



140214

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2023	.	
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The Committee on Banking and Insurance (Yarborough) recommended the following:

1           **Senate Substitute for Amendment (528586) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Present subsections (13) through (26) and (27)  
7 of section 651.011, Florida Statutes, are redesignated as  
8 subsections (14) through (27) and (29), respectively, and new  
9 subsection (13) and subsection (28) are added to that section,



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10 to read:

11 651.011 Definitions.—As used in this chapter, the term:

12 (13) "Designated resident representative" means a resident  
13 elected by the residents' council to represent residents on  
14 matters related to changes in fees or services as specified in  
15 s. 651.085(2) and (3).

16 (28) "Residents' council" means an organized body  
17 representing the resident population of a certified facility. A  
18 residents' council shall serve as a liaison between residents  
19 and the appropriate representative of the provider.

20 Section 2. Paragraph (a) of subsection (2), paragraph (b)  
21 of subsection (4), and subsection (6) of section 651.0246,  
22 Florida Statutes, are amended to read:

23 651.0246 Expansions.—

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

26 (a) A feasibility study prepared by an independent  
27 certified public accountant. The feasibility study must include  
28 at least the following information:

29 1. A description of the facility and proposed expansion,  
30 including the location, the size, the anticipated completion  
31 date, and the proposed construction program.

32 2. An identification and evaluation of the primary and, if  
33 applicable, secondary market areas of the facility and the  
34 projected unit sales per month.

35 3. Projected revenues, including anticipated entrance fees;  
36 monthly service fees; nursing care revenues, if applicable; and  
37 all other sources of revenue.

38 4. Projected expenses, including for staffing requirements



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39 and salaries; the cost of property, plant, and equipment,  
40 including depreciation expense; interest expense; marketing  
41 expense; and other operating expenses.

42 5. A projected balance sheet of the applicant.

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

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

48 8. Project costs; the total amount of debt financing  
49 required; marketing projections; resident rates, fees, and  
50 charges; the competition; resident contract provisions; and  
51 other factors that affect the feasibility of the facility.

52 9. Appropriate population projections, including morbidity  
53 and mortality assumptions.

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

57 11. Financial forecasts or projections prepared in  
58 accordance with standards adopted by the American Institute of  
59 Certified Public Accountants or in accordance with standards for  
60 feasibility studies for continuing care retirement communities  
61 adopted by the Actuarial Standards Board.

62 12. An independent evaluation and examination opinion for  
63 the first 5 years of operations, or a comparable opinion  
64 acceptable to the office, by the certified public accountant  
65 ~~consultant~~ who prepared the study, of the underlying assumptions  
66 used as a basis for the forecasts or projections in the study  
67 and that the assumptions are reasonable and proper and the



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68 project as proposed is feasible.

69 13. Any other information that the provider deems relevant  
70 and appropriate to provide to enable the office to make a more  
71 informed determination.

72

73 If any material change occurs in the facts set forth in an  
74 application filed with the office pursuant to this section, an  
75 amendment setting forth such change must be filed with the  
76 office within 10 business days after the applicant becomes aware  
77 of such change, and a copy of the amendment must be sent by  
78 registered mail to the principal office of the facility and to  
79 the principal office of the controlling company.

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

85 (b) Payment in full has been received for at least 50  
86 percent of the total units of a phase or of the total of the  
87 combined phases constructed; or a provider has collected a  
88 reservation deposit for at least 75 percent of the proposed  
89 units for which an entrance fee is to be charged and the  
90 escrowed funds will be used for the sole purpose of paying  
91 secured indebtedness as specified in the feasibility study  
92 submitted pursuant to paragraph (2) (a). The minimum reservation  
93 deposit must be the lesser of \$40,000 or 10 percent of the then-  
94 current entrance fee for the unit being reserved. If the  
95 expansion is to be completed in multiple phases, the 75 percent  
96 reservation requirement applies separately to each phase of the



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97 expansion. If a provider offering continuing care at-home is  
98 applying for a release of escrowed entrance fees, the same  
99 minimum requirement must be met for the continuing care and  
100 continuing care at-home contracts independently of each other.  
101

102 Notwithstanding chapter 120, only the provider, the escrow  
103 agent, and the office have a substantial interest in any office  
104 decision regarding release of escrow funds in any proceedings  
105 under chapter 120 or this chapter.

106 (6) Within 30 ~~45~~ days after the date on which an  
107 application is deemed complete as provided in paragraph (5) (b),  
108 the office shall complete its review and, based upon its review,  
109 approve an expansion by the applicant and issue a determination  
110 that the application meets all requirements of law, that the  
111 feasibility study was based on sufficient data and reasonable  
112 assumptions, and that the applicant will be able to provide  
113 continuing care or continuing care at-home as proposed and meet  
114 all financial and contractual obligations related to its  
115 operations, including the financial requirements of this  
116 chapter. If the application is denied, the office must notify  
117 the applicant in writing, citing the specific failures to meet  
118 the requirements of this chapter. The denial entitles the  
119 applicant to a hearing pursuant to chapter 120.

120 Section 3. Paragraph (b) of subsection (2) of section  
121 651.026, Florida Statutes, is amended to read:

122 651.026 Annual reports.—

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

125 (b) A financial report audited by an independent certified



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126 public accountant which must contain, for two or more periods if  
127 the facility has been in existence that long, all of the  
128 following:

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

- 131 a. A balance sheet;
- 132 b. A statement of income and expenses;
- 133 c. A statement of equity or fund balances; and
- 134 d. A statement of changes in cash flows.

135 2. Notes to the financial report considered customary or  
136 necessary for full disclosure or adequate understanding of the  
137 financial report, financial condition, and operation.

138 3. If the provider's financial statements are consolidated  
139 or combined in accordance with generally accepted accounting  
140 principles with the financial statements of additional entities  
141 owned or controlled by the provider, the financial report must  
142 include as supplemental information a separate balance sheet,  
143 statement of income and expenses, statement of equity or fund  
144 balances, and statement of changes in cash flows for the  
145 individual provider and each additional entity comprising the  
146 consolidated or combined financial report.

147 4. If the provider is a member of an obligated group, the  
148 provider may use the obligated group's audited financial  
149 statements if they contain as supplemental information a  
150 separate balance sheet, statement of income and expenses,  
151 statement of equity or fund balances, and statement of changes  
152 in cash flows for the individual provider and other members of  
153 the obligated group.

154 Section 4. Paragraph (a) of subsection (1) and paragraph



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155 (c) of subsection (3) of section 651.033, Florida Statutes, are  
156 amended, and paragraph (a) of subsection (3) of that section is  
157 republished, to read:

158 651.033 Escrow accounts.—

159 (1) When funds are required to be deposited in an escrow  
160 account pursuant to s. 651.0215, s. 651.022, s. 651.023, s.  
161 651.0246, s. 651.035, or s. 651.055:

162 (a) The escrow account must be established in a Florida  
163 state-chartered bank, Florida savings bank and loan association,  
164 or Florida trust company, or a federal savings or thrift  
165 association, bank, savings bank, or trust company national bank  
166 that is chartered and supervised by the Office of the  
167 Comptroller of the Currency within the United States Department  
168 of the Treasury and that has a branch in this state, which is  
169 acceptable to the office, or such funds must be deposited with  
170 the department and be kept and maintained in an account separate  
171 and apart from the provider's business accounts.

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

175 (a) The provider shall deliver to the resident a written  
176 receipt. The receipt must show the payor's name and address, the  
177 date, the price of the care contract, and the amount of money  
178 paid. A copy of each receipt, together with the funds, must be  
179 deposited with the escrow agent or as provided in paragraph (c).  
180 The escrow agent must release such funds to the provider 7 days  
181 after the date of receipt of the funds by the escrow agent if  
182 the provider, operating under a certificate of authority issued  
183 by the office, has met the requirements of s. 651.0215(8), s.



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184 651.023(6), or s. 651.0246. However, if the resident rescinds  
185 the contract within the 7-day period, the escrow agent must  
186 release the escrowed fees to the resident.

187 (c) As an alternative to paragraph (a) ~~At the request of an~~  
188 ~~individual resident of a facility~~, the provider may hold the  
189 check for the 7-day period and may not deposit it during this  
190 time period. If the resident rescinds the contract within the 7-  
191 day period, the check must be immediately returned to the  
192 resident. Upon the expiration of the 7 days, the provider shall  
193 deposit the check.

194 Section 5. Subsection (6) of section 651.034, Florida  
195 Statutes, is amended to read:

196 651.034 Financial and operating requirements for  
197 providers.—

198 (6) The office may exempt a provider from subsection (1) or  
199 subsection (2) until stabilized occupancy is reached or until  
200 the time projected to achieve stabilized occupancy as reported  
201 in the last feasibility study required by the office as part of  
202 an application filing under s. 651.0215, s. 651.023, s. 651.024,  
203 or s. 651.0246 has elapsed, but for no longer than 5 years after  
204 the end of the provider's fiscal year in which the certificate  
205 of occupancy was issued ~~date of issuance of the certificate of~~  
206 ~~occupancy~~.

207 Section 6. Paragraph (b) of subsection (1), paragraph (a)  
208 of subsection (2), subsection (5), and paragraph (a) of  
209 subsection (7) of section 651.035, Florida Statutes, are amended  
210 to read:

211 651.035 Minimum liquid reserve requirements.—

212 (1) A provider shall maintain in escrow a minimum liquid





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213 reserve consisting of the following reserves, as applicable:

214 (b) A provider that has outstanding indebtedness that  
215 requires a debt service reserve to be held in escrow pursuant to  
216 a trust indenture or mortgage lien on the facility and for which  
217 the debt service reserve may only be used to pay principal and  
218 interest payments on the debt that the debtor is obligated to  
219 pay, and which may include property taxes and insurance, may  
220 include such debt service reserve in computing the minimum  
221 liquid reserve needed to satisfy this subsection if the provider  
222 furnishes to the office a copy of the agreement under which such  
223 debt service reserve is held, together with a statement of the  
224 amount being held in escrow for the debt service reserve,  
225 certified by the lender or trustee and the provider to be  
226 correct. The trustee shall provide the office with any  
227 information concerning the debt service reserve account upon  
228 request of the provider or the office. In addition, the trust  
229 indenture, loan agreement, or escrow agreement must provide that  
230 the provider, trustee, lender, escrow agent, or another person  
231 designated to act in their place shall notify the office in  
232 writing at least 10 days before the withdrawal of any portion of  
233 the debt service reserve funds required to be held in escrow as  
234 described in this paragraph. The notice must include an  
235 affidavit sworn to by the provider, the trustee, or a person  
236 designated to act in their place which includes the amount of  
237 the scheduled debt service payment, the payment due date, the  
238 amount of the withdrawal, the accounts from which the withdrawal  
239 will be made, and a plan with a schedule for replenishing the  
240 withdrawn funds. If the plan is revised by a consultant that is  
241 retained as prescribed in the provider's financing documents,



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242 the revised plan must be submitted to the office within 10 days  
243 after approval by the lender or trustee. Any such separate debt  
244 service reserves are not subject to the transfer provisions set  
245 forth in subsection (8).

246 (2) (a) In facilities where not all residents are under  
247 continuing care or continuing care at-home contracts, the  
248 reserve requirements of subsection (1) shall be computed only  
249 with respect to the proportional share of operating expenses  
250 that are applicable to residents. For purposes of this  
251 calculation, the proportional share shall be based upon the  
252 ratio of residents under continuing care or continuing care at-  
253 home contracts to the total of all residents, including those  
254 residents who do not hold such contracts.

255 (5) A provider may satisfy the minimum liquid reserve  
256 requirements of this section by acquiring from a financial  
257 institution, as specified in paragraph (b), a clean,  
258 unconditional irrevocable letter of credit equal to the  
259 requirements of this section, less the amount of escrowed  
260 operating cash required by paragraph (d).

261 (a) The letter of credit must be issued by a financial  
262 institution participating in the State of Florida Treasury  
263 Certificate of Deposit Program; a Florida state-chartered bank,  
264 savings bank, or trust company; or a federal savings or thrift  
265 association, bank, savings bank, or trust company, and must be  
266 approved by the office before issuance and before any renewal or  
267 modification thereof. At a minimum, the letter of credit must  
268 provide for:

269 1. Ninety days' prior written notice to both the provider  
270 and the office of the financial institution's determination not



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271 to renew or extend the term of the letter of credit.

272         2. Unless otherwise arranged by the provider to the  
273 satisfaction of the office, deposit by the financial institution  
274 of letter of credit funds in an account designated by the office  
275 no later than 30 days before the expiration of the letter of  
276 credit.

277         3. Deposit by the financial institution of letter of credit  
278 funds in an account designated by the office within 4 business  
279 days following written instructions from the office that, in the  
280 sole judgment of the office, funding of the minimum liquid  
281 reserve is required.

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

288             (c) The letter of credit must name the office as  
289 beneficiary.

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

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



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300 greater than 100 percent of the stated amount of the letter of  
301 credit.

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

304 1. The amount held in escrow exceeds the requirements of  
305 this section and if the withdrawal will not affect compliance  
306 with this section; or

307 2. The withdrawal is from a debt service reserve required  
308 to be held in escrow pursuant to a trust indenture or mortgage  
309 lien on the facility as described in paragraph (1) (b) and will  
310 be used to pay principal or interest payments, which may include  
311 property taxes and insurance, the debtor is obligated to pay  
312 when sufficient funds are not available on the next principal or  
313 interest payment due date.

314  
315 The notice specified in paragraph (1) (b) must be sent to the  
316 office at least 10 days before debt service reserve funds may be  
317 withdrawn without prior approval.

318 Section 7. Subsection (2) of section 651.055, Florida  
319 Statutes, is amended to read:

320 651.055 Continuing care contracts; right to rescind.—

321 (2) A resident has the right to rescind a continuing care  
322 contract and receive a full refund of any funds paid, without  
323 penalty or forfeiture, within 7 days after executing the  
324 contract. However, if an individual signs a reservation  
325 agreement pursuant to s. 651.023(4) and fails to cancel such  
326 agreement within 30 days after executing the agreement and  
327 subsequently signs a residency contract pursuant to this section  
328 and rescinds the contract within 7 days, the forfeiture penalty



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329 authorized under s. 651.023(4)(b) may be deducted from the  
330 refund unless the individual can demonstrate extenuating  
331 circumstances, such as, but not limited to, the death or illness  
332 of a spouse or partner, a diagnosis of a chronic or terminal  
333 illness of the individual, or a change in financial or asset  
334 position which warrants cancellation of the contract. A resident  
335 may not be required to move into the facility designated in the  
336 contract before the expiration of the 7-day period. During the  
337 7-day period, the resident's funds must be held in an escrow  
338 account or the provider may hold the check until the 7-day  
339 period expires unless otherwise requested by the resident  
340 pursuant to s. 651.033(3)(c).

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

343 651.081 Residents' council.—

344 (2)(a) Each facility shall establish a residents' council  
345 created for the purpose of representing residents on matters set  
346 forth in s. 651.085. A residents' council has authority to  
347 establish and maintain its own governance documents, such as  
348 bylaws or operating agreements, policies, and operating  
349 procedures, which may include establishment of committees. A  
350 person is eligible to participate in residents' council matters,  
351 including elections, if the person meets the definition of a  
352 resident under s. 651.011. The residents' council shall be  
353 established through an election in which the residents, as  
354 defined in s. 651.011, vote by ballot, physically or by proxy.  
355 If the election is to be held during a meeting, a notice of the  
356 organizational meeting must be provided to all residents of the  
357 community at least 10 business days before the meeting. Notice



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358 may be given through internal mailboxes, communitywide  
359 newsletters, bulletin boards, in-house television stations, and  
360 other similar means of communication. An election creating a  
361 residents' council is valid if at least 40 percent of the total  
362 resident population participates in the election and a majority  
363 of the participants vote affirmatively for the council. The  
364 initial residents' council created under this section is valid  
365 for at least 12 months. A residents' organization formalized by  
366 bylaws and elected officials must be recognized as the  
367 residents' council under this section and s. 651.085. Within 30  
368 days after the election of a newly elected president or chair of  
369 the residents' council, the provider shall give the president or  
370 chair a copy of this chapter and rules adopted thereunder, or  
371 direct him or her to the appropriate public website to obtain  
372 this information. Only one residents' council may represent  
373 residents before the governing body of the provider as described  
374 in s. 651.085(2).

375 ~~(d) A residents' council shall adopt its own bylaws and~~  
376 ~~governance documents subject to the vote and approval of the~~  
377 ~~residents. The residents' council shall provide for open~~  
378 ~~meetings when appropriate. The residents' council governing~~  
379 documents shall define the manner in which residents may submit  
380 an issue to the council and define a reasonable timeframe in  
381 which the residents' council shall respond to a resident  
382 submission or inquiry. A residents' council may include term  
383 limits in its governing documents to ensure consistent  
384 integration of new leaders. If a licensed facility files for  
385 bankruptcy under chapter 11 of the United States Bankruptcy  
386 Code, 11 U.S.C. chapter 11, the facility, in its required filing



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387 of the 20 largest unsecured creditors with the United States  
388 Trustee, shall include the name and contact information of a  
389 designated resident selected by the residents' council, and a  
390 statement explaining that the designated resident was chosen by  
391 the residents' council to serve as a representative of the  
392 residents' interest on the creditors' committee, if appropriate.

393 Section 9. Paragraph (f) of subsection (1) of section  
394 651.083, Florida Statutes, is amended to read:

395 651.083 Residents' rights.—

396 (1) No resident of any facility shall be deprived of any  
397 civil or legal rights, benefits, or privileges guaranteed by  
398 law, by the State Constitution, or by the United States  
399 Constitution solely by reason of status as a resident of a  
400 facility. Each resident of a facility has the right to:

401 (f) Present grievances and recommend changes in policies,  
402 procedures, and services to the staff of the facility, governing  
403 officials, or any other person without restraint, interference,  
404 coercion, discrimination, or reprisal. This right includes  
405 access to ombudsman volunteers or staff and advocates and the  
406 right to be a member of, and active in, and to associate with,  
407 advocacy or special interest groups or associations.

408 Section 10. Subsections (2), (3), and (5) of section  
409 651.085, Florida Statutes, are amended to read:

410 651.085 Quarterly meetings between residents and the  
411 governing body of the provider; resident representation before  
412 the governing body of the provider.—

413 (2) A residents' council formed pursuant to s. 651.081,  
414 members of which are elected by the residents, shall nominate  
415 and elect ~~designate~~ a designated resident representative to



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416 represent them on matters specified in subsection (3) before the  
417 governing body of the provider. The initial designated resident  
418 representative elected under this section shall be elected to  
419 serve at least 12 months. The designated resident representative  
420 need not be a current member of the residents' council; however,  
421 such individual must meet the definition of a resident under s.  
422 651.011.

423 (3) The designated resident representative shall be  
424 notified by a representative of the provider at least 14 days in  
425 advance of any meeting of the full governing body at which the  
426 annual budget and proposed changes or increases in resident fees  
427 or services are on the agenda or will be discussed. The  
428 designated resident representative shall be invited to attend  
429 and participate in that portion of the meeting designated for  
430 the discussion of such changes. A designated resident  
431 representative shall perform his or her duties in good faith.  
432 For a provider that owns or operates more than one facility in  
433 this state, each facility must have its own designated resident  
434 representative.

435 (5) The board of directors or governing board of a licensed  
436 provider may at its sole discretion allow a resident of the  
437 facility to be a voting member of the board or governing body of  
438 the facility. The board of directors or governing board of a  
439 licensed provider may establish specific criteria for the  
440 nomination, selection, and term of a resident as a member of the  
441 board or governing body. If the board or governing body of a  
442 licensed provider operates more than one licensed facility,  
443 regardless of whether the facility is in-state or out-of-state,  
444 the board or governing body may select at its sole discretion





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445 one resident from among its facilities to serve on the board of  
446 directors or governing body on a rotating basis. A resident who  
447 serves as a member of a board or governing body of the facility  
448 shall perform his or her duties in a fiduciary manner, including  
449 the duty of confidentiality, duty of care, duty of loyalty, and  
450 duty of obedience, as required of any individual serving on the  
451 board or governing body.

452 Section 11. Present paragraphs (e) through (k) and (l) of  
453 subsection (2) of section 651.091, Florida Statutes, are  
454 redesignated as paragraphs (f) through (l) and (n),  
455 respectively, new paragraph (e) and paragraph (m) are added to  
456 that subsection, and paragraph (m) is added to subsection (3) of  
457 that section, to read:

458 651.091 Availability, distribution, and posting of reports  
459 and records; requirement of full disclosure.—

460 (2) Every continuing care facility shall:

461 (e) Provide a copy of the final examination report and  
462 corrective action plan, if one is required by the office, to the  
463 executive officer of the governing body of the provider and the  
464 president or chair of the residents' council within 60 days  
465 after issuance of the report.

466 (m) Notify the president or chair of the residents' council  
467 in writing of a change in management within 10 business days  
468 after the change.

469 (3) Before entering into a contract to furnish continuing  
470 care or continuing care at-home, the provider undertaking to  
471 furnish the care, or the agent of the provider, shall make full  
472 disclosure, obtain written acknowledgment of receipt, and  
473 provide copies of the disclosure documents to the prospective



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474 resident or his or her legal representative, of the following  
475 information:

476 (m) Disclosure of whether the provider has one or more  
477 residents serving on its board or governing body and whether  
478 that individual has a vote or is serving in a nonvoting, ex  
479 officio capacity.

480 Section 12. Subsections (1) and (6) of section 651.105,  
481 Florida Statutes, are amended to read:

482 651.105 Examination.—

483 (1) (a) The office may at any time, and shall at least once  
484 every 3 years, examine the business of any applicant for a  
485 certificate of authority and any provider engaged in the  
486 execution of care contracts or engaged in the performance of  
487 obligations under such contracts, in the same manner as is  
488 provided for the examination of insurance companies pursuant to  
489 ss. 624.316 and 624.318. For a provider as deemed accredited  
490 under s. 651.028, such examinations must take place at least  
491 once every 5 years. An examination covering the preceding 3 or 5  
492 fiscal years of the provider, as applicable, must be commenced  
493 within 12 months after the end of the most recent fiscal year  
494 covered by the examination. Such examination may include events  
495 subsequent to the end of the most recent fiscal year and the  
496 events of any prior period which relate to possible violations  
497 of this chapter or which affect the present financial condition  
498 of the provider. At least once every 3 or 5 fiscal years, as  
499 applicable, the office shall conduct an interview in person,  
500 telephonically, or through electronic communication with the  
501 current president or chair of the residents' council, or another  
502 designated officer of the council if the president or chair is



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503 not available, as part of the examination process.

504       **(b)** Such examinations must be made by a representative or  
505 examiner designated by the office whose compensation will be  
506 fixed by the office pursuant to s. 624.320. Routine examinations  
507 may be made by having the necessary documents submitted to the  
508 office; and, for this purpose, financial documents and records  
509 conforming to commonly accepted accounting principles and  
510 practices, as required under s. 651.026, are deemed adequate.  
511 The final written report of each examination must be filed with  
512 the office and, when so filed, constitutes a public record. Any  
513 provider being examined shall, upon request, give reasonable and  
514 timely access to all of its records. The representative or  
515 examiner designated by the office may at any time examine the  
516 records and affairs and inspect the physical property of any  
517 provider, whether in connection with a formal examination or  
518 not.

519       ~~(6) A representative of the provider must give a copy of~~  
520 ~~the final examination report and corrective action plan, if one~~  
521 ~~is required by the office, to the executive officer of the~~  
522 ~~governing body of the provider within 60 days after issuance of~~  
523 ~~the report.~~

524       Section 13. Section 651.012, Florida Statutes, is amended  
525 to read:

526       651.012 Exempted facility; written disclosure of  
527 exemption.—Any facility exempted under ss. 632.637(1)(e) and  
528 651.011(24) ~~ss. 632.637(1)(e) and 651.011(23)~~ must provide  
529 written disclosure of such exemption to each person admitted to  
530 the facility. This disclosure must be written using language  
531 likely to be understood by the person and must briefly explain



532 the exemption.

533 Section 14. Subsection (1) of section 651.0261, Florida  
534 Statutes, is amended to read:

535 651.0261 Quarterly and monthly statements.—

536 (1) Within 45 days after the end of each fiscal quarter,  
537 each provider shall file a quarterly unaudited financial  
538 statement of the provider or of the facility in the form  
539 prescribed by commission rule and days cash on hand, occupancy,  
540 debt service coverage ratio, and a detailed listing of the  
541 assets maintained in the liquid reserve as required under s.  
542 651.035. The last quarterly statement for a fiscal year is not  
543 required if a provider does not have pending a regulatory action  
544 level event, impairment, or a corrective action plan. If a  
545 provider falls below two or more of the thresholds set forth in  
546 s. 651.011(26) ~~s. 651.011(25)~~ at the end of any fiscal quarter,  
547 the provider shall submit to the office, at the same time as the  
548 quarterly statement, an explanation of the circumstances and a  
549 description of the actions it will take to meet the  
550 requirements.

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

552  
553 ===== T I T L E A M E N D M E N T =====

554 And the title is amended as follows:

555 Delete everything before the enacting clause  
556 and insert:

557 A bill to be entitled  
558 An act relating to continuing care contracts; amending  
559 s. 651.011, F.S.; defining the terms "designated  
560 resident representative" and "residents' council";



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561 amending s. 651.0246, F.S.; revising a requirement for  
562 specified information that must be submitted by a  
563 provider applying for expansion of a certificated  
564 continuing care facility; revising a condition for the  
565 release of certain escrowed funds to providers;  
566 revising the timeframe in which the Office of  
567 Insurance Regulation must complete its review of an  
568 application for expansion; amending s. 651.026, F.S.;  
569 revising information required to be contained in  
570 certain providers' financial reports in their annual  
571 reports; amending s. 651.033, F.S.; revising financial  
572 institutions in which escrow accounts must be  
573 established; revising a condition under which a  
574 provider may hold and not deposit a resident's check  
575 for a specified period; amending s. 651.034, F.S.;  
576 revising the timeframe during which the office may  
577 exempt certain providers from certain regulatory  
578 actions; amending s. 651.035, F.S.; providing that  
579 certain documents relating to a provider's debt  
580 service reserve must require certain notice to the  
581 office before the withdrawal of debt service reserve  
582 funds; specifying requirements for the notice and for  
583 certain plans to replenish withdrawn funds; revising  
584 the calculation of minimum liquid reserve requirements  
585 for certain facilities; revising requirements for  
586 letters of credit which satisfy minimum liquid reserve  
587 requirements; revising circumstances under which a  
588 provider may withdraw funds held in escrow without the  
589 office's approval; making a technical change; amending



590 s. 651.055, F.S.; specifying that a forfeiture penalty  
591 may be deducted from certain resident refunds except  
592 under certain circumstances; conforming a provision to  
593 changes made by the act; amending s. 651.081, F.S.;  
594 specifying the authority of residents' councils and  
595 the eligibility of persons to participate in  
596 residents' council matters; deleting a requirement for  
597 open meetings of residents' councils; amending s.  
598 651.083, F.S.; specifying that a resident has the  
599 right to access ombudsman staff; amending s. 651.085,  
600 F.S.; requiring residents' councils to nominate and  
601 elect a designated resident representative to  
602 represent them on specified matters; providing  
603 requirements for designated resident representatives;  
604 revising meetings of the full governing body for which  
605 the designated resident representative must be  
606 notified; requiring each facility of certain providers  
607 to have its own designated resident representative;  
608 providing a requirement for certain designated  
609 resident representatives; amending s. 651.091, F.S.;  
610 adding reporting and notice requirements for  
611 continuing care facilities; adding a disclosure  
612 requirement for providers to prospective residents or  
613 their legal representatives; amending s. 651.105,  
614 F.S.; specifying requirements for the office's  
615 examination of providers and applicants for  
616 certificates of authority; deleting a requirement for  
617 a provider's representative to give examination  
618 reports and corrective action plans to the governing



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body's executive officer within a certain timeframe;  
amending ss. 651.012 and 651.0261, F.S.; conforming  
cross-references; providing an effective date.