

1 A bill to be entitled
2 An act relating to continuing care contracts; amending
3 s. 651.011, F.S.; adding and revising definitions;
4 amending s. 651.012, F.S.; conforming a cross-
5 reference; deleting an obsolete date; amending s.
6 651.013, F.S.; adding certain Florida Insurance Code
7 provisions to the Office of Insurance Regulation's
8 authority to regulate providers of continuing care and
9 continuing care at-home; amending s. 651.019, F.S.;
10 revising requirements for providers and facilities
11 relating to financing and refinancing transactions;
12 amending s. 651.021, F.S.; conforming provisions to
13 changes made by the act; creating s. 651.0215, F.S.;
14 specifying conditions, requirements, procedures, and
15 prohibitions relating to consolidated applications for
16 provisional certificates of authority and for
17 certificates of authority and to the office's review
18 of such applications; specifying conditions under
19 which a provider is entitled to secure the release of
20 certain escrowed funds; providing construction;
21 amending s. 651.022, F.S.; revising and specifying
22 requirements, procedures, and prohibitions relating to
23 applications for provisional certificates of authority
24 and to the office's review of such applications;
25 amending s. 651.023, F.S.; revising and specifying

26 requirements, procedures, and prohibitions relating to
27 applications for certificates of authority and to the
28 office's review of such applications; conforming
29 provisions to changes made by the act; amending s.
30 651.024, F.S.; revising requirements for certain
31 persons relating to provider acquisitions; providing
32 standing to the office to petition a circuit court in
33 certain proceedings; creating s. 651.0245, F.S.;
34 specifying procedures, requirements, and a prohibition
35 relating to an application for the simultaneous
36 acquisition of a facility and issuance of a
37 certificate of authority and to the office's review of
38 such application; specifying rulemaking requirements
39 and authority of the Financial Services Commission;
40 providing standing to the office to petition a circuit
41 court in certain proceedings; specifying procedures
42 for rebutting a presumption of control; creating s.
43 651.0246, F.S.; specifying requirements, conditions,
44 procedures, and prohibitions relating to provider
45 applications to commence construction or marketing for
46 expansions of certificated facilities and to the
47 office's review of such applications; defining the
48 term "existing units"; specifying escrow requirements
49 for certain moneys; specifying conditions under which
50 providers are entitled to secure release of such

51 moneys; providing applicability and construction;
52 amending s. 651.026, F.S.; revising requirements for
53 annual reports filed by providers with the office;
54 revising the commission's rulemaking authority;
55 requiring the office to annually publish a specified
56 industry benchmarking report; amending s. 651.0261,
57 F.S.; requiring providers to file quarterly unaudited
58 financial statements; authorizing the office to waive
59 such requirement under certain circumstances;
60 providing an exception for filing a certain quarterly
61 statement; revising information that the office may
62 require providers to file and the circumstances under
63 which such information must be filed; revising the
64 commission's rulemaking authority; amending s.
65 651.028, F.S.; revising requirements that the office
66 may waive under certain circumstances; revising the
67 entities that may qualify for such waiver; requiring
68 such entities to provide certain information within a
69 certain timeframe to the office under certain
70 circumstances; amending s. 651.033, F.S.; revising
71 applicability of escrow requirements; revising
72 requirements for escrow accounts and agreements;
73 revising the office's authority to allow a withdrawal
74 of a specified percentage of the required minimum
75 liquid reserve; revising applicability of requirements

76 relating to the deposit of certain funds in escrow
77 accounts; prohibiting an escrow agent, except under
78 certain circumstances, from releasing or allowing the
79 transfer of funds; creating s. 651.034, F.S.;

80 specifying requirements for the office if a regulatory
81 action level event occurs; specifying requirements for
82 corrective action plans; authorizing the office to use
83 members of the Continuing Care Advisory Council and to
84 retain consultants for certain purposes; requiring
85 affected providers to bear costs and expenses relating
86 to such consultants; specifying requirements for, and
87 authorized actions of, the office and the Department
88 of Financial Services if an impairment occurs;

89 providing construction; authorizing the office to
90 exempt a provider from certain requirements for a
91 certain timeframe; authorizing the commission to adopt
92 rules; amending s. 651.035, F.S.; revising minimum
93 liquid reserve requirements for providers; specifying
94 requirements, limitations, and procedures for a
95 provider's withdrawal of funds held in escrow and the
96 office's review of certain requests for withdrawal;

97 authorizing the office to order certain transfers
98 under certain circumstances; requiring facilities to
99 annually file with the office a minimum liquid reserve
100 calculation; requiring increases in the minimum liquid

101 reserve to be funded within a certain timeframe;
102 requiring providers to fund shortfalls in minimum
103 liquid reserves under certain circumstances within a
104 certain timeframe; creating s. 651.043, F.S.;
105 specifying requirements for certain management company
106 contracts; specifying requirements, procedures, and
107 authorized actions relating to changes in provider
108 management and to the office's review of such changes;
109 requiring that disapproved management be removed
110 within a certain timeframe; authorizing the office to
111 take certain disciplinary actions under certain
112 circumstances; requiring providers to immediately
113 remove management under certain circumstances;
114 amending s. 651.051, F.S.; revising requirements for
115 the maintenance of provider records and assets;
116 amending s. 651.055, F.S.; revising a required
117 statement in continuing care contracts; amending s.
118 651.057, F.S.; conforming provisions to changes made
119 by the act; amending s. 651.071, F.S.; specifying the
120 priority of continuing care contracts and continuing
121 care at-home contracts in receivership or liquidation
122 proceedings against a provider; amending s. 651.091,
123 F.S.; revising requirements for continuing care
124 facilities relating to posting or providing notices;
125 amending s. 651.095, F.S.; adding terms to a list of

126 prohibited terms in certain advertisements; amending
127 s. 651.105, F.S.; adding a certain Florida Insurance
128 Code provision to the office's authority to examine
129 certain providers and applicants; authorizing the
130 office to examine records for specified purposes;
131 requiring providers to respond to the office's written
132 correspondence and to provide certain information;
133 providing standing to the office to petition certain
134 circuit courts for certain relief; revising, and
135 specifying limitations on the office's examination
136 authority; amending s. 651.106, F.S.; authorizing the
137 office to deny applications on specified grounds;
138 adding and revising grounds for suspension or
139 revocation of provisional certificates of authority
140 and certificates of authority; creating s. 651.1065,
141 F.S.; prohibiting certain actions by certain persons
142 of an impaired or insolvent continuing care facility;
143 providing that bankruptcy courts or trustees have
144 jurisdiction over certain matters; requiring the
145 office to approve or disapprove the continued
146 marketing of new contracts within a certain timeframe;
147 providing a criminal penalty; amending s. 651.111,
148 F.S.; defining the term "inspection"; revising
149 procedures and requirements relating to requests for
150 inspections to the office; amending s. 651.114, F.S.;

151 revising and specifying requirements, procedures, and
 152 authorized actions relating to providers' corrective
 153 action plans; providing construction; revising and
 154 specifying requirements and procedures relating to
 155 delinquency proceedings against a provider; revising
 156 circumstances under which the office must provide a
 157 certain notice to trustees or lenders; creating s.
 158 651.1141, F.S.; providing legislative findings;
 159 authorizing the office to issue certain immediate
 160 final orders under certain circumstances; amending s.
 161 651.121, F.S.; revising the composition of the
 162 Continuing Care Advisory Council; amending s. 651.125,
 163 F.S.; revising a prohibition to include certain
 164 actions performed without a valid provisional
 165 certificate of authority; providing effective dates.

166
 167 Be It Enacted by the Legislature of the State of Florida:

168
 169 Section 1. Section 651.011, Florida Statutes, is amended
 170 to read:

171 651.011 Definitions.—As used in this chapter, the term:

172 (1) "Actuarial opinion" means an opinion issued by an
 173 actuary in accordance with Actuarial Standards of Practice No. 3
 174 for Continuing Care Retirement Communities, Revised Edition,
 175 effective May 1, 2011.

176 (2) "Actuarial study" means an analysis prepared for an
177 individual facility, or consolidated for multiple facilities,
178 for either a certified provider, as of a current valuation date
179 or the most recent fiscal year, or for an applicant, as of a
180 projected future valuation date, which includes an actuary's
181 opinion as to whether such provider or applicant is in
182 satisfactory actuarial balance in accordance with Actuarial
183 Standards of Practice No. 3 for Continuing Care Retirement
184 Communities, Revised Edition, effective May 1, 2011.

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

189 (4)~~(1)~~ "Advertising" means the dissemination of written,
190 visual, or electronic information by a provider, or any person
191 affiliated with or controlled by a provider, to potential
192 residents or their representatives for the purpose of inducing
193 such persons to subscribe to or enter into a contract for
194 continuing care or continuing care at-home.

195 (5)~~(2)~~ "Continuing care" or "care" means, pursuant to a
196 contract, furnishing shelter and nursing care or personal
197 services to a resident who resides in a facility, whether such
198 nursing care or personal services are provided in the facility
199 or in another setting designated in the contract for continuing
200 care, by an individual not related by consanguinity or affinity

201 to the resident, upon payment of an entrance fee.

202 (6)~~(3)~~ "Continuing Care Advisory Council" or "advisory
203 council" means the council established in s. 651.121.

204 (7)~~(4)~~ "Continuing care at-home" means, pursuant to a
205 contract other than a contract described in subsection (5) ~~(2)~~,
206 furnishing to a resident who resides outside the facility the
207 right to future access to shelter and nursing care or personal
208 services, whether such services are provided in the facility or
209 in another setting designated in the contract, by an individual
210 not related by consanguinity or affinity to the resident, upon
211 payment of an entrance fee.

212 (8) "Controlling company" means any corporation, trust, or
213 association that directly or indirectly owns 25 percent or more
214 of:

215 (a) The voting securities of one or more providers that
216 are stock corporations; or

217 (b) The ownership interest of one or more providers that
218 are not stock corporations.

219 (9) "Corrective order" means an order issued by the office
220 which specifies corrective actions that the office determines
221 are required in accordance with this chapter or commission rule.

222 (10) "Days cash on hand" means the quotient obtained by
223 dividing the value of paragraph (a) by the value of paragraph

224 (b) .

225 (a) The sum of unrestricted cash, unrestricted short-term

226 and long-term investments, provider restricted funds, and the
227 minimum liquid reserve as of the reporting date.

228 (b) Operating expenses less depreciation, amortization,
229 and other noncash expenses and nonoperating losses divided by
230 365. Operating expenses, depreciation, amortization, and other
231 noncash expenses and nonoperating losses are each the sum of
232 their respective values over the 12-month period ending on the
233 reporting date.

234

235 With prior written approval of the office, a demand note or
236 other parental guarantee may be considered a short-term or long-
237 term investment for the purposes of paragraph (a). However, the
238 total of all demand notes issued by the parent may not, at any
239 time, be more than the sum of unrestricted cash and unrestricted
240 short-term and long-term investments held by the parent.

241 (11) "Debt service coverage ratio" means the quotient
242 obtained by dividing the value of paragraph (a) by the value of
243 paragraph (b).

244 (a) The sum of total expenses less interest expense on the
245 debt facility, depreciation, amortization, and other noncash
246 expense and nonoperating losses, subtracted from the sum of
247 total revenues, excluding noncash revenues and nonoperating
248 gains, and gross entrance fees received less earned entrance
249 fees and refunds paid. Expenses, interest expense on the debt
250 facility, depreciation, amortization, and other noncash expense

251 and nonoperating losses, revenues, noncash revenues,
252 nonoperating gains, gross entrance fees, earned entrance fees,
253 and refunds are each the sum of their respective values over the
254 12-month period ending on the reporting date.

255 (b) Total annual principal and interest expense due on the
256 debt facility over the 12-month period ending on the reporting
257 date. For the purposes of this paragraph, principal excludes any
258 balloon principal payment amounts, and interest expense due is
259 the sum of the interest over the 12-month period ending on the
260 reporting date.

261 (12) "Department" means the Department of Financial
262 Services.

263 (13)~~(5)~~ "Entrance fee" means an initial or deferred
264 payment of a sum of money or property made as full or partial
265 payment for continuing care or continuing care at-home. An
266 accommodation fee, admission fee, member fee, or other fee of
267 similar form and application are considered to be an entrance
268 fee.

269 (14)~~(6)~~ "Facility" means a place where continuing care is
270 furnished and may include one or more physical plants on a
271 primary or contiguous site or an immediately accessible site. As
272 used in this subsection, the term "immediately accessible site"
273 means a parcel of real property separated by a reasonable
274 distance from the facility as measured along public
275 thoroughfares, and the term "primary or contiguous site" means

276 the real property contemplated in the feasibility study required
277 by this chapter.

278 ~~(7) "Generally accepted accounting principles" means those~~
279 ~~accounting principles and practices adopted by the Financial~~
280 ~~Accounting Standards Board and the American Institute of~~
281 ~~Certified Public Accountants, including Statement of Position~~
282 ~~90-8 with respect to any full year to which the statement~~
283 ~~applies.~~

284 (15) "Impaired" or "impairment" means that either of the
285 following has occurred:

286 (a) A provider has failed to maintain its minimum liquid
287 reserve as required under s. 651.035, unless the provider has
288 received prior written approval from the office for a withdrawal
289 pursuant to s. 651.035(6) and is compliant with the approved
290 payment schedule.

291 (b) Beginning January 1, 2021:

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

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

299
300 If the provider is a member of an obligated group having cross-

301 collateralized debt, the obligated group's debt service coverage
302 ratio and days cash on hand must be used to determine if the
303 provider is impaired.

304 ~~(16)-(8)~~ "Insolvency" means the condition in which a ~~the~~
305 provider is unable to pay its obligations as they come due in
306 the normal course of business.

307 ~~(17)-(9)~~ "Licensed" means that a ~~the~~ provider has obtained
308 a certificate of authority from the office ~~department~~.

309 ~~(18)~~ "Manager," "management," or "management company"
310 means a person who administers the day-to-day business
311 operations of a facility for a provider, subject to the
312 policies, directives, and oversight of the provider.

313 ~~(19)-(10)~~ "Nursing care" means those services or acts
314 rendered to a resident by an individual licensed or certified
315 pursuant to chapter 464.

316 ~~(20)~~ "Obligated group" means one or more entities that
317 jointly agree to be bound by a financing structure containing
318 security provisions and covenants applicable to the group. For
319 the purposes of this subsection, debt issued under such a
320 financing structure must be a joint and several obligation of
321 each member of the group.

322 ~~(21)~~ "Occupancy" means the total number of occupied
323 independent living units, assisted living units, and skilled
324 nursing beds in a facility divided by the total number of units
325 and beds in that facility, excluding units and beds that are

326 unavailable to market or that are reserved by prospective
327 residents.

328 (22)~~(11)~~ "Personal services" has the same meaning as in s.
329 429.02.

330 (23)~~(12)~~ "Provider" means the owner or operator, whether a
331 natural person, partnership or other unincorporated association,
332 however organized, trust, or corporation, of an institution,
333 building, residence, or other place, whether operated for profit
334 or not, which owner or operator provides continuing care or
335 continuing care at-home for a fixed or variable fee, or for any
336 other remuneration of any type, whether fixed or variable, for
337 the period of care, payable in a lump sum or lump sum and
338 monthly maintenance charges or in installments. The term does
339 not apply to an entity that has existed and continuously
340 operated a facility located on at least 63 acres in this state
341 providing residential lodging to members and their spouses for
342 at least 66 years on or before July 1, 1989, and has the
343 residential capacity of 500 persons, is directly or indirectly
344 owned or operated by a nationally recognized fraternal
345 organization, is not open to the public, and accepts only its
346 members and their spouses as residents.

347 (24)~~(13)~~ "Records" means all documents, correspondence,
348 and the permanent financial, directory, and personnel
349 information and data maintained by a provider pursuant to this
350 chapter, regardless of the physical form, characteristics, or

351 means of transmission.

352 (25) "Regulatory action level event" means that any two of
353 the following have occurred:

354 (a) The provider's debt service coverage ratio is less
355 than the minimum ratio specified in the provider's bond
356 covenants or lending agreement for long-term financing, or, if
357 the provider does not have a debt service coverage ratio
358 required by its lending institution, the provider's debt service
359 coverage ratio is less than 1.20:1 as of the most recent report
360 filed with the office. If the provider is a member of an
361 obligated group having cross-collateralized debt, the obligated
362 group's debt service coverage ratio must be used as the
363 provider's debt service coverage ratio.

364 (b) The provider's days cash on hand is less than the
365 minimum number of days cash on hand specified in the provider's
366 bond covenants or lending agreement for long-term financing. If
367 the provider does not have a days cash on hand required by its
368 lending institution, the days cash on hand may not be less than
369 100 as of the most recent report filed with the office. If the
370 provider is a member of an obligated group having cross-
371 collateralized debt, the days cash on hand of the obligated
372 group must be used as the provider's days cash on hand.

373 (c) The 12-month average occupancy of the provider's
374 facility is less than 80 percent. The average occupancy must be
375 calculated using the facility's occupancy as of the last day of

376 each month.

377 (26)~~(14)~~ "Resident" means a purchaser of, a nominee of, or
 378 a subscriber to a continuing care or continuing care at-home
 379 contract. Such contract does not give the resident a part
 380 ownership of the facility in which the resident is to reside,
 381 unless expressly provided in the contract.

382 (27)~~(15)~~ "Shelter" means an independent living unit, room,
 383 apartment, cottage, villa, personal care unit, nursing bed, or
 384 other living area within a facility set aside for the exclusive
 385 use of one or more identified residents.

386 Section 2. Section 651.012, Florida Statutes, is amended
 387 to read:

388 651.012 Exempted facility; written disclosure of
 389 exemption.—Any facility exempted under ss. 632.637(1)(e) and
 390 651.011(23) ~~651.011(12)~~ must provide written disclosure of such
 391 exemption to each person admitted to the facility ~~after October~~
 392 ~~1, 1996~~. This disclosure must be written using language likely
 393 to be understood by the person and must briefly explain the
 394 exemption.

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

397 651.013 Chapter exclusive; applicability of other laws.—

398 (2) In addition to other applicable provisions cited in
 399 this chapter, the office has the authority granted under ss.
 400 624.302, and 624.303, 624.307-624.312, 624.318 ~~624.308-624.312,~~

401 624.319(1)-(3), 624.320, 624.321 ~~624.320-624.321~~, 624.324, and
402 624.34, and 624.422 of the Florida Insurance Code to regulate
403 providers of continuing care and continuing care at-home.

404 Section 4. Section 651.019, Florida Statutes, is amended
405 to read:

406 651.019 New financing, additional financing, or
407 refinancing.—

408 (1) (a) A provider shall provide a written general outline
409 of the amount and the anticipated terms of any new financing or
410 refinancing, and the intended use of proceeds, to the residents'
411 council at least 30 days before the closing date of the
412 financing or refinancing transaction. If there is a material
413 change in the noticed information, a provider shall provide an
414 updated notice to the residents' council within 10 business days
415 after the provider becomes aware of such change.

416 (b) If the facility does not have a residents' council,
417 the facility must make available, in the same manner as other
418 community notices, the information required under paragraph (a)
419 ~~After issuance of a certificate of authority, the provider shall~~
420 ~~submit to the office a general outline, including intended use~~
421 ~~of proceeds, with respect to any new financing, additional~~
422 ~~financing, or refinancing at least 30 days before the closing~~
423 ~~date of such financing transaction.~~

424 (2) Within 30 days after the closing date of such
425 financing or refinancing transaction, ~~The provider shall furnish~~

426 | ~~any information the office may reasonably request in connection~~
 427 | ~~with any new financing, additional financing, or refinancing,~~
 428 | ~~including, but not limited to, the financing agreements and any~~
 429 | ~~related documents, escrow or trust agreements, and statistical~~
 430 | ~~or financial data.~~ the provider shall also submit to the office
 431 | copies of executed financing documents, escrow or trust
 432 | agreements prepared in support of such financing or refinancing
 433 | transaction, and a copy of all documents required to be
 434 | submitted to the residents' council under paragraph (1) (a)
 435 | ~~within 30 days after the closing date.~~

436 | Section 5. Section 651.021, Florida Statutes, is amended
 437 | to read:

438 | 651.021 Certificate of authority required.-

439 | ~~(1)~~ A ~~No~~ person may not engage in the business of
 440 | providing continuing care, issuing contracts for continuing care
 441 | or continuing care at-home, or constructing a facility for the
 442 | purpose of providing continuing care in this state without a
 443 | certificate of authority obtained from the office as provided in
 444 | this chapter. This section ~~subsection~~ does not prohibit the
 445 | preparation of a construction site or construction of a model
 446 | residence unit for marketing purposes, or both. The office may
 447 | allow the purchase of an existing building for the purpose of
 448 | providing continuing care if the office determines that the
 449 | purchase is not being made to circumvent the prohibitions in
 450 | this section.

451 ~~(2) Written approval must be obtained from the office~~
452 ~~before commencing construction or marketing for an expansion of~~
453 ~~a certificated facility equivalent to the addition of at least~~
454 ~~20 percent of existing units or 20 percent or more in the number~~
455 ~~of continuing care at home contracts. This provision does not~~
456 ~~apply to construction for which a certificate of need from the~~
457 ~~Agency for Health Care Administration is required.~~

458 ~~(a) For providers that offer both continuing care and~~
459 ~~continuing care at home, the 20 percent is based on the total of~~
460 ~~both existing units and existing contracts for continuing care~~
461 ~~at home. For purposes of this subsection, an expansion includes~~
462 ~~increases in the number of constructed units or continuing care~~
463 ~~at home contracts or a combination of both.~~

464 ~~(b) The application for such approval shall be on forms~~
465 ~~adopted by the commission and provided by the office. The~~
466 ~~application must include the feasibility study required by s.~~
467 ~~651.022(3) or s. 651.023(1)(b) and such other information as~~
468 ~~required by s. 651.023. If the expansion is only for continuing~~
469 ~~care at home contracts, an actuarial study prepared by an~~
470 ~~independent actuary in accordance with standards adopted by the~~
471 ~~American Academy of Actuaries which presents the financial~~
472 ~~impact of the expansion may be substituted for the feasibility~~
473 ~~study.~~

474 ~~(c) In determining whether an expansion should be~~
475 ~~approved, the office shall use the criteria provided in ss.~~

476 ~~651.022(6) and 651.023(4).~~

477 Section 6. Section 651.0215, Florida Statutes, is created
478 to read:

479 651.0215 Consolidated application for a provisional
480 certificate of authority and a certificate of authority;
481 required restrictions on use of entrance fees.-

482 (1) For an applicant to qualify for a certificate of
483 authority without first obtaining a provisional certificate of
484 authority, all of the following conditions must be met:

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

490 (b) The reservation deposit may not exceed the lesser of
491 \$40,000 or 10 percent of the then-current fee for the unit
492 selected by a resident and must be refundable at any time before
493 the resident takes occupancy of the selected unit.

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

498 (2) The consolidated application must be on a form
499 prescribed by the commission and must contain all of the
500 following information:

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

502 (b) A feasibility study prepared by an independent
503 consultant which contains all of the information required by s.
504 651.022(3) and financial forecasts or projections prepared in
505 accordance with standards adopted by the American Institute of
506 Certified Public Accountants or in accordance with standards for
507 feasibility studies for continuing care retirement communities
508 adopted by the Actuarial Standards Board.

509 1. The feasibility study must take into account project
510 costs, actual marketing results to date and marketing
511 projections, resident fees and charges, competition, resident
512 contract provisions, and other factors that affect the
513 feasibility of operating the facility.

514 2. If the feasibility study is prepared by an independent
515 certified public accountant, it must contain an examination
516 report, or a compilation report acceptable to the office,
517 containing a financial forecast or projections for the first 5
518 years of operations which take into account an actuary's
519 mortality and morbidity assumptions as the study relates to
520 turnover, rates, fees, and charges. If the study is prepared by
521 an independent consulting actuary, it must contain mortality and
522 morbidity assumptions as it relates to turnover, rates, fees,
523 and charges and an actuary's signed opinion that the project as
524 proposed is feasible and that the study has been prepared in
525 accordance with Actuarial Standards of Practice No. 3 for

526 Continuing Care Retirement Communities, Revised Edition,
527 effective May 1, 2011.

528 (c) Documents evidencing that commitments have been
529 secured for construction financing and long-term financing or
530 that a documented plan acceptable to the office has been adopted
531 by the applicant for long-term financing.

532 (d) Documents evidencing that all conditions of the lender
533 have been satisfied to activate the commitment to disburse
534 funds, other than the obtaining of the certificate of authority,
535 the completion of construction, or the closing of the purchase
536 of realty or buildings for the facility.

537 (e) Documents evidencing that the aggregate amount of
538 entrance fees received by or pledged to the applicant, plus
539 anticipated proceeds from any long-term financing commitment and
540 funds from all other sources in the actual possession of the
541 applicant, equal at least 100 percent of the aggregate cost of
542 constructing or purchasing, equipping, and furnishing the
543 facility plus 100 percent of the anticipated startup losses of
544 the facility.

545 (f) A complete audited financial report of the applicant,
546 prepared by an independent certified public accountant in
547 accordance with generally accepted accounting principles, as of
548 the date the applicant commenced business operations or for the
549 fiscal year that ended immediately preceding the date of
550 application, whichever is later; and complete unaudited

551 quarterly financial statements attested to by the applicant
552 after the date of the last audit.

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

555 (h) Such other reasonable data, financial statements, and
556 pertinent information as the commission or office may require
557 with respect to the applicant or the facility to determine the
558 financial status of the facility and the management capabilities
559 of its managers and owners.

560

561 If any material change occurs in the facts set forth in an
562 application filed with the office pursuant to this subsection,
563 an amendment setting forth such change must be filed with the
564 office within 10 business days after the applicant becomes aware
565 of such change, and a copy of the amendment must be sent by
566 registered mail to the principal office of the facility and to
567 the principal office of the controlling company.

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

572 (4) Within 45 days after receipt of the information
573 required under subsection (2), the office shall examine the
574 information and notify the applicant in writing, specifically
575 requesting any additional information that the office is

576 authorized to require. An application is deemed complete when
577 the office receives all requested information and the applicant
578 corrects any error or omission of which the applicant was timely
579 notified or when the time for such notification has expired.
580 Within 15 days after receipt of all of the requested additional
581 information, the office shall notify the applicant in writing
582 that all of the requested information has been received and that
583 the application is deemed complete as of the date of the notice.
584 Failure to notify the applicant in writing within the 15-day
585 period constitutes acknowledgment by the office that it has
586 received all requested additional information, and the
587 application is deemed complete for purposes of review on the
588 date the applicant files all of the required additional
589 information.

590 (5) Within 45 days after an application is deemed complete
591 as set forth in subsection (4) and upon completion of the
592 remaining requirements of this section, the office shall
593 complete its review and issue or deny a certificate of authority
594 to the applicant. If a certificate of authority is denied, the
595 office shall notify the applicant in writing, citing the
596 specific failures to satisfy this chapter, and the applicant is
597 entitled to an administrative hearing pursuant to chapter 120.

598 (6) The office shall issue a certificate of authority upon
599 determining that the applicant meets all of the requirements of
600 law and has submitted all of the information required under this

601 section, that all escrow requirements have been satisfied, and
602 that the fees prescribed in s. 651.015(2) have been paid.

603 (7) The issuance of a certificate of authority entitles
604 the applicant to begin construction and collect reservation
605 deposits and entrance fees from prospective residents. The
606 reservation contract must state the cancellation policy and the
607 terms of the continuing care contract. All or any part of an
608 entrance fee or reservation deposit collected must be placed in
609 an escrow account or on deposit with the department pursuant to
610 s. 651.033.

611 (8) The provider is entitled to secure release of the
612 moneys held in escrow within 7 days after the office receives an
613 affidavit from the provider, along with appropriate
614 documentation to verify, and notification is provided to the
615 escrow agent by certified mail, that all of the following
616 conditions have been satisfied:

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

618 (b) Payment in full has been received for at least 70
619 percent of the total units of a phase or of the total of the
620 combined phases constructed. If a provider offering continuing
621 care at-home is applying for a release of escrowed entrance
622 fees, the same minimum requirement must be met for the
623 continuing care contracts and for the continuing care at-home
624 contracts independently of each other.

625 (c) The provider has evidence of sufficient funds to meet

626 the requirements of s. 651.035, which may include funds
627 deposited in the initial entrance fee account.

628 (d) Documents evidencing the intended application of the
629 proceeds upon release and documents evidencing that the entrance
630 fees, when released, will be applied as represented to the
631 office.

632 (9) The office may not approve any application that
633 includes in the plan of financing any encumbrance of the
634 operating reserves or renewal and replacement reserves required
635 by this chapter.

636 (10) The office may not issue a certificate of authority
637 for a facility that does not have a component that is to be
638 licensed pursuant to part II of chapter 400 or part I of chapter
639 429, or that does not offer personal services or nursing
640 services through written contractual agreement. A written
641 contractual agreement must be disclosed in the contract for
642 continuing care or continuing care at-home and is subject to s.
643 651.1151.

644 Section 7. Subsections (2), (3), (6), and (8) of section
645 651.022, Florida Statutes, are amended, and subsection (5) of
646 that section is republished, to read:

647 651.022 Provisional certificate of authority;
648 application.—

649 (2) The application for a provisional certificate of
650 authority must ~~shall~~ be on a form prescribed by the commission

651 and must ~~shall~~ contain the following information:

652 (a) If the applicant or provider is a corporation, a copy
653 of the articles of incorporation and bylaws; if the applicant or
654 provider is a partnership or other unincorporated association, a
655 copy of the partnership agreement, articles of association, or
656 other membership agreement; and, if the applicant or provider is
657 a trust, a copy of the trust agreement or instrument.

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

659 1. The proprietor, if the applicant or provider is an
660 individual.

661 2. Every partner or member, if the applicant or provider
662 is a partnership or other unincorporated association, however
663 organized, having fewer than 50 partners or members, together
664 with the business name and address of the partnership or other
665 organization.

666 3. The principal partners or members, if the applicant or
667 provider is a partnership or other unincorporated association,
668 however organized, having 50 or more partners or members,
669 together with the business name and business address of the
670 partnership or other organization. If such unincorporated
671 organization has officers and a board of directors, the full
672 name and business address of each officer and director may be
673 set forth in lieu of the full name and business address of its
674 principal members.

675 4. The corporation and each officer and director thereof,

676 if the applicant or provider is a corporation.

677 5. Every trustee and officer, if the applicant or provider
678 is a trust.

679 6. The manager, whether an individual, corporation,
680 partnership, or association.

681 7. Any stockholder holding at least a 10 percent interest
682 in the operations of the facility in which the care is to be
683 offered.

684 8. Any person whose name is required to be provided in the
685 application under this paragraph and who owns any interest in or
686 receives any remuneration from, directly or indirectly, any
687 professional service firm, association, trust, partnership, or
688 corporation providing goods, leases, or services to the facility
689 for which the application is made, with a real or anticipated
690 value of \$10,000 or more, and the name and address of the
691 professional service firm, association, trust, partnership, or
692 corporation in which such interest is held. The applicant shall
693 describe such goods, leases, or services and the probable cost
694 to the facility or provider and shall describe why such goods,
695 leases, or services should not be purchased from an independent
696 entity.

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

700 10. Any affiliated parent or subsidiary corporation or

701 partnership.

702 (c)1. Evidence that the applicant is reputable and of
703 responsible character. If the applicant is a firm, association,
704 organization, partnership, business trust, corporation, or
705 company, the form must ~~shall~~ require evidence that the members
706 or shareholders ~~are reputable and of responsible character,~~ and
707 the person in charge of providing care under a certificate of
708 authority are ~~shall likewise be required to produce evidence of~~
709 ~~being~~ reputable and of responsible character.

710 2. Evidence satisfactory to the office of the ability of
711 the applicant to comply with ~~the provisions of~~ this chapter and
712 with rules adopted by the commission pursuant to this chapter.

713 3. A statement of whether a person identified in the
714 application for a provisional certificate of authority or the
715 administrator or manager of the facility, if such person has
716 been designated, or any such person living in the same location:

717 a. Has been convicted of a felony or has pleaded nolo
718 contendere to a felony charge, or has been held liable or has
719 been enjoined in a civil action by final judgment, if the felony
720 or civil action involved fraud, embezzlement, fraudulent
721 conversion, or misappropriation of property.

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

726 without limitation, an action affecting a license under chapter
 727 400 or chapter 429.

728
 729 The statement must ~~shall~~ set forth the court or agency, the date
 730 of conviction or judgment, and the penalty imposed or damages
 731 assessed, or the date, nature, and issuer of the order. Before
 732 determining whether a provisional certificate of authority is to
 733 be issued, the office may make an inquiry to determine the
 734 accuracy of the information submitted pursuant to subparagraphs
 735 1., 2., and 3. ~~1. and 2.~~

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

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

744 (f) Such other reasonable data, financial statements, and
 745 pertinent information as the commission or office may reasonably
 746 require with respect to the provider or the facility, including
 747 the most recent audited financial report ~~statements~~ of
 748 comparable facilities currently or previously owned, managed, or
 749 developed by the applicant or its principal, to assist in
 750 determining the financial viability of the project and the

751 management capabilities of its managers and owners.

752 (g) The forms of the residency contracts, reservation
753 contracts, escrow agreements, and wait list contracts, if
754 applicable, which are proposed to be used by the provider in the
755 furnishing of care. The office shall approve contracts and
756 escrow agreements that comply with ss. 651.023(1)(c), 651.033,
757 651.055, and 651.057. Thereafter, no other form of contract or
758 agreement may be used by the provider until it has been
759 submitted to the office and approved.

760

761 If any material change occurs in the facts set forth in an
762 application filed with the office pursuant to this subsection,
763 an amendment setting forth such change must be filed with the
764 office within 10 business days after the applicant becomes aware
765 of such change, and a copy of the amendment must be sent by
766 registered mail to the principal office of the facility and to
767 the principal office of the controlling company.

768 (3) In addition to the information required in subsection
769 (2), an applicant for a provisional certificate of authority
770 shall submit a ~~market~~ feasibility study with appropriate
771 financial, marketing, and actuarial assumptions for the first 5
772 years of operations. The ~~market~~ feasibility study must ~~shall~~
773 include at least the following information:

774 (a) A description of the proposed facility, including the
775 location, size, anticipated completion date, and the proposed

776 construction program.

777 (b) An identification and evaluation of the primary and,
778 if appropriate, the secondary market areas of the facility and
779 the projected unit sales per month.

780 (c) Projected revenues, including anticipated entrance
781 fees; monthly service fees; nursing care revenues ~~rates~~, if
782 applicable; and all other sources of revenue, ~~including the~~
783 ~~total amount of debt financing required.~~

784 (d) Projected expenses, including staffing requirements
785 and salaries; cost of property, plant, and equipment, including
786 depreciation expense; interest expense; marketing expense; and
787 other operating expenses.

788 (e) A projected balance sheet ~~Current assets and~~
789 ~~liabilities of the applicant.~~

790 (f) Expectations of the financial condition of the
791 project, including the projected cash flow, and a projected
792 ~~balance sheet and~~ an estimate of the funds anticipated to be
793 necessary to cover startup losses.

794 (g) The inflation factor, if any, assumed in the
795 feasibility study for the proposed facility and how and where it
796 is applied.

797 (h) Project costs and the total amount of debt financing
798 required, marketing projections, resident fees and charges, the
799 competition, resident contract provisions, and other factors
800 that ~~which~~ affect the feasibility of the facility.

801 (i) Appropriate population projections, including
802 morbidity and mortality assumptions.

803 (j) The name of the person who prepared the feasibility
804 study and the experience of such person in preparing similar
805 studies or otherwise consulting in the field of continuing care.
806 The preparer of the feasibility study may be the provider or a
807 contracted third party.

808 (k) Any other information that the applicant deems
809 relevant and appropriate to enable the office to make a more
810 informed determination.

811 (5) (a) Within 30 days after receipt of an application for
812 a provisional certificate of authority, the office shall examine
813 the application and shall notify the applicant in writing,
814 specifically setting forth and specifically requesting any
815 additional information the office is permitted by law to
816 require. If the application submitted is determined by the
817 office to be substantially incomplete so as to require
818 substantial additional information, including biographical
819 information, the office may return the application to the
820 applicant with a written notice that the application as received
821 is substantially incomplete and, therefore, unacceptable for
822 filing without further action required by the office. Any filing
823 fee received shall be refunded to the applicant.

824 (b) Within 15 days after receipt of all of the requested
825 additional information, the office shall notify the applicant in

826 writing that all of the requested information has been received
827 and the application is deemed to be complete as of the date of
828 the notice. Failure to so notify the applicant in writing within
829 the 15-day period shall constitute acknowledgment by the office
830 that it has received all requested additional information, and
831 the application shall be deemed to be complete for purposes of
832 review upon the date of the filing of all of the requested
833 additional information.

834 (6) Within 45 days after the date an application is deemed
835 complete as set forth in paragraph (5)(b), the office shall
836 complete its review and issue a provisional certificate of
837 authority to the applicant based upon its review and a
838 determination that the application meets all requirements of
839 law, that the feasibility study was based on sufficient data and
840 reasonable assumptions, and that the applicant will be able to
841 provide continuing care or continuing care at-home as proposed
842 and meet all financial and contractual obligations related to
843 its operations, including the financial requirements of this
844 chapter. If the application is denied, the office shall notify
845 the applicant in writing, citing the specific failures to meet
846 the provisions of this chapter. Such denial entitles the
847 applicant to a hearing pursuant to chapter 120.

848 (8) The office may ~~shall~~ not approve any application that
849 ~~which~~ includes in the plan of financing any encumbrance of the
850 operating reserves or renewal and replacement reserves required

851 by this chapter.

852 Section 8. Subsection (1) and subsections (4) through (9)
853 of section 651.023, Florida Statutes, are amended, and
854 subsection (2) of that section is republished, to read:

855 651.023 Certificate of authority; application.—

856 (1) After issuance of a provisional certificate of
857 authority, the office shall issue to the holder of such
858 provisional certificate a certificate of authority if the holder
859 of the provisional certificate provides the office with the
860 following information:

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

864 (b) A feasibility study prepared by an independent
865 consultant which contains all of the information required by s.
866 651.022(3) and financial forecasts or projections prepared in
867 accordance with standards adopted by the American Institute of
868 Certified Public Accountants or in accordance with standards for
869 feasibility studies or continuing care retirement communities
870 adopted by the Actuarial Standards Board.

871 ~~1. The study must also contain an independent evaluation~~
872 ~~and examination opinion, or a comparable opinion acceptable to~~
873 ~~the office, by the consultant who prepared the study, of the~~
874 ~~underlying assumptions used as a basis for the forecasts or~~
875 ~~projections in the study and that the assumptions are reasonable~~

876 ~~and proper and the project as proposed is feasible.~~

877 ~~1.2.~~ The study must take into account project costs,
878 actual marketing results to date and marketing projections,
879 resident fees and charges, competition, resident contract
880 provisions, and any other factors which affect the feasibility
881 of operating the facility.

882 ~~2.3.~~ If the study is prepared by an independent certified
883 public accountant, it must contain an examination opinion or a
884 compilation report acceptable to the office containing a
885 financial forecast or projections for the first 5 ~~3~~ years of
886 operations which take into account an actuary's mortality and
887 morbidity assumptions as the study relates to turnover, rates,
888 fees, and charges ~~and financial projections having a compilation~~
889 ~~opinion for the next 3 years.~~ If the study is prepared by an
890 independent consulting actuary, it must contain mortality and
891 morbidity assumptions as the study relates to turnover, rates,
892 fees, and charges ~~data~~ and an actuary's signed opinion that the
893 project as proposed is feasible and that the study has been
894 prepared in accordance with standards adopted by the American
895 Academy of Actuaries.

896 (c) Subject to subsection (4), a provider may submit an
897 application for a certificate of authority and any required
898 exhibits upon submission of documents evidencing ~~proof~~ that the
899 project has a minimum of 30 percent of the units reserved for
900 which the provider is charging an entrance fee. ~~This does not~~

901 ~~apply to an application for a certificate of authority for the~~
902 ~~acquisition of a facility for which a certificate of authority~~
903 ~~was issued before October 1, 1983, to a provider who~~
904 ~~subsequently becomes a debtor in a case under the United States~~
905 ~~Bankruptcy Code, 11 U.S.C. ss. 101 et seq., or to a provider for~~
906 ~~which the department has been appointed receiver pursuant to~~
907 ~~part II of chapter 631.~~

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

912 (e) Documents evidencing Proof that all conditions of the
913 lender have been satisfied to activate the commitment to
914 disburse funds other than the obtaining of the certificate of
915 authority, the completion of construction, or the closing of the
916 purchase of realty or buildings for the facility.

917 (f) Documents evidencing Proof that the aggregate amount
918 of entrance fees received by or pledged to the applicant, plus
919 anticipated proceeds from any long-term financing commitment,
920 plus funds from all other sources in the actual possession of
921 the applicant, equal at least 100 percent of the aggregate cost
922 of constructing or purchasing, equipping, and furnishing the
923 facility plus 100 percent of the anticipated startup losses of
924 the facility.

925 (g) A complete audited financial report ~~statements~~ of the

926 applicant, prepared by an independent certified public
927 accountant in accordance with generally accepted accounting
928 principles, as of the date the applicant commenced business
929 operations or for the fiscal year that ended immediately
930 preceding the date of application, whichever is later, and
931 complete unaudited quarterly financial statements attested to by
932 the applicant after the date of the last audit.

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

936 (i) Such other reasonable data, financial statements, and
937 pertinent information as the commission or office may require
938 with respect to the applicant or the facility, to determine the
939 financial status of the facility and the management capabilities
940 of its managers and owners.

941
942 If any material change occurs in the facts set forth in an
943 application filed with the office pursuant to this subsection,
944 an amendment setting forth such change must be filed with the
945 office within 10 business days after the applicant becomes aware
946 of such change, and a copy of the amendment must be sent by
947 registered mail to the principal office of the facility and to
948 the principal office of the controlling company.

949 (2) Within 30 days after receipt of the information
950 required under subsection (1), the office shall examine such

951 information and notify the provider in writing, specifically
952 requesting any additional information the office is permitted by
953 law to require. Within 15 days after receipt of all of the
954 requested additional information, the office shall notify the
955 provider in writing that all of the requested information has
956 been received and the application is deemed to be complete as of
957 the date of the notice. Failure to notify the applicant in
958 writing within the 15-day period constitutes acknowledgment by
959 the office that it has received all requested additional
960 information, and the application shall be deemed complete for
961 purposes of review on the date of filing all of the required
962 additional information.

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

968 (a) A ~~Notwithstanding satisfaction of the 30 percent~~
969 ~~minimum reservation requirement of paragraph (1)(c), no~~
970 certificate of authority may not ~~shall~~ be issued until
971 documentation evidencing that the project has a minimum of 50
972 percent of the units reserved for which the provider is charging
973 an entrance fee, ~~and proof~~ is provided to the office. If a
974 provider offering continuing care at-home is applying for a
975 certificate of authority ~~or approval of an expansion pursuant to~~

976 ~~s. 651.021(2)~~, the same minimum reservation requirements must be
977 met for the continuing care and continuing care at-home
978 contracts, independently of each other.

979 (b) In order for a unit to be considered reserved under
980 this section, the provider must collect a minimum deposit of the
981 lesser of \$40,000 or 10 percent of the then-current entrance fee
982 for that unit, and may assess a forfeiture penalty of 2 percent
983 of the entrance fee due to termination of the reservation
984 contract after 30 days for any reason other than the death or
985 serious illness of the resident, the failure of the provider to
986 meet its obligations under the reservation contract, or other
987 circumstances beyond the control of the resident that equitably
988 entitle the resident to a refund of the resident's deposit. The
989 reservation contract must state the cancellation policy and the
990 terms of the continuing care or continuing care at-home contract
991 to be entered into.

992 (5) Up to 25 percent of the moneys paid for all or any
993 part of an initial entrance fee may be included or pledged for
994 the construction or purchase of the facility or as security for
995 long-term financing. As used in this section, the term "initial
996 entrance fee" means the total entrance fee charged by the
997 facility to the first occupant of a unit.

998 ~~(a)~~ A minimum of 75 percent of the moneys paid for all or
999 any part of an initial entrance fee collected for continuing
1000 care or continuing care at-home must ~~shall~~ be placed in an

1001 escrow account or on deposit with the department as prescribed
1002 in s. 651.033.

1003 ~~(b) For an expansion as provided in s. 651.021(2), a~~
1004 ~~minimum of 75 percent of the moneys paid for all or any part of~~
1005 ~~an initial entrance fee collected for continuing care and 50~~
1006 ~~percent of the moneys paid for all or any part of an initial fee~~
1007 ~~collected for continuing care at-home shall be placed in an~~
1008 ~~escrow account or on deposit with the department as prescribed~~
1009 ~~in s. 651.033.~~

1010 (6) The provider is entitled to secure release of the
1011 moneys held in escrow within 7 days after receipt by the office
1012 of an affidavit from the provider, along with appropriate copies
1013 to verify, and notification to the escrow agent by certified
1014 mail, that the following conditions have been satisfied:

1015 (a) A certificate of occupancy has been issued.

1016 (b) Payment in full has been received for at least 70
1017 percent of the total units of a phase or of the total of the
1018 combined phases constructed. If a provider offering continuing
1019 care at-home is applying for a release of escrowed entrance
1020 fees, the same minimum requirement must be met for the
1021 continuing care and continuing care at-home contracts,
1022 independently of each other.

1023 ~~(c) The consultant who prepared the feasibility study~~
1024 ~~required by this section or a substitute approved by the office~~
1025 ~~certifies within 12 months before the date of filing for office~~

1026 ~~approval that there has been no material adverse change in~~
 1027 ~~status with regard to the feasibility study. If a material~~
 1028 ~~adverse change exists at the time of submission, sufficient~~
 1029 ~~information acceptable to the office and the feasibility~~
 1030 ~~consultant must be submitted which remedies the adverse~~
 1031 ~~condition.~~

1032 (c) ~~(d)~~ Documents evidencing Proof that commitments have
 1033 been secured or a documented plan adopted by the applicant has
 1034 been approved by the office for long-term financing.

1035 (d) ~~(e)~~ Documents evidencing Proof that the provider has
 1036 sufficient funds to meet the requirements of s. 651.035, which
 1037 may include funds deposited in the initial entrance fee account.

1038 (e) ~~(f)~~ Documents evidencing Proof ~~as to~~ the intended
 1039 application of the proceeds upon release and documentation ~~proof~~
 1040 that the entrance fees when released will be applied as
 1041 represented to the office.

1042 (f) If any material change occurred in the facts set forth
 1043 in the application filed with the office pursuant to subsection
 1044 (1), the applicant timely filed the amendment setting forth such
 1045 change with the office and sent copies of the amendment to the
 1046 principal office of the facility and to the principal office of
 1047 the controlling company as required under that subsection.

1048
 1049 Notwithstanding chapter 120, no person, other than the provider,
 1050 the escrow agent, and the office, may have a substantial

1051 interest in any office decision regarding release of escrow
 1052 funds in any proceedings under chapter 120 or this chapter
 1053 regarding release of escrow funds.

1054 (7) In lieu of the provider fulfilling the requirements in
 1055 subsection (5) and paragraphs (6) (b) and (c) ~~(d)~~, the office may
 1056 authorize the release of escrowed funds to retire all
 1057 outstanding debts on the facility and equipment upon application
 1058 of the provider and upon the provider's showing that the
 1059 provider will grant to the residents a first mortgage on the
 1060 land, buildings, and equipment that constitute the facility, and
 1061 that the provider has satisfied paragraphs (6) (a), ~~(e)~~, and (d)
 1062 ~~(e)~~. Such mortgage shall secure the refund of the entrance fee
 1063 in the amount required by this chapter. The granting of such
 1064 mortgage is subject to the following:

1065 (a) The first mortgage is granted to an independent trust
 1066 that is beneficially held by the residents. The document
 1067 creating the trust must include a provision that agrees to an
 1068 annual audit and will furnish to the office all information the
 1069 office may reasonably require. The mortgage may secure payment
 1070 on bonds issued to the residents or trustee. Such bonds are
 1071 redeemable after termination of the residency contract in the
 1072 amount and manner required by this chapter for the refund of an
 1073 entrance fee.

1074 (b) Before granting a first mortgage to the residents, all
 1075 construction must be substantially completed and substantially

1076 all equipment must be purchased. No part of the entrance fees
 1077 may be pledged as security for a construction loan or otherwise
 1078 used for construction expenses before the completion of
 1079 construction.

1080 (c) If the provider is leasing the land or buildings used
 1081 by the facility, the leasehold interest must be for a term of at
 1082 least 30 years.

1083 (8) ~~The timeframes provided under s. 651.022(5) and (6)~~
 1084 ~~apply to applications submitted under s. 651.021(2).~~ The office
 1085 may not issue a certificate of authority to a facility that does
 1086 not have a component that is to be licensed pursuant to part II
 1087 of chapter 400 or to part I of chapter 429 or that does not
 1088 offer personal services or nursing services through written
 1089 contractual agreement. A written contractual agreement must be
 1090 disclosed in the contract for continuing care or continuing care
 1091 at-home and is subject to ~~the provisions of~~ s. 651.1151,
 1092 relating to administrative, vendor, and management contracts.

1093 (9) The office may not approve an application that
 1094 includes in the plan of financing any encumbrance of the
 1095 operating reserves or renewal and replacement reserves required
 1096 by this chapter.

1097 Section 9. Section 651.024, Florida Statutes, is amended
 1098 to read:

1099 651.024 Acquisition.—

1100 (1) A person who seeks to assume the role of general

1101 partner of a provider or to otherwise assume ownership or
1102 possession of, or control over, 10 percent or more of a
1103 provider, a controlling company of the provider, or a provider's
1104 assets, based on the balance sheet from the most recent
1105 financial audit report filed with the office, is issued a
1106 ~~certificate of authority to operate a continuing care facility~~
1107 ~~or a provisional certificate of authority shall be subject to~~
1108 ~~the provisions of s. 628.4615 and is not required to make~~
1109 ~~filings pursuant to s. 651.022, s. 651.023, or s. 651.0245.~~

1110 (2) A person who seeks to acquire and become the provider
1111 for a facility is subject to s. 651.0245 and is not required to
1112 make filings pursuant to ss. 628.4615, 651.022, and 651.023.

1113 (3) In addition to the provider or the controlling
1114 company, the office has standing to petition a circuit court
1115 under s. 628.4615(9).

1116 Section 10. Section 651.0245, Florida Statutes, is created
1117 to read:

1118 651.0245 Application for the simultaneous acquisition of a
1119 facility and issuance of a certificate of authority.—

1120 (1) Except with the prior written approval of the office,
1121 a person may not, individually or in conjunction with any
1122 affiliated person of such person, directly or indirectly acquire
1123 a facility operating under a subsisting certificate of authority
1124 and engage in the business of providing continuing care.

1125 (2) An applicant seeking simultaneous acquisition of a

1126 facility and issuance of a certificate of authority must:
1127 (a) Comply with the notice requirements of s.
1128 628.4615(2) (a); and
1129 (b) File an application in the form required by the office
1130 and cooperate with the office's review of the application.
1131 (3) The commission shall adopt by rule application
1132 requirements equivalent to those described in ss. 628.4615(4)
1133 and (5), 651.022(2), and 651.023(1) (b). The office shall review
1134 the application and issue an approval or disapproval of the
1135 filing in accordance with ss. 628.4615(6) (a) and (c), (7)-(10),
1136 and (14); and 651.023(1) (b).
1137 (4) In addition to the provider or the controlling
1138 company, the office has standing to petition a circuit court
1139 under s. 628.4615(9).
1140 (5) A person may rebut a presumption of control by filing
1141 a disclaimer of control with the office on a form prescribed by
1142 the commission. The disclaimer must fully disclose all material
1143 relationships and bases for affiliation between the person and
1144 the provider or facility, as well as the basis for disclaiming
1145 the affiliation. In lieu of such form, a person or acquiring
1146 party may file with the office a copy of a Schedule 13G filed
1147 with the Securities and Exchange Commission pursuant to Rule
1148 13d-1(b) or (c), 17 C.F.R. s. 240.13d-1, under the Securities
1149 Exchange Act of 1934, as amended. After a disclaimer has been
1150 filed, the provider or facility is relieved of any duty to

1151 register or report under this section which may arise out of the
1152 provider's or facility's relationship with the person, unless
1153 the office disallows the disclaimer.

1154 (6) The commission may adopt rules as necessary to
1155 administer this section.

1156 Section 11. Section 651.0246, Florida Statutes, is created
1157 to read:

1158 651.0246 Expansions.—

1159 (1) (a) A provider must obtain written approval from the
1160 office before commencing construction or marketing for an
1161 expansion of a certificated facility equivalent to the addition
1162 of at least 20 percent of existing units or 20 percent or more
1163 of the number of continuing care at-home contracts. If the
1164 provider has exceeded the current statewide median for days cash
1165 on hand, debt service coverage ratio, and total facility
1166 occupancy for two consecutive annual reporting periods, the
1167 provider is automatically granted approval to expand the total
1168 number of existing units by up to 35 percent upon submitting a
1169 letter to the office indicating the total number of planned
1170 units in the expansion, the proposed sources and uses of funds,
1171 and an attestation that the provider understands and pledges to
1172 comply with all minimum liquid reserve and escrow account
1173 requirements. As used in this section, the term "existing units"
1174 means the sum of the total number of independent living units
1175 and assisted living units identified in the most recent annual

1176 report filed with the office pursuant to s. 651.026. For
1177 purposes of this section, the statewide median for days cash on
1178 hand, debt service coverage ratio, and total facility occupancy
1179 is the median calculated in the most recent annual report
1180 submitted by the office to the Continuing Care Advisory Council
1181 pursuant to s. 651.121(8). This section does not apply to
1182 construction for which a certificate of need from the Agency for
1183 Health Care Administration is required.

1184 (b) The application for the approval of an addition
1185 consisting of 20 percent or more of existing units or continuing
1186 care at-home contracts must be on forms adopted by the
1187 commission. The application must include the feasibility study
1188 required by this section and such other information as
1189 reasonably requested by the office. If the expansion is only for
1190 continuing care at-home contracts, an actuarial study prepared
1191 by an independent actuary in accordance with standards adopted
1192 by the American Academy of Actuaries which presents the
1193 financial impact of the expansion may be substituted for the
1194 feasibility study.

1195 (c) In determining whether an expansion should be
1196 approved, the office shall consider:

- 1197 1. Whether the application meets all requirements of law;
- 1198 2. Whether the feasibility study was based on sufficient
1199 data and reasonable assumptions; and
- 1200 3. Whether the applicant will be able to provide

1201 continuing care or continuing care at-home as proposed and meet
1202 all financial obligations related to its operations, including
1203 the financial requirements of this chapter.

1204
1205 If the application is denied, the office must notify the
1206 applicant in writing, citing the specific failures to meet the
1207 provisions of this chapter. A denial entitles the applicant to a
1208 hearing pursuant to chapter 120.

1209 (2) A provider applying for expansion of a certificated
1210 facility must submit all of the following:

1211 (a) A feasibility study prepared by an independent
1212 certified public accountant. The feasibility study must include
1213 at least the following information:

1214 1. A description of the facility and proposed expansion,
1215 including the location, the size, the anticipated completion
1216 date, and the proposed construction program.

1217 2. An identification and evaluation of the primary and, if
1218 applicable, secondary market areas of the facility and the
1219 projected unit sales per month.

1220 3. Projected revenues, including anticipated entrance
1221 fees; monthly service fees; nursing care revenues, if
1222 applicable; and all other sources of revenue.

1223 4. Projected expenses, including for staffing requirements
1224 and salaries; the cost of property, plant, and equipment,
1225 including depreciation expense; interest expense; marketing

- 1226 expense; and other operating expenses.
- 1227 5. A projected balance sheet of the applicant.
- 1228 6. The expectations for the financial condition of the
1229 project, including the projected cash flow and an estimate of
1230 the funds anticipated to be necessary to cover startup losses.
- 1231 7. The inflation factor, if any, assumed in the study for
1232 the proposed expansion and how and where it is applied.
- 1233 8. Project costs; the total amount of debt financing
1234 required; marketing projections; resident rates, fees, and
1235 charges; the competition; resident contract provisions; and
1236 other factors that affect the feasibility of the facility.
- 1237 9. Appropriate population projections, including morbidity
1238 and mortality assumptions.
- 1239 10. The name of the person who prepared the feasibility
1240 study and his or her experience in preparing similar studies or
1241 otherwise consulting in the field of continuing care.
- 1242 11. Financial forecasts or projections prepared in
1243 accordance with standards adopted by the American Institute of
1244 Certified Public Accountants or in accordance with standards for
1245 feasibility studies for continuing care retirement communities
1246 adopted by the Actuarial Standards Board.
- 1247 12. An independent evaluation and examination opinion for
1248 the first 5 years of operations, or a comparable opinion
1249 acceptable to the office, by the consultant who prepared the
1250 study, of the underlying assumptions used as a basis for the

1251 forecasts or projections in the study and that the assumptions
1252 are reasonable and proper and the project as proposed is
1253 feasible.

1254 13. Any other information that the provider deems relevant
1255 and appropriate to provide to enable the office to make a more
1256 informed determination.

1257 (b) Such other reasonable data, financial statements, and
1258 pertinent information as the commission or office may require
1259 with respect to the applicant or the facility to determine the
1260 financial status of the facility and the management capabilities
1261 of its managers and owners.

1262
1263 If any material change occurs in the facts set forth in an
1264 application filed with the office pursuant to this section, an
1265 amendment setting forth such change must be filed with the
1266 office within 10 business days after the applicant becomes aware
1267 of such change, and a copy of the amendment must be sent by
1268 registered mail to the principal office of the facility and to
1269 the principal office of the controlling company.

1270 (3) A minimum of 75 percent of the moneys paid for all or
1271 any part of an initial entrance fee or reservation deposit
1272 collected for units in the expansion and 50 percent of the
1273 moneys paid for all or any part of an initial fee collected for
1274 continuing care at-home contracts in the expansion must be
1275 placed in an escrow account or on deposit with the department as

1276 prescribed in s. 651.033. Up to 25 percent of the moneys paid
1277 for all or any part of an initial entrance fee or reservation
1278 deposit may be included or pledged for the construction or
1279 purchase of the facility or as security for long-term financing.
1280 As used in this section, the term "initial entrance fee" means
1281 the total entrance fee charged by the facility to the first
1282 occupant of a unit.

1283 (4) The provider is entitled to secure release of the
1284 moneys held in escrow within 7 days after receipt by the office
1285 of an affidavit from the provider, along with appropriate copies
1286 to verify, and notification to the escrow agent by certified
1287 mail that the following conditions have been satisfied:

1288 (a) A certificate of occupancy has been issued.

1289 (b) Payment in full has been received for at least 50
1290 percent of the total units of a phase or of the total of the
1291 combined phases constructed. If a provider offering continuing
1292 care at-home is applying for a release of escrowed entrance
1293 fees, the same minimum requirement must be met for the
1294 continuing care and continuing care at-home contracts
1295 independently of each other.

1296 (c) Documents evidencing that commitments have been
1297 secured or that a documented plan adopted by the applicant has
1298 been approved by the office for long-term financing.

1299 (d) Documents evidencing that the provider has sufficient
1300 funds to meet the requirements of s. 651.035, which may include

1301 funds deposited in the initial entrance fee account.

1302 (e) Documents evidencing the intended application of the
1303 proceeds upon release and documentation that the entrance fees,
1304 when released, will be applied as represented to the office.

1305

1306 Notwithstanding chapter 120, only the provider, the escrow
1307 agent, and the office have a substantial interest in any office
1308 decision regarding release of escrow funds in any proceedings
1309 under chapter 120 or this chapter.

1310 (5)(a) Within 30 days after receipt of an application for
1311 expansion, the office shall examine the application and shall
1312 notify the applicant in writing, specifically requesting any
1313 additional information that the office is authorized to require.
1314 Within 15 days after the office receives all the requested
1315 additional information, the office shall notify the applicant in
1316 writing that the requested information has been received and
1317 that the application is deemed complete as of the date of the
1318 notice. Failure to notify the applicant in writing within the
1319 15-day period constitutes acknowledgement by the office that it
1320 has received all requested additional information, and the
1321 application is deemed complete for purposes of review on the
1322 date the applicant files all of the required additional
1323 information. If the application submitted is determined by the
1324 office to be substantially incomplete so as to require
1325 substantial additional information, including biographical

1326 information, the office may return the application to the
1327 applicant with a written notice stating that the application as
1328 received is substantially incomplete and, therefore, is
1329 unacceptable for filing without further action required by the
1330 office. Any filing fee received must be refunded to the
1331 applicant.

1332 (b) An application is deemed complete upon the office
1333 receiving all requested information and the applicant correcting
1334 any error or omission of which the applicant was timely notified
1335 or when the time for such notification has expired. The office
1336 shall notify the applicant in writing of the date on which the
1337 application was deemed complete.

1338 (6) Within 45 days after the date on which an application
1339 is deemed complete as provided in paragraph (5) (b), the office
1340 shall complete its review and, based upon its review, approve an
1341 expansion by the applicant and issue a determination that the
1342 application meets all requirements of law, that the feasibility
1343 study was based on sufficient data and reasonable assumptions,
1344 and that the applicant will be able to provide continuing care
1345 or continuing care at-home as proposed and meet all financial
1346 and contractual obligations related to its operations, including
1347 the financial requirements of this chapter. If the application
1348 is denied, the office must notify the applicant in writing,
1349 citing the specific failures to meet the requirements of this
1350 chapter. The denial entitles the applicant to a hearing pursuant

1351 to chapter 120.

1352 Section 12. Paragraphs (b) and (c) of subsection (2) and
 1353 subsection (3) of section 651.026, Florida Statutes, are
 1354 amended, subsection (10) is added to that section, and paragraph
 1355 (a) of subsection (2) of that section is republished, to read:

1356 651.026 Annual reports.—

1357 (2) The annual report shall be in such form as the
 1358 commission prescribes and shall contain at least the following:

1359 (a) Any change in status with respect to the information
 1360 required to be filed under s. 651.022(2).

1361 (b) A financial report ~~statements~~ audited by an
 1362 independent certified public accountant which must contain, for
 1363 two or more periods if the facility has been in existence that
 1364 long, all of the following:

1365 1. An accountant's opinion and, in accordance with
 1366 generally accepted accounting principles:

- 1367 a. A balance sheet;
- 1368 b. A statement of income and expenses;
- 1369 c. A statement of equity or fund balances; and
- 1370 d. A statement of changes in cash flows.

1371 2. Notes to the financial report ~~statements~~ considered
 1372 customary or necessary for full disclosure or adequate
 1373 understanding of the financial report ~~statements~~, financial
 1374 condition, and operation.

1375 (c) The following financial information:

- 1376 1. A detailed listing of the assets maintained in the
 1377 liquid reserve as required under s. 651.035 and in accordance
 1378 with part II of chapter 625;
- 1379 2. A schedule giving additional information relating to
 1380 property, plant, and equipment having an original cost of at
 1381 least \$25,000, so as to show in reasonable detail with respect
 1382 to each separate facility original costs, accumulated
 1383 depreciation, net book value, appraised value or insurable value
 1384 and date thereof, insurance coverage, encumbrances, and net
 1385 equity of appraised or insured value over encumbrances. Any
 1386 property not used in continuing care must be shown separately
 1387 from property used in continuing care;
- 1388 3. The level of participation in Medicare or Medicaid
 1389 programs, or both;
- 1390 4. A statement of all fees required of residents,
 1391 including, but not limited to, a statement of the entrance fee
 1392 charged, the monthly service charges, the proposed application
 1393 of the proceeds of the entrance fee by the provider, and the
 1394 plan by which the amount of the entrance fee is determined if
 1395 the entrance fee is not the same in all cases; ~~and~~
- 1396 5. Any change or increase in fees if the provider changes
 1397 the scope of, or the rates for, care or services, regardless of
 1398 whether the change involves the basic rate or only those
 1399 services available at additional costs to the resident;:-
- 1400 6. If the provider has more than one certificated

1401 facility, or has operations that are not licensed under this
1402 chapter, it shall submit a balance sheet, statement of income
1403 and expenses, statement of equity or fund balances, and
1404 statement of cash flows for each facility licensed under this
1405 chapter as supplemental information to the audited financial
1406 report statements required under paragraph (b); ~~and-~~

1407 7. The management's calculation of the provider's debt
1408 service coverage ratio, occupancy, and days cash on hand for the
1409 current reporting period.

1410 (3) The commission shall adopt by rule additional
1411 ~~meaningful~~ measures of assessing the financial viability of a
1412 provider. ~~The rule may include the following factors:~~

- 1413 ~~(a) Debt service coverage ratios.~~
1414 ~~(b) Current ratios.~~
1415 ~~(c) Adjusted current ratios.~~
1416 ~~(d) Cash flows.~~
1417 ~~(e) Occupancy rates.~~
1418 ~~(f) Other measures, ratios, or trends.~~
1419 ~~(g) Other factors as may be appropriate.~~

1420 (10) By August 1 annually, the office shall publish an
1421 industry benchmarking report for the preceding calendar year
1422 which contains all of the following:

- 1423 (a) The median days cash on hand for all providers.
1424 (b) The median debt service coverage ratio for all
1425 providers.

1426 (c) The median occupancy rate for all providers by
 1427 setting, including independent living, assisted living, skilled
 1428 nursing, and the entire facility.

1429 Section 13. Section 651.0261, Florida Statutes, is amended
 1430 to read:

1431 651.0261 Quarterly and monthly statements.—

1432 (1) Within 45 days after the end of each fiscal quarter,
 1433 each provider shall file a quarterly unaudited financial
 1434 statement of the provider or of the facility in the form
 1435 prescribed by commission rule and days cash on hand, occupancy,
 1436 debt service coverage ratio, and a detailed listing of the
 1437 assets maintained in the liquid reserve as required under s.
 1438 651.035. This requirement may be waived by the office upon
 1439 written request from a provider that is accredited without
 1440 conditions or stipulations or that has obtained an investment
 1441 grade credit rating from a United States credit rating agency as
 1442 authorized under s. 651.028. The last quarterly statement for a
 1443 fiscal year is not required if a provider does not have pending
 1444 a regulatory action level event or a corrective action plan. The
 1445 office may not waive the quarterly reporting requirement for any
 1446 provider that is impaired, or does not comply with a requirement
 1447 for debt service coverage ratio, days cash on hand, or average
 1448 facility occupancy under s. 651.011(25), and may not waive the
 1449 quarterly reporting requirement for at least 12 months following
 1450 the end of such condition.

1451 (2) If the office finds, ~~pursuant to rules of the~~
1452 ~~commission,~~ that such information is needed to properly monitor
1453 the financial condition of a provider or facility or is
1454 otherwise needed to protect the public interest, the office may
1455 require the provider to file:

1456 (a) Within 25 days after the end of each month, a monthly
1457 unaudited financial statement of the provider or of the facility
1458 in the form prescribed by the commission by rule and a detailed
1459 listing of the assets maintained in the liquid reserve as
1460 required under s. 651.035, ~~within 45 days after the end of each~~
1461 ~~fiscal quarter, a quarterly unaudited financial statement of the~~
1462 ~~provider or of the facility in the form prescribed by the~~
1463 ~~commission by rule. The commission may by rule require all or~~
1464 ~~part of the statements or filings required under this section to~~
1465 ~~be submitted by electronic means in a computer readable form~~
1466 ~~compatible with the electronic data format specified by the~~
1467 ~~commission.~~

1468 (b) Such other data, financial statements, and pertinent
1469 information as the commission or office may reasonably require
1470 with respect to the provider or the facility, its directors, or
1471 its trustees; or with respect to any parent, subsidiary, or
1472 affiliate, if the provider or facility relies on a contractual
1473 or financial relationship with such parent, subsidiary, or
1474 affiliate in order to meet the financial requirements of this
1475 chapter, to determine the financial status of the provider or of

1476 the facility and the management capabilities of its managers and
1477 owners.

1478 (3) A filing under subsection (2) may be required if any
1479 of the following applies:

1480 (a) The provider is:

1481 1. Subject to administrative supervision proceedings;

1482 2. Subject to a corrective action plan resulting from a
1483 regulatory action level event and for up to 2 years after the
1484 factors that caused the regulatory action level event have been
1485 corrected; or

1486 3. Subject to delinquency or receivership proceedings or
1487 has filed for bankruptcy.

1488 (b) The provider or facility displays a declining
1489 financial position.

1490 (c) A change of ownership of the provider or facility has
1491 occurred within the previous 2 years.

1492 (d) The provider is found to be impaired.

1493 (4) The commission may by rule require all or part of the
1494 statements or filings required under this section to be
1495 submitted by electronic means in a computer-readable format
1496 compatible with an electronic data format specified by the
1497 commission.

1498 Section 14. Section 651.028, Florida Statutes, is amended
1499 to read:

1500 651.028 Accredited or certain credit-rated facilities.—If

1501 a provider or obligated group is accredited without stipulations
1502 or conditions by a process found by the office to be acceptable
1503 and substantially equivalent to the provisions of this chapter
1504 or has obtained an investment grade credit rating from a
1505 nationally recognized credit rating agency, as applicable, from
1506 Moody's Investors Service, Standard & Poor's, or Fitch Ratings,
1507 the office may, pursuant to rule of the commission, waive the
1508 quarterly filing ~~any~~ requirements under s. 651.0261 ~~of this~~
1509 ~~chapter~~ with respect to the provider if the office finds that
1510 such waivers are not inconsistent with the security protections
1511 intended by this chapter. A provider or obligated group that is
1512 accredited without stipulations or conditions or that has
1513 obtained such an investment grade credit rating shall provide
1514 documentation substantiating such accreditation or investment
1515 grade rating in its request for the waiver. If the office grants
1516 a waiver to the provider or obligated group, the provider or
1517 obligated group must notify the office within 10 business days
1518 after any changes in the accreditation or investment grade
1519 rating.

1520 Section 15. Subsections (1), (2), (3), and (5) of section
1521 651.033, Florida Statutes, are amended, and subsection (6) is
1522 added to that section, to read:

1523 651.033 Escrow accounts.—

1524 (1) When funds are required to be deposited in an escrow
1525 account pursuant to s. 651.0215, s. 651.022, s. 651.023, s.

1526 | 651.0246, s. 651.035, or s. 651.055:

1527 | (a) The escrow account must ~~shall~~ be established in a
 1528 | Florida bank, Florida savings and loan association, ~~or~~ Florida
 1529 | trust company, or a national bank that is chartered and
 1530 | supervised by the Office of the Comptroller of the Currency
 1531 | within the United States Department of the Treasury and that has
 1532 | a branch in this state, which is acceptable to the office, or
 1533 | such funds must be deposited ~~on deposit~~ with the department, and
 1534 | ~~the funds deposited therein shall~~ be kept and maintained in an
 1535 | account separate and apart from the provider's business
 1536 | accounts.

1537 | (b) An escrow agreement shall be entered into between the
 1538 | bank, savings and loan association, or trust company and the
 1539 | provider of the facility; the agreement shall state that its
 1540 | purpose is to protect the resident or the prospective resident;
 1541 | and, upon presentation of evidence of compliance with applicable
 1542 | portions of this chapter, or upon order of a court of competent
 1543 | jurisdiction, the escrow agent shall release and pay over the
 1544 | funds, or portions thereof, together with any interest accrued
 1545 | thereon or earned from investment of the funds, to the provider
 1546 | or resident as directed.

1547 | (c) Any agreement establishing an escrow account required
 1548 | under ~~the provisions of~~ this chapter is ~~shall be~~ subject to
 1549 | approval by the office. The agreement must ~~shall~~ be in writing
 1550 | and ~~shall~~ contain, in addition to any other provisions required

1551 by law, a provision whereby the escrow agent agrees to abide by
1552 the duties imposed by paragraphs (b) and (e), (3)(a), (3)(b),
1553 and (5)(a) and subsection (6) under this section.

1554 (d) All funds deposited in an escrow account, if invested,
1555 shall be invested as set forth in part II of chapter 625;
1556 however, such investment may not diminish the funds held in
1557 escrow below the amount required by this chapter. Funds
1558 deposited in an escrow account are not subject to charges by the
1559 escrow agent except escrow agent fees associated with
1560 administering the accounts, or subject to any liens, judgments,
1561 garnishments, creditor's claims, or other encumbrances against
1562 the provider or facility except as provided in s. 651.035(1).

1563 (e) At the request of either the provider or the office,
1564 the escrow agent shall issue a statement indicating the status
1565 of the escrow account.

1566 (2) Notwithstanding s. 651.035(7), ~~In addition, the escrow~~
1567 ~~agreement shall provide that the escrow agent or another person~~
1568 ~~designated to act in the escrow agent's place and the provider,~~
1569 ~~except as otherwise provided in s. 651.035, shall notify the~~
1570 ~~office in writing at least 10 days before the withdrawal of any~~
1571 ~~portion of any funds required to be escrowed under the~~
1572 ~~provisions of s. 651.035. However,~~ in the event of an emergency
1573 and upon petition by the provider, the office may ~~waive the 10-~~
1574 ~~day notification period and~~ allow a withdrawal of up to 10
1575 percent of the required minimum liquid reserve. The office shall

1576 have 3 working days to deny the petition for the emergency 10-
1577 percent withdrawal. If the office fails to deny the petition
1578 within 3 working days, the petition is ~~shall be~~ deemed to have
1579 been granted by the office. For purposes ~~the purpose~~ of this
1580 section, the term "working day" means each day that is not a
1581 Saturday, Sunday, or legal holiday as defined by Florida law.
1582 Also, for purposes ~~the purpose~~ of this section, the day the
1583 petition is received by the office is ~~shall not be~~ counted as
1584 one of the 3 days.

1585 (3) ~~In addition,~~ When entrance fees are required to be
1586 deposited in an escrow account pursuant to s. 651.0215, s.
1587 651.022, s. 651.023, s. 651.0246, or s. 651.055:

1588 (a) The provider shall deliver to the resident a written
1589 receipt. The receipt must show the payor's name and address, the
1590 date, the price of the care contract, and the amount of money
1591 paid. A copy of each receipt, together with the funds, must
1592 ~~shall~~ be deposited with the escrow agent or as provided in
1593 paragraph (c). The escrow agent must ~~shall~~ release such funds to
1594 the provider 7 days after the date of receipt of the funds by
1595 the escrow agent if the provider, operating under a certificate
1596 of authority issued by the office, has met the requirements of
1597 s. 651.0215(8), s. 651.023(6), or s. 651.0246. However, if the
1598 resident rescinds the contract within the 7-day period, the
1599 escrow agent must ~~shall~~ release the escrowed fees to the
1600 resident.

1601 (b) At the request of an individual resident of a
 1602 facility, the escrow agent shall issue a statement indicating
 1603 the status of the resident's portion of the escrow account.

1604 (c) At the request of an individual resident of a
 1605 facility, the provider may hold the check for the 7-day period
 1606 and may ~~shall~~ not deposit it during this time period. If the
 1607 resident rescinds the contract within the 7-day period, the
 1608 check must ~~shall~~ be immediately returned to the resident. Upon
 1609 the expiration of the 7 days, the provider shall deposit the
 1610 check.

1611 (d) A provider may assess a nonrefundable fee, which is
 1612 separate from the entrance fee, for processing a prospective
 1613 resident's application for continuing care or continuing care
 1614 at-home.

1615 (5) When funds are required to be deposited in an escrow
 1616 account pursuant to s. 651.0215, s. 651.022, s. 651.023, s.
 1617 651.0246, or s. 651.035, the following ~~shall~~ apply:

1618 (a) The escrow agreement must ~~shall~~ require that the
 1619 escrow agent furnish the provider with a quarterly statement
 1620 indicating the amount of any disbursements from or deposits to
 1621 the escrow account and the condition of the account during the
 1622 period covered by the statement. The agreement must ~~shall~~
 1623 require that the statement be furnished to the provider by the
 1624 escrow agent on or before the 10th day of the month following
 1625 the end of the quarter for which the statement is due. If the

1626 escrow agent does not provide the quarterly statement to the
1627 provider on or before the 10th day of the month following the
1628 month for which the statement is due, the office may, in its
1629 discretion, levy against the escrow agent a fine not to exceed
1630 \$25 a day for each day of noncompliance with the provisions of
1631 this subsection.

1632 (b) If the escrow agent does not provide the quarterly
1633 statement to the provider on or before the 10th day of the month
1634 following the quarter for which the statement is due, the
1635 provider shall, on or before the 15th day of the month following
1636 the quarter for which the statement is due, send a written
1637 request for the statement to the escrow agent by certified mail
1638 return receipt requested.

1639 (c) On or before the 20th day of the month following the
1640 quarter for which the statement is due, the provider shall file
1641 with the office a copy of the escrow agent's statement or, if
1642 the provider has not received the escrow agent's statement, a
1643 copy of the written request to the escrow agent for the
1644 statement.

1645 (d) The office may, in its discretion, in addition to any
1646 other penalty that may be provided for under this chapter, levy
1647 a fine against the provider not to exceed \$25 a day for each day
1648 the provider fails to comply with the provisions of this
1649 subsection.

1650 (e) Funds held on deposit with the department are exempt

1651 from the reporting requirements of this subsection.

1652 (6) Except as described in paragraph (3)(a), the escrow
1653 agent may not release or otherwise allow the transfer of funds
1654 without the written approval of the office, unless the
1655 withdrawal is from funds in excess of the amounts required by
1656 ss. 651.0215, 651.022, 651.023, 651.0246, 651.035, and 651.055.

1657 Section 16. Section 651.034, Florida Statutes, is created
1658 to read:

1659 651.034 Financial and operating requirements for
1660 providers.—

1661 (1)(a) If a regulatory action level event occurs, the
1662 office must:

1663 1. Require the provider to prepare and submit a corrective
1664 action plan or, if applicable, a revised corrective action plan;

1665 2. Perform an examination pursuant to s. 651.105 or an
1666 analysis, as the office considers necessary, of the assets,
1667 liabilities, and operations of the provider, including a review
1668 of the corrective action plan or the revised corrective action
1669 plan; and

1670 3. After the examination or analysis, issue a corrective
1671 order, if necessary, specifying any corrective actions that the
1672 office determines are required.

1673 (b) In determining corrective actions, the office shall
1674 consider any factor relevant to the provider based upon the
1675 office's examination or analysis of the assets, liabilities, and

1676 operations of the provider. The provider must submit the
1677 corrective action plan or the revised corrective action plan
1678 within 30 days after the occurrence of the regulatory action
1679 level event. The office shall review and approve or disapprove
1680 the corrective action plan within 45 business days.

1681 (c) The office may use members of the Continuing Care
1682 Advisory Council, individually or as a group, or may retain
1683 actuaries, investment experts, and other consultants to review a
1684 provider's corrective action plan or revised corrective action
1685 plan, examine or analyze the assets, liabilities, and operations
1686 of a provider, and formulate the corrective order with respect
1687 to the provider. The costs and expenses relating to consultants
1688 must be borne by the affected provider.

1689 (2) Except when the office's remedial rights are suspended
1690 pursuant to s. 651.114(11)(a), the office must take action
1691 necessary to place an impaired provider under regulatory
1692 control, including any remedy available under part I of chapter
1693 631. An impairment is sufficient grounds for the department to
1694 be appointed as receiver as provided in chapter 631, except when
1695 the office's remedial rights are suspended pursuant to s.
1696 651.114(11)(a). If the office's remedial rights are suspended
1697 pursuant to s. 651.114(11)(a), the impaired provider must make
1698 available to the office copies of any corrective action plan
1699 approved by the third-party lender or trustee to cure the
1700 impairment and any related required report. For purposes of s.

1701 631.051, impairment of a provider is defined according to the
1702 term "impaired" under s. 651.011. The office may forego taking
1703 action for up to 180 days after the impairment if the office
1704 finds there is a reasonable expectation that the impairment may
1705 be eliminated within the 180-day period.

1706 (3) There is no liability on the part of, and a cause of
1707 action may not arise against, the commission, department, or
1708 office, or their employees or agents, for any action they take
1709 in the performance of their powers and duties under this
1710 section.

1711 (4) The office shall transmit any notice that may result
1712 in regulatory action by registered mail, certified mail, or any
1713 other method of transmission which includes documentation of
1714 receipt by the provider. Notice is effective when the provider
1715 receives it.

1716 (5) This section is supplemental to the other laws of this
1717 state and does not preclude or limit any power or duty of the
1718 department or office under those laws or under the rules adopted
1719 pursuant to those laws.

1720 (6) The office may exempt a provider from subsection (1)
1721 or subsection (2) until stabilized occupancy is reached or until
1722 the time projected to achieve stabilized occupancy as reported
1723 in the last feasibility study required by the office as part of
1724 an application filing under s. 651.0215, s. 651.023, s. 651.024,
1725 or s. 651.0246 has elapsed, but for no longer than 5 years after

1726 | the date of issuance of the certificate of occupancy.

1727 | (7) The commission may adopt rules to administer this
 1728 | section, including, but not limited to, rules regarding
 1729 | corrective action plans, revised corrective action plans,
 1730 | corrective orders, and procedures to be followed in the event of
 1731 | a regulatory action level event or an impairment.

1732 | Section 17. Paragraphs (a), (b), and (c) of subsection (1)
 1733 | of section 651.035, Florida Statutes, are amended, and
 1734 | subsections (7) through (11) are added to that section, to read:

1735 | 651.035 Minimum liquid reserve requirements.—

1736 | (1) A provider shall maintain in escrow a minimum liquid
 1737 | reserve consisting of the following reserves, as applicable:

1738 | (a) Each provider shall maintain in escrow as a debt
 1739 | service reserve the aggregate amount of all principal and
 1740 | interest payments due during the fiscal year on any mortgage
 1741 | loan or other long-term financing of the facility, including
 1742 | property taxes as recorded in the audited financial report
 1743 | ~~statements~~ required under s. 651.026. The amount must include
 1744 | any leasehold payments and all costs related to such payments.
 1745 | If principal payments are not due during the fiscal year, the
 1746 | provider must ~~shall~~ maintain in escrow as a minimum liquid
 1747 | reserve an amount equal to interest payments due during the next
 1748 | 12 months on any mortgage loan or other long-term financing of
 1749 | the facility, including property taxes. If a provider does not
 1750 | have a mortgage loan or other financing on the facility, the

1751 provider must deposit monthly in escrow as a minimum liquid
1752 reserve an amount equal to one-twelfth of the annual property
1753 tax liability as indicated in the most recent tax notice
1754 provided pursuant to s. 197.322(3), and must annually pay
1755 property taxes out of such escrow.

1756 (b) A provider that has outstanding indebtedness that
1757 requires a debt service reserve to be held in escrow pursuant to
1758 a trust indenture or mortgage lien on the facility and for which
1759 the debt service reserve may only be used to pay principal and
1760 interest payments on the debt that the debtor is obligated to
1761 pay, and which may include property taxes and insurance, may
1762 include such debt service reserve in computing the minimum
1763 liquid reserve needed to satisfy this subsection if the provider
1764 furnishes to the office a copy of the agreement under which such
1765 debt service is held, together with a statement of the amount
1766 being held in escrow for the debt service reserve, certified by
1767 the lender or trustee and the provider to be correct. The
1768 trustee shall provide the office with any information concerning
1769 the debt service reserve account upon request of the provider or
1770 the office. Any such separate debt service reserves are not
1771 subject to the transfer provisions set forth in subsection (8).

1772 (c) Each provider shall maintain in escrow an operating
1773 reserve equal to 30 percent of the total operating expenses
1774 projected in the feasibility study required by s. 651.023 for
1775 the first 12 months of operation. Thereafter, each provider

1776 shall maintain in escrow an operating reserve equal to 15
1777 percent of the total operating expenses in the annual report
1778 filed pursuant to s. 651.026. If a provider has been in
1779 operation for more than 12 months, the total annual operating
1780 expenses must ~~shall~~ be determined by averaging the total annual
1781 operating expenses reported to the office by the number of
1782 annual reports filed with the office within the preceding 3-year
1783 period subject to adjustment if there is a change in the number
1784 of facilities owned. For purposes of this subsection, total
1785 annual operating expenses include all expenses of the facility
1786 except+ depreciation and amortization; interest and property
1787 taxes included in paragraph (a); extraordinary expenses that are
1788 adequately explained and documented in accordance with generally
1789 accepted accounting principles; liability insurance premiums in
1790 excess of those paid in calendar year 1999; and changes in the
1791 obligation to provide future services to current residents. For
1792 providers initially licensed during or after calendar year 1999,
1793 liability insurance must ~~shall~~ be included in the total
1794 operating expenses in an amount not to exceed the premium paid
1795 during the first 12 months of facility operation. ~~Beginning~~
1796 ~~January 1, 1993,~~ The operating reserves required under this
1797 subsection must ~~shall~~ be in an unencumbered account held in
1798 escrow for the benefit of the residents. Such funds may not be
1799 encumbered or subject to any liens or charges by the escrow
1800 agent or judgments, garnishments, or creditors' claims against

1801 the provider or facility. However, if a facility had a lien,
1802 mortgage, trust indenture, or similar debt instrument in place
1803 before January 1, 1993, which encumbered all or any part of the
1804 reserves required by this subsection and such funds were used to
1805 meet the requirements of this subsection, then such arrangement
1806 may be continued, unless a refinancing or acquisition has
1807 occurred, and the provider is ~~shall be~~ in compliance with this
1808 subsection.

1809 (7) (a) A provider may withdraw funds held in escrow
1810 without the approval of the office if the amount held in escrow
1811 exceeds the requirements of this section and if the withdrawal
1812 will not affect compliance with this section.

1813 (b)1. For all other proposed withdrawals, in order to
1814 receive the consent of the office, the provider must file
1815 documentation showing why the withdrawal is necessary for the
1816 continued operation of the facility and such additional
1817 information as the office reasonably requires.

1818 2. The office shall notify the provider when the filing is
1819 deemed complete. If the provider has complied with all prior
1820 requests for information, the filing is deemed complete after 30
1821 days without communication from the office.

1822 3. Within 30 days after the date a file is deemed
1823 complete, the office shall provide the provider with written
1824 notice of its approval or disapproval of the request. The office
1825 may disapprove any request to withdraw such funds if it

1826 determines that the withdrawal is not in the best interest of
1827 the residents.

1828 (8) The office may order the immediate transfer of up to
1829 100 percent of the funds held in the minimum liquid reserve to
1830 the custody of the department pursuant to part III of chapter
1831 625 if the office finds that the provider is impaired or
1832 insolvent. The office may order such a transfer regardless of
1833 whether the office has suspended or revoked, or intends to
1834 suspend or revoke, the certificate of authority of the provider.

1835 (9) Each facility shall file with the office annually,
1836 together with the annual report required by s. 651.026, a
1837 calculation of its minimum liquid reserve determined in
1838 accordance with this section on a form prescribed by the
1839 commission.

1840 (10) Any increase in the minimum liquid reserve must be
1841 funded not later than 61 days after the minimum liquid reserve
1842 calculation is due to be filed as provided in s. 651.026.

1843 (11) If the minimum liquid reserve is less than the
1844 required minimum amount at the end of any fiscal quarter due to
1845 a change in the market value of the invested funds, the provider
1846 must fund the shortfall within 10 business days.

1847 Section 18. Effective July 1, 2019, section 651.043,
1848 Florida Statutes, is created to read:

1849 651.043 Approval of change in management.-

1850 (1) A contract with a management company entered into

1851 after July 1, 2019, must be in writing and include a provision
1852 that the contract will be canceled upon issuance of an order by
1853 the office pursuant to this section and without the application
1854 of a cancellation fee or penalty. If a provider contracts with a
1855 management company, a separate written contract is not required
1856 for the individual manager employed by the management company or
1857 contractor hired by the management company to oversee a
1858 facility. If a management company executes a contract with an
1859 individual manager or contractor, the contract is not required
1860 to be submitted to the office unless requested by the office.

1861 (2) A provider shall notify the office, in writing or
1862 electronically, of any change in management within 10 business
1863 days. For each new management company or manager not employed by
1864 a management company, the provider shall submit to the office
1865 the information required by s. 651.022(2) and a copy of the
1866 written management contract, if applicable.

1867 (3) For a provider that is found to be impaired or that
1868 has a regulatory action level event pending, the office may
1869 disapprove new management and order the provider to remove the
1870 new management after reviewing the information required under
1871 subsection (2).

1872 (4) For a provider other than that specified in subsection
1873 (3), the office may disapprove new management and order the
1874 provider to remove the new management after receiving the
1875 required information under subsection (2), if the office:

1876 (a) Finds that the new management is incompetent or
1877 untrustworthy;

1878 (b) Finds that the new management is so lacking in
1879 managerial experience as to make the proposed operation
1880 hazardous to the residents or potential residents;

1881 (c) Finds that the new management is so lacking in
1882 experience, ability, and standing as to jeopardize the
1883 reasonable promise of successful operation; or

1884 (d) Has good reason to believe that the new management is
1885 affiliated directly or indirectly through ownership, control, or
1886 business relations with any person or persons whose business
1887 operations are or have been marked by manipulation of assets or
1888 accounts or by bad faith, to the detriment of residents,
1889 stockholders, investors, creditors, or the public.

1890
1891 The office shall complete its review as required under
1892 subsections (3) and (4) and, if applicable, issue notice of
1893 disapproval of the new management within 30 business days after
1894 the filing is deemed complete. A filing is deemed complete upon
1895 the office's receipt of all requested information and the
1896 provider's correction of any error or omission for which the
1897 provider was timely notified. If the office does not issue
1898 notice of disapproval of the new management within 30 business
1899 days after the filing is deemed complete, the new management is
1900 deemed approved.

1901 (5) Management disapproved by the office must be removed
 1902 within 30 days after receipt by the provider of notice of such
 1903 disapproval.

1904 (6) The office may revoke, suspend, or take other
 1905 administrative action against the certificate of authority of
 1906 the provider if the provider:

1907 (a) Fails to timely remove management disapproved by the
 1908 office;

1909 (b) Fails to timely notify the office of a change in
 1910 management;

1911 (c) Appoints new management without a written contract
 1912 when a written contract is required under this section; or

1913 (d) Repeatedly appoints management that was previously
 1914 disapproved by the office or that is not approvable under
 1915 subsection (4).

1916 (7) The provider shall remove any management immediately
 1917 upon discovery of either of the following conditions, if the
 1918 conditions were not disclosed in the notice to the office
 1919 required under subsection (2):

1920 (a) That a manager has been found guilty of, or has pled
 1921 guilty or no contest to, a felony charge, or has been held
 1922 liable or has been enjoined in a civil action by final judgment,
 1923 if the felony or civil action involved fraud, embezzlement,
 1924 fraudulent conversion, or misappropriation of property.

1925 (b) That a manager is now, or was in the past, affiliated,

1926 directly or indirectly, through ownership interest of 10 percent
 1927 or more in, or control of, any business, corporation, or other
 1928 entity that has been found guilty of or has pled guilty or no
 1929 contest to a felony charge, or has been held liable or has been
 1930 enjoined in a civil action by final judgment, if the felony or
 1931 civil action involved fraud, embezzlement, fraudulent
 1932 conversion, or misappropriation of property.

1933
 1934 The failure to remove such management is grounds for revocation
 1935 or suspension of the provider's certificate of authority.

1936 Section 19. Section 651.051, Florida Statutes, is amended
 1937 to read:

1938 651.051 Maintenance of assets and records in state.—All
 1939 records and assets of a provider must be maintained or readily
 1940 accessible in this state or, if the provider's corporate office
 1941 is located in another state, such records must be electronically
 1942 stored in a manner that will ensure that the records are readily
 1943 accessible to the office. No records or assets may be removed
 1944 from this state by a provider unless the office consents to such
 1945 removal in writing before such removal. Such consent must ~~shall~~
 1946 be based upon the provider's submitting satisfactory evidence
 1947 that the removal will facilitate and make more economical the
 1948 operations of the provider and will not diminish the service or
 1949 protection thereafter to be given the provider's residents in
 1950 this state. Before ~~Prior to~~ such removal, the provider shall

1951 give notice to the president or chair of the facility's
 1952 residents' council. If such removal is part of a cash management
 1953 system which has been approved by the office, disclosure of the
 1954 system must ~~shall~~ meet the notification requirements. The
 1955 electronic storage of records on a web-based, secured storage
 1956 platform by contract with a third party is acceptable if the
 1957 records are readily accessible to the office.

1958 Section 20. Subsection (3) of section 651.055, Florida
 1959 Statutes, is amended to read:

1960 651.055 Continuing care contracts; right to rescind.—

1961 (3) The contract must include or be accompanied by a
 1962 statement, printed in boldfaced type, which reads: "This
 1963 facility and all other continuing care facilities (also known as
 1964 life plan communities) in the State of Florida are regulated by
 1965 the Office of Insurance Regulation pursuant to chapter 651,
 1966 Florida Statutes. A copy of the law is on file in this facility.
 1967 The law gives you or your legal representative the right to
 1968 inspect our most recent financial statement and inspection
 1969 report before signing the contract. There is no guaranty fund to
 1970 ensure that residents of insolvent continuing care providers are
 1971 protected as to the ongoing provision of continuing care
 1972 services or as to a refund of any portion of their entrance
 1973 fee."

1974 Section 21. Subsection (2) of section 651.057, Florida
 1975 Statutes, is amended to read:

1976 651.057 Continuing care at-home contracts.—

1977 (2) A provider that holds a certificate of authority and

1978 wishes to offer continuing care at-home must also:

1979 (a) Submit a business plan to the office with the

1980 following information:

1981 1. A description of the continuing care at-home services

1982 that will be provided, the market to be served, and the fees to

1983 be charged;

1984 2. A copy of the proposed continuing care at-home

1985 contract;

1986 3. An actuarial study prepared by an independent actuary

1987 in accordance with the standards adopted by the American Academy

1988 of Actuaries which presents the impact of providing continuing

1989 care at-home on the overall operation of the facility; and

1990 4. A ~~market~~ feasibility study that meets the requirements

1991 of s. 651.022(3) and documents that there is sufficient interest

1992 in continuing care at-home contracts to support such a program;

1993 (b) Demonstrate to the office that the proposal to offer

1994 continuing care at-home contracts to individuals who do not

1995 immediately move into the facility will not place the provider

1996 in an unsound financial condition;

1997 (c) Comply with the requirements of s. 651.0246(1) ~~s.~~

1998 ~~651.021(2)~~, except that an actuarial study may be substituted

1999 for the feasibility study; and

2000 (d) Comply with the requirements of this chapter.

2001 Section 22. Subsection (1) of section 651.071, Florida
 2002 Statutes, is amended to read:

2003 651.071 Contracts as preferred claims on liquidation or
 2004 receivership.—

2005 (1) In the event of receivership or liquidation
 2006 proceedings against a provider, all continuing care and
 2007 continuing care at-home contracts executed by a provider are
 2008 ~~shall be~~ deemed preferred claims against all assets owned by the
 2009 provider; however, such claims are subordinate to any secured
 2010 claim. For purposes of s. 631.271, such contracts are deemed
 2011 Class 2 claims.

2012 Section 23. Subsections (2) and (3) of section 651.091,
 2013 Florida Statutes, are amended, and subsection (4) of that
 2014 section is republished, to read:

2015 651.091 Availability, distribution, and posting of reports
 2016 and records; requirement of full disclosure.—

2017 (2) Every continuing care facility shall:

2018 (a) Display the certificate of authority in a conspicuous
 2019 place inside the facility.

2020 (b) Post in a prominent position in the facility which is
 2021 accessible to all residents and the general public a concise
 2022 summary of the last examination report issued by the office,
 2023 with references to the page numbers of the full report noting
 2024 any deficiencies found by the office, and the actions taken by
 2025 the provider to rectify such deficiencies, indicating in such

2026 summary where the full report may be inspected in the facility.

2027 (c) Post in a prominent position in the facility,
2028 accessible to all residents and the general public, a notice
2029 containing the contact information for the office and the
2030 Division of Consumer Services of the department and stating that
2031 the division or office may be contacted for the submission of
2032 inquiries and complaints with respect to potential violations of
2033 this chapter committed by a provider. Such contact information
2034 must include the division's website and the toll-free consumer
2035 helpline and the office's website and telephone number.

2036 (d) Provide notice to the president or chair of the
2037 residents' council within 10 business days after issuance of a
2038 final examination report or the initiation of any legal or
2039 administrative proceeding by the office or the department and
2040 include a copy of such document.

2041 (e) ~~(e)~~ Post in a prominent position in the facility which
2042 is accessible to all residents and the general public a summary
2043 of the latest annual statement, indicating in the summary where
2044 the full annual statement may be inspected in the facility. A
2045 listing of any proposed changes in policies, programs, and
2046 services must also be posted.

2047 (f) ~~(d)~~ Distribute a copy of the full annual statement and
2048 a copy of the most recent third-party ~~third party~~ financial
2049 audit filed with the annual report to the president or chair of
2050 the residents' council within 30 days after filing the annual

2051 report with the office, and designate a staff person to provide
 2052 explanation thereof.

2053 (g)-(e) Deliver the information described in s. 651.085(4)
 2054 in writing to the president or chair of the residents' council
 2055 and make supporting documentation available upon request ~~Notify~~
 2056 ~~the residents' council of any plans filed with the office to~~
 2057 ~~obtain new financing, additional financing, or refinancing for~~
 2058 ~~the facility and of any applications to the office for any~~
 2059 ~~expansion of the facility.~~

2060 (h)-(f) Deliver to the president or chair of the residents'
 2061 council a summary of entrance fees collected and refunds made
 2062 during the time period covered in the annual report and the
 2063 refund balances due at the end of the report period.

2064 (i)-(g) Deliver to the president or chair of the residents'
 2065 council a copy of each quarterly statement within 30 days after
 2066 the quarterly statement is filed with the office if the facility
 2067 is required to file quarterly.

2068 (j)-(h) Upon request, deliver to the president or chair of
 2069 the residents' council a copy of any newly approved continuing
 2070 care or continuing care at-home contract within 30 days after
 2071 approval by the office.

2072 (k) Provide to the president or chair of the residents'
 2073 council a copy of any notice filed with the office relating to
 2074 any change in ownership within 10 business days after such
 2075 filing by the provider.

2076 (1) Make the information available to prospective
 2077 residents pursuant to paragraph (3) (d) available to current
 2078 residents and provide notice of changes to that information to
 2079 the president or chair of the residents' council within 3
 2080 business days.

2081 (3) Before entering into a contract to furnish continuing
 2082 care or continuing care at-home, the provider undertaking to
 2083 furnish the care, or the agent of the provider, shall make full
 2084 disclosure, and provide copies of the disclosure documents to
 2085 the prospective resident or his or her legal representative, of
 2086 the following information:

2087 (a) The contract to furnish continuing care or continuing
 2088 care at-home.

2089 (b) The summary listed in paragraph (2) (b) .

2090 (c) All ownership interests and lease agreements,
 2091 including information specified in s. 651.022(2) (b) 8.

2092 (d) In keeping with the intent of this subsection relating
 2093 to disclosure, the provider shall make available for review
 2094 master plans approved by the provider's governing board and any
 2095 plans for expansion or phased development, to the extent that
 2096 the availability of such plans does not put at risk real estate,
 2097 financing, acquisition, negotiations, or other implementation of
 2098 operational plans and thus jeopardize the success of
 2099 negotiations, operations, and development.

2100 (e) Copies of the rules and regulations of the facility

2101 and an explanation of the responsibilities of the resident.

2102 (f) The policy of the facility with respect to admission
2103 to and discharge from the various levels of health care offered
2104 by the facility.

2105 ~~(g) The amount and location of any reserve funds required~~
2106 ~~by this chapter, and the name of the person or entity having a~~
2107 ~~claim to such funds in the event of a bankruptcy, foreclosure,~~
2108 ~~or rehabilitation proceeding.~~

2109 (g) ~~(h)~~ A copy of s. 651.071.

2110 (h) ~~(i)~~ A copy of the resident's rights as described in s.
2111 651.083.

2112 (i) Notice of the issuance of a final examination report
2113 or the initiation of any legal or administrative proceeding by
2114 the office or the department, including where the report or
2115 filing may be inspected in the facility, and that, upon request,
2116 an electronic copy or specific website address will be provided
2117 from which the document can be downloaded at no cost.

2118 (j) Notice of a resident's 7-day right to rescind a
2119 continuing care contract under s. 651.055(2) and that, after the
2120 expiration of the 7-day escrow requirement under s.
2121 651.033(3)(c), the entrance fee becomes property of the
2122 provider.

2123 (k) A statement that distribution of the provider's assets
2124 or income may occur or a statement that such distributions will
2125 not occur.

2126 (1) Notice of any holding company system or obligated
 2127 group of which the provider is a member.

2128 (4) A true and complete copy of the full disclosure
 2129 document to be used must be filed with the office before use. A
 2130 resident or prospective resident or his or her legal
 2131 representative may inspect the full reports referred to in
 2132 paragraph (2)(b); the charter or other agreement or instrument
 2133 required to be filed with the office pursuant to s. 651.022(2),
 2134 together with all amendments thereto; and the bylaws of the
 2135 corporation or association, if any. Upon request, copies of the
 2136 reports and information shall be provided to the individual
 2137 requesting them if the individual agrees to pay a reasonable
 2138 charge to cover copying costs.

2139 Section 24. Subsection (4) of section 651.095, Florida
 2140 Statutes, is amended to read:

2141 651.095 Advertisements; requirements; penalties.—

2142 (4) It is unlawful for any person, other than a provider
 2143 licensed pursuant to this chapter, to advertise or market to the
 2144 general public any product similar to continuing care through
 2145 the use of such terms as "life care," "life plan," "life plan
 2146 at-home," "continuing care," or "guaranteed care for life," or
 2147 similar terms, words, or phrases.

2148 Section 25. Section 651.105, Florida Statutes, is amended
 2149 to read:

2150 651.105 Examination ~~and inspections.~~—

2151 (1) The office may at any time, and shall at least once
 2152 every 3 years, examine the business of any applicant for a
 2153 certificate of authority and any provider engaged in the
 2154 execution of care contracts or engaged in the performance of
 2155 obligations under such contracts, in the same manner as is
 2156 provided for the examination of insurance companies pursuant to
 2157 ss. 624.316 and 624.318 ~~s. 624.316~~. For a provider as described
 2158 ~~defined~~ in s. 651.028, such examinations must ~~shall~~ take place
 2159 at least once every 5 years. Such examinations must ~~shall~~ be
 2160 made by a representative or examiner designated by the office
 2161 whose compensation will be fixed by the office pursuant to s.
 2162 624.320. Routine examinations may be made by having the
 2163 necessary documents submitted to the office; and, for this
 2164 purpose, financial documents and records conforming to commonly
 2165 accepted accounting principles and practices, as required under
 2166 s. 651.026, are deemed adequate. The final written report of
 2167 each examination must be filed with the office and, when so
 2168 filed, constitutes a public record. Any provider being examined
 2169 shall, upon request, give reasonable and timely access to all of
 2170 its records. The representative or examiner designated by the
 2171 office may at any time examine the records and affairs and
 2172 inspect the physical property of any provider, whether in
 2173 connection with a formal examination or not.

2174 (2) Any duly authorized officer, employee, or agent of the
 2175 office may, upon presentation of proper identification, have

2176 access to, and examine ~~inspect~~, any records, with or without
2177 advance notice, to secure compliance with, or to prevent a
2178 violation of, any provision of this chapter.

2179 (3) Reports of the results of such financial examinations
2180 must be kept on file by the office. Any investigatory records,
2181 reports, or documents held by the office are confidential and
2182 exempt from the provisions of s. 119.07(1), until the
2183 investigation is completed or ceases to be active. For the
2184 purpose of this section, an investigation is active while it is
2185 being conducted by the office with a reasonable, good faith
2186 belief that it could lead to the filing of administrative,
2187 civil, or criminal proceedings. An investigation does not cease
2188 to be active if the office is proceeding with reasonable
2189 dispatch and has a good faith belief that action could be
2190 initiated by the office or other administrative or law
2191 enforcement agency.

2192 (4) The office shall notify the provider and the executive
2193 officer of the governing body of the provider in writing of all
2194 deficiencies in its compliance with the provisions of this
2195 chapter and the rules adopted pursuant to this chapter and shall
2196 set a reasonable length of time for compliance by the provider.
2197 In addition, the office shall require corrective action or
2198 request a corrective action plan from the provider which plan
2199 demonstrates a good faith attempt to remedy the deficiencies by
2200 a specified date. If the provider fails to comply within the

2201 established length of time, the office may initiate action
2202 against the provider in accordance with the provisions of this
2203 chapter.

2204 (5) A provider shall respond to written correspondence
2205 from the office and provide data, financial statements, and
2206 pertinent information as requested by the office. The office has
2207 standing to petition a circuit court for mandatory injunctive
2208 relief to compel access to and require the provider to produce
2209 the documents, data, records, and other information requested by
2210 the office. The office may petition the circuit court in the
2211 county in which the facility is situated or the Circuit Court of
2212 Leon County to enforce this section ~~At the time of the routine~~
2213 ~~examination, the office shall determine if all disclosures~~
2214 ~~required under this chapter have been made to the president or~~
2215 ~~chair of the residents' council and the executive officer of the~~
2216 ~~governing body of the provider.~~

2217 (6) A representative of the provider must give a copy of
2218 the final examination report and corrective action plan, if one
2219 is required by the office, to the executive officer of the
2220 governing body of the provider within 60 days after issuance of
2221 the report.

2222 (7) Unless a provider is impaired or subject to a
2223 regulatory action level event, any parent, subsidiary, or
2224 affiliate is not subject to examination by the office as part of
2225 a routine examination. However, if a provider or facility relies

2226 on a contractual or financial relationship with a parent, a
 2227 subsidiary, or an affiliate in order to meet the financial
 2228 requirements of this chapter, the office may examine any parent,
 2229 subsidiary, or affiliate that has a contractual or financial
 2230 relationship with the provider or facility to the extent
 2231 necessary to ascertain the financial condition of the provider.

2232 Section 26. Section 651.106, Florida Statutes, is amended
 2233 to read:

2234 651.106 Grounds for discretionary refusal, suspension, or
 2235 revocation of certificate of authority.—The office may deny an
 2236 application or~~7~~ suspend~~7~~ or revoke the provisional certificate
 2237 of authority or the certificate of authority of any applicant or
 2238 provider if it finds that any one or more of the following
 2239 grounds applicable to the applicant or provider exist:

- 2240 (1) Failure by the provider to continue to meet the
- 2241 requirements for the authority originally granted.
- 2242 (2) Failure by the provider to meet one or more of the
- 2243 qualifications for the authority specified by this chapter.
- 2244 (3) Material misstatement, misrepresentation, or fraud in
- 2245 obtaining the authority, or in attempting to obtain the same.
- 2246 (4) Demonstrated lack of fitness or trustworthiness.
- 2247 (5) Fraudulent or dishonest practices of management in the
- 2248 conduct of business.
- 2249 (6) Misappropriation, conversion, or withholding of
- 2250 moneys.

2251 (7) Failure to comply with, or violation of, any proper
2252 order or rule of the office or commission or violation of any
2253 provision of this chapter.

2254 (8) The insolvent or impaired condition of the provider or
2255 the provider's being in such condition or using such methods and
2256 practices in the conduct of its business as to render its
2257 further transactions in this state hazardous or injurious to the
2258 public.

2259 (9) Refusal by the provider to be examined or to produce
2260 its accounts, records, and files for examination, or refusal by
2261 any of its officers to give information with respect to its
2262 affairs or to perform any other legal obligation under this
2263 chapter when required by the office.

2264 (10) Failure by the provider to comply with the
2265 requirements of s. 651.026 or s. 651.033.

2266 (11) Failure by the provider to maintain escrow accounts
2267 or funds as required by this chapter.

2268 (12) Failure by the provider to meet the requirements of
2269 this chapter for disclosure of information to residents
2270 concerning the facility, its ownership, its management, its
2271 development, or its financial condition or failure to honor its
2272 continuing care or continuing care at-home contracts.

2273 (13) Any cause for which issuance of the license could
2274 have been refused had it then existed and been known to the
2275 office.

2276 (14) Having been found guilty of, or having pleaded guilty
 2277 or nolo contendere to, a felony in this state or any other
 2278 state, without regard to whether a judgment or conviction has
 2279 been entered by the court having jurisdiction of such cases.

2280 (15) In the conduct of business under the license,
 2281 engaging in unfair methods of competition or in unfair or
 2282 deceptive acts or practices prohibited under part IX of chapter
 2283 626.

2284 (16) A pattern of bankrupt enterprises.

2285 (17) The ownership, control, or management of the
 2286 organization includes any person:

2287 (a) Who is not reputable and of responsible character;

2288 (b) Who is so lacking in management expertise as to make
 2289 the operation of the provider hazardous to potential and
 2290 existing residents;

2291 (c) Who is so lacking in management experience, ability,
 2292 and standing as to jeopardize the reasonable promise of
 2293 successful operation;

2294 (d) Who is affiliated, directly or indirectly, through
 2295 ownership or control, with any person or persons whose business
 2296 operations are or have been marked by business practices or
 2297 conduct that is detrimental to the public, contract holders,
 2298 investors, or creditors, or by manipulation of assets, finances,
 2299 or accounts or by bad faith; or

2300 (e) Whose business operations are or have been marked by

2301 business practices or conduct that is detrimental to the public,
 2302 contract holders, investors, or creditors, or by manipulation of
 2303 assets, finances, or accounts or by bad faith.

2304 (18) The provider has not filed a notice of change in
 2305 management, fails to remove a disapproved manager, or persists
 2306 in appointing disapproved managers.

2307
 2308 Revocation of a certificate of authority under this section does
 2309 not relieve a provider from the provider's obligation to
 2310 residents under the terms and conditions of any continuing care
 2311 or continuing care at-home contract between the provider and
 2312 residents or the provisions of this chapter. The provider shall
 2313 continue to file its annual statement and pay license fees to
 2314 the office as required under this chapter as if the certificate
 2315 of authority had continued in full force, but the provider shall
 2316 not issue any new contracts. The office may seek an action in
 2317 the Circuit Court of Leon County to enforce the office's order
 2318 and the provisions of this section.

2319 Section 27. Section 651.1065, Florida Statutes, is created
 2320 to read:

2321 651.1065 Soliciting or accepting new continuing care
 2322 contracts by impaired or insolvent facilities or providers.-

2323 (1) Regardless of whether delinquency proceedings as to a
 2324 continuing care facility have been or are to be initiated, a
 2325 proprietor, a general partner, a member, an officer, a director,

2326 | a trustee, or a manager of a continuing care facility may not
 2327 | actively solicit, approve the solicitation or acceptance of, or
 2328 | accept new continuing care contracts in this state after the
 2329 | proprietor, general partner, member, officer, director, trustee,
 2330 | or manager knew, or reasonably should have known, that the
 2331 | continuing care facility was impaired or insolvent except with
 2332 | the written permission of the office. If the facility has
 2333 | declared bankruptcy, the bankruptcy court or trustee appointed
 2334 | by the court has jurisdiction over such matters. The office must
 2335 | approve or disapprove the continued marketing of new contracts
 2336 | within 15 days after receiving a request from a provider.

2337 | (2) A proprietor, a general partner, a member, an officer,
 2338 | a director, a trustee, or a manager who violates this section
 2339 | commits a felony of the third degree, punishable as provided in
 2340 | s. 775.082, s. 775.083, or s. 775.084.

2341 | Section 28. Subsections (1) and (3) of section 651.111,
 2342 | Florida Statutes, are amended to read:

2343 | 651.111 Requests for inspections.—

2344 | (1) Any interested party may request an inspection of the
 2345 | records and related financial affairs of a provider providing
 2346 | care in accordance with ~~the provisions of~~ this chapter by
 2347 | transmitting to the office notice of an alleged violation of
 2348 | applicable requirements prescribed by statute or by rule,
 2349 | specifying to a reasonable extent the details of the alleged
 2350 | violation, which notice must ~~shall~~ be signed by the complainant.

2351 As used in this section, the term "inspection" means an inquiry
 2352 into a provider's compliance with this chapter.

2353 (3) Upon receipt of a complaint, the office shall make a
 2354 preliminary review to determine if the complaint alleges a
 2355 violation of this chapter; and, unless the office determines
 2356 that the complaint does not allege a violation of this chapter
 2357 or is without any reasonable basis, the office shall make an
 2358 inspection. The office shall provide the complainant with a
 2359 written acknowledgment of the complaint within 15 days after
 2360 receipt by the office. The complainant shall be advised, within
 2361 30 days after the receipt of the complaint by the office, of the
 2362 office's determination that the complaint does not allege a
 2363 violation of this chapter, that the complaint is without any
 2364 reasonable basis, or that the office will make an inspection.
 2365 The notice must include an estimated timeframe for completing
 2366 the inspection and a contact number. If the inspection is not
 2367 completed within the estimated timeframe, the office must
 2368 provide the complainant with a revised timeframe. Within 15 days
 2369 after completing an inspection, the office shall provide the
 2370 complainant and the provider a written statement specifying any
 2371 violations of this chapter and any actions taken or that no such
 2372 violation was found ~~proposed course of action of the office.~~

2373 Section 29. Section 651.114, Florida Statutes, is amended
 2374 to read:

2375 651.114 Delinquency proceedings; remedial rights.—

2376 (1) Upon determination by the office that a provider is
 2377 not in compliance with this chapter, the office may notify the
 2378 chair of the Continuing Care Advisory Council, who may assist
 2379 the office in formulating a corrective action plan.

2380 (2) Within 30 days after a request by either the advisory
 2381 council or the office, a provider shall make a plan for
 2382 obtaining compliance or solvency available to the advisory
 2383 council and the office, ~~within 30 days after being requested to~~
 2384 ~~do so by the council,~~ a plan for obtaining compliance or
 2385 solvency.

2386 (3) Within 30 days after receipt of a plan for obtaining
 2387 compliance or solvency, the office or, at the request of the
 2388 office, ~~notification,~~ the advisory council shall:

2389 (a) Consider and evaluate the plan submitted by the
 2390 provider.

2391 (b) Discuss the problem and solutions with the provider.

2392 (c) Conduct such other business as is necessary.

2393 (d) Report its findings and recommendations to the office,
 2394 which may require additional modification of the plan.

2395
 2396 This subsection may not be construed to delay or prevent the
 2397 office from taking any regulatory measures it deems necessary
 2398 regarding the provider that submitted the plan.

2399 (4) If the financial condition of a continuing care
 2400 provider is impaired or is such that if not modified or

2401 corrected, its continued operation would result in insolvency,
2402 the office may direct the provider to formulate and file with
2403 the office a corrective action plan. If the provider fails to
2404 submit a plan within 30 days after the office's directive or
2405 submits a plan that is insufficient to correct the condition,
2406 the office may specify a plan and direct the provider to
2407 implement the plan. Before specifying a plan, the office may
2408 seek a recommended plan from the advisory council.

2409 (5)~~(4)~~ After receiving approval of a plan by the office,
2410 the provider shall submit a progress report monthly to the
2411 advisory council or the office, or both, in a manner prescribed
2412 by the office. After 3 months, or at any earlier time deemed
2413 necessary, the council shall evaluate the progress by the
2414 provider and shall advise the office of its findings.

2415 (6)~~(5)~~ If ~~Should~~ the office finds ~~find~~ that sufficient
2416 grounds exist for rehabilitation, liquidation, conservation,
2417 reorganization, seizure, or summary proceedings of an insurer as
2418 set forth in ss. 631.051, 631.061, and 631.071, the department
2419 ~~office~~ may petition for an appropriate court order or may pursue
2420 such other relief as is afforded in part I of chapter 631.
2421 Before invoking its powers under part I of chapter 631, the
2422 department ~~office~~ shall notify the chair of the advisory
2423 council.

2424 (7) For purposes of s. 631.051, impairment of a provider
2425 has the same meaning as the term "impaired" in s. 651.011.

2426 (8)~~(6)~~ In the event an order of conservation,
2427 rehabilitation, liquidation, or ~~conservation, reorganization,~~
2428 seizure, ~~or summary proceeding~~ has been entered against a
2429 provider, the department and office are vested with all of the
2430 powers and duties they have under ~~the provisions of~~ part I of
2431 chapter 631 in regard to delinquency proceedings of insurance
2432 companies. A provider shall give written notice of the
2433 proceeding to its residents within 3 business days after the
2434 initiation of a delinquency proceeding under chapter 631 and
2435 shall include a notice of the delinquency proceeding in any
2436 written materials provided to prospective residents

2437 ~~(7) If the financial condition of the continuing care~~
2438 ~~facility or provider is such that, if not modified or corrected,~~
2439 ~~its continued operation would result in insolvency, the office~~
2440 ~~may direct the provider to formulate and file with the office a~~
2441 ~~corrective action plan. If the provider fails to submit a plan~~
2442 ~~within 30 days after the office's directive or submits a plan~~
2443 ~~that is insufficient to correct the condition, the office may~~
2444 ~~specify a plan and direct the provider to implement the plan.~~

2445 (9) A provider subject to an order to show cause entered
2446 pursuant to chapter 631 must file its written response to the
2447 order, together with any defenses it may have to the
2448 department's allegations, according to the time periods
2449 specified in s. 631.031(3).

2450 (10) A hearing held pursuant to chapter 631 to determine

2451 whether cause exists for the department to be appointed receiver
 2452 must be held in accordance with the time period specified in s.
 2453 631.031(4).

2454 (11)(a) ~~(8)(a)~~ The rights of the office described in this
 2455 section are subordinate to the rights of a trustee or lender
 2456 pursuant to the terms of a resolution, ordinance, loan
 2457 agreement, indenture of trust, mortgage, lease, security
 2458 agreement, or other instrument creating or securing bonds or
 2459 notes issued to finance a facility, and the office, subject to
 2460 ~~the provisions of~~ paragraph (c), may ~~shall~~ not exercise its
 2461 remedial rights provided under this section and ss. 651.018,
 2462 651.106, 651.108, and 651.116 with respect to a facility that is
 2463 subject to a lien, mortgage, lease, or other encumbrance or
 2464 trust indenture securing bonds or notes issued in connection
 2465 with the financing of the facility, if the trustee or lender, by
 2466 inclusion or by amendment to the loan documents or by a separate
 2467 contract with the office, agrees that the rights of residents
 2468 under a continuing care or continuing care at-home contract will
 2469 be honored and will not be disturbed by a foreclosure or
 2470 conveyance in lieu thereof as long as the resident:

- 2471 1. Is current in the payment of all monetary obligations
- 2472 required by the contract;
- 2473 2. Is in compliance and continues to comply with all
- 2474 provisions of the contract; and
- 2475 3. Has asserted no claim inconsistent with the rights of

2476 the trustee or lender.

2477 (b) This subsection does not require a trustee or lender
2478 to:

2479 1. Continue to engage in the marketing or resale of new
2480 continuing care or continuing care at-home contracts;

2481 2. Pay any rebate of entrance fees as may be required by a
2482 resident's continuing care or continuing care at-home contract
2483 as of the date of acquisition of the facility by the trustee or
2484 lender and until expiration of the period described in paragraph
2485 (d);

2486 3. Be responsible for any act or omission of any owner or
2487 operator of the facility arising before the acquisition of the
2488 facility by the trustee or lender; or

2489 4. Provide services to the residents to the extent that
2490 the trustee or lender would be required to advance or expend
2491 funds that have not been designated or set aside for such
2492 purposes.

2493 (c) If ~~Should~~ the office determines ~~determine~~, at any time
2494 during the suspension of its remedial rights as provided in
2495 paragraph (a), that:

2496 1. The trustee or lender is not in compliance with
2497 paragraph (a); ~~or that~~

2498 2. A lender or trustee has assigned or has agreed to
2499 assign all or a portion of a delinquent or defaulted loan to a
2500 third party without the office's written consent; ~~or~~

2501 3. The provider engaged in the misappropriation,
 2502 conversion, or illegal commitment or withdrawal of minimum
 2503 liquid reserve or escrowed funds required under this chapter;

2504 4. The provider refused to be examined by the office
 2505 pursuant to s. 651.105(1); or

2506 5. The provider refused to produce any relevant accounts,
 2507 records, and files requested as part of an examination,

2508
 2509 the office shall notify the trustee or lender in writing of its
 2510 determination, setting forth the reasons giving rise to the
 2511 determination and specifying those remedial rights afforded to
 2512 the office which the office shall then reinstate.

2513 (d) Upon acquisition of a facility by a trustee or lender
 2514 and evidence satisfactory to the office that the requirements of
 2515 paragraph (a) have been met, the office shall issue a 90-day
 2516 temporary certificate of authority granting the trustee or
 2517 lender the authority to engage in the business of providing
 2518 continuing care or continuing care at-home and to issue
 2519 continuing care or continuing care at-home contracts subject to
 2520 the office's right to immediately suspend or revoke the
 2521 temporary certificate of authority if the office determines that
 2522 any of the grounds described in s. 651.106 apply to the trustee
 2523 or lender or that the terms of the contract used as the basis
 2524 for the issuance of the temporary certificate of authority by
 2525 the office have not been or are not being met by the trustee or

2526 lender since the date of acquisition.

2527 Section 30. Section 651.1141, Florida Statutes, is created
2528 to read:

2529 651.1141 Immediate final orders.-

2530 (1) The Legislature finds that the following actions
2531 constitute an imminent and immediate threat to the public
2532 health, safety, and welfare of the residents of this state:

2533 (a) The installation of a general partner of a provider or
2534 assumption of ownership or possession or control of 10 percent
2535 or more of a provider's assets in violation of s. 651.024 or s.
2536 651.0245;

2537 (b) The removal or commitment of 10 percent or more of the
2538 required minimum liquid reserve funds in violation of s.
2539 651.035; or

2540 (c) The assumption of control over a facility's operations
2541 in violation of s. 651.043.

2542 (2) If it finds that a person or entity is engaging or has
2543 engaged in one or more of the above activities, the office may,
2544 pursuant to s. 120.569, issue an immediate final order:

2545 (a) Directing that such person or entity cease and desist
2546 that activity; or

2547 (b) Suspending the certificate of authority of the
2548 facility.

2549 Section 31. Subsection (1) of section 651.121, Florida
2550 Statutes, is amended to read:

2551 651.121 Continuing Care Advisory Council.—

2552 (1) The Continuing Care Advisory Council to the office is

2553 created consisting of 10 members ~~who are residents of this state~~

2554 appointed by the Governor and geographically representative of

2555 this state. Three members shall be representatives

2556 ~~administrators~~ of facilities that hold valid certificates of

2557 authority under this chapter and ~~shall~~ have been actively

2558 engaged in the offering of continuing care contracts in this

2559 state for 5 years before appointment. The remaining members

2560 include:

2561 (a) A representative of the business community whose

2562 expertise is in the area of management.

2563 (b) A representative of the financial community who is not

2564 a facility owner or administrator.

2565 (c) A certified public accountant.

2566 ~~(d) An attorney.~~

2567 (d)(e) Four ~~Three~~ residents who hold continuing care or

2568 continuing care at-home contracts with a facility certified in

2569 this state.

2570 Section 32. Subsections (1) and (4) of section 651.125,

2571 Florida Statutes, are amended to read:

2572 651.125 Criminal penalties; injunctive relief.—

2573 (1) Any person who maintains, enters into, or, as manager

2574 or officer or in any other administrative capacity, assists in

2575 entering into, maintaining, or performing any continuing care or

2576 continuing care at-home contract subject to this chapter without
2577 ~~doing so in pursuance of~~ a valid provisional certificate of
2578 authority or certificate of authority ~~or renewal thereof~~, as
2579 contemplated by or provided in this chapter, or who otherwise
2580 violates any provision of this chapter or rule adopted in
2581 pursuance of this chapter, commits a felony of the third degree,
2582 punishable as provided in s. 775.082 or s. 775.083. Each
2583 violation of this chapter constitutes a separate offense.

2584 (4) Any action brought by the office against a provider
2585 shall not abate by reason of a sale or other transfer of
2586 ownership of the facility used to provide care, which provider
2587 is a party to the action, except with the express written
2588 consent of the ~~director of the~~ office.

2589 Section 33. Except as otherwise expressly provided in this
2590 act and except for this section, which shall take effect July 1,
2591 2019, this act shall take effect January 1, 2020.