is feasible. The
868 feasibility study must contain an examination opinion for the
869 first 3 years of operations, and financial projections having a
870 compilation opinion for the next 3 years.

20-00386-18

2018438__

871 (c) Such other reasonable data, financial statements, and
872 pertinent information as the commission or office may require
873 with respect to the applicant or the facility to determine the
874 financial status of the facility and the management capabilities
875 of its managers and owners.

876 (3) A minimum of 75 percent of the moneys paid for all or
877 any part of an initial entrance fee or reservation deposit
878 collected for continuing care and 50 percent of the moneys paid
879 for all or any part of an initial fee collected for continuing
880 care at-home must be placed in an escrow account or on deposit
881 with the department as prescribed in s. 651.033. Up to 25
882 percent of the moneys paid for all or any part of an initial
883 entrance fee or reservation deposit may be included or pledged
884 for the construction or purchase of the facility or as security
885 for long-term financing. As used in this section, the term
886 "initial entrance fee" means the total entrance fee charged by
887 the facility to the first occupant of a unit.

888
889 Entrance fees and reservation deposits collected for expansions
890 must be held pursuant to the escrow requirements of s.
891 651.023(5) and (6).

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

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

898 (b) Payment in full has been received for at least 70
899 percent of the total units of a phase or of the total of the

20-00386-18

2018438__

900 combined phases constructed. If a provider offering continuing
901 care at-home is applying for a release of escrowed entrance
902 fees, the same minimum requirement must be met for the
903 continuing care and continuing care at-home contracts
904 independently of each other.

905 (c) The consultant who prepared the feasibility study
906 required by this section or a substitute approved by the office
907 certifies within 12 months before the date of filing for office
908 approval that there has been no material adverse change in
909 status with regard to the feasibility study. If a material
910 adverse change exists at the time of submission, sufficient
911 information acceptable to the office and the feasibility
912 consultant must be submitted which remedies the adverse
913 condition.

914 (d) Proof that commitments have been secured or that a
915 documented plan adopted by the applicant has been approved by
916 the office for long-term financing.

917 (e) Proof that the provider has sufficient funds to meet
918 the requirements of s. 651.035, which may include funds
919 deposited in the initial entrance fee account.

920 (f) Proof as to the intended application of the proceeds
921 upon release and proof that the entrance fees, when released,
922 will be applied as represented to the office.

923
924 Notwithstanding chapter 120, only the provider, the escrow
925 agent, and the office have a substantial interest in any office
926 decision regarding release of escrow funds in any proceedings
927 under chapter 120 or this chapter regarding the release of
928 escrow funds.

20-00386-18

2018438__

929 (5) (a) Within 30 days after receipt of an application for
930 expansion, the office shall examine the application and shall
931 notify the applicant in writing, specifically setting forth and
932 specifically requesting any additional information the office is
933 permitted by law to require. If the application submitted is
934 determined by the office to be substantially incomplete so as to
935 require substantial additional information, including
936 biographical information, the office may return the application
937 to the applicant with a written notice that the application as
938 received is substantially incomplete and therefore unacceptable
939 for filing without further action required by the office. Any
940 filing fee received must be refunded to the applicant.

941 (b) An application is deemed complete upon receipt of all
942 requested information and the correction of any error or
943 omission for which the applicant was timely notified or when the
944 time for such notification has expired. The office shall notify
945 the applicant in writing of the date on which the application
946 was deemed complete.

947 (6) Within 90 days after the date on which an application
948 is deemed complete as set forth in paragraph (5) (b), the office
949 shall complete its review and, based upon its review, approve an
950 expansion by the applicant and issue a determination that the
951 application meets all requirements of law, that the feasibility
952 study was based on sufficient data and reasonable assumptions,
953 and that the applicant will be able to provide continuing care
954 or continuing care at-home as proposed and meet all financial
955 and contractual obligations related to its operations, including
956 the financial requirements of this chapter. If the application
957 is denied, the office must notify the applicant in writing,

20-00386-18

2018438__

958 citing the specific failures to meet the provisions of this
959 chapter. Such denial entitles the applicant to a hearing
960 pursuant to chapter 120.

961 Section 11. Section 651.025, Florida Statutes, is created
962 to read:

963 651.025 Insolvent facilities or providers.—A person who was
964 a proprietor, general partner, member, officer, director,
965 trustee, or manager of an entity and who served in that capacity
966 within the 2-year period before the date the entity became
967 insolvent or bankrupt may not thereafter serve as a proprietor,
968 general partner, member, officer, director, trustee, or manager
969 of a facility or provider authorized in this state unless such
970 person demonstrates that his or her personal actions or
971 omissions were not a significant contributing cause to the
972 insolvency or bankruptcy.

973 Section 12. Present paragraph (f) of subsection (2) of
974 section 651.026, Florida Statutes, is redesignated as paragraph
975 (e), present paragraph (e) of subsection (2) and subsection (3)
976 of that section are amended, and paragraph (a) of subsection (2)
977 of that section is republished, to read:

978 651.026 Annual reports.—

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

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

983 ~~(e) Each facility shall file with the office annually,~~
984 ~~together with the annual report required by this section, a~~
985 ~~computation of its minimum liquid reserve calculated in~~
986 ~~accordance with s. 651.035 on a form prescribed by the~~

20-00386-18

2018438__

987 ~~commission.~~

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

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

992 ~~(b)~~ Current ratios.

993 (b)~~(e)~~ Adjusted current ratios.

994 (c)~~(d)~~ Cash flows.

995 ~~(e) Occupancy rates.~~

996 (d)~~(f)~~ Other measures, ratios, or trends.

997 (e)~~(g)~~ Other factors as may be appropriate.

998 Section 13. Section 651.0261, Florida Statutes, is amended
 999 to read:

1000 651.0261 Quarterly and monthly statements.-

1001 (1) Within 45 days after the end of each fiscal quarter,
 1002 each provider shall file a quarterly unaudited financial
 1003 statement of the provider or of the facility in the form
 1004 prescribed by rule of the commission and a detailed listing of
 1005 the assets maintained in the liquid reserve as required under s.
 1006 651.035. This requirement may be waived by the office upon
 1007 written request from a provider accredited under s. 651.028.

1008 (2) If the office finds,~~pursuant to rules of the~~
 1009 ~~commission,~~ that such information is needed to properly monitor
 1010 the financial condition of a provider or facility or is
 1011 otherwise needed to protect the public interest, the office may
 1012 require the provider to file:

1013 (a) Within 25 days after the end of each month, a monthly
 1014 unaudited financial statement of the provider or of the facility
 1015 in the form prescribed by the commission by rule and a detailed

20-00386-18

2018438__

1016 listing of the assets maintained in the liquid reserve as
1017 required under s. 651.035, within 45 days after the end of each
1018 fiscal quarter, a quarterly unaudited financial statement of the
1019 provider or of the facility in the form prescribed by the
1020 commission by rule. The commission may by rule require all or
1021 part of the statements or filings required under this section to
1022 be submitted by electronic means in a computer-readable form
1023 compatible with the electronic data format specified by the
1024 commission.

1025 (b) Such other data, financial statements, and pertinent
1026 information as the commission or office may reasonably require
1027 with respect to the provider or the facility, or its directors,
1028 trustees, members, branches, subsidiaries, or affiliates, to
1029 determine the financial status of the provider or of the
1030 facility and the management capabilities of its managers and
1031 owners.

1032 (3) A filing under subsection (2) may be required if any of
1033 the following apply:

1034 (a) The facility has been operational for less than 2
1035 years.

1036 (b) The provider is:

1037 1. Subject to administrative supervision proceedings;
1038 2. Required to submit a company information report to the

1039 office pursuant to s. 651.034(1);

1040 3. Subject to a corrective action plan;

1041 4. Subject to refinancing;

1042 5. Subject to an acquisition; or

1043 6. Subject to delinquency or receivership proceedings.

1044 (c) The provider or facility displays a declining financial

20-00386-18

2018438__

1045 position.

1046 (4) The commission may by rule require all or part of the
1047 statements or filings required under this section to be
1048 submitted by electronic means in a computer-readable form
1049 compatible with an electronic data format specified by the
1050 commission.

1051 Section 14. Paragraphs (c) and (d) of subsection (1) and
1052 subsections (2) and (3) of section 651.033, Florida Statutes,
1053 are amended, and subsection (6) is added to that section, to
1054 read:

1055 651.033 Escrow accounts.—

1056 (1) When funds are required to be deposited in an escrow
1057 account pursuant to s. 651.022, s. 651.023, s. 651.035, or s.
1058 651.055:

1059 (c) Any agreement establishing an escrow account required
1060 under ~~the provisions of this chapter~~ is ~~shall be~~ subject to
1061 approval by the office. The agreement must ~~shall~~ be in writing
1062 and ~~shall~~ contain, in addition to any other provisions required
1063 by law, a provision whereby the escrow agent agrees to abide by
1064 the duties imposed by paragraphs (b) and (e), (3)(a), (3)(b),
1065 and (5)(a) and subsection (6) under this section.

1066 (d) All funds deposited in an escrow account, if invested,
1067 must ~~shall~~ be invested in cash, cash equivalents, mutual funds,
1068 equities, or investment grade bonds ~~as set forth in part II of~~
1069 ~~chapter 625~~; however, such investment may not diminish the funds
1070 held in escrow below the amount required by this chapter. Funds
1071 deposited in an escrow account are not subject to charges by the
1072 escrow agent except escrow agent fees associated with
1073 administering the accounts, or subject to any liens, judgments,

20-00386-18

2018438__

1074 garnishments, creditor's claims, or other encumbrances against
1075 the provider or facility except as provided in s. 651.035(1).

1076 (2) Notwithstanding s. 651.035(7), ~~In addition, the escrow~~
1077 ~~agreement shall provide that the escrow agent or another person~~
1078 ~~designated to act in the escrow agent's place and the provider,~~
1079 ~~except as otherwise provided in s. 651.035, shall notify the~~
1080 ~~office in writing at least 10 days before the withdrawal of any~~
1081 ~~portion of any funds required to be escrowed under the~~
1082 ~~provisions of s. 651.035. However, in the event of an emergency~~
1083 ~~and upon petition by the provider, the office may waive the 10-~~
1084 ~~day notification period and allow a withdrawal of up to 10~~
1085 ~~percent of the required minimum liquid reserve. The office shall~~
1086 ~~have 3 working days to deny the petition for the emergency 10-~~
1087 ~~percent withdrawal. If the office fails to deny the petition~~
1088 ~~within 3 working days, the petition is ~~shall be~~ deemed to have~~
1089 ~~been granted by the office. For purposes ~~the purpose~~ of this~~
1090 ~~section, "working day" means each day that is not a Saturday,~~
1091 ~~Sunday, or legal holiday as defined by Florida law. Also, for~~
1092 ~~purposes ~~the purpose~~ of this section, the day the petition is~~
1093 ~~received by the office is ~~shall~~ not ~~be~~ counted as one of the 3~~
1094 ~~days.~~

1095 (3) ~~In addition,~~ When entrance fees are required to be
1096 deposited in an escrow account pursuant to s. 651.022, s.
1097 651.023, or s. 651.055:

1098 (a) The provider shall deliver to the resident a written
1099 receipt. The receipt must show the payor's name and address, the
1100 date, the price of the care contract, and the amount of money
1101 paid. A copy of each receipt, together with the funds, must
1102 ~~shall~~ be deposited with the escrow agent or as provided in

20-00386-18

2018438__

1103 paragraph (c). The escrow agent must ~~shall~~ release such funds to
1104 the provider 7 days after the date of receipt of the funds by
1105 the escrow agent if the provider, operating under a certificate
1106 of authority issued by the office, has met the requirements of
1107 s. 651.023(6). However, if the resident rescinds the contract
1108 within the 7-day period, the escrow agent must ~~shall~~ release the
1109 escrowed fees to the resident.

1110 (b) At the request of an individual resident of a facility,
1111 the escrow agent shall issue a statement indicating the status
1112 of the resident's portion of the escrow account.

1113 (c) At the request of an individual resident of a facility,
1114 the provider may hold the check for the 7-day period and may
1115 ~~shall~~ not deposit it during this time period. If the resident
1116 rescinds the contract within the 7-day period, the check must
1117 ~~shall~~ be immediately returned to the resident. Upon the
1118 expiration of the 7 days, the provider shall deposit the check.

1119 (d) A provider may assess a nonrefundable fee, which is
1120 separate from the entrance fee, for processing a prospective
1121 resident's application for continuing care or continuing care
1122 at-home.

1123 (6) Except as described in paragraph (3) (a), the escrow
1124 agent may not release or otherwise permit the transfer of funds
1125 without the written approval of the office.

1126 Section 15. Section 651.034, Florida Statutes, is created
1127 to read:

1128 651.034 Financial and operating requirements for
1129 providers.-

1130 (1) (a) If a company information level event occurs, the
1131 provider must provide the office with explanatory information

20-00386-18

2018438__

1132 and submit to the office a company information report, which
1133 must:

1134 1. Identify the conditions that contribute to the company
1135 information level event;

1136 2. Contain proposals of corrective actions that the
1137 provider intends to take and that are reasonably expected to
1138 result in the elimination of the company information level
1139 event;

1140 3. Provide projections of the provider's financial results
1141 in the current year and at least the 4 succeeding years, both in
1142 the absence of proposed corrective actions and if the proposed
1143 corrective actions are taken;

1144 4. Identify the key assumptions affecting the provider's
1145 projections and the sensitivity of the projections to the
1146 assumptions; and

1147 5. Identify the quality of and problems associated with the
1148 provider's business.

1149 (b) The company information report must be submitted within
1150 45 days after the occurrence of the company information level
1151 event.

1152 (c) Within 60 days after the submission by a provider of a
1153 company information report to the office, the office shall
1154 notify the provider whether the corrective action identified in
1155 the company information report must be implemented or is
1156 unsatisfactory in the judgment of the office. If the office
1157 determines that the corrective action proposed in the company
1158 information report is unsatisfactory, the notification to the
1159 provider must set forth the reasons for the determination and
1160 may set forth proposed revisions. Upon notification from the

20-00386-18

2018438__

1161 office, the provider shall prepare a revised company information
1162 report, which may incorporate by reference any revisions
1163 proposed by the office, and shall submit the revised company
1164 information report to the office within 45 days after the
1165 notification from the office; or

1166 (d) If the office notifies a provider that the provider's
1167 company information report or revised company information report
1168 is unsatisfactory, the office may, at its discretion, specify in
1169 the notification that the notification is a regulatory action
1170 level event.

1171
1172 The occurrence of a company information level event may not be
1173 deemed a violation of the Insurance Code and the submission of a
1174 company information report may not be deemed a disciplinary
1175 action. However, the failure to file a company information
1176 report or other violation of this section constitutes a
1177 violation of the Insurance Code and may subject a provider to
1178 disciplinary action.

1179 (2) (a) If a regulatory action level event occurs, the
1180 office must:

1181 1. Require the provider to prepare and submit a corrective
1182 action plan or, if applicable, a revised corrective action plan;

1183 2. Perform an examination pursuant to s. 624.316 or an
1184 analysis, as the office considers necessary, of the assets,
1185 liabilities, and operations of the provider, including a review
1186 of the corrective action plan or the revised corrective action
1187 plan; and

1188 3. After the examination or analysis, issue a corrective
1189 order specifying any corrective actions that the office

20-00386-18

2018438__

1190 determines are required.

1191 (b) In determining corrective actions, the office shall
1192 consider any factor relevant to the provider based upon the
1193 office's examination or analysis of the assets, liabilities, and
1194 operations of the provider. The corrective action plan or the
1195 revised corrective action plan must be submitted within 45 days
1196 after the occurrence of the regulatory action level event.

1197 (c) The office may retain actuaries, investment experts,
1198 and other consultants to review a provider's corrective action
1199 plan or revised corrective action plan, examine or analyze the
1200 assets, liabilities, and operations of a provider, and formulate
1201 the corrective order with respect to the provider. The fees,
1202 costs, and expenses relating to consultants must be borne by the
1203 affected provider or by any other party as directed by the
1204 office.

1205 (3) If an impairment occurs, the office must take any
1206 action necessary to place the provider under regulatory control,
1207 including any remedy available under chapter 631. An impairment
1208 is sufficient grounds for the department to be appointed as
1209 receiver as provided in chapter 631. Notwithstanding s. 631.011,
1210 impairment of a provider, for purposes of s. 631.051, is defined
1211 according to the term "impaired" under s. 651.011. The office
1212 may forego taking action for up to 90 days after the impairment
1213 if the office finds there is a reasonable expectation that the
1214 impairment may be eliminated within the 90-day period.

1215 (4) There is no liability on the part of, and a cause of
1216 action may not arise against, the commission, department, or
1217 office, or their employees or agents, for any action taken by
1218 them in the performance of their powers and duties under this

20-00386-18

2018438__

1219 section.

1220 (5) The office shall transmit any notice that may result in
1221 regulatory action by registered mail, certified mail, or any
1222 other method of transmission. Notice is effective when the
1223 provider receives it.

1224 (6) This section is supplemental to the other laws of this
1225 state and does not preclude or limit any power or duty of the
1226 department or office under those laws or under the rules adopted
1227 pursuant to those laws.

1228 (7) The commission may adopt rules to administer this
1229 section, including, but not limited to, rules regarding
1230 corrective action plans, adjusted corrective action plans,
1231 corrective orders, and procedures to be followed in the event of
1232 a triggering of a company information level event, a regulatory
1233 action level event, or an impairment.

1234 (8) The office may exempt a provider from subsection (1),
1235 subsection (2), or subsection (3) until stabilized occupancy is
1236 reached or until the time projected to achieve stabilized
1237 occupancy as reported in the last actuarial study required by
1238 the office as part of an application filing under s. 651.022, s.
1239 651.023, s. 651.024, s. 651.0245, or s. 651.0246 has elapsed,
1240 but for no longer than 3 years from the date of issuance of the
1241 certificate of occupancy.

1242 Section 16. Paragraphs (a) and (c) of subsection (1) of
1243 section 651.035, Florida Statutes, are amended, and subsections
1244 (7), (8), and (9) are added to that section, to read:

1245 651.035 Minimum liquid reserve requirements.—

1246 (1) A provider shall maintain in escrow a minimum liquid
1247 reserve consisting of the following reserves, as applicable:

20-00386-18

2018438__

1248 (a) Each provider shall maintain in escrow as a debt
1249 service reserve the aggregate amount of all principal and
1250 interest payments due during the fiscal year on any mortgage
1251 loan or other long-term financing of the facility, including
1252 property taxes as recorded in the audited financial statements
1253 required under s. 651.026. The amount must include any leasehold
1254 payments and all costs related to such payments. If principal
1255 payments are not due during the fiscal year, the provider must
1256 ~~shall~~ maintain in escrow as a minimum liquid reserve an amount
1257 equal to interest payments due during the next 12 months on any
1258 mortgage loan or other long-term financing of the facility,
1259 including property taxes noticed as required by s. 197.322(3)
1260 and insurance. If a provider does not have a mortgage loan or
1261 other financing on the facility, the provider must deposit
1262 monthly in escrow as a minimum liquid reserve an amount equal to
1263 one-twelfth of the annual property tax liability as indicated in
1264 the most recent tax notice provided pursuant to s. 197.322(3).

1265 (c) Each provider shall maintain in escrow an operating
1266 reserve equal to 30 percent of the total operating expenses
1267 projected in the feasibility study required by s. 651.023 for
1268 the first 12 months of operation. Thereafter, each provider
1269 shall maintain in escrow an operating reserve equal to 15
1270 percent of the total operating expenses in the annual report
1271 filed pursuant to s. 651.026. If a provider has been in
1272 operation for more than 12 months, the total annual operating
1273 expenses must ~~shall~~ be determined by averaging the total annual
1274 operating expenses reported to the office by the number of
1275 annual reports filed with the office within the preceding 3-year
1276 period subject to adjustment if there is a change in the number

20-00386-18

2018438__

1277 of facilities owned. For purposes of this subsection, total
1278 annual operating expenses include all expenses of the facility
1279 except ~~+~~ depreciation and amortization; interest and property
1280 taxes included in paragraph (a); extraordinary expenses that are
1281 adequately explained and documented in accordance with generally
1282 accepted accounting principles; liability insurance premiums in
1283 excess of those paid in calendar year 1999; and changes in the
1284 obligation to provide future services to current residents. For
1285 providers initially licensed during or after calendar year 1999,
1286 liability insurance must ~~shall~~ be included in the total
1287 operating expenses in an amount not to exceed the premium paid
1288 during the first 12 months of facility operation. ~~Beginning~~
1289 ~~January 1, 1993,~~ The operating reserves required under this
1290 subsection must ~~shall~~ be in an unencumbered account held in
1291 escrow for the benefit of the residents. Such funds may not be
1292 encumbered or subject to any liens or charges by the escrow
1293 agent or judgments, garnishments, or creditors' claims against
1294 the provider or facility. However, if a facility had a lien,
1295 mortgage, trust indenture, or similar debt instrument in place
1296 before January 1, 1993, which encumbered all or any part of the
1297 reserves required by this subsection and such funds were used to
1298 meet the requirements of this subsection, then such arrangement
1299 may be continued, unless a refinancing or acquisition has
1300 occurred, and the provider is ~~shall be~~ in compliance with this
1301 subsection.

1302 (7) A provider may withdraw funds from the operating
1303 reserve or the debt service reserve as provided in s. 625.62
1304 with the written consent of the office.

1305 (a) To withdraw funds in excess of the amount required

20-00386-18

2018438__

1306 under this section, the provider must file notice with the
1307 office 10 days before the date of such withdrawal. If no
1308 disapproval is received within 10 days of the filing of such
1309 notice, the withdrawal is deemed approved. Escrow agent fees as
1310 allowed by s. 651.033(1)(d) may be withdrawn from funds in
1311 excess of the amount required under this section without prior
1312 approval of the office.

1313 (b)1. For all other proposed withdrawals, in order to
1314 receive the consent of the office, the provider must file
1315 documentation showing why the withdrawal is necessary for the
1316 continued operation of the facility and such additional
1317 information as the office reasonably requires.

1318 2. The office shall notify the provider when the file is
1319 deemed complete. If the provider has complied with all prior
1320 requests for information, the file is deemed complete after 30
1321 days without communication from the office.

1322 3. Within 30 days after the date a file is deemed complete,
1323 the office shall provide the provider with written notice of its
1324 approval or disapproval of the request. The office may
1325 disapprove any request to withdraw such funds if it determines
1326 that the withdrawal is not in the best interest of the
1327 residents.

1328 (8) The office may order the immediate transfer of up to
1329 100 percent of the funds held in the minimum liquid reserve to
1330 the custody of the department pursuant to part III of chapter
1331 625 if the office finds that the provider is impaired or
1332 insolvent. The office may order such a transfer regardless of
1333 whether the office has suspended or revoked, or intends to
1334 suspend or revoke, the certificate of authority of the provider.

20-00386-18

2018438__

1335 (9) Each facility shall file with the office annually, no
1336 later than 60 days before the end of the provider's fiscal year,
1337 a calculation of its minimum liquid reserve, determined in
1338 accordance with this section, on a form prescribed by the
1339 commission. The minimum liquid reserve must be maintained at the
1340 calculated level beginning no later than the first day of the
1341 subsequent fiscal year.

1342 Section 17. Section 651.043, Florida Statutes, is created
1343 to read:

1344 651.043 Approval of change in management.-

1345 (1) As used in this section, the term "management" means:

1346 (a) A manager or management company;

1347 (b) An officer or director of the provider or of the
1348 manager or management company;

1349 (c) Any other person performing duties similar to those of
1350 persons in paragraph (a) or paragraph (b); or

1351 (d) A person who exercises or who has the ability to
1352 exercise effective control of the organization, or who
1353 influences or has the ability to influence the transaction of
1354 the business of the provider.

1355 (2) Effective July 1, 2018, a contract for management must
1356 be in writing and include a provision that the contract will be
1357 canceled upon issuance of an order by the office pursuant to
1358 this section without the application of any cancellation fee or
1359 penalty.

1360 (3) A provider must file notice with the office of any
1361 change in management within 5 days after the appointment of new
1362 management or the removal of approved management, whichever is
1363 earlier. For each new management appointment, the provider must

20-00386-18

2018438

1364 submit the information required by s. 651.022(2) and a copy of
1365 the written management contract. The office shall complete its
1366 review and issue an approval or disapproval of the management
1367 contract within 30 days after the filing is deemed complete. A
1368 filing is deemed complete upon receipt of all requested
1369 information and correction of any error or omission for which
1370 the applicant was timely notified.

1371 (4) The office may disapprove new management and order the
1372 provider to cancel the contract in accordance with the terms of
1373 the contract and applicable law if the office:

1374 (a) Finds that the new management is incompetent or
1375 untrustworthy;

1376 (b) Finds that the new management is so lacking in relevant
1377 managerial experience as to make the proposed operation
1378 hazardous to the residents or potential residents;

1379 (c) Finds that the new management is so lacking in relevant
1380 experience, ability, and standing as to jeopardize the
1381 reasonable promise of successful operation; or

1382 (d) Has good reason to believe that the new management is
1383 affiliated directly or indirectly through ownership, control,
1384 reinsurance transactions, or other insurance or business
1385 relations with any person or persons whose business operations
1386 are or have been marked by manipulation of assets, accounts, or
1387 reinsurance or by bad faith, to the detriment of policyholders,
1388 residents, stockholders, investors, creditors, or the public.

1389 (5) Management disapproved by the office must be removed
1390 within 30 days after receipt by the provider of notice of such
1391 disapproval.

1392 (6) The office may revoke, suspend, or take other

20-00386-18

2018438__

1393 administrative action against the certificate of authority of
1394 the provider if the provider:

1395 (a) Fails to timely remove management disapproved by the
1396 office;

1397 (b) Fails to timely notify the office of a change in
1398 management;

1399 (c) Appoints management without a written contract; or

1400 (d) Repeatedly appoints management that was previously
1401 disapproved by the office or that is not approvable pursuant to
1402 subsection (4).

1403 (7) The provider shall remove any management immediately
1404 upon discovery of any of the following conditions, if the
1405 conditions were not disclosed in the notice to the office
1406 required in subsection (3):

1407 (a) That any person who exercises or has the ability to
1408 exercise effective control of the provider, or who influences or
1409 has the ability to influence the transaction of the business of
1410 the provider, has been found guilty of, or has pled guilty or no
1411 contest to, any felony or crime punishable by imprisonment of 1
1412 year or more under the laws of the United States or any state
1413 thereof or under the laws of any other country, which involves
1414 moral turpitude, without regard to whether a judgment or
1415 conviction has been entered by the court having jurisdiction in
1416 such case.

1417 (b) That any person who exercises or has the ability to
1418 exercise effective control of the organization, or who
1419 influences or has the ability to influence the transaction of
1420 the business of the provider, is now or was in the past
1421 affiliated, directly or indirectly, through ownership interest

20-00386-18

2018438__

1422 of 10 percent or more in, control of, or reinsurance
1423 transactions with any business, corporation, or other entity
1424 that has been found guilty of or has pled guilty or no contest
1425 to any felony or crime punishable by imprisonment for 1 year or
1426 more under the laws of the United States, any state, or any
1427 other country, regardless of adjudication.

1428

1429 The failure to remove such management is grounds for revocation
1430 or suspension of the provider's certificate of authority.

1431 Section 18. Section 651.051, Florida Statutes, is amended
1432 to read:

1433 651.051 Maintenance of assets and records in state.—All
1434 records and assets of a provider must be maintained in this
1435 state. No records or assets may be removed from this state by a
1436 provider unless the office consents to such removal in writing
1437 before such removal. Such consent must ~~shall~~ be based upon the
1438 provider's submitting satisfactory evidence that the removal
1439 will facilitate and make more economical the operations of the
1440 provider and will not diminish the service or protection
1441 thereafter to be given the provider's residents in this state.
1442 Before ~~Prior to~~ such removal, the provider shall give notice to
1443 the president or chair of the facility's residents' council. If
1444 such removal is part of a cash management system which has been
1445 approved by the office, disclosure of the system must ~~shall~~ meet
1446 the notification requirements. The electronic storage of records
1447 on a web-based, secured storage platform by contract with a
1448 third party constitutes removal from the state and requires
1449 prior approval by the office.

1450 Section 19. Subsection (2) of section 651.057, Florida

20-00386-18

2018438__

1451 Statutes, is amended to read:

1452 651.057 Continuing care at-home contracts.—

1453 (2) A provider that holds a certificate of authority and
1454 wishes to offer continuing care at-home must also:

1455 (a) Submit a business plan to the office with the following
1456 information:

1457 1. A description of the continuing care at-home services
1458 that will be provided, the market to be served, and the fees to
1459 be charged;

1460 2. A copy of the proposed continuing care at-home contract;

1461 3. An actuarial study prepared by an independent actuary in
1462 accordance with the standards adopted by the American Academy of
1463 Actuaries which presents the impact of providing continuing care
1464 at-home on the overall operation of the facility; and

1465 4. A market feasibility study that meets the requirements
1466 of s. 651.022(3) and documents that there is sufficient interest
1467 in continuing care at-home contracts to support such a program;

1468 (b) Demonstrate to the office that the proposal to offer
1469 continuing care at-home contracts to individuals who do not
1470 immediately move into the facility will not place the provider
1471 in an unsound financial condition;

1472 (c) Comply with the requirements of s. 651.0246(1) ~~s.~~
1473 ~~651.021(2)~~, except that an actuarial study may be substituted
1474 for the feasibility study; and

1475 (d) Comply with the requirements of this chapter.

1476 Section 20. Subsection (1) of section 651.071, Florida
1477 Statutes, is amended to read:

1478 651.071 Contracts as preferred claims on liquidation or
1479 receivership.—

20-00386-18

2018438__

1480 (1) In the event of receivership or liquidation proceedings
1481 against a provider, all continuing care and continuing care at-
1482 home contracts executed by a provider are ~~shall be~~ deemed
1483 preferred claims or policyholder loss preferred claims pursuant
1484 to s. 631.271(1)(b) against all assets owned by the provider;
1485 however, such claims are subordinate to any secured claim.

1486 Section 21. Subsection (2) and present paragraph (g) of
1487 subsection (3) of section 651.091, Florida Statutes, are
1488 amended, present paragraphs (h) and (i) of subsection (3) of
1489 that section are redesignated as paragraphs (g) and (h),
1490 respectively, a new paragraph (i) and paragraphs (j), (k), and
1491 (l) are added to that subsection, and paragraph (d) of
1492 subsection (3) and subsection (4) of that section are
1493 republished, to read:

1494 651.091 Availability, distribution, and posting of reports
1495 and records; requirement of full disclosure.—

1496 (2) Every continuing care facility shall:

1497 (a) Display the certificate of authority in a conspicuous
1498 place inside the facility.

1499 (b) Post in a prominent position in the facility which is
1500 accessible to all residents and the general public a concise
1501 summary of the last examination report issued by the office,
1502 with references to the page numbers of the full report noting
1503 any deficiencies found by the office, and the actions taken by
1504 the provider to rectify such deficiencies, indicating in such
1505 summary where the full report may be inspected in the facility.

1506 (c) Provide notice to the president or chair of the
1507 residents' council within 3 business days after issuance of an
1508 examination report or the initiation of any legal or

20-00386-18

2018438__

1509 administrative proceeding by the office or the department and
1510 include a copy of such document.

1511 (d)~~(e)~~ Post in a prominent position in the facility which
1512 is accessible to all residents and the general public a summary
1513 of the latest annual statement, indicating in the summary where
1514 the full annual statement may be inspected in the facility. A
1515 listing of any proposed changes in policies, programs, and
1516 services must also be posted.

1517 (e)~~(d)~~ Distribute a copy of the full annual statement and a
1518 copy of the most recent third-party ~~third-party~~ financial audit
1519 filed with the annual report to the president or chair of the
1520 residents' council within 30 days after filing the annual report
1521 with the office, and designate a staff person to provide
1522 explanation thereof.

1523 (f)~~(e)~~ Deliver the information described in s. 651.085(4)
1524 in writing to the president or chair of the residents' council
1525 and make supporting documentation available upon request ~~Notify~~
1526 ~~the residents' council of any plans filed with the office to~~
1527 ~~obtain new financing, additional financing, or refinancing for~~
1528 ~~the facility and of any applications to the office for any~~
1529 ~~expansion of the facility.~~

1530 (g)~~(f)~~ Deliver to the president or chair of the residents'
1531 council a summary of entrance fees collected and refunds made
1532 during the time period covered in the annual report and the
1533 refund balances due at the end of the report period.

1534 (h)~~(g)~~ Deliver to the president or chair of the residents'
1535 council a copy of each quarterly statement within 30 days after
1536 the quarterly statement is filed with the office if the facility
1537 is required to file quarterly.

20-00386-18

2018438__

1538 ~~(i)(h)~~ Upon request, deliver to the president or chair of
1539 the residents' council a copy of any newly approved continuing
1540 care or continuing care at-home contract within 30 days after
1541 approval by the office.

1542 (j) Provide to the president or chair of the residents'
1543 council a copy of any notice filed with the office relating to
1544 any change in ownership within 3 business days after the receipt
1545 of such filing by the provider.

1546 (k) Make the information available to prospective residents
1547 pursuant to paragraph (3) (d) available to current residents and
1548 provide notice of changes to that information to the president
1549 or chair of the residents' council within 3 business days.

1550 (3) Before entering into a contract to furnish continuing
1551 care or continuing care at-home, the provider undertaking to
1552 furnish the care, or the agent of the provider, shall make full
1553 disclosure, and provide copies of the disclosure documents to
1554 the prospective resident or his or her legal representative, of
1555 the following information:

1556 (d) In keeping with the intent of this subsection relating
1557 to disclosure, the provider shall make available for review
1558 master plans approved by the provider's governing board and any
1559 plans for expansion or phased development, to the extent that
1560 the availability of such plans does not put at risk real estate,
1561 financing, acquisition, negotiations, or other implementation of
1562 operational plans and thus jeopardize the success of
1563 negotiations, operations, and development.

1564 ~~(g) The amount and location of any reserve funds required~~
1565 ~~by this chapter, and the name of the person or entity having a~~
1566 ~~claim to such funds in the event of a bankruptcy, foreclosure,~~

20-00386-18

2018438__

1567 ~~or rehabilitation proceeding.~~

1568 (i) Notice of the issuance of an examination report or the
1569 initiation of any legal or administrative proceeding by the
1570 office or the department, including a copy of such document.

1571 (j) Notice that the entrance fee is the property of the
1572 provider after the expiration of the 7-day escrow requirement
1573 under s. 651.055(2).

1574 (k) If the provider operates multiple facilities, a
1575 disclosure of any distribution of assets or income between
1576 facilities that may occur and the manner in which such
1577 distributions would be made, or a statement that such
1578 distributions will not occur.

1579 (l) Notice of any holding company system or obligated group
1580 of which the provider is a member.

1581 (4) A true and complete copy of the full disclosure
1582 document to be used must be filed with the office before use. A
1583 resident or prospective resident or his or her legal
1584 representative may inspect the full reports referred to in
1585 paragraph (2)(b); the charter or other agreement or instrument
1586 required to be filed with the office pursuant to s. 651.022(2),
1587 together with all amendments thereto; and the bylaws of the
1588 corporation or association, if any. Upon request, copies of the
1589 reports and information shall be provided to the individual
1590 requesting them if the individual agrees to pay a reasonable
1591 charge to cover copying costs.

1592 Section 22. Subsection (1) of section 651.105, Florida
1593 Statutes, is amended, and subsection (7) is added to that
1594 section, to read:

1595 651.105 Examination and inspections.—

20-00386-18

2018438__

1596 (1) The office may at any time, and shall at least once
1597 every 3 years, examine the business of any applicant for a
1598 certificate of authority and any provider engaged in the
1599 execution of care contracts or engaged in the performance of
1600 obligations under such contracts, in the same manner as is
1601 provided for the examination of insurance companies pursuant to
1602 ss. 624.316 and 624.318 ~~s. 624.316~~. For a provider as described
1603 ~~defined~~ in s. 651.028, such examinations must ~~shall~~ take place
1604 at least once every 5 years. Such examinations must ~~shall~~ be
1605 made by a representative or examiner designated by the office
1606 whose compensation will be fixed by the office pursuant to s.
1607 624.320. Routine examinations may be made by having the
1608 necessary documents submitted to the office; and, for this
1609 purpose, financial documents and records conforming to commonly
1610 accepted accounting principles and practices, as required under
1611 s. 651.026, are deemed adequate. The final written report of
1612 each examination must be filed with the office and, when so
1613 filed, constitutes a public record. Any provider being examined
1614 shall, upon request, give reasonable and timely access to all of
1615 its records. The representative or examiner designated by the
1616 office may at any time examine the records and affairs and
1617 inspect the physical property of any provider, whether in
1618 connection with a formal examination or not.

1619 (7) To the extent necessary to ascertain the financial
1620 condition of a provider, the office may examine any parent,
1621 subsidiary, or affiliate that has a contractual or financial
1622 relationship with the provider.

1623 Section 23. Section 651.1055, Florida Statutes, is created
1624 to read:

20-00386-18

2018438__

1625 651.1055 Duty of provider to cooperate.—A provider has a
1626 duty to cooperate with the office, including responding to
1627 written correspondence and providing data, financial statements,
1628 and pertinent information as requested by the office.

1629 Section 24. Section 651.106, Florida Statutes, is amended
1630 to read:

1631 651.106 Grounds for discretionary refusal, suspension, or
1632 revocation of certificate of authority.—The office may deny an
1633 application or, suspend, or revoke the provisional certificate
1634 of authority or the certificate of authority of any applicant or
1635 provider if it finds that any one or more of the following
1636 grounds applicable to the applicant or provider exist:

1637 (1) Failure by the provider to continue to meet the
1638 requirements for the authority originally granted.

1639 (2) Failure by the provider to meet one or more of the
1640 qualifications for the authority specified by this chapter.

1641 (3) Material misstatement, misrepresentation, or fraud in
1642 obtaining the authority, or in attempting to obtain the same.

1643 (4) Demonstrated lack of fitness or trustworthiness.

1644 (5) Fraudulent or dishonest practices of management in the
1645 conduct of business.

1646 (6) Misappropriation, conversion, or withholding of moneys.

1647 (7) Failure to comply with, or violation of, any proper
1648 order or rule of the office or commission or violation of any
1649 provision of this chapter.

1650 (8) The insolvent or impaired condition of the provider or
1651 the provider's being in such condition or using such methods and
1652 practices in the conduct of its business as to render its
1653 further transactions in this state hazardous or injurious to the

20-00386-18

2018438__

1654 public.

1655 (9) Refusal by the provider to be examined or to produce
1656 its accounts, records, and files for examination, or refusal by
1657 any of its officers to give information with respect to its
1658 affairs or to perform any other legal obligation under this
1659 chapter when required by the office.

1660 (10) Failure by the provider to comply with the
1661 requirements of s. 651.026 or s. 651.033.

1662 (11) Failure by the provider to maintain escrow accounts or
1663 funds as required by this chapter.

1664 (12) Failure by the provider to meet the requirements of
1665 this chapter for disclosure of information to residents
1666 concerning the facility, its ownership, its management, its
1667 development, or its financial condition or failure to honor its
1668 continuing care or continuing care at-home contracts.

1669 (13) Any cause for which issuance of the license could have
1670 been refused had it then existed and been known to the office.

1671 (14) Having been found guilty of, or having pleaded guilty
1672 or nolo contendere to, a felony in this state or any other
1673 state, without regard to whether a judgment or conviction has
1674 been entered by the court having jurisdiction of such cases.

1675 (15) In the conduct of business under the license, engaging
1676 in unfair methods of competition or in unfair or deceptive acts
1677 or practices prohibited under part IX of chapter 626.

1678 (16) A pattern of bankrupt enterprises.

1679 (17) (a) The ownership, control, or management of the
1680 organization includes any person:

1681 1. Who is incompetent or untrustworthy;

1682 2. Who is so lacking in continuing care expertise as to

20-00386-18

2018438__

1683 make the operation of the provider hazardous to potential and
1684 existing residents;

1685 3. Who is so lacking in continuing care experience,
1686 ability, and standing as to jeopardize the reasonable promise of
1687 successful operation;

1688 4. Who is affiliated, directly or indirectly, through
1689 ownership, control, reinsurance transactions, or other business
1690 relations, with any person whose business operations are or have
1691 been marked by business practices or conduct that is to the
1692 detriment of the public, stockholders, investors, or creditors;
1693 or

1694 5. Whose business operations are or have been marked by
1695 business practices or conduct that is to the detriment of the
1696 public, stockholders, investors, or creditors.

1697 (b) Any person, including any stock subscriber,
1698 stockholder, or incorporator, who exercises or has the ability
1699 to exercise effective control of the organization, or who
1700 influences or has the ability to influence the transaction of
1701 the provider's business, does not possess the financial standing
1702 and business experience for the successful operation of the
1703 provider.

1704 (18) The provider has not filed a notice of change in
1705 management, fails to remove a disapproved manager, or persists
1706 in appointing disapproved or unapprovable managers.

1707
1708 Revocation of a certificate of authority under this section does
1709 not relieve a provider from the provider's obligation to
1710 residents under the terms and conditions of any continuing care
1711 or continuing care at-home contract between the provider and

20-00386-18

2018438__

1712 residents or the provisions of this chapter. The provider shall
1713 continue to file its annual statement and pay license fees to
1714 the office as required under this chapter as if the certificate
1715 of authority had continued in full force, but the provider shall
1716 not issue any new contracts. The office may seek an action in
1717 the circuit court of Leon County to enforce the office's order
1718 and the provisions of this section.

1719 Section 25. Section 651.1065, Florida Statutes, is created
1720 to read:

1721 651.1065 Soliciting or accepting new continuing care
1722 contracts by impaired or insolvent facilities or providers.-

1723 (1) Regardless of whether delinquency proceedings as to a
1724 continuing care retirement community have been or are to be
1725 initiated, a proprietor, general partner, member, officer,
1726 director, trustee, or manager of a continuing care retirement
1727 community, except with the written permission of the office, may
1728 not permit the continuing care retirement community to solicit
1729 or accept new continuing care contracts in this state after the
1730 proprietor, general partner, member, officer, director, trustee,
1731 or manager knew, or reasonably should have known, that the
1732 continuing care retirement community was impaired or insolvent.

1733 (2) A proprietor, general partner, member, officer,
1734 director, trustee, or manager who violates this section commits
1735 a felony of the third degree, punishable as provided in s.
1736 775.082, s. 775.083, or s. 775.084.

1737 Section 26. Section 651.111, Florida Statutes, is amended
1738 to read:

1739 651.111 Resident complaints and requests for inspections.-

1740 (1) Any interested party or resident may file a complaint

20-00386-18

2018438__

1741 that may include a request for an inspection of the records and
1742 related financial affairs of a provider providing care in
1743 accordance with ~~the provisions of~~ this chapter by transmitting
1744 to the office notice of an alleged violation of applicable
1745 requirements prescribed by statute or by rule, specifying to a
1746 reasonable extent the details of the alleged violation or
1747 complaint, which notice must ~~shall~~ be signed by the complainant.

1748 (2) If the complaint requests an inspection, the substance
1749 of the complaint must ~~shall~~ be given to the provider no earlier
1750 than the time of the inspection. Unless the complainant
1751 specifically requests otherwise, neither the substance of the
1752 complaint which is provided to the provider nor any copy of the
1753 complaint or any record which is published, released, or
1754 otherwise made available to the provider may ~~shall~~ disclose the
1755 name of any person mentioned in the complaint except the name of
1756 any duly authorized officer, employee, or agent of the office
1757 conducting the investigation or inspection pursuant to this
1758 chapter.

1759 (3) Upon receipt of a complaint, the office shall make a
1760 preliminary review; and, unless the office determines that the
1761 complaint is without any reasonable basis or the complaint does
1762 not request an inspection, the office shall make an inspection.
1763 The office shall provide the complainant with a written
1764 acknowledgment of the complaint within 15 days after receipt by
1765 the office. Such acknowledgment must include the case number
1766 assigned by the office to the complaint and the name and contact
1767 information of any duly authorized officer, employee, or agent
1768 of the office conducting the investigation or inspection
1769 pursuant to this chapter. The complainant must ~~shall~~ be advised,

20-00386-18

2018438__

1770 within 30 days after the receipt of the complaint by the office,
1771 of the proposed course of action of the office, including an
1772 estimated timeframe for the handling of the complaint. If the
1773 office does not conclude its inspection or investigation within
1774 the office's estimated timeframe, the office must advise the
1775 complainant in writing within 15 days after any revised course
1776 of action, including a revised estimated timeframe for the
1777 handling of the complaint. Within 15 days after the office
1778 completes its inspection or concludes its investigation, the
1779 office shall provide the complainant a written closure statement
1780 specifying the office's findings and the results of the
1781 inspection or investigation.

1782 (4) A ~~No~~ provider operating under a certificate of
1783 authority under this chapter may not discriminate or retaliate
1784 in any manner against a resident or an employee of a facility
1785 providing care because such resident or employee or any other
1786 person has initiated a complaint pursuant to this section.

1787 Section 27. Section 651.114, Florida Statutes, is amended
1788 to read:

1789 651.114 Delinquency proceedings; remedial rights.—

1790 (1) Upon determination by the office that a provider is not
1791 in compliance with this chapter, the office may notify the chair
1792 of the Continuing Care Advisory Council, who may assist the
1793 office in formulating a corrective action plan.

1794 (2) Within 30 days after a request by either the advisory
1795 council or the office, a provider shall make a plan for
1796 obtaining compliance or solvency available to the advisory
1797 council and the office, ~~within 30 days after being requested to~~
1798 do so by the council, a plan for obtaining compliance or

20-00386-18

2018438__

1799 ~~solvency.~~

1800 (3) Within 30 days after receipt of a plan for obtaining
1801 compliance or solvency, the office, or notification, the
1802 advisory council at the request of the office, shall:

1803 (a) Consider and evaluate the plan submitted by the
1804 provider.

1805 (b) Discuss the problem and solutions with the provider.

1806 (c) Conduct such other business as is necessary.

1807 (d) Report its findings and recommendations to the office,
1808 which may require additional modification of the plan.

1809
1810 This subsection may not be interpreted so as to delay or prevent
1811 the office from taking any regulatory measures it deems
1812 necessary regarding the provider that submitted the plan.

1813 (4) If the financial condition of a continuing care
1814 facility or provider is impaired or is such that if not modified
1815 or corrected, its continued operation would result in
1816 insolvency, the office may direct the provider to formulate and
1817 file with the office a corrective action plan. If the provider
1818 fails to submit a plan within 30 days after the office's
1819 directive, or submits a plan that is insufficient to correct the
1820 condition, the office may specify a plan and direct the provider
1821 to implement the plan.

1822 (5)~~(4)~~ After receiving approval of a plan by the office,
1823 the provider shall submit a progress report monthly to the
1824 advisory council or the office, or both, in a manner prescribed
1825 by the office. After 3 months, or at any earlier time deemed
1826 necessary, the council shall evaluate the progress by the
1827 provider and shall advise the office of its findings.

20-00386-18

2018438__

1828 ~~(5)~~ (6) ~~If~~ ~~Should~~ the office finds ~~find~~ that sufficient
1829 grounds exist for rehabilitation, liquidation, conservation,
1830 reorganization, seizure, or summary proceedings of an insurer as
1831 set forth in ss. 631.051, 631.061, and 631.071, the department
1832 ~~office~~ may petition for an appropriate court order or may pursue
1833 such other relief as is afforded in part I of chapter 631.
1834 Before invoking its powers under part I of chapter 631, the
1835 department ~~office~~ shall notify the chair of the advisory
1836 council.

1837 (7) Notwithstanding s. 631.011, impairment of a provider,
1838 for purposes of s. 631.051, is defined according to the term
1839 "impaired" in s. 651.011.

1840 ~~(6)~~ (8) In the event an order of conservation,
1841 rehabilitation, liquidation, or ~~conservation, reorganization,~~
1842 ~~seizure, or summary proceeding~~ has been entered against a
1843 provider, the department and office are vested with all of the
1844 powers and duties they have under the provisions of part I of
1845 chapter 631 in regard to delinquency proceedings of insurance
1846 companies. A provider shall give written notice of the
1847 proceeding to its residents within 3 business days after the
1848 initiation of a delinquency proceeding under chapter 631 and
1849 shall include a notice of the delinquency proceeding in any
1850 written materials provided to prospective residents.

1851 ~~(7) If the financial condition of the continuing care~~
1852 ~~facility or provider is such that, if not modified or corrected,~~
1853 ~~its continued operation would result in insolvency, the office~~
1854 ~~may direct the provider to formulate and file with the office a~~
1855 ~~corrective action plan. If the provider fails to submit a plan~~
1856 ~~within 30 days after the office's directive or submits a plan~~

20-00386-18

2018438__

1857 ~~that is insufficient to correct the condition, the office may~~
1858 ~~specify a plan and direct the provider to implement the plan.~~

1859 (9) A provider subject to an order to show cause entered
1860 pursuant to chapter 631 must file its written response to the
1861 order, together with any defenses it may have to the
1862 department's allegations, no later than 20 days after service of
1863 the order to show cause, but no less than 15 days before the
1864 date of the hearing set by the order to show cause.

1865 (10) A hearing held pursuant to chapter 631 to determine
1866 whether cause exists for the department to be appointed receiver
1867 must be commenced within 60 days after an order directing a
1868 provider to show cause.

1869 (11) (a) ~~(8) (a)~~ If the petition for rehabilitation,
1870 liquidation, conservation, reorganization, seizure, or summary
1871 proceedings is based solely upon the default of the insurer
1872 under the terms of a resolution, ordinance, loan agreement,
1873 indenture of trust, mortgage, lease, security agreement, or
1874 other instrument creating or securing bonds or notes issued to
1875 finance a facility, the rights of the office described in this
1876 section are subordinate to the rights of a trustee or lender
1877 pursuant to the terms of a resolution, ordinance, loan
1878 agreement, indenture of trust, mortgage, lease, security
1879 agreement, or other instrument creating or securing bonds or
1880 notes issued to finance a facility, and the office, subject to
1881 the provisions of paragraph (c), ~~may shall~~ not exercise its
1882 remedial rights provided under this section and ss. 651.018,
1883 651.106, 651.108, and 651.116 with respect to a facility that is
1884 subject to a lien, mortgage, lease, or other encumbrance or
1885 trust indenture securing bonds or notes issued in connection

20-00386-18

2018438__

1886 with the financing of the facility, if the trustee or lender, by
 1887 inclusion or by amendment to the loan documents or by a separate
 1888 contract with the office, agrees that the rights of residents
 1889 under a continuing care or continuing care at-home contract will
 1890 be honored and will not be disturbed by a foreclosure or
 1891 conveyance in lieu thereof as long as the resident:

1892 1. Is current in the payment of all monetary obligations
 1893 required by the contract;

1894 2. Is in compliance and continues to comply with all
 1895 provisions of the contract; and

1896 3. Has asserted no claim inconsistent with the rights of
 1897 the trustee or lender.

1898 (b) This subsection does not require a trustee or lender
 1899 to:

1900 1. Continue to engage in the marketing or resale of new
 1901 continuing care or continuing care at-home contracts;

1902 2. Pay any rebate of entrance fees as may be required by a
 1903 resident's continuing care or continuing care at-home contract
 1904 as of the date of acquisition of the facility by the trustee or
 1905 lender and until expiration of the period described in paragraph
 1906 (d);

1907 3. Be responsible for any act or omission of any owner or
 1908 operator of the facility arising before the acquisition of the
 1909 facility by the trustee or lender; or

1910 4. Provide services to the residents to the extent that the
 1911 trustee or lender would be required to advance or expend funds
 1912 that have not been designated or set aside for such purposes.

1913 (c) Should the office determine, at any time during the
 1914 suspension of its remedial rights as provided in paragraph (a),

20-00386-18

2018438__

1915 that the trustee or lender is not in compliance with paragraph
 1916 (a), or that a lender or trustee has assigned or has agreed to
 1917 assign all or a portion of a delinquent or defaulted loan to a
 1918 third party without the office's written consent, the office
 1919 shall notify the trustee or lender in writing of its
 1920 determination, setting forth the reasons giving rise to the
 1921 determination and specifying those remedial rights afforded to
 1922 the office which the office shall then reinstate.

1923 (d) Upon acquisition of a facility by a trustee or lender
 1924 and evidence satisfactory to the office that the requirements of
 1925 paragraph (a) have been met, the office shall issue a 90-day
 1926 temporary certificate of authority granting the trustee or
 1927 lender the authority to engage in the business of providing
 1928 continuing care or continuing care at-home and to issue
 1929 continuing care or continuing care at-home contracts subject to
 1930 the office's right to immediately suspend or revoke the
 1931 temporary certificate of authority if the office determines that
 1932 any of the grounds described in s. 651.106 apply to the trustee
 1933 or lender or that the terms of the contract used as the basis
 1934 for the issuance of the temporary certificate of authority by
 1935 the office have not been or are not being met by the trustee or
 1936 lender since the date of acquisition.

1937 Section 28. Section 651.1141, Florida Statutes, is created
 1938 to read:

1939 651.1141 Immediate final orders.—The Legislature finds that
 1940 a violation of s. 651.024, s. 651.0245, s. 651.025, s.
 1941 651.035(3), s. 651.043, s. 651.083, or s. 651.105 constitutes an
 1942 immediate danger to the public health, safety, or welfare.
 1943 Pursuant to s. 120.569, the office may issue an immediate final

20-00386-18

2018438__

1944 order to cease and desist if it finds that a provider is in
1945 violation of such sections.

1946 Section 29. Section 651.1151, Florida Statutes, is amended
1947 to read:

1948 651.1151 Administrative, vendor, and management contracts.-

1949 (1) ~~The office may require~~ A provider must ~~to~~ submit to the
1950 office any contract for administrative, vendor, or management
1951 services ~~if the office has information and belief that a~~
1952 ~~provider has entered into a contract~~ with an affiliate, an
1953 entity controlled by the provider, or an entity controlled by an
1954 affiliate of the provider, ~~which has not been disclosed to the~~
1955 ~~office or which contract requires the provider to pay a fee that~~
1956 ~~is unreasonably high in relation to the service provided.~~

1957 (2) The office may disapprove a contract for
1958 administrative, vendor, or management services if it finds that
1959 the fees to be paid are so unreasonably high as compared with
1960 similar contracts entered into by other providers in similar
1961 circumstances that the contract is detrimental to the facility
1962 or its residents.

1963 (3)~~(2)~~ After review of the contract, the office may order
1964 the provider to cancel the contract in accordance with the terms
1965 of the contract and applicable law if it determines that the
1966 fees to be paid are so unreasonably high as compared with
1967 similar contracts entered into by other providers in similar
1968 circumstances that the contract is detrimental to the facility
1969 or its residents.

1970 (4)~~(3)~~ Any contract with an affiliate, an entity controlled
1971 by the provider, or an entity controlled by an affiliate of the
1972 provider for administrative, vendor, or management services

20-00386-18

2018438__

1973 entered into or renewed after October 1, 1991, must include a
 1974 provision that the contract will be canceled upon issuance of an
 1975 order by the office pursuant to this section. A copy of the
 1976 current management services contract, pursuant to this section,
 1977 if any, must be on file in the marketing office or other area
 1978 accessible to residents and the appropriate residents' council.

1979 (5)~~(4)~~ Any action of the office under this section is
 1980 subject to review pursuant to the procedures provided in chapter
 1981 120.

1982 Section 30. Paragraphs (d) and (e) of subsection (1) of
 1983 section 651.121, Florida Statutes, are amended to read:

1984 651.121 Continuing Care Advisory Council.—

1985 (1) The Continuing Care Advisory Council to the office is
 1986 created consisting of 10 members who are residents of this state
 1987 appointed by the Governor and geographically representative of
 1988 this state. Three members shall be administrators of facilities
 1989 that hold valid certificates of authority under this chapter and
 1990 shall have been actively engaged in the offering of continuing
 1991 care contracts in this state for 5 years before appointment. The
 1992 remaining members include:

1993 ~~(d) An attorney.~~

1994 (d)~~(e)~~ Four ~~Three~~ residents who hold continuing care or
 1995 continuing care at-home contracts with a facility certified in
 1996 this state.

1997 Section 31. Subsections (1) and (4) of section 651.125,
 1998 Florida Statutes, are amended to read:

1999 651.125 Criminal penalties; injunctive relief.—

2000 (1) Any person who maintains, enters into, or, as manager
 2001 or officer or in any other administrative capacity, assists in

20-00386-18

2018438__

2002 entering into, maintaining, or performing any continuing care or
2003 continuing care at-home contract subject to this chapter without
2004 ~~doing so in pursuance of~~ a valid provisional certificate of
2005 authority or certificate of authority ~~or renewal thereof~~, as
2006 contemplated by or provided in this chapter, or who otherwise
2007 violates any provision of this chapter or rule adopted in
2008 pursuance of this chapter, commits a felony of the third degree,
2009 punishable as provided in s. 775.082 or s. 775.083. Each
2010 violation of this chapter constitutes a separate offense.

2011 (4) Any action brought by the office against a provider
2012 shall not abate by reason of a sale or other transfer of
2013 ownership of the facility used to provide care, which provider
2014 is a party to the action, except with the express written
2015 consent of the ~~director of the~~ office.

2016 Section 32. This act shall take effect July 1, 2018.