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1
 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

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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 27 notice and for certain plans to replenish withdrawn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

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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

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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

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- 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

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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

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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

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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

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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.

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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.

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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

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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.—

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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

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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

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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

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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

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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

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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

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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

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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.—

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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

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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

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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

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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

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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.