

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 a requirement for  
6           specified information submitted by a provider applying  
7           for expansion of a certificated continuing care  
8           facility; revising conditions for the release of  
9           certain escrowed funds to providers; revising the  
10          timeframe in which the Office of Insurance Regulation  
11          must complete its review of an application for  
12          expansion; amending s. 651.026, F.S.; revising  
13          information required to be contained in certain  
14          providers' financial reports in their annual reports;  
15          amending s. 651.033, F.S.; revising the list of  
16          financial institutions in which escrow accounts for  
17          certain providers' funds must be established; revising  
18          a condition under which a provider may hold and not  
19          deposit a resident's check for a specified period;  
20          amending s. 651.034, F.S.; revising the timeframe  
21          during which the office may exempt certain providers  
22          from certain regulatory actions; amending s. 651.035,  
23          F.S.; providing that certain documents relating to a  
24          provider's debt service reserve must require certain  
25          notice to the office before the withdrawal of debt

26 service reserve funds; specifying requirements for the  
27 notice and for certain plans to replenish withdrawn  
28 funds; revising the calculation of minimum liquid  
29 reserve requirements for certain facilities; revising  
30 requirements for letters of credit which satisfy  
31 minimum liquid reserve requirements; revising  
32 circumstances under which a provider may withdraw  
33 funds held in escrow without the office's approval;  
34 amending s. 651.055, F.S.; specifying that a  
35 forfeiture penalty may be deducted from certain  
36 resident refunds, except under certain circumstances;  
37 conforming a provision to changes made by the act;  
38 amending s. 651.081, F.S.; specifying the authority of  
39 residents' councils and the eligibility of persons to  
40 participate in residents' council matters; deleting a  
41 requirement for open meetings of residents' councils;  
42 amending s. 651.083, F.S.; specifying that a resident  
43 has the right to access ombudsman staff; amending s.  
44 651.085, F.S.; requiring residents' councils to  
45 nominate and elect a designated resident  
46 representative to represent them on specified matters;  
47 providing requirements for designated resident  
48 representatives; revising meetings of the full  
49 governing body for which the designated resident  
50 representative must be notified; requiring each

51 facility of certain providers to have its own  
52 designated resident representative; providing duties  
53 for certain designated resident representatives;  
54 amending s. 651.091, F.S.; providing reporting and  
55 notice requirements for continuing care facilities;  
56 providing a disclosure requirement for providers to  
57 prospective residents or their legal representatives;  
58 amending s. 651.105, F.S.; specifying requirements for  
59 the office's examination of providers and applicants  
60 for certificates of authority; deleting a requirement  
61 for a provider's representative to give examination  
62 reports and corrective action plans to the governing  
63 body's executive officer within a certain timeframe;  
64 amending ss. 651.012 and 651.0261, F.S.; conforming  
65 cross-references; providing an effective date.

66  
67 Be It Enacted by the Legislature of the State of Florida:

68  
69 Section 1. Subsections (13) through (26) and subsection  
70 (27) of section 651.011, Florida Statutes, are renumbered as  
71 subsections (14) though (27) and subsection (29), respectively,  
72 and a new subsection (13) and subsection (28) are added to that  
73 section, to read:

74 651.011 Definitions.—As used in this chapter, the term:  
75 (13) "Designated resident representative" means a resident

76 who has been elected by the residents' council to represent  
77 residents on matters related to changes in fees or services as  
78 specified in s. 651.085(2) and (3).

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

83 Section 2. Section 651.012, Florida Statutes, is amended  
84 to read:

85 651.012 Exempted facility; written disclosure of  
86 exemption.—Any facility exempted under s. 632.637(1)(e) or  
87 excluded from the definition of the term "provider" in s.  
88 651.011 ~~ss. 632.637(1)(e) and 651.011(23)~~ must provide written  
89 disclosure of such exemption to each person admitted to the  
90 facility. This disclosure must be written using language likely  
91 to be understood by the person and must briefly explain the  
92 exemption.

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

96 651.0246 Expansions.—

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

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

101 at least the following information:

102 1. A description of the facility and proposed expansion,  
 103 including the location, the size, the anticipated completion  
 104 date, and the proposed construction program.

105 2. An identification and evaluation of the primary and, if  
 106 applicable, secondary market areas of the facility and the  
 107 projected unit sales per month.

108 3. Projected revenues, including anticipated entrance  
 109 fees; monthly service fees; nursing care revenues, if  
 110 applicable; and all other sources of revenue.

111 4. Projected expenses, including for staffing requirements  
 112 and salaries; the cost of property, plant, and equipment,  
 113 including depreciation expense; interest expense; marketing  
 114 expense; and other operating expenses.

115 5. A projected balance sheet of the applicant.

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

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

121 8. Project costs; the total amount of debt financing  
 122 required; marketing projections; resident rates, fees, and  
 123 charges; the competition; resident contract provisions; and  
 124 other factors that affect the feasibility of the facility.

125 9. Appropriate population projections, including morbidity

126 and mortality assumptions.

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

130 11. Financial forecasts or projections prepared in  
 131 accordance with standards adopted by the American Institute of  
 132 Certified Public Accountants or in accordance with standards for  
 133 feasibility studies for continuing care retirement communities  
 134 adopted by the Actuarial Standards Board.

135 12. An independent evaluation and examination opinion for  
 136 the first 5 years of operations, or a comparable opinion  
 137 acceptable to the office, by the certified public accountant  
 138 ~~consultant~~ who prepared the study, of the underlying assumptions  
 139 used as a basis for the forecasts or projections in the study  
 140 and that the assumptions are reasonable and proper and the  
 141 project as proposed is feasible.

142 13. Any other information that the provider deems relevant  
 143 and appropriate to provide to enable the office to make a more  
 144 informed determination.

145  
 146 If any material change occurs in the facts set forth in an  
 147 application filed with the office pursuant to this section, an  
 148 amendment setting forth such change must be filed with the  
 149 office within 10 business days after the applicant becomes aware  
 150 of such change, and a copy of the amendment must be sent by

151 registered mail to the principal office of the facility and to  
152 the principal office of the controlling company.

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

158 (b) Payment in full has been received for at least 50  
159 percent of the total units of a phase or of the total of the  
160 combined phases constructed; or a provider has collected a  
161 reservation deposit for at least 75 percent of the proposed  
162 units for which an entrance fee is to be charged, and the  
163 escrowed funds will be used for the sole purpose of paying  
164 secured indebtedness as specified in the feasibility study  
165 submitted pursuant to paragraph (2) (a). The minimum reservation  
166 deposit must be the lesser of \$40,000 or 10 percent of the then-  
167 current entrance fee for the unit being reserved. If the  
168 expansion is to be completed in multiple phases, the 75 percent  
169 reservation requirement applies separately to each phase of the  
170 expansion. If a provider offering continuing care at-home is  
171 applying for a release of escrowed entrance fees, the same  
172 minimum requirement must be met for the continuing care and  
173 continuing care at-home contracts independently of each other.

174  
175 Notwithstanding chapter 120, only the provider, the escrow

176 agent, and the office have a substantial interest in any office  
 177 decision regarding release of escrow funds in any proceedings  
 178 under chapter 120 or this chapter.

179 (6) Within 30 ~~45~~ days after the date on which an  
 180 application is deemed complete as provided in paragraph (5)(b),  
 181 the office shall complete its review and, based upon its review,  
 182 approve an expansion by the applicant and issue a determination  
 183 that the application meets all requirements of law, that the  
 184 feasibility study was based on sufficient data and reasonable  
 185 assumptions, and that the applicant will be able to provide  
 186 continuing care or continuing care at-home as proposed and meet  
 187 all financial and contractual obligations related to its  
 188 operations, including the financial requirements of this  
 189 chapter. If the application is denied, the office must notify  
 190 the applicant in writing, citing the specific failures to meet  
 191 the requirements of this chapter. The denial entitles the  
 192 applicant to a hearing pursuant to chapter 120.

193 Section 4. Paragraph (b) of subsection (2) of section  
 194 651.026, Florida Statutes, is amended to read:

195 651.026 Annual reports.—

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

198 (b) A financial report audited by an independent certified  
 199 public accountant which must contain, for two or more periods if  
 200 the facility has been in existence that long, all of the



201 following:

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

204 a. A balance sheet;

205 b. A statement of income and expenses;

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

207 d. A statement of changes in cash flows.

208 2. Notes to the financial report considered customary or  
 209 necessary for full disclosure or adequate understanding of the  
 210 financial report, financial condition, and operation.

211 3. If the provider's financial statements are consolidated  
 212 or combined in accordance with generally accepted accounting  
 213 principles with the financial statements of additional entities  
 214 owned or controlled by the provider, as supplemental information  
 215 a separate balance sheet, statement of income and expenses,  
 216 statement of equity or fund balances, and statement of changes  
 217 in cash flows for the individual provider and each additional  
 218 entity included in the consolidated or combined financial  
 219 report.

220 4. If the provider is a member of an obligated group, the  
 221 obligated group's audited financial statements if they contain  
 222 as supplemental information a separate balance sheet, statement  
 223 of income and expenses, statement of equity or fund balances,  
 224 and statement of changes in cash flows for the individual  
 225 provider and other members of the obligated group.

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

228 651.0261 Quarterly and monthly statements.—

229 (1) Within 45 days after the end of each fiscal quarter,  
 230 each provider shall file a quarterly unaudited financial  
 231 statement of the provider or of the facility in the form  
 232 prescribed by commission rule and days cash on hand, occupancy,  
 233 debt service coverage ratio, and a detailed listing of the  
 234 assets maintained in the liquid reserve as required under s.  
 235 651.035. The last quarterly statement for a fiscal year is not  
 236 required if a provider does not have pending a regulatory action  
 237 level event, impairment, or a corrective action plan. If a  
 238 provider falls below two or more of the thresholds set forth in  
 239 s. 651.011(26) ~~s. 651.011(25)~~ at the end of any fiscal quarter,  
 240 the provider shall submit to the office, at the same time as the  
 241 quarterly statement, an explanation of the circumstances and a  
 242 description of the actions it will take to meet the  
 243 requirements.

244 Section 6. Paragraph (a) of subsection (1) and paragraph  
 245 (c) of subsection (3) of section 651.033, Florida Statutes, are  
 246 amended, and paragraph (a) of subsection (3) of that section is  
 247 republished, to read:

248 651.033 Escrow accounts.—

249 (1) When funds are required to be deposited in an escrow  
 250 account pursuant to s. 651.0215, s. 651.022, s. 651.023, s.

251 651.0246, s. 651.035, or s. 651.055:

252 (a) The escrow account must be established in a Florida  
253 state-chartered bank, ~~Florida savings bank and loan association,~~  
254 or Florida trust company, or a federal savings or thrift  
255 association, bank, savings bank, or trust company ~~national bank~~  
256 ~~that is chartered and supervised by the Office of the~~  
257 ~~Comptroller of the Currency within the United States Department~~  
258 ~~of the Treasury and that has a branch in this state,~~ which is  
259 acceptable to the office, or such funds must be deposited with  
260 the department and be kept and maintained in an account separate  
261 and apart from the provider's business accounts.

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

265 (a) The provider shall deliver to the resident a written  
266 receipt. The receipt must show the payor's name and address, the  
267 date, the price of the care contract, and the amount of money  
268 paid. A copy of each receipt, together with the funds, must be  
269 deposited with the escrow agent or as provided in paragraph (c).  
270 The escrow agent must release such funds to the provider 7 days  
271 after the date of receipt of the funds by the escrow agent if  
272 the provider, operating under a certificate of authority issued  
273 by the office, has met the requirements of s. 651.0215(8), s.  
274 651.023(6), or s. 651.0246. However, if the resident rescinds  
275 the contract within the 7-day period, the escrow agent must

276 | release the escrowed fees to the resident.

277 |       (c) As an alternative to paragraph (a) ~~At the request of~~  
 278 | ~~an individual resident of a facility~~, the provider may hold the  
 279 | check for the 7-day period and may not deposit it during this  
 280 | time period. If the resident rescinds the contract within the 7-  
 281 | day period, the check must be immediately returned to the  
 282 | resident. Upon the expiration of the 7 days, the provider shall  
 283 | deposit the check.

284 |       Section 7. Subsection (6) of section 651.034, Florida  
 285 | Statutes, is amended to read:

286 |       651.034 Financial and operating requirements for  
 287 | providers.—

288 |       (6) The office may exempt a provider from subsection (1)  
 289 | or subsection (2) until stabilized occupancy is reached or until  
 290 | the time projected to achieve stabilized occupancy as reported  
 291 | in the last feasibility study required by the office as part of  
 292 | an application filing under s. 651.0215, s. 651.023, s. 651.024,  
 293 | or s. 651.0246 has elapsed, but for no longer than 5 years  
 294 | following the end of the provider's fiscal year in which ~~after~~  
 295 | ~~the date of issuance of the certificate of occupancy~~ was issued.

296 |       Section 8. Paragraph (b) of subsection (1), paragraph (a)  
 297 | of subsection (2), subsection (5), and paragraph (a) of  
 298 | subsection (7) of section 651.035, Florida Statutes, are amended  
 299 | to read:

300 |       651.035 Minimum liquid reserve requirements.—

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

303 (b) A provider that has outstanding indebtedness that  
 304 requires a debt service reserve to be held in escrow pursuant to  
 305 a trust indenture or mortgage lien on the facility and for which  
 306 the debt service reserve may only be used to pay principal and  
 307 interest payments on the debt that the debtor is obligated to  
 308 pay, and which may include property taxes and insurance, may  
 309 include such debt service reserve in computing the minimum  
 310 liquid reserve needed to satisfy this subsection if the provider  
 311 furnishes to the office a copy of the agreement under which such  
 312 debt service reserve is held, together with a statement of the  
 313 amount being held in escrow for the debt service reserve,  
 314 certified by the lender or trustee and the provider to be  
 315 correct. The trustee shall provide the office with any  
 316 information concerning the debt service reserve account upon  
 317 request of the provider or the office. In addition, the trust  
 318 indenture, loan agreement, or escrow agreement must provide that  
 319 the provider, trustee, lender, escrow agent, or a person  
 320 designated to act in its place shall notify the office in  
 321 writing at least 10 days before the withdrawal of any portion of  
 322 the debt service reserve funds required to be held in escrow as  
 323 described in this paragraph. The notice must include an  
 324 affidavit sworn to by the provider, the trustee, or a person  
 325 designated to act in its place which includes the amount of the

326 scheduled debt service payment, the payment due date, the amount  
327 of the withdrawal, the accounts from which the withdrawal will  
328 be made, and a plan with a schedule for replenishing the  
329 withdrawn funds. If the plan is revised by a consultant that is  
330 retained as prescribed in the provider's financing documents,  
331 the revised plan must be submitted to the office within 10 days  
332 after the approval by the lender or trustee. Any such separate  
333 debt service reserves are not subject to the transfer provisions  
334 set forth in subsection (8).

335 (2)(a) In facilities where not all residents are under  
336 continuing care or continuing care at-home contracts, the  
337 reserve requirements of subsection (1) shall be computed only  
338 with respect to the proportional share of operating expenses  
339 that are applicable to residents. For purposes of this  
340 calculation, the proportional share shall be based upon the  
341 ratio of residents under continuing care or continuing care at-  
342 home contracts to the total of all residents, including those  
343 residents who do not hold such contracts.

344 (5) A provider may satisfy the minimum liquid reserve  
345 requirements of this section by acquiring from a financial  
346 institution, as specified in paragraph (b), a clean,  
347 unconditional irrevocable letter of credit equal to the  
348 requirements of this section, less the amount of escrowed  
349 operating cash required in paragraph (d).

350 (a) The letter of credit must be issued by a financial

351 institution participating in the State of Florida Treasury  
352 Certificate of Deposit Program; a Florida state-chartered bank,  
353 savings bank, or trust company; or a federal savings or thrift  
354 association, bank, savings bank, or trust company, and must be  
355 approved by the office before issuance and before any renewal or  
356 modification thereof. At a minimum, the letter of credit must  
357 provide for:

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

361 2. Unless otherwise arranged by the provider to the  
362 satisfaction of the office, deposit by the financial institution  
363 of letter of credit funds in an account designated by the office  
364 no later than 30 days before the expiration of the letter of  
365 credit.

366 3. Deposit by the financial institution of letter of  
367 credit funds in an account designated by the office within 4  
368 business days following written instructions from the office  
369 that, in the sole judgment of the office, funding of the minimum  
370 liquid reserve is required.

371 (b) The terms of the letter of credit must be approved by  
372 the office and the long-term debt of the financial institution  
373 providing such letter of credit must be rated in one of their  
374 top three long-term debt rating categories by either Moody's  
375 Investors Service, Standard & Poor's Corporation, or a

376 recognized securities rating agency acceptable to the office.

377 (c) The letter of credit must name the office as  
378 beneficiary.

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

384 (e) If the issuing financial institution no longer  
385 participates in the State of Florida Treasury Certificate of  
386 Deposit Program, such financial institution shall deposit as  
387 collateral with the department eligible securities, as  
388 prescribed by s. 625.52, having a market value equal to or  
389 greater than 100 percent of the stated amount of the letter of  
390 credit.

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

393 1. The amount held in escrow exceeds the requirements of  
394 this section and if the withdrawal will not affect compliance  
395 with this section; or

396 2. The withdrawal is from a debt service reserve required  
397 to be held in escrow pursuant to a trust indenture or mortgage  
398 lien on the facility as described in paragraph (1)(b) and will  
399 be used to pay principal or interest payments, which may include  
400 property taxes and insurance, that the debtor is obligated to



401 pay when sufficient funds are not available on the next  
 402 principal or interest payment due date.

403  
 404 The notice specified in paragraph (1) (b) must be sent to the  
 405 office 10 days before debt service reserve funds may be  
 406 withdrawn without prior approval.

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

409 651.055 Continuing care contracts; right to rescind.—

410 (2) A resident has the right to rescind a continuing care  
 411 contract and receive a full refund of any funds paid, without  
 412 penalty or forfeiture, within 7 days after executing the  
 413 contract. However, if an individual signs a reservation contract  
 414 pursuant to s. 651.023(4) and fails to cancel such contract  
 415 within 30 days after executing the contract and subsequently  
 416 signs a residency contract pursuant to this section and rescinds  
 417 the contract within 7 days, the forfeiture penalty authorized  
 418 under s. 651.023(4) may be deducted from the refund unless there  
 419 is evidence of extenuating circumstances such as, but not  
 420 limited to, the death, illness, or diagnosis of a chronic or  
 421 terminal illness of the individual or the individual's spouse or  
 422 partner or a change in financial or asset position which  
 423 warrants cancellation of the contract. A resident may not be  
 424 required to move into the facility designated in the contract  
 425 before the expiration of the 7-day period. During the 7-day

426 | period, the resident's funds must be held in an escrow account,  
 427 | or the provider may hold the check until the 7-day period  
 428 | expires unless otherwise requested by the resident pursuant to  
 429 | s. 651.033(3)(c).

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

432 | 651.081 Residents' council.—

433 | (2)(a) Each facility shall establish a residents' council  
 434 | created for the purpose of representing residents on matters set  
 435 | forth in s. 651.085. A residents' council has the authority to  
 436 | establish and maintain its own governance documents such as  
 437 | bylaws, operating agreements, policies, and operating  
 438 | procedures, which may include establishment of committees.  
 439 | Residents, as defined in s. 651.011, have the right to  
 440 | participate in resident council matters, including elections.

441 | The residents' council shall be established through an election  
 442 | in which the residents, as defined in s. 651.011, vote by  
 443 | ballot, physically or by proxy. If the election is to be held  
 444 | during a meeting, a notice of the organizational meeting must be  
 445 | provided to all residents of the community at least 10 business  
 446 | days before the meeting. Notice may be given through internal  
 447 | mailboxes, communitywide newsletters, bulletin boards, in-house  
 448 | television stations, and other similar means of communication.  
 449 | An election creating a residents' council is valid if at least  
 450 | 40 percent of the total resident population participates in the

451 election and a majority of the participants vote affirmatively  
 452 for the council. The initial residents' council created under  
 453 this section is valid for at least 12 months. A residents'  
 454 organization formalized by bylaws and elected officials must be  
 455 recognized as the residents' council under this section and s.  
 456 651.085. Within 30 days after the election of a newly elected  
 457 president or chair of the residents' council, the provider shall  
 458 give the president or chair a copy of this chapter and rules  
 459 adopted thereunder, or direct him or her to the appropriate  
 460 public website to obtain this information. Only one residents'  
 461 council may represent residents before the governing body of the  
 462 provider as described in s. 651.085(2).

463 (d) A residents' council's ~~council shall adopt its own~~  
 464 ~~bylaws and governance documents subject to the vote and approval~~  
 465 ~~of the residents. The residents' council shall provide for open~~  
 466 ~~meetings when appropriate. The governing documents shall define~~  
 467 the manner in which residents may submit an issue to the council  
 468 and define a reasonable timeframe in which the residents'  
 469 council shall respond to a resident submission or inquiry. The ~~A~~  
 470 residents' council may include term limits in its governing  
 471 documents to ensure consistent integration of new leaders. If a  
 472 licensed facility files for bankruptcy under chapter 11 of the  
 473 United States Bankruptcy Code, 11 U.S.C. chapter 11, the  
 474 facility, in its required filing of the 20 largest unsecured  
 475 creditors with the United States Trustee, shall include the name

476 and contact information of a designated resident selected by the  
477 residents' council, and a statement explaining that the  
478 designated resident was chosen by the residents' council to  
479 serve as a representative of the residents' interest on the  
480 creditors' committee, if appropriate.

481 Section 11. Paragraph (f) of subsection (1) of section  
482 651.083, Florida Statutes, is amended to read:

483 651.083 Residents' rights.—

484 (1) No resident of any facility shall be deprived of any  
485 civil or legal rights, benefits, or privileges guaranteed by  
486 law, by the State Constitution, or by the United States  
487 Constitution solely by reason of status as a resident of a  
488 facility. Each resident of a facility has the right to:

489 (f) Present grievances and recommend changes in policies,  
490 procedures, and services to the staff of the facility, governing  
491 officials, or any other person without restraint, interference,  
492 coercion, discrimination, or reprisal. This right includes  
493 access to ombudsman volunteers and staff and advocates and the  
494 right to be a member of, and active in, and to associate with,  
495 advocacy or special interest groups or associations.

496 Section 12. Subsections (2), (3), and (5) of section  
497 651.085, Florida Statutes, are amended to read:

498 651.085 Quarterly meetings between residents and the  
499 governing body of the provider; resident representation before  
500 the governing body of the provider.—

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

511 (3) The designated resident representative shall be  
512 notified by a representative of the provider at least 14 days in  
513 advance of any meeting of the full governing body at which the  
514 annual budget and proposed changes or increases in resident fees  
515 or services are on the agenda or will be discussed. The  
516 designated resident representative shall be invited to attend  
517 and participate in that portion of the meeting designated for  
518 the discussion of such changes. Designated resident  
519 representatives shall perform their duties in good faith. For  
520 providers that own or operate more than one facility in the  
521 state, each facility must have its own designated resident  
522 representative.

523 (5) The board of directors or governing board of a  
524 licensed provider may at its sole discretion allow a resident of  
525 the facility to be a voting member of the board or governing

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

540 Section 13. Paragraphs (e) through (k) and paragraph (l)  
 541 of subsection (2) of section 651.091, Florida Statutes, are  
 542 redesignated as paragraphs (f) through (l) and paragraph (n),  
 543 respectively, paragraph (d) of subsection (3) is amended, and  
 544 new paragraphs (e) and (m) are added to subsection (2) and  
 545 paragraph (m) is added to subsection (3) of that section, to  
 546 read:

547 651.091 Availability, distribution, and posting of reports  
 548 and records; requirement of full disclosure.—

549 (2) Every continuing care facility shall:

550 (e) Provide a copy of the final examination report and

551 corrective action plan, if one is required by the office, to the  
552 executive officer of the provider's board or governing body and  
553 to the president or chair of the residents' council within 60  
554 days after issuance of the report.

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

558 (3) Before entering into a contract to furnish continuing  
559 care or continuing care at-home, the provider undertaking to  
560 furnish the care, or the agent of the provider, shall make full  
561 disclosure, obtain written acknowledgment of receipt, and  
562 provide copies of the disclosure documents to the prospective  
563 resident or his or her legal representative, of the following  
564 information:

565 (d) In keeping with the intent of this subsection relating  
566 to disclosure, the provider shall make available for review  
567 master plans approved by the provider's board or governing body  
568 ~~board~~ and any plans for expansion or phased development, to the  
569 extent that the availability of such plans does not put at risk  
570 real estate, financing, acquisition, negotiations, or other  
571 implementation of operational plans and thus jeopardize the  
572 success of negotiations, operations, and development.

573 (m) Disclosure of whether the provider has one or more  
574 residents serving on its board or governing body and whether  
575 that resident has a vote or is serving in a nonvoting, ex

576 officio capacity.

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

580 651.105 Examination.—

581 (1) The office may at any time, and shall at least once  
 582 every 3 years, examine the business of any applicant for a  
 583 certificate of authority and any provider engaged in the  
 584 execution of care contracts or engaged in the performance of  
 585 obligations under such contracts, in the same manner as is  
 586 provided for the examination of insurance companies pursuant to  
 587 ss. 624.316 and 624.318. For a provider as deemed accredited  
 588 under s. 651.028, such examinations must take place at least  
 589 once every 5 years. An examination covering the preceding 3 or 5  
 590 fiscal years of the provider, as applicable, must be commenced  
 591 within 12 months after the end of the most recent fiscal year  
 592 covered by the examination. Such examination may include events  
 593 subsequent to the end of the most recent fiscal year and the  
 594 events of any prior period which relate to possible violations  
 595 of this chapter or which affect the present financial condition  
 596 of the provider. At least once every 3 or 5 fiscal years, as  
 597 applicable, the office shall conduct an interview in person,  
 598 telephonically, or through electronic communication with the  
 599 current president or chair of the residents' council, or another  
 600 designated officer of the council if the president or chair is



601 not available, as part of the examination process. The ~~Such~~  
602 examinations must be made by a representative or examiner  
603 designated by the office whose compensation will be fixed by the  
604 office pursuant to s. 624.320. Routine examinations may be made  
605 by having the necessary documents submitted to the office; and,  
606 for this purpose, financial documents and records conforming to  
607 commonly accepted accounting principles and practices, as  
608 required under s. 651.026, are deemed adequate. The final  
609 written report of each examination must be filed with the office  
610 and, when so filed, constitutes a public record. Any provider  
611 being examined shall, upon request, give reasonable and timely  
612 access to all of its records. The representative or examiner  
613 designated by the office may at any time examine the records and  
614 affairs and inspect the physical property of any provider,  
615 whether in connection with a formal examination or not.

616 ~~(6) A representative of the provider must give a copy of~~  
617 ~~the final examination report and corrective action plan, if one~~  
618 ~~is required by the office, to the executive officer of the~~  
619 ~~governing body of the provider within 60 days after issuance of~~  
620 ~~the report.~~

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