



436274

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2019	.	
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The Committee on Banking and Insurance (Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

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



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11 effective May 1, 2011.

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

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

25 (4)~~(1)~~ "Advertising" means the dissemination of written,
26 visual, or electronic information by a provider, or any person
27 affiliated with or controlled by a provider, to potential
28 residents or their representatives for the purpose of inducing
29 such persons to subscribe to or enter into a contract for
30 continuing care or continuing care at-home.

31 (5)~~(2)~~ "Continuing care" or "care" means, pursuant to a
32 contract, furnishing shelter and nursing care or personal
33 services to a resident who resides in a facility, whether such
34 nursing care or personal services are provided in the facility
35 or in another setting designated in the contract for continuing
36 care, by an individual not related by consanguinity or affinity
37 to the resident, upon payment of an entrance fee.

38 (6)~~(3)~~ "Continuing Care Advisory Council" or "advisory
39 council" means the council established in s. 651.121.



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40 (7)~~(4)~~ "Continuing care at-home" means, pursuant to a
41 contract other than a contract described in subsection (5) ~~(2)~~,
42 furnishing to a resident who resides outside the facility the
43 right to future access to shelter and nursing care or personal
44 services, whether such services are provided in the facility or
45 in another setting designated in the contract, by an individual
46 not related by consanguinity or affinity to the resident, upon
47 payment of an entrance fee.

48 (8) "Controlling company" means any corporation, trust, or
49 association that directly or indirectly owns 25 percent or more
50 of:

51 (a) The voting securities of one or more providers or
52 facilities that are stock corporations; or

53 (b) The ownership interest of one or more providers or
54 facilities that are not stock corporations.

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

58 (10) "Days cash on hand" means the quotient obtained by
59 dividing the value of paragraph (a) by the value of paragraph
60 (b).

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

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



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69 reporting date.

70

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

77 (11) "Debt service coverage ratio" means the quotient
78 obtained by dividing the value of paragraph (a) by the value of
79 paragraph (b).

80 (a) The sum of total expenses less interest expense on the
81 debt facility, depreciation, amortization, and other noncash
82 expense and nonoperating losses, subtracted from the sum of
83 total revenues, excluding noncash revenues and nonoperating
84 gains, and gross entrance fees received less earned entrance
85 fees and refunds paid. Expenses, interest expense on the debt
86 facility, depreciation, amortization, and other noncash expense
87 and nonoperating losses, revenues, noncash revenues,
88 nonoperating gains, gross entrance fees, earned entrance fees,
89 and refunds are each the sum of their respective values over the
90 12-month period ending on the reporting date.

91 (b) Total annual principal and interest expense due on the
92 debt facility over the 12-month period ending on the reporting
93 date. For the purposes of this paragraph, principal excludes any
94 balloon principal payment amounts, and interest expense due is
95 the sum of the interest over the 12-month period immediately
96 preceding the reporting date.

97 (12) "Department" means the Department of Financial



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98 Services.

99 (13)-(5) "Entrance fee" means an initial or deferred payment
100 of a sum of money or property made as full or partial payment
101 for continuing care or continuing care at-home. An accommodation
102 fee, admission fee, member fee, or other fee of similar form and
103 application are considered to be an entrance fee.

104 (14)-(6) "Facility" means a place where continuing care is
105 furnished and may include one or more physical plants on a
106 primary or contiguous site or an immediately accessible site. As
107 used in this subsection, the term "immediately accessible site"
108 means a parcel of real property separated by a reasonable
109 distance from the facility as measured along public
110 thoroughfares, and the term "primary or contiguous site" means
111 the real property contemplated in the feasibility study required
112 by this chapter.

113 ~~(7) "Generally accepted accounting principles" means those~~
114 ~~accounting principles and practices adopted by the Financial~~
115 ~~Accounting Standards Board and the American Institute of~~
116 ~~Certified Public Accountants, including Statement of Position~~
117 ~~90-8 with respect to any full year to which the statement~~
118 ~~applies.~~

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

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

126 (b) Beginning January 1, 2021:



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

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

134
135 If the provider is a member of an obligated group having cross-
136 collateralized debt, the obligated group's debt service coverage
137 ratio and days cash on hand must be used to determine if the
138 provider is impaired.

139 (16)-(8) "Insolvency" means the condition in which a ~~the~~
140 provider is unable to pay its obligations as they come due in
141 the normal course of business.

142 (17)-(9) "Licensed" means that a ~~the~~ provider has obtained a
143 certificate of authority from the ~~office~~ department.

144 (18) "Manager", "management," or "management company" means
145 a person who administers the day-to-day business operations of a
146 facility for a provider, subject to the policies, directives,
147 and oversight of the provider.

148 (19)-(10) "Nursing care" means those services or acts
149 rendered to a resident by an individual licensed or certified
150 pursuant to chapter 464.

151 (20) "Obligated group" means one or more entities that
152 jointly agree to be bound by a financing structure containing
153 security provisions and covenants applicable to the group. For
154 the purposes of this subsection, debt issued under such a
155 financing structure must be a joint and several obligation of



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156 each member of the group.

157 (21) "Occupancy" means the total number of occupied
158 independent living units, assisted living units, and skilled
159 nursing beds in a facility divided by the total number of units
160 and beds in that facility, excluding units and beds that are
161 unavailable to market or that are reserved by prospective
162 residents.

163 (22)~~(11)~~ "Personal services" has the same meaning as in s.
164 429.02.

165 (23)~~(12)~~ "Provider" means the owner or operator, whether a
166 natural person, partnership or other unincorporated association,
167 however organized, trust, or corporation, of an institution,
168 building, residence, or other place, whether operated for profit
169 or not, which owner or operator provides continuing care or
170 continuing care at-home for a fixed or variable fee, or for any
171 other remuneration of any type, whether fixed or variable, for
172 the period of care, payable in a lump sum or lump sum and
173 monthly maintenance charges or in installments. The term does
174 not apply to an entity that has existed and continuously
175 operated a facility located on at least 63 acres in this state
176 providing residential lodging to members and their spouses for
177 at least 66 years on or before July 1, 1989, and has the
178 residential capacity of 500 persons, is directly or indirectly
179 owned or operated by a nationally recognized fraternal
180 organization, is not open to the public, and accepts only its
181 members and their spouses as residents.

182 (24)~~(13)~~ "Records" means all documents, correspondence, and
183 the permanent financial, directory, and personnel information
184 and data maintained by a provider pursuant to this chapter.



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185 regardless of the physical form, characteristics, or means of
186 transmission.

187 (25) "Regulatory action level event" means that any of the
188 following has occurred:

189 (a) The provider's debt service coverage ratio is less than
190 the minimum ratio specified in the provider's bond covenants or
191 lending agreement for long-term financing, or, if the provider
192 does not have a debt service coverage ratio required by its
193 lending institution, the provider's debt service coverage ratio
194 is less than 1.20:1 as of the most recent report filed with the
195 office. If the provider is a member of an obligated group having
196 cross-collateralized debt, the obligated group's debt service
197 coverage ratio must be used as the provider's debt service
198 coverage ratio.

199 (b) The provider's days cash on hand is less than the
200 minimum number of days cash on hand specified in the provider's
201 bond covenants or lending agreement for long-term financing. If
202 the provider does not have a days cash on hand required by its
203 lending institution, the days cash on hand may not be less than
204 100 as of the most recent report filed with the office. If the
205 provider is a member of an obligated group having cross-
206 collateralized debt, the days cash on hand of the obligated
207 group must be used as the provider's days cash on hand.

208 (c) The 12-month average occupancy of the provider's
209 facility is less than 80 percent. The average occupancy must be
210 calculated using the facility's occupancy as of the last day of
211 each month.

212 (26)-(14) "Resident" means a purchaser of, a nominee of, or
213 a subscriber to a continuing care or continuing care at-home



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214 contract. Such contract does not give the resident a part
215 ownership of the facility in which the resident is to reside,
216 unless expressly provided in the contract.

217 (27)~~(15)~~ "Shelter" means an independent living unit, room,
218 apartment, cottage, villa, personal care unit, nursing bed, or
219 other living area within a facility set aside for the exclusive
220 use of one or more identified residents.

221 Section 2. Section 651.012, Florida Statutes, is amended to
222 read:

223 651.012 Exempted facility; written disclosure of
224 exemption.—Any facility exempted under ss. 632.637(1)(e) and
225 651.011(23) ~~651.011(12)~~ must provide written disclosure of such
226 exemption to each person admitted to the facility ~~after October~~
227 ~~1, 1996~~. This disclosure must be written using language likely
228 to be understood by the person and must briefly explain the
229 exemption.

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

232 651.013 Chapter exclusive; applicability of other laws.—

233 (2) In addition to other applicable provisions cited in
234 this chapter, the office has the authority granted under ss.
235 624.302 and 624.303, 624.307-624.312, 624.318 ~~624.308-624.312,~~
236 624.319(1)-(3), 624.320-624.321, 624.324, ~~and~~ 624.34, and
237 624.422 of the Florida Insurance Code to regulate providers of
238 continuing care and continuing care at-home.

239 Section 4. Section 651.019, Florida Statutes, is amended to
240 read:

241 651.019 New financing, additional financing, or
242 refinancing.—



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243 (1) (a) A provider shall provide a written general outline
244 of the amount and the anticipated terms of any new financing or
245 refinancing, and the intended use of proceeds, to the residents'
246 council at least 30 days before the closing date of the
247 financing or refinancing transaction. If there is a material
248 change in the noticed information, a provider shall provide an
249 updated notice to the residents' council within 10 business days
250 after the provider becomes aware of such change.

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

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

271 Section 5. Section 651.021, Florida Statutes, is amended to



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272 read:

273 651.021 Certificate of authority required.—

274 ~~(1) A~~ A ~~Ne~~ person may not engage in the business of providing
275 continuing care, issuing contracts for continuing care or
276 continuing care at-home, or constructing a facility for the
277 purpose of providing continuing care in this state without a
278 certificate of authority obtained from the office as provided in
279 this chapter. This section ~~subsection~~ does not prohibit the
280 preparation of a construction site or construction of a model
281 residence unit for marketing purposes, or both. The office may
282 allow the purchase of an existing building for the purpose of
283 providing continuing care if the office determines that the
284 purchase is not being made to circumvent the prohibitions in
285 this section.

286 ~~(2) Written approval must be obtained from the office~~
287 ~~before commencing construction or marketing for an expansion of~~
288 ~~a certificated facility equivalent to the addition of at least~~
289 ~~20 percent of existing units or 20 percent or more in the number~~
290 ~~of continuing care at-home contracts. This provision does not~~
291 ~~apply to construction for which a certificate of need from the~~
292 ~~Agency for Health Care Administration is required.~~

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

299 ~~(b) The application for such approval shall be on forms~~
300 ~~adopted by the commission and provided by the office. The~~



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301 ~~application must include the feasibility study required by s.~~
302 ~~651.022(3) or s. 651.023(1)(b) and such other information as~~
303 ~~required by s. 651.023. If the expansion is only for continuing~~
304 ~~care at home contracts, an actuarial study prepared by an~~
305 ~~independent actuary in accordance with standards adopted by the~~
306 ~~American Academy of Actuaries which presents the financial~~
307 ~~impact of the expansion may be substituted for the feasibility~~
308 ~~study.~~

309 ~~(c) In determining whether an expansion should be approved,~~
310 ~~the office shall use the criteria provided in ss. 651.022(6) and~~
311 ~~651.023(4).~~

312 Section 6. Section 651.0215, Florida Statutes, is created
313 to read:

314 651.0215 Consolidated application for a provisional
315 certificate of authority and a certificate of authority;
316 required restrictions on use of entrance fees.-

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

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

325 (b) The reservation deposit may not exceed the lesser of
326 \$40,000 or 10 percent of the then-current fee for the unit
327 selected by a resident and must be refundable at any time before
328 the resident takes occupancy of the selected unit.

329 (c) The resident contract must state that collection of the



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330 balance of the entrance fee is to occur after the resident is
331 notified that his or her selected unit is available for
332 occupancy and on or before the occupancy date.

333 (2) The consolidated application must be on a form
334 prescribed by the commission and must contain all of the
335 following information:

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

337 (b) A feasibility study prepared by an independent
338 consultant which contains all of the information required by s.
339 651.022(3) and financial forecasts or projections prepared in
340 accordance with standards adopted by the American Institute of
341 Certified Public Accountants or in accordance with standards for
342 feasibility studies for continuing care retirement communities
343 adopted by the Actuarial Standards Board.

344 1. The feasibility study must take into account project
345 costs, actual marketing results to date and marketing
346 projections, resident fees and charges, competition, resident
347 contract provisions, and other factors that affect the
348 feasibility of operating the facility.

349 2. If the feasibility study is prepared by an independent
350 certified public accountant, it must contain an examination
351 report, or a compilation report acceptable to the office,
352 containing a financial forecast or projections for the first 5
353 years of operations which take into account an actuary's
354 mortality and morbidity assumptions as the study relates to
355 turnover, rates, fees, and charges. If the study is prepared by
356 an independent consulting actuary, it must contain mortality and
357 morbidity assumptions as it relates to turnover, rates, fees,
358 and charges and an actuary's signed opinion that the project as



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359 proposed is feasible and that the study has been prepared in
360 accordance with Actuarial Standards of Practice No. 3 for
361 Continuing Care Retirement Communities, Revised Edition,
362 effective May 1, 2011.

363 (c) Documents evidencing that commitments have been secured
364 for construction financing and long-term financing or that a
365 documented plan acceptable to the office has been adopted by the
366 applicant for long-term financing.

367 (d) Documents evidencing that all conditions of the lender
368 have been satisfied to activate the commitment to disburse
369 funds, other than the obtaining of the certificate of authority,
370 the completion of construction, or the closing of the purchase
371 of realty or buildings for the facility.

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

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



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

390 (h) Such other reasonable data, financial statements, and
391 pertinent information as the commission or office may require
392 with respect to the applicant or the facility to determine the
393 financial status of the facility and the management capabilities
394 of its managers and owners.

395
396 If any material change occurs in the facts set forth in an
397 application filed with the office pursuant to this subsection,
398 an amendment setting forth such change must be filed with the
399 office within 10 business days after the applicant becomes aware
400 of such change, and a copy of the amendment must be sent by
401 registered mail to the principal office of the facility and to
402 the principal office of the controlling company.

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

407 (4) Within 45 days after receipt of the information
408 required under subsection (2), the office shall examine the
409 information and notify the applicant in writing, specifically
410 requesting any additional information that the office is
411 authorized to require. An application is deemed complete when
412 the office receives all requested information and the applicant
413 corrects any error or omission of which the applicant was timely
414 notified or when the time for such notification has expired.
415 Within 15 days after receipt of all of the requested additional
416 information, the office shall notify the applicant in writing



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417 that all of the requested information has been received and that
418 the application is deemed complete as of the date of the notice.
419 Failure to notify the applicant in writing within the 15-day
420 period constitutes acknowledgment by the office that it has
421 received all requested additional information, and the
422 application is deemed complete for purposes of review on the
423 date the applicant files all of the required additional
424 information.

425 (5) Within 45 days after an application is deemed complete
426 as set forth in subsection (4) and upon completion of the
427 remaining requirements of this section, the office shall
428 complete its review and issue or deny a certificate of authority
429 to the applicant. If a certificate of authority is denied, the
430 office shall notify the applicant in writing, citing the
431 specific failures to satisfy this chapter, and the applicant is
432 entitled to an administrative hearing pursuant to chapter 120.

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

438 (7) The issuance of a certificate of authority entitles the
439 applicant to begin construction and collect reservation deposits
440 and entrance fees from prospective residents. The reservation
441 contract must state the cancellation policy and the terms of the
442 continuing care contract. All or any part of an entrance fee or
443 reservation deposit collected must be placed in an escrow
444 account or on deposit with the department pursuant to s.
445 651.033.



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446 (8) The provider is entitled to secure release of the
447 moneys held in escrow within 7 days after the office receives an
448 affidavit from the provider, along with appropriate
449 documentation to verify, and notification is provided to the
450 escrow agent by certified mail, that all of the following
451 conditions have been satisfied:

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

453 (b) Payment in full has been received for at least 70
454 percent of the total units of a phase or of the total of the
455 combined phases constructed. If a provider offering continuing
456 care at-home is applying for a release of escrowed entrance
457 fees, the same minimum requirement must be met for the
458 continuing care contracts and for the continuing care at-home
459 contracts independently of each other.

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

463 (d) Documents evidencing the intended application of the
464 proceeds upon release and documents evidencing that the entrance
465 fees, when released, will be applied as represented to the
466 office.

467 (9) The office may not approve any application that
468 includes in the plan of financing any encumbrance of the
469 operating reserves or renewal and replacement reserves required
470 by this chapter.

471 (10) The office may not issue a certificate of authority to
472 a facility that does not have a component that is to be licensed
473 pursuant to part II of chapter 400 or part I of chapter 429, or
474 that does not offer personal services or nursing services



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475 through written contractual agreement. A written contractual
476 agreement must be disclosed in the contract for continuing care
477 or continuing care at-home and is subject to s. 651.1151.

478 Section 7. Subsections (2), (3), (6), and (8) of section
479 651.022, Florida Statutes, are amended, and subsection (5) of
480 that section is republished, to read:

481 651.022 Provisional certificate of authority; application.-

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

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

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

492 1. The proprietor, if the applicant or provider is an
493 individual.

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

499 3. The principal partners or members, if the applicant or
500 provider is a partnership or other unincorporated association,
501 however organized, having 50 or more partners or members,
502 together with the business name and business address of the
503 partnership or other organization. If such unincorporated



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504 organization has officers and a board of directors, the full
505 name and business address of each officer and director may be
506 set forth in lieu of the full name and business address of its
507 principal members.

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

510 5. Every trustee and officer, if the applicant or provider
511 is a trust.

512 6. The manager, whether an individual, corporation,
513 partnership, or association.

514 7. Any stockholder holding at least a 10 percent interest
515 in the operations of the facility in which the care is to be
516 offered.

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

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



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533 10. Any affiliated parent or subsidiary corporation or
534 partnership.

535 (c)1. Evidence that the applicant is reputable and of
536 responsible character. If the applicant is a firm, association,
537 organization, partnership, business trust, corporation, or
538 company, the form must ~~shall~~ require evidence that the members
539 or shareholders ~~are reputable and of responsible character,~~ and
540 the person in charge of providing care under a certificate of
541 authority are ~~shall likewise be required to produce evidence of~~
542 ~~being~~ reputable and of responsible character.

543 2. Evidence satisfactory to the office of the ability of
544 the applicant to comply with ~~the provisions of~~ this chapter and
545 with rules adopted by the commission pursuant to this chapter.

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

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

555 b. Is subject to a currently effective injunctive or
556 restrictive order or federal or state administrative order
557 relating to business activity or health care as a result of an
558 action brought by a public agency or department, including,
559 without limitation, an action affecting a license under chapter
560 400 or chapter 429.

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562 The statement must ~~shall~~ set forth the court or agency, the date
563 of conviction or judgment, and the penalty imposed or damages
564 assessed, or the date, nature, and issuer of the order. Before
565 determining whether a provisional certificate of authority is to
566 be issued, the office may make an inquiry to determine the
567 accuracy of the information submitted pursuant to subparagraphs
568 1., 2., and 3. ~~1. and 2.~~

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

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

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

585 (g) The forms of the residency contracts, reservation
586 contracts, escrow agreements, and wait list contracts, if
587 applicable, which are proposed to be used by the provider in the
588 furnishing of care. The office shall approve contracts and
589 escrow agreements that comply with ss. 651.023(1)(c), 651.033,
590 651.055, and 651.057. Thereafter, no other form of contract or



591 agreement may be used by the provider until it has been
592 submitted to the office and approved.

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

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

607 (a) A description of the proposed facility, including the
608 location, size, anticipated completion date, and the proposed
609 construction program.

610 (b) An identification and evaluation of the primary and, if
611 appropriate, the secondary market areas of the facility and the
612 projected unit sales per month.

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

617 (d) Projected expenses, including staffing requirements and
618 salaries; cost of property, plant, and equipment, including
619 depreciation expense; interest expense; marketing expense; and



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620 other operating expenses.

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

623 (f) Expectations of the financial condition of the project,
624 including the projected cash flow, and a projected balance sheet
625 ~~and~~ an estimate of the funds anticipated to be necessary to
626 cover startup losses.

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

630 (h) Project costs and the total amount of debt financing
631 required, marketing projections, resident fees and charges, the
632 competition, resident contract provisions, and other factors
633 that ~~which~~ affect the feasibility of the facility.

634 (i) Appropriate population projections, including morbidity
635 and mortality assumptions.

636 (j) The name of the person who prepared the feasibility
637 study and the experience of such person in preparing similar
638 studies or otherwise consulting in the field of continuing care.
639 The preparer of the feasibility study may be the provider or a
640 contracted third party.

641 (k) Any other information that the applicant deems relevant
642 and appropriate to enable the office to make a more informed
643 determination.

644 (5) (a) Within 30 days after receipt of an application for a
645 provisional certificate of authority, the office shall examine
646 the application and shall notify the applicant in writing,
647 specifically setting forth and specifically requesting any
648 additional information the office is permitted by law to



649 require. If the application submitted is determined by the
650 office to be substantially incomplete so as to require
651 substantial additional information, including biographical
652 information, the office may return the application to the
653 applicant with a written notice that the application as received
654 is substantially incomplete and, therefore, unacceptable for
655 filing without further action required by the office. Any filing
656 fee received shall be refunded to the applicant.

657 (b) Within 15 days after receipt of all of the requested
658 additional information, the office shall notify the applicant in
659 writing that all of the requested information has been received
660 and the application is deemed to be complete as of the date of
661 the notice. Failure to so notify the applicant in writing within
662 the 15-day period shall constitute acknowledgment by the office
663 that it has received all requested additional information, and
664 the application shall be deemed to be complete for purposes of
665 review upon the date of the filing of all of the requested
666 additional information.

667 (6) Within 45 days after the date an application is deemed
668 complete as set forth in paragraph (5)(b), the office shall
669 complete its review and issue a provisional certificate of
670 authority to the applicant based upon its review and a
671 determination that the application meets all requirements of
672 law, that the feasibility study was based on sufficient data and
673 reasonable assumptions, and that the applicant will be able to
674 provide continuing care or continuing care at-home as proposed
675 and meet all financial and contractual obligations related to
676 its operations, including the financial requirements of this
677 chapter. If the application is denied, the office shall notify



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678 the applicant in writing, citing the specific failures to meet
679 the provisions of this chapter. Such denial entitles the
680 applicant to a hearing pursuant to chapter 120.

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

685 Section 8. Subsections (1) and (4) through (9) of section
686 651.023, Florida Statutes, are amended, and subsection (2) of
687 that section is republished, to read:

688 651.023 Certificate of authority; application.—

689 (1) After issuance of a provisional certificate of
690 authority, the office shall issue to the holder of such
691 provisional certificate a certificate of authority if the holder
692 of the provisional certificate provides the office with the
693 following information:

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

697 (b) A feasibility study prepared by an independent
698 consultant which contains all of the information required by s.
699 651.022(3) and financial forecasts or projections prepared in
700 accordance with standards adopted by the American Institute of
701 Certified Public Accountants or in accordance with standards for
702 feasibility studies or continuing care retirement communities
703 adopted by the Actuarial Standards Board.

704 ~~1. The study must also contain an independent evaluation~~
705 ~~and examination opinion, or a comparable opinion acceptable to~~
706 ~~the office, by the consultant who prepared the study, of the~~



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707 ~~underlying assumptions used as a basis for the forecasts or~~
708 ~~projections in the study and that the assumptions are reasonable~~
709 ~~and proper and the project as proposed is feasible.~~

710 ~~1.2.~~ The study must take into account project costs, actual
711 marketing results to date and marketing projections, resident
712 fees and charges, competition, resident contract provisions, and
713 any other factors which affect the feasibility of operating the
714 facility.

715 ~~2.3.~~ If the study is prepared by an independent certified
716 public accountant, it must contain an examination opinion or a
717 compilation report acceptable to the office containing a
718 financial forecast or projections for the first 5 3 years of
719 operations which take into account an actuary's mortality and
720 morbidity assumptions as the study relates to turnover, rates,
721 fees, and charges ~~and financial projections having a compilation~~
722 ~~opinion for the next 3 years.~~ If the study is prepared by an
723 independent consulting actuary, it must contain mortality and
724 morbidity assumptions as the study relates to turnover, rates,
725 fees, and charges ~~data~~ and an actuary's signed opinion that the
726 project as proposed is feasible and that the study has been
727 prepared in accordance with standards adopted by the American
728 Academy of Actuaries.

729 (c) Subject to subsection (4), a provider may submit an
730 application for a certificate of authority and any required
731 exhibits upon submission of documents evidencing proof that the
732 project has a minimum of 30 percent of the units reserved for
733 which the provider is charging an entrance fee. ~~This does not~~
734 ~~apply to an application for a certificate of authority for the~~
735 ~~acquisition of a facility for which a certificate of authority~~



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736 ~~was issued before October 1, 1983, to a provider who~~
737 ~~subsequently becomes a debtor in a case under the United States~~
738 ~~Bankruptcy Code, 11 U.S.C. ss. 101 et seq., or to a provider for~~
739 ~~which the department has been appointed receiver pursuant to~~
740 ~~part II of chapter 631.~~

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

745 (e) Documents evidencing Proof that all conditions of the
746 lender have been satisfied to activate the commitment to
747 disburse funds other than the obtaining of the certificate of
748 authority, the completion of construction, or the closing of the
749 purchase of realty or buildings for the facility.

750 (f) Documents evidencing Proof that the aggregate amount of
751 entrance fees received by or pledged to the applicant, plus
752 anticipated proceeds from any long-term financing commitment,
753 plus funds from all other sources in the actual possession of
754 the applicant, equal at least 100 percent of the aggregate cost
755 of constructing or purchasing, equipping, and furnishing the
756 facility plus 100 percent of the anticipated startup losses of
757 the facility.

758 (g) A complete audited financial report statements of the
759 applicant, prepared by an independent certified public
760 accountant in accordance with generally accepted accounting
761 principles, as of the date the applicant commenced business
762 operations or for the fiscal year that ended immediately
763 preceding the date of application, whichever is later, and
764 complete unaudited quarterly financial statements attested to by



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765 the applicant after the date of the last audit.

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

769 (i) Such other reasonable data, financial statements, and
770 pertinent information as the commission or office may require
771 with respect to the applicant or the facility, to determine the
772 financial status of the facility and the management capabilities
773 of its managers and owners.

774

775 If any material change occurs in the facts set forth in an
776 application filed with the office pursuant to this subsection,
777 an amendment setting forth such change must be filed with the
778 office within 10 business days after the applicant becomes aware
779 of such change, and a copy of the amendment must be sent by
780 registered mail to the principal office of the facility and to
781 the principal office of the controlling company.

782 (2) Within 30 days after receipt of the information
783 required under subsection (1), the office shall examine such
784 information and notify the provider in writing, specifically
785 requesting any additional information the office is permitted by
786 law to require. Within 15 days after receipt of all of the
787 requested additional information, the office shall notify the
788 provider in writing that all of the requested information has
789 been received and the application is deemed to be complete as of
790 the date of the notice. Failure to notify the applicant in
791 writing within the 15-day period constitutes acknowledgment by
792 the office that it has received all requested additional
793 information, and the application shall be deemed complete for



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794 purposes of review on the date of filing all of the required
795 additional information.

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

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

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



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823 terms of the continuing care or continuing care at-home contract
824 to be entered into.

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

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

836 ~~(b) For an expansion as provided in s. 651.021(2), a~~
837 ~~minimum of 75 percent of the moneys paid for all or any part of~~
838 ~~an initial entrance fee collected for continuing care and 50~~
839 ~~percent of the moneys paid for all or any part of an initial fee~~
840 ~~collected for continuing care at-home shall be placed in an~~
841 ~~escrow account or on deposit with the department as prescribed~~
842 ~~in s. 651.033.~~

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

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

849 (b) Payment in full has been received for at least 70
850 percent of the total units of a phase or of the total of the
851 combined phases constructed. If a provider offering continuing



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852 care at-home is applying for a release of escrowed entrance
853 fees, the same minimum requirement must be met for the
854 continuing care and continuing care at-home contracts,
855 independently of each other.

856 ~~(c) The consultant who prepared the feasibility study~~
857 ~~required by this section or a substitute approved by the office~~
858 ~~certifies within 12 months before the date of filing for office~~
859 ~~approval that there has been no material adverse change in~~
860 ~~status with regard to the feasibility study. If a material~~
861 ~~adverse change exists at the time of submission, sufficient~~
862 ~~information acceptable to the office and the feasibility~~
863 ~~consultant must be submitted which remedies the adverse~~
864 ~~condition.~~

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

868 (d)-(e) Documents evidencing Proof that the provider has
869 sufficient funds to meet the requirements of s. 651.035, which
870 may include funds deposited in the initial entrance fee account.

871 (e)-(f) Documents evidencing Proof as to the intended
872 application of the proceeds upon release and documentation proof
873 that the entrance fees when released will be applied as
874 represented to the office.

875 (f) If any material change occurred in the facts set forth
876 in the application filed with the office pursuant to subsection
877 (1), the applicant timely filed the amendment setting forth such
878 change with the office and sent copies of the amendment to the
879 principal office of the facility and to the principal office of
880 the controlling company as required under that subsection.



881
882 Notwithstanding chapter 120, no person, other than the provider,
883 the escrow agent, and the office, may have a substantial
884 interest in any office decision regarding release of escrow
885 funds in any proceedings under chapter 120 or this chapter
886 regarding release of escrow funds.

887 (7) In lieu of the provider fulfilling the requirements in
888 subsection (5) and paragraphs (6) (b) and (c) ~~(d)~~, the office may
889 authorize the release of escrowed funds to retire all
890 outstanding debts on the facility and equipment upon application
891 of the provider and upon the provider's showing that the
892 provider will grant to the residents a first mortgage on the
893 land, buildings, and equipment that constitute the facility, and
894 that the provider has satisfied paragraphs (6) (a) ~~(e)~~ and (d)
895 ~~(e)~~. Such mortgage shall secure the refund of the entrance fee
896 in the amount required by this chapter. The granting of such
897 mortgage is subject to the following:

898 (a) The first mortgage is granted to an independent trust
899 that is beneficially held by the residents. The document
900 creating the trust must include a provision that agrees to an
901 annual audit and will furnish to the office all information the
902 office may reasonably require. The mortgage may secure payment
903 on bonds issued to the residents or trustee. Such bonds are
904 redeemable after termination of the residency contract in the
905 amount and manner required by this chapter for the refund of an
906 entrance fee.

907 (b) Before granting a first mortgage to the residents, all
908 construction must be substantially completed and substantially
909 all equipment must be purchased. No part of the entrance fees



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910 may be pledged as security for a construction loan or otherwise
911 used for construction expenses before the completion of
912 construction.

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

916 (8) ~~The timeframes provided under s. 651.022(5) and (6)~~
917 ~~apply to applications submitted under s. 651.021(2).~~ The office
918 may not issue a certificate of authority to a facility that does
919 not have a component that is to be licensed pursuant to part II
920 of chapter 400 or to part I of chapter 429 or that does not
921 offer personal services or nursing services through written
922 contractual agreement. A written contractual agreement must be
923 disclosed in the contract for continuing care or continuing care
924 at-home and is subject to ~~the provisions of~~ s. 651.1151,
925 relating to administrative, vendor, and management contracts.

926 (9) The office may not approve an application that includes
927 in the plan of financing any encumbrance of the operating
928 reserves or renewal and replacement reserves required by this
929 chapter.

930 Section 9. Section 651.024, Florida Statutes, is amended to
931 read:

932 651.024 Acquisition.—

933 (1) A person who seeks to assume the role of general
934 partner of a provider or to otherwise assume ownership or
935 possession of, or control over, 10 percent or more of a
936 provider, a controlling company of the provider, or a provider's
937 assets, based on the balance sheet from the most recent
938 financial audit report filed with the office, is ~~issued a~~



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939 ~~certificate of authority to operate a continuing care facility~~
940 ~~or a provisional certificate of authority shall be subject to~~
941 ~~the provisions of s. 628.4615 and is not required to make~~
942 ~~filings pursuant to s. 651.022, s. 651.023, or s. 651.0245.~~

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

946 (3) A person may rebut a presumption of control by filing a
947 disclaimer of control with the office on a form prescribed by
948 the commission. The disclaimer must fully disclose all material
949 relationships and bases for affiliation between the person and
950 the provider or facility, as well as the basis for disclaiming
951 the affiliation. In lieu of such form, a person or acquiring
952 party may file with the office a copy of a Schedule 13G filed
953 with the Securities and Exchange Commission pursuant to Rule
954 13d-1(b) or (c), 17 C.F.R. s. 240.13d-1, under the Securities
955 Exchange Act of 1934, as amended. After a disclaimer has been
956 filed, the provider or facility is relieved of any duty to
957 register or report under this section which may arise out of the
958 provider's or facility's relationship with the person, unless
959 the office disallows the disclaimer.

960 (4) In addition to the provider, the facility, or the
961 controlling company, the office has standing to petition a
962 circuit court as described in s. 628.4615(9).

963 Section 10. Section 651.0245, Florida Statutes, is created
964 to read:

965 651.0245 Application for the simultaneous acquisition of a
966 facility and issuance of a certificate of authority.-

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



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968 person may not, individually or in conjunction with any
969 affiliated person of such person, directly or indirectly acquire
970 a facility operating under a subsisting certificate of authority
971 and engage in the business of providing continuing care.

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

974 (a) Comply with the notice requirements of s.
975 628.4615(2) (a); and

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

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

984 (4) In addition to the facility, the provider, or the
985 controlling company, the office has standing to petition a
986 circuit court as described in s. 628.4615(9).

987 (5) A person may rebut a presumption of control by filing a
988 disclaimer of control with the office on a form prescribed by
989 the commission. The disclaimer must fully disclose all material
990 relationships and bases for affiliation between the person and
991 the provider or facility, as well as the basis for disclaiming
992 the affiliation. In lieu of such form, a person or acquiring
993 party may file with the office a copy of a Schedule 13G filed
994 with the Securities and Exchange Commission pursuant to Rule
995 13d-1(b) or (c), 17 C.F.R. s. 240.13d-1, under the Securities
996 Exchange Act of 1934, as amended. After a disclaimer has been



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997 filed, the provider or facility is relieved of any duty to
998 register or report under this section which may arise out of the
999 provider's or facility's relationship with the person, unless
1000 the office disallows the disclaimer.

1001 (6) The commission may adopt rules as necessary to
1002 administer this section.

1003 Section 11. Section 651.0246, Florida Statutes, is created
1004 to read:

1005 651.0246 Expansions.—

1006 (1) (a) A provider must obtain written approval from the
1007 office before commencing construction or marketing for an
1008 expansion of a certificated facility equivalent to the addition
1009 of at least 20 percent of existing units or 20 percent or more
1010 of the number of continuing care at-home contracts. If the
1011 provider has exceeded the current statewide median for days cash
1012 on hand, debt service coverage ratio, and total facility
1013 occupancy for two consecutive annual reporting periods, the
1014 provider is automatically granted approval to expand the total
1015 number of existing units by up to 35 percent upon submitting a
1016 letter to the office indicating the total number of planned
1017 units in the expansion, the proposed sources and uses of funds,
1018 and an attestation that the provider understands and pledges to
1019 comply with all minimum liquid reserve and escrow account
1020 requirements. As used in this section, the term "existing units"
1021 means the sum of the total number of independent living units
1022 and assisted living units identified in the most recent annual
1023 report filed with the office pursuant to s. 651.026. For
1024 purposes of this section, the statewide median for days cash on
1025 hand, debt service coverage ratio, and total facility occupancy



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1026 is the median calculated in the most recent annual report
1027 submitted by the office to the Continuing Care Advisory Council
1028 pursuant to s. 651.121(8). This section does not apply to
1029 construction for which a certificate of need from the Agency for
1030 Health Care Administration is required.

1031 (b) The application for the approval of an addition
1032 consisting of 20 percent or more of existing units or continuing
1033 care at-home contracts must be on forms adopted by the
1034 commission and provided by the office. The application must
1035 include the feasibility study required by this section and such
1036 other information as reasonably requested by the office. If the
1037 expansion is only for continuing care at-home contracts, an
1038 actuarial study prepared by an independent actuary in accordance
1039 with standards adopted by the American Academy of Actuaries
1040 which presents the financial impact of the expansion may be
1041 substituted for the feasibility study.

1042 (c) In determining whether an expansion should be approved,
1043 the office shall consider:

1044 1. Whether the application meets all requirements of law;
1045 2. Whether the feasibility study was based on sufficient
1046 data and reasonable assumptions; and

1047 3. Whether the applicant will be able to provide continuing
1048 care or continuing care at-home as proposed and meet all
1049 financial obligations related to its operations, including the
1050 financial requirements of this chapter.

1051
1052 If the application is denied, the office must notify the
1053 applicant in writing, citing the specific failures to meet the
1054 provisions of this chapter. A denial entitles the applicant to a



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1055 hearing pursuant to chapter 120.

1056 (2) A provider applying for expansion of a certificated
1057 facility must submit all of the following:

1058 (a) A feasibility study prepared by an independent
1059 certified public accountant. The feasibility study must include
1060 at least the following information:

1061 1. A description of the facility and proposed expansion,
1062 including the location, the size, the anticipated completion
1063 date, and the proposed construction program.

1064 2. An identification and evaluation of the primary and, if
1065 applicable, secondary market areas of the facility and the
1066 projected unit sales per month.

1067 3. Projected revenues, including anticipated entrance fees;
1068 monthly service fees; nursing care revenues, if applicable; and
1069 all other sources of revenue.

1070 4. Projected expenses, including for staffing requirements
1071 and salaries; the cost of property, plant, and equipment,
1072 including depreciation expense; interest expense; marketing
1073 expense; and other operating expenses.

1074 5. A projected balance sheet of the applicant.

1075 6. The expectations for the financial condition of the
1076 project, including the projected cash flow and an estimate of
1077 the funds anticipated to be necessary to cover startup losses.

1078 7. The inflation factor, if any, assumed in the study for
1079 the proposed expansion and how and where it is applied.

1080 8. Project costs; the total amount of debt financing
1081 required; marketing projections; resident rates, fees, and
1082 charges; the competition; resident contract provisions; and
1083 other factors that affect the feasibility of the facility.



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1084 9. Appropriate population projections, including morbidity
1085 and mortality assumptions.

1086 10. The name of the person who prepared the feasibility
1087 study and his or her experience in preparing similar studies or
1088 otherwise consulting in the field of continuing care.

1089 11. Financial forecasts or projections prepared in
1090 accordance with standards adopted by the American Institute of
1091 Certified Public Accountants or in accordance with standards for
1092 feasibility studies for continuing care retirement communities
1093 adopted by the Actuarial Standards Board.

1094 12. An independent evaluation and examination opinion for
1095 the first 5 years of operations, or a comparable opinion
1096 acceptable to the office, by the consultant who prepared the
1097 study, of the underlying assumptions used as a basis for the
1098 forecasts or projections in the study and that the assumptions
1099 are reasonable and proper and the project as proposed is
1100 feasible.

1101 13. Any other information that the provider deems relevant
1102 and appropriate to provide to enable the office to make a more
1103 informed determination.

1104 (b) Such other reasonable data, financial statements, and
1105 pertinent information as the commission or office may require
1106 with respect to the applicant or the facility to determine the
1107 financial status of the facility and the management capabilities
1108 of its managers and owners.

1109
1110 If any material change occurs in the facts set forth in an
1111 application filed with the office pursuant to this section, an
1112 amendment setting forth such change must be filed with the



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1113 office within 10 business days after the applicant becomes aware
1114 of such change, and a copy of the amendment must be sent by
1115 registered mail to the principal office of the facility and to
1116 the principal office of the controlling company.

1117 (3) A minimum of 75 percent of the moneys paid for all or
1118 any part of an initial entrance fee or reservation deposit
1119 collected for units in the expansion and 50 percent of the
1120 moneys paid for all or any part of an initial fee collected for
1121 continuing care at-home contracts in the expansion must be
1122 placed in an escrow account or on deposit with the department as
1123 prescribed in s. 651.033. Up to 25 percent of the moneys paid
1124 for all or any part of an initial entrance fee or reservation
1125 deposit may be included or pledged for the construction or
1126 purchase of the facility or as security for long-term financing.
1127 As used in this section, the term "initial entrance fee" means
1128 the total entrance fee charged by the facility to the first
1129 occupant of a unit.

1130 (4) The provider is entitled to secure release of the
1131 moneys held in escrow within 7 days after receipt by the office
1132 of an affidavit from the provider, along with appropriate copies
1133 to verify, and notification to the escrow agent by certified
1134 mail that the following conditions have been satisfied:

1135 (a) A certificate of occupancy has been issued.

1136 (b) Payment in full has been received for at least 50
1137 percent of the total units of a phase or of the total of the
1138 combined phases constructed. If a provider offering continuing
1139 care at-home is applying for a release of escrowed entrance
1140 fees, the same minimum requirement must be met for the
1141 continuing care and continuing care at-home contracts



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1142 independently of each other.

1143 (c) Documents evidencing that commitments have been secured
1144 or that a documented plan adopted by the applicant has been
1145 approved by the office for long-term financing.

1146 (d) Documents evidencing that the provider has sufficient
1147 funds to meet the requirements of s. 651.035, which may include
1148 funds deposited in the initial entrance fee account.

1149 (e) Documents evidencing the intended application of the
1150 proceeds upon release and documentation that the entrance fees,
1151 when released, will be applied as represented to the office.

1152
1153 Notwithstanding chapter 120, only the provider, the escrow
1154 agent, and the office have a substantial interest in any office
1155 decision regarding release of escrow funds in any proceedings
1156 under chapter 120 or this chapter.

1157 (5) (a) Within 30 days after receipt of an application for
1158 expansion, the office shall examine the application and shall
1159 notify the applicant in writing, specifically requesting any
1160 additional information that the office is authorized to require.
1161 Within 15 days after the office receives all the requested
1162 additional information, the office shall notify the applicant in
1163 writing that the requested information has been received and
1164 that the application is deemed complete as of the date of the
1165 notice. If the office chooses not to notify the applicant within
1166 the 15-day period, the application is deemed complete for
1167 purposes of review on the date the applicant files the
1168 additional requested information. If the application submitted
1169 is determined by the office to be substantially incomplete so as
1170 to require substantial additional information, including



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1171 biographical information, the office may return the application
1172 to the applicant with a written notice stating that the
1173 application as received is substantially incomplete and,
1174 therefore, is unacceptable for filing without further action
1175 required by the office. Any filing fee received must be refunded
1176 to the applicant.

1177 (b) An application is deemed complete upon the office
1178 receiving all requested information and the applicant correcting
1179 any error or omission of which the applicant was timely notified
1180 or when the time for such notification has expired. The office
1181 shall notify the applicant in writing of the date on which the
1182 application was deemed complete.

1183 (6) Within 45 days after the date on which an application
1184 is deemed complete as provided in paragraph (5) (b), the office
1185 shall complete its review and, based upon its review, approve an
1186 expansion by the applicant and issue a determination that the
1187 application meets all requirements of law, that the feasibility
1188 study was based on sufficient data and reasonable assumptions,
1189 and that the applicant will be able to provide continuing care
1190 or continuing care at-home as proposed and meet all financial
1191 and contractual obligations related to its operations, including
1192 the financial requirements of this chapter. If the office
1193 requests additional information and the applicant provides it
1194 within 5 business days after notification, the period for
1195 reviewing or approving an application may not be extended beyond
1196 the period specified in paragraph (5) (a). If the application is
1197 denied, the office must notify the applicant in writing, citing
1198 the specific failures to meet the requirements of this chapter.
1199 The denial entitles the applicant to a hearing pursuant to



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1200 chapter 120.

1201 Section 12. Paragraphs (b) and (c) of subsection (2) and
1202 subsection (3) of section 651.026, Florida Statutes, are
1203 amended, subsection (10) is added to that section, and paragraph
1204 (a) of subsection (2) of that section is republished, to read:

1205 651.026 Annual reports.—

1206 (2) The annual report shall be in such form as the
1207 commission prescribes and shall contain at least the following:

1208 (a) Any change in status with respect to the information
1209 required to be filed under s. 651.022(2).

1210 (b) A financial report ~~statements~~ audited by an independent
1211 certified public accountant which must contain, for two or more
1212 periods if the facility has been in existence that long, all of
1213 the following:

1214 1. An accountant's opinion and, in accordance with
1215 generally accepted accounting principles:

- 1216 a. A balance sheet;
1217 b. A statement of income and expenses;
1218 c. A statement of equity or fund balances; and
1219 d. A statement of changes in cash flows.

1220 2. Notes to the financial report ~~statements~~ considered
1221 customary or necessary for full disclosure or adequate
1222 understanding of the financial report ~~statements~~, financial
1223 condition, and operation.

1224 (c) The following financial information:

1225 1. A detailed listing of the assets maintained in the
1226 liquid reserve as required under s. 651.035 and in accordance
1227 with part II of chapter 625;

1228 2. A schedule giving additional information relating to



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1229 property, plant, and equipment having an original cost of at
1230 least \$25,000, so as to show in reasonable detail with respect
1231 to each separate facility original costs, accumulated
1232 depreciation, net book value, appraised value or insurable value
1233 and date thereof, insurance coverage, encumbrances, and net
1234 equity of appraised or insured value over encumbrances. Any
1235 property not used in continuing care must be shown separately
1236 from property used in continuing care;

1237 3. The level of participation in Medicare or Medicaid
1238 programs, or both;

1239 4. A statement of all fees required of residents,
1240 including, but not limited to, a statement of the entrance fee
1241 charged, the monthly service charges, the proposed application
1242 of the proceeds of the entrance fee by the provider, and the
1243 plan by which the amount of the entrance fee is determined if
1244 the entrance fee is not the same in all cases; ~~and~~

1245 5. Any change or increase in fees if the provider changes
1246 the scope of, or the rates for, care or services, regardless of
1247 whether the change involves the basic rate or only those
1248 services available at additional costs to the resident; ~~-~~

1249 6. If the provider has more than one certificated facility,
1250 or has operations that are not licensed under this chapter, it
1251 shall submit a balance sheet, statement of income and expenses,
1252 statement of equity or fund balances, and statement of cash
1253 flows for each facility licensed under this chapter as
1254 supplemental information to the audited financial report
1255 ~~statements~~ required under paragraph (b); ~~and-~~

1256 7. The management's calculation of the provider's debt
1257 service coverage ratio, occupancy, and days cash on hand for the



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1258 current reporting period.

1259 (3) The commission shall adopt by rule additional
1260 ~~meaningful~~ measures of assessing the financial viability of a
1261 provider. ~~The rule may include the following factors:~~

1262 ~~(a) Debt service coverage ratios.~~

1263 ~~(b) Current ratios.~~

1264 ~~(c) Adjusted current ratios.~~

1265 ~~(d) Cash flows.~~

1266 ~~(e) Occupancy rates.~~

1267 ~~(f) Other measures, ratios, or trends.~~

1268 ~~(g) Other factors as may be appropriate.~~

1269 (10) By August 1 annually, the office shall publish an
1270 industry benchmarking report for the preceding calendar year
1271 which contains all of the following:

1272 (a) The median days cash on hand for all providers.

1273 (b) The median debt service coverage ratio for all
1274 providers.

1275 (c) The median occupancy rate for all providers by setting,
1276 including independent living, assisted living, skilled nursing,
1277 and the entire facility.

1278 Section 13. Section 651.0261, Florida Statutes, is amended
1279 to read:

1280 651.0261 Quarterly and monthly statements.-

1281 (1) Within 45 days after the end of each fiscal quarter,
1282 each provider shall file a quarterly unaudited financial
1283 statement of the provider or of the facility in the form
1284 prescribed by commission rule and days cash on hand, occupancy,
1285 debt service coverage ratio, and a detailed listing of the
1286 assets maintained in the liquid reserve as required under s.



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1287 651.035. This requirement may be waived by the office upon
1288 written request from a provider that is accredited without
1289 conditions or stipulations or that has obtained an investment
1290 grade credit rating from a United States credit rating agency as
1291 authorized under s. 651.028. The last quarterly statement for a
1292 fiscal year is not required if a provider does not have pending
1293 a regulatory action level event or a corrective action plan.

1294 (2) If the office finds, ~~pursuant to rules of the~~
1295 ~~commission,~~ that such information is needed to properly monitor
1296 the financial condition of a provider or facility or is
1297 otherwise needed to protect the public interest, the office may
1298 require the provider to file:

1299 (a) Within 25 days after the end of each month, a monthly
1300 unaudited financial statement of the provider or of the facility
1301 in the form prescribed by the commission by rule and a detailed
1302 listing of the assets maintained in the liquid reserve as
1303 required under s. 651.035, ~~within 45 days after the end of each~~
1304 ~~fiscal quarter, a quarterly unaudited financial statement of the~~
1305 ~~provider or of the facility in the form prescribed by the~~
1306 ~~commission by rule. The commission may by rule require all or~~
1307 ~~part of the statements or filings required under this section to~~
1308 ~~be submitted by electronic means in a computer-readable form~~
1309 ~~compatible with the electronic data format specified by the~~
1310 ~~commission.~~

1311 (b) Such other data, financial statements, and pertinent
1312 information as the commission or office may reasonably require
1313 with respect to the provider or the facility, its directors or
1314 trustees, or, with respect to any parent, subsidiary, or
1315 affiliate, if the provider or facility relies on a contractual



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1316 or financial relationship with such parent, subsidiary, or
1317 affiliate in order to meet the financial requirements of this
1318 chapter, to determine the financial status of the provider or of
1319 the facility and the management capabilities of its managers and
1320 owners.

1321 (3) A filing under subsection (2) may be required if any of
1322 the following applies:

1323 (a) The provider is:

1324 1. Subject to administrative supervision proceedings;

1325 2. Subject to a corrective action plan resulting from a

1326 regulatory action level event for up to 2 years after the

1327 factors that caused the regulatory action level event have been
1328 corrected; or

1329 3. Subject to delinquency or receivership proceedings or
1330 has filed for bankruptcy.

1331 (b) The provider or facility displays a declining financial
1332 position.

1333 (c) A change of ownership of the provider or facility has
1334 occurred within the previous 2 years.

1335 (d) The facility is found to be impaired.

1336 (4) The commission may by rule require all or part of the

1337 statements or filings required under this section to be

1338 submitted by electronic means in a computer-readable format

1339 compatible with an electronic data format specified by the

1340 commission.

1341 Section 14. Section 651.028, Florida Statutes, is amended
1342 to read:

1343 651.028 Accredited or certain credit-rated facilities.—If a
1344 provider or obligated group is accredited without stipulations



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1345 or conditions by a process found by the office to be acceptable
1346 and substantially equivalent to the provisions of this chapter
1347 or has obtained an investment grade credit rating from a
1348 nationally recognized credit rating agency, as applicable, from
1349 Moody's Investors Service, Standard & Poor's, or Fitch Ratings,
1350 the office may, pursuant to rule of the commission, waive the
1351 quarterly filing any requirements under s. 651.0261 of this
1352 chapter with respect to the provider if the office finds that
1353 such waivers are not inconsistent with the security protections
1354 intended by this chapter. A provider or obligated group that is
1355 accredited without stipulations or conditions or that has
1356 obtained such an investment grade credit rating shall provide
1357 documentation substantiating such accreditation or investment
1358 grade rating in its request for the waiver. If the office grants
1359 a waiver to the provider or obligated group, the provider or
1360 obligated group must notify the office within 10 business days
1361 after any changes in the accreditation or investment grade
1362 rating.

1363 Section 15. Subsections (1), (2), (3), and (5) of section
1364 651.033, Florida Statutes, are amended, and subsection (6) is
1365 added to that section, to read:

1366 651.033 Escrow accounts.—

1367 (1) When funds are required to be deposited in an escrow
1368 account pursuant to s. 651.0215, s. 651.022, s. 651.023, s.
1369 651.0246, s. 651.035, or s. 651.055:

1370 (a) The escrow account must ~~shall~~ be established in a
1371 Florida bank, Florida savings and loan association, ~~or~~ Florida
1372 trust company, or a national bank that is chartered and
1373 supervised by the Office of the Comptroller of the Currency



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1374 within the United States Department of the Treasury and that has
1375 either a branch or a license to operate in this state, which is
1376 acceptable to the office, or such funds must be deposited on
1377 deposit with the department, and the funds deposited therein
1378 ~~shall~~ be kept and maintained in an account separate and apart
1379 from the provider's business accounts.

1380 (b) An escrow agreement shall be entered into between the
1381 bank, savings and loan association, or trust company and the
1382 provider of the facility; the agreement shall state that its
1383 purpose is to protect the resident or the prospective resident;
1384 and, upon presentation of evidence of compliance with applicable
1385 portions of this chapter, or upon order of a court of competent
1386 jurisdiction, the escrow agent shall release and pay over the
1387 funds, or portions thereof, together with any interest accrued
1388 thereon or earned from investment of the funds, to the provider
1389 or resident as directed.

1390 (c) Any agreement establishing an escrow account required
1391 ~~under the provisions of this chapter is~~ shall be subject to
1392 approval by the office. The agreement must ~~shall~~ be in writing
1393 and ~~shall~~ contain, in addition to any other provisions required
1394 by law, a provision whereby the escrow agent agrees to abide by
1395 the duties imposed by paragraphs (b) and (e), (3)(a), (3)(b),
1396 and (5)(a) and subsection (6) under this section.

1397 (d) All funds deposited in an escrow account, if invested,
1398 shall be invested as set forth in part II of chapter 625;
1399 however, such investment may not diminish the funds held in
1400 escrow below the amount required by this chapter. Funds
1401 deposited in an escrow account are not subject to charges by the
1402 escrow agent except escrow agent fees associated with



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1403 administering the accounts, or subject to any liens, judgments,
1404 garnishments, creditor's claims, or other encumbrances against
1405 the provider or facility except as provided in s. 651.035(1).

1406 (e) At the request of either the provider or the office,
1407 the escrow agent shall issue a statement indicating the status
1408 of the escrow account.

1409 (2) Notwithstanding s. 651.035(7), ~~In addition, the escrow~~
1410 ~~agreement shall provide that the escrow agent or another person~~
1411 ~~designated to act in the escrow agent's place and the provider,~~
1412 ~~except as otherwise provided in s. 651.035, shall notify the~~
1413 ~~office in writing at least 10 days before the withdrawal of any~~
1414 ~~portion of any funds required to be escrowed under the~~
1415 ~~provisions of s. 651.035. However,~~ in the event of an emergency
1416 and upon petition by the provider, the office may ~~waive the 10-~~
1417 ~~day notification period and allow a withdrawal of up to 10~~
1418 percent of the required minimum liquid reserve. The office shall
1419 have 3 working days to deny the petition for the emergency 10-
1420 percent withdrawal. If the office fails to deny the petition
1421 within 3 working days, the petition ~~is shall be~~ deemed to have
1422 been granted by the office. For purposes ~~the purpose~~ of this
1423 section, the term "working day" means each day that is not a
1424 Saturday, Sunday, or legal holiday as defined by Florida law.
1425 Also, for purposes ~~the purpose~~ of this section, the day the
1426 petition is received by the office ~~is shall~~ not be counted as
1427 one of the 3 days.

1428 (3) ~~In addition,~~ When entrance fees are required to be
1429 deposited in an escrow account pursuant to s. 651.0215, s.
1430 651.022, s. 651.023, s. 651.0246, or s. 651.055:

1431 (a) The provider shall deliver to the resident a written



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1432 receipt. The receipt must show the payor's name and address, the
1433 date, the price of the care contract, and the amount of money
1434 paid. A copy of each receipt, together with the funds, must
1435 ~~shall~~ be deposited with the escrow agent or as provided in
1436 paragraph (c). The escrow agent must ~~shall~~ release such funds to
1437 the provider 7 days after the date of receipt of the funds by
1438 the escrow agent if the provider, operating under a certificate
1439 of authority issued by the office, has met the requirements of
1440 s. 651.0215(8), s. 651.023(6), or s. 651.0246. However, if the
1441 resident rescinds the contract within the 7-day period, the
1442 escrow agent must ~~shall~~ release the escrowed fees to the
1443 resident.

1444 (b) At the request of an individual resident of a facility,
1445 the escrow agent shall issue a statement indicating the status
1446 of the resident's portion of the escrow account.

1447 (c) At the request of an individual resident of a facility,
1448 the provider may hold the check for the 7-day period and may
1449 ~~shall~~ not deposit it during this time period. If the resident
1450 rescinds the contract within the 7-day period, the check must
1451 ~~shall~~ be immediately returned to the resident. Upon the
1452 expiration of the 7 days, the provider shall deposit the check.

1453 (d) A provider may assess a nonrefundable fee, which is
1454 separate from the entrance fee, for processing a prospective
1455 resident's application for continuing care or continuing care
1456 at-home.

1457 (5) When funds are required to be deposited in an escrow
1458 account pursuant to s. 651.0215, s. 651.022, s. 651.023, s.
1459 651.0246, or s. 651.035, the following ~~shall~~ apply:

1460 (a) The escrow agreement must ~~shall~~ require that the escrow



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1461 agent furnish the provider with a quarterly statement indicating
1462 the amount of any disbursements from or deposits to the escrow
1463 account and the condition of the account during the period
1464 covered by the statement. The agreement must ~~shall~~ require that
1465 the statement be furnished to the provider by the escrow agent
1466 on or before the 10th day of the month following the end of the
1467 quarter for which the statement is due. If the escrow agent does
1468 not provide the quarterly statement to the provider on or before
1469 the 10th day of the month following the month for which the
1470 statement is due, the office may, in its discretion, levy
1471 against the escrow agent a fine not to exceed \$25 a day for each
1472 day of noncompliance with the provisions of this subsection.

1473 (b) If the escrow agent does not provide the quarterly
1474 statement to the provider on or before the 10th day of the month
1475 following the quarter for which the statement is due, the
1476 provider shall, on or before the 15th day of the month following
1477 the quarter for which the statement is due, send a written
1478 request for the statement to the escrow agent by certified mail
1479 return receipt requested.

1480 (c) On or before the 20th day of the month following the
1481 quarter for which the statement is due, the provider shall file
1482 with the office a copy of the escrow agent's statement or, if
1483 the provider has not received the escrow agent's statement, a
1484 copy of the written request to the escrow agent for the
1485 statement.

1486 (d) The office may, in its discretion, in addition to any
1487 other penalty that may be provided for under this chapter, levy
1488 a fine against the provider not to exceed \$25 a day for each day
1489 the provider fails to comply with the provisions of this



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1490 subsection.

1491 (e) Funds held on deposit with the department are exempt
1492 from the reporting requirements of this subsection.

1493 (6) Except as described in paragraph (3) (a), the escrow
1494 agent may not release or otherwise allow the transfer of funds
1495 without the written approval of the office, unless the
1496 withdrawal is from funds in excess of the amounts required by
1497 ss. 651.0215, 651.022, 651.023, 651.0246, 651.035, and 651.055.

1498 Section 16. Section 651.034, Florida Statutes, is created
1499 to read:

1500 651.034 Financial and operating requirements for
1501 providers.-

1502 (1) (a) If a regulatory action level event occurs, the
1503 office must:

1504 1. Require the provider to prepare and submit a corrective
1505 action plan or, if applicable, a revised corrective action plan;

1506 2. Perform an examination pursuant to s. 651.105 or an
1507 analysis, as the office considers necessary, of the assets,
1508 liabilities, and operations of the provider, including a review
1509 of the corrective action plan or the revised corrective action
1510 plan; and

1511 3. After the examination or analysis, issue a corrective
1512 order, if necessary, specifying any corrective actions that the
1513 office determines are required.

1514 (b) In determining corrective actions, the office shall
1515 consider any factor relevant to the provider based upon the
1516 office's examination or analysis of the assets, liabilities, and
1517 operations of the provider. The provider must submit the
1518 corrective action plan or the revised corrective action plan



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1519 within 30 days after the occurrence of the regulatory action
1520 level event. The office shall review and approve or disapprove
1521 the corrective action plan within 45 business days.

1522 (c) The office may use members of the Continuing Care
1523 Advisory Council, individually or as a group, or may retain
1524 actuaries, investment experts, and other consultants to review a
1525 provider's corrective action plan or revised corrective action
1526 plan, examine or analyze the assets, liabilities, and operations
1527 of a provider, and formulate the corrective order with respect
1528 to the provider. The costs and expenses relating to consultants
1529 must be borne by the affected provider.

1530 (2) If an impairment occurs and except when s.
1531 651.114(11) (a) applies, the office must take action necessary to
1532 place the provider under regulatory control, including any
1533 remedy available under part I of chapter 631. An impairment is
1534 sufficient grounds for the department to be appointed as
1535 receiver as provided in chapter 631. Except when s.

1536 651.114(11) (a) is applicable, the department may appoint a
1537 receiver. If s. 651.114(11) (a) applies, the provider must make
1538 available to the office copies of any corrective action plan
1539 approved by the third-party lender or trustee to cure the
1540 impairment and any related required report. Notwithstanding s.
1541 631.011, impairment of a provider, for purposes of s. 631.051,
1542 is defined according to the term "impaired" under s. 651.011.
1543 The office may forego taking action for up to 180 days after the
1544 impairment if the office finds there is a reasonable expectation
1545 that the impairment may be eliminated within the 180-day period.

1546 (3) There is no liability on the part of, and a cause of
1547 action may not arise against, the commission, department, or



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1548 office, or their employees or agents, for any action they take
1549 in the performance of their powers and duties under this
1550 section.

1551 (4) The office shall transmit any notice that may result in
1552 regulatory action by registered mail, certified mail, or any
1553 other method of transmission which includes documentation of
1554 receipt by the provider. Notice is effective when the provider
1555 receives it.

1556 (5) This section is supplemental to the other laws of this
1557 state and does not preclude or limit any power or duty of the
1558 department or office under those laws or under the rules adopted
1559 pursuant to those laws.

1560 (6) The office may exempt a provider from subsection (1) or
1561 subsection (2) until stabilized occupancy is reached or until
1562 the time projected to achieve stabilized occupancy as reported
1563 in the last feasibility study required by the office as part of
1564 an application filing under s. 651.0215, s. 651.023, s. 651.024,
1565 or s. 651.0246 has elapsed, but for no longer than 5 years after
1566 the date of issuance of the certificate of occupancy.

1567 (7) The commission may adopt rules to administer this
1568 section, including, but not limited to, rules regarding
1569 corrective action plans, revised corrective action plans,
1570 corrective orders, and procedures to be followed in the event of
1571 a regulatory action level event or an impairment.

1572 Section 17. Paragraphs (a), (b), and (c) of subsection (1)
1573 of section 651.035, Florida Statutes, are amended, and
1574 subsections (7) through (10) are added to that section, to read:

1575 651.035 Minimum liquid reserve requirements.—

1576 (1) A provider shall maintain in escrow a minimum liquid



1577 reserve consisting of the following reserves, as applicable:
1578 (a) Each provider shall maintain in escrow as a debt
1579 service reserve the aggregate amount of all principal and
1580 interest payments due during the fiscal year on any mortgage
1581 loan or other long-term financing of the facility, including
1582 property taxes as recorded in the audited financial report
1583 ~~statements~~ required under s. 651.026. The amount must include
1584 any leasehold payments and all costs related to such payments.
1585 If principal payments are not due during the fiscal year, the
1586 provider must ~~shall~~ maintain in escrow as a minimum liquid
1587 reserve an amount equal to interest payments due during the next
1588 12 months on any mortgage loan or other long-term financing of
1589 the facility, including property taxes. If a provider does not
1590 have a mortgage loan or other financing on the facility, the
1591 provider must deposit monthly in escrow as a minimum liquid
1592 reserve an amount equal to one-twelfth of the annual property
1593 tax liability as indicated in the most recent tax notice
1594 provided pursuant to s. 197.322(3), and must annually pay
1595 property taxes out of such escrow.

1596 (b) A provider that has outstanding indebtedness that
1597 requires a debt service reserve to be held in escrow pursuant to
1598 a trust indenture or mortgage lien on the facility and for which
1599 the debt service reserve may only be used to pay principal and
1600 interest payments on the debt that the debtor is obligated to
1601 pay, and which may include property taxes and insurance, may
1602 include such debt service reserve in computing the minimum
1603 liquid reserve needed to satisfy this subsection if the provider
1604 furnishes to the office a copy of the agreement under which such
1605 debt service is held, together with a statement of the amount



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1606 being held in escrow for the debt service reserve, certified by
1607 the lender or trustee and the provider to be correct. The
1608 trustee shall provide the office with any information concerning
1609 the debt service reserve account upon request of the provider or
1610 the office. Any such separate debt service reserves are not
1611 subject to the transfer provisions set forth in subsection (8).

1612 (c) Each provider shall maintain in escrow an operating
1613 reserve equal to 30 percent of the total operating expenses
1614 projected in the feasibility study required by s. 651.023 for
1615 the first 12 months of operation. Thereafter, each provider
1616 shall maintain in escrow an operating reserve equal to 15
1617 percent of the total operating expenses in the annual report
1618 filed pursuant to s. 651.026. If a provider has been in
1619 operation for more than 12 months, the total annual operating
1620 expenses must ~~shall~~ be determined by averaging the total annual
1621 operating expenses reported to the office by the number of
1622 annual reports filed with the office within the preceding 3-year
1623 period subject to adjustment if there is a change in the number
1624 of facilities owned. For purposes of this subsection, total
1625 annual operating expenses include all expenses of the facility
1626 except: depreciation and amortization; interest and property
1627 taxes included in paragraph (a); extraordinary expenses that are
1628 adequately explained and documented in accordance with generally
1629 accepted accounting principles; liability insurance premiums in
1630 excess of those paid in calendar year 1999; and changes in the
1631 obligation to provide future services to current residents. For
1632 providers initially licensed during or after calendar year 1999,
1633 liability insurance must ~~shall~~ be included in the total
1634 operating expenses in an amount not to exceed the premium paid



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1635 during the first 12 months of facility operation. ~~Beginning~~
1636 ~~January 1, 1993,~~ The operating reserves required under this
1637 subsection must ~~shall~~ be in an unencumbered account held in
1638 escrow for the benefit of the residents. Such funds may not be
1639 encumbered or subject to any liens or charges by the escrow
1640 agent or judgments, garnishments, or creditors' claims against
1641 the provider or facility. However, if a facility had a lien,
1642 mortgage, trust indenture, or similar debt instrument in place
1643 before January 1, 1993, which encumbered all or any part of the
1644 reserves required by this subsection and such funds were used to
1645 meet the requirements of this subsection, then such arrangement
1646 may be continued, unless a refinancing or acquisition has
1647 occurred, and the provider is ~~shall be~~ in compliance with this
1648 subsection.

1649 (7) (a) A provider may withdraw funds held in escrow without
1650 the approval of the office if the amount held in escrow exceeds
1651 the requirements of this section and if the withdrawal will not
1652 affect compliance with this section.

1653 (b)1. For all other proposed withdrawals, in order to
1654 receive the consent of the office, the provider must file
1655 documentation showing why the withdrawal is necessary for the
1656 continued operation of the facility and such additional
1657 information as the office reasonably requires.

1658 2. The office shall notify the provider when the filing is
1659 deemed complete. If the provider has complied with all prior
1660 requests for information, the filing is deemed complete after 30
1661 days without communication from the office.

1662 3. Within 30 days after the date a file is deemed complete,
1663 the office shall provide the provider with written notice of its



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1664 approval or disapproval of the request. The office may
1665 disapprove any request to withdraw such funds if it determines
1666 that the withdrawal is not in the best interest of the
1667 residents.

1668 (8) The office may order the immediate transfer of up to
1669 100 percent of the funds held in the minimum liquid reserve to
1670 the custody of the department pursuant to part III of chapter
1671 625 if the office finds that the provider is impaired or
1672 insolvent. The office may order such a transfer regardless of
1673 whether the office has suspended or revoked, or intends to
1674 suspend or revoke, the certificate of authority of the provider.

1675 (9) Each facility shall file with the office annually,
1676 together with the annual report required by s. 651.026, a
1677 calculation of its minimum liquid reserve determined in
1678 accordance with this section on a form prescribed by the
1679 commission.

1680 (10) Any increase in the minimum liquid reserve must be
1681 funded not later than 61 days after the minimum liquid reserve
1682 calculation is due to be filed as provided in s. 651.026.

1683 Section 18. Effective July 1, 2019, section 651.043,
1684 Florida Statutes, is created to read:

1685 651.043 Approval of change in management.—

1686 (1) A contract with a management company entered into after
1687 July 1, 2019, must be in writing and include a provision that
1688 the contract will be canceled upon issuance of an order by the
1689 office pursuant to this section and without the application of a
1690 cancellation fee or penalty. If a provider contracts with a
1691 management company, a separate written contract is not required
1692 for the individual manager employed by the management company to



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1693 oversee a facility. If a management company voluntarily executes
1694 a contract with a manager or contractor, the contract is not
1695 required to be submitted to the office unless requested by the
1696 office.

1697 (2) A provider shall notify the office, in writing or
1698 electronically, of any change in management within 10 business
1699 days. For each new management company or manager not employed by
1700 a management company, the provider shall submit to the office
1701 the information required by s. 651.022(2) and a copy of the
1702 written management contract, if applicable.

1703 (3) For a provider that is found to be impaired or that has
1704 a regulatory action level event pending, the office may
1705 disapprove new management and order the provider to remove the
1706 new management after reviewing the information required under
1707 subsection (2).

1708 (4) For a provider other than that specified in subsection
1709 (3), the office may disapprove new management and order the
1710 provider to remove the new management after receiving the
1711 required information under subsection (2), if the office:

1712 (a) Finds that the new management is incompetent or
1713 untrustworthy;

1714 (b) Finds that the new management is so lacking in
1715 managerial experience as to make the proposed operation
1716 hazardous to the residents or potential residents;

1717 (c) Finds that the new management is so lacking in
1718 experience, ability, and standing as to jeopardize the
1719 reasonable promise of successful operation; or

1720 (d) Has good reason to believe that the new management is
1721 affiliated directly or indirectly through ownership, control, or



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1722 business relations with any person or persons whose business
1723 operations are or have been marked by manipulation of assets or
1724 accounts or by bad faith, to the detriment of residents,
1725 stockholders, investors, creditors, or the public.

1726
1727 The office shall complete its review as required under
1728 subsections (3) and (4) and, if applicable, issue notice of
1729 disapproval of the new management within 30 business days after
1730 the filing is deemed complete. A filing is deemed complete upon
1731 the office's receipt of all requested information and the
1732 provider's correction of any error or omission for which the
1733 provider was timely notified. If the office does not issue
1734 notice of disapproval of the new management within 15 business
1735 days after the filing is deemed complete, the new management is
1736 deemed approved.

1737 (5) Management disapproved by the office must be removed
1738 within 30 days after receipt by the provider of notice of such
1739 disapproval.

1740 (6) The office may revoke, suspend, or take other
1741 administrative action against the certificate of authority of
1742 the provider if the provider:

1743 (a) Fails to timely remove management disapproved by the
1744 office;

1745 (b) Fails to timely notify the office of a change in
1746 management;

1747 (c) Appoints new management without a written contract when
1748 a written contract is required under this section; or

1749 (d) Repeatedly appoints management that was previously
1750 disapproved by the office or that is not approvable under



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1751 subsection (4).

1752 (7) The provider shall remove any management immediately
1753 upon discovery of either of the following conditions, if the
1754 conditions were not disclosed in the notice to the office
1755 required under subsection (2):

1756 (a) That a manager has been found guilty of, or has pled
1757 guilty or no contest to, a felony charge, or has been held
1758 liable or has been enjoined in a civil action by final judgment,
1759 if the felony or civil action involved fraud, embezzlement,
1760 fraudulent conversion, or misappropriation of property.

1761 (b) That a manager is now, or was in the past, affiliated,
1762 directly or indirectly, through ownership interest of 10 percent
1763 or more in, or control of, any business, corporation, or other
1764 entity that has been found guilty of or has pled guilty or no
1765 contest to a felony charge, or has been held liable or has been
1766 enjoined in a civil action by final judgment, if the felony or
1767 civil action involved fraud, embezzlement, fraudulent
1768 conversion, or misappropriation of property.

1769
1770 The failure to remove such management is grounds for revocation
1771 or suspension of the provider's certificate of authority.

1772 Section 19. Section 651.051, Florida Statutes, is amended
1773 to read:

1774 651.051 Maintenance of assets and records in state.—All
1775 records and assets of a provider must be maintained or readily
1776 accessible in this state or, if the provider's corporate office
1777 is located in another state, such records must be electronically
1778 stored in a manner that will ensure that the records are readily
1779 accessible to the office. No records or assets may be removed



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1780 from this state by a provider unless the office consents to such
1781 removal in writing before such removal. Such consent must ~~shall~~
1782 be based upon the provider's submitting satisfactory evidence
1783 that the removal will facilitate and make more economical the
1784 operations of the provider and will not diminish the service or
1785 protection thereafter to be given the provider's residents in
1786 this state. Before ~~Prior to~~ such removal, the provider shall
1787 give notice to the president or chair of the facility's
1788 residents' council. If such removal is part of a cash management
1789 system which has been approved by the office, disclosure of the
1790 system must ~~shall~~ meet the notification requirements. The
1791 electronic storage of records on a web-based, secured storage
1792 platform by contract with a third party is acceptable if the
1793 records are readily accessible to the office.

1794 Section 20. Subsection (3) of section 651.055, Florida
1795 Statutes, is amended to read:

1796 651.055 Continuing care contracts; right to rescind.-

1797 (3) The contract must include or be accompanied by a
1798 statement, printed in boldfaced type, which reads: "This
1799 facility and all other continuing care facilities (also known as
1800 life plan communities) in the State of Florida are regulated by
1801 chapter 651, Florida Statutes. A copy of the law is on file in
1802 this facility. The law gives you or your legal representative
1803 the right to inspect our most recent financial statement and
1804 inspection report before signing the contract."

1805 Section 21. Subsection (2) of section 651.057, Florida
1806 Statutes, is amended to read:

1807 651.057 Continuing care at-home contracts.-

1808 (2) A provider that holds a certificate of authority and



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1809 wishes to offer continuing care at-home must also:

1810 (a) Submit a business plan to the office with the following
1811 information:

1812 1. A description of the continuing care at-home services
1813 that will be provided, the market to be served, and the fees to
1814 be charged;

1815 2. A copy of the proposed continuing care at-home contract;

1816 3. An actuarial study prepared by an independent actuary in
1817 accordance with the standards adopted by the American Academy of
1818 Actuaries which presents the impact of providing continuing care
1819 at-home on the overall operation of the facility; and

1820 4. A ~~market~~ feasibility study that meets the requirements
1821 of s. 651.022(3) and documents that there is sufficient interest
1822 in continuing care at-home contracts to support such a program;

1823 (b) Demonstrate to the office that the proposal to offer
1824 continuing care at-home contracts to individuals who do not
1825 immediately move into the facility will not place the provider
1826 in an unsound financial condition;

1827 (c) Comply with the requirements of s. 651.0246(1) ~~s.~~
1828 ~~651.021(2)~~, except that an actuarial study may be substituted
1829 for the feasibility study; and

1830 (d) Comply with the requirements of this chapter.

1831 Section 22. Subsection (1) of section 651.071, Florida
1832 Statutes, is amended to read:

1833 651.071 Contracts as preferred claims on liquidation or
1834 receivership.—

1835 (1) In the event of receivership or liquidation proceedings
1836 against a provider, all continuing care and continuing care at-
1837 home contracts executed by a provider are ~~shall be~~ deemed



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1838 preferred claims or policyholder loss ~~preferred~~ claims pursuant
1839 to s. 631.271(1)(b) against all assets owned by the provider;
1840 however, such claims are subordinate to any secured claim.

1841 Section 23. Subsection (2) and present paragraph (g) of
1842 subsection (3) of section 651.091, Florida Statutes, are
1843 amended, and a new paragraph (i) and paragraphs (j), (k), and
1844 (l) are added to that subsection, and paragraph (d) of
1845 subsection (3) and subsection (4) of that section are
1846 republished, to read:

1847 651.091 Availability, distribution, and posting of reports
1848 and records; requirement of full disclosure.—

1849 (2) Every continuing care facility shall:

1850 (a) Display the certificate of authority in a conspicuous
1851 place inside the facility.

1852 (b) Post in a prominent position in the facility which is
1853 accessible to all residents and the general public a concise
1854 summary of the last examination report issued by the office,
1855 with references to the page numbers of the full report noting
1856 any deficiencies found by the office, and the actions taken by
1857 the provider to rectify such deficiencies, indicating in such
1858 summary where the full report may be inspected in the facility.

1859 (c) Post in a prominent position in the facility,
1860 accessible to all residents and the general public, a notice
1861 containing the contact information for the office and the
1862 Division of Consumer Services of the department and stating that
1863 the division or office may be contacted for the submission of
1864 inquiries and complaints with respect to potential violations of
1865 this chapter committed by a provider. Such contact information
1866 must include the division's website and the toll-free consumer



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1867 helpline and the office's website and telephone number.

1868 (d) Provide notice to the president or chair of the
1869 residents' council within 10 business days after issuance of a
1870 final examination report or the initiation of any legal or
1871 administrative proceeding by the office or the department and
1872 include a copy of such document.

1873 (e)-(e) Post in a prominent position in the facility which
1874 is accessible to all residents and the general public a summary
1875 of the latest annual statement, indicating in the summary where
1876 the full annual statement may be inspected in the facility. A
1877 listing of any proposed changes in policies, programs, and
1878 services must also be posted.

1879 (f)-(d) Distribute a copy of the full annual statement and a
1880 copy of the most recent third-party ~~third party~~ financial audit
1881 filed with the annual report to the president or chair of the
1882 residents' council within 30 days after filing the annual report
1883 with the office, and designate a staff person to provide
1884 explanation thereof.

1885 (g)-(e) Deliver the information described in s. 651.085(4)
1886 in writing to the president or chair of the residents' council
1887 and make supporting documentation available upon request ~~Notify~~
1888 ~~the residents' council of any plans filed with the office to~~
1889 ~~obtain new financing, additional financing, or refinancing for~~
1890 ~~the facility and of any applications to the office for any~~
1891 ~~expansion of the facility.~~

1892 (h)-(f) Deliver to the president or chair of the residents'
1893 council a summary of entrance fees collected and refunds made
1894 during the time period covered in the annual report and the
1895 refund balances due at the end of the report period.



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1896 (i)~~(g)~~ Deliver to the president or chair of the residents'
1897 council a copy of each quarterly statement within 30 days after
1898 the quarterly statement is filed with the office if the facility
1899 is required to file quarterly.

1900 (j)~~(h)~~ Upon request, deliver to the president or chair of
1901 the residents' council a copy of any newly approved continuing
1902 care or continuing care at-home contract within 30 days after
1903 approval by the office.

1904 (k) Provide to the president or chair of the residents'
1905 council a copy of any notice filed with the office relating to
1906 any change in ownership within 10 business days after such
1907 filing by the provider.

1908 (l) Make the information available to prospective residents
1909 pursuant to paragraph (3) (d) available to current residents and
1910 provide notice of changes to that information to the president
1911 or chair of the residents' council within 3 business days.

1912 (3) Before entering into a contract to furnish continuing
1913 care or continuing care at-home, the provider undertaking to
1914 furnish the care, or the agent of the provider, shall make full
1915 disclosure, and provide copies of the disclosure documents to
1916 the prospective resident or his or her legal representative, of
1917 the following information:

1918 (d) In keeping with the intent of this subsection relating
1919 to disclosure, the provider shall make available for review
1920 master plans approved by the provider's governing board and any
1921 plans for expansion or phased development, to the extent that
1922 the availability of such plans does not put at risk real estate,
1923 financing, acquisition, negotiations, or other implementation of
1924 operational plans and thus jeopardize the success of



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1925 negotiations, operations, and development.

1926 ~~(g) The amount and location of any reserve funds required~~
1927 ~~by this chapter, and the name of the person or entity having a~~
1928 ~~claim to such funds in the event of a bankruptcy, foreclosure,~~
1929 ~~or rehabilitation proceeding.~~

1930 (i) Notice of the issuance of a final examination report or
1931 the initiation of any legal or administrative proceeding by the
1932 office or the department, including where the report or filing
1933 may be inspected in the facility, and that, upon request, an
1934 electronic copy or specific website address will be provided
1935 from which the document can be downloaded at no cost.

1936 (j) Notice that the entrance fee is the property of the
1937 provider after the expiration of the 7-day escrow requirement
1938 under s. 651.055(2).

1939 (k) A statement that distribution of assets or income may
1940 occur or a statement that such distributions will not occur.

1941 (l) Notice of any holding company system or obligated group
1942 of which the provider is a member.

1943 (4) A true and complete copy of the full disclosure
1944 document to be used must be filed with the office before use. A
1945 resident or prospective resident or his or her legal
1946 representative may inspect the full reports referred to in
1947 paragraph (2)(b); the charter or other agreement or instrument
1948 required to be filed with the office pursuant to s. 651.022(2),
1949 together with all amendments thereto; and the bylaws of the
1950 corporation or association, if any. Upon request, copies of the
1951 reports and information shall be provided to the individual
1952 requesting them if the individual agrees to pay a reasonable
1953 charge to cover copying costs.



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1954 Section 24. Subsection (4) of section 651.095, Florida
1955 Statutes, is amended to read:

1956 651.095 Advertisements; requirements; penalties.—

1957 (4) It is unlawful for any person, other than a provider
1958 licensed pursuant to this chapter, to advertise or market to the
1959 general public any product similar to continuing care through
1960 the use of such terms as "life care," "life plan," "life plan
1961 at-home," "continuing care," or "guaranteed care for life," or
1962 similar terms, words, or phrases.

1963 Section 25. Section 651.105, Florida Statutes, is amended
1964 to read:

1965 651.105 Examination ~~and inspections~~.—

1966 (1) The office may at any time, and shall at least once
1967 every 3 years, examine the business of any applicant for a
1968 certificate of authority and any provider engaged in the
1969 execution of care contracts or engaged in the performance of
1970 obligations under such contracts, in the same manner as is
1971 provided for the examination of insurance companies pursuant to
1972 ss. 624.316 and 624.318 s. 624.316. For a provider as described
1973 ~~defined~~ in s. 651.028, such examinations must ~~shall~~ take place
1974 at least once every 5 years. Such examinations must ~~shall~~ be
1975 made by a representative or examiner designated by the office
1976 whose compensation will be fixed by the office pursuant to s.
1977 624.320. Routine examinations may be made by having the
1978 necessary documents submitted to the office; and, for this
1979 purpose, financial documents and records conforming to commonly
1980 accepted accounting principles and practices, as required under
1981 s. 651.026, are deemed adequate. The final written report of
1982 each examination must be filed with the office and, when so



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1983 filed, constitutes a public record. Any provider being examined
1984 shall, upon request, give reasonable and timely access to all of
1985 its records. The representative or examiner designated by the
1986 office may at any time examine the records and affairs and
1987 inspect the physical property of any provider, whether in
1988 connection with a formal examination or not.

1989 (2) Any duly authorized officer, employee, or agent of the
1990 office may, upon presentation of proper identification, have
1991 access to, and inspect, any records, with or without advance
1992 notice, to secure compliance with, or to prevent a violation of,
1993 any provision of this chapter.

1994 (3) Reports of the results of such financial examinations
1995 must be kept on file by the office. Any investigatory records,
1996 reports, or documents held by the office are confidential and
1997 exempt from the provisions of s. 119.07(1), until the
1998 investigation is completed or ceases to be active. For the
1999 purpose of this section, an investigation is active while it is
2000 being conducted by the office with a reasonable, good faith
2001 belief that it could lead to the filing of administrative,
2002 civil, or criminal proceedings. An investigation does not cease
2003 to be active if the office is proceeding with reasonable
2004 dispatch and has a good faith belief that action could be
2005 initiated by the office or other administrative or law
2006 enforcement agency.

2007 (4) The office shall notify the provider and the executive
2008 officer of the governing body of the provider in writing of all
2009 deficiencies in its compliance with the provisions of this
2010 chapter and the rules adopted pursuant to this chapter and shall
2011 set a reasonable length of time for compliance by the provider.



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2012 In addition, the office shall require corrective action or
2013 request a corrective action plan from the provider which plan
2014 demonstrates a good faith attempt to remedy the deficiencies by
2015 a specified date. If the provider fails to comply within the
2016 established length of time, the office may initiate action
2017 against the provider in accordance with the provisions of this
2018 chapter.

2019 (5) A provider shall respond to written correspondence from
2020 the office and provide data, financial statements, and pertinent
2021 information as requested by the office or by the office's
2022 investigators, examiners, or inspectors. The office has standing
2023 to petition a circuit court for mandatory injunctive relief to
2024 compel access to and require the provider to produce the
2025 documents, data, records, and other information requested by the
2026 office or its investigators, examiners, or inspectors. The
2027 office may petition the circuit court in the county in which the
2028 facility is situated or the Circuit Court of Leon County to
2029 enforce this section ~~At the time of the routine examination, the~~
2030 ~~office shall determine if all disclosures required under this~~
2031 ~~chapter have been made to the president or chair of the~~
2032 ~~residents' council and the executive officer of the governing~~
2033 ~~body of the provider.~~

2034 (6) A representative of the provider must give a copy of
2035 the final examination report and corrective action plan, if one
2036 is required by the office, to the executive officer of the
2037 governing body of the provider within 60 days after issuance of
2038 the report.

2039 (7) Unless a provider or facility is impaired or subject to
2040 a regulatory action level event, any parent, subsidiary, or



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2041 affiliate is not subject to examination by the office as part of
2042 a routine examination. However, if a provider or facility relies
2043 on a contractual or financial relationship with a parent, a
2044 subsidiary, or an affiliate in order to meet the financial
2045 requirements of this chapter, the office may examine any parent,
2046 subsidiary, or affiliate that has a contractual or financial
2047 relationship with the provider or facility to the extent
2048 necessary to ascertain the financial condition of the provider.

2049 Section 26. Section 651.106, Florida Statutes, is amended
2050 to read:

2051 651.106 Grounds for discretionary refusal, suspension, or
2052 revocation of certificate of authority.—The office may deny an
2053 application or~~7~~ suspend~~7~~ or revoke the provisional certificate
2054 of authority or the certificate of authority of any applicant or
2055 provider if it finds that any one or more of the following
2056 grounds applicable to the applicant or provider exist:

2057 (1) Failure by the provider to continue to meet the
2058 requirements for the authority originally granted.

2059 (2) Failure by the provider to meet one or more of the
2060 qualifications for the authority specified by this chapter.

2061 (3) Material misstatement, misrepresentation, or fraud in
2062 obtaining the authority, or in attempting to obtain the same.

2063 (4) Demonstrated lack of fitness or trustworthiness.

2064 (5) Fraudulent or dishonest practices of management in the
2065 conduct of business.

2066 (6) Misappropriation, conversion, or withholding of moneys.

2067 (7) Failure to comply with, or violation of, any proper
2068 order or rule of the office or commission or violation of any
2069 provision of this chapter.



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2070 (8) The insolvent or impaired condition of the provider or
2071 the provider's being in such condition or using such methods and
2072 practices in the conduct of its business as to render its
2073 further transactions in this state hazardous or injurious to the
2074 public.

2075 (9) Refusal by the provider to be examined or to produce
2076 its accounts, records, and files for examination, or refusal by
2077 any of its officers to give information with respect to its
2078 affairs or to perform any other legal obligation under this
2079 chapter when required by the office.

2080 (10) Failure by the provider to comply with the
2081 requirements of s. 651.026 or s. 651.033.

2082 (11) Failure by the provider to maintain escrow accounts or
2083 funds as required by this chapter.

2084 (12) Failure by the provider to meet the requirements of
2085 this chapter for disclosure of information to residents
2086 concerning the facility, its ownership, its management, its
2087 development, or its financial condition or failure to honor its
2088 continuing care or continuing care at-home contracts.

2089 (13) Any cause for which issuance of the license could have
2090 been refused had it then existed and been known to the office.

2091 (14) Having been found guilty of, or having pleaded guilty
2092 or nolo contendere to, a felony in this state or any other
2093 state, without regard to whether a judgment or conviction has
2094 been entered by the court having jurisdiction of such cases.

2095 (15) In the conduct of business under the license, engaging
2096 in unfair methods of competition or in unfair or deceptive acts
2097 or practices prohibited under part IX of chapter 626.

2098 (16) A pattern of bankrupt enterprises.



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2099 (17) The ownership, control, or management of the
2100 organization includes any person:
2101 (a) Who is not reputable and of responsible character;
2102 (b) Who is so lacking in management expertise as to make
2103 the operation of the provider hazardous to potential and
2104 existing residents;
2105 (c) Who is so lacking in management experience, ability,
2106 and standing as to jeopardize the reasonable promise of
2107 successful operation;
2108 (d) Who is affiliated, directly or indirectly, through
2109 ownership or control, with any person or persons whose business
2110 operations are or have been marked by business practices or
2111 conduct that is detrimental to the public, contract holders,
2112 investors, or creditors by manipulation of assets, finances, or
2113 accounts or by bad faith; or
2114 (e) Whose business operations are or have been marked by
2115 business practices or conduct that is detrimental to the public,
2116 contract holders, investors, or creditors by manipulation of
2117 assets, finances, or accounts or by bad faith.
2118 (18) The provider has not filed a notice of change in
2119 management, fails to remove a disapproved manager, or persists
2120 in appointing disapproved managers.
2121
2122 Revocation of a certificate of authority under this section does
2123 not relieve a provider from the provider's obligation to
2124 residents under the terms and conditions of any continuing care
2125 or continuing care at-home contract between the provider and
2126 residents or the provisions of this chapter. The provider shall
2127 continue to file its annual statement and pay license fees to



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2128 the office as required under this chapter as if the certificate
2129 of authority had continued in full force, but the provider shall
2130 not issue any new contracts. The office may seek an action in
2131 the Circuit Court of Leon County to enforce the office's order
2132 and the provisions of this section.

2133 Section 27. Section 651.1065, Florida Statutes, is created
2134 to read:

2135 651.1065 Soliciting or accepting new continuing care
2136 contracts by impaired or insolvent facilities or providers.—

2137 (1) Regardless of whether delinquency proceedings as to a
2138 continuing care facility have been or are to be initiated, a
2139 proprietor, a general partner, a member, an officer, a director,
2140 a trustee, or a manager of a continuing care facility may not
2141 actively solicit, approve the solicitation or acceptance of, or
2142 accept new continuing care contracts in this state after the
2143 proprietor, general partner, member, officer, director, trustee,
2144 or manager knew, or reasonably should have known, that the
2145 continuing care facility was impaired or insolvent except with
2146 the written permission of the office. If the facility has
2147 declared bankruptcy, the bankruptcy court or trustee appointed
2148 by the court has jurisdiction over such matters. The office must
2149 approve or disapprove the continued marketing of new contracts
2150 within 15 days after receiving a request from a provider.

2151 (2) A proprietor, a general partner, a member, an officer,
2152 a director, a trustee, or a manager who violates this section
2153 commits a felony of the third degree, punishable as provided in
2154 s. 775.082, s. 775.083, or s. 775.084.

2155 Section 28. Subsections (1) and (3) of section 651.111,
2156 Florida Statutes, are amended to read:



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2157 651.111 Requests for inspections.-

2158 (1) Any interested party may request an inspection of the
2159 records and related financial affairs of a provider providing
2160 care in accordance with ~~the provisions of~~ this chapter by
2161 transmitting to the office notice of an alleged violation of
2162 applicable requirements prescribed by statute or by rule,
2163 specifying to a reasonable extent the details of the alleged
2164 violation, which notice must ~~shall~~ be signed by the complainant.
2165 As used in this section, the term "inspection" means an inquiry
2166 into a provider's compliance with this chapter.

2167 (3) Upon receipt of a complaint, the office shall make a
2168 preliminary review to determine if the complaint alleges a
2169 violation of this chapter; and, unless the office determines
2170 that the complaint does not allege a violation of this chapter
2171 or is without any reasonable basis, the office shall make an
2172 inspection. The office shall provide the complainant with a
2173 written acknowledgment of the complaint within 15 days after
2174 receipt by the office. The complainant shall be advised, within
2175 30 days after the receipt of the complaint by the office, of the
2176 office's determination that the complaint does not allege a
2177 violation of this chapter, that the complaint is without any
2178 reasonable basis, or that the office will make an inspection.
2179 The notice must include an estimated timeframe for completing
2180 the inspection and a contact number. If the inspection is not
2181 completed within the estimated timeframe, the office must
2182 provide the complainant with a revised timeframe. Within 15 days
2183 after completing an inspection, the office shall provide the
2184 complainant and the provider a written statement specifying any
2185 violations of this chapter and any actions taken or that no such



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2186 violation was found ~~proposed course of action of the office.~~

2187 Section 29. Section 651.114, Florida Statutes, is amended
2188 to read:

2189 651.114 Delinquency proceedings; remedial rights.—

2190 (1) Upon determination by the office that a provider is not
2191 in compliance with this chapter, the office may notify the chair
2192 of the Continuing Care Advisory Council, who may assist the
2193 office in formulating a corrective action plan.

2194 (2) Within 30 days after a request by either the advisory
2195 council or the office, a provider shall make a plan for
2196 obtaining compliance or solvency available to the advisory
2197 council and the office, ~~within 30 days after being requested to~~
2198 ~~do so by the council,~~ a plan for obtaining compliance or
2199 solvency.

2200 (3) Within 30 days after receipt of a plan for obtaining
2201 compliance or solvency, the office or, at the request of the
2202 office, ~~notification,~~ the advisory council shall:

2203 (a) Consider and evaluate the plan submitted by the
2204 provider.

2205 (b) Discuss the problem and solutions with the provider.

2206 (c) Conduct such other business as is necessary.

2207 (d) Report its findings and recommendations to the office,
2208 which may require additional modification of the plan.

2209
2210 This subsection may not be construed to delay or prevent the
2211 office from taking any regulatory measures it deems necessary
2212 regarding the provider that submitted the plan.

2213 (4) If the financial condition of a continuing care
2214 facility or provider is impaired or is such that if not modified



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2215 or corrected, its continued operation would result in
2216 insolvency, the office may direct the provider to formulate and
2217 file with the office a corrective action plan. If the provider
2218 fails to submit a plan within 30 days after the office's
2219 directive or submits a plan that is insufficient to correct the
2220 condition, the office may specify a plan and direct the provider
2221 to implement the plan. Before specifying a plan, the office may
2222 seek a recommended plan from the advisory council.

2223 (5)~~(4)~~ After receiving approval of a plan by the office,
2224 the provider shall submit a progress report monthly to the
2225 advisory council or the office, or both, in a manner prescribed
2226 by the office. After 3 months, or at any earlier time deemed
2227 necessary, the council shall evaluate the progress by the
2228 provider and shall advise the office of its findings.

2229 (6)~~(5)~~ If ~~Should~~ the office finds ~~find~~ that sufficient
2230 grounds exist for rehabilitation, liquidation, conservation,
2231 reorganization, seizure, or summary proceedings of an insurer as
2232 set forth in ss. 631.051, 631.061, and 631.071, the department
2233 ~~office~~ may petition for an appropriate court order or may pursue
2234 such other relief as is afforded in part I of chapter 631.
2235 Before invoking its powers under part I of chapter 631, the
2236 department ~~office~~ shall notify the chair of the advisory
2237 council.

2238 (7) Notwithstanding s. 631.011, impairment of a provider,
2239 for purposes of s. 631.051, has the same meaning as the term
2240 "impaired" in s. 651.011.

2241 (8)~~(6)~~ In the event an order of conservation,
2242 rehabilitation, liquidation, or ~~conservation, reorganization,~~
2243 seizure, ~~or summary proceeding~~ has been entered against a



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2244 provider, the department and office are vested with all of the
2245 powers and duties they have under ~~the provisions of~~ part I of
2246 chapter 631 in regard to delinquency proceedings of insurance
2247 companies. A provider shall give written notice of the
2248 proceeding to its residents within 3 business days after the
2249 initiation of a delinquency proceeding under chapter 631 and
2250 shall include a notice of the delinquency proceeding in any
2251 written materials provided to prospective residents

2252 ~~(7) If the financial condition of the continuing care~~
2253 ~~facility or provider is such that, if not modified or corrected,~~
2254 ~~its continued operation would result in insolvency, the office~~
2255 ~~may direct the provider to formulate and file with the office a~~
2256 ~~corrective action plan. If the provider fails to submit a plan~~
2257 ~~within 30 days after the office's directive or submits a plan~~
2258 ~~that is insufficient to correct the condition, the office may~~
2259 ~~specify a plan and direct the provider to implement the plan.~~

2260 (9) A provider subject to an order to show cause entered
2261 pursuant to chapter 631 must file its written response to the
2262 order, together with any defenses it may have to the
2263 department's allegations, not later than 20 days after service
2264 of the order to show cause, but not less than 15 days before the
2265 date of the hearing set by the order to show cause.

2266 (10) A hearing held pursuant to chapter 631 to determine
2267 whether cause exists for the department to be appointed receiver
2268 must be commenced within 60 days after an order directing a
2269 provider to show cause.

2270 (11) (a) ~~(8) (a)~~ The rights of the office described in this
2271 section are subordinate to the rights of a trustee or lender
2272 pursuant to the terms of a resolution, ordinance, loan



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2273 agreement, indenture of trust, mortgage, lease, security
2274 agreement, or other instrument creating or securing bonds or
2275 notes issued to finance a facility, and the office, subject to
2276 ~~the provisions of~~ paragraph (c), may ~~shall~~ not exercise its
2277 remedial rights provided under this section and ss. 651.018,
2278 651.106, 651.108, and 651.116 with respect to a facility that is
2279 subject to a lien, mortgage, lease, or other encumbrance or
2280 trust indenture securing bonds or notes issued in connection
2281 with the financing of the facility, if the trustee or lender, by
2282 inclusion or by amendment to the loan documents or by a separate
2283 contract with the office, agrees that the rights of residents
2284 under a continuing care or continuing care at-home contract will
2285 be honored and will not be disturbed by a foreclosure or
2286 conveyance in lieu thereof as long as the resident:

2287 1. Is current in the payment of all monetary obligations
2288 required by the contract;

2289 2. Is in compliance and continues to comply with all
2290 provisions of the contract; and

2291 3. Has asserted no claim inconsistent with the rights of
2292 the trustee or lender.

2293 (b) This subsection does not require a trustee or lender
2294 to:

2295 1. Continue to engage in the marketing or resale of new
2296 continuing care or continuing care at-home contracts;

2297 2. Pay any rebate of entrance fees as may be required by a
2298 resident's continuing care or continuing care at-home contract
2299 as of the date of acquisition of the facility by the trustee or
2300 lender and until expiration of the period described in paragraph
2301 (d);



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2302 3. Be responsible for any act or omission of any owner or
2303 operator of the facility arising before the acquisition of the
2304 facility by the trustee or lender; or

2305 4. Provide services to the residents to the extent that the
2306 trustee or lender would be required to advance or expend funds
2307 that have not been designated or set aside for such purposes.

2308 (c) ~~If should~~ the office determines ~~determine~~, at any time
2309 during the suspension of its remedial rights as provided in
2310 paragraph (a), that:

2311 1. The trustee or lender is not in compliance with
2312 paragraph (a); ~~or that~~

2313 2. A lender or trustee has assigned or has agreed to assign
2314 all or a portion of a delinquent or defaulted loan to a third
2315 party without the office's written consent; ~~or~~

2316 3. The provider engaged in the misappropriation,
2317 conversion, or illegal commitment or withdrawal of minimum
2318 liquid reserve or escrowed funds required under this chapter;

2319 4. The provider refused to be examined by the office
2320 pursuant to s. 651.105(1); or

2321 5. The provider refused to produce any relevant accounts,
2322 records, and files requested as part of an examination,

2323
2324 the office shall notify the trustee or lender in writing of its
2325 determination, setting forth the reasons giving rise to the
2326 determination and specifying those remedial rights afforded to
2327 the office which the office shall then reinstate.

2328 (d) Upon acquisition of a facility by a trustee or lender
2329 and evidence satisfactory to the office that the requirements of
2330 paragraph (a) have been met, the office shall issue a 90-day



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2331 temporary certificate of authority granting the trustee or
2332 lender the authority to engage in the business of providing
2333 continuing care or continuing care at-home and to issue
2334 continuing care or continuing care at-home contracts subject to
2335 the office's right to immediately suspend or revoke the
2336 temporary certificate of authority if the office determines that
2337 any of the grounds described in s. 651.106 apply to the trustee
2338 or lender or that the terms of the contract used as the basis
2339 for the issuance of the temporary certificate of authority by
2340 the office have not been or are not being met by the trustee or
2341 lender since the date of acquisition.

2342 Section 30. Section 651.1141, Florida Statutes, is created
2343 to read:

2344 651.1141 Immediate final orders.-

2345 (1) The Legislature finds that the following actions
2346 constitute an imminent and immediate threat to the public
2347 health, safety, and welfare of the residents of this state:

2348 (a) The installation of a general partner of a provider or
2349 assumption of ownership or possession or control of 10 percent
2350 or more of a provider's assets in violation of s. 651.024 or s.
2351 651.0245;

2352 (b) The removal or commitment of 10 percent or more of the
2353 required minimum liquid reserve funds in violation of s.
2354 651.035; or

2355 (c) The assumption of control over a facility's operations
2356 in violation of s. 651.043.

2357 (2) If it finds that a person or entity is engaging or has
2358 engaged in one or more of the above activities, the office may,
2359 pursuant to s. 120.569, issue an immediate final order:



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2360 (a) Directing that such person or entity cease and desist
2361 that activity; or

2362 (b) Suspending the certificate of authority of the
2363 facility.

2364 Section 31. Subsection (1) of section 651.121, Florida
2365 Statutes, is amended to read:

2366 651.121 Continuing Care Advisory Council.—

2367 (1) The Continuing Care Advisory Council to the office is
2368 created consisting of 10 members ~~who are residents of this state~~
2369 appointed by the Governor and geographically representative of
2370 this state. Three members shall be representatives
2371 ~~administrators~~ of facilities that hold valid certificates of
2372 authority under this chapter and ~~shall~~ have been actively
2373 engaged in the offering of continuing care contracts in this
2374 state for 5 years before appointment. The remaining members
2375 include:

2376 (a) A representative of the business community whose
2377 expertise is in the area of management.

2378 (b) A representative of the financial community who is not
2379 a facility owner or administrator.

2380 (c) A certified public accountant.

2381 ~~(d) An attorney.~~

2382 (d)(e) Four ~~Three~~ residents who hold continuing care or
2383 continuing care at-home contracts with a facility certified in
2384 this state.

2385 Section 32. Subsections (1) and (4) of section 651.125,
2386 Florida Statutes, are amended to read:

2387 651.125 Criminal penalties; injunctive relief.—

2388 (1) Any person who maintains, enters into, or, as manager



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2389 or officer or in any other administrative capacity, assists in
2390 entering into, maintaining, or performing any continuing care or
2391 continuing care at-home contract subject to this chapter without
2392 ~~doing so in pursuance of~~ a valid provisional certificate of
2393 authority or certificate of authority ~~or renewal thereof~~, as
2394 contemplated by or provided in this chapter, or who otherwise
2395 violates any provision of this chapter or rule adopted in
2396 pursuance of this chapter, commits a felony of the third degree,
2397 punishable as provided in s. 775.082 or s. 775.083. Each
2398 violation of this chapter constitutes a separate offense.

2399 (4) Any action brought by the office against a provider
2400 shall not abate by reason of a sale or other transfer of
2401 ownership of the facility used to provide care, which provider
2402 is a party to the action, except with the express written
2403 consent of the ~~director of the~~ office.

2404 Section 33. Except as otherwise expressly provided in this
2405 act and except for this section, which shall take effect July 1,
2406 2019, this act shall take effect January 1, 2020.

2407
2408 ===== T I T L E A M E N D M E N T =====

2409 And the title is amended as follows:

2410 Delete everything before the enacting clause
2411 and insert:

2412 A bill to be entitled
2413 An act relating to continuing care contracts; amending
2414 s. 651.011, F.S.; adding and revising definitions;
2415 amending s. 651.012, F.S.; conforming a cross-
2416 reference; deleting an obsolete date; amending s.
2417 651.013, F.S.; adding certain Florida Insurance Code



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2418 provisions to the Office of Insurance Regulation's
2419 authority to regulate providers of continuing care and
2420 continuing care at-home; amending s. 651.019, F.S.;
2421 revising requirements for providers and facilities
2422 relating to financing and refinancing transactions;
2423 amending s. 651.021, F.S.; conforming provisions to
2424 changes made by the act; creating s. 651.0215, F.S.;
2425 specifying conditions, requirements, procedures, and
2426 prohibitions relating to consolidated applications for
2427 provisional certificates of authority and for
2428 certificates of authority and to the office's review
2429 of such applications; specifying conditions under
2430 which a provider is entitled to secure the release of
2431 certain escrowed funds; providing construction;
2432 amending s. 651.022, F.S.; revising and specifying
2433 requirements, procedures, and prohibitions relating to
2434 applications for provisional certificates of authority
2435 and to the office's review of such applications;
2436 amending s. 651.023, F.S.; revising and specifying
2437 requirements, procedures, and prohibitions relating to
2438 applications for certificates of authority and to the
2439 office's review of such applications; conforming
2440 provisions to changes made by the act; amending s.
2441 651.024, F.S.; revising requirements for certain
2442 persons relating to provider acquisitions; specifying
2443 procedures for rebutting a presumption of control;
2444 providing standing to the office to petition a circuit
2445 court in certain proceedings; creating s. 651.0245,
2446 F.S.; specifying procedures, requirements, and a



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2447 prohibition relating to an application for the
2448 simultaneous acquisition of a facility and issuance of
2449 a certificate of authority and to the office's review
2450 of such application; specifying rulemaking
2451 requirements and authority of the Financial Services
2452 Commission; providing standing to the office to
2453 petition a circuit court in certain proceedings;
2454 specifying procedures for rebutting a presumption of
2455 control; creating s. 651.0246, F.S.; specifying
2456 requirements, conditions, procedures, and prohibitions
2457 relating to provider applications to commence
2458 construction or marketing for expansions of
2459 certificated facilities and to the office's review of
2460 such applications; defining the term "existing units";
2461 specifying escrow requirements for certain moneys;
2462 specifying conditions under which providers are
2463 entitled to secure release of such moneys; providing
2464 applicability and construction; amending s. 651.026,
2465 F.S.; revising requirements for annual reports filed
2466 by providers with the office; revising the
2467 commission's rulemaking authority; requiring the
2468 office to annually publish a specified industry
2469 benchmarking report; amending s. 651.0261, F.S.;
2470 requiring providers to file quarterly unaudited
2471 financial statements; authorizing the office to waive
2472 such requirement under certain circumstances;
2473 providing an exception for filing a certain quarterly
2474 statement; revising information that the office may
2475 require providers to file and the circumstances under



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2476 which such information must be filed; revising the
2477 commission's rulemaking authority; amending s.
2478 651.028, F.S.; revising requirements that the office
2479 may waive under certain circumstances; revising the
2480 entities that may qualify for such waiver; requiring
2481 such entities to provide certain information within a
2482 certain timeframe to the office under certain
2483 circumstances; amending s. 651.033, F.S.; revising
2484 applicability of escrow requirements; revising
2485 requirements for escrow accounts and agreements;
2486 revising the office's authority to allow a withdrawal
2487 of a specified percentage of the required minimum
2488 liquid reserve; revising applicability of requirements
2489 relating to the deposit of certain funds in escrow
2490 accounts; prohibiting an escrow agent, except under
2491 certain circumstances, from releasing or allowing the
2492 transfer of funds; creating s. 651.034, F.S.;
2493 specifying requirements for the office if a regulatory
2494 action level event occurs; specifying requirements for
2495 corrective action plans; authorizing the office to use
2496 members of the Continuing Care Advisory Council and to
2497 retain consultants for certain purposes; requiring
2498 affected providers to bear costs and expenses relating
2499 to such consultants; specifying requirements for, and
2500 authorized actions of, the office and the Department
2501 of Financial Services if an impairment occurs;
2502 providing construction; authorizing the office to
2503 exempt a provider from certain requirements for a
2504 certain timeframe; authorizing the commission to adopt



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2505 rules; amending s. 651.035, F.S.; revising minimum
2506 liquid reserve requirements for providers; specifying
2507 requirements, limitations, and procedures for a
2508 provider's withdrawal of funds held in escrow and the
2509 office's review of certain requests for withdrawal;
2510 authorizing the office to order certain transfers
2511 under certain circumstances; requiring facilities to
2512 annually file with the office a minimum liquid reserve
2513 calculation; requiring increases in the minimum liquid
2514 reserve to be funded within a certain timeframe;
2515 creating s. 651.043, F.S.; specifying requirements for
2516 certain management company contracts; specifying
2517 requirements, procedures, and authorized actions
2518 relating to changes in provider management and to the
2519 office's review of such changes; requiring that
2520 disapproved management be removed within a certain
2521 timeframe; authorizing the office to take certain
2522 disciplinary actions under certain circumstances;
2523 requiring providers to immediately remove management
2524 under certain circumstances; amending s. 651.051,
2525 F.S.; revising requirements for the maintenance of
2526 provider records and assets; amending s. 651.055,
2527 F.S.; revising a required statement in continuing care
2528 contracts; amending s. 651.057, F.S.; conforming
2529 provisions to changes made by the act; amending s.
2530 651.071, F.S.; specifying the priority of continuing
2531 care contracts and continuing care at-home contracts
2532 in receivership or liquidation proceedings against a
2533 provider; amending s. 651.091, F.S.; revising



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2534 requirements for continuing care facilities relating
2535 to posting or providing notices; amending s. 651.095,
2536 F.S.; adding terms to a list of prohibited terms in
2537 certain advertisements; amending s. 651.105, F.S.;
2538 adding a certain Florida Insurance Code provision to
2539 the office's authority to examine certain providers
2540 and applicants; requiring providers to respond to the
2541 office's written correspondence and to provide certain
2542 information; providing standing to the office to
2543 petition certain circuit courts for certain relief;
2544 revising, and specifying limitations on, the office's
2545 examination authority; amending s. 651.106, F.S.;
2546 authorizing the office to deny applications on
2547 specified grounds; adding and revising grounds for
2548 suspension or revocation of provisional certificates
2549 of authority and certificates of authority; creating
2550 s. 651.1065, F.S.; prohibiting certain actions by
2551 certain persons of an impaired or insolvent continuing
2552 care facility; providing that bankruptcy courts or
2553 trustees have jurisdiction over certain matters;
2554 requiring the office to approve or disapprove the
2555 continued marketing of new contracts within a certain
2556 timeframe; providing a criminal penalty; amending s.
2557 651.111, F.S.; defining the term "inspection";
2558 revising procedures and requirements relating to
2559 requests for inspections to the office; amending s.
2560 651.114, F.S.; revising and specifying requirements,
2561 procedures, and authorized actions relating to
2562 providers' corrective action plans; providing



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2563 construction; revising and specifying requirements and
2564 procedures relating to delinquency proceedings against
2565 a provider; revising circumstances under which the
2566 office must provide a certain notice to trustees or
2567 lenders; creating s. 651.1141, F.S.; providing
2568 legislative findings; authorizing the office to issue
2569 certain immediate final orders under certain
2570 circumstances; amending s. 651.121, F.S.; revising the
2571 composition of the Continuing Care Advisory Council;
2572 amending s. 651.125, F.S.; revising a prohibition to
2573 include certain actions performed without a valid
2574 provisional certificate of authority; providing
2575 effective dates.