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A bill to be entitled  
 An act relating to continuing care contracts; amending  
 s. 651.011, F.S.; providing and amending definitions;  
 amending s. 651.012, F.S.; conforming a cross-  
 reference; deleting an obsolete date; amending s.  
 651.013, F.S.; revising applicability of specified  
 provisions of the Florida Insurance Code as to the  
 Office of Insurance Regulation's authority to regulate  
 providers of continuing care and continuing care at-  
 home; amending s. 651.022, F.S.; revising information  
 required in an application for a provisional  
 certificate of authority; specifying requirements for  
 review of such applications and for application  
 amendments if material changes occur; amending s.  
 651.023, F.S.; revising requirements for an  
 application for a certificate of authority; revising  
 procedures and requirements for the office's review of  
 such applications and for application amendments if  
 material changes occur; amending s. 651.024, F.S.;  
 providing and revising applicability of certain  
 requirements for a person seeking to acquire or assume  
 a specified role of a provider or seeking specified  
 ownership, possession, or control of a provider's  
 assets; providing procedures for filing a disclaimer  
 of control; providing construction; amending s.

26 | 651.026, F.S.; revising requirements for annual  
27 | reports filed with the office by providers and  
28 | facilities; requiring a specified annual report by the  
29 | office; amending s. 651.0261, F.S.; providing  
30 | requirements for quarterly statements filed with the  
31 | office by providers and facilities; authorizing the  
32 | office to require, under certain circumstances,  
33 | providers or facilities to file monthly statements and  
34 | certain other information; amending s. 651.033, F.S.;  
35 | revising requirements for and restrictions for  
36 | withdrawals from escrow accounts; revising procedures  
37 | for the office's review and approval of specified  
38 | withdrawals; providing construction; authorizing the  
39 | office to order transfer of escrowed funds under  
40 | specified conditions; creating s. 651.034, F.S.;  
41 | requiring a provider to notify the office of specified  
42 | events; requiring the office to take specified actions  
43 | if a regulatory action level event occurs; providing  
44 | requirements and procedures for submission and  
45 | approval of corrective actions plans; authorizing the  
46 | office to retain consultants for specified purposes;  
47 | requiring affected providers or parties directed by  
48 | the office to bear fees, costs, and expenses for such  
49 | consultants; authorizing the office to take certain  
50 | actions if an impairment occurs; authorizing the

51 office to exempt a provider from such actions for up  
52 to 5 years; authorizing the commission to adopt rules;  
53 amending s. 651.035, F.S.; revising provider minimum  
54 liquid reserve requirements under specified  
55 circumstances; providing construction related to  
56 specified debt service reserves; creating s. 651.043,  
57 F.S.; providing requirements for a contract for  
58 management; providing procedures and requirements for  
59 providers filing notices of change in management with  
60 the office; authorizing the office to disapprove new  
61 management and order the provider to remove such  
62 management under specified conditions; providing  
63 requirements and procedures for the office's review of  
64 new management and issuance of required notices;  
65 providing timeframes for removal of disapproved  
66 management under specified conditions; authorizing the  
67 office to take administrative action based on  
68 specified violations; amending s. 651.051, F.S.;  
69 providing requirements for records storage; amending  
70 s. 651.071, F.S.; revising construction as to the  
71 priority of continuing care and continuing care at-  
72 home contracts in the event of receivership or  
73 liquidation proceedings against a provider; amending  
74 s. 651.105, F.S.; requiring a provider to furnish  
75 specified documents related to the provider's or

76 facility's financial status and to other specified  
77 matters; providing that the office has standing in  
78 court to obtain such documents; amending s. 651.106,  
79 F.S.; authorizing the office to deny an application on  
80 certain grounds; revising and adding grounds for  
81 application denial or disciplinary action by the  
82 office; amending s. 651.114, F.S.; requiring a  
83 provider to make a plan for obtaining compliance or  
84 solvency in delinquency proceedings to the office or  
85 the advisory council; providing a timeframe for the  
86 office or council upon receipt of such plan to take  
87 specified action; providing construction; authorizing  
88 the office to require the provider to prepare a  
89 corrective action plan under certain conditions, and  
90 to specify such a plan if the provider fails to timely  
91 submit such a plan; defining the term "impaired";  
92 requiring a provider to provide, within a specified  
93 timeframe, a certain notice to residents after the  
94 initiation of a delinquency proceeding; revising  
95 conditions under which the office's rights are  
96 subordinate to the rights of a trustee or lender  
97 pursuant to certain instruments; creating s. 651.1141,  
98 F.S.; authorizing the office to issue an immediate  
99 final order to cease and desist from violations of  
100 specified provisions; amending s. 651.125, F.S.;

101 providing a criminal penalty for certain actions  
 102 performed without a valid provisional certificate of  
 103 authority; making a technical change; providing an  
 104 effective date.

105  
 106 Be It Enacted by the Legislature of the State of Florida:

107  
 108 Section 1. Subsections (5) and (6) of section 651.011,  
 109 Florida Statutes, are renumbered as subsections (9) and (10),  
 110 respectively, subsections (8) and (9) are renumbered as  
 111 subsections (12) and (13), respectively, subsection (10) is  
 112 renumbered as subsection (15), subsections (11), (12), and (13)  
 113 are renumbered as subsections (18), (19), and (20),  
 114 respectively, and subsections (14) and (15) are renumbered as  
 115 subsections (21) and (22), respectively, present subsections  
 116 (7), (9), and (13) are amended, and new subsections (5), (6),  
 117 (7), (8), (11), (14), (16), (17), and (21) are added to that  
 118 section, to read:

119 651.011 Definitions.—As used in this chapter, the term:  
 120 (5) "Controlling company" means any corporation, trust, or  
 121 association that directly or indirectly owns 25 percent or more  
 122 of the voting securities of one or more facilities that are  
 123 stock corporations, or 25 percent or more of the ownership  
 124 interest of one or more facilities that are not stock  
 125 corporations.

126        (6) "Corrective order" means an order issued by the office  
127 which specifies corrective actions the office has determined are  
128 required.

129        (7) "Days cash on hand" means the quotient obtained by  
130 dividing the value of paragraph (a) by the value of paragraph  
131 (b).

132        (a) The sum of unrestricted cash, unrestricted short-term  
133 and long-term investments, provider restricted funds, and the  
134 liquid reserve as required under s. 651.035 as of the reporting  
135 period.

136        (b) Operating expenses less depreciation, amortization,  
137 and other noncash expenses and nonoperating losses, divided by  
138 365. Operating expenses, depreciation, amortization, and other  
139 noncash expenses and nonoperating losses are each the sum of  
140 their respective values over the 12-month period immediately  
141 preceding the reporting date.

142  
143 With prior written approval of the office, a demand note or  
144 other parental guarantee may be considered a short-term or long-  
145 term investment for the purposes of paragraph (a). However, the  
146 total of all demand notes issued by the parent may not, at any  
147 time, be more than the sum of unrestricted cash and unrestricted  
148 short-term and long-term investments held by the parent.

149        (8) "Debt service coverage ratio" means the quotient  
150 obtained by dividing the value of paragraph (a) by the value of

151 paragraph (b).

152 (a) The sum of total expenses less interest expense on the  
153 facility, depreciation, amortization, and other noncash expenses  
154 and nonoperating losses, subtracted from the sum of total  
155 revenues (excluding noncash revenues and nonoperating gains) and  
156 gross entrance fees received less earned entrance fees and  
157 refunds paid. Expenses, interest expense on the facility,  
158 depreciation, amortization, other noncash expenses and  
159 nonoperating losses, revenues, noncash revenues, nonoperating  
160 gains, gross entrance fees, earned entrance fees, and refunds  
161 are each the sum of their respective values over the 12-month  
162 period immediately preceding the reporting date.

163 (b) Total annual principal and interest expense due on the  
164 facility over the 12-month period immediately preceding the  
165 reporting date. For purposes of this paragraph, principal  
166 excludes any balloon principal payment amounts, and interest  
167 expense due is the sum of the interest over the 12-month period  
168 immediately preceding the reporting date which is reflected in  
169 the provider's audit.

170 ~~(7) "Generally accepted accounting principles" means those~~  
171 ~~accounting principles and practices adopted by the Financial~~  
172 ~~Accounting Standards Board and the American Institute of~~  
173 ~~Certified Public Accountants, including Statement of Position~~  
174 ~~90-8 with respect to any full year to which the statement~~  
175 ~~applies.~~

176 (11) "Impaired" or "impairment" means that any of the  
177 following have occurred:

178 (a) A provider has failed to maintain the liquid reserve  
179 as required in s. 651.035, unless the provider has received  
180 prior written approval from the office for a withdrawal pursuant  
181 to s. 651.035(6) and is compliant with the approved payment  
182 schedule; or

183 (b) Beginning July 1, 2019:

184 1. For a provider with mortgage financing from a third-  
185 party lender or public bond issue, the provider's debt service  
186 coverage ratio is less than 1.00:1 and the provider's days cash  
187 on hand is less than 90; or

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

191 (13) ~~(9)~~ "Licensed" means that the provider has obtained a  
192 certificate of authority from the ~~office~~ department.

193 (14) "Manager" or "management" means a person who  
194 administers the day-to-day business operations of a facility for  
195 a provider, subject to the policies, directives, and oversight  
196 of the provider; a person who exercises or has the ability to  
197 exercise effective control of the provider; or a person who  
198 influences or has the ability to influence the transaction of  
199 the business of the provider.

200 (16) "Obligated group" means a group of entities that have



201 jointly agree to be bound by a financing structure containing  
202 security provisions and covenants applicable to the group, and  
203 debt issued under such a financing structure is a joint and  
204 several obligation of each member of the group.

205 (17) "Occupancy" means the total number of occupied  
206 independent living, assisted living, and skilled nursing units  
207 in a facility divided by the total number of units in that  
208 facility, excluding units that are unavailable to market or  
209 reserve, as of the most recent report filed with the office or  
210 the most recent examination by the office.

211 (20)~~(13)~~ "Records" means all documents, correspondence,  
212 and ~~the permanent~~ financial, directory, and personnel  
213 information and data maintained by a provider pursuant to this  
214 chapter, regardless of the physical form, characteristics, or  
215 means of transmission.

216 (21) "Regulatory action level event" means that at least  
217 two of the following have occurred:

218 (a) The provider's debt service coverage ratio is less  
219 than the minimum ratio specified in the provider's bond  
220 covenants or lending agreement for long-term financing, or, if  
221 the provider does not have a debt service coverage ratio  
222 required by its lending institution, the provider's debt service  
223 coverage ratio is less than 1.20:1 as of the most recent report  
224 filed with the office or the most recent examination by the  
225 office. For a provider that is a member of an obligated group

226 having cross-collateralized debt and an investment grade credit  
227 rating from a nationally recognized credit rating agency, as  
228 applicable, from Moody's Investors Service, Standard & Poor's,  
229 or Fitch Ratings, the obligated group's debt service coverage  
230 ratio may be used as the provider's debt service coverage ratio  
231 if the provider furnishes documentation to the satisfaction of  
232 the office.

233 (b) The provider's days cash on hand is less than the  
234 minimum number of days cash on hand specified in the provider's  
235 bond covenants or lending agreement for long-term financing. If  
236 the provider does not have a days cash on hand required by its  
237 lending institution, the days cash on hand may not be less than  
238 100 as of the most recent report filed with the office or the  
239 most recent examination by the office. For a provider that is a  
240 member of an obligated group having cross-collateralized debt  
241 and an investment grade credit rating from a nationally  
242 recognized credit rating agency, as applicable, from Moody's  
243 Investors Service, Standard & Poor's, or Fitch Ratings, the days  
244 cash on hand of the obligated group may be used as the  
245 provider's days cash on hand if the provider furnishes  
246 documentation to the satisfaction of the office.

247 (c) The occupancy at the provider's facility is less than  
248 80 percent.

249 Section 2. Section 651.012, Florida Statutes, is amended  
250 to read:

251           651.012 Exempted facility; written disclosure of  
 252 exemption.—Any facility exempted under ss. 632.637(1)(e) and  
 253 651.011(19) ~~651.011(12)~~ must provide written disclosure of such  
 254 exemption to each person admitted to the facility ~~after October~~  
 255 ~~1, 1996~~. This disclosure must be written using language likely  
 256 to be understood by the person and must briefly explain the  
 257 exemption.

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

260           651.013 Chapter exclusive; applicability of other laws.—

261           (2) In addition to other applicable provisions cited in  
 262 this chapter, the office has the authority granted under ss.  
 263 624.302 and 624.303, 624.307-624.312, 624.318 ~~624.308-624.312,~~  
 264 624.319(1)-(3), 624.320-624.321, 624.324, ~~and~~ 624.34, and  
 265 624.422 of the Florida Insurance Code to regulate providers of  
 266 continuing care and continuing care at-home.

267           Section 4. Paragraphs (c) and (f) of subsection (2) and  
 268 subsection (8) of section 651.022, Florida Statutes, are  
 269 amended, and subsection (9) is added to that section, to read:

270           651.022 Provisional certificate of authority;  
 271 application.—

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

275           (c)1. Evidence that the applicant is competent and

276 trustworthy ~~reputable and of responsible~~ character. If the  
277 applicant is a firm, association, organization, partnership,  
278 business trust, corporation, or company, the form must ~~shall~~  
279 require evidence that the members or shareholders are competent  
280 and trustworthy ~~reputable and of responsible~~ character, and the  
281 person in charge of providing care under a certificate of  
282 authority must ~~shall~~ likewise be required to produce evidence of  
283 being competent and trustworthy ~~reputable and of responsible~~  
284 character.

285 2. Evidence satisfactory to the office of the ability of  
286 the applicant to comply with ~~the provisions of~~ this chapter and  
287 with rules adopted by the commission pursuant to this chapter.

288 3. A statement of whether a person identified in the  
289 application for a provisional certificate of authority or the  
290 administrator or manager of the facility, if such person has  
291 been designated, or any such person living in the same location:

292 a. Has been convicted of a felony or has pleaded nolo  
293 contendere to a felony charge, or has been held liable or has  
294 been enjoined in a civil action by final judgment, if the felony  
295 or civil action involved fraud, embezzlement, fraudulent  
296 conversion, or misappropriation of property.

297 b. Is subject to a currently effective injunctive or  
298 restrictive order or federal or state administrative order  
299 relating to business activity or health care as a result of an  
300 action brought by a public agency or department, including,

301 without limitation, an action affecting a license under chapter  
302 400 or chapter 429.

303

304 The statement must ~~shall~~ set forth the court or agency, the date  
305 of conviction or judgment, and the penalty imposed or damages  
306 assessed, or the date, nature, and issuer of the order. Before  
307 determining whether a provisional certificate of authority is to  
308 be issued, the office may make an inquiry to determine the  
309 accuracy of the information submitted pursuant to this paragraph  
310 ~~subparagraphs 1. and 2.~~

311 (f) Such other reasonable documents, data, records,  
312 financial statements, and pertinent information as the  
313 commission or office may reasonably require with respect to the  
314 provider or the facility, including the most recent audited  
315 financial statements of comparable facilities currently or  
316 previously owned, managed, or developed by the applicant or its  
317 principal, to assist in determining the financial viability of  
318 the project and the management capabilities of its managers and  
319 owners.

320 (8) The office may ~~shall~~ not approve any application that  
321 ~~which~~ includes in the plan of financing any encumbrance of the  
322 operating reserves or renewal and replacement reserves required  
323 by this chapter.

324 (9) If any material change occurs in the facts set forth  
325 in an application filed with the office pursuant to this

326 section, an amendment setting forth such change must be filed  
327 with the office within 10 business days after the applicant  
328 becomes aware of such change, and a copy of the amendment must  
329 be sent by registered mail to the principal office of the  
330 facility and to the principal office of the controlling company.

331 Section 5. Paragraph (i) of subsection (1) and subsection  
332 (9) of section 651.023, Florida Statutes, are amended, and  
333 subsection (10) is added to that section, to read:

334 651.023 Certificate of authority; application.-

335 (1) After issuance of a provisional certificate of  
336 authority, the office shall issue to the holder of such  
337 provisional certificate a certificate of authority if the holder  
338 of the provisional certificate provides the office with the  
339 following information:

340 (i) Such other reasonable documents, data, records,  
341 financial statements, and pertinent information as the  
342 commission or office may require with respect to the applicant  
343 or the facility, to determine the financial status of the  
344 facility and the management capabilities of its managers and  
345 owners.

346 (9) The office may not approve an application that  
347 includes in the plan of financing any encumbrance of the  
348 operating reserves or renewal and replacement reserves required  
349 by this chapter.

350 (10) If any material change occurs in the facts set forth

351 in an application filed with the office pursuant to this  
352 section, an amendment setting forth such change must be filed  
353 with the office within 10 business days after the applicant  
354 becomes aware of such change, and a copy of the amendment must  
355 be sent by registered mail to the principal office of the  
356 facility and to the principal office of the controlling company.

357 Section 6. Section 651.024, Florida Statutes, is amended  
358 to read:

359 651.024 Acquisition.—

360 (1) Except with the prior written approval of the office,  
361 a person may not, individually or in conjunction with an  
362 affiliated person of such person, directly or indirectly acquire  
363 a facility operating under a subsisting certificate of authority  
364 and engage in the business of providing continuing care.

365 (2) A person who seeks to assume the role of general  
366 partner of a provider or otherwise assume ownership or  
367 possession of, or control over, 10 percent or more of a  
368 provider's assets, based on the balance sheet from the most  
369 recent audited financial statement filed with the office, or who  
370 seeks to acquire 10 percent or more of the ownership interest of  
371 a provider is subject to s. 628.4615.

372 (3) A person may rebut a presumption of control by filing  
373 a disclaimer of control with the office on a form prescribed by  
374 the commission. The disclaimer must fully disclose all material  
375 relationships and bases for affiliation between the person and

376 | the provider or facility, as well as the basis for disclaiming  
377 | the affiliation. In lieu of such form, a person or acquiring  
378 | party may file with the office a copy of a Schedule 13G filed  
379 | with the Securities and Exchange Commission pursuant to Rule  
380 | 13d-1(b) or (c), 17 C.F.R. s. 240.13d-1, under the Securities  
381 | Exchange Act of 1934, as amended. ~~A person issued a certificate~~  
382 | ~~of authority to operate a continuing care facility or a~~  
383 | ~~provisional certificate of authority shall be subject to the~~  
384 | ~~provisions of s. 628.4615.~~

385 | Section 7. Subsections (2) and (3) of section 651.026,  
386 | Florida Statutes, are amended, and subsection (10) is added to  
387 | that section, to read:

388 | 651.026 Annual reports.—

389 | (2) The annual report must ~~shall~~ be in such form as the  
390 | commission prescribes and must ~~shall~~ contain at least the  
391 | following:

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

394 | (b) Financial statements audited by an independent  
395 | certified public accountant which must contain, for two or more  
396 | periods if the facility has been in existence that long, all of  
397 | the following:

398 | 1. An accountant's opinion and, in accordance with  
399 | generally accepted accounting principles:

400 | a. A balance sheet;



401           b. A statement of income and expenses;  
 402           c. A statement of equity or fund balances; and  
 403           d. A statement of changes in cash flows.  
 404           2. Notes to the financial statements considered customary  
 405 or necessary for full disclosure or adequate understanding of  
 406 the financial statements, financial condition, and operation.  
 407           (c) The following financial information:  
 408           1. A detailed listing of the assets maintained in the  
 409 liquid reserve as required under s. 651.035 and in accordance  
 410 with part II of chapter 625;  
 411           2. A schedule giving additional information relating to  
 412 property, plant, and equipment having an original cost of at  
 413 least \$25,000, so as to show in reasonable detail with respect  
 414 to each separate facility original costs, accumulated  
 415 depreciation, net book value, appraised value or insurable value  
 416 and date thereof, insurance coverage, encumbrances, and net  
 417 equity of appraised or insured value over encumbrances. Any  
 418 property not used in continuing care must be shown separately  
 419 from property used in continuing care;  
 420           3. The level of participation in Medicare or Medicaid  
 421 programs, or both;  
 422           4. A statement of all fees required of residents,  
 423 including, but not limited to, a statement of the entrance fee  
 424 charged, the monthly service charges, the proposed application  
 425 of the proceeds of the entrance fee by the provider, and the

426 | plan by which the amount of the entrance fee is determined if  
427 | the entrance fee is not the same in all cases; ~~and~~

428 |       5. Any change or increase in fees if the provider changes  
429 | the scope of, or the rates for, care or services, regardless of  
430 | whether the change involves the basic rate or only those  
431 | services available at additional costs to the resident;;~~;~~

432 |       6. If the provider has more than one certificated  
433 | facility, or has operations that are not licensed under this  
434 | chapter, ~~it shall submit~~ a balance sheet, statement of income  
435 | and expenses, statement of equity or fund balances, and  
436 | statement of cash flows for each facility licensed under this  
437 | chapter as supplemental information to the audited financial  
438 | statements required under paragraph (b); and~~;~~

439 |       7. Calculation of the provider's debt service coverage  
440 | ratio and days cash on hand for the current reporting period,  
441 | and an opinion from an independent certified public accountant  
442 | of such calculations.

443 |       (d) The provider's occupancy at each facility.

444 |       (e)~~(d)~~ Such other reasonable documents, data, records,  
445 | financial statements, and pertinent information as the  
446 | commission or office may require with respect to the provider or  
447 | the facility, or its directors, trustees, members, branches,  
448 | subsidiaries, or affiliates, to determine the financial status  
449 | of the facility and the management capabilities of its managers  
450 | and owners.

451        (f)~~(e)~~ For each facility, the provider must ~~shall~~ file  
452 with the office annually, together with the annual report  
453 required by this section, a computation of its minimum liquid  
454 reserve calculated in accordance with s. 651.035 on a form  
455 prescribed by the commission.

456        (g)~~(f)~~ If, due to a change in generally accepted  
457 accounting principles, the balance sheet, statement of income  
458 and expenses, statement of equity or fund balances, or statement  
459 of cash flows is known by any other name or title, the annual  
460 report must contain financial statements using the changed names  
461 or titles that most closely correspond to a balance sheet,  
462 statement of income and expenses, statement of equity or fund  
463 balances, and statement of changes in cash flows.

464        (3) The commission must ~~shall~~ adopt by rule additional  
465 ~~meaningful~~ measures of assessing the financial viability of a  
466 provider. ~~The rule may include the following factors:~~

- 467        ~~(a) Debt service coverage ratios.~~  
468        ~~(b) Current ratios.~~  
469        ~~(c) Adjusted current ratios.~~  
470        ~~(d) Cash flows.~~  
471        ~~(e) Occupancy rates.~~  
472        ~~(f) Other measures, ratios, or trends.~~  
473        ~~(g) Other factors as may be appropriate.~~

474        (10) Within 90 days after the conclusion of each annual  
475 reporting period, the office must publish an industry

476 benchmarking report that contains all of the following:

477 (a) The median days cash on hand for all providers.

478 (b) The median debt service coverage ratio for all  
479 providers.

480 (c) The median occupancy rate for all providers by  
481 setting, including independent living, assisted living, skilled  
482 nursing, and the entire facility.

483 Section 8. Section 651.0261, Florida Statutes, is amended  
484 to read:

485 651.0261 Quarterly and monthly statements.-

486 (1) Within 45 days after the end of each fiscal quarter,  
487 each provider must file a quarterly unaudited financial  
488 statement in the form prescribed by rule of the commission and a  
489 detailed listing of the assets maintained in the liquid reserve  
490 as required pursuant to s. 651.035.

491 (2) If the office finds that such information is needed to  
492 properly monitor the financial condition of a provider or  
493 facility or is otherwise needed to protect the public interest,  
494 the office may require the provider to file:

495 (a) Within 25 days after the end of each month, a monthly  
496 unaudited financial statement of the provider or of the facility  
497 in the form prescribed by the commission by rule, a detailed  
498 listing of the assets maintained in the liquid reserve as  
499 required pursuant to s. 651.035, calculation of the provider's  
500 debt service coverage ratio and days cash on hand for the

501 current reporting period, an opinion from an independent  
502 certified public accountant of such calculations, and the  
503 provider's occupancy at each facility.

504 (b) Such other reasonable documents, data, records,  
505 financial statements, and pertinent information as the  
506 commission or office may reasonably require with respect to the  
507 provider or the facility, or its directors, trustees, members,  
508 branches, subsidiaries, or affiliates, to determine the  
509 financial status of the provider or of the facility and the  
510 management capabilities of its managers and owners.

511 (3) Filings under subsection (2) are required if any of  
512 the following apply:

513 (a) The facility has been operational for less than 2  
514 years;

515 (b) The provider is:

516 1. Subject to administrative supervision proceedings;

517 2. Subject to a corrective action plan resulting from a  
518 regulatory action level event and for up to 2 years after the  
519 factors that caused the regulatory action level event have been  
520 corrected; or

521 3. Subject to delinquency, receivership, or bankruptcy  
522 proceedings;

523 (c) The provider or facility displays an adverse material  
524 change in financial condition;

525 (d) A change of ownership subject to s. 651.024(2) has

526 | occurred within the previous 2 years; or

527 | (e) The facility is found to be impaired.

528 | ~~(4) If the office finds, pursuant to rules of the~~  
 529 | ~~commission, that such information is needed to properly monitor~~  
 530 | ~~the financial condition of a provider or facility or is~~  
 531 | ~~otherwise needed to protect the public interest, the office may~~  
 532 | ~~require the provider to file, within 45 days after the end of~~  
 533 | ~~each fiscal quarter, a quarterly unaudited financial statement~~  
 534 | ~~of the provider or of the facility in the form prescribed by the~~  
 535 | ~~commission by rule. The commission may by rule require all or~~  
 536 | ~~part of the statements or filings required under this section to~~  
 537 | ~~be submitted by electronic means in a computer-readable form~~  
 538 | ~~compatible with the electronic data format specified by the~~  
 539 | ~~commission.~~

540 | Section 9. Paragraph (a) of subsection (1) and subsection  
 541 | (2) of section 651.033, Florida Statutes, are amended, and  
 542 | subsections (6) and (7) are added to that section, to read:

543 | 651.033 Escrow accounts.—

544 | (1) When funds are required to be deposited in an escrow  
 545 | account pursuant to s. 651.022, s. 651.023, s. 651.035, or s.  
 546 | 651.055:

547 | (a) The escrow account must ~~shall~~ be established in a  
 548 | Florida bank, Florida savings and loan association, ~~or~~ Florida  
 549 | trust company, or a national bank that is chartered and  
 550 | supervised by the Office of the Comptroller of the Currency

551 within the United States Department of the Treasury and that has  
552 a branch in this state which is acceptable to the office, or  
553 such funds must be deposited ~~on deposit~~ with the department; and  
554 the funds deposited therein must ~~shall~~ be kept and maintained in  
555 an account separate and apart from the provider's business  
556 accounts.

557 (2)(a)1. A provider may withdraw funds held in escrow  
558 without the approval of the office if the amount held in escrow  
559 exceeds the requirements of this section and if the withdrawal  
560 will not affect compliance with s. 651.035.

561 2. For all other proposed withdrawals, in order to receive  
562 the consent of the office, the provider must file documentation  
563 showing why the withdrawal is necessary for the continued  
564 operation of the facility and file such additional information  
565 as the office reasonably requires. A filing is deemed complete  
566 upon the office's receipt of all requested information and the  
567 provider's correction of any error or omission for which the  
568 provider was timely notified. The office must notify the  
569 provider when the filing is deemed complete. Within 30 days  
570 after the filing is deemed complete, the office must provide the  
571 provider with written notice of its approval or disapproval of  
572 the request. The office may disapprove any request to withdraw  
573 such funds if it determines that the withdrawal is not in the  
574 best interest of the residents. ~~In addition, the escrow~~  
575 ~~agreement shall provide that the escrow agent or another person~~

576 ~~designated to act in the escrow agent's place and the provider,~~  
577 ~~except as otherwise provided in s. 651.035, shall notify the~~  
578 ~~office in writing at least 10 days before the withdrawal of any~~  
579 ~~portion of any funds required to be escrowed under the~~  
580 ~~provisions of s. 651.035. However,~~

581 (b) In the event of an emergency and upon petition by the  
582 provider, the office may ~~waive the 10-day notification period~~  
583 ~~and~~ allow a withdrawal of up to 10 percent of the required  
584 minimum liquid reserve. The office shall have 3 working days to  
585 deny the petition for the emergency 10-percent withdrawal. If  
586 the office fails to deny the petition within 3 working days, the  
587 petition ~~is~~ shall be deemed to have been granted by the office.  
588 For purposes ~~the purpose~~ of this section, "working day" means  
589 each day that is not a Saturday, Sunday, or legal holiday as  
590 defined by Florida law. Also, for purposes ~~the purpose~~ of this  
591 section, the day the petition is received by the office ~~is~~ shall  
592 ~~be~~ counted as one of the 3 days.

593 (6) The escrow agent may not release or otherwise allow  
594 the transfer of funds without the written approval of the  
595 office, unless the withdrawal is made pursuant to paragraph  
596 (3) (a) or the withdrawal is from funds in excess of the amounts  
597 required by s. 651.022, s. 651.023, s. 651.035, or s. 651.055.

598 (7) If the office finds that the provider is impaired or  
599 insolvent, the office may order the immediate transfer to the  
600 custody of the department, pursuant to part III of chapter 625,



601 up to 100 percent of the funds required under s. 651.035 to be  
602 held in escrow for purposes of the minimum liquid reserve. The  
603 office may order such a transfer regardless of whether the  
604 office has suspended or revoked, or intends to suspend or  
605 revoke, the provisional certificate of authority or the  
606 certificate of authority of the provider.

607 Section 10. Section 651.034, Florida Statutes, is created  
608 to read:

609 651.034 Financial and operating requirements for  
610 providers.—

611 (1) The provider must immediately notify the office of the  
612 occurrence of an impairment or regulatory action level event.

613 (2) (a) If a regulatory action level event occurs, the  
614 office must:

615 1. Require the provider to prepare and submit a corrective  
616 action plan or, if applicable, a revised corrective action plan.

617 2. Perform an examination pursuant to s. 651.105 or an  
618 analysis of the assets, liabilities, and operations of the  
619 provider, including a review of the corrective action plan or  
620 the revised corrective action plan.

621 3. After the examination or analysis, issue a corrective  
622 order specifying any corrective actions that the office  
623 determines are required.

624 (b) In determining corrective actions, the office may  
625 consider any factor relevant to the provider based upon the

626 office's examination or analysis of the assets, liabilities, and  
627 operations of the provider. The provider must submit the  
628 corrective action plan or the revised corrective action plan  
629 within 30 days after the occurrence of the regulatory action  
630 level event. The office must review and approve or disapprove  
631 the corrective action plan within 15 business days after receipt  
632 of the plan. If the office disapproves the corrective action  
633 plan, the office must notify the provider of the deficiencies  
634 that led to the disapproval. The provider must, within 30 days  
635 after notification of the disapproval and deficiencies, correct  
636 the deficiencies and resubmit the corrective action plan.

637 (c) The office may consult members of the Continuing Care  
638 Advisory Council, individually or as a group, or may retain  
639 actuaries, investment experts, and other consultants to review a  
640 provider's corrective action plan or revised corrective action  
641 plan; examine or analyze the assets, liabilities, and operations  
642 of a provider; and formulate the corrective order with respect  
643 to the provider. The fees, costs, and expenses relating to  
644 consultants must be borne by the affected provider.

645 (3) If an impairment occurs, the office may take any  
646 action available to it, including any remedy available under  
647 chapter 631. An impairment is sufficient grounds for the  
648 department to be appointed as receiver as provided in chapter  
649 631. A provider that meets the definition of "impaired" as  
650 defined in s. 651.011 is deemed impaired for purposes of s.

651 631.051. The office may forego taking action for up to 180 days  
652 after the impairment if the office finds there is a reasonable  
653 expectation that the impairment may be eliminated within the  
654 180-day period.

655 (4) The office may exempt a provider from subsection (2)  
656 or subsection (3) for up to 5 years from the date of issuance of  
657 the certificate of authority.

658 (5) The commission may adopt rules to administer this  
659 section, including, but not limited to, rules regarding  
660 corrective action plans, revised corrective action plans,  
661 corrective orders, and procedures to be followed in the event of  
662 a regulatory action level event or an impairment.

663 Section 11. Paragraphs (a) and (b) of subsection (1) of  
664 section 651.035, Florida Statutes, are amended, to read:

665 651.035 Minimum liquid reserve requirements.—

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

668 (a) Each provider must ~~shall~~ maintain in escrow as a debt  
669 service reserve the aggregate amount of all principal and  
670 interest payments due during the fiscal year on any mortgage  
671 loan or other long-term financing of the facility, including  
672 property taxes as recorded in the audited financial statements  
673 required under s. 651.026. The amount must include any leasehold  
674 payments and all costs related to such payments. If principal  
675 payments are not due during the fiscal year, the provider must

676 ~~shall~~ maintain in escrow as a minimum liquid reserve an amount  
677 equal to interest payments due during the next 12 months on any  
678 mortgage loan or other long-term financing of the facility,  
679 including property taxes. If a provider does not have a mortgage  
680 loan or other financing on the facility, the provider must  
681 deposit monthly in escrow as a minimum liquid reserve an amount  
682 equal to one-twelfth of the annual property tax liability as  
683 indicated in the most recent tax notice provided pursuant to s.  
684 197.322 (3).

685 (b) A provider that has outstanding indebtedness that  
686 requires a debt service reserve to be held in escrow pursuant to  
687 a trust indenture or mortgage lien on the facility and for which  
688 the debt service reserve may only be used to pay principal and  
689 interest payments on the debt that the debtor is obligated to  
690 pay, and which may include property taxes and insurance, may  
691 include such debt service reserve in computing the minimum  
692 liquid reserve needed to satisfy this subsection if the provider  
693 furnishes to the office a copy of the agreement under which such  
694 debt service is held, together with a statement of the amount  
695 being held in escrow for the debt service reserve, certified by  
696 the lender or trustee and the provider to be correct. The  
697 trustee must ~~shall~~ provide the office with any information  
698 concerning the debt service reserve account upon request of the  
699 provider or the office. Such separate debt service reserves, if  
700 any, are not subject to the transfer provisions set forth in s.

701 651.033(7).

702 Section 12. Section 651.043, Florida Statutes, is created  
703 to read:

704 651.043 Approval of change in third-party management.—

705 (1) A contract for third-party management entered into  
706 after January 1, 2019, must be in writing and include a  
707 provision that the contract will be canceled, without the  
708 application of any cancellation fee or penalty, upon issuance of  
709 an order by the office pursuant to this section.

710 (2) A provider must notify the office, in writing or  
711 electronically, of any change in third-party management within  
712 10 business days after the earlier of the execution of a  
713 management contract or the effective date of the change in  
714 management. For each new third-party management appointment, the  
715 provider must submit the information required by s. 651.022(2)  
716 and a copy of the written management contract, if applicable.

717 (3) For a provider that is found to be impaired or that is  
718 under a regulatory action level event, the office may disapprove  
719 the new management and order the provider to remove the new  
720 management after reviewing the information required in  
721 subsection (2).

722 (4) For a provider other than that specified in subsection  
723 (3), the office may disapprove the new management and order the  
724 provider to remove the new management after receiving the  
725 required information in subsection (2) if the office:

726 (a) Finds that the new management is incompetent or  
727 untrustworthy;

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

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

734 (d) Has good reason to believe that the new management is  
735 affiliated directly or indirectly through ownership, control, or  
736 business relations with any person or persons whose business  
737 operations are or have been marked, to the detriment of  
738 residents, stockholders, investors, creditors, or the public, by  
739 manipulation of assets or accounts or by bad faith.

740 (5) The office must complete its review as required under  
741 subsections (3) and (4) and issue any notice of disapproval of  
742 the new management within 15 business days after the filing is  
743 deemed complete. A filing is deemed complete upon the office's  
744 receipt of all requested information and the provider's  
745 correction of any error or omission of which the provider was  
746 timely notified. If the office does not issue notice of  
747 disapproval of the new management within 15 business days after  
748 the filing is deemed complete, then the new management is deemed  
749 approved. If any material change occurs in the facts set forth  
750 in information filed with the office pursuant subsection (2), a

751 notice setting forth such change must be filed with the office  
752 within 10 business days after the provider becomes aware of such  
753 change. The office may disapprove the previously approved  
754 management based upon the information contained in such notice  
755 or upon its own discovery of a material change to the facts set  
756 for in information filed pursuant to subsection (2).

757 (6) Management disapproved by the office under this  
758 section must be removed within 30 days after receipt by the  
759 provider of notice of such disapproval.

760 (7) The provider must remove the management immediately  
761 upon discovery of any of the following conditions, if the  
762 conditions were not disclosed in the notice to the office  
763 required in subsection (2):

764 (a) That any manager or other person acting in such  
765 capacity, has been found guilty of, or has pled guilty or no  
766 contest to, regardless of adjudication, any felony or crime  
767 punishable by imprisonment of 1 year or more under the laws of  
768 the United States or any state thereof or under the laws of any  
769 other country which involves moral turpitude.

770 (b) That any person who exercises or has the ability to  
771 exercise effective control of the organization, or acts in the  
772 capacity of a manager, is now or was in the past affiliated,  
773 directly or indirectly, through ownership interest of 10 percent  
774 or more in, or control of, any business, corporation, or other  
775 entity that has been found guilty of or has pled guilty or no

776 contest to, regardless of adjudication, any felony or crime  
777 punishable by imprisonment for 1 year or more under the laws of  
778 the United States, any state, or any other country.

779 (8) The office may revoke, suspend, or take other  
780 administrative action against the provisional certificate of  
781 authority or the certificate of authority of the provider if the  
782 provider violates this section or persists in appointing  
783 disapproved managers.

784 Section 13. Section 651.051, Florida Statutes, is amended  
785 to read:

786 651.051 Maintenance of assets and records in state.—All  
787 records and assets of a provider must be maintained or readily  
788 accessible in this state, or, if the provider's corporate office  
789 is located in another state, records must be electronically  
790 stored in a manner that will ensure that the records are readily  
791 accessible by the office. No records or assets may be removed  
792 from this state by a provider unless the office consents to such  
793 removal in writing before such removal. Such consent must ~~shall~~  
794 be based upon the provider's submitting satisfactory evidence  
795 that the removal will facilitate and make more economical the  
796 operations of the provider and will not diminish the service or  
797 protection thereafter to be given the provider's residents in  
798 this state. Before ~~Prior to~~ such removal, the provider must  
799 ~~shall~~ give notice to the president or chair of the facility's  
800 residents' council. If such removal is part of a cash management



801 system which has been approved by the office, disclosure of the  
802 system must ~~shall~~ meet the notification requirements. The  
803 electronic storage of records on a web-based, secured storage  
804 platform by contract with a third party is acceptable if the  
805 records are readily accessible by the office.

806 Section 14. Subsection (1) of section 651.071, Florida  
807 Statutes, is amended to read:

808 651.071 Contracts as preferred claims on liquidation or  
809 receivership.—

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

816 Section 15. Subsections (1) and (5) of section 651.105,  
817 Florida Statutes, are amended, to read:

818 651.105 Examination and inspections.—

819 (1) (a) The office may at any time, and must ~~shall~~ at least  
820 once every 3 years, examine the business of any applicant for a  
821 certificate of authority and any provider engaged in the  
822 execution of care contracts or engaged in the performance of  
823 obligations under such contracts, in the same manner as is  
824 provided for the examination of insurance companies pursuant to  
825 s. 624.316. For a provider as described ~~defined~~ in s. 651.028,

826 such examinations must ~~shall~~ take place at least once every 5  
827 years. Such examinations must ~~shall~~ be made by a representative  
828 or examiner designated by the office whose compensation will be  
829 fixed by the office pursuant to s. 624.320. Routine examinations  
830 may be made by having the necessary documents submitted to the  
831 office; and, for this purpose, financial documents and records  
832 conforming to commonly accepted accounting principles and  
833 practices, as required under s. 651.026, are deemed adequate.  
834 The final written report of each examination must be filed with  
835 the office and, when so filed, constitutes a public record.

836 (b) Any provider being examined must ~~shall~~, upon request,  
837 give reasonable and timely access to all of its records. In  
838 addition, the provider must furnish, upon request, such other  
839 reasonable documents, data, records, financial statements, and  
840 pertinent information as the commission or office may reasonably  
841 require with respect to a provider's or facility's directors,  
842 trustees, members, branches, subsidiaries, or affiliates, to  
843 determine the financial status of the provider or of the  
844 facility and the management capabilities of its managers and  
845 owners.

846 (c) The representative or examiner designated by the  
847 office may at any time examine the records and affairs and  
848 inspect the physical property of any provider, whether in  
849 connection with a formal examination or not.

850 (5) A provider must respond to written correspondence from

851 the office and provide documents, data, records, financial  
852 statements, and pertinent information as required by the  
853 commission or office. The office has standing to petition a  
854 circuit court for mandatory injunctive relief to compel access  
855 to and require the provider to produce such documents, data,  
856 records, financial statements, and other information. The office  
857 may petition the circuit court in the county in which the  
858 facility is situated or the Circuit Court of Leon County to  
859 enforce this section. ~~At the time of the routine examination,~~  
860 ~~the office shall determine if all disclosures required under~~  
861 ~~this chapter have been made to the president or chair of the~~  
862 ~~residents' council and the executive officer of the governing~~  
863 ~~body of the provider.~~

864 Section 16. Section 651.106, Florida Statutes, is amended  
865 to read:

866 651.106 Grounds for discretionary denial ~~refusal~~,  
867 suspension, or revocation of certificate of authority.— The  
868 office may deny an application or may deny, suspend, or revoke  
869 the provisional certificate of authority or the certificate of  
870 authority of any applicant or provider if it finds that any one  
871 or more of the following grounds applicable to the applicant or  
872 provider exist:

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

875 (2) Failure by the provider to meet one or more of the

876 | qualifications for the authority specified by this chapter.

877 |       (3) Material misstatement, misrepresentation, or fraud in  
878 | obtaining the authority, or in attempting to obtain the same.

879 |       (4) Demonstrated lack of fitness or trustworthiness.

880 |       (5) Fraudulent or dishonest practices of management in the  
881 | conduct of business.

882 |       (6) Misappropriation, conversion, or withholding of  
883 | moneys.

884 |       (7) Failure to comply with, or violation of, any proper  
885 | order or rule of the office or commission or violation of any  
886 | provision of this chapter.

887 |       (8) The insolvent or impaired condition of the provider or  
888 | the provider's being in such condition or using such methods and  
889 | practices in the conduct of its business as to render its  
890 | further transactions in this state hazardous or injurious to the  
891 | public.

892 |       (9) Refusal by the provider to be examined or to produce  
893 | its accounts, records, and files for examination, or refusal by  
894 | any of its officers to give information with respect to its  
895 | affairs or to perform any other legal obligation under this  
896 | chapter when required by the office.

897 |       (10) Failure by the provider to comply with the  
898 | requirements of s. 651.026 or s. 651.033.

899 |       (11) Failure by the provider to maintain escrow accounts  
900 | or funds as required by this chapter.

901 (12) Failure by the provider to meet the requirements of  
902 this chapter for disclosure of information to residents  
903 concerning the facility, its ownership, its management, its  
904 development, or its financial condition or failure to honor its  
905 continuing care or continuing care at-home contracts.

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

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

913 (15) In the conduct of business under the license,  
914 engaging in unfair methods of competition or in unfair or  
915 deceptive acts or practices prohibited under part IX of chapter  
916 626.

917 (16) A pattern of bankrupt enterprises.

918 (17) The ownership, control, or third-party management of  
919 the organization includes any person:

920 (a) Who is incompetent or untrustworthy;

921 (b) Who causes the operation of the provider to be  
922 hazardous to potential and existing residents;

923 (c) Who jeopardizes the reasonable promise of successful  
924 operation of the provider or facility;

925 (d) Who is affiliated, directly or indirectly, through

926 | ownership or control, with any person whose business operations  
 927 | are or have been marked by manipulation of assets or accounts or  
 928 | by bad faith, to the detriment of the public, stockholders,  
 929 | investors, or creditors; or

930 | (e) Whose business operations are or have been marked by  
 931 | manipulation of assets or accounts or by bad faith, to the  
 932 | detriment of the public, stockholders, investors, or creditors.

933 | (18) The provider violated s. 651.043 or persists in  
 934 | appointing disapproved managers.

935 |  
 936 | Revocation of a certificate of authority under this section does  
 937 | not relieve a provider from the provider's obligation to  
 938 | residents under the terms and conditions of any continuing care  
 939 | or continuing care at-home contract between the provider and  
 940 | residents or the provisions of this chapter. The provider must  
 941 | ~~shall~~ continue to file its annual statement and pay license fees  
 942 | to the office as required under this chapter as if the  
 943 | certificate of authority had continued in full force, but the  
 944 | provider may ~~shall~~ not issue any new contracts. The office may  
 945 | seek an action in the Circuit Court of Leon County to enforce  
 946 | the office's order and the provisions of this section.

947 | Section 17. Section 651.114, Florida Statutes, is amended  
 948 | to read:

949 | 651.114 Delinquency proceedings; remedial rights.—

950 | (1) Upon determination by the office that a provider is

951 not in compliance with this chapter, the office may notify the  
952 chair of the Continuing Care Advisory Council, who may assist  
953 the office in formulating a corrective action plan.

954 (2) Within 30 days after a request by the advisory council  
955 or the office, a provider must ~~shall~~ make a plan for obtaining  
956 compliance or solvency available to the advisory council and the  
957 office, ~~within 30 days after being requested to do so by the~~  
958 ~~council, a plan for obtaining compliance or solvency.~~

959 (3) Within 30 days after receipt of a plan for obtaining  
960 compliance or solvency, the office, or notification, the  
961 advisory council, at the request of the office, must ~~shall~~:

962 (a) Consider and evaluate the plan submitted by the  
963 provider.

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

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

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

968  
969 This subsection may not be interpreted so as to delay or prevent  
970 the office from taking any regulatory measures it deems  
971 necessary regarding the provider that submitted the plan.

972 (4) If the financial condition of a continuing care  
973 facility or provider is impaired or is such that if not modified  
974 or corrected, its continued operation would result in  
975 insolvency, the office may direct the provider to formulate and

976 file with the office a corrective action plan. If the provider  
977 fails to submit a plan within 30 days after the office's  
978 directive, or submits a plan that is insufficient to correct the  
979 condition, the office may specify a plan and direct the provider  
980 to implement the plan. Before specifying a plan, the office may  
981 seek a recommended plan from the advisory council.

982 (5)~~(4)~~ After receiving approval of a plan by the office,  
983 the provider must ~~shall~~ submit a progress report monthly to the  
984 advisory council or the office, or both, in a manner prescribed  
985 by the office. After 3 months, or at any earlier time deemed  
986 necessary, the council must ~~shall~~ evaluate the progress by the  
987 provider and must ~~shall~~ advise the office of its findings.

988 (6)~~(5)~~ If ~~Should~~ the office finds ~~find~~ that sufficient  
989 grounds exist for rehabilitation, liquidation, conservation,  
990 reorganization, seizure, or summary proceedings of an insurer as  
991 set forth in ss. 631.051, 631.061, and 631.071, the department  
992 ~~office~~ may petition for an appropriate court order or may pursue  
993 such other relief as is afforded in part I of chapter 631. A  
994 provider that meets the definition of "impaired" as defined in  
995 s. 651.011 is deemed impaired for purposes of s. 631.051. Before  
996 invoking its powers under part I of chapter 631, the department  
997 must ~~office shall~~ notify the chair of the advisory council.

998 (7)~~(6)~~ In the event an order of rehabilitation,  
999 liquidation, conservation, reorganization, seizure, or summary  
1000 proceeding has been entered against a provider, the department



1001 and office are vested with all of the powers and duties they  
1002 have under ~~the provisions of~~ part I of chapter 631 in regard to  
1003 delinquency proceedings of insurance companies. A provider must  
1004 give written notice of the proceeding to its residents within 3  
1005 business days after the initiation of a delinquency proceeding  
1006 under chapter 631 and must include a notice of the delinquency  
1007 proceeding in any written materials provided to prospective  
1008 residents.

1009 ~~(7) If the financial condition of the continuing care~~  
1010 ~~facility or provider is such that, if not modified or corrected,~~  
1011 ~~its continued operation would result in insolvency, the office~~  
1012 ~~may direct the provider to formulate and file with the office a~~  
1013 ~~corrective action plan. If the provider fails to submit a plan~~  
1014 ~~within 30 days after the office's directive or submits a plan~~  
1015 ~~that is insufficient to correct the condition, the office may~~  
1016 ~~specify a plan and direct the provider to implement the plan.~~

1017 (8) (a) If the petition for rehabilitation, liquidation,  
1018 conservation, reorganization, seizure, or summary proceedings is  
1019 based solely upon the default of the provider under the terms of  
1020 a resolution, ordinance, loan agreement, indenture of trust,  
1021 mortgage, lease, security agreement, or other instrument  
1022 creating or securing bonds or notes issued to finance a  
1023 facility, the rights of the office described in this section are  
1024 subordinate to the rights of a trustee or lender pursuant to the  
1025 terms of a resolution, ordinance, loan agreement, indenture of

1026 trust, mortgage, lease, security agreement, or other instrument  
1027 creating or securing bonds or notes issued to finance a  
1028 facility, and the office, subject to the provisions of paragraph  
1029 (c), may ~~shall~~ not exercise its remedial rights provided under  
1030 this section and ss. 651.018, 651.106, 651.108, and 651.116 with  
1031 respect to a facility that is subject to a lien, mortgage,  
1032 lease, or other encumbrance or trust indenture securing bonds or  
1033 notes issued in connection with the financing of the facility,  
1034 if the trustee or lender, by inclusion or by amendment to the  
1035 loan documents or by a separate contract with the office, agrees  
1036 that the rights of residents under a continuing care or  
1037 continuing care at-home contract will be honored and will not be  
1038 disturbed by a foreclosure or conveyance in lieu thereof as long  
1039 as the resident:

1040 1. Is current in the payment of all monetary obligations  
1041 required by the contract;

1042 2. Is in compliance and continues to comply with all  
1043 provisions of the contract; and

1044 3. Has asserted no claim inconsistent with the rights of  
1045 the trustee or lender.

1046 (b) This subsection does not require a trustee or lender  
1047 to:

1048 1. Continue to engage in the marketing or resale of new  
1049 continuing care or continuing care at-home contracts;

1050 2. Pay any rebate of entrance fees as may be required by a

1051 resident's continuing care or continuing care at-home contract  
 1052 as of the date of acquisition of the facility by the trustee or  
 1053 lender and until expiration of the period described in paragraph  
 1054 (d);

1055 3. Be responsible for any act or omission of any owner or  
 1056 operator of the facility arising before the acquisition of the  
 1057 facility by the trustee or lender; or

1058 4. Provide services to the residents to the extent that  
 1059 the trustee or lender would be required to advance or expend  
 1060 funds that have not been designated or set aside for such  
 1061 purposes.

1062 (c) Should the office determine, at any time during the  
 1063 suspension of its remedial rights as provided in paragraph (a),  
 1064 that the trustee or lender is not in compliance with paragraph  
 1065 (a), or that a lender or trustee has assigned or has agreed to  
 1066 assign all or a portion of a delinquent or defaulted loan to a  
 1067 third party without the office's written consent, the office  
 1068 shall notify the trustee or lender in writing of its  
 1069 determination, setting forth the reasons giving rise to the  
 1070 determination and specifying those remedial rights afforded to  
 1071 the office which the office shall then reinstate.

1072 (d) Upon acquisition of a facility by a trustee or lender  
 1073 and evidence satisfactory to the office that the requirements of  
 1074 paragraph (a) have been met, the office shall issue a 90-day  
 1075 temporary certificate of authority granting the trustee or

1076 lender the authority to engage in the business of providing  
 1077 continuing care or continuing care at-home and to issue  
 1078 continuing care or continuing care at-home contracts subject to  
 1079 the office's right to immediately suspend or revoke the  
 1080 temporary certificate of authority if the office determines that  
 1081 any of the grounds described in s. 651.106 apply to the trustee  
 1082 or lender or that the terms of the contract used as the basis  
 1083 for the issuance of the temporary certificate of authority by  
 1084 the office have not been or are not being met by the trustee or  
 1085 lender since the date of acquisition.

1086 Section 18. Section 651.1141, Florida Statutes, is created  
 1087 to read:

1088 651.1141 Immediate final orders.—A violation of s.  
 1089 651.024, s. 651.035, s. 651.043, s. 651.083(1)(a), or s. 651.105  
 1090 constitutes an immediate danger to the public health, safety, or  
 1091 welfare. Pursuant to s. 120.569, the office may issue an  
 1092 immediate final order to cease and desist if it finds that a  
 1093 provider is in violation of such sections.

1094 Section 19. Subsections (1) and (4) of section 651.125,  
 1095 Florida Statutes, are amended to read:

1096 651.125 Criminal penalties; injunctive relief.—

1097 (1) Any person who maintains, enters into, or, as manager  
 1098 or officer or in any other administrative capacity, assists in  
 1099 entering into, maintaining, or performing any continuing care or  
 1100 continuing care at-home contract subject to this chapter without

1101 ~~doing so in pursuance of~~ a valid provisional certificate of  
1102 authority or certificate of authority ~~or renewal thereof~~, as  
1103 contemplated by or provided in this chapter, or who otherwise  
1104 violates any provision of this chapter or rule adopted in  
1105 pursuance of this chapter, commits a felony of the third degree,  
1106 punishable as provided in s. 775.082 or s. 775.083. Each  
1107 violation of this chapter constitutes a separate offense.

1108 (4) Any action brought by the office against a provider  
1109 shall not abate by reason of a sale or other transfer of  
1110 ownership of the facility used to provide care, which provider  
1111 is a party to the action, except with the express written  
1112 consent of the ~~director of the office~~.

1113 Section 20. This act shall take effect January 1, 2019.