

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 report on its website; amending s. 651.0261,
57 F.S.; requiring providers to file quarterly unaudited
58 financial statements and other specified information;
59 providing an exception for filing a certain quarterly
60 statement; revising information that the office may
61 require providers to file and the circumstances under
62 which such information must be filed; revising the
63 commission's rulemaking authority; amending s.
64 651.028, F.S.; providing criteria for a provider or
65 facility to be deemed accredited; specifying
66 rulemaking requirements and authority of the
67 commission; amending s. 651.033, F.S.; revising
68 applicability of escrow requirements; revising
69 requirements for escrow accounts and agreements;
70 revising the office's authority to allow a withdrawal
71 of a specified percentage of the required minimum
72 liquid reserve; revising applicability of requirements
73 relating to the deposit of certain funds in escrow
74 accounts; prohibiting an escrow agent, except under
75 certain circumstances, from releasing or allowing the

76 transfer of funds; creating s. 651.034, F.S.;

77 specifying requirements for the office if a regulatory

78 action level event occurs; specifying requirements for

79 corrective action plans; authorizing the office to use

80 members of the Continuing Care Advisory Council and to

81 retain consultants for certain purposes; requiring

82 affected providers to bear costs and expenses relating

83 to such consultants; specifying requirements for, and

84 authorized actions of, the office and the Department

85 of Financial Services if an impairment occurs;

86 providing construction; authorizing the office to

87 exempt a provider from certain requirements for a

88 certain timeframe; authorizing the commission to adopt

89 rules; amending s. 651.035, F.S.; revising minimum

90 liquid reserve requirements for providers; specifying

91 requirements, limitations, and procedures for a

92 provider's withdrawal of funds held in escrow and the

93 office's review of certain requests for withdrawal;

94 authorizing the office to order certain transfers

95 under certain circumstances; requiring facilities to

96 annually file with the office a minimum liquid reserve

97 calculation; requiring increases in the minimum liquid

98 reserve to be funded within a certain timeframe;

99 requiring providers to fund shortfalls in minimum

100 liquid reserves under certain circumstances within a

101 certain timeframe; creating s. 651.043, F.S.;

102 specifying requirements for certain management company

103 contracts; specifying requirements, procedures, and

104 authorized actions relating to changes in provider

105 management and to the office's review of such changes;

106 requiring that disapproved management be removed

107 within a certain timeframe; authorizing the office to

108 take certain disciplinary actions under certain

109 circumstances; requiring providers to immediately

110 remove management under certain circumstances;

111 amending s. 651.051, F.S.; revising requirements for

112 the maintenance of provider records and assets;

113 amending s. 651.055, F.S.; revising a required

114 statement in continuing care contracts; amending s.

115 651.057, F.S.; conforming provisions to changes made

116 by the act; amending s. 651.071, F.S.; specifying the

117 priority of continuing care contracts and continuing

118 care at-home contracts in receivership or liquidation

119 proceedings against a provider; amending s. 651.091,

120 F.S.; revising requirements for continuing care

121 facilities relating to posting or providing notices;

122 amending s. 651.095, F.S.; adding terms to a list of

123 prohibited terms in certain advertisements; amending

124 s. 651.105, F.S.; adding a certain Florida Insurance

125 Code provision to the office's authority to examine

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

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

163
 164 Be It Enacted by the Legislature of the State of Florida:

165
 166 Section 1. Section 651.011, Florida Statutes, is amended
 167 to read:

168 651.011 Definitions.—As used in this chapter, the term:

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

173 (2) "Actuarial study" means an analysis prepared for an
 174 individual facility, or consolidated for multiple facilities,
 175 for either a certified provider, as of a current valuation date

176 | or the most recent fiscal year, or for an applicant, as of a
177 | projected future valuation date, which includes an actuary's
178 | opinion as to whether such provider or applicant is in
179 | satisfactory actuarial balance in accordance with Actuarial
180 | Standards of Practice No. 3 for Continuing Care Retirement
181 | Communities, Revised Edition, effective May 1, 2011.

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

186 | (4)~~(1)~~ "Advertising" means the dissemination of written,
187 | visual, or electronic information by a provider, or any person
188 | affiliated with or controlled by a provider, to potential
189 | residents or their representatives for the purpose of inducing
190 | such persons to subscribe to or enter into a contract for
191 | continuing care or continuing care at-home.

192 | (5)~~(2)~~ "Continuing care" or "care" means, pursuant to a
193 | contract, furnishing shelter and nursing care or personal
194 | services to a resident who resides in a facility, whether such
195 | nursing care or personal services are provided in the facility
196 | or in another setting designated in the contract for continuing
197 | care, by an individual not related by consanguinity or affinity
198 | to the resident, upon payment of an entrance fee.

199 | (6)~~(3)~~ "Continuing Care Advisory Council" or "advisory
200 | council" means the council established in s. 651.121.

201 (7)~~(4)~~ "Continuing care at-home" means, pursuant to a
202 contract other than a contract described in subsection (5) ~~(2)~~,
203 furnishing to a resident who resides outside the facility the
204 right to future access to shelter and nursing care or personal
205 services, whether such services are provided in the facility or
206 in another setting designated in the contract, by an individual
207 not related by consanguinity or affinity to the resident, upon
208 payment of an entrance fee.

209 (8) "Controlling company" means any corporation, trust, or
210 association that directly or indirectly owns 25 percent or more
211 of:

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

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

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

219 (10) "Days cash on hand" means the quotient obtained by
220 dividing the value of paragraph (a) by the value of paragraph
221 (b).

222 (a) The sum of unrestricted cash, unrestricted short-term
223 and long-term investments, provider restricted funds, and the
224 minimum liquid reserve as of the reporting date.

225 (b) Operating expenses less depreciation, amortization,

226 and other noncash expenses and nonoperating losses divided by
227 365. Operating expenses, depreciation, amortization, and other
228 noncash expenses and nonoperating losses are each the sum of
229 their respective values over the 12-month period ending on the
230 reporting date.

231
232 With prior written approval of the office, a demand note or
233 other parental guarantee may be considered a short-term or long-
234 term investment for the purposes of paragraph (a). However, the
235 total of all demand notes issued by the parent may not, at any
236 time, be more than the sum of unrestricted cash and unrestricted
237 short-term and long-term investments held by the parent.

238 (11) "Debt service coverage ratio" means the quotient
239 obtained by dividing the value of paragraph (a) by the value of
240 paragraph (b).

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

251 12-month period ending on the reporting date.

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

258 (12) "Department" means the Department of Financial
259 Services.

260 (13)~~(5)~~ "Entrance fee" means an initial or deferred
261 payment of a sum of money or property made as full or partial
262 payment for continuing care or continuing care at-home. An
263 accommodation fee, admission fee, member fee, or other fee of
264 similar form and application are considered to be an entrance
265 fee.

266 (14)~~(6)~~ "Facility" means a place where continuing care is
267 furnished and may include one or more physical plants on a
268 primary or contiguous site or an immediately accessible site. As
269 used in this subsection, the term "immediately accessible site"
270 means a parcel of real property separated by a reasonable
271 distance from the facility as measured along public
272 thoroughfares, and the term "primary or contiguous site" means
273 the real property contemplated in the feasibility study required
274 by this chapter.

275 ~~(7) "Generally accepted accounting principles" means those~~

276 ~~accounting principles and practices adopted by the Financial~~
277 ~~Accounting Standards Board and the American Institute of~~
278 ~~Certified Public Accountants, including Statement of Position~~
279 ~~90-8 with respect to any full year to which the statement~~
280 ~~applies.~~

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

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

288 (b) Beginning January 1, 2021:

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

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

296
297 If the provider is a member of an obligated group having cross-
298 collateralized debt, the obligated group's debt service coverage
299 ratio and days cash on hand must be used to determine if the
300 provider is impaired.

301 ~~(16)-(8)~~ "Insolvency" means the condition in which a ~~the~~
302 provider is unable to pay its obligations as they come due in
303 the normal course of business.

304 ~~(17)-(9)~~ "Licensed" means that a ~~the~~ provider has obtained
305 a certificate of authority from the office ~~department~~.

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

310 ~~(19)-(10)~~ "Nursing care" means those services or acts
311 rendered to a resident by an individual licensed or certified
312 pursuant to chapter 464.

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

319 ~~(21)~~ "Occupancy" means the total number of occupied
320 independent living units, assisted living units, and skilled
321 nursing beds in a facility divided by the total number of units
322 and beds in that facility, excluding units and beds that are
323 unavailable to market or that are reserved by prospective
324 residents.

325 ~~(22)-(11)~~ "Personal services" has the same meaning as in s.

326 429.02.

327 (23)~~(12)~~ "Provider" means the owner or operator, whether a
 328 natural person, partnership or other unincorporated association,
 329 however organized, trust, or corporation, of an institution,
 330 building, residence, or other place, whether operated for profit
 331 or not, which owner or operator provides continuing care or
 332 continuing care at-home for a fixed or variable fee, or for any
 333 other remuneration of any type, whether fixed or variable, for
 334 the period of care, payable in a lump sum or lump sum and
 335 monthly maintenance charges or in installments. The term does
 336 not apply to an entity that has existed and continuously
 337 operated a facility located on at least 63 acres in this state
 338 providing residential lodging to members and their spouses for
 339 at least 66 years on or before July 1, 1989, and has the
 340 residential capacity of 500 persons, is directly or indirectly
 341 owned or operated by a nationally recognized fraternal
 342 organization, is not open to the public, and accepts only its
 343 members and their spouses as residents.

344 (24)~~(13)~~ "Records" means all documents, correspondence,
 345 and the permanent financial, directory, and personnel
 346 information and data maintained by a provider pursuant to this
 347 chapter, regardless of the physical form, characteristics, or
 348 means of transmission.

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

351 (a) The provider's debt service coverage ratio is less
352 than the minimum ratio specified in the provider's bond
353 covenants or lending agreement for long-term financing, or, if
354 the provider does not have a debt service coverage ratio
355 required by its lending institution, the provider's debt service
356 coverage ratio is less than 1.20:1 as of the most recent annual
357 report filed with the office pursuant to s. 651.026. If the
358 provider is a member of an obligated group having cross-
359 collateralized debt, the obligated group's debt service coverage
360 ratio must be used as the provider's debt service coverage
361 ratio.

362 (b) The provider's days cash on hand is less than the
363 minimum number of days cash on hand specified in the provider's
364 bond covenants or lending agreement for long-term financing. If
365 the provider does not have a days cash on hand required by its
366 lending institution, the days cash on hand may not be less than
367 100 as of the most recent annual report filed with the office
368 pursuant to s. 651.026. If the provider is a member of an
369 obligated group having cross-collateralized debt, the days cash
370 on hand of the obligated group must be used as the provider's
371 days cash on hand.

372 (c) The occupancy of the provider's facility is less than
373 80 percent averaged over the 12-month period immediately
374 preceding the annual report filed with the office pursuant to s.
375 651.026.

376 (26) ~~(14)~~ "Resident" means a purchaser of, a nominee of, or
 377 a subscriber to a continuing care or continuing care at-home
 378 contract. Such contract does not give the resident a part
 379 ownership of the facility in which the resident is to reside,
 380 unless expressly provided in the contract.

381 (27) ~~(15)~~ "Shelter" means an independent living unit, room,
 382 apartment, cottage, villa, personal care unit, nursing bed, or
 383 other living area within a facility set aside for the exclusive
 384 use of one or more identified residents.

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

387 651.012 Exempted facility; written disclosure of
 388 exemption.—Any facility exempted under ss. 632.637(1)(e) and
 389 651.011(23) ~~651.011(12)~~ must provide written disclosure of such
 390 exemption to each person admitted to the facility ~~after October~~
 391 ~~1, 1996~~. This disclosure must be written using language likely
 392 to be understood by the person and must briefly explain the
 393 exemption.

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

396 651.013 Chapter exclusive; applicability of other laws.—

397 (2) In addition to other applicable provisions cited in
 398 this chapter, the office has the authority granted under ss.
 399 624.302, and 624.303, 624.307-624.312, 624.318 ~~624.308-624.312,~~
 400 624.319(1)-(3), 624.320, 624.321 ~~624.320-624.321,~~ 624.324, and

401 624.34, and 624.422 of the Florida Insurance Code to regulate
402 providers of continuing care and continuing care at-home.

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

405 651.019 New financing, additional financing, or
406 refinancing.—

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

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

423 (2) Within 30 days after the closing date of such
424 financing or refinancing transaction, The provider shall furnish
425 ~~any information the office may reasonably request in connection~~

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

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

437 651.021 Certificate of authority required.—

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

450 ~~(2) Written approval must be obtained from the office~~

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

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

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

473 ~~(c) In determining whether an expansion should be~~
474 ~~approved, the office shall use the criteria provided in ss.~~
475 ~~651.022(6) and 651.023(4).~~

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

478 651.0215 Consolidated application for a provisional
479 certificate of authority and a certificate of authority;
480 required restrictions on use of entrance fees.—

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

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

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

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

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

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

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

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

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

526 effective May 1, 2011.

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

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

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

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

551 after the date of the last audit.

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

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

559

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

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

571 (4) Within 45 days after receipt of the information
572 required under subsection (2), the office shall examine the
573 information and notify the applicant in writing, specifically
574 requesting any additional information that the office is
575 authorized to require. An application is deemed complete when

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

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

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

601 that the fees prescribed in s. 651.015(2) have been paid.

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

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

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

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

624 (c) The provider has evidence of sufficient funds to meet
625 the requirements of s. 651.035, which may include funds

626 deposited in the initial entrance fee account.

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

631
632 Notwithstanding chapter 120, only the provider, the escrow
633 agent, and the office have a substantial interest in any office
634 decision regarding release of escrow funds in any proceedings
635 under chapter 120 or this chapter.

636 (9) The office may not approve any application that
637 includes in the plan of financing any encumbrance of the
638 operating reserves or renewal and replacement reserves required
639 by this chapter.

640 (10) The office may not issue a certificate of authority
641 for a facility that does not have a component that is to be
642 licensed pursuant to part II of chapter 400 or part I of chapter
643 429, or that does not offer personal services or nursing
644 services through written contractual agreement. A written
645 contractual agreement must be disclosed in the contract for
646 continuing care or continuing care at-home and is subject to s.
647 651.1151.

648 Section 7. Subsections (2), (3), (6), and (8) of section
649 651.022, Florida Statutes, are amended, and subsection (5) of
650 that section is republished, to read:

651 651.022 Provisional certificate of authority;
652 application.—

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

656 (a) If the applicant or provider is a corporation, a copy
657 of the articles of incorporation and bylaws; if the applicant or
658 provider is a partnership or other unincorporated association, a
659 copy of the partnership agreement, articles of association, or
660 other membership agreement; and, if the applicant or provider is
661 a trust, a copy of the trust agreement or instrument.

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

663 1. The proprietor, if the applicant or provider is an
664 individual.

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

670 3. The principal partners or members, if the applicant or
671 provider is a partnership or other unincorporated association,
672 however organized, having 50 or more partners or members,
673 together with the business name and business address of the
674 partnership or other organization. If such unincorporated
675 organization has officers and a board of directors, the full

676 name and business address of each officer and director may be
677 set forth in lieu of the full name and business address of its
678 principal members.

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

681 5. Every trustee and officer, if the applicant or provider
682 is a trust.

683 6. The manager, whether an individual, corporation,
684 partnership, or association.

685 7. Any stockholder holding at least a 10 percent interest
686 in the operations of the facility in which the care is to be
687 offered.

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

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

704 10. Any affiliated parent or subsidiary corporation or
 705 partnership.

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

714 2. Evidence satisfactory to the office of the ability of
 715 the applicant to comply with ~~the provisions of~~ this chapter and
 716 with rules adopted by the commission pursuant to this chapter.

717 3. A statement of whether a person identified in the
 718 application for a provisional certificate of authority or the
 719 administrator or manager of the facility, if such person has
 720 been designated, or any such person living in the same location:

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

726 b. Is subject to a currently effective injunctive or
727 restrictive order or federal or state administrative order
728 relating to business activity or health care as a result of an
729 action brought by a public agency or department, including,
730 without limitation, an action affecting a license under chapter
731 400 or chapter 429.

732
733 The statement must ~~shall~~ set forth the court or agency, the date
734 of conviction or judgment, and the penalty imposed or damages
735 assessed, or the date, nature, and issuer of the order. Before
736 determining whether a provisional certificate of authority is to
737 be issued, the office may make an inquiry to determine the
738 accuracy of the information submitted pursuant to subparagraphs
739 1., 2., and 3. ~~1. and 2.~~

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

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

748 (f) Such other reasonable data, financial statements, and
749 pertinent information as the commission or office may reasonably
750 require with respect to the provider or the facility, including

751 the most recent audited financial report ~~statements~~ of
752 comparable facilities currently or previously owned, managed, or
753 developed by the applicant or its principal, to assist in
754 determining the financial viability of the project and the
755 management capabilities of its managers and owners.

756 (g) The forms of the residency contracts, reservation
757 contracts, escrow agreements, and wait list contracts, if
758 applicable, which are proposed to be used by the provider in the
759 furnishing of care. The office shall approve contracts and
760 escrow agreements that comply with ss. 651.023(1)(c), 651.033,
761 651.055, and 651.057. Thereafter, no other form of contract or
762 agreement may be used by the provider until it has been
763 submitted to the office and approved.

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

772 (3) In addition to the information required in subsection
773 (2), an applicant for a provisional certificate of authority
774 shall submit a ~~market~~ feasibility study with appropriate
775 financial, marketing, and actuarial assumptions for the first 5

776 years of operations. The ~~market~~ feasibility study must ~~shall~~
777 include at least the following information:

778 (a) A description of the proposed facility, including the
779 location, size, anticipated completion date, and the proposed
780 construction program.

781 (b) An identification and evaluation of the primary and,
782 if appropriate, the secondary market areas of the facility and
783 the projected unit sales per month.

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

788 (d) Projected expenses, including staffing requirements
789 and salaries; cost of property, plant, and equipment, including
790 depreciation expense; interest expense; marketing expense; and
791 other operating expenses.

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

794 (f) Expectations of the financial condition of the
795 project, including the projected cash flow, and ~~a projected~~
796 ~~balance sheet~~ and an estimate of the funds anticipated to be
797 necessary to cover startup losses.

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

801 (h) Project costs and the total amount of debt financing
802 required, marketing projections, resident fees and charges, the
803 competition, resident contract provisions, and other factors
804 that ~~which~~ affect the feasibility of the facility.

805 (i) Appropriate population projections, including
806 morbidity and mortality assumptions.

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

812 (k) Any other information that the applicant deems
813 relevant and appropriate to enable the office to make a more
814 informed determination.

815 (5) (a) Within 30 days after receipt of an application for
816 a provisional certificate of authority, the office shall examine
817 the application and shall notify the applicant in writing,
818 specifically setting forth and specifically requesting any
819 additional information the office is permitted by law to
820 require. If the application submitted is determined by the
821 office to be substantially incomplete so as to require
822 substantial additional information, including biographical
823 information, the office may return the application to the
824 applicant with a written notice that the application as received
825 is substantially incomplete and, therefore, unacceptable for

826 filing without further action required by the office. Any filing
827 fee received shall be refunded to the applicant.

828 (b) Within 15 days after receipt of all of the requested
829 additional information, the office shall notify the applicant in
830 writing that all of the requested information has been received
831 and the application is deemed to be complete as of the date of
832 the notice. Failure to so notify the applicant in writing within
833 the 15-day period shall constitute acknowledgment by the office
834 that it has received all requested additional information, and
835 the application shall be deemed to be complete for purposes of
836 review upon the date of the filing of all of the requested
837 additional information.

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

851 applicant to a hearing pursuant to chapter 120.

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

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

859 651.023 Certificate of authority; application.—

860 (1) After issuance of a provisional certificate of
861 authority, the office shall issue to the holder of such
862 provisional certificate a certificate of authority if the holder
863 of the provisional certificate provides the office with the
864 following information:

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

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

875 ~~1. The study must also contain an independent evaluation~~

876 ~~and examination opinion, or a comparable opinion acceptable to~~
877 ~~the office, by the consultant who prepared the study, of the~~
878 ~~underlying assumptions used as a basis for the forecasts or~~
879 ~~projections in the study and that the assumptions are reasonable~~
880 ~~and proper and the project as proposed is feasible.~~

881 1.2. The study must take into account project costs,
882 actual marketing results to date and marketing projections,
883 resident fees and charges, competition, resident contract
884 provisions, and any other factors which affect the feasibility
885 of operating the facility.

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

900 (c) Subject to subsection (4), a provider may submit an

901 application for a certificate of authority and any required
902 exhibits upon submission of documents evidencing ~~proof~~ that the
903 project has a minimum of 30 percent of the units reserved for
904 which the provider is charging an entrance fee. ~~This does not~~
905 ~~apply to an application for a certificate of authority for the~~
906 ~~acquisition of a facility for which a certificate of authority~~
907 ~~was issued before October 1, 1983, to a provider who~~
908 ~~subsequently becomes a debtor in a case under the United States~~
909 ~~Bankruptcy Code, 11 U.S.C. ss. 101 et seq., or to a provider for~~
910 ~~which the department has been appointed receiver pursuant to~~
911 ~~part II of chapter 631.~~

912 (d) Documents evidencing ~~Proof~~ that commitments have been
913 secured for both construction financing and long-term financing
914 or a documented plan acceptable to the office has been adopted
915 by the applicant for long-term financing.

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

921 (f) Documents evidencing ~~Proof~~ that the aggregate amount
922 of entrance fees received by or pledged to the applicant, plus
923 anticipated proceeds from any long-term financing commitment,
924 plus funds from all other sources in the actual possession of
925 the applicant, equal at least 100 percent of the aggregate cost

926 of constructing or purchasing, equipping, and furnishing the
927 facility plus 100 percent of the anticipated startup losses of
928 the facility.

929 (g) A complete audited financial report ~~statements~~ of the
930 applicant, prepared by an independent certified public
931 accountant in accordance with generally accepted accounting
932 principles, as of the date the applicant commenced business
933 operations or for the fiscal year that ended immediately
934 preceding the date of application, whichever is later, and
935 complete unaudited quarterly financial statements attested to by
936 the applicant after the date of the last audit.

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

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

945
946 If any material change occurs in the facts set forth in an
947 application filed with the office pursuant to this subsection,
948 an amendment setting forth such change must be filed with the
949 office within 10 business days after the applicant becomes aware
950 of such change, and a copy of the amendment must be sent by

951 registered mail to the principal office of the facility and to
952 the principal office of the controlling company.

953 (2) Within 30 days after receipt of the information
954 required under subsection (1), the office shall examine such
955 information and notify the provider in writing, specifically
956 requesting any additional information the office is permitted by
957 law to require. Within 15 days after receipt of all of the
958 requested additional information, the office shall notify the
959 provider in writing that all of the requested information has
960 been received and the application is deemed to be complete as of
961 the date of the notice. Failure to notify the applicant in
962 writing within the 15-day period constitutes acknowledgment by
963 the office that it has received all requested additional
964 information, and the application shall be deemed complete for
965 purposes of review on the date of filing all of the required
966 additional information.

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

972 (a) A ~~Notwithstanding satisfaction of the 30-percent~~
973 ~~minimum reservation requirement of paragraph (1)(c), no~~
974 certificate of authority may not ~~shall~~ be issued until
975 documentation evidencing that the project has a minimum of 50

976 | percent of the units reserved for which the provider is charging
 977 | an entrance fee, ~~and proof~~ is provided to the office. If a
 978 | provider offering continuing care at-home is applying for a
 979 | certificate of authority ~~or approval of an expansion pursuant to~~
 980 | ~~s. 651.021(2)~~, the same minimum reservation requirements must be
 981 | met for the continuing care and continuing care at-home
 982 | contracts, independently of each other.

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

996 | (5) Up to 25 percent of the moneys paid for all or any
 997 | part of an initial entrance fee may be included or pledged for
 998 | the construction or purchase of the facility or as security for
 999 | long-term financing. As used in this section, the term "initial
 1000 | entrance fee" means the total entrance fee charged by the

1001 facility to the first occupant of a unit.

1002 ~~(a)~~ A minimum of 75 percent of the moneys paid for all or
 1003 any part of an initial entrance fee collected for continuing
 1004 care or continuing care at-home must ~~shall~~ be placed in an
 1005 escrow account or on deposit with the department as prescribed
 1006 in s. 651.033.

1007 ~~(b) For an expansion as provided in s. 651.021(2), a~~
 1008 ~~minimum of 75 percent of the moneys paid for all or any part of~~
 1009 ~~an initial entrance fee collected for continuing care and 50~~
 1010 ~~percent of the moneys paid for all or any part of an initial fee~~
 1011 ~~collected for continuing care at-home shall be placed in an~~
 1012 ~~escrow account or on deposit with the department as prescribed~~
 1013 ~~in s. 651.033.~~

1014 (6) The provider is entitled to secure release of the
 1015 moneys held in escrow within 7 days after receipt by the office
 1016 of an affidavit from the provider, along with appropriate copies
 1017 to verify, and notification to the escrow agent by certified
 1018 mail, that the following conditions have been satisfied:

1019 (a) A certificate of occupancy has been issued.

1020 (b) Payment in full has been received for at least 70
 1021 percent of the total units of a phase or of the total of the
 1022 combined phases constructed. If a provider offering continuing
 1023 care at-home is applying for a release of escrowed entrance
 1024 fees, the same minimum requirement must be met for the
 1025 continuing care and continuing care at-home contracts,

1026 independently of each other.

1027 ~~(c) The consultant who prepared the feasibility study~~
1028 ~~required by this section or a substitute approved by the office~~
1029 ~~certifies within 12 months before the date of filing for office~~
1030 ~~approval that there has been no material adverse change in~~
1031 ~~status with regard to the feasibility study. If a material~~
1032 ~~adverse change exists at the time of submission, sufficient~~
1033 ~~information acceptable to the office and the feasibility~~
1034 ~~consultant must be submitted which remedies the adverse~~
1035 ~~condition.~~

1036 (c)~~(d)~~ Documents evidencing Proof that commitments have
1037 been secured or a documented plan adopted by the applicant has
1038 been approved by the office for long-term financing.

1039 (d)~~(e)~~ Documents evidencing Proof that the provider has
1040 sufficient funds to meet the requirements of s. 651.035, which
1041 may include funds deposited in the initial entrance fee account.

1042 (e)~~(f)~~ Documents evidencing Proof ~~as to~~ the intended
1043 application of the proceeds upon release and documentation ~~proof~~
1044 that the entrance fees when released will be applied as
1045 represented to the office.

1046 (f) If any material change occurred in the facts set forth
1047 in the application filed with the office pursuant to subsection
1048 (1), the applicant timely filed the amendment setting forth such
1049 change with the office and sent copies of the amendment to the
1050 principal office of the facility and to the principal office of

1051 the controlling company as required under that subsection.

1052

1053 Notwithstanding chapter 120, no person, other than the provider,
1054 the escrow agent, and the office, may have a substantial
1055 interest in any office decision regarding release of escrow
1056 funds in any proceedings under chapter 120 or this chapter
1057 regarding release of escrow funds.

1058 (7) In lieu of the provider fulfilling the requirements in
1059 subsection (5) and paragraphs (6) (b) and (c) ~~(d)~~, the office may
1060 authorize the release of escrowed funds to retire all
1061 outstanding debts on the facility and equipment upon application
1062 of the provider and upon the provider's showing that the
1063 provider will grant to the residents a first mortgage on the
1064 land, buildings, and equipment that constitute the facility, and
1065 that the provider has satisfied paragraphs (6) (a), ~~(e)~~, and (d)
1066 ~~(e)~~. Such mortgage shall secure the refund of the entrance fee
1067 in the amount required by this chapter. The granting of such
1068 mortgage is subject to the following:

1069 (a) The first mortgage is granted to an independent trust
1070 that is beneficially held by the residents. The document
1071 creating the trust must include a provision that agrees to an
1072 annual audit and will furnish to the office all information the
1073 office may reasonably require. The mortgage may secure payment
1074 on bonds issued to the residents or trustee. Such bonds are
1075 redeemable after termination of the residency contract in the

1076 amount and manner required by this chapter for the refund of an
1077 entrance fee.

1078 (b) Before granting a first mortgage to the residents, all
1079 construction must be substantially completed and substantially
1080 all equipment must be purchased. No part of the entrance fees
1081 may be pledged as security for a construction loan or otherwise
1082 used for construction expenses before the completion of
1083 construction.

1084 (c) If the provider is leasing the land or buildings used
1085 by the facility, the leasehold interest must be for a term of at
1086 least 30 years.

1087 (8) ~~The timeframes provided under s. 651.022(5) and (6)~~
1088 ~~apply to applications submitted under s. 651.021(2).~~ The office
1089 may not issue a certificate of authority to a facility that does
1090 not have a component that is to be licensed pursuant to part II
1091 of chapter 400 or to part I of chapter 429 or that does not
1092 offer personal services or nursing services through written
1093 contractual agreement. A written contractual agreement must be
1094 disclosed in the contract for continuing care or continuing care
1095 at-home and is subject to ~~the provisions of s. 651.1151,~~
1096 relating to administrative, vendor, and management contracts.

1097 (9) The office may not approve an application that
1098 includes in the plan of financing any encumbrance of the
1099 operating reserves or renewal and replacement reserves required
1100 by this chapter.

1101 Section 9. Section 651.024, Florida Statutes, is amended
1102 to read:

1103 651.024 Acquisition.—

1104 (1) A person who seeks to assume the role of general
1105 partner of a provider or to otherwise assume ownership or
1106 possession of, or control over, 10 percent or more of a
1107 provider, a controlling company of the provider, or a provider's
1108 assets, based on the balance sheet from the most recent
1109 financial audit report filed with the office, is ~~issued a~~
1110 ~~certificate of authority to operate a continuing care facility~~
1111 ~~or a provisional certificate of authority shall be subject to~~
1112 ~~the provisions of s. 628.4615 and is not required to make~~
1113 ~~filings pursuant to s. 651.022, s. 651.023, or s. 651.0245.~~

1114 (2) A person who seeks to acquire and become the provider
1115 for a facility is subject to s. 651.0245 and is not required to
1116 make filings pursuant to ss. 628.4615, 651.022, and 651.023.

1117 (3) In addition to the provider or the controlling
1118 company, the office has standing to petition a circuit court
1119 under s. 628.4615(9).

1120 Section 10. Section 651.0245, Florida Statutes, is created
1121 to read:

1122 651.0245 Application for the simultaneous acquisition of a
1123 facility and issuance of a certificate of authority.—

1124 (1) Except with the prior written approval of the office,
1125 a person may not, individually or in conjunction with any

1126 affiliated person of such person, directly or indirectly acquire
1127 a facility operating under a subsisting certificate of authority
1128 and engage in the business of providing continuing care.

1129 (2) An applicant seeking simultaneous acquisition of a
1130 facility and issuance of a certificate of authority must:

1131 (a) Comply with the notice requirements of s.
1132 628.4615(2) (a); and

1133 (b) File an application in the form required by the office
1134 and cooperate with the office's review of the application.

1135 (3) The commission shall adopt by rule application
1136 requirements equivalent to those described in ss. 628.4615(4)
1137 and (5), 651.022(2), and 651.023(1) (b). The office shall review
1138 the application and issue an approval or disapproval of the
1139 filing in accordance with ss. 628.4615(6) (a) and (c), (7)-(10),
1140 and (14); and 651.023(1) (b).

1141 (4) In addition to the provider or the controlling
1142 company, the office has standing to petition a circuit court
1143 under s. 628.4615(9).

1144 (5) A person may rebut a presumption of control by filing
1145 a disclaimer of control with the office on a form prescribed by
1146 the commission. The disclaimer must fully disclose all material
1147 relationships and bases for affiliation between the person and
1148 the provider or facility, as well as the basis for disclaiming
1149 the affiliation. In lieu of such form, a person or acquiring
1150 party may file with the office a copy of a Schedule 13G filed

1151 with the Securities and Exchange Commission pursuant to Rule
1152 13d-1(b) or (c), 17 C.F.R. s. 240.13d-1, under the Securities
1153 Exchange Act of 1934, as amended. After a disclaimer has been
1154 filed, the provider or facility is relieved of any duty to
1155 register or report under this section which may arise out of the
1156 provider's or facility's relationship with the person, unless
1157 the office disallows the disclaimer.

1158 (6) The commission may adopt rules as necessary to
1159 administer this section.

1160 Section 11. Section 651.0246, Florida Statutes, is created
1161 to read:

1162 651.0246 Expansions.—

1163 (1) (a) A provider must obtain written approval from the
1164 office before commencing construction or marketing for an
1165 expansion of a certificated facility equivalent to the addition
1166 of at least 20 percent of existing units or 20 percent or more
1167 of the number of continuing care at-home contracts. If the
1168 provider has exceeded the current statewide median for days cash
1169 on hand, debt service coverage ratio, and total facility
1170 occupancy for the most recent two consecutive annual reporting
1171 periods, the provider is automatically granted approval to
1172 expand the total number of existing units by up to 35 percent
1173 upon submitting a letter to the office indicating the total
1174 number of planned units in the expansion, the proposed sources
1175 and uses of funds, and an attestation that the provider

1176 understands and pledges to comply with all minimum liquid
1177 reserve and escrow account requirements. As used in this
1178 section, the term "existing units" means the sum of the total
1179 number of independent living units and assisted living units
1180 identified in the most recent annual report filed with the
1181 office pursuant to s. 651.026. For purposes of this section, the
1182 statewide median for days cash on hand, debt service coverage
1183 ratio, and total facility occupancy is the median calculated in
1184 the most recent annual report submitted by the office to the
1185 Continuing Care Advisory Council pursuant to s. 651.121(8). This
1186 section does not apply to construction for which a certificate
1187 of need from the Agency for Health Care Administration is
1188 required.

1189 (b) The application for the approval of an addition
1190 consisting of 20 percent or more of existing units or continuing
1191 care at-home contracts must be on forms adopted by the
1192 commission. The application must include the feasibility study
1193 required by this section and such other information as
1194 reasonably requested by the office. If the expansion is only for
1195 continuing care at-home contracts, an actuarial study prepared
1196 by an independent actuary in accordance with standards adopted
1197 by the American Academy of Actuaries which presents the
1198 financial impact of the expansion may be substituted for the
1199 feasibility study.

1200 (c) In determining whether an expansion should be

1201 approved, the office shall consider:
 1202 1. Whether the application meets all requirements of law;
 1203 2. Whether the feasibility study was based on sufficient
 1204 data and reasonable assumptions; and
 1205 3. Whether the applicant will be able to provide
 1206 continuing care or continuing care at-home as proposed and meet
 1207 all financial obligations related to its operations, including
 1208 the financial requirements of this chapter.

1209
 1210 If the application is denied, the office must notify the
 1211 applicant in writing, citing the specific failures to meet the
 1212 provisions of this chapter. A denial entitles the applicant to a
 1213 hearing pursuant to chapter 120.

1214 (2) A provider applying for expansion of a certificated
 1215 facility must submit all of the following:

1216 (a) A feasibility study prepared by an independent
 1217 certified public accountant. The feasibility study must include
 1218 at least the following information:

1219 1. A description of the facility and proposed expansion,
 1220 including the location, the size, the anticipated completion
 1221 date, and the proposed construction program.

1222 2. An identification and evaluation of the primary and, if
 1223 applicable, secondary market areas of the facility and the
 1224 projected unit sales per month.

1225 3. Projected revenues, including anticipated entrance

1226 | fees; monthly service fees; nursing care revenues, if
 1227 | applicable; and all other sources of revenue.
 1228 | 4. Projected expenses, including for staffing requirements
 1229 | and salaries; the cost of property, plant, and equipment,
 1230 | including depreciation expense; interest expense; marketing
 1231 | expense; and other operating expenses.
 1232 | 5. A projected balance sheet of the applicant.
 1233 | 6. The expectations for the financial condition of the
 1234 | project, including the projected cash flow and an estimate of
 1235 | the funds anticipated to be necessary to cover startup losses.
 1236 | 7. The inflation factor, if any, assumed in the study for
 1237 | the proposed expansion and how and where it is applied.
 1238 | 8. Project costs; the total amount of debt financing
 1239 | required; marketing projections; resident rates, fees, and
 1240 | charges; the competition; resident contract provisions; and
 1241 | other factors that affect the feasibility of the facility.
 1242 | 9. Appropriate population projections, including morbidity
 1243 | and mortality assumptions.
 1244 | 10. The name of the person who prepared the feasibility
 1245 | study and his or her experience in preparing similar studies or
 1246 | otherwise consulting in the field of continuing care.
 1247 | 11. Financial forecasts or projections prepared in
 1248 | accordance with standards adopted by the American Institute of
 1249 | Certified Public Accountants or in accordance with standards for
 1250 | feasibility studies for continuing care retirement communities

1251 adopted by the Actuarial Standards Board.

1252 12. An independent evaluation and examination opinion for
1253 the first 5 years of operations, or a comparable opinion
1254 acceptable to the office, by the consultant who prepared the
1255 study, of the underlying assumptions used as a basis for the
1256 forecasts or projections in the study and that the assumptions
1257 are reasonable and proper and the project as proposed is
1258 feasible.

1259 13. Any other information that the provider deems relevant
1260 and appropriate to provide to enable the office to make a more
1261 informed determination.

1262 (b) Such other reasonable data, financial statements, and
1263 pertinent information as the commission or office may require
1264 with respect to the applicant or the facility to determine the
1265 financial status of the facility and the management capabilities
1266 of its managers and owners.

1267
1268 If any material change occurs in the facts set forth in an
1269 application filed with the office pursuant to this section, an
1270 amendment setting forth such change must be filed with the
1271 office within 10 business days after the applicant becomes aware
1272 of such change, and a copy of the amendment must be sent by
1273 registered mail to the principal office of the facility and to
1274 the principal office of the controlling company.

1275 (3) A minimum of 75 percent of the moneys paid for all or

1276 any part of an initial entrance fee or reservation deposit
1277 collected for units in the expansion and 50 percent of the
1278 moneys paid for all or any part of an initial fee collected for
1279 continuing care at-home contracts in the expansion must be
1280 placed in an escrow account or on deposit with the department as
1281 prescribed in s. 651.033. Up to 25 percent of the moneys paid
1282 for all or any part of an initial entrance fee or reservation
1283 deposit may be included or pledged for the construction or
1284 purchase of the facility or as security for long-term financing.
1285 As used in this section, the term "initial entrance fee" means
1286 the total entrance fee charged by the facility to the first
1287 occupant of a unit.

1288 (4) The provider is entitled to secure release of the
1289 moneys held in escrow within 7 days after receipt by the office
1290 of an affidavit from the provider, along with appropriate copies
1291 to verify, and notification to the escrow agent by certified
1292 mail that the following conditions have been satisfied:

1293 (a) A certificate of occupancy has been issued.

1294 (b) Payment in full has been received for at least 50
1295 percent of the total units of a phase or of the total of the
1296 combined phases constructed. If a provider offering continuing
1297 care at-home is applying for a release of escrowed entrance
1298 fees, the same minimum requirement must be met for the
1299 continuing care and continuing care at-home contracts
1300 independently of each other.

1301 (c) Documents evidencing that commitments have been
1302 secured or that a documented plan adopted by the applicant has
1303 been approved by the office for long-term financing.

1304 (d) Documents evidencing that the provider has sufficient
1305 funds to meet the requirements of s. 651.035, which may include
1306 funds deposited in the initial entrance fee account.

1307 (e) Documents evidencing the intended application of the
1308 proceeds upon release and documentation that the entrance fees,
1309 when released, will be applied as represented to the office.

1310
1311 Notwithstanding chapter 120, only the provider, the escrow
1312 agent, and the office have a substantial interest in any office
1313 decision regarding release of escrow funds in any proceedings
1314 under chapter 120 or this chapter.

1315 (5) (a) Within 30 days after receipt of an application for
1316 expansion, the office shall examine the application and shall
1317 notify the applicant in writing, specifically requesting any
1318 additional information that the office is authorized to require.
1319 Within 15 days after the office receives all the requested
1320 additional information, the office shall notify the applicant in
1321 writing that the requested information has been received and
1322 that the application is deemed complete as of the date of the
1323 notice. Failure to notify the applicant in writing within the
1324 15-day period constitutes acknowledgement by the office that it
1325 has received all requested additional information, and the

1326 application is deemed complete for purposes of review on the
1327 date the applicant files all of the required additional
1328 information. If the application submitted is determined by the
1329 office to be substantially incomplete so as to require
1330 substantial additional information, including biographical
1331 information, the office may return the application to the
1332 applicant with a written notice stating that the application as
1333 received is substantially incomplete and, therefore, is
1334 unacceptable for filing without further action required by the
1335 office. Any filing fee received must be refunded to the
1336 applicant.

1337 (b) An application is deemed complete upon the office
1338 receiving all requested information and the applicant correcting
1339 any error or omission of which the applicant was timely notified
1340 or when the time for such notification has expired. The office
1341 shall notify the applicant in writing of the date on which the
1342 application was deemed complete.

1343 (6) Within 45 days after the date on which an application
1344 is deemed complete as provided in paragraph (5) (b), the office
1345 shall complete its review and, based upon its review, approve an
1346 expansion by the applicant and issue a determination that the
1347 application meets all requirements of law, that the feasibility
1348 study was based on sufficient data and reasonable assumptions,
1349 and that the applicant will be able to provide continuing care
1350 or continuing care at-home as proposed and meet all financial

1351 and contractual obligations related to its operations, including
1352 the financial requirements of this chapter. If the application
1353 is denied, the office must notify the applicant in writing,
1354 citing the specific failures to meet the requirements of this
1355 chapter. The denial entitles the applicant to a hearing pursuant
1356 to chapter 120.

1357 Section 12. Paragraphs (b) and (c) of subsection (2) and
1358 subsection (3) of section 651.026, Florida Statutes, are
1359 amended, subsection (10) is added to that section, and paragraph
1360 (a) of subsection (2) of that section is republished, to read:

1361 651.026 Annual reports.—

1362 (2) The annual report shall be in such form as the
1363 commission prescribes and shall contain at least the following:

1364 (a) Any change in status with respect to the information
1365 required to be filed under s. 651.022(2).

1366 (b) A financial report ~~statements~~ audited by an
1367 independent certified public accountant which must contain, for
1368 two or more periods if the facility has been in existence that
1369 long, all of the following:

1370 1. An accountant's opinion and, in accordance with
1371 generally accepted accounting principles:

1372 a. A balance sheet;

1373 b. A statement of income and expenses;

1374 c. A statement of equity or fund balances; and

1375 d. A statement of changes in cash flows.

1376 2. Notes to the financial report statements considered
 1377 customary or necessary for full disclosure or adequate
 1378 understanding of the financial report statements, financial
 1379 condition, and operation.

1380 (c) The following financial information:

1381 1. A detailed listing of the assets maintained in the
 1382 liquid reserve as required under s. 651.035 and in accordance
 1383 with part II of chapter 625;

1384 2. A schedule giving additional information relating to
 1385 property, plant, and equipment having an original cost of at
 1386 least \$25,000, so as to show in reasonable detail with respect
 1387 to each separate facility original costs, accumulated
 1388 depreciation, net book value, appraised value or insurable value
 1389 and date thereof, insurance coverage, encumbrances, and net
 1390 equity of appraised or insured value over encumbrances. Any
 1391 property not used in continuing care must be shown separately
 1392 from property used in continuing care;

1393 3. The level of participation in Medicare or Medicaid
 1394 programs, or both;

1395 4. A statement of all fees required of residents,
 1396 including, but not limited to, a statement of the entrance fee
 1397 charged, the monthly service charges, the proposed application
 1398 of the proceeds of the entrance fee by the provider, and the
 1399 plan by which the amount of the entrance fee is determined if
 1400 the entrance fee is not the same in all cases; ~~and~~

1401 5. Any change or increase in fees if the provider changes
 1402 the scope of, or the rates for, care or services, regardless of
 1403 whether the change involves the basic rate or only those
 1404 services available at additional costs to the resident;~~;~~

1405 6. If the provider has more than one certificated
 1406 facility, or has operations that are not licensed under this
 1407 chapter, it shall submit a balance sheet, statement of income
 1408 and expenses, statement of equity or fund balances, and
 1409 statement of cash flows for each facility licensed under this
 1410 chapter as supplemental information to the audited financial
 1411 report ~~statements~~ required under paragraph (b); ~~and~~.

1412 7. The management's calculation of the provider's debt
 1413 service coverage ratio, occupancy, and days cash on hand for the
 1414 current reporting period.

1415 (3) The commission shall adopt by rule additional
 1416 ~~meaningful~~ measures of assessing the financial viability of a
 1417 provider. ~~The rule may include the following factors:~~

- 1418 ~~(a) Debt service coverage ratios.~~
- 1419 ~~(b) Current ratios.~~
- 1420 ~~(c) Adjusted current ratios.~~
- 1421 ~~(d) Cash flows.~~
- 1422 ~~(e) Occupancy rates.~~
- 1423 ~~(f) Other measures, ratios, or trends.~~
- 1424 ~~(g) Other factors as may be appropriate.~~

1425 (10) By August 1 annually, the office shall publish on its

1426 website an annual industry report for the preceding calendar
1427 year which contains all of the following:

1428 (a) The median days cash on hand for all providers.

1429 (b) The median debt service coverage ratio for all
1430 providers.

1431 (c) The median occupancy rate for all providers by
1432 setting, including independent living, assisted living, skilled
1433 nursing, and the entire facility.

1434 (d) Documentation of the office's compliance with
1435 requirements in s. 651.105(1) relating to examination
1436 timeframes. Documentation must include the number of
1437 examinations completed in the preceding calendar year, the
1438 number of such examinations for which the report has been
1439 issued, and the percentage of all examinations completed within
1440 the statutorily required timeframes.

1441 (e) The number of annual reports submitted to the office
1442 pursuant to this section in the preceding calendar year and the
1443 percentage of such reports that the office has reviewed in order
1444 to determine whether a regulatory action level event has
1445 occurred.

1446 Section 13. Section 651.0261, Florida Statutes, is amended
1447 to read:

1448 651.0261 Quarterly and monthly statements.—

1449 (1) Within 45 days after the end of each fiscal quarter,
1450 each provider shall file a quarterly unaudited financial

1451 statement of the provider or of the facility in the form
1452 prescribed by commission rule and days cash on hand, occupancy,
1453 debt service coverage ratio, and a detailed listing of the
1454 assets maintained in the liquid reserve as required under s.
1455 651.035. The last quarterly statement for a fiscal year is not
1456 required if a provider does not have pending a regulatory action
1457 level event, impairment, or a corrective action plan. If a
1458 provider falls below two or more of the thresholds set forth in
1459 s. 651.011(25) at the end of any fiscal quarter, the provider
1460 shall submit to the office, at the same time as the quarterly
1461 statement, an explanation of the circumstances and a description
1462 of the actions it will take to meet the requirements.

1463 (2) If the office finds, ~~pursuant to rules of the~~
1464 ~~commission,~~ that such information is needed to properly monitor
1465 the financial condition of a provider or facility or is
1466 otherwise needed to protect the public interest, the office may
1467 require the provider to file:

1468 (a) Within 25 days after the end of each month, a monthly
1469 unaudited financial statement of the provider or of the facility
1470 in the form prescribed by the commission by rule and a detailed
1471 listing of the assets maintained in the liquid reserve as
1472 required under s. 651.035, ~~within 45 days after the end of each~~
1473 ~~fiscal quarter, a quarterly unaudited financial statement of the~~
1474 ~~provider or of the facility in the form prescribed by the~~
1475 ~~commission by rule. The commission may by rule require all or~~

1476 ~~part of the statements or filings required under this section to~~
1477 ~~be submitted by electronic means in a computer readable form~~
1478 ~~compatible with the electronic data format specified by the~~
1479 ~~commission.~~

1480 (b) Such other data, financial statements, and pertinent
1481 information as the commission or office may reasonably require
1482 with respect to the provider or the facility, its directors, or
1483 its trustees; or with respect to any parent, subsidiary, or
1484 affiliate, if the provider or facility relies on a contractual
1485 or financial relationship with such parent, subsidiary, or
1486 affiliate in order to meet the financial requirements of this
1487 chapter, to determine the financial status of the provider or of
1488 the facility and the management capabilities of its managers and
1489 owners.

1490 (3) A filing under subsection (2) may be required if any
1491 of the following applies:

1492 (a) The provider is:

1493 1. Subject to administrative supervision proceedings;

1494 2. Subject to a corrective action plan resulting from a
1495 regulatory action level event and for up to 2 years after the
1496 factors that caused the regulatory action level event have been
1497 corrected; or

1498 3. Subject to delinquency or receivership proceedings or
1499 has filed for bankruptcy.

1500 (b) The provider or facility displays a declining

1501 financial position.

1502 (c) A change of ownership of the provider or facility has
 1503 occurred within the previous 2 years.

1504 (d) The provider is found to be impaired.

1505 (4) The commission may by rule require all or part of the
 1506 statements or filings required under this section to be
 1507 submitted by electronic means in a computer-readable format
 1508 compatible with an electronic data format specified by the
 1509 commission.

1510 Section 14. Section 651.028, Florida Statutes, is amended
 1511 to read:

1512 651.028 Accredited facilities.—~~If~~ A provider or facility
 1513 is deemed accredited under this statute if it is accredited
 1514 without stipulations or conditions by a process found by the
 1515 commission office to be acceptable, and substantially equivalent
 1516 to the provisions of this chapter, and consistent the office
 1517 may, pursuant to rule of the commission, waive any requirements
 1518 of this chapter with respect to the provider if the office finds
 1519 that such waivers are not inconsistent with the security
 1520 protections intended by this chapter.

1521 Section 15. Subsections (1), (2), (3), and (5) of section
 1522 651.033, Florida Statutes, are amended, and subsection (6) is
 1523 added to that section, to read:

1524 651.033 Escrow accounts.—

1525 (1) When funds are required to be deposited in an escrow

1526 account pursuant to s. 651.0215, s. 651.022, s. 651.023, s.
 1527 651.0246, s. 651.035, or s. 651.055:

1528 (a) The escrow account must ~~shall~~ be established in a
 1529 Florida bank, Florida savings and loan association, ~~or~~ Florida
 1530 trust company, or a national bank that is chartered and
 1531 supervised by the Office of the Comptroller of the Currency
 1532 within the United States Department of the Treasury and that has
 1533 a branch in this state, which is acceptable to the office, or
 1534 such funds must be deposited ~~on deposit~~ with the department; and
 1535 ~~the funds deposited therein shall~~ be kept and maintained in an
 1536 account separate and apart from the provider's business
 1537 accounts.

1538 (b) An escrow agreement shall be entered into between the
 1539 bank, savings and loan association, or trust company and the
 1540 provider of the facility; the agreement shall state that its
 1541 purpose is to protect the resident or the prospective resident;
 1542 and, upon presentation of evidence of compliance with applicable
 1543 portions of this chapter, or upon order of a court of competent
 1544 jurisdiction, the escrow agent shall release and pay over the
 1545 funds, or portions thereof, together with any interest accrued
 1546 thereon or earned from investment of the funds, to the provider
 1547 or resident as directed.

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

1551 and ~~shall~~ contain, in addition to any other provisions required
1552 by law, a provision whereby the escrow agent agrees to abide by
1553 the duties imposed by paragraphs (b) and (e), (3) (a), (3) (b),
1554 and (5) (a) and subsection (6) under this section.

1555 (d) All funds deposited in an escrow account, if invested,
1556 shall be invested as set forth in part II of chapter 625;
1557 however, such investment may not diminish the funds held in
1558 escrow below the amount required by this chapter. Funds
1559 deposited in an escrow account are not subject to charges by the
1560 escrow agent except escrow agent fees associated with
1561 administering the accounts, or subject to any liens, judgments,
1562 garnishments, creditor's claims, or other encumbrances against
1563 the provider or facility except as provided in s. 651.035(1).

1564 (e) At the request of either the provider or the office,
1565 the escrow agent shall issue a statement indicating the status
1566 of the escrow account.

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

1576 percent of the required minimum liquid reserve. The office shall
1577 have 3 working days to deny the petition for the emergency 10-
1578 percent withdrawal. If the office fails to deny the petition
1579 within 3 working days, the petition is ~~shall be~~ deemed to have
1580 been granted by the office. For purposes ~~the purpose~~ of this
1581 section, the term "working day" means each day that is not a
1582 Saturday, Sunday, or legal holiday as defined by Florida law.
1583 Also, for purposes ~~the purpose~~ of this section, the day the
1584 petition is received by the office is ~~shall not be~~ counted as
1585 one of the 3 days.

1586 (3) ~~In addition,~~ When entrance fees are required to be
1587 deposited in an escrow account pursuant to s. 651.0215, s.
1588 651.022, s. 651.023, s. 651.0246, or s. 651.055:

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

1601 resident.

1602 (b) At the request of an individual resident of a
1603 facility, the escrow agent shall issue a statement indicating
1604 the status of the resident's portion of the escrow account.

1605 (c) At the request of an individual resident of a
1606 facility, the provider may hold the check for the 7-day period
1607 and may ~~shall~~ not deposit it during this time period. If the
1608 resident rescinds the contract within the 7-day period, the
1609 check must ~~shall~~ be immediately returned to the resident. Upon
1610 the expiration of the 7 days, the provider shall deposit the
1611 check.

1612 (d) A provider may assess a nonrefundable fee, which is
1613 separate from the entrance fee, for processing a prospective
1614 resident's application for continuing care or continuing care
1615 at-home.

1616 (5) When funds are required to be deposited in an escrow
1617 account pursuant to s. 651.0215, s. 651.022, s. 651.023, s.
1618 651.0246, or s. 651.035, the following ~~shall~~ apply:

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

1626 the end of the quarter for which the statement is due. If the
1627 escrow agent does not provide the quarterly statement to the
1628 provider on or before the 10th day of the month following the
1629 month for which the statement is due, the office may, in its
1630 discretion, levy against the escrow agent a fine not to exceed
1631 \$25 a day for each day of noncompliance with the provisions of
1632 this subsection.

1633 (b) If the escrow agent does not provide the quarterly
1634 statement to the provider on or before the 10th day of the month
1635 following the quarter for which the statement is due, the
1636 provider shall, on or before the 15th day of the month following
1637 the quarter for which the statement is due, send a written
1638 request for the statement to the escrow agent by certified mail
1639 return receipt requested.

1640 (c) On or before the 20th day of the month following the
1641 quarter for which the statement is due, the provider shall file
1642 with the office a copy of the escrow agent's statement or, if
1643 the provider has not received the escrow agent's statement, a
1644 copy of the written request to the escrow agent for the
1645 statement.

1646 (d) The office may, in its discretion, in addition to any
1647 other penalty that may be provided for under this chapter, levy
1648 a fine against the provider not to exceed \$25 a day for each day
1649 the provider fails to comply with the provisions of this
1650 subsection.

1651 (e) Funds held on deposit with the department are exempt
1652 from the reporting requirements of this subsection.

1653 (6) Except as described in paragraph (3) (a), the escrow
1654 agent may not release or otherwise allow the transfer of funds
1655 without the written approval of the office, unless the
1656 withdrawal is from funds in excess of the amounts required by
1657 ss. 651.0215, 651.022, 651.023, 651.0246, 651.035, and 651.055.

1658 Section 16. Section 651.034, Florida Statutes, is created
1659 to read:

1660 651.034 Financial and operating requirements for
1661 providers.-

1662 (1) (a) If a regulatory action level event occurs, the
1663 office must:

1664 1. Require the provider to prepare and submit a corrective
1665 action plan or, if applicable, a revised corrective action plan;

1666 2. Perform an examination pursuant to s. 651.105 or an
1667 analysis, as the office considers necessary, of the assets,
1668 liabilities, and operations of the provider, including a review
1669 of the corrective action plan or the revised corrective action
1670 plan; and

1671 3. After the examination or analysis, issue a corrective
1672 order, if necessary, specifying any corrective actions that the
1673 office determines are required.

1674 (b) In determining corrective actions, the office shall
1675 consider any factor relevant to the provider based upon the

1676 office's examination or analysis of the assets, liabilities, and
1677 operations of the provider. The provider must submit the
1678 corrective action plan or the revised corrective action plan
1679 within 30 days after the occurrence of the regulatory action
1680 level event. The office shall review and approve or disapprove
1681 the corrective action plan within 45 business days.

1682 (c) The office may use members of the Continuing Care
1683 Advisory Council, individually or as a group, or may retain
1684 actuaries, investment experts, and other consultants to review a
1685 provider's corrective action plan or revised corrective action
1686 plan, examine or analyze the assets, liabilities, and operations
1687 of a provider, and formulate the corrective order with respect
1688 to the provider. The costs and expenses relating to consultants
1689 must be borne by the affected provider.

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

1701 impairment and any related required report. For purposes of s.
1702 631.051, impairment of a provider is defined according to the
1703 term "impaired" under s. 651.011. The office may forego taking
1704 action for up to 180 days after the impairment if the office
1705 finds there is a reasonable expectation that the impairment may
1706 be eliminated within the 180-day period.

1707 (3) There is no liability on the part of, and a cause of
1708 action may not arise against, the commission, department, or
1709 office, or their employees or agents, for any action they take
1710 in the performance of their powers and duties under this
1711 section.

1712 (4) The office shall transmit any notice that may result
1713 in regulatory action by registered mail, certified mail, or any
1714 other method of transmission which includes documentation of
1715 receipt by the provider. Notice is effective when the provider
1716 receives it.

1717 (5) This section is supplemental to the other laws of this
1718 state and does not preclude or limit any power or duty of the
1719 department or office under those laws or under the rules adopted
1720 pursuant to those laws.

1721 (6) The office may exempt a provider from subsection (1)
1722 or subsection (2) until stabilized occupancy is reached or until
1723 the time projected to achieve stabilized occupancy as reported
1724 in the last feasibility study required by the office as part of
1725 an application filing under s. 651.0215, s. 651.023, s. 651.024,

1726 | or s. 651.0246 has elapsed, but for no longer than 5 years after
 1727 | the date of issuance of the certificate of occupancy.

1728 | (7) The commission may adopt rules to administer this
 1729 | section, including, but not limited to, rules regarding
 1730 | corrective action plans, revised corrective action plans,
 1731 | corrective orders, and procedures to be followed in the event of
 1732 | a regulatory action level event or an impairment.

1733 | Section 17. Paragraphs (a), (b), and (c) of subsection (1)
 1734 | of section 651.035, Florida Statutes, are amended, and
 1735 | subsections (7) through (11) are added to that section, to read:

1736 | 651.035 Minimum liquid reserve requirements.—

1737 | (1) A provider shall maintain in escrow a minimum liquid
 1738 | reserve consisting of the following reserves, as applicable:

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

1751 have a mortgage loan or other financing on the facility, the
1752 provider must deposit monthly in escrow as a minimum liquid
1753 reserve an amount equal to one-twelfth of the annual property
1754 tax liability as indicated in the most recent tax notice
1755 provided pursuant to s. 197.322(3), and must annually pay
1756 property taxes out of such escrow.

1757 (b) A provider that has outstanding indebtedness that
1758 requires a debt service reserve to be held in escrow pursuant to
1759 a trust indenture or mortgage lien on the facility and for which
1760 the debt service reserve may only be used to pay principal and
1761 interest payments on the debt that the debtor is obligated to
1762 pay, and which may include property taxes and insurance, may
1763 include such debt service reserve in computing the minimum
1764 liquid reserve needed to satisfy this subsection if the provider
1765 furnishes to the office a copy of the agreement under which such
1766 debt service is held, together with a statement of the amount
1767 being held in escrow for the debt service reserve, certified by
1768 the lender or trustee and the provider to be correct. The
1769 trustee shall provide the office with any information concerning
1770 the debt service reserve account upon request of the provider or
1771 the office. Any such separate debt service reserves are not
1772 subject to the transfer provisions set forth in subsection (8).

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

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

1801 agent or judgments, garnishments, or creditors' claims against
1802 the provider or facility. However, if a facility had a lien,
1803 mortgage, trust indenture, or similar debt instrument in place
1804 before January 1, 1993, which encumbered all or any part of the
1805 reserves required by this subsection and such funds were used to
1806 meet the requirements of this subsection, then such arrangement
1807 may be continued, unless a refinancing or acquisition has
1808 occurred, and the provider is ~~shall be~~ in compliance with this
1809 subsection.

1810 (7) (a) A provider may withdraw funds held in escrow
1811 without the approval of the office if the amount held in escrow
1812 exceeds the requirements of this section and if the withdrawal
1813 will not affect compliance with this section.

1814 (b)1. For all other proposed withdrawals, in order to
1815 receive the consent of the office, the provider must file
1816 documentation showing why the withdrawal is necessary for the
1817 continued operation of the facility and such additional
1818 information as the office reasonably requires.

1819 2. The office shall notify the provider when the filing is
1820 deemed complete. If the provider has complied with all prior
1821 requests for information, the filing is deemed complete after 30
1822 days without communication from the office.

1823 3. Within 30 days after the date a file is deemed
1824 complete, the office shall provide the provider with written
1825 notice of its approval or disapproval of the request. The office

1826 may disapprove any request to withdraw such funds if it
1827 determines that the withdrawal is not in the best interest of
1828 the residents.

1829 (8) The office may order the immediate transfer of up to
1830 100 percent of the funds held in the minimum liquid reserve to
1831 the custody of the department pursuant to part III of chapter
1832 625 if the office finds that the provider is impaired or
1833 insolvent. The office may order such a transfer regardless of
1834 whether the office has suspended or revoked, or intends to
1835 suspend or revoke, the certificate of authority of the provider.

1836 (9) Each facility shall file with the office annually,
1837 together with the annual report required by s. 651.026, a
1838 calculation of its minimum liquid reserve determined in
1839 accordance with this section on a form prescribed by the
1840 commission.

1841 (10) Any increase in the minimum liquid reserve must be
1842 funded not later than 61 days after the minimum liquid reserve
1843 calculation is due to be filed as provided in s. 651.026.

1844 (11) If the minimum liquid reserve is less than the
1845 required minimum amount at the end of any fiscal quarter due to
1846 a change in the market value of the invested funds, the provider
1847 must fund the shortfall within 10 business days.

1848 Section 18. Effective July 1, 2019, section 651.043,
1849 Florida Statutes, is created to read:

1850 651.043 Approval of change in management.-

1851 (1) A contract with a management company entered into
1852 after July 1, 2019, must be in writing and include a provision
1853 that the contract will be canceled upon issuance of an order by
1854 the office pursuant to this section and without the application
1855 of a cancellation fee or penalty. If a provider contracts with a
1856 management company, a separate written contract is not required
1857 for the individual manager employed by the management company or
1858 contractor hired by the management company to oversee a
1859 facility. If a management company executes a contract with an
1860 individual manager or contractor, the contract is not required
1861 to be submitted to the office unless requested by the office.

1862 (2) A provider shall notify the office, in writing or
1863 electronically, of any change in management within 10 business
1864 days. For each new management company or manager not employed by
1865 a management company, the provider shall submit to the office
1866 the information required by s. 651.022(2) and a copy of the
1867 written management contract, if applicable.

1868 (3) For a provider that is found to be impaired or that
1869 has a regulatory action level event pending, the office may
1870 disapprove new management and order the provider to remove the
1871 new management after reviewing the information required under
1872 subsection (2).

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

1876 required information under subsection (2), if the office:
 1877 (a) Finds that the new management is incompetent or
 1878 untrustworthy;
 1879 (b) Finds that the new management is so lacking in
 1880 managerial experience as to make the proposed operation
 1881 hazardous to the residents or potential residents;
 1882 (c) Finds that the new management is so lacking in
 1883 experience, ability, and standing as to jeopardize the
 1884 reasonable promise of successful operation; or
 1885 (d) Has good reason to believe that the new management is
 1886 affiliated directly or indirectly through ownership, control, or
 1887 business relations with any person or persons whose business
 1888 operations are or have been marked by manipulation of assets or
 1889 accounts or by bad faith, to the detriment of residents,
 1890 stockholders, investors, creditors, or the public.
 1891
 1892 The office shall complete its review as required under
 1893 subsections (3) and (4) and, if applicable, issue notice of
 1894 disapproval of the new management within 30 business days after
 1895 the filing is deemed complete. A filing is deemed complete upon
 1896 the office's receipt of all requested information and the
 1897 provider's correction of any error or omission for which the
 1898 provider was timely notified. If the office does not issue
 1899 notice of disapproval of the new management within 30 business
 1900 days after the filing is deemed complete, the new management is

1901 deemed approved.

1902 (5) Management disapproved by the office must be removed
1903 within 30 days after receipt by the provider of notice of such
1904 disapproval.

1905 (6) The office may revoke, suspend, or take other
1906 administrative action against the certificate of authority of
1907 the provider if the provider:

1908 (a) Fails to timely remove management disapproved by the
1909 office;

1910 (b) Fails to timely notify the office of a change in
1911 management;

1912 (c) Appoints new management without a written contract
1913 when a written contract is required under this section; or

1914 (d) Repeatedly appoints management that was previously
1915 disapproved by the office or that is not approvable under
1916 subsection (4).

1917 (7) The provider shall remove any management immediately
1918 upon discovery of either of the following conditions, if the
1919 conditions were not disclosed in the notice to the office
1920 required under subsection (2):

1921 (a) That a manager has been found guilty of, or has pled
1922 guilty or no contest to, a felony charge, or has been held
1923 liable or has been enjoined in a civil action by final judgment,
1924 if the felony or civil action involved fraud, embezzlement,
1925 fraudulent conversion, or misappropriation of property.

1926 (b) That a manager is now, or was in the past, affiliated,
 1927 directly or indirectly, through ownership interest of 10 percent
 1928 or more in, or control of, any business, corporation, or other
 1929 entity that has been found guilty of or has pled guilty or no
 1930 contest to a felony charge, or has been held liable or has been
 1931 enjoined in a civil action by final judgment, if the felony or
 1932 civil action involved fraud, embezzlement, fraudulent
 1933 conversion, or misappropriation of property.

1934
 1935 The failure to remove such management is grounds for revocation
 1936 or suspension of the provider's certificate of authority.

1937 Section 19. Section 651.051, Florida Statutes, is amended
 1938 to read:

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

1951 | this state. Before ~~Prior~~ to such removal, the provider shall
1952 | give notice to the president or chair of the facility's
1953 | residents' council. If such removal is part of a cash management
1954 | system which has been approved by the office, disclosure of the
1955 | system must ~~shall~~ meet the notification requirements. The
1956 | electronic storage of records on a web-based, secured storage
1957 | platform by contract with a third party is acceptable if the
1958 | records are readily accessible to the office.

1959 | Section 20. Subsection (3) of section 651.055, Florida
1960 | Statutes, is amended to read:

1961 | 651.055 Continuing care contracts; right to rescind.—

1962 | (3) The contract must include or be accompanied by a
1963 | statement, printed in boldfaced type, which reads: "This
1964 | facility and all other continuing care facilities (also known as
1965 | life plan communities) in the State of Florida are regulated by
1966 | the Office of Insurance Regulation pursuant to chapter 651,
1967 | Florida Statutes. A copy of the law is on file in this facility.
1968 | The law gives you or your legal representative the right to
1969 | inspect our most recent financial statement and inspection
1970 | report before signing the contract. The financial structure of a
1971 | continuing care provider can be complex, and the decision to
1972 | enter into a contract for continuing care is a long-term
1973 | commitment between a resident and the continuing care provider.
1974 | You may wish to consult an attorney or financial advisor before
1975 | entering into such contract."

1976 Section 21. Subsection (2) of section 651.057, Florida
 1977 Statutes, is amended to read:

1978 651.057 Continuing care at-home contracts.—

1979 (2) A provider that holds a certificate of authority and
 1980 wishes to offer continuing care at-home must also:

1981 (a) Submit a business plan to the office with the
 1982 following information:

1983 1. A description of the continuing care at-home services
 1984 that will be provided, the market to be served, and the fees to
 1985 be charged;

1986 2. A copy of the proposed continuing care at-home
 1987 contract;

1988 3. An actuarial study prepared by an independent actuary
 1989 in accordance with the standards adopted by the American Academy
 1990 of Actuaries which presents the impact of providing continuing
 1991 care at-home on the overall operation of the facility; and

1992 4. A ~~market~~ feasibility study that meets the requirements
 1993 of s. 651.022(3) and documents that there is sufficient interest
 1994 in continuing care at-home contracts to support such a program;

1995 (b) Demonstrate to the office that the proposal to offer
 1996 continuing care at-home contracts to individuals who do not
 1997 immediately move into the facility will not place the provider
 1998 in an unsound financial condition;

1999 (c) Comply with the requirements of s. 651.0246(1) ~~s.~~
 2000 ~~651.021(2)~~, except that an actuarial study may be substituted

2001 for the feasibility study; and
 2002 (d) Comply with the requirements of this chapter.
 2003 Section 22. Subsection (1) of section 651.071, Florida
 2004 Statutes, is amended to read:
 2005 651.071 Contracts as preferred claims on liquidation or
 2006 receivership.—
 2007 (1) In the event of receivership or liquidation
 2008 proceedings against a provider, all continuing care and
 2009 continuing care at-home contracts executed by a provider are
 2010 ~~shall be~~ deemed preferred claims against all assets owned by the
 2011 provider; however, such claims are subordinate to any secured
 2012 claim. For purposes of s. 631.271, such contracts are deemed
 2013 Class 2 claims.
 2014 Section 23. Subsections (2) and (3) of section 651.091,
 2015 Florida Statutes, are amended, and subsection (4) of that
 2016 section is republished, to read:
 2017 651.091 Availability, distribution, and posting of reports
 2018 and records; requirement of full disclosure.—
 2019 (2) Every continuing care facility shall:
 2020 (a) Display the certificate of authority in a conspicuous
 2021 place inside the facility.
 2022 (b) Post in a prominent position in the facility which is
 2023 accessible to all residents and the general public a concise
 2024 summary of the last examination report issued by the office,
 2025 with references to the page numbers of the full report noting

2026 any deficiencies found by the office, and the actions taken by
2027 the provider to rectify such deficiencies, indicating in such
2028 summary where the full report may be inspected in the facility.

2029 (c) Post in a prominent position in the facility,
2030 accessible to all residents and the general public, a notice
2031 containing the contact information for the office and the
2032 Division of Consumer Services of the department and stating that
2033 the division or office may be contacted for the submission of
2034 inquiries and complaints with respect to potential violations of
2035 this chapter committed by a provider. Such contact information
2036 must include the division's website and the toll-free consumer
2037 helpline and the office's website and telephone number.

2038 (d) Provide notice to the president or chair of the
2039 residents' council within 10 business days after issuance of a
2040 final examination report or the initiation of any legal or
2041 administrative proceeding by the office or the department and
2042 include a copy of such document.

2043 (e)-(e) Post in a prominent position in the facility which
2044 is accessible to all residents and the general public a summary
2045 of the latest annual statement, indicating in the summary where
2046 the full annual statement may be inspected in the facility. A
2047 listing of any proposed changes in policies, programs, and
2048 services must also be posted.

2049 (f)-(d) Distribute a copy of the full annual statement and
2050 a copy of the most recent third-party ~~third party~~ financial

2051 audit filed with the annual report to the president or chair of
2052 the residents' council within 30 days after filing the annual
2053 report with the office, and designate a staff person to provide
2054 explanation thereof.

2055 (g)(e) Deliver the information described in s. 651.085(4)
2056 in writing to the president or chair of the residents' council
2057 and make supporting documentation available upon request ~~Notify~~
2058 ~~the residents' council of any plans filed with the office to~~
2059 ~~obtain new financing, additional financing, or refinancing for~~
2060 ~~the facility and of any applications to the office for any~~
2061 ~~expansion of the facility.~~

2062 (h)(f) Deliver to the president or chair of the residents'
2063 council a summary of entrance fees collected and refunds made
2064 during the time period covered in the annual report and the
2065 refund balances due at the end of the report period.

2066 (i)(g) Deliver to the president or chair of the residents'
2067 council a copy of each quarterly statement within 30 days after
2068 the quarterly statement is filed with the office if the facility
2069 is required to file quarterly.

2070 (j)(h) Upon request, deliver to the president or chair of
2071 the residents' council a copy of any newly approved continuing
2072 care or continuing care at-home contract within 30 days after
2073 approval by the office.

2074 (k) Provide to the president or chair of the residents'
2075 council a copy of any notice filed with the office relating to

2076 | any change in ownership within 10 business days after such
 2077 | filing by the provider.

2078 | (1) Make the information available to prospective
 2079 | residents pursuant to paragraph (3) (d) available to current
 2080 | residents and provide notice of changes to that information to
 2081 | the president or chair of the residents' council within 3
 2082 | business days.

2083 | (3) Before entering into a contract to furnish continuing
 2084 | care or continuing care at-home, the provider undertaking to
 2085 | furnish the care, or the agent of the provider, shall make full
 2086 | disclosure, and provide copies of the disclosure documents to
 2087 | the prospective resident or his or her legal representative, of
 2088 | the following information:

2089 | (a) The contract to furnish continuing care or continuing
 2090 | care at-home.

2091 | (b) The summary listed in paragraph (2) (b).

2092 | (c) All ownership interests and lease agreements,
 2093 | including information specified in s. 651.022(2)(b)8.

2094 | (d) In keeping with the intent of this subsection relating
 2095 | to disclosure, the provider shall make available for review
 2096 | master plans approved by the provider's governing board and any
 2097 | plans for expansion or phased development, to the extent that
 2098 | the availability of such plans does not put at risk real estate,
 2099 | financing, acquisition, negotiations, or other implementation of
 2100 | operational plans and thus jeopardize the success of

2101 negotiations, operations, and development.

2102 (e) Copies of the rules and regulations of the facility
2103 and an explanation of the responsibilities of the resident.

2104 (f) The policy of the facility with respect to admission
2105 to and discharge from the various levels of health care offered
2106 by the facility.

2107 ~~(g) The amount and location of any reserve funds required~~
2108 ~~by this chapter, and the name of the person or entity having a~~
2109 ~~claim to such funds in the event of a bankruptcy, foreclosure,~~
2110 ~~or rehabilitation proceeding.~~

2111 (g)~~(h)~~ A copy of s. 651.071.

2112 (h)~~(i)~~ A copy of the resident's rights as described in s.
2113 651.083.

2114 (i) Notice of the issuance of a final examination report
2115 or the initiation of any legal or administrative proceeding by
2116 the office or the department, including where the report or
2117 filing may be inspected in the facility, and that, upon request,
2118 an electronic copy or specific website address will be provided
2119 from which the document can be downloaded at no cost.

2120 (j) Notice that, if the resident does not exercise the
2121 right to rescind a continuing care contract within 7 days after
2122 executing the contract, the resident's funds held in escrow
2123 pursuant to s. 651.055(2) will be released to the provider.

2124 (k) A statement that distribution of the provider's assets
2125 or income may occur or a statement that such distributions will

2126 | not occur.

2127 | (1) Notice of any holding company system or obligated
 2128 | group of which the provider is a member.

2129 | (4) A true and complete copy of the full disclosure
 2130 | document to be used must be filed with the office before use. A
 2131 | resident or prospective resident or his or her legal
 2132 | representative may inspect the full reports referred to in
 2133 | paragraph (2)(b); the charter or other agreement or instrument
 2134 | required to be filed with the office pursuant to s. 651.022(2),
 2135 | together with all amendments thereto; and the bylaws of the
 2136 | corporation or association, if any. Upon request, copies of the
 2137 | reports and information shall be provided to the individual
 2138 | requesting them if the individual agrees to pay a reasonable
 2139 | charge to cover copying costs.

2140 | Section 24. Subsection (4) of section 651.095, Florida
 2141 | Statutes, is amended to read:

2142 | 651.095 Advertisements; requirements; penalties.—

2143 | (4) It is unlawful for any person, other than a provider
 2144 | licensed pursuant to this chapter, to advertise or market to the
 2145 | general public any product similar to continuing care through
 2146 | the use of such terms as "life care," "life plan," "life plan
 2147 | at-home," "continuing care," or "guaranteed care for life," or
 2148 | similar terms, words, or phrases.

2149 | Section 25. Section 651.105, Florida Statutes, is amended
 2150 | to read:

2151 651.105 Examination ~~and inspections~~.—

2152 (1) The office may at any time, and shall at least once
2153 every 3 years, examine the business of any applicant for a
2154 certificate of authority and any provider engaged in the
2155 execution of care contracts or engaged in the performance of
2156 obligations under such contracts, in the same manner as is
2157 provided for the examination of insurance companies pursuant to
2158 ss. 624.316 and 624.318 ~~s. 624.316~~. For a provider as described
2159 ~~defined~~ in s. 651.028, such examinations must ~~shall~~ take place
2160 at least once every 5 years. Such examinations must ~~shall~~ be
2161 made by a representative or examiner designated by the office
2162 whose compensation will be fixed by the office pursuant to s.
2163 624.320. Routine examinations may be made by having the
2164 necessary documents submitted to the office; and, for this
2165 purpose, financial documents and records conforming to commonly
2166 accepted accounting principles and practices, as required under
2167 s. 651.026, are deemed adequate. The final written report of
2168 each examination must be filed with the office and, when so
2169 filed, constitutes a public record. Any provider being examined
2170 shall, upon request, give reasonable and timely access to all of
2171 its records. The representative or examiner designated by the
2172 office may at any time examine the records and affairs and
2173 inspect the physical property of any provider, whether in
2174 connection with a formal examination or not.

2175 (2) Any duly authorized officer, employee, or agent of the

2176 office may, upon presentation of proper identification, have
2177 access to, and examine ~~inspect~~, any records, with or without
2178 advance notice, to secure compliance with, or to prevent a
2179 violation of, any provision of this chapter.

2180 (3) Reports of the results of such financial examinations
2181 must be kept on file by the office. Any investigatory records,
2182 reports, or documents held by the office are confidential and
2183 exempt from the provisions of s. 119.07(1), until the
2184 investigation is completed or ceases to be active. For the
2185 purpose of this section, an investigation is active while it is
2186 being conducted by the office with a reasonable, good faith
2187 belief that it could lead to the filing of administrative,
2188 civil, or criminal proceedings. An investigation does not cease
2189 to be active if the office is proceeding with reasonable
2190 dispatch and has a good faith belief that action could be
2191 initiated by the office or other administrative or law
2192 enforcement agency.

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

2201 a specified date. If the provider fails to comply within the
 2202 established length of time, the office may initiate action
 2203 against the provider in accordance with the provisions of this
 2204 chapter.

2205 (5) A provider shall respond to written correspondence
 2206 from the office and provide data, financial statements, and
 2207 pertinent information as requested by the office. The office has
 2208 standing to petition a circuit court for mandatory injunctive
 2209 relief to compel access to and require the provider to produce
 2210 the documents, data, records, and other information requested by
 2211 the office. The office may petition the circuit court in the
 2212 county in which the facility is situated or the Circuit Court of
 2213 Leon County to enforce this section ~~At the time of the routine~~
 2214 ~~examination, the office shall determine if all disclosures~~
 2215 ~~required under this chapter have been made to the president or~~
 2216 ~~chair of the residents' council and the executive officer of the~~
 2217 ~~governing body of the provider.~~

2218 (6) A representative of the provider must give a copy of
 2219 the final examination report and corrective action plan, if one
 2220 is required by the office, to the executive officer of the
 2221 governing body of the provider within 60 days after issuance of
 2222 the report.

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

2226 a routine examination. However, if a provider or facility relies
 2227 on a contractual or financial relationship with a parent, a
 2228 subsidiary, or an affiliate in order to meet the financial
 2229 requirements of this chapter, the office may examine any parent,
 2230 subsidiary, or affiliate that has a contractual or financial
 2231 relationship with the provider or facility to the extent
 2232 necessary to ascertain the financial condition of the provider.

2233 Section 26. Section 651.106, Florida Statutes, is amended
 2234 to read:

2235 651.106 Grounds for discretionary refusal, suspension, or
 2236 revocation of certificate of authority.—The office may deny an
 2237 application or ~~suspend~~ or revoke the provisional certificate
 2238 of authority or the certificate of authority of any applicant or
 2239 provider if it finds that any one or more of the following
 2240 grounds applicable to the applicant or provider exist:

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

2251 moneys.

2252 (7) Failure to comply with, or violation of, any proper
2253 order or rule of the office or commission or violation of any
2254 provision of this chapter.

2255 (8) The insolvent or impaired condition of the provider or
2256 the provider's being in such condition or using such methods and
2257 practices in the conduct of its business as to render its
2258 further transactions in this state hazardous or injurious to the
2259 public.

2260 (9) Refusal by the provider to be examined or to produce
2261 its accounts, records, and files for examination, or refusal by
2262 any of its officers to give information with respect to its
2263 affairs or to perform any other legal obligation under this
2264 chapter when required by the office.

2265 (10) Failure by the provider to comply with the
2266 requirements of s. 651.026 or s. 651.033.

2267 (11) Failure by the provider to maintain escrow accounts
2268 or funds as required by this chapter.

2269 (12) Failure by the provider to meet the requirements of
2270 this chapter for disclosure of information to residents
2271 concerning the facility, its ownership, its management, its
2272 development, or its financial condition or failure to honor its
2273 continuing care or continuing care at-home contracts.

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

2276 office.

2277 (14) Having been found guilty of, or having pleaded guilty
 2278 or nolo contendere to, a felony in this state or any other
 2279 state, without regard to whether a judgment or conviction has
 2280 been entered by the court having jurisdiction of such cases.

2281 (15) In the conduct of business under the license,
 2282 engaging in unfair methods of competition or in unfair or
 2283 deceptive acts or practices prohibited under part IX of chapter
 2284 626.

2285 (16) A pattern of bankrupt enterprises.

2286 (17) The ownership, control, or management of the
 2287 organization includes any person:

2288 (a) Who is not reputable and of responsible character;

2289 (b) Who is so lacking in management expertise as to make
 2290 the operation of the provider hazardous to potential and
 2291 existing residents;

2292 (c) Who is so lacking in management experience, ability,
 2293 and standing as to jeopardize the reasonable promise of
 2294 successful operation;

2295 (d) Who is affiliated, directly or indirectly, through
 2296 ownership or control, with any person or persons whose business
 2297 operations are or have been marked by business practices or
 2298 conduct that is detrimental to the public, contract holders,
 2299 investors, or creditors, or by manipulation of assets, finances,
 2300 or accounts or by bad faith; or

2301 (e) Whose business operations are or have been marked by
 2302 business practices or conduct that is detrimental to the public,
 2303 contract holders, investors, or creditors, or by manipulation of
 2304 assets, finances, or accounts or by bad faith.

2305 (18) The provider has not filed a notice of change in
 2306 management, fails to remove a disapproved manager, or persists
 2307 in appointing disapproved managers.

2308
 2309 Revocation of a certificate of authority under this section does
 2310 not relieve a provider from the provider's obligation to
 2311 residents under the terms and conditions of any continuing care
 2312 or continuing care at-home contract between the provider and
 2313 residents or the provisions of this chapter. The provider shall
 2314 continue to file its annual statement and pay license fees to
 2315 the office as required under this chapter as if the certificate
 2316 of authority had continued in full force, but the provider shall
 2317 not issue any new contracts. The office may seek an action in
 2318 the Circuit Court of Leon County to enforce the office's order
 2319 and the provisions of this section.

2320 Section 27. Section 651.1065, Florida Statutes, is created
 2321 to read:

2322 651.1065 Soliciting or accepting new continuing care
 2323 contracts by impaired or insolvent facilities or providers.—

2324 (1) Regardless of whether delinquency proceedings as to a
 2325 continuing care facility have been or are to be initiated, a

2326 proprietor, a general partner, a member, an officer, a director,
 2327 a trustee, or a manager of a continuing care facility may not
 2328 actively solicit, approve the solicitation or acceptance of, or
 2329 accept new continuing care contracts in this state after the
 2330 proprietor, general partner, member, officer, director, trustee,
 2331 or manager knew, or reasonably should have known, that the
 2332 continuing care facility was impaired or insolvent except with
 2333 the written permission of the office. If the facility has
 2334 declared bankruptcy, the bankruptcy court or trustee appointed
 2335 by the court has jurisdiction over such matters. The office must
 2336 approve or disapprove the continued marketing of new contracts
 2337 within 15 days after receiving a request from a provider.

2338 (2) A proprietor, a general partner, a member, an officer,
 2339 a director, a trustee, or a manager who violates this section
 2340 commits a felony of the third degree, punishable as provided in
 2341 s. 775.082, s. 775.083, or s. 775.084.

2342 Section 28. Subsections (1) and (3) of section 651.111,
 2343 Florida Statutes, are amended to read:

2344 651.111 Requests for inspections.—

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

2351 violation, which notice must ~~shall~~ be signed by the complainant.
2352 As used in this section, the term "inspection" means an inquiry
2353 into a provider's compliance with this chapter.

2354 (3) Upon receipt of a complaint, the office shall make a
2355 preliminary review to determine if the complaint alleges a
2356 violation of this chapter; and, unless the office determines
2357 that the complaint does not allege a violation of this chapter
2358 or is without any reasonable basis, the office shall make an
2359 inspection. The office shall provide the complainant with a
2360 written acknowledgment of the complaint within 15 days after
2361 receipt by the office. The complainant shall be advised, within
2362 30 days after the receipt of the complaint by the office, of the
2363 office's determination that the complaint does not allege a
2364 violation of this chapter, that the complaint is without any
2365 reasonable basis, or that the office will make an inspection.
2366 The notice must include an estimated timeframe for completing
2367 the inspection and a contact number. If the inspection is not
2368 completed within the estimated timeframe, the office must
2369 provide the complainant with a revised timeframe. Within 15 days
2370 after completing an inspection, the office shall provide the
2371 complainant and the provider a written statement specifying any
2372 violations of this chapter and any actions taken or that no such
2373 violation was found ~~proposed course of action of the office.~~

2374 Section 29. Section 651.114, Florida Statutes, is amended
2375 to read:

2376 651.114 Delinquency proceedings; remedial rights.—
 2377 (1) Upon determination by the office that a provider is
 2378 not in compliance with this chapter, the office may notify the
 2379 chair of the Continuing Care Advisory Council, who may assist
 2380 the office in formulating a corrective action plan.
 2381 (2) Within 30 days after a request by either the advisory
 2382 council or the office, a provider shall make a plan for
 2383 obtaining compliance or solvency available to the advisory
 2384 council and the office, ~~within 30 days after being requested to~~
 2385 ~~do so by the council, a plan for obtaining compliance or~~
 2386 ~~solvency.~~
 2387 (3) Within 30 days after receipt of a plan for obtaining
 2388 compliance or solvency, the office or, at the request of the
 2389 office, ~~notification,~~ the advisory council shall:
 2390 (a) Consider and evaluate the plan submitted by the
 2391 provider.
 2392 (b) Discuss the problem and solutions with the provider.
 2393 (c) Conduct such other business as is necessary.
 2394 (d) Report its findings and recommendations to the office,
 2395 which may require additional modification of the plan.
 2396
 2397 This subsection may not be construed to delay or prevent the
 2398 office from taking any regulatory measures it deems necessary
 2399 regarding the provider that submitted the plan.
 2400 (4) If the financial condition of a continuing care

2401 provider is impaired or is such that if not modified or
 2402 corrected, its continued operation would result in insolvency,
 2403 the office may direct the provider to formulate and file with
 2404 the office a corrective action plan. If the provider fails to
 2405 submit a plan within 30 days after the office's directive or
 2406 submits a plan that is insufficient to correct the condition,
 2407 the office may specify a plan and direct the provider to
 2408 implement the plan. Before specifying a plan, the office may
 2409 seek a recommended plan from the advisory council.

2410 (5)~~(4)~~ After receiving approval of a plan by the office,
 2411 the provider shall submit a progress report monthly to the
 2412 advisory council or the office, or both, in a manner prescribed
 2413 by the office. After 3 months, or at any earlier time deemed
 2414 necessary, the council shall evaluate the progress by the
 2415 provider and shall advise the office of its findings.

2416 (6)~~(5)~~ If ~~Should~~ the office finds ~~find~~ that sufficient
 2417 grounds exist for rehabilitation, liquidation, conservation,
 2418 reorganization, seizure, or summary proceedings of an insurer as
 2419 set forth in ss. 631.051, 631.061, and 631.071, the department
 2420 ~~office~~ may petition for an appropriate court order or may pursue
 2421 such other relief as is afforded in part I of chapter 631.
 2422 Before invoking its powers under part I of chapter 631, the
 2423 department ~~office~~ shall notify the chair of the advisory
 2424 council.

2425 (7) For purposes of s. 631.051, impairment of a provider

2426 has the same meaning as the term "impaired" in s. 651.011.

2427 (8)~~(6)~~ In the event an order of conservation,
2428 rehabilitation, liquidation, or ~~conservation, reorganization,~~
2429 ~~seizure, or summary proceeding~~ has been entered against a
2430 provider, the department and office are vested with all of the
2431 powers and duties they have under ~~the provisions of~~ part I of
2432 chapter 631 in regard to delinquency proceedings of insurance
2433 companies. A provider shall give written notice of the
2434 proceeding to its residents within 3 business days after the
2435 initiation of a delinquency proceeding under chapter 631 and
2436 shall include a notice of the delinquency proceeding in any
2437 written materials provided to prospective residents

2438 ~~(7) If the financial condition of the continuing care~~
2439 ~~facility or provider is such that, if not modified or corrected,~~
2440 ~~its continued operation would result in insolvency, the office~~
2441 ~~may direct the provider to formulate and file with the office a~~
2442 ~~corrective action plan. If the provider fails to submit a plan~~
2443 ~~within 30 days after the office's directive or submits a plan~~
2444 ~~that is insufficient to correct the condition, the office may~~
2445 ~~specify a plan and direct the provider to implement the plan.~~

2446 (9) A provider subject to an order to show cause entered
2447 pursuant to chapter 631 must file its written response to the
2448 order, together with any defenses it may have to the
2449 department's allegations, according to the time periods
2450 specified in s. 631.031(3).

2451 (10) A hearing held pursuant to chapter 631 to determine
 2452 whether cause exists for the department to be appointed receiver
 2453 must be held in accordance with the time period specified in s.
 2454 631.031(4).

2455 (11) (a) ~~(8) (a)~~ The rights of the office described in this
 2456 section are subordinate to the rights of a trustee or lender
 2457 pursuant to the terms of a resolution, ordinance, loan
 2458 agreement, indenture of trust, mortgage, lease, security
 2459 agreement, or other instrument creating or securing bonds or
 2460 notes issued to finance a facility, and the office, subject to
 2461 ~~the provisions of~~ paragraph (c), may ~~shall~~ not exercise its
 2462 remedial rights provided under this section and ss. 651.018,
 2463 651.106, 651.108, and 651.116 with respect to a facility that is
 2464 subject to a lien, mortgage, lease, or other encumbrance or
 2465 trust indenture securing bonds or notes issued in connection
 2466 with the financing of the facility, if the trustee or lender, by
 2467 inclusion or by amendment to the loan documents or by a separate
 2468 contract with the office, agrees that the rights of residents
 2469 under a continuing care or continuing care at-home contract will
 2470 be honored and will not be disturbed by a foreclosure or
 2471 conveyance in lieu thereof as long as the resident:

2472 1. Is current in the payment of all monetary obligations
 2473 required by the contract;

2474 2. Is in compliance and continues to comply with all
 2475 provisions of the contract; and

2476 3. Has asserted no claim inconsistent with the rights of
 2477 the trustee or lender.

2478 (b) This subsection does not require a trustee or lender
 2479 to:

2480 1. Continue to engage in the marketing or resale of new
 2481 continuing care or continuing care at-home contracts;

2482 2. Pay any rebate of entrance fees as may be required by a
 2483 resident's continuing care or continuing care at-home contract
 2484 as of the date of acquisition of the facility by the trustee or
 2485 lender and until expiration of the period described in paragraph
 2486 (d);

2487 3. Be responsible for any act or omission of any owner or
 2488 operator of the facility arising before the acquisition of the
 2489 facility by the trustee or lender; or

2490 4. Provide services to the residents to the extent that
 2491 the trustee or lender would be required to advance or expend
 2492 funds that have not been designated or set aside for such
 2493 purposes.

2494 (c) If ~~Should~~ the office determines ~~determine~~, at any time
 2495 during the suspension of its remedial rights as provided in
 2496 paragraph (a), that:

2497 1. The trustee or lender is not in compliance with
 2498 paragraph (a); ~~or that~~

2499 2. A lender or trustee has assigned or has agreed to
 2500 assign all or a portion of a delinquent or defaulted loan to a

2501 third party without the office's written consent;~~;~~

2502 3. The provider engaged in the misappropriation,
2503 conversion, or illegal commitment or withdrawal of minimum
2504 liquid reserve or escrowed funds required under this chapter;

2505 4. The provider refused to be examined by the office
2506 pursuant to s. 651.105(1); or

2507 5. The provider refused to produce any relevant accounts,
2508 records, and files requested as part of an examination,

2509

2510 the office shall notify the trustee or lender in writing of its
2511 determination, setting forth the reasons giving rise to the
2512 determination and specifying those remedial rights afforded to
2513 the office which the office shall then reinstate.

2514 (d) Upon acquisition of a facility by a trustee or lender
2515 and evidence satisfactory to the office that the requirements of
2516 paragraph (a) have been met, the office shall issue a 90-day
2517 temporary certificate of authority granting the trustee or
2518 lender the authority to engage in the business of providing
2519 continuing care or continuing care at-home and to issue
2520 continuing care or continuing care at-home contracts subject to
2521 the office's right to immediately suspend or revoke the
2522 temporary certificate of authority if the office determines that
2523 any of the grounds described in s. 651.106 apply to the trustee
2524 or lender or that the terms of the contract used as the basis
2525 for the issuance of the temporary certificate of authority by

2526 the office have not been or are not being met by the trustee or
2527 lender since the date of acquisition.

2528 Section 30. Section 651.1141, Florida Statutes, is created
2529 to read:

2530 651.1141 Immediate final orders.-

2531 (1) The Legislature finds that the following actions
2532 constitute an imminent and immediate threat to the public
2533 health, safety, and welfare of the residents of this state:

2534 (a) The installation of a general partner of a provider or
2535 assumption of ownership or possession or control of 10 percent
2536 or more of a provider's assets in violation of s. 651.024 or s.
2537 651.0245;

2538 (b) The removal or commitment of 10 percent or more of the
2539 required minimum liquid reserve funds in violation of s.
2540 651.035; or

2541 (c) The assumption of control over a facility's operations
2542 in violation of s. 651.043.

2543 (2) If it finds that a person or entity is engaging or has
2544 engaged in one or more of the above activities, the office may,
2545 pursuant to s. 120.569, issue an immediate final order:

2546 (a) Directing that such person or entity cease and desist
2547 that activity; or

2548 (b) Suspending the certificate of authority of the
2549 facility.

2550 Section 31. Subsection (1) of section 651.121, Florida

2551 Statutes, is amended to read:

2552 651.121 Continuing Care Advisory Council.—

2553 (1) The Continuing Care Advisory Council to the office is
 2554 created consisting of 10 members ~~who are residents of this state~~
 2555 appointed by the Governor and geographically representative of
 2556 this state. Three members shall be representatives
 2557 ~~administrators~~ of facilities that hold valid certificates of
 2558 authority under this chapter and ~~shall~~ have been actively
 2559 engaged in the offering of continuing care contracts in this
 2560 state for 5 years before appointment. The remaining members
 2561 include:

2562 (a) A representative of the business community whose
 2563 expertise is in the area of management.

2564 (b) A representative of the financial community who is not
 2565 a facility owner or administrator.

2566 (c) A certified public accountant.

2567 ~~(d) An attorney.~~

2568 (d)(e) ~~Four~~ Three residents who hold continuing care or
 2569 continuing care at-home contracts with a facility certified in
 2570 this state.

2571 Section 32. Subsections (1) and (4) of section 651.125,
 2572 Florida Statutes, are amended to read:

2573 651.125 Criminal penalties; injunctive relief.—

2574 (1) Any person who maintains, enters into, or, as manager
 2575 or officer or in any other administrative capacity, assists in

2576 entering into, maintaining, or performing any continuing care or
2577 continuing care at-home contract subject to this chapter without
2578 ~~doing so in pursuance of~~ a valid provisional certificate of
2579 authority or certificate of authority ~~or renewal thereof~~, as
2580 contemplated by or provided in this chapter, or who otherwise
2581 violates any provision of this chapter or rule adopted in
2582 pursuance of this chapter, commits a felony of the third degree,
2583 punishable as provided in s. 775.082 or s. 775.083. Each
2584 violation of this chapter constitutes a separate offense.

2585 (4) Any action brought by the office against a provider
2586 shall not abate by reason of a sale or other transfer of
2587 ownership of the facility used to provide care, which provider
2588 is a party to the action, except with the express written
2589 consent of the ~~director of the~~ office.

2590 Section 33. Except as otherwise expressly provided in this
2591 act and except for this section, which shall take effect July 1,
2592 2019, this act shall take effect January 1, 2020.