

By the Committees on Appropriations; and Banking and Insurance;
and Senator Lee

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

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30 651.024, F.S.; revising requirements for certain
31 persons relating to provider acquisitions; providing
32 standing to the office to petition a circuit court in
33 certain proceedings; creating s. 651.0245, F.S.;
34 specifying procedures, requirements, and a prohibition
35 relating to an application for the simultaneous
36 acquisition of a facility and issuance of a
37 certificate of authority and to the office's review of
38 such application; specifying rulemaking requirements
39 and authority of the Financial Services Commission;
40 providing standing to the office to petition a circuit
41 court in certain proceedings; specifying procedures
42 for rebutting a presumption of control; creating s.
43 651.0246, F.S.; specifying requirements, conditions,
44 procedures, and prohibitions relating to provider
45 applications to commence construction or marketing for
46 expansions of certificated facilities and to the
47 office's review of such applications; defining the
48 term "existing units"; specifying escrow requirements
49 for certain moneys; specifying conditions under which
50 providers are entitled to secure release of such
51 moneys; providing applicability and construction;
52 amending s. 651.026, F.S.; revising requirements for
53 annual reports filed by providers with the office;
54 revising the commission's rulemaking authority;
55 requiring the office to annually publish a specified
56 industry report; amending s. 651.0261, F.S.; requiring
57 providers to file quarterly unaudited financial
58 statements; providing an exception for filing a

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59 certain quarterly statement; revising information that
60 the office may require providers to file and the
61 circumstances under which such information must be
62 filed; revising the commission's rulemaking authority;
63 amending s. 651.028, F.S.; specifying applicability of
64 certain accreditations of providers or facilities;
65 deleting the authority of the office to waive
66 requirements of ch. 651, F.S., for accredited
67 facilities; providing that the commission, rather than
68 the office, must make a certain finding; amending s.
69 651.033, F.S.; revising applicability of escrow
70 requirements; revising requirements for escrow
71 accounts and agreements; revising the office's
72 authority to allow a withdrawal of a specified
73 percentage of the required minimum liquid reserve;
74 revising applicability of requirements relating to the
75 deposit of certain funds in escrow accounts;
76 prohibiting an escrow agent, except under certain
77 circumstances, from releasing or allowing the transfer
78 of funds; creating s. 651.034, F.S.; specifying
79 requirements for the office if a regulatory action
80 level event occurs; specifying requirements for
81 corrective action plans; authorizing the office to use
82 members of the Continuing Care Advisory Council and to
83 retain consultants for certain purposes; requiring
84 affected providers to bear costs and expenses relating
85 to such consultants; specifying requirements for, and
86 authorized actions of, the office and the Department
87 of Financial Services if an impairment occurs;

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88 providing construction; authorizing the office to
89 exempt a provider from certain requirements for a
90 certain timeframe; authorizing the commission to adopt
91 rules; amending s. 651.035, F.S.; revising minimum
92 liquid reserve requirements for providers; specifying
93 requirements, limitations, and procedures for a
94 provider's withdrawal of funds held in escrow and the
95 office's review of certain requests for withdrawal;
96 authorizing the office to order certain transfers
97 under certain circumstances; requiring facilities to
98 annually file with the office a minimum liquid reserve
99 calculation; requiring increases in the minimum liquid
100 reserve to be funded within a certain timeframe;
101 requiring providers to fund shortfalls in minimum
102 liquid reserves under certain circumstances within a
103 certain timeframe; creating s. 651.043, F.S.;
104 specifying requirements for certain management company
105 contracts; specifying requirements, procedures, and
106 authorized actions relating to changes in provider
107 management and to the office's review of such changes;
108 requiring that disapproved management be removed
109 within a certain timeframe; authorizing the office to
110 take certain disciplinary actions under certain
111 circumstances; requiring providers to immediately
112 remove management under certain circumstances;
113 amending s. 651.051, F.S.; revising requirements for
114 the maintenance of provider records and assets;
115 amending s. 651.055, F.S.; revising a required
116 statement in continuing care contracts; amending s.

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117 651.057, F.S.; conforming provisions to changes made
118 by the act; amending s. 651.071, F.S.; specifying the
119 priority of continuing care contracts and continuing
120 care at-home contracts in receivership or liquidation
121 proceedings against a provider; amending s. 651.091,
122 F.S.; revising requirements for continuing care
123 facilities relating to posting or providing notices;
124 amending s. 651.095, F.S.; adding terms to a list of
125 prohibited terms in certain advertisements; amending
126 s. 651.105, F.S.; adding a certain Florida Insurance
127 Code provision to the office's authority to examine
128 certain providers and applicants; authorizing the
129 office to examine records for specified purposes;
130 requiring providers to respond to the office's written
131 correspondence and to provide certain information;
132 providing standing to the office to petition certain
133 circuit courts for certain relief; revising, and
134 specifying limitations on, the office's examination
135 authority; amending s. 651.106, F.S.; authorizing the
136 office to deny applications on specified grounds;
137 adding and revising grounds for suspension or
138 revocation of provisional certificates of authority
139 and certificates of authority; creating s. 651.1065,
140 F.S.; prohibiting certain actions by certain persons
141 of an impaired or insolvent continuing care facility;
142 providing that bankruptcy courts or trustees have
143 jurisdiction over certain matters; requiring the
144 office to approve or disapprove the continued
145 marketing of new contracts within a certain timeframe;

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146 providing a criminal penalty; amending s. 651.111,
147 F.S.; defining the term "inspection"; revising
148 procedures and requirements relating to requests for
149 inspections to the office; amending s. 651.114, F.S.;
150 revising and specifying requirements, procedures, and
151 authorized actions relating to providers' corrective
152 action plans; providing construction; revising and
153 specifying requirements and procedures relating to
154 delinquency proceedings against a provider; revising
155 circumstances under which the office must provide a
156 certain notice to trustees or lenders; creating s.
157 651.1141, F.S.; providing legislative findings;
158 authorizing the office to issue certain immediate
159 final orders under certain circumstances; amending s.
160 651.121, F.S.; revising the composition of the
161 Continuing Care Advisory Council; amending s. 651.125,
162 F.S.; revising a prohibition to include certain
163 actions performed without a valid provisional
164 certificate of authority; providing effective dates.

165

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

167

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

170 651.011 Definitions.—As used in this chapter, the term:

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

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

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

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

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

201 (6)~~(3)~~ "Continuing Care Advisory Council" or "advisory
202 council" means the council established in s. 651.121.

203 (7)~~(4)~~ "Continuing care at-home" means, pursuant to a

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

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

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

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

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

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

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

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

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

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

243 (a) The sum of total expenses less interest expense on the
244 debt facility, depreciation, amortization, and other noncash
245 expense and nonoperating losses, subtracted from the sum of
246 total revenues, excluding noncash revenues and nonoperating
247 gains, and gross entrance fees received less earned entrance
248 fees and refunds paid. Expenses, interest expense on the debt
249 facility, depreciation, amortization, and other noncash expense
250 and nonoperating losses, revenues, noncash revenues,
251 nonoperating gains, gross entrance fees, earned entrance fees,
252 and refunds are each the sum of their respective values over the
253 12-month period ending on the reporting date.

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

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

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

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

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

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

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

289 (b) Beginning January 1, 2021:

290 1. For a provider with mortgage financing from a third-

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291 party lender or a public bond issue, the provider's debt service
292 coverage ratio is less than 1.00:1 and the provider's days cash
293 on hand is less than 90; or

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

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

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

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

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

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

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

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

326 (22)~~(11)~~ "Personal services" has the same meaning as in s.
327 429.02.

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

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

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349 transmission.

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

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

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

374 (c) The occupancy of the provider's facility is less than
375 80 percent averaged over the 12-month period immediately
376 preceding the annual report filed with the office pursuant to s.
377 651.026.

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

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

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

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

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

398 651.013 Chapter exclusive; applicability of other laws.—

399 (2) In addition to other applicable provisions cited in
 400 this chapter, the office has the authority granted under ss.
 401 624.302, ~~and~~ 624.303, 624.307-624.312, 624.318 ~~624.308-624.312~~,
 402 624.319(1)-(3), 624.320, 624.321 ~~624.320-624.321~~, 624.324, ~~and~~
 403 624.34, ~~and~~ 624.422 of the Florida Insurance Code to regulate
 404 providers of continuing care and continuing care at-home.

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

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

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

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

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

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436 ~~within 30 days after the closing date.~~

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

439 651.021 Certificate of authority required.-

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

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

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

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

475 ~~(c) In determining whether an expansion should be approved,~~
476 ~~the office shall use the criteria provided in ss. 651.022(6) and~~
477 ~~651.023(4).~~

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

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

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

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

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

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494 the resident takes occupancy of the selected unit.

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

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

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

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

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

515 2. If the feasibility study is prepared by an independent
516 certified public accountant, it must contain an examination
517 report, or a compilation report acceptable to the office,
518 containing a financial forecast or projections for the first 5
519 years of operations which take into account an actuary's
520 mortality and morbidity assumptions as the study relates to
521 turnover, rates, fees, and charges. If the study is prepared by
522 an independent consulting actuary, it must contain mortality and

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523 morbidity assumptions as it relates to turnover, rates, fees,
524 and charges and an actuary's signed opinion that the project as
525 proposed is feasible and that the study has been prepared in
526 accordance with Actuarial Standards of Practice No. 3 for
527 Continuing Care Retirement Communities, Revised Edition,
528 effective May 1, 2011.

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

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

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

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

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

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

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

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

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

573 (4) Within 45 days after receipt of the information
574 required under subsection (2), the office shall examine the
575 information and notify the applicant in writing, specifically
576 requesting any additional information that the office is
577 authorized to require. An application is deemed complete when
578 the office receives all requested information and the applicant
579 corrects any error or omission of which the applicant was timely
580 notified or when the time for such notification has expired.

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581 Within 15 days after receipt of all of the requested additional
582 information, the office shall notify the applicant in writing
583 that all of the requested information has been received and that
584 the application is deemed complete as of the date of the notice.
585 Failure to notify the applicant in writing within the 15-day
586 period constitutes acknowledgment by the office that it has
587 received all requested additional information, and the
588 application is deemed complete for purposes of review on the
589 date the applicant files all of the required additional
590 information.

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

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

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

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610 account or on deposit with the department pursuant to s.
611 651.033.

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

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

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

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

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

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

638 (9) The office may not approve any application that

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639 includes in the plan of financing any encumbrance of the
640 operating reserves or renewal and replacement reserves required
641 by this chapter.

642 (10) The office may not issue a certificate of authority
643 for a facility that does not have a component that is to be
644 licensed pursuant to part II of chapter 400 or part I of chapter
645 429, or that does not offer personal services or nursing
646 services through written contractual agreement. A written
647 contractual agreement must be disclosed in the contract for
648 continuing care or continuing care at-home and is subject to s.
649 651.1151.

650 Section 7. Subsections (2), (3), (6), and (8) of section
651 651.022, Florida Statutes, are amended, and subsection (5) of
652 that section is republished, to read:

653 651.022 Provisional certificate of authority; application.-

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

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

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

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

666 2. Every partner or member, if the applicant or provider is
667 a partnership or other unincorporated association, however

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668 organized, having fewer than 50 partners or members, together
669 with the business name and address of the partnership or other
670 organization.

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

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

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

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

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

689 8. Any person whose name is required to be provided in the
690 application under this paragraph and who owns any interest in or
691 receives any remuneration from, directly or indirectly, any
692 professional service firm, association, trust, partnership, or
693 corporation providing goods, leases, or services to the facility
694 for which the application is made, with a real or anticipated
695 value of \$10,000 or more, and the name and address of the
696 professional service firm, association, trust, partnership, or

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697 corporation in which such interest is held. The applicant shall
698 describe such goods, leases, or services and the probable cost
699 to the facility or provider and shall describe why such goods,
700 leases, or services should not be purchased from an independent
701 entity.

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

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

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

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

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

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

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726 conversion, or misappropriation of property.

727 b. Is subject to a currently effective injunctive or
728 restrictive order or federal or state administrative order
729 relating to business activity or health care as a result of an
730 action brought by a public agency or department, including,
731 without limitation, an action affecting a license under chapter
732 400 or chapter 429.

733

734 The statement must ~~shall~~ set forth the court or agency, the date
735 of conviction or judgment, and the penalty imposed or damages
736 assessed, or the date, nature, and issuer of the order. Before
737 determining whether a provisional certificate of authority is to
738 be issued, the office may make an inquiry to determine the
739 accuracy of the information submitted pursuant to subparagraphs
740 1., 2., and 3. ~~1. and 2.~~

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

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

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

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755 determining the financial viability of the project and the
756 management capabilities of its managers and owners.

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

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

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

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

782 (b) An identification and evaluation of the primary and, if
783 appropriate, the secondary market areas of the facility and the

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784 projected unit sales per month.

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

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

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

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

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

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

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

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

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

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

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

839 (6) Within 45 days after the date an application is deemed
840 complete as set forth in paragraph (5) (b), the office shall
841 complete its review and issue a provisional certificate of

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842 authority to the applicant based upon its review and a
843 determination that the application meets all requirements of
844 law, that the feasibility study was based on sufficient data and
845 reasonable assumptions, and that the applicant will be able to
846 provide continuing care or continuing care at-home as proposed
847 and meet all financial and contractual obligations related to
848 its operations, including the financial requirements of this
849 chapter. If the application is denied, the office shall notify
850 the applicant in writing, citing the specific failures to meet
851 the provisions of this chapter. Such denial entitles the
852 applicant to a hearing pursuant to chapter 120.

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

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

860 651.023 Certificate of authority; application.—

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

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

869 (b) A feasibility study prepared by an independent
870 consultant which contains all of the information required by s.

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871 651.022(3) and financial forecasts or projections prepared in
872 accordance with standards adopted by the American Institute of
873 Certified Public Accountants or in accordance with standards for
874 feasibility studies or continuing care retirement communities
875 adopted by the Actuarial Standards Board.

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

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

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

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900 Academy of Actuaries.

901 (c) Subject to subsection (4), a provider may submit an
902 application for a certificate of authority and any required
903 exhibits upon submission of documents evidencing ~~proof~~ that the
904 project has a minimum of 30 percent of the units reserved for
905 which the provider is charging an entrance fee. ~~This does not~~
906 ~~apply to an application for a certificate of authority for the~~
907 ~~acquisition of a facility for which a certificate of authority~~
908 ~~was issued before October 1, 1983, to a provider who~~
909 ~~subsequently becomes a debtor in a case under the United States~~
910 ~~Bankruptcy Code, 11 U.S.C. ss. 101 et seq., or to a provider for~~
911 ~~which the department has been appointed receiver pursuant to~~
912 ~~part II of chapter 631.~~

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

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

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

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929 the facility.

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

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

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

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

954 (2) Within 30 days after receipt of the information
955 required under subsection (1), the office shall examine such
956 information and notify the provider in writing, specifically
957 requesting any additional information the office is permitted by

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958 law to require. Within 15 days after receipt of all of the
959 requested additional information, the office shall notify the
960 provider in writing that all of the requested information has
961 been received and the application is deemed to be complete as of
962 the date of the notice. Failure to notify the applicant in
963 writing within the 15-day period constitutes acknowledgment by
964 the office that it has received all requested additional
965 information, and the application shall be deemed complete for
966 purposes of review on the date of filing all of the required
967 additional information.

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

973 (a) A ~~Notwithstanding satisfaction of the 30-percent~~
974 ~~minimum reservation requirement of paragraph (1)(c), no~~
975 certificate of authority may not ~~shall~~ be issued until
976 documentation evidencing that the project has a minimum of 50
977 percent of the units reserved for which the provider is charging
978 an entrance fee, ~~and proof~~ is provided to the office. If a
979 provider offering continuing care at-home is applying for a
980 certificate of authority ~~or approval of an expansion pursuant to~~
981 ~~s. 651.021(2)~~, the same minimum reservation requirements must be
982 met for the continuing care and continuing care at-home
983 contracts, independently of each other.

984 (b) In order for a unit to be considered reserved under
985 this section, the provider must collect a minimum deposit of the
986 lesser of \$40,000 or 10 percent of the then-current entrance fee

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987 for that unit, and may assess a forfeiture penalty of 2 percent
988 of the entrance fee due to termination of the reservation
989 contract after 30 days for any reason other than the death or
990 serious illness of the resident, the failure of the provider to
991 meet its obligations under the reservation contract, or other
992 circumstances beyond the control of the resident that equitably
993 entitle the resident to a refund of the resident's deposit. The
994 reservation contract must state the cancellation policy and the
995 terms of the continuing care or continuing care at-home contract
996 to be entered into.

997 (5) Up to 25 percent of the moneys paid for all or any part
998 of an initial entrance fee may be included or pledged for the
999 construction or purchase of the facility or as security for
1000 long-term financing. As used in this section, the term "initial
1001 entrance fee" means the total entrance fee charged by the
1002 facility to the first occupant of a unit.

1003 ~~(a)~~ A minimum of 75 percent of the moneys paid for all or
1004 any part of an initial entrance fee collected for continuing
1005 care or continuing care at-home must ~~shall~~ be placed in an
1006 escrow account or on deposit with the department as prescribed
1007 in s. 651.033.

1008 ~~(b) For an expansion as provided in s. 651.021(2), a~~
1009 ~~minimum of 75 percent of the moneys paid for all or any part of~~
1010 ~~an initial entrance fee collected for continuing care and 50~~
1011 ~~percent of the moneys paid for all or any part of an initial fee~~
1012 ~~collected for continuing care at-home shall be placed in an~~
1013 ~~escrow account or on deposit with the department as prescribed~~
1014 ~~in s. 651.033.~~

1015 (6) The provider is entitled to secure release of the

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1016 moneys held in escrow within 7 days after receipt by the office
1017 of an affidavit from the provider, along with appropriate copies
1018 to verify, and notification to the escrow agent by certified
1019 mail, that the following conditions have been satisfied:

1020 (a) A certificate of occupancy has been issued.

1021 (b) Payment in full has been received for at least 70
1022 percent of the total units of a phase or of the total of the
1023 combined phases constructed. If a provider offering continuing
1024 care at-home is applying for a release of escrowed entrance
1025 fees, the same minimum requirement must be met for the
1026 continuing care and continuing care at-home contracts,
1027 independently of each other.

1028 ~~(c) The consultant who prepared the feasibility study~~
1029 ~~required by this section or a substitute approved by the office~~
1030 ~~certifies within 12 months before the date of filing for office~~
1031 ~~approval that there has been no material adverse change in~~
1032 ~~status with regard to the feasibility study. If a material~~
1033 ~~adverse change exists at the time of submission, sufficient~~
1034 ~~information acceptable to the office and the feasibility~~
1035 ~~consultant must be submitted which remedies the adverse~~
1036 ~~condition.~~

1037 (c)-(d) Documents evidencing Proof that commitments have
1038 been secured or a documented plan adopted by the applicant has
1039 been approved by the office for long-term financing.

1040 (d)-(e) Documents evidencing Proof that the provider has
1041 sufficient funds to meet the requirements of s. 651.035, which
1042 may include funds deposited in the initial entrance fee account.

1043 (e)-(f) Documents evidencing Proof as to the intended
1044 application of the proceeds upon release and documentation proof

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1045 that the entrance fees when released will be applied as
1046 represented to the office.

1047 (f) If any material change occurred in the facts set forth
1048 in the application filed with the office pursuant to subsection
1049 (1), the applicant timely filed the amendment setting forth such
1050 change with the office and sent copies of the amendment to the
1051 principal office of the facility and to the principal office of
1052 the controlling company as required under that subsection.

1053
1054 Notwithstanding chapter 120, no person, other than the provider,
1055 the escrow agent, and the office, may have a substantial
1056 interest in any office decision regarding release of escrow
1057 funds in any proceedings under chapter 120 or this chapter
1058 regarding release of escrow funds.

1059 (7) In lieu of the provider fulfilling the requirements in
1060 subsection (5) and paragraphs (6) (b) and (c) ~~(d)~~, the office may
1061 authorize the release of escrowed funds to retire all
1062 outstanding debts on the facility and equipment upon application
1063 of the provider and upon the provider's showing that the
1064 provider will grant to the residents a first mortgage on the
1065 land, buildings, and equipment that constitute the facility, and
1066 that the provider has satisfied paragraphs (6) (a), ~~(c)~~, and (d)
1067 ~~(e)~~. Such mortgage shall secure the refund of the entrance fee
1068 in the amount required by this chapter. The granting of such
1069 mortgage is subject to the following:

1070 (a) The first mortgage is granted to an independent trust
1071 that is beneficially held by the residents. The document
1072 creating the trust must include a provision that agrees to an
1073 annual audit and will furnish to the office all information the

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1074 office may reasonably require. The mortgage may secure payment
1075 on bonds issued to the residents or trustee. Such bonds are
1076 redeemable after termination of the residency contract in the
1077 amount and manner required by this chapter for the refund of an
1078 entrance fee.

1079 (b) Before granting a first mortgage to the residents, all
1080 construction must be substantially completed and substantially
1081 all equipment must be purchased. No part of the entrance fees
1082 may be pledged as security for a construction loan or otherwise
1083 used for construction expenses before the completion of
1084 construction.

1085 (c) If the provider is leasing the land or buildings used
1086 by the facility, the leasehold interest must be for a term of at
1087 least 30 years.

1088 (8) ~~The timeframes provided under s. 651.022(5) and (6)~~
1089 ~~apply to applications submitted under s. 651.021(2).~~ The office
1090 may not issue a certificate of authority to a facility that does
1091 not have a component that is to be licensed pursuant to part II
1092 of chapter 400 or to part I of chapter 429 or that does not
1093 offer personal services or nursing services through written
1094 contractual agreement. A written contractual agreement must be
1095 disclosed in the contract for continuing care or continuing care
1096 at-home and is subject to ~~the provisions of~~ s. 651.1151,
1097 relating to administrative, vendor, and management contracts.

1098 (9) The office may not approve an application that includes
1099 in the plan of financing any encumbrance of the operating
1100 reserves or renewal and replacement reserves required by this
1101 chapter.

1102 Section 9. Section 651.024, Florida Statutes, is amended to

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1103 read:

1104 651.024 Acquisition.-

1105 (1) A person who seeks to assume the role of general
1106 partner of a provider or to otherwise assume ownership or
1107 possession of, or control over, 10 percent or more of a
1108 provider, a controlling company of the provider, or a provider's
1109 assets, based on the balance sheet from the most recent
1110 financial audit report filed with the office, is issued a
1111 certificate of authority to operate a continuing care facility
1112 or a provisional certificate of authority shall be subject to
1113 the provisions of s. 628.4615 and is not required to make
1114 filings pursuant to s. 651.022, s. 651.023, or s. 651.0245.

1115 (2) A person who seeks to acquire and become the provider
1116 for a facility is subject to s. 651.0245 and is not required to
1117 make filings pursuant to ss. 628.4615, 651.022, and 651.023.

1118 (3) In addition to the provider or the controlling company,
1119 the office has standing to petition a circuit court under s.
1120 628.4615(9).

1121 Section 10. Section 651.0245, Florida Statutes, is created
1122 to read:

1123 651.0245 Application for the simultaneous acquisition of a
1124 facility and issuance of a certificate of authority.-

1125 (1) Except with the prior written approval of the office, a
1126 person may not, individually or in conjunction with any
1127 affiliated person of such person, directly or indirectly acquire
1128 a facility operating under a subsisting certificate of authority
1129 and engage in the business of providing continuing care.

1130 (2) An applicant seeking simultaneous acquisition of a
1131 facility and issuance of a certificate of authority must:

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- 1132 (a) Comply with the notice requirements of s.
1133 628.4615(2) (a); and
- 1134 (b) File an application in the form required by the office
1135 and cooperate with the office's review of the application.
- 1136 (3) The commission shall adopt by rule application
1137 requirements equivalent to those described in ss. 628.4615(4)
1138 and (5), 651.022(2), and 651.023(1) (b). The office shall review
1139 the application and issue an approval or disapproval of the
1140 filing in accordance with ss. 628.4615(6) (a) and (c), (7)-(10),
1141 and (14); and 651.023(1) (b).
- 1142 (4) In addition to the provider or the controlling company,
1143 the office has standing to petition a circuit court under s.
1144 628.4615(9).
- 1145 (5) A person may rebut a presumption of control by filing a
1146 disclaimer of control with the office on a form prescribed by
1147 the commission. The disclaimer must fully disclose all material
1148 relationships and bases for affiliation between the person and
1149 the provider or facility, as well as the basis for disclaiming
1150 the affiliation. In lieu of such form, a person or acquiring
1151 party may file with the office a copy of a Schedule 13G filed
1152 with the Securities and Exchange Commission pursuant to Rule
1153 13d-1(b) or (c), 17 C.F.R. s. 240.13d-1, under the Securities
1154 Exchange Act of 1934, as amended. After a disclaimer has been
1155 filed, the provider or facility is relieved of any duty to
1156 register or report under this section which may arise out of the
1157 provider's or facility's relationship with the person, unless
1158 the office disallows the disclaimer.
- 1159 (6) The commission may adopt rules as necessary to
1160 administer this section.

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1161 Section 11. Section 651.0246, Florida Statutes, is created
1162 to read:

1163 651.0246 Expansions.—

1164 (1) (a) A provider must obtain written approval from the
1165 office before commencing construction or marketing for an
1166 expansion of a certificated facility equivalent to the addition
1167 of at least 20 percent of existing units or 20 percent or more
1168 of the number of continuing care at-home contracts. If the
1169 provider has exceeded the current statewide median for days cash
1170 on hand, debt service coverage ratio, and total facility
1171 occupancy for the most recent two consecutive annual reporting
1172 periods, the provider is automatically granted approval to
1173 expand the total number of existing units by up to 35 percent
1174 upon submitting a letter to the office indicating the total
1175 number of planned units in the expansion, the proposed sources
1176 and uses of funds, and an attestation that the provider
1177 understands and pledges to comply with all minimum liquid
1178 reserve and escrow account requirements. As used in this
1179 section, the term "existing units" means the sum of the total
1180 number of independent living units and assisted living units
1181 identified in the most recent annual report filed with the
1182 office pursuant to s. 651.026. For purposes of this section, the
1183 statewide median for days cash on hand, debt service coverage
1184 ratio, and total facility occupancy is the median calculated in
1185 the most recent annual report submitted by the office to the
1186 Continuing Care Advisory Council pursuant to s. 651.121(8). This
1187 section does not apply to construction for which a certificate
1188 of need from the Agency for Health Care Administration is
1189 required.

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1190 (b) The application for the approval of an addition
1191 consisting of 20 percent or more of existing units or continuing
1192 care at-home contracts must be on forms adopted by the
1193 commission. The application must include the feasibility study
1194 required by this section and such other information as
1195 reasonably requested by the office. If the expansion is only for
1196 continuing care at-home contracts, an actuarial study prepared
1197 by an independent actuary in accordance with standards adopted
1198 by the American Academy of Actuaries which presents the
1199 financial impact of the expansion may be substituted for the
1200 feasibility study.

1201 (c) In determining whether an expansion should be approved,
1202 the office shall consider:

- 1203 1. Whether the application meets all requirements of law;
- 1204 2. Whether the feasibility study was based on sufficient
1205 data and reasonable assumptions; and
- 1206 3. Whether the applicant will be able to provide continuing
1207 care or continuing care at-home as proposed and meet all
1208 financial obligations related to its operations, including the
1209 financial requirements of this chapter.

1210
1211 If the application is denied, the office must notify the
1212 applicant in writing, citing the specific failures to meet the
1213 provisions of this chapter. A denial entitles the applicant to a
1214 hearing pursuant to chapter 120.

1215 (2) A provider applying for expansion of a certificated
1216 facility must submit all of the following:

1217 (a) A feasibility study prepared by an independent
1218 certified public accountant. The feasibility study must include

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1219 at least the following information:

1220 1. A description of the facility and proposed expansion,
1221 including the location, the size, the anticipated completion
1222 date, and the proposed construction program.

1223 2. An identification and evaluation of the primary and, if
1224 applicable, secondary market areas of the facility and the
1225 projected unit sales per month.

1226 3. Projected revenues, including anticipated entrance fees;
1227 monthly service fees; nursing care revenues, if applicable; and
1228 all other sources of revenue.

1229 4. Projected expenses, including for staffing requirements
1230 and salaries; the cost of property, plant, and equipment,
1231 including depreciation expense; interest expense; marketing
1232 expense; and other operating expenses.

1233 5. A projected balance sheet of the applicant.

1234 6. The expectations for the financial condition of the
1235 project, including the projected cash flow and an estimate of
1236 the funds anticipated to be necessary to cover startup losses.

1237 7. The inflation factor, if any, assumed in the study for
1238 the proposed expansion and how and where it is applied.

1239 8. Project costs; the total amount of debt financing
1240 required; marketing projections; resident rates, fees, and
1241 charges; the competition; resident contract provisions; and
1242 other factors that affect the feasibility of the facility.

1243 9. Appropriate population projections, including morbidity
1244 and mortality assumptions.

1245 10. The name of the person who prepared the feasibility
1246 study and his or her experience in preparing similar studies or
1247 otherwise consulting in the field of continuing care.

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1248 11. Financial forecasts or projections prepared in
1249 accordance with standards adopted by the American Institute of
1250 Certified Public Accountants or in accordance with standards for
1251 feasibility studies for continuing care retirement communities
1252 adopted by the Actuarial Standards Board.

1253 12. An independent evaluation and examination opinion for
1254 the first 5 years of operations, or a comparable opinion
1255 acceptable to the office, by the consultant who prepared the
1256 study, of the underlying assumptions used as a basis for the
1257 forecasts or projections in the study and that the assumptions
1258 are reasonable and proper and the project as proposed is
1259 feasible.

1260 13. Any other information that the provider deems relevant
1261 and appropriate to provide to enable the office to make a more
1262 informed determination.

1263 (b) Such other reasonable data, financial statements, and
1264 pertinent information as the commission or office may require
1265 with respect to the applicant or the facility to determine the
1266 financial status of the facility and the management capabilities
1267 of its managers and owners.

1268
1269 If any material change occurs in the facts set forth in an
1270 application filed with the office pursuant to this section, an
1271 amendment setting forth such change must be filed with the
1272 office within 10 business days after the applicant becomes aware
1273 of such change, and a copy of the amendment must be sent by
1274 registered mail to the principal office of the facility and to
1275 the principal office of the controlling company.

1276 (3) A minimum of 75 percent of the moneys paid for all or

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1277 any part of an initial entrance fee or reservation deposit
1278 collected for units in the expansion and 50 percent of the
1279 moneys paid for all or any part of an initial fee collected for
1280 continuing care at-home contracts in the expansion must be
1281 placed in an escrow account or on deposit with the department as
1282 prescribed in s. 651.033. Up to 25 percent of the moneys paid
1283 for all or any part of an initial entrance fee or reservation
1284 deposit may be included or pledged for the construction or
1285 purchase of the facility or as security for long-term financing.
1286 As used in this section, the term "initial entrance fee" means
1287 the total entrance fee charged by the facility to the first
1288 occupant of a unit.

1289 (4) The provider is entitled to secure release of the
1290 moneys held in escrow within 7 days after receipt by the office
1291 of an affidavit from the provider, along with appropriate copies
1292 to verify, and notification to the escrow agent by certified
1293 mail that the following conditions have been satisfied:

1294 (a) A certificate of occupancy has been issued.

1295 (b) Payment in full has been received for at least 50
1296 percent of the total units of a phase or of the total of the
1297 combined phases constructed. If a provider offering continuing
1298 care at-home is applying for a release of escrowed entrance
1299 fees, the same minimum requirement must be met for the
1300 continuing care and continuing care at-home contracts
1301 independently of each other.

1302 (c) Documents evidencing that commitments have been secured
1303 or that a documented plan adopted by the applicant has been
1304 approved by the office for long-term financing.

1305 (d) Documents evidencing that the provider has sufficient

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1306 funds to meet the requirements of s. 651.035, which may include
1307 funds deposited in the initial entrance fee account.

1308 (e) Documents evidencing the intended application of the
1309 proceeds upon release and documentation that the entrance fees,
1310 when released, will be applied as represented to the office.

1311
1312 Notwithstanding chapter 120, only the provider, the escrow
1313 agent, and the office have a substantial interest in any office
1314 decision regarding release of escrow funds in any proceedings
1315 under chapter 120 or this chapter.

1316 (5) (a) Within 30 days after receipt of an application for
1317 expansion, the office shall examine the application and shall
1318 notify the applicant in writing, specifically requesting any
1319 additional information that the office is authorized to require.
1320 Within 15 days after the office receives all the requested
1321 additional information, the office shall notify the applicant in
1322 writing that the requested information has been received and
1323 that the application is deemed complete as of the date of the
1324 notice. Failure to notify the applicant in writing within the
1325 15-day period constitutes acknowledgment by the office that it
1326 has received all requested additional information, and the
1327 application is deemed complete for purposes of review on the
1328 date the applicant files all of the required additional
1329 information. If the application submitted is determined by the
1330 office to be substantially incomplete so as to require
1331 substantial additional information, including biographical
1332 information, the office may return the application to the
1333 applicant with a written notice stating that the application as
1334 received is substantially incomplete and, therefore, is

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1335 unacceptable for filing without further action required by the
1336 office. Any filing fee received must be refunded to the
1337 applicant.

1338 (b) An application is deemed complete upon the office
1339 receiving all requested information and the applicant correcting
1340 any error or omission of which the applicant was timely notified
1341 or when the time for such notification has expired. The office
1342 shall notify the applicant in writing of the date on which the
1343 application was deemed complete.

1344 (6) Within 45 days after the date on which an application
1345 is deemed complete as provided in paragraph (5) (b), the office
1346 shall complete its review and, based upon its review, approve an
1347 expansion by the applicant and issue a determination that the
1348 application meets all requirements of law, that the feasibility
1349 study was based on sufficient data and reasonable assumptions,
1350 and that the applicant will be able to provide continuing care
1351 or continuing care at-home as proposed and meet all financial
1352 and contractual obligations related to its operations, including
1353 the financial requirements of this chapter. If the application
1354 is denied, the office must notify the applicant in writing,
1355 citing the specific failures to meet the requirements of this
1356 chapter. The denial entitles the applicant to a hearing pursuant
1357 to chapter 120.

1358 Section 12. Paragraphs (b) and (c) of subsection (2) and
1359 subsection (3) of section 651.026, Florida Statutes, are
1360 amended, subsection (10) is added to that section, and paragraph
1361 (a) of subsection (2) of that section is republished, to read:

1362 651.026 Annual reports.—

1363 (2) The annual report shall be in such form as the

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1364 commission prescribes and shall contain at least the following:

1365 (a) Any change in status with respect to the information
1366 required to be filed under s. 651.022(2).

1367 (b) A financial report ~~statements~~ audited by an independent
1368 certified public accountant which must contain, for two or more
1369 periods if the facility has been in existence that long, all of
1370 the following:

1371 1. An accountant's opinion and, in accordance with
1372 generally accepted accounting principles:

- 1373 a. A balance sheet;
1374 b. A statement of income and expenses;
1375 c. A statement of equity or fund balances; and
1376 d. A statement of changes in cash flows.

1377 2. Notes to the financial report ~~statements~~ considered
1378 customary or necessary for full disclosure or adequate
1379 understanding of the financial report ~~statements~~, financial
1380 condition, and operation.

1381 (c) The following financial information:

1382 1. A detailed listing of the assets maintained in the
1383 liquid reserve as required under s. 651.035 and in accordance
1384 with part II of chapter 625;

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

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1393 from property used in continuing care;

1394 3. The level of participation in Medicare or Medicaid
1395 programs, or both;

1396 4. A statement of all fees required of residents,
1397 including, but not limited to, a statement of the entrance fee
1398 charged, the monthly service charges, the proposed application
1399 of the proceeds of the entrance fee by the provider, and the
1400 plan by which the amount of the entrance fee is determined if
1401 the entrance fee is not the same in all cases; ~~and~~

1402 5. Any change or increase in fees if the provider changes
1403 the scope of, or the rates for, care or services, regardless of
1404 whether the change involves the basic rate or only those
1405 services available at additional costs to the resident; ~~-~~

1406 6. If the provider has more than one certificated facility,
1407 or has operations that are not licensed under this chapter, it
1408 shall submit a balance sheet, statement of income and expenses,
1409 statement of equity or fund balances, and statement of cash
1410 flows for each facility licensed under this chapter as
1411 supplemental information to the audited financial report
1412 ~~statements~~ required under paragraph (b); ~~and-~~

1413 7. The management's calculation of the provider's debt
1414 service coverage ratio, occupancy, and days cash on hand for the
1415 current reporting period.

1416 (3) The commission shall adopt by rule additional
1417 ~~meaningful~~ measures of assessing the financial viability of a
1418 provider. ~~The rule may include the following factors:-~~

1419 ~~(a) Debt service coverage ratios.~~

1420 ~~(b) Current ratios.~~

1421 ~~(c) Adjusted current ratios.~~

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- 1422 ~~(d) Cash flows.~~
- 1423 ~~(e) Occupancy rates.~~
- 1424 ~~(f) Other measures, ratios, or trends.~~
- 1425 ~~(g) Other factors as may be appropriate.~~
- 1426 (10) By August 1 of each year, the office shall publish on
- 1427 its website an annual industry report for the preceding calendar
- 1428 year which contains all of the following:
- 1429 (a) The median days cash on hand for all providers.
- 1430 (b) The median debt service coverage ratio for all
- 1431 providers.
- 1432 (c) The median occupancy rate for all providers by setting,
- 1433 including independent living, assisted living, skilled nursing,
- 1434 and the entire facility.
- 1435 (d) Documentation of the office's compliance with the
- 1436 requirements in s. 651.105(1) relating to examination
- 1437 timeframes. The documentation must include the number of
- 1438 examinations completed in the preceding calendar year, the
- 1439 number of such examinations for which the report has been
- 1440 issued, and the percentage of all examinations completed within
- 1441 the statutorily required timeframes.
- 1442 (e) The number of annual reports submitted to the office
- 1443 pursuant to this section in the preceding calendar year and the
- 1444 percentage of such reports that the office has reviewed in order
- 1445 to determine whether a regulatory action level event has
- 1446 occurred.
- 1447 Section 13. Section 651.0261, Florida Statutes, is amended
- 1448 to read:
- 1449 651.0261 Quarterly and monthly statements.-
- 1450 (1) Within 45 days after the end of each fiscal quarter,

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1451 each provider shall file a quarterly unaudited financial
1452 statement of the provider or of the facility in the form
1453 prescribed by commission rule and days cash on hand, occupancy,
1454 debt service coverage ratio, and a detailed listing of the
1455 assets maintained in the liquid reserve as required under s.
1456 651.035. The last quarterly statement for a fiscal year is not
1457 required if a provider does not have pending a regulatory action
1458 level event, impairment, or a corrective action plan. If a
1459 provider falls below two or more of the thresholds set forth in
1460 s. 651.011(25) at the end of any fiscal quarter, the provider
1461 shall submit to the office, at the same time as the quarterly
1462 statement, an explanation of the circumstances and a description
1463 of the actions it will take to meet the requirements.

1464 (2) If the office finds, pursuant to rules of the
1465 commission, that such information is needed to properly monitor
1466 the financial condition of a provider or facility or is
1467 otherwise needed to protect the public interest, the office may
1468 require the provider to file:

1469 (a) Within 25 days after the end of each month, a monthly
1470 unaudited financial statement of the provider or of the facility
1471 in the form prescribed by the commission by rule and a detailed
1472 listing of the assets maintained in the liquid reserve as
1473 required under s. 651.035, within 45 days after the end of each
1474 fiscal quarter, a quarterly unaudited financial statement of the
1475 provider or of the facility in the form prescribed by the
1476 commission by rule. The commission may by rule require all or
1477 part of the statements or filings required under this section to
1478 be submitted by electronic means in a computer-readable form
1479 compatible with the electronic data format specified by the

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1480 ~~commission.~~

1481 (b) Such other data, financial statements, and pertinent
1482 information as the commission or office may reasonably require
1483 with respect to the provider or the facility, its directors, or
1484 its trustees; or with respect to any parent, subsidiary, or
1485 affiliate, if the provider or facility relies on a contractual
1486 or financial relationship with such parent, subsidiary, or
1487 affiliate in order to meet the financial requirements of this
1488 chapter, to determine the financial status of the provider or of
1489 the facility and the management capabilities of its managers and
1490 owners.

1491 (3) A filing under subsection (2) may be required if any of
1492 the following applies:

1493 (a) The provider is:

1494 1. Subject to administrative supervision proceedings;
1495 2. Subject to a corrective action plan resulting from a
1496 regulatory action level event and for up to 2 years after the
1497 factors that caused the regulatory action level event have been
1498 corrected; or

1499 3. Subject to delinquency or receivership proceedings or
1500 has filed for bankruptcy.

1501 (b) The provider or facility displays a declining financial
1502 position.

1503 (c) A change of ownership of the provider or facility has
1504 occurred within the previous 2 years.

1505 (d) The provider is found to be impaired.

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

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1509 compatible with an electronic data format specified by the
 1510 commission.

1511 Section 14. Section 651.028, Florida Statutes, is amended
 1512 to read:

1513 651.028 Accredited facilities.—~~If~~ A provider or facility is
 1514 deemed accredited for purposes of ss. 400.235(5) (b)1. and
 1515 651.105(1) if it is accredited without stipulations or
 1516 conditions by a process found by the commission office to be
 1517 acceptable, and substantially equivalent to the provisions of
 1518 this chapter, and consistent the office may, pursuant to rule of
 1519 the commission, waive any requirements of this chapter with
 1520 respect to the provider if the office finds that such waivers
 1521 are not inconsistent with the security protections intended by
 1522 this chapter.

1523 Section 15. Subsections (1), (2), (3), and (5) of section
 1524 651.033, Florida Statutes, are amended, and subsection (6) is
 1525 added to that section, to read:

1526 651.033 Escrow accounts.—

1527 (1) When funds are required to be deposited in an escrow
 1528 account pursuant to s. 651.0215, s. 651.022, s. 651.023, s.
 1529 651.0246, s. 651.035, or s. 651.055:

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

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1538 account separate and apart from the provider's business
1539 accounts.

1540 (b) An escrow agreement shall be entered into between the
1541 bank, savings and loan association, or trust company and the
1542 provider of the facility; the agreement shall state that its
1543 purpose is to protect the resident or the prospective resident;
1544 and, upon presentation of evidence of compliance with applicable
1545 portions of this chapter, or upon order of a court of competent
1546 jurisdiction, the escrow agent shall release and pay over the
1547 funds, or portions thereof, together with any interest accrued
1548 thereon or earned from investment of the funds, to the provider
1549 or resident as directed.

1550 (c) Any agreement establishing an escrow account required
1551 under ~~the provisions of~~ this chapter is ~~shall be~~ subject to
1552 approval by the office. The agreement must ~~shall~~ be in writing
1553 and ~~shall~~ contain, in addition to any other provisions required
1554 by law, a provision whereby the escrow agent agrees to abide by
1555 the duties imposed by paragraphs (b) and (e), (3) (a), (3) (b),
1556 and (5) (a) and subsection (6) under this section.

1557 (d) All funds deposited in an escrow account, if invested,
1558 shall be invested as set forth in part II of chapter 625;
1559 however, such investment may not diminish the funds held in
1560 escrow below the amount required by this chapter. Funds
1561 deposited in an escrow account are not subject to charges by the
1562 escrow agent except escrow agent fees associated with
1563 administering the accounts, or subject to any liens, judgments,
1564 garnishments, creditor's claims, or other encumbrances against
1565 the provider or facility except as provided in s. 651.035(1).

1566 (e) At the request of either the provider or the office,

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1567 the escrow agent shall issue a statement indicating the status
1568 of the escrow account.

1569 (2) Notwithstanding s. 651.035(7), ~~In addition, the escrow~~
1570 ~~agreement shall provide that the escrow agent or another person~~
1571 ~~designated to act in the escrow agent's place and the provider,~~
1572 ~~except as otherwise provided in s. 651.035, shall notify the~~
1573 ~~office in writing at least 10 days before the withdrawal of any~~
1574 ~~portion of any funds required to be escrowed under the~~
1575 ~~provisions of s. 651.035. However, in the event of an emergency~~
1576 ~~and upon petition by the provider, the office may waive the 10-~~
1577 ~~day notification period and allow a withdrawal of up to 10~~
1578 percent of the required minimum liquid reserve. The office shall
1579 have 3 working days to deny the petition for the emergency 10-
1580 percent withdrawal. If the office fails to deny the petition
1581 within 3 working days, the petition is ~~shall be~~ deemed to have
1582 been granted by the office. For purposes ~~the purpose~~ of this
1583 section, the term "working day" means each day that is not a
1584 Saturday, Sunday, or legal holiday as defined by Florida law.
1585 Also, for purposes ~~the purpose~~ of this section, the day the
1586 petition is received by the office is ~~shall~~ not be counted as
1587 one of the 3 days.

1588 (3) ~~In addition,~~ When entrance fees are required to be
1589 deposited in an escrow account pursuant to s. 651.0215, s.
1590 651.022, s. 651.023, s. 651.0246, or s. 651.055:

1591 (a) The provider shall deliver to the resident a written
1592 receipt. The receipt must show the payor's name and address, the
1593 date, the price of the care contract, and the amount of money
1594 paid. A copy of each receipt, together with the funds, must
1595 ~~shall~~ be deposited with the escrow agent or as provided in

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1596 paragraph (c). The escrow agent must ~~shall~~ release such funds to
1597 the provider 7 days after the date of receipt of the funds by
1598 the escrow agent if the provider, operating under a certificate
1599 of authority issued by the office, has met the requirements of
1600 s. 651.0215(8), s. 651.023(6), or s. 651.0246. However, if the
1601 resident rescinds the contract within the 7-day period, the
1602 escrow agent must ~~shall~~ release the escrowed fees to the
1603 resident.

1604 (b) At the request of an individual resident of a facility,
1605 the escrow agent shall issue a statement indicating the status
1606 of the resident's portion of the escrow account.

1607 (c) At the request of an individual resident of a facility,
1608 the provider may hold the check for the 7-day period and may
1609 ~~shall~~ not deposit it during this time period. If the resident
1610 rescinds the contract within the 7-day period, the check must
1611 ~~shall~~ be immediately returned to the resident. Upon the
1612 expiration of the 7 days, the provider shall deposit the check.

1613 (d) A provider may assess a nonrefundable fee, which is
1614 separate from the entrance fee, for processing a prospective
1615 resident's application for continuing care or continuing care
1616 at-home.

1617 (5) When funds are required to be deposited in an escrow
1618 account pursuant to s. 651.0215, s. 651.022, s. 651.023, s.
1619 651.0246, or s. 651.035, the following ~~shall~~ apply:

1620 (a) The escrow agreement must ~~shall~~ require that the escrow
1621 agent furnish the provider with a quarterly statement indicating
1622 the amount of any disbursements from or deposits to the escrow
1623 account and the condition of the account during the period
1624 covered by the statement. The agreement must ~~shall~~ require that

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1625 the statement be furnished to the provider by the escrow agent
1626 on or before the 10th day of the month following the end of the
1627 quarter for which the statement is due. If the escrow agent does
1628 not provide the quarterly statement to the provider on or before
1629 the 10th day of the month following the month for which the
1630 statement is due, the office may, in its discretion, levy
1631 against the escrow agent a fine not to exceed \$25 a day for each
1632 day of noncompliance with the provisions of this subsection.

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

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

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

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

1653 (6) Except as described in paragraph (3) (a), the escrow

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1654 agent may not release or otherwise allow the transfer of funds
1655 without the written approval of the office, unless the
1656 withdrawal is from funds in excess of the amounts required by
1657 ss. 651.0215, 651.022, 651.023, 651.0246, 651.035, and 651.055.

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

1660 651.034 Financial and operating requirements for
1661 providers.-

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

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

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

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

1674 (b) In determining corrective actions, the office shall
1675 consider any factor relevant to the provider based upon the
1676 office's examination or analysis of the assets, liabilities, and
1677 operations of the provider. The provider must submit the
1678 corrective action plan or the revised corrective action plan
1679 within 30 days after the occurrence of the regulatory action
1680 level event. The office shall review and approve or disapprove
1681 the corrective action plan within 45 business days.

1682 (c) The office may use members of the Continuing Care

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

1690 (2) Except when the office's remedial rights are suspended
1691 pursuant to s. 651.114(11) (a), the office must take action
1692 necessary to place an impaired provider under regulatory
1693 control, including any remedy available under part I of chapter
1694 631. An impairment is sufficient grounds for the department to
1695 be appointed as receiver as provided in chapter 631, except when
1696 the office's remedial rights are suspended pursuant to s.
1697 651.114(11) (a). If the office's remedial rights are suspended
1698 pursuant to s. 651.114(11) (a), the impaired provider must make
1699 available to the office copies of any corrective action plan
1700 approved by the third-party lender or trustee to cure the
1701 impairment and any related required report. For purposes of s.
1702 631.051, impairment of a provider is defined according to the
1703 term "impaired" under s. 651.011. The office may forego taking
1704 action for up to 180 days after the impairment if the office
1705 finds there is a reasonable expectation that the impairment may
1706 be eliminated within the 180-day period.

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

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

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

1721 (6) The office may exempt a provider from subsection (1) or
1722 subsection (2) until stabilized occupancy is reached or until
1723 the time projected to achieve stabilized occupancy as reported
1724 in the last feasibility study required by the office as part of
1725 an application filing under s. 651.0215, s. 651.023, s. 651.024,
1726 or s. 651.0246 has elapsed, but for no longer than 5 years after
1727 the date of issuance of the certificate of occupancy.

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

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

1736 651.035 Minimum liquid reserve requirements.—

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

1739 (a) Each provider shall maintain in escrow as a debt
1740 service reserve the aggregate amount of all principal and

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1741 interest payments due during the fiscal year on any mortgage
1742 loan or other long-term financing of the facility, including
1743 property taxes as recorded in the audited financial report
1744 ~~statements~~ required under s. 651.026. The amount must include
1745 any leasehold payments and all costs related to such payments.
1746 If principal payments are not due during the fiscal year, the
1747 provider must ~~shall~~ maintain in escrow as a minimum liquid
1748 reserve an amount equal to interest payments due during the next
1749 12 months on any mortgage loan or other long-term financing of
1750 the facility, including property taxes. If a provider does not
1751 have a mortgage loan or other financing on the facility, the
1752 provider must deposit monthly in escrow as a minimum liquid
1753 reserve an amount equal to one-twelfth of the annual property
1754 tax liability as indicated in the most recent tax notice
1755 provided pursuant to s. 197.322(3), and must annually pay
1756 property taxes out of such escrow.

1757 (b) A provider that has outstanding indebtedness that
1758 requires a debt service reserve to be held in escrow pursuant to
1759 a trust indenture or mortgage lien on the facility and for which
1760 the debt service reserve may only be used to pay principal and
1761 interest payments on the debt that the debtor is obligated to
1762 pay, and which may include property taxes and insurance, may
1763 include such debt service reserve in computing the minimum
1764 liquid reserve needed to satisfy this subsection if the provider
1765 furnishes to the office a copy of the agreement under which such
1766 debt service is held, together with a statement of the amount
1767 being held in escrow for the debt service reserve, certified by
1768 the lender or trustee and the provider to be correct. The
1769 trustee shall provide the office with any information concerning

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1770 the debt service reserve account upon request of the provider or
1771 the office. Any such separate debt service reserves are not
1772 subject to the transfer provisions set forth in subsection (8).

1773 (c) Each provider shall maintain in escrow an operating
1774 reserve equal to 30 percent of the total operating expenses
1775 projected in the feasibility study required by s. 651.023 for
1776 the first 12 months of operation. Thereafter, each provider
1777 shall maintain in escrow an operating reserve equal to 15
1778 percent of the total operating expenses in the annual report
1779 filed pursuant to s. 651.026. If a provider has been in
1780 operation for more than 12 months, the total annual operating
1781 expenses must ~~shall~~ be determined by averaging the total annual
1782 operating expenses reported to the office by the number of
1783 annual reports filed with the office within the preceding 3-year
1784 period subject to adjustment if there is a change in the number
1785 of facilities owned. For purposes of this subsection, total
1786 annual operating expenses include all expenses of the facility
1787 except: depreciation and amortization; interest and property
1788 taxes included in paragraph (a); extraordinary expenses that are
1789 adequately explained and documented in accordance with generally
1790 accepted accounting principles; liability insurance premiums in
1791 excess of those paid in calendar year 1999; and changes in the
1792 obligation to provide future services to current residents. For
1793 providers initially licensed during or after calendar year 1999,
1794 liability insurance must ~~shall~~ be included in the total
1795 operating expenses in an amount not to exceed the premium paid
1796 during the first 12 months of facility operation. ~~Beginning~~
1797 ~~January 1, 1993,~~ The operating reserves required under this
1798 subsection must ~~shall~~ be in an unencumbered account held in

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1799 escrow for the benefit of the residents. Such funds may not be
1800 encumbered or subject to any liens or charges by the escrow
1801 agent or judgments, garnishments, or creditors' claims against
1802 the provider or facility. However, if a facility had a lien,
1803 mortgage, trust indenture, or similar debt instrument in place
1804 before January 1, 1993, which encumbered all or any part of the
1805 reserves required by this subsection and such funds were used to
1806 meet the requirements of this subsection, then such arrangement
1807 may be continued, unless a refinancing or acquisition has
1808 occurred, and the provider is ~~shall be~~ in compliance with this
1809 subsection.

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

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

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

1823 3. Within 30 days after the date a file is deemed complete,
1824 the office shall provide the provider with written notice of its
1825 approval or disapproval of the request. The office may
1826 disapprove any request to withdraw such funds if it determines
1827 that the withdrawal is not in the best interest of the

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1828 residents.

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

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

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

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

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

1850 651.043 Approval of change in management.-

1851 (1) A contract with a management company entered into after
1852 July 1, 2019, must be in writing and include a provision that
1853 the contract will be canceled upon issuance of an order by the
1854 office pursuant to this section and without the application of a
1855 cancellation fee or penalty. If a provider contracts with a
1856 management company, a separate written contract is not required

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1857 for the individual manager employed by the management company or
1858 contractor hired by the management company to oversee a
1859 facility. If a management company executes a contract with an
1860 individual manager or contractor, the contract is not required
1861 to be submitted to the office unless requested by the office.

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

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

1873 (4) For a provider other than that specified in subsection
1874 (3), the office may disapprove new management and order the
1875 provider to remove the new management after receiving the
1876 required information under subsection (2), if the office:

1877 (a) Finds that the new management is incompetent or
1878 untrustworthy;

1879 (b) Finds that the new management is so lacking in
1880 managerial experience as to make the proposed operation
1881 hazardous to the residents or potential residents;

1882 (c) Finds that the new management is so lacking in
1883 experience, ability, and standing as to jeopardize the
1884 reasonable promise of successful operation; or

1885 (d) Has good reason to believe that the new management is

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1886 affiliated directly or indirectly through ownership, control, or
1887 business relations with any person or persons whose business
1888 operations are or have been marked by manipulation of assets or
1889 accounts or by bad faith, to the detriment of residents,
1890 stockholders, investors, creditors, or the public.

1891
1892 The office shall complete its review as required under
1893 subsections (3) and (4) and, if applicable, issue notice of
1894 disapproval of the new management within 30 business days after
1895 the filing is deemed complete. A filing is deemed complete upon
1896 the office's receipt of all requested information and the
1897 provider's correction of any error or omission for which the
1898 provider was timely notified. If the office does not issue
1899 notice of disapproval of the new management within 30 business
1900 days after the filing is deemed complete, the new management is
1901 deemed approved.

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

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

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

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

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

1914 (d) Repeatedly appoints management that was previously

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1915 disapproved by the office or that is not approvable under
1916 subsection (4).

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

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

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

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

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

1939 651.051 Maintenance of assets and records in state.—All
1940 records and assets of a provider must be maintained or readily
1941 accessible in this state or, if the provider's corporate office
1942 is located in another state, such records must be electronically
1943 stored in a manner that will ensure that the records are readily

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1944 accessible to the office. No records or assets may be removed
1945 from this state by a provider unless the office consents to such
1946 removal in writing before such removal. Such consent must ~~shall~~
1947 be based upon the provider's submitting satisfactory evidence
1948 that the removal will facilitate and make more economical the
1949 operations of the provider and will not diminish the service or
1950 protection thereafter to be given the provider's residents in
1951 this state. Before ~~Prior to~~ such removal, the provider shall
1952 give notice to the president or chair of the facility's
1953 residents' council. If such removal is part of a cash management
1954 system which has been approved by the office, disclosure of the
1955 system must ~~shall~~ meet the notification requirements. The
1956 electronic storage of records on a web-based, secured storage
1957 platform by contract with a third party is acceptable if the
1958 records are readily accessible to the office.

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

1961 651.055 Continuing care contracts; right to rescind.-

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

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1973 commitment between a resident and the continuing care provider.
1974 You may wish to consult an attorney or a financial advisor
1975 before entering into such a contract."

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

1978 651.057 Continuing care at-home contracts.—

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

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

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

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

1987 3. An actuarial study prepared by an independent actuary in
1988 accordance with the standards adopted by the American Academy of
1989 Actuaries which presents the impact of providing continuing care
1990 at-home on the overall operation of the facility; and

1991 4. A ~~market~~ feasibility study that meets the requirements
1992 of s. 651.022(3) and documents that there is sufficient interest
1993 in continuing care at-home contracts to support such a program;

1994 (b) Demonstrate to the office that the proposal to offer
1995 continuing care at-home contracts to individuals who do not
1996 immediately move into the facility will not place the provider
1997 in an unsound financial condition;

1998 (c) Comply with the requirements of s. 651.0246(1) ~~s.~~
1999 ~~651.021(2)~~, except that an actuarial study may be substituted
2000 for the feasibility study; and

2001 (d) Comply with the requirements of this chapter.

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2002 Section 22. Subsection (1) of section 651.071, Florida
2003 Statutes, is amended to read:

2004 651.071 Contracts as preferred claims on liquidation or
2005 receivership.—

2006 (1) In the event of receivership or liquidation proceedings
2007 against a provider, all continuing care and continuing care at-
2008 home contracts executed by a provider are ~~shall be~~ deemed
2009 preferred claims against all assets owned by the provider;
2010 however, such claims are subordinate to any secured claim. For
2011 purposes of s. 631.271, such contracts are deemed Class 2
2012 claims.

2013 Section 23. Subsections (2) and (3) of section 651.091,
2014 Florida Statutes, are amended, and subsection (4) of that
2015 section is republished, to read:

2016 651.091 Availability, distribution, and posting of reports
2017 and records; requirement of full disclosure.—

2018 (2) Every continuing care facility shall:

2019 (a) Display the certificate of authority in a conspicuous
2020 place inside the facility.

2021 (b) Post in a prominent position in the facility which is
2022 accessible to all residents and the general public a concise
2023 summary of the last examination report issued by the office,
2024 with references to the page numbers of the full report noting
2025 any deficiencies found by the office, and the actions taken by
2026 the provider to rectify such deficiencies, indicating in such
2027 summary where the full report may be inspected in the facility.

2028 (c) Post in a prominent position in the facility,
2029 accessible to all residents and the general public, a notice
2030 containing the contact information for the office and the

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2031 Division of Consumer Services of the department and stating that
2032 the division or office may be contacted for the submission of
2033 inquiries and complaints with respect to potential violations of
2034 this chapter committed by a provider. Such contact information
2035 must include the division's website and the toll-free consumer
2036 helpline and the office's website and telephone number.

2037 (d) Provide notice to the president or chair of the
2038 residents' council within 10 business days after issuance of a
2039 final examination report or the initiation of any legal or
2040 administrative proceeding by the office or the department and
2041 include a copy of such document.

2042 (e)~~(e)~~ Post in a prominent position in the facility which
2043 is accessible to all residents and the general public a summary
2044 of the latest annual statement, indicating in the summary where
2045 the full annual statement may be inspected in the facility. A
2046 listing of any proposed changes in policies, programs, and
2047 services must also be posted.

2048 (f)~~(d)~~ Distribute a copy of the full annual statement and a
2049 copy of the most recent third-party ~~third-party~~ financial audit
2050 filed with the annual report to the president or chair of the
2051 residents' council within 30 days after filing the annual report
2052 with the office, and designate a staff person to provide
2053 explanation thereof.

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

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2060 ~~expansion of the facility.~~

2061 (h)~~(f)~~ Deliver to the president or chair of the residents'
2062 council a summary of entrance fees collected and refunds made
2063 during the time period covered in the annual report and the
2064 refund balances due at the end of the report period.

2065 (i)~~(g)~~ Deliver to the president or chair of the residents'
2066 council a copy of each quarterly statement within 30 days after
2067 the quarterly statement is filed with the office if the facility
2068 is required to file quarterly.

2069 (j)~~(h)~~ Upon request, deliver to the president or chair of
2070 the residents' council a copy of any newly approved continuing
2071 care or continuing care at-home contract within 30 days after
2072 approval by the office.

2073 (k) Provide to the president or chair of the residents'
2074 council a copy of any notice filed with the office relating to
2075 any change in ownership within 10 business days after such
2076 filing by the provider.

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

2081 (3) Before entering into a contract to furnish continuing
2082 care or continuing care at-home, the provider undertaking to
2083 furnish the care, or the agent of the provider, shall make full
2084 disclosure, obtain written acknowledgment of receipt, and
2085 provide copies of the disclosure documents to the prospective
2086 resident or his or her legal representative, of the following
2087 information:

2088 (a) The contract to furnish continuing care or continuing

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2089 care at-home.

2090 (b) The summary listed in paragraph (2) (b).

2091 (c) All ownership interests and lease agreements, including
2092 information specified in s. 651.022(2) (b)8.

2093 (d) In keeping with the intent of this subsection relating
2094 to disclosure, the provider shall make available for review
2095 master plans approved by the provider's governing board and any
2096 plans for expansion or phased development, to the extent that
2097 the availability of such plans does not put at risk real estate,
2098 financing, acquisition, negotiations, or other implementation of
2099 operational plans and thus jeopardize the success of
2100 negotiations, operations, and development.

2101 (e) Copies of the rules and regulations of the facility and
2102 an explanation of the responsibilities of the resident.

2103 (f) The policy of the facility with respect to admission to
2104 and discharge from the various levels of health care offered by
2105 the facility.

2106 ~~(g) The amount and location of any reserve funds required~~
2107 ~~by this chapter, and the name of the person or entity having a~~
2108 ~~claim to such funds in the event of a bankruptcy, foreclosure,~~
2109 ~~or rehabilitation proceeding.~~

2110 (g) ~~(h)~~ A copy of s. 651.071.

2111 (h) ~~(i)~~ A copy of the resident's rights as described in s.
2112 651.083.

2113 (i) Notice of the issuance of a final examination report or
2114 the initiation of any legal or administrative proceeding by the
2115 office or the department, including where the report or filing
2116 may be inspected in the facility, and that, upon request, an
2117 electronic copy or specific website address will be provided

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2118 from which the document can be downloaded at no cost.

2119 (j) Notice that if the resident does not exercise the right
2120 to rescind a continuing care contract within 7 days after
2121 executing the contract, the resident's funds held in escrow
2122 pursuant to s. 651.055(2) will be released to the provider.

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

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

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

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

2141 651.095 Advertisements; requirements; penalties.—

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

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2147 similar terms, words, or phrases.

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

2150 651.105 Examination ~~and inspections.~~

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

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

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

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

2192 (4) The office shall notify the provider and the executive
2193 officer of the governing body of the provider in writing of all
2194 deficiencies in its compliance with the provisions of this
2195 chapter and the rules adopted pursuant to this chapter and shall
2196 set a reasonable length of time for compliance by the provider.
2197 In addition, the office shall require corrective action or
2198 request a corrective action plan from the provider which plan
2199 demonstrates a good faith attempt to remedy the deficiencies by
2200 a specified date. If the provider fails to comply within the
2201 established length of time, the office may initiate action
2202 against the provider in accordance with the provisions of this
2203 chapter.

2204 (5) A provider shall respond to written correspondence from

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

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

2222 (7) Unless a provider is impaired or subject to a
2223 regulatory action level event, any parent, subsidiary, or
2224 affiliate is not subject to examination by the office as part of
2225 a routine examination. However, if a provider or facility relies
2226 on a contractual or financial relationship with a parent, a
2227 subsidiary, or an affiliate in order to meet the financial
2228 requirements of this chapter, the office may examine any parent,
2229 subsidiary, or affiliate that has a contractual or financial
2230 relationship with the provider or facility to the extent
2231 necessary to ascertain the financial condition of the provider.

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

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

2240 (1) Failure by the provider to continue to meet the
2241 requirements for the authority originally granted.

2242 (2) Failure by the provider to meet one or more of the
2243 qualifications for the authority specified by this chapter.

2244 (3) Material misstatement, misrepresentation, or fraud in
2245 obtaining the authority, or in attempting to obtain the same.

2246 (4) Demonstrated lack of fitness or trustworthiness.

2247 (5) Fraudulent or dishonest practices of management in the
2248 conduct of business.

2249 (6) Misappropriation, conversion, or withholding of moneys.

2250 (7) Failure to comply with, or violation of, any proper
2251 order or rule of the office or commission or violation of any
2252 provision of this chapter.

2253 (8) The insolvent or impaired condition of the provider or
2254 the provider's being in such condition or using such methods and
2255 practices in the conduct of its business as to render its
2256 further transactions in this state hazardous or injurious to the
2257 public.

2258 (9) Refusal by the provider to be examined or to produce
2259 its accounts, records, and files for examination, or refusal by
2260 any of its officers to give information with respect to its
2261 affairs or to perform any other legal obligation under this
2262 chapter when required by the office.

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2263 (10) Failure by the provider to comply with the
2264 requirements of s. 651.026 or s. 651.033.

2265 (11) Failure by the provider to maintain escrow accounts or
2266 funds as required by this chapter.

2267 (12) Failure by the provider to meet the requirements of
2268 this chapter for disclosure of information to residents
2269 concerning the facility, its ownership, its management, its
2270 development, or its financial condition or failure to honor its
2271 continuing care or continuing care at-home contracts.

2272 (13) Any cause for which issuance of the license could have
2273 been refused had it then existed and been known to the office.

2274 (14) Having been found guilty of, or having pleaded guilty
2275 or nolo contendere to, a felony in this state or any other
2276 state, without regard to whether a judgment or conviction has
2277 been entered by the court having jurisdiction of such cases.

2278 (15) In the conduct of business under the license, engaging
2279 in unfair methods of competition or in unfair or deceptive acts
2280 or practices prohibited under part IX of chapter 626.

2281 (16) A pattern of bankrupt enterprises.

2282 (17) The ownership, control, or management of the
2283 organization includes any person:

2284 (a) Who is not reputable and of responsible character;

2285 (b) Who is so lacking in management expertise as to make
2286 the operation of the provider hazardous to potential and
2287 existing residents;

2288 (c) Who is so lacking in management experience, ability,
2289 and standing as to jeopardize the reasonable promise of
2290 successful operation;

2291 (d) Who is affiliated, directly or indirectly, through

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2292 ownership or control, with any person or persons whose business
2293 operations are or have been marked by business practices or
2294 conduct that is detrimental to the public, contract holders,
2295 investors, or creditors, or by manipulation of assets, finances,
2296 or accounts or by bad faith; or

2297 (e) Whose business operations are or have been marked by
2298 business practices or conduct that is detrimental to the public,
2299 contract holders, investors, or creditors, or by manipulation of
2300 assets, finances, or accounts or by bad faith.

2301 (18) The provider has not filed a notice of change in
2302 management, fails to remove a disapproved manager, or persists
2303 in appointing disapproved managers.

2304
2305 Revocation of a certificate of authority under this section does
2306 not relieve a provider from the provider's obligation to
2307 residents under the terms and conditions of any continuing care
2308 or continuing care at-home contract between the provider and
2309 residents or the provisions of this chapter. The provider shall
2310 continue to file its annual statement and pay license fees to
2311 the office as required under this chapter as if the certificate
2312 of authority had continued in full force, but the provider shall
2313 not issue any new contracts. The office may seek an action in
2314 the Circuit Court of Leon County to enforce the office's order
2315 and the provisions of this section.

2316 Section 27. Section 651.1065, Florida Statutes, is created
2317 to read:

2318 651.1065 Soliciting or accepting new continuing care
2319 contracts by impaired or insolvent facilities or providers.-

2320 (1) Regardless of whether delinquency proceedings as to a

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2321 continuing care facility have been or are to be initiated, a
2322 proprietor, a general partner, a member, an officer, a director,
2323 a trustee, or a manager of a continuing care facility may not
2324 actively solicit, approve the solicitation or acceptance of, or
2325 accept new continuing care contracts in this state after the
2326 proprietor, general partner, member, officer, director, trustee,
2327 or manager knew, or reasonably should have known, that the
2328 continuing care facility was impaired or insolvent except with
2329 the written permission of the office. If the facility has
2330 declared bankruptcy, the bankruptcy court or trustee appointed
2331 by the court has jurisdiction over such matters. The office must
2332 approve or disapprove the continued marketing of new contracts
2333 within 15 days after receiving a request from a provider.

2334 (2) A proprietor, a general partner, a member, an officer,
2335 a director, a trustee, or a manager who violates this section
2336 commits a felony of the third degree, punishable as provided in
2337 s. 775.082, s. 775.083, or s. 775.084.

2338 Section 28. Subsections (1) and (3) of section 651.111,
2339 Florida Statutes, are amended to read:

2340 651.111 Requests for inspections.—

2341 (1) Any interested party may request an inspection of the
2342 records and related financial affairs of a provider providing
2343 care in accordance with ~~the provisions of~~ this chapter by
2344 transmitting to the office notice of an alleged violation of
2345 applicable requirements prescribed by statute or by rule,
2346 specifying to a reasonable extent the details of the alleged
2347 violation, which notice must ~~shall~~ be signed by the complainant.
2348 As used in this section, the term "inspection" means an inquiry
2349 into a provider's compliance with this chapter.

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2350 (3) Upon receipt of a complaint, the office shall make a
2351 preliminary review to determine if the complaint alleges a
2352 violation of this chapter; and, unless the office determines
2353 that the complaint does not allege a violation of this chapter
2354 or is without any reasonable basis, the office shall make an
2355 inspection. The office shall provide the complainant with a
2356 written acknowledgment of the complaint within 15 days after
2357 receipt by the office. The complainant shall be advised, within
2358 30 days after the receipt of the complaint by the office, of the
2359 office's determination that the complaint does not allege a
2360 violation of this chapter, that the complaint is without any
2361 reasonable basis, or that the office will make an inspection.
2362 The notice must include an estimated timeframe for completing
2363 the inspection and a contact number. If the inspection is not
2364 completed within the estimated timeframe, the office must
2365 provide the complainant with a revised timeframe. Within 15 days
2366 after completing an inspection, the office shall provide the
2367 complainant and the provider a written statement specifying any
2368 violations of this chapter and any actions taken or that no such
2369 violation was found ~~proposed course of action of the office~~.

2370 Section 29. Section 651.114, Florida Statutes, is amended
2371 to read:

2372 651.114 Delinquency proceedings; remedial rights.—

2373 (1) Upon determination by the office that a provider is not
2374 in compliance with this chapter, the office may notify the chair
2375 of the Continuing Care Advisory Council, who may assist the
2376 office in formulating a corrective action plan.

2377 (2) Within 30 days after a request by either the advisory
2378 council or the office, a provider shall make a plan for

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2379 obtaining compliance or solvency available to the advisory
2380 council and the office, ~~within 30 days after being requested to~~
2381 ~~do so by the council, a plan for obtaining compliance or~~
2382 ~~solvency.~~

2383 (3) Within 30 days after receipt of a plan for obtaining
2384 compliance or solvency, the office or, at the request of the
2385 office, notification, the advisory council shall:

2386 (a) Consider and evaluate the plan submitted by the
2387 provider.

2388 (b) Discuss the problem and solutions with the provider.

2389 (c) Conduct such other business as is necessary.

2390 (d) Report its findings and recommendations to the office,
2391 which may require additional modification of the plan.

2392
2393 This subsection may not be construed to delay or prevent the
2394 office from taking any regulatory measures it deems necessary
2395 regarding the provider that submitted the plan.

2396 (4) If the financial condition of a continuing care
2397 provider is impaired or is such that if not modified or
2398 corrected, its continued operation would result in insolvency,
2399 the office may direct the provider to formulate and file with
2400 the office a corrective action plan. If the provider fails to
2401 submit a plan within 30 days after the office's directive or
2402 submits a plan that is insufficient to correct the condition,
2403 the office may specify a plan and direct the provider to
2404 implement the plan. Before specifying a plan, the office may
2405 seek a recommended plan from the advisory council.

2406 (5) ~~(4)~~ After receiving approval of a plan by the office,
2407 the provider shall submit a progress report monthly to the

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2408 advisory council or the office, or both, in a manner prescribed
2409 by the office. After 3 months, or at any earlier time deemed
2410 necessary, the council shall evaluate the progress by the
2411 provider and shall advise the office of its findings.

2412 (6)~~(5)~~ ~~If should~~ the office finds ~~find~~ that sufficient
2413 grounds exist for rehabilitation, liquidation, conservation,
2414 reorganization, seizure, or summary proceedings of an insurer as
2415 set forth in ss. 631.051, 631.061, and 631.071, the department
2416 ~~office~~ may petition for an appropriate court order or may pursue
2417 such other relief as is afforded in part I of chapter 631.
2418 Before invoking its powers under part I of chapter 631, the
2419 department ~~office~~ shall notify the chair of the advisory
2420 council.

2421 (7) For purposes of s. 631.051, impairment of a provider
2422 has the same meaning as the term "impaired" in s. 651.011.

2423 (8)~~(6)~~ In the event an order of conservation,
2424 rehabilitation, liquidation, or ~~conservation, reorganization,~~
2425 ~~seizure, or summary proceeding~~ has been entered against a
2426 provider, the department and office are vested with all of the
2427 powers and duties they have under ~~the provisions of~~ part I of
2428 chapter 631 in regard to delinquency proceedings of insurance
2429 companies. A provider shall give written notice of the
2430 proceeding to its residents within 3 business days after the
2431 initiation of a delinquency proceeding under chapter 631 and
2432 shall include a notice of the delinquency proceeding in any
2433 written materials provided to prospective residents

2434 ~~(7) If the financial condition of the continuing care~~
2435 ~~facility or provider is such that, if not modified or corrected,~~
2436 ~~its continued operation would result in insolvency, the office~~

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2437 ~~may direct the provider to formulate and file with the office a~~
2438 ~~corrective action plan. If the provider fails to submit a plan~~
2439 ~~within 30 days after the office's directive or submits a plan~~
2440 ~~that is insufficient to correct the condition, the office may~~
2441 ~~specify a plan and direct the provider to implement the plan.~~

2442 (9) A provider subject to an order to show cause entered
2443 pursuant to chapter 631 must file its written response to the
2444 order, together with any defenses it may have to the
2445 department's allegations, according to the time periods
2446 specified in s. 631.031(3).

2447 (10) A hearing held pursuant to chapter 631 to determine
2448 whether cause exists for the department to be appointed receiver
2449 must be held in accordance with the time period specified in s.
2450 631.031(4).

2451 (11) (a) ~~(8) (a)~~ The rights of the office described in this
2452 section are subordinate to the rights of a trustee or lender
2453 pursuant to the terms of a resolution, ordinance, loan
2454 agreement, indenture of trust, mortgage, lease, security
2455 agreement, or other instrument creating or securing bonds or
2456 notes issued to finance a facility, and the office, subject to
2457 ~~the provisions of paragraph (c), may shall~~ not exercise its
2458 remedial rights provided under this section and ss. 651.018,
2459 651.106, 651.108, and 651.116 with respect to a facility that is
2460 subject to a lien, mortgage, lease, or other encumbrance or
2461 trust indenture securing bonds or notes issued in connection
2462 with the financing of the facility, if the trustee or lender, by
2463 inclusion or by amendment to the loan documents or by a separate
2464 contract with the office, agrees that the rights of residents
2465 under a continuing care or continuing care at-home contract will

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2466 be honored and will not be disturbed by a foreclosure or
 2467 conveyance in lieu thereof as long as the resident:

2468 1. Is current in the payment of all monetary obligations
 2469 required by the contract;

2470 2. Is in compliance and continues to comply with all
 2471 provisions of the contract; and

2472 3. Has asserted no claim inconsistent with the rights of
 2473 the trustee or lender.

2474 (b) This subsection does not require a trustee or lender
 2475 to:

2476 1. Continue to engage in the marketing or resale of new
 2477 continuing care or continuing care at-home contracts;

2478 2. Pay any rebate of entrance fees as may be required by a
 2479 resident's continuing care or continuing care at-home contract
 2480 as of the date of acquisition of the facility by the trustee or
 2481 lender and until expiration of the period described in paragraph
 2482 (d);

2483 3. Be responsible for any act or omission of any owner or
 2484 operator of the facility arising before the acquisition of the
 2485 facility by the trustee or lender; or

2486 4. Provide services to the residents to the extent that the
 2487 trustee or lender would be required to advance or expend funds
 2488 that have not been designated or set aside for such purposes.

2489 (c) ~~If~~ Should the office determines ~~determine~~, at any time
 2490 during the suspension of its remedial rights as provided in
 2491 paragraph (a), that:

2492 1. The trustee or lender is not in compliance with
 2493 paragraph (a); ~~or that~~

2494 2. A lender or trustee has assigned or has agreed to assign

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2495 all or a portion of a delinquent or defaulted loan to a third
2496 party without the office's written consent;~~7~~

2497 3. The provider engaged in the misappropriation,
2498 conversion, or illegal commitment or withdrawal of minimum
2499 liquid reserve or escrowed funds required under this chapter;

2500 4. The provider refused to be examined by the office
2501 pursuant to s. 651.105(1); or

2502 5. The provider refused to produce any relevant accounts,
2503 records, and files requested as part of an examination,

2504
2505 the office shall notify the trustee or lender in writing of its
2506 determination, setting forth the reasons giving rise to the
2507 determination and specifying those remedial rights afforded to
2508 the office which the office shall then reinstate.

2509 (d) Upon acquisition of a facility by a trustee or lender
2510 and evidence satisfactory to the office that the requirements of
2511 paragraph (a) have been met, the office shall issue a 90-day
2512 temporary certificate of authority granting the trustee or
2513 lender the authority to engage in the business of providing
2514 continuing care or continuing care at-home and to issue
2515 continuing care or continuing care at-home contracts subject to
2516 the office's right to immediately suspend or revoke the
2517 temporary certificate of authority if the office determines that
2518 any of the grounds described in s. 651.106 apply to the trustee
2519 or lender or that the terms of the contract used as the basis
2520 for the issuance of the temporary certificate of authority by
2521 the office have not been or are not being met by the trustee or
2522 lender since the date of acquisition.

2523 Section 30. Section 651.1141, Florida Statutes, is created

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2524 to read:

2525 651.1141 Immediate final orders.-

2526 (1) The Legislature finds that the following actions
2527 constitute an imminent and immediate threat to the public
2528 health, safety, and welfare of the residents of this state:

2529 (a) The installation of a general partner of a provider or
2530 assumption of ownership or possession or control of 10 percent
2531 or more of a provider's assets in violation of s. 651.024 or s.
2532 651.0245;

2533 (b) The removal or commitment of 10 percent or more of the
2534 required minimum liquid reserve funds in violation of s.
2535 651.035; or

2536 (c) The assumption of control over a facility's operations
2537 in violation of s. 651.043.

2538 (2) If it finds that a person or entity is engaging or has
2539 engaged in one or more of the above activities, the office may,
2540 pursuant to s. 120.569, issue an immediate final order:

2541 (a) Directing that such person or entity cease and desist
2542 that activity; or

2543 (b) Suspending the certificate of authority of the
2544 facility.

2545 Section 31. Subsection (1) of section 651.121, Florida
2546 Statutes, is amended to read:

2547 651.121 Continuing Care Advisory Council.-

2548 (1) The Continuing Care Advisory Council to the office is
2549 created consisting of 10 members ~~who are residents of this state~~
2550 appointed by the Governor and geographically representative of
2551 this state. Three members shall be representatives
2552 ~~administrators~~ of facilities that hold valid certificates of

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2553 authority under this chapter and ~~shall~~ have been actively
2554 engaged in the offering of continuing care contracts in this
2555 state for 5 years before appointment. The remaining members
2556 include:

2557 (a) A representative of the business community whose
2558 expertise is in the area of management.

2559 (b) A representative of the financial community who is not
2560 a facility owner or administrator.

2561 (c) A certified public accountant.

2562 ~~(d) An attorney.~~

2563 (d) ~~(e)~~ Four ~~Three~~ residents who hold continuing care or
2564 continuing care at-home contracts with a facility certified in
2565 this state.

2566 Section 32. Subsections (1) and (4) of section 651.125,
2567 Florida Statutes, are amended to read:

2568 651.125 Criminal penalties; injunctive relief.—

2569 (1) Any person who maintains, enters into, or, as manager
2570 or officer or in any other administrative capacity, assists in
2571 entering into, maintaining, or performing any continuing care or
2572 continuing care at-home contract subject to this chapter without
2573 ~~doing so in pursuance of~~ a valid provisional certificate of
2574 authority or certificate of authority ~~or renewal thereof~~, as
2575 contemplated by or provided in this chapter, or who otherwise
2576 violates any provision of this chapter or rule adopted in
2577 pursuance of this chapter, commits a felony of the third degree,
2578 punishable as provided in s. 775.082 or s. 775.083. Each
2579 violation of this chapter constitutes a separate offense.

2580 (4) Any action brought by the office against a provider
2581 shall not abate by reason of a sale or other transfer of

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2582 ownership of the facility used to provide care, which provider
2583 is a party to the action, except with the express written
2584 consent of the ~~director of the~~ office.

2585 Section 33. Except as otherwise expressly provided in this
2586 act and except for this section, which shall take effect July 1,
2587 2019, this act shall take effect January 1, 2020.