

1                   A bill to be entitled  
2           An act relating to continuing care providers; amending  
3           s. 651.011, F.S.; providing definitions; amending s.  
4           651.012, F.S.; conforming a cross-reference; amending  
5           s. 651.0246, F.S.; revising requirements for the  
6           feasibility study submitted by continuing care  
7           providers for expansion of certificated facilities;  
8           revising circumstances under which continuing care  
9           providers are entitled to secure release of moneys  
10          held in escrow; revising the timeframe for the review  
11          and approval of certificated facility expansion  
12          applications; amending s. 651.026, F.S.; revising  
13          requirements under certain circumstances for financial  
14          reports filed with the Office of Insurance Regulation;  
15          amending s. 651.0261, F.S.; conforming a cross-  
16          reference; amending s. 651.033, F.S.; revising  
17          requirements for escrow accounts of certificated  
18          facilities; revising the circumstance under which a  
19          provider may hold an entrance fee check for a  
20          specified timeframe; amending s. 651.034, F.S.;  
21          revising the timeframe during which the office may  
22          exempt a provider from certain regulatory actions;  
23          authorizing the office to temporarily suspend certain  
24          requirements for providers under certain  
25          circumstances; amending s. 651.035, F.S.; providing

26 requirements for certain agreements relating to debt  
27 service reserve funds maintained in escrow by  
28 providers; revising minimum liquid reserve  
29 requirements; revising proof that such requirements  
30 are met; revising circumstances under which provider  
31 may withdraw funds held in escrow without the office's  
32 approval; amending s. 651.055, F.S.; providing  
33 circumstances under which forfeiture penalties are  
34 authorized upon cancellations of continuing care  
35 contracts; providing exceptions; conforming a  
36 provision to changes made by the act; amending s.  
37 651.081, F.S.; revising the authority of the  
38 residents' council; providing residents' rights;  
39 deleting provisions relating to certain duties of the  
40 residents' council; amending s. 651.083, F.S.;  
41 revising residents' rights; amending s. 651.085, F.S.;  
42 providing requirements and duties for designated  
43 resident representatives rather than designated  
44 representatives; providing qualifications; providing  
45 duties for residents serving on a facility's board or  
46 governing body; amending s. 651.091, F.S.; providing  
47 additional duties for continuing care facilities and  
48 continuing care providers relating to distribution and  
49 disclosure of certain documents and information;  
50 requiring continuing care providers to make available

51 master plans approved by the providers' boards and  
 52 governing bodies, rather than governing boards;  
 53 amending s. 651.105, F.S.; providing requirements for  
 54 examinations of certain continuing care businesses and  
 55 providers; deleting a provision requiring delivery of  
 56 certain reports; providing an effective date.

57

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

59

60 Section 1. Subsections (13) through (26) and subsection  
 61 (27) of section 651.011, Florida Statutes, are renumbered as  
 62 subsections (14) though (27) and subsection (29), respectively,  
 63 and a new subsection (13) and subsection (28) are added to that  
 64 section, to read:

65 651.011 Definitions.—As used in this chapter, the term:

66 (13) "Designated resident representative" means a resident  
 67 who has been elected by the residents' council to represent  
 68 residents on matters related to changes in fees or services as  
 69 specified in s. 651.085(2) and (3).

70 (28) "Residents' council" means an organized body that  
 71 represents the resident population of a certificated facility. A  
 72 residents' council shall serve as a liaison between residents  
 73 and the appropriate representative of the provider.

74 Section 2. Section 651.012, Florida Statutes, is amended  
 75 to read:

76           651.012 Exempted facility; written disclosure of  
 77 exemption.—Any facility exempted under s. 632.637(1)(e) or  
 78 excluded from the definition of the term "provider" in s.  
 79 651.011 ss. 632.637(1)(e) and 651.011(23) must provide written  
 80 disclosure of such exemption to each person admitted to the  
 81 facility. This disclosure must be written using language likely  
 82 to be understood by the person and must briefly explain the  
 83 exemption.

84           Section 3. Paragraph (a) of subsection (2), paragraph (b)  
 85 of subsection (4), and subsection (6) of section 651.0246,  
 86 Florida Statutes, are amended to read:

87           651.0246 Expansions.—

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

90           (a) A feasibility study prepared by an independent  
 91 certified public accountant. The feasibility study must include  
 92 at least the following information:

93           1. A description of the facility and proposed expansion,  
 94 including the location, the size, the anticipated completion  
 95 date, and the proposed construction program.

96           2. An identification and evaluation of the primary and, if  
 97 applicable, secondary market areas of the facility and the  
 98 projected unit sales per month.

99           3. Projected revenues, including anticipated entrance  
 100 fees; monthly service fees; nursing care revenues, if

101 applicable; and all other sources of revenue.

102 4. Projected expenses, including for staffing requirements  
 103 and salaries; the cost of property, plant, and equipment,  
 104 including depreciation expense; interest expense; marketing  
 105 expense; and other operating expenses.

106 5. A projected balance sheet of the applicant.

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

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

112 8. Project costs; the total amount of debt financing  
 113 required; marketing projections; resident rates, fees, and  
 114 charges; the competition; resident contract provisions; and  
 115 other factors that affect the feasibility of the facility.

116 9. Appropriate population projections, including morbidity  
 117 and mortality assumptions.

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

121 11. Financial forecasts or projections prepared in  
 122 accordance with standards adopted by the American Institute of  
 123 Certified Public Accountants or in accordance with standards for  
 124 feasibility studies for continuing care retirement communities  
 125 adopted by the Actuarial Standards Board.

126           12. An independent evaluation and examination opinion or  
127 compilation report acceptable to the office for the first 5  
128 years of operations, or a comparable opinion acceptable to the  
129 office, by the certified public accountant ~~consultant~~ who  
130 prepared the study, of the underlying assumptions used as a  
131 basis for the forecasts or projections in the study and that the  
132 assumptions are reasonable and proper and the project as  
133 proposed is feasible.

134           13. Any other information that the provider deems relevant  
135 and appropriate to provide to enable the office to make a more  
136 informed determination.

137  
138 If any material change occurs in the facts set forth in an  
139 application filed with the office pursuant to this section, an  
140 amendment setting forth such change must be filed with the  
141 office within 10 business days after the applicant becomes aware  
142 of such change, and a copy of the amendment must be sent by  
143 registered mail to the principal office of the facility and to  
144 the principal office of the controlling company.

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

150           (b) Payment in full has been received for at least 50

151 percent of the total units of a phase or of the total of the  
152 combined phases constructed; or at least 75 percent of the  
153 proposed units for which an entrance fee is charged for a phase  
154 or a total of the combined phases are reserved, and the provider  
155 submits an attestation to the office to use the entrance fees  
156 collected and held in escrow for the sole purpose of paying  
157 secured indebtedness as specified in the feasibility study  
158 submitted to the office pursuant to paragraph (2)(a). If the  
159 expansion is to be completed in multiple phases, the 75 percent  
160 reservation requirement applies separately to each phase of the  
161 expansion. If a provider offering continuing care at-home is  
162 applying for a release of escrowed entrance fees, the same  
163 minimum requirement must be met for the continuing care and  
164 continuing care at-home contracts independently of each other.

165  
166 Notwithstanding chapter 120, only the provider, the escrow  
167 agent, and the office have a substantial interest in any office  
168 decision regarding release of escrow funds in any proceedings  
169 under chapter 120 or this chapter.

170 (6) Within 30 ~~45~~ days after the date on which an  
171 application is deemed complete as provided in paragraph (5)(b),  
172 the office shall complete its review and, based upon its review,  
173 approve an expansion by the applicant and issue a determination  
174 that the application meets all requirements of law, that the  
175 feasibility study was based on sufficient data and reasonable

176 assumptions, and that the applicant will be able to provide  
177 continuing care or continuing care at-home as proposed and meet  
178 all financial and contractual obligations related to its  
179 operations, including the financial requirements of this  
180 chapter. If the application is denied, the office must notify  
181 the applicant in writing, citing the specific failures to meet  
182 the requirements of this chapter. The denial entitles the  
183 applicant to a hearing pursuant to chapter 120.

184 Section 4. Paragraph (b) of subsection (2) of section  
185 651.026, Florida Statutes, is amended to read:

186 651.026 Annual reports.—

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

189 (b) A financial report audited by an independent certified  
190 public accountant which must contain, for two or more periods if  
191 the facility has been in existence that long, all of the  
192 following:

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

195 a. A balance sheet;

196 b. A statement of income and expenses;

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

198 d. A statement of changes in cash flows.

199 2. Notes to the financial report considered customary or  
200 necessary for full disclosure or adequate understanding of the



201 financial report, financial condition, and operation.

202 3. If the provider's financial statements are consolidated  
 203 or combined in accordance with generally accepted accounting  
 204 principles with the financial statements of additional entities  
 205 owned or controlled by the provider, the financial report must  
 206 provide as supplemental information the financial statements of  
 207 the provider with the items in subparagraph 1. for the  
 208 individual facility shown separately, along with the financial  
 209 statements of additional entities that are included in the  
 210 consolidated or combined financial report.

211 4. If the facility is a member of an obligated group, the  
 212 facility may use the obligated group's audited financial  
 213 statements if they contain the items in subparagraph 1. for the  
 214 individual facility shown separately from other members of the  
 215 obligated group.

216 Section 5. Subsection (1) of section 651.0261, Florida  
 217 Statutes, is amended to read:

218 651.0261 Quarterly and monthly statements.—

219 (1) Within 45 days after the end of each fiscal quarter,  
 220 each provider shall file a quarterly unaudited financial  
 221 statement of the provider or of the facility in the form  
 222 prescribed by commission rule and days cash on hand, occupancy,  
 223 debt service coverage ratio, and a detailed listing of the  
 224 assets maintained in the liquid reserve as required under s.  
 225 651.035. The last quarterly statement for a fiscal year is not

226 required if a provider does not have pending a regulatory action  
 227 level event, impairment, or a corrective action plan. If a  
 228 provider falls below two or more of the thresholds set forth in  
 229 s. 651.011(26) ~~s. 651.011(25)~~ at the end of any fiscal quarter,  
 230 the provider shall submit to the office, at the same time as the  
 231 quarterly statement, an explanation of the circumstances and a  
 232 description of the actions it will take to meet the  
 233 requirements.

234 Section 6. Paragraph (a) of subsection (1) and paragraph  
 235 (c) of subsection (3) of section 651.033, Florida Statutes, are  
 236 amended, and paragraph (a) of subsection (3) of that section is  
 237 republished, to read:

238 651.033 Escrow accounts.—

239 (1) When funds are required to be deposited in an escrow  
 240 account pursuant to s. 651.0215, s. 651.022, s. 651.023, s.  
 241 651.0246, s. 651.035, or s. 651.055:

242 (a) The escrow account must be established in a Florida  
 243 bank, Florida savings and loan association, Florida trust  
 244 company, or a national bank that is chartered and supervised by  
 245 the Office of the Comptroller of the Currency within the United  
 246 States Department of the Treasury ~~and that has a branch in this~~  
 247 ~~state~~, which is acceptable to the office, or such funds must be  
 248 deposited with the department and be kept and maintained in an  
 249 account separate and apart from the provider's business  
 250 accounts.

251 (3) When entrance fees are required to be deposited in an  
 252 escrow account pursuant to s. 651.0215, s. 651.022, s. 651.023,  
 253 s. 651.0246, or s. 651.055:

254 (a) The provider shall deliver to the resident a written  
 255 receipt. The receipt must show the payor's name and address, the  
 256 date, the price of the care contract, and the amount of money  
 257 paid. A copy of each receipt, together with the funds, must be  
 258 deposited with the escrow agent or as provided in paragraph (c).  
 259 The escrow agent must release such funds to the provider 7 days  
 260 after the date of receipt of the funds by the escrow agent if  
 261 the provider, operating under a certificate of authority issued  
 262 by the office, has met the requirements of s. 651.0215(8), s.  
 263 651.023(6), or s. 651.0246. However, if the resident rescinds  
 264 the contract within the 7-day period, the escrow agent must  
 265 release the escrowed fees to the resident.

266 (c) As an alternative to paragraph (a) ~~At the request of~~  
 267 ~~an individual resident of a facility,~~ the provider may hold the  
 268 check for the 7-day period and may not deposit it during this  
 269 time period. If the resident rescinds the contract within the 7-  
 270 day period, the check must be immediately returned to the  
 271 resident. Upon the expiration of the 7 days, the provider shall  
 272 deposit the check.

273 Section 7. Subsection (7) of section 651.034, Florida  
 274 Statutes, is renumbered as subsection (8), subsection (6) is  
 275 amended, and a new subsection (7) is added to that section, to

276 read:

277 651.034 Financial and operating requirements for  
278 providers.—

279 (6) The office may exempt a provider from subsection (1)  
280 or subsection (2) until stabilized occupancy is reached or until  
281 the time projected to achieve stabilized occupancy as reported  
282 in the last feasibility study required by the office as part of  
283 an application filing under s. 651.0215, s. 651.023, s. 651.024,  
284 or s. 651.0246 has elapsed, but for no longer than 5 years  
285 following the end of the provider's fiscal year in which ~~after~~  
286 ~~the date of issuance of the certificate of occupancy was issued.~~

287 (7) Upon written request of a provider, the office may  
288 temporarily suspend all or a portion of the financial and  
289 operating requirements under this chapter due to an  
290 extraordinary event rendering the provider incapable of  
291 continuing normal operations such as, but not limited to, a  
292 pandemic, a fire, or a federal order or a Governor's executive  
293 order or proclamation declaring a natural disaster that forces  
294 the provider to evacuate, curtail operations, restrict  
295 admissions, or suspend marketing for life safety reasons or  
296 repairs related to the event. Such temporary suspension may be  
297 granted by the office if the provider maintains compliance with  
298 ss. 651.026, 651.0261, and 651.035 and the provider is not  
299 insolvent or impaired. The provider shall comply with required  
300 reporting requested by the office, including the estimated time

301 for completing repairs or remediating problems related to  
302 restrictions on admissions or marketing. When determining  
303 whether to grant a suspension of specific regulatory  
304 requirements, the office must consider any formal action or  
305 amendments approved by a lender or trustee to the provider's  
306 lending agreements or bond covenants as a result of the event.

307 Section 8. Paragraph (b) of subsection (1), paragraph (a)  
308 of subsection (2), subsection (5), and paragraph (a) of  
309 subsection (7) of section 651.035, Florida Statutes, are amended  
310 to read:

311 651.035 Minimum liquid reserve requirements.—

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

314 (b) A provider that has outstanding indebtedness that  
315 requires a debt service reserve to be held in escrow pursuant to  
316 a trust indenture or mortgage lien on the facility and for which  
317 the debt service reserve may only be used to pay principal and  
318 interest payments on the debt that the debtor is obligated to  
319 pay, and which may include property taxes and insurance, may  
320 include such debt service reserve in computing the minimum  
321 liquid reserve needed to satisfy this subsection if the provider  
322 furnishes to the office a copy of the agreement under which such  
323 debt service reserve is held, together with a statement of the  
324 amount being held in escrow for the debt service reserve,  
325 certified by the lender or trustee and the provider to be

326 correct. The trustee shall provide the office with any  
327 information concerning the debt service reserve account upon  
328 request of the provider or the office. In addition, the trust  
329 indenture, loan agreement, or escrow agreement must provide that  
330 the provider, trustee, lender, escrow agent, or a person  
331 designated to act in its place shall notify the office in  
332 writing at least 10 days before the withdrawal of any portion of  
333 the debt service reserve funds required to be held in escrow as  
334 described in this paragraph. The notice must include an  
335 affidavit sworn to by the provider, the trustee, or a person  
336 designated to act in its place which includes the amount of the  
337 scheduled debt service payment, the payment due date, the amount  
338 of the withdrawal, the accounts from which the withdrawal will  
339 be made, and a plan with a schedule for replenishing the  
340 withdrawn funds. If the plan is revised by a consultant that is  
341 retained as prescribed in the provider's financing documents,  
342 the revised plan must be submitted to the office within 10 days  
343 after the approval by the lender or trustee. Any such separate  
344 debt service reserves are not subject to the transfer provisions  
345 set forth in subsection (8).

346 (2)(a) In facilities where not all residents are under  
347 continuing care or continuing care at-home contracts, the  
348 reserve requirements of subsection (1) shall be computed only  
349 with respect to the proportional share of operating expenses  
350 that are applicable to residents. For purposes of this

351 calculation, the proportional share shall be based upon the  
352 ratio of residents under continuing care or continuing care at-  
353 home contracts to the total of all residents, including those  
354 residents who do not hold such contracts.

355 (5) A provider may satisfy the minimum liquid reserve  
356 requirements of this section by acquiring from a financial  
357 institution, as specified in paragraph (b), a clean,  
358 unconditional irrevocable letter of credit equal to the  
359 requirements of this section, less the amount of escrowed  
360 operating cash required in paragraph (d).

361 (a) The letter of credit must be issued by a financial  
362 institution participating in the State of Florida Treasury  
363 Certificate of Deposit Program or a Florida bank, Florida  
364 savings and loan association, Florida trust company, or a  
365 national bank that is chartered and supervised by the Office of  
366 the Comptroller of the Currency within the United States  
367 Department of the Treasury, and must be approved by the office  
368 before issuance and before any renewal or modification thereof.  
369 At a minimum, the letter of credit must provide for:

370 1. Ninety days' prior written notice to both the provider  
371 and the office of the financial institution's determination not  
372 to renew or extend the term of the letter of credit.

373 2. Unless otherwise arranged by the provider to the  
374 satisfaction of the office, deposit by the financial institution  
375 of letter of credit funds in an account designated by the office

376 no later than 30 days before the expiration of the letter of  
377 credit.

378 3. Deposit by the financial institution of letter of  
379 credit funds in an account designated by the office within 4  
380 business days following written instructions from the office  
381 that, in the sole judgment of the office, funding of the minimum  
382 liquid reserve is required.

383 (b) The terms of the letter of credit must be approved by  
384 the office and the long-term debt of the financial institution  
385 providing such letter of credit must be rated in one of their  
386 top three long-term debt rating categories by either Moody's  
387 Investors Service, Standard & Poor's Corporation, or a  
388 recognized securities rating agency acceptable to the office.

389 (c) The letter of credit must name the office as  
390 beneficiary.

391 (d) Notwithstanding any other provision of this section, a  
392 provider using a letter of credit pursuant to this subsection  
393 shall, at all times, have and maintain in escrow an operating  
394 cash reserve equal to 2 months' operating expenses as determined  
395 pursuant to s. 651.026.

396 (e) If the issuing financial institution no longer  
397 participates in the State of Florida Treasury Certificate of  
398 Deposit Program, such financial institution shall deposit as  
399 collateral with the department eligible securities, as  
400 prescribed by s. 625.52, having a market value equal to or



401 greater than 100 percent of the stated amount of the letter of  
 402 credit.

403 (7)(a) A provider may withdraw funds held in escrow  
 404 without the approval of the office if:

405 1. The amount held in escrow exceeds the requirements of  
 406 this section and if the withdrawal will not affect compliance  
 407 with this section; or

408 2. The withdrawal is from a debt service reserve required  
 409 to be held in escrow pursuant to a trust indenture or mortgage  
 410 lien on the facility as described in paragraph (1)(b) and the  
 411 funds withdrawn will be used to pay delinquent principal and  
 412 interest payments that the debtor is obligated to pay on the  
 413 facility.

414 Section 9. Subsection (2) of section 651.055, Florida  
 415 Statutes, is amended to read:

416 651.055 Continuing care contracts; right to rescind.—

417 (2) A resident has the right to rescind a continuing care  
 418 contract and receive a full refund of any funds paid, without  
 419 penalty or forfeiture, within 7 days after executing the  
 420 contract. However, if an individual signs a reservation contract  
 421 pursuant to s. 651.023(4) and fails to cancel such contract  
 422 within 30 days after executing the contract and subsequently  
 423 signs a contract and rescinds the contract within 7 days, the  
 424 forfeiture penalty authorized under s. 651.023(4) may be  
 425 deducted from the refund unless there is evidence of extenuating

426 circumstances such as, but not limited to, the death, illness,  
427 or diagnosis of a chronic or terminal illness of the individual  
428 or the individual's spouse or partner or a change in financial  
429 or asset position which warrants cancellation of the contract. A  
430 resident may not be required to move into the facility  
431 designated in the contract before the expiration of the 7-day  
432 period. During the 7-day period, the resident's funds must be  
433 held in an escrow account, or the provider may hold the check  
434 until the 7-day period expires ~~unless otherwise requested by the~~  
435 ~~resident~~ pursuant to s. 651.033(3)(c).

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

438 651.081 Residents' council.—

439 (2)(a) Each facility shall establish a residents' council  
440 created for the purpose of representing residents on matters set  
441 forth in s. 651.085. A residents' council has the authority to  
442 establish and maintain its own governance documents such as  
443 bylaws, operating agreements, policies, and operating  
444 procedures, which may include establishment of committees.  
445 Residents, as defined in s. 651.011, have the right to  
446 participate in resident council matters, including elections.  
447 The residents' council shall be established through an election  
448 in which the residents, as defined in s. 651.011, vote by  
449 ballot, physically or by proxy. If the election is to be held  
450 during a meeting, a notice of the organizational meeting must be

451 provided to all residents of the community at least 10 business  
452 days before the meeting. Notice may be given through internal  
453 mailboxes, communitywide newsletters, bulletin boards, in-house  
454 television stations, and other similar means of communication.  
455 An election creating a residents' council is valid if at least  
456 40 percent of the total resident population participates in the  
457 election and a majority of the participants vote affirmatively  
458 for the council. The initial residents' council created under  
459 this section is valid for at least 12 months. A residents'  
460 organization formalized by bylaws and elected officials must be  
461 recognized as the residents' council under this section and s.  
462 651.085. Within 30 days after the election of a newly elected  
463 president or chair of the residents' council, the provider shall  
464 give the president or chair a copy of this chapter and rules  
465 adopted thereunder, or direct him or her to the appropriate  
466 public website to obtain this information. Only one residents'  
467 council may represent residents before the governing body of the  
468 provider as described in s. 651.085(2).

469 (d) A residents' council's ~~council shall adopt its own~~  
470 ~~bylaws and governance documents subject to the vote and approval~~  
471 ~~of the residents. The residents' council shall provide for open~~  
472 ~~meetings when appropriate. The governing documents shall define~~  
473 the manner in which residents may submit an issue to the council  
474 and define a reasonable timeframe in which the residents'  
475 council shall respond to a resident submission or inquiry. The A

476 residents' council may include term limits in its governing  
477 documents to ensure consistent integration of new leaders. If a  
478 licensed facility files for bankruptcy under chapter 11 of the  
479 United States Bankruptcy Code, 11 U.S.C. chapter 11, the  
480 facility, in its required filing of the 20 largest unsecured  
481 creditors with the United States Trustee, shall include the name  
482 and contact information of a designated resident selected by the  
483 residents' council, and a statement explaining that the  
484 designated resident was chosen by the residents' council to  
485 serve as a representative of the residents' interest on the  
486 creditors' committee, if appropriate.

487 Section 11. Paragraph (f) of subsection (1) of section  
488 651.083, Florida Statutes, is amended to read:

489 651.083 Residents' rights.—

490 (1) No resident of any facility shall be deprived of any  
491 civil or legal rights, benefits, or privileges guaranteed by  
492 law, by the State Constitution, or by the United States  
493 Constitution solely by reason of status as a resident of a  
494 facility. Each resident of a facility has the right to:

495 (f) Present grievances and recommend changes in policies,  
496 procedures, and services to the staff of the facility, governing  
497 officials, or any other person without restraint, interference,  
498 coercion, discrimination, or reprisal. This right includes  
499 access to ombudsman volunteers and staff and advocates and the  
500 right to be a member of, and active in, and to associate with,

501 advocacy or special interest groups or associations.

502 Section 12. Subsections (2), (3), and (5) of section  
503 651.085, Florida Statutes, are amended to read:

504 651.085 Quarterly meetings between residents and the  
505 governing body of the provider; resident representation before  
506 the governing body of the provider.—

507 (2) A residents' council formed pursuant to s. 651.081,  
508 members of which are elected by the residents, shall nominate  
509 and elect ~~designate~~ a designated resident representative to  
510 represent them before the governing body of the provider on  
511 matters specified in subsection (3). The initial designated  
512 resident representative elected under this section shall be  
513 elected to serve at least 12 months. The designated resident  
514 representative does not have to be a current member of the  
515 residents' council; however, such individual must be a resident,  
516 as defined in s. 651.011.

517 (3) The designated resident representative shall be  
518 notified by a representative of the provider at least 14 days in  
519 advance of any meeting of the full governing body at which the  
520 annual budget and proposed changes or increases in resident fees  
521 or services are on the agenda or will be discussed. The  
522 designated resident representative shall be invited to attend  
523 and participate in that portion of the meeting designated for  
524 the discussion of such changes. Designated resident  
525 representatives shall perform their duties in good faith. For

526 providers that own or operate more than one facility in the  
527 state, each facility must have its own designated resident  
528 representative.

529 (5) The board of directors or governing board of a  
530 licensed provider may at its sole discretion allow a resident of  
531 the facility to be a voting member of the board or governing  
532 body of the facility. The board of directors or governing board  
533 of a licensed provider may establish specific criteria for the  
534 nomination, selection, and term of a resident as a member of the  
535 board or governing body. If the board or governing body of a  
536 licensed provider operates more than one licensed facility,  
537 regardless of whether the facility is in-state or out-of-state,  
538 the board or governing body may select at its sole discretion  
539 one resident from among its facilities to serve on the board of  
540 directors or governing body on a rotating basis. A resident who  
541 serves as a member of the board or governing body of the  
542 facility shall perform his or her duties in a fiduciary manner,  
543 including the duty of confidentiality, duty of care, duty of  
544 loyalty, and duty of obedience, as required of any individual  
545 serving on the board or governing body of the facility.

546 Section 13. Paragraphs (e) through (k) and paragraph (l)  
547 of subsection (2) of section 651.091, Florida Statutes, are  
548 redesignated as paragraphs (f) through (l) and paragraph (n),  
549 respectively, paragraph (d) of subsection (3) is amended, and  
550 new paragraphs (e) and (m) are added to subsection (2) and

551 paragraph (m) is added to subsection (3) of that section, to  
 552 read:

553 651.091 Availability, distribution, and posting of reports  
 554 and records; requirement of full disclosure.—

555 (2) Every continuing care facility shall:

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

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

564 (3) Before entering into a contract to furnish continuing  
 565 care or continuing care at-home, the provider undertaking to  
 566 furnish the care, or the agent of the provider, shall make full  
 567 disclosure, obtain written acknowledgment of receipt, and  
 568 provide copies of the disclosure documents to the prospective  
 569 resident or his or her legal representative, of the following  
 570 information:

571 (d) In keeping with the intent of this subsection relating  
 572 to disclosure, the provider shall make available for review  
 573 master plans approved by the provider's board or governing body  
 574 ~~board~~ and any plans for expansion or phased development, to the  
 575 extent that the availability of such plans does not put at risk

576 real estate, financing, acquisition, negotiations, or other  
577 implementation of operational plans and thus jeopardize the  
578 success of negotiations, operations, and development.

579 (m) Disclosure of whether the provider has one or more  
580 residents serving on its board or governing body and whether  
581 that resident has a vote or is serving in a nonvoting, ex  
582 officio capacity.

583 Section 14. Subsection (7) of section 651.105, Florida  
584 Statutes, is renumbered as subsection (6), and subsection (1)  
585 and present subsection (6) of that section are amended to read:

586 651.105 Examination.—

587 (1) The office may at any time, and shall at least once  
588 every 3 years, examine the business of any applicant for a  
589 certificate of authority and any provider engaged in the  
590 execution of care contracts or engaged in the performance of  
591 obligations under such contracts, in the same manner as is  
592 provided for the examination of insurance companies pursuant to  
593 ss. 624.316 and 624.318. For a provider as deemed accredited  
594 under s. 651.028, such examinations must take place at least  
595 once every 5 years. The examinations must cover the preceding 3  
596 or 5 fiscal years of the provider, whichever is applicable, and  
597 shall be commenced within 12 months after the end of the most  
598 recent fiscal year covered by the examinations. The examinations  
599 may include examination of events subsequent to the end of the  
600 most recent fiscal year and the events of any prior period that



601 affect the present financial condition of the provider. As part  
602 of the examinations, the office shall conduct an interview in  
603 person, by telephone, or through the Internet with the current  
604 president or chair of the residents' council or another  
605 designated officer of the council if the president or chair is  
606 not available. The ~~Such~~ examinations must be made by a  
607 representative or examiner designated by the office whose  
608 compensation will be fixed by the office pursuant to s. 624.320.  
609 Routine examinations may be made by having the necessary  
610 documents submitted to the office; and, for this purpose,  
611 financial documents and records conforming to commonly accepted  
612 accounting principles and practices, as required under s.  
613 651.026, are deemed adequate. The final written report of each  
614 examination must be filed with the office and, when so filed,  
615 constitutes a public record. Any provider being examined shall,  
616 upon request, give reasonable and timely access to all of its  
617 records. The representative or examiner designated by the office  
618 may at any time examine the records and affairs and inspect the  
619 physical property of any provider, whether in connection with a  
620 formal examination or not.

621 ~~(6) A representative of the provider must give a copy of~~  
622 ~~the final examination report and corrective action plan, if one~~  
623 ~~is required by the office, to the executive officer of the~~  
624 ~~governing body of the provider within 60 days after issuance of~~  
625 ~~the report.~~

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626 |       Section 15.   This act shall take effect July 1, 2023.       |