

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

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1 Committee/Subcommittee hearing bill: Insurance & Banking  
2 Subcommittee

3 Representative Persons-Mulicka offered the following:

4  
5 **Amendment**

6 Remove lines 430-547 and insert:

7 Section 10. Paragraphs (a) and (d) of subsection (2) of  
8 section 651.081, Florida Statutes, are amended to read:

9 651.081 Residents' council.—

10 (2)(a) Each facility shall establish a residents' council  
11 created for the purpose of representing residents on matters set  
12 forth in s. 651.085. A residents' council has the authority to  
13 establish and maintain its own governance documents such as  
14 bylaws, operating agreements, policies, and operating  
15 procedures, which may include establishment of committees.  
16 Residents, as defined in s. 651.011, have the right to

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17 participate in resident council matters, including elections.  
18 The residents' council shall be established through an election  
19 in which the residents, as defined in s. 651.011, vote by  
20 ballot, physically or by proxy. If the election is to be held  
21 during a meeting, a notice of the organizational meeting must be  
22 provided to all residents of the community at least 10 business  
23 days before the meeting. Notice may be given through internal  
24 mailboxes, communitywide newsletters, bulletin boards, in-house  
25 television stations, and other similar means of communication.  
26 An election creating a residents' council is valid if at least  
27 40 percent of the total resident population participates in the  
28 election and a majority of the participants vote affirmatively  
29 for the council. The initial residents' council created under  
30 this section is valid for at least 12 months. A residents'  
31 organization formalized by bylaws and elected officials must be  
32 recognized as the residents' council under this section and s.  
33 651.085. Within 30 days after the election of a newly elected  
34 president or chair of the residents' council, the provider shall  
35 give the president or chair a copy of this chapter and rules  
36 adopted thereunder, or direct him or her to the appropriate  
37 public website to obtain this information. Only one residents'  
38 council may represent residents before the governing body of the  
39 provider as described in s. 651.085(2).

40 (d) ~~A residents' council shall adopt its own bylaws and~~  
41 ~~governance documents subject to the vote and approval of the~~

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42 ~~residents. The residents' council shall provide for open~~  
43 ~~meetings when appropriate. The residents' council's governing~~  
44 documents shall define the manner in which residents may submit  
45 an issue to the council and define a reasonable timeframe in  
46 which the residents' council shall respond to a resident  
47 submission or inquiry. A residents' council may include term  
48 limits in its governing documents to ensure consistent  
49 integration of new leaders. If a licensed facility files for  
50 bankruptcy under chapter 11 of the United States Bankruptcy  
51 Code, 11 U.S.C. chapter 11, the facility, in its required filing  
52 of the 20 largest unsecured creditors with the United States  
53 Trustee, shall include the name and contact information of a  
54 designated resident selected by the residents' council, and a  
55 statement explaining that the designated resident was chosen by  
56 the residents' council to serve as a representative of the  
57 residents' interest on the creditors' committee, if appropriate.

58 Section 11. Paragraph (f) of subsection (1) of section  
59 651.083, Florida Statutes, is amended to read:

60 651.083 Residents' rights.—

61 (1) No resident of any facility shall be deprived of any  
62 civil or legal rights, benefits, or privileges guaranteed by  
63 law, by the State Constitution, or by the United States  
64 Constitution solely by reason of status as a resident of a  
65 facility. Each resident of a facility has the right to:

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66 (f) Present grievances and recommend changes in policies,  
67 procedures, and services to the staff of the facility, governing  
68 officials, or any other person without restraint, interference,  
69 coercion, discrimination, or reprisal. This right includes  
70 access to ombudsman volunteers and staff and advocates and the  
71 right to be a member of, and active in, and to associate with,  
72 advocacy or special interest groups or associations.

73 Section 12. Subsections (2), (3), and (5) of section  
74 651.085, Florida Statutes, are amended to read:

75 651.085 Quarterly meetings between residents and the  
76 governing body of the provider; resident representation before  
77 the governing body of the provider.—

78 (2) A residents' council formed pursuant to s. 651.081,  
79 members of which are elected by the residents, shall nominate  
80 and elect ~~designate~~ a designated resident representative to  
81 represent them before the governing body of the provider on  
82 matters specified in subsection (3). The initial designated  
83 resident representative elected under this section shall be  
84 elected to serve at least 12 months. The designated resident  
85 representative does not have to be a current member of the  
86 residents' council; however, such individual must be a resident,  
87 as defined in s. 651.011.

88 (3) The designated resident representative shall be  
89 notified by a representative of the provider at least 14 days in  
90 advance of any meeting of the full governing body at which the

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91 annual budget and proposed changes or increases in resident fees  
92 or services are on the agenda or will be discussed. The  
93 designated resident representative shall be invited to attend  
94 and participate in that portion of the meeting designated for  
95 the discussion of such changes. Designated resident  
96 representatives shall perform their duties in good faith. For  
97 providers that own or operate more than one facility in the  
98 state, each facility must have its own designated resident  
99 representative.

100 (5) The board of directors or governing board of a  
101 licensed provider may at its sole discretion allow a resident of  
102 the facility to be a voting member of the board or governing  
103 body of the facility. The board of directors or governing board  
104 of a licensed provider may establish specific criteria for the  
105 nomination, selection, and term of a resident as a member of the  
106 board or governing body. If the board or governing body of a  
107 licensed provider operates more than one licensed facility,  
108 regardless of whether the facility is in-state or out-of-state,  
109 the board or governing body may select at its sole discretion  
110 one resident from among its facilities to serve on the board of  
111 directors or governing body on a rotating basis. A resident who  
112 serves as a member of the board or governing body of the  
113 facility shall perform his or her duties in a fiduciary manner,  
114 including the duty of confidentiality, duty of care, duty of

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115 loyalty, and duty of obedience, as required of any individual  
116 serving on the board or governing body of the facility.

117 Section 13. Paragraphs (e) through (k) and paragraph (l)  
118 of subsection (2) of section 651.091, Florida Statutes, are  
119 redesignated as paragraphs (f) through (l) and paragraph (n),  
120 respectively, and new paragraphs (e) and (m) are added to that  
121 subsection and paragraph (m) is added to subsection (3) of that  
122 section, to read:

123 651.091 Availability, distribution, and posting of reports  
124 and records; requirement of full disclosure.—

125 (2) Every continuing care facility shall:

126 (e) Provide a copy of the final examination report and  
127 corrective action plan, if one is required by the office, to the  
128 executive officer of the provider's board or governing body and  
129 to the president or chair of the residents' council within 60  
130 days after issuance of the report.

131 (m) Provide to the president or chair of the residents'  
132 council a written notice of any change in management within 10  
133 business days.

134 (3) Before entering into a contract to furnish continuing  
135 care or continuing care at-home, the provider undertaking to  
136 furnish the care, or the agent of the provider, shall make full  
137 disclosure, obtain written acknowledgment of receipt, and  
138 provide copies of the disclosure documents to the prospective

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139 resident or his or her legal representative, of the following  
140 information:

141 (m) Disclosure of whether the provider has one or more  
142 residents serving on its board or governing body and whether  
143 that