

By the Committee on Banking and Insurance; and Senator Yarborough

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1                                   A bill to be entitled  
2       An act relating to continuing care contracts; amending  
3       s. 651.011, F.S.; defining the terms "designated  
4       resident representative" and "residents' council";  
5       amending s. 651.0246, F.S.; revising a requirement for  
6       specified information that must be submitted by a  
7       provider applying for expansion of a certificated  
8       continuing care facility; revising a condition for the  
9       release of certain escrowed funds to providers;  
10      revising the timeframe in which the Office of  
11      Insurance Regulation must complete its review of an  
12      application for expansion; amending s. 651.026, F.S.;  
13      revising information required to be contained in  
14      certain providers' financial reports in their annual  
15      reports; amending s. 651.033, F.S.; revising financial  
16      institutions in which escrow accounts must be  
17      established; revising a condition under which a  
18      provider may hold and not deposit a resident's check  
19      for a specified period; amending s. 651.034, F.S.;  
20      revising the timeframe during which the office may  
21      exempt certain providers from certain regulatory  
22      actions; amending s. 651.035, F.S.; providing that  
23      certain documents relating to a provider's debt  
24      service reserve must require certain notice to the  
25      office before the withdrawal of debt service reserve  
26      funds; specifying requirements for the notice and for  
27      certain plans to replenish withdrawn funds; revising  
28      the calculation of minimum liquid reserve requirements  
29      for certain facilities; revising requirements for

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30 letters of credit which satisfy minimum liquid reserve  
31 requirements; revising circumstances under which a  
32 provider may withdraw funds held in escrow without the  
33 office's approval; making a technical change; amending  
34 s. 651.055, F.S.; specifying that a forfeiture penalty  
35 may be deducted from certain resident refunds, except  
36 under certain circumstances; conforming a provision to  
37 changes made by the act; amending s. 651.081, F.S.;  
38 specifying the authority of residents' councils and  
39 the eligibility of persons to participate in  
40 residents' council matters; deleting a requirement for  
41 open meetings of residents' councils; amending s.  
42 651.083, F.S.; specifying that a resident has the  
43 right to access ombudsman staff; amending s. 651.085,  
44 F.S.; requiring residents' councils to nominate and  
45 elect a designated resident representative to  
46 represent them on specified matters; providing  
47 requirements for designated resident representatives;  
48 revising meetings of the full governing body for which  
49 the designated resident representative must be  
50 notified; requiring each facility of certain providers  
51 to have its own designated resident representative;  
52 providing a requirement for certain designated  
53 resident representatives; amending s. 651.091, F.S.;  
54 adding reporting and notice requirements for  
55 continuing care facilities; adding a disclosure  
56 requirement for providers to prospective residents or  
57 their legal representatives; amending s. 651.105,  
58 F.S.; specifying requirements for the office's

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59 examination of providers and applicants for  
60 certificates of authority; deleting a requirement for  
61 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. Present subsections (13) through (26) and (27)  
70 of section 651.011, Florida Statutes, are redesignated as  
71 subsections (14) through (27) and (29), respectively, and new  
72 subsection (13) and subsection (28) are added to that section,  
73 to read:

74 651.011 Definitions.—As used in this chapter, the term:

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

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

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

86 651.0246 Expansions.—

87 (2) A provider applying for expansion of a certificated

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88 facility must submit all of the following:

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

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

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

98 3. Projected revenues, including anticipated entrance fees;  
99 monthly service fees; nursing care revenues, if applicable; and  
100 all other sources of revenue.

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

105 5. A projected balance sheet of the applicant.

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

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

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

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

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

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

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

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

135  
136 If any material change occurs in the facts set forth in an  
137 application filed with the office pursuant to this section, an  
138 amendment setting forth such change must be filed with the  
139 office within 10 business days after the applicant becomes aware  
140 of such change, and a copy of the amendment must be sent by  
141 registered mail to the principal office of the facility and to  
142 the principal office of the controlling company.

143 (4) The provider is entitled to secure release of the  
144 moneys held in escrow within 7 days after receipt by the office  
145 of an affidavit from the provider, along with appropriate copies

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146 to verify, and notification to the escrow agent by certified  
147 mail that the following conditions have been satisfied:

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

164  
165 Notwithstanding chapter 120, only the provider, the escrow  
166 agent, and the office have a substantial interest in any office  
167 decision regarding release of escrow funds in any proceedings  
168 under chapter 120 or this chapter.

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

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

183 Section 3. Paragraph (b) of subsection (2) of section  
184 651.026, Florida Statutes, is amended to read:

185 651.026 Annual reports.—

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

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

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

- 194 a. A balance sheet;  
195 b. A statement of income and expenses;  
196 c. A statement of equity or fund balances; and  
197 d. A statement of changes in cash flows.

198 2. Notes to the financial report considered customary or  
199 necessary for full disclosure or adequate understanding of the  
200 financial report, financial condition, and operation.

201 3. If the provider's financial statements are consolidated  
202 or combined in accordance with generally accepted accounting  
203 principles with the financial statements of additional entities

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204 owned or controlled by the provider, the financial report must  
205 include as supplemental information a separate balance sheet,  
206 statement of income and expenses, statement of equity or fund  
207 balances, and statement of changes in cash flows for the  
208 individual provider and each additional entity comprising the  
209 consolidated or combined financial report.

210 4. If the provider is a member of an obligated group, the  
211 provider may use the obligated group's audited financial  
212 statements if they contain as supplemental information a  
213 separate balance sheet, statement of income and expenses,  
214 statement of equity or fund balances, and statement of changes  
215 in cash flows for the individual provider and other members of  
216 the obligated group.

217 Section 4. Paragraph (a) of subsection (1) and paragraph  
218 (c) of subsection (3) of section 651.033, Florida Statutes, are  
219 amended, and paragraph (a) of subsection (3) of that section is  
220 republished, to read:

221 651.033 Escrow accounts.—

222 (1) When funds are required to be deposited in an escrow  
223 account pursuant to s. 651.0215, s. 651.022, s. 651.023, s.  
224 651.0246, s. 651.035, or s. 651.055:

225 (a) The escrow account must be established in a Florida  
226 state-chartered bank, Florida savings bank and loan association,  
227 or Florida trust company, or a federal savings or thrift  
228 association, bank, savings bank, or trust company national bank  
229 that is chartered and supervised by the Office of the  
230 Comptroller of the Currency within the United States Department  
231 of the Treasury and that has a branch in this state, which is  
232 acceptable to the office, or such funds must be deposited with



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233 the department and be kept and maintained in an account separate  
234 and apart from the provider's business accounts.

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

238 (a) The provider shall deliver to the resident a written  
239 receipt. The receipt must show the payor's name and address, the  
240 date, the price of the care contract, and the amount of money  
241 paid. A copy of each receipt, together with the funds, must be  
242 deposited with the escrow agent or as provided in paragraph (c).  
243 The escrow agent must release such funds to the provider 7 days  
244 after the date of receipt of the funds by the escrow agent if  
245 the provider, operating under a certificate of authority issued  
246 by the office, has met the requirements of s. 651.0215(8), s.  
247 651.023(6), or s. 651.0246. However, if the resident rescinds  
248 the contract within the 7-day period, the escrow agent must  
249 release the escrowed fees to the resident.

250 (c) As an alternative to paragraph (a) ~~At the request of an~~  
251 ~~individual resident of a facility~~, the provider may hold the  
252 check for the 7-day period and may not deposit it during this  
253 time period. If the resident rescinds the contract within the 7-  
254 day period, the check must be immediately returned to the  
255 resident. Upon the expiration of the 7 days, the provider shall  
256 deposit the check.

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

259 651.034 Financial and operating requirements for  
260 providers.—

261 (6) The office may exempt a provider from subsection (1) or

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262 subsection (2) until stabilized occupancy is reached or until  
263 the time projected to achieve stabilized occupancy as reported  
264 in the last feasibility study required by the office as part of  
265 an application filing under s. 651.0215, s. 651.023, s. 651.024,  
266 or s. 651.0246 has elapsed, but for no longer than 5 years after  
267 the end of the provider's fiscal year in which the certificate  
268 of occupancy was issued ~~date of issuance of the certificate of~~  
269 ~~occupancy~~.

270 Section 6. Paragraph (b) of subsection (1), paragraph (a)  
271 of subsection (2), subsection (5), and paragraph (a) of  
272 subsection (7) of section 651.035, Florida Statutes, are amended  
273 to read:

274 651.035 Minimum liquid reserve requirements.—

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

277 (b) A provider that has outstanding indebtedness that  
278 requires a debt service reserve to be held in escrow pursuant to  
279 a trust indenture or mortgage lien on the facility and for which  
280 the debt service reserve may only be used to pay principal and  
281 interest payments on the debt that the debtor is obligated to  
282 pay, and which may include property taxes and insurance, may  
283 include such debt service reserve in computing the minimum  
284 liquid reserve needed to satisfy this subsection if the provider  
285 furnishes to the office a copy of the agreement under which such  
286 debt service reserve is held, together with a statement of the  
287 amount being held in escrow for the debt service reserve,  
288 certified by the lender or trustee and the provider to be  
289 correct. The trustee shall provide the office with any  
290 information concerning the debt service reserve account upon

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291 request of the provider or the office. In addition, the trust  
292 indenture, loan agreement, or escrow agreement must provide that  
293 the provider, trustee, lender, escrow agent, or another person  
294 designated to act in their place shall notify the office in  
295 writing at least 10 days before the withdrawal of any portion of  
296 the debt service reserve funds required to be held in escrow as  
297 described in this paragraph. The notice must include an  
298 affidavit sworn to by the provider, the trustee, or a person  
299 designated to act in their place which includes the amount of  
300 the scheduled debt service payment, the payment due date, the  
301 amount of the withdrawal, the accounts from which the withdrawal  
302 will be made, and a plan with a schedule for replenishing the  
303 withdrawn funds. If the plan is revised by a consultant that is  
304 retained as prescribed in the provider's financing documents,  
305 the revised plan must be submitted to the office within 10 days  
306 after approval by the lender or trustee. Any such separate debt  
307 service reserves are not subject to the transfer provisions set  
308 forth in subsection (8).

309 (2) (a) In facilities where not all residents are under  
310 continuing care or continuing care at-home contracts, the  
311 reserve requirements of subsection (1) shall be computed only  
312 with respect to the proportional share of operating expenses  
313 that are applicable to residents. For purposes of this  
314 calculation, the proportional share shall be based upon the  
315 ratio of residents under continuing care or continuing care at-  
316 home contracts to the total of all residents, including those  
317 residents who do not hold such contracts.

318 (5) A provider may satisfy the minimum liquid reserve  
319 requirements of this section by acquiring from a financial

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320 institution, as specified in paragraph (b), a clean,  
321 unconditional irrevocable letter of credit equal to the  
322 requirements of this section, less the amount of escrowed  
323 operating cash required by paragraph (d).

324 (a) The letter of credit must be issued by a financial  
325 institution participating in the State of Florida Treasury  
326 Certificate of Deposit Program; a Florida state-chartered bank,  
327 savings bank, or trust company; or a federal savings or thrift  
328 association, bank, savings bank, or trust company, and must be  
329 approved by the office before issuance and before any renewal or  
330 modification thereof. At a minimum, the letter of credit must  
331 provide for:

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

335 2. Unless otherwise arranged by the provider to the  
336 satisfaction of the office, deposit by the financial institution  
337 of letter of credit funds in an account designated by the office  
338 no later than 30 days before the expiration of the letter of  
339 credit.

340 3. Deposit by the financial institution of letter of credit  
341 funds in an account designated by the office within 4 business  
342 days following written instructions from the office that, in the  
343 sole judgment of the office, funding of the minimum liquid  
344 reserve is required.

345 (b) The terms of the letter of credit must be approved by  
346 the office and the long-term debt of the financial institution  
347 providing such letter of credit must be rated in one of their  
348 top three long-term debt rating categories by either Moody's

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349 Investors Service, Standard & Poor's Corporation, or a  
350 recognized securities rating agency acceptable to the office.

351 (c) The letter of credit must name the office as  
352 beneficiary.

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

358 (e) If the issuing financial institution no longer  
359 participates in the State of Florida Treasury Certificate of  
360 Deposit Program, such financial institution shall deposit as  
361 collateral with the department eligible securities, as  
362 prescribed by s. 625.52, having a market value equal to or  
363 greater than 100 percent of the stated amount of the letter of  
364 credit.

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

367 1. The amount held in escrow exceeds the requirements of  
368 this section and if the withdrawal will not affect compliance  
369 with this section; or

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

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

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

383 651.055 Continuing care contracts; right to rescind.—

384 (2) A resident has the right to rescind a continuing care  
385 contract and receive a full refund of any funds paid, without  
386 penalty or forfeiture, within 7 days after executing the  
387 contract. However, if an individual signs a reservation  
388 agreement pursuant to s. 651.023(4) and fails to cancel such  
389 agreement within 30 days after executing the agreement and  
390 subsequently signs a residency contract pursuant to this section  
391 and rescinds the contract within 7 days, the forfeiture penalty  
392 authorized under s. 651.023(4)(b) may be deducted from the  
393 refund unless the individual can demonstrate extenuating  
394 circumstances, such as, but not limited to, the death or illness  
395 of a spouse or partner, a diagnosis of a chronic or terminal  
396 illness of the individual, or a change in financial or asset  
397 position which warrants cancellation of the contract. A resident  
398 may not be required to move into the facility designated in the  
399 contract before the expiration of the 7-day period. During the  
400 7-day period, the resident's funds must be held in an escrow  
401 account or the provider may hold the check until the 7-day  
402 period expires ~~unless otherwise requested by the resident~~  
403 pursuant to s. 651.033(3)(c).

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

406 651.081 Residents' council.—

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407 (2)(a) Each facility shall establish a residents' council  
408 created for the purpose of representing residents on matters set  
409 forth in s. 651.085. A residents' council has authority to  
410 establish and maintain its own governance documents, such as  
411 bylaws or operating agreements, policies, and operating  
412 procedures, which may include establishment of committees. A  
413 person is eligible to participate in residents' council matters,  
414 including elections, if the person meets the definition of a  
415 resident under s. 651.011. The residents' council shall be  
416 established through an election in which the residents, as  
417 defined in s. 651.011, vote by ballot, physically or by proxy.  
418 If the election is to be held during a meeting, a notice of the  
419 organizational meeting must be provided to all residents of the  
420 community at least 10 business days before the meeting. Notice  
421 may be given through internal mailboxes, communitywide  
422 newsletters, bulletin boards, in-house television stations, and  
423 other similar means of communication. An election creating a  
424 residents' council is valid if at least 40 percent of the total  
425 resident population participates in the election and a majority  
426 of the participants vote affirmatively for the council. The  
427 initial residents' council created under this section is valid  
428 for at least 12 months. A residents' organization formalized by  
429 bylaws and elected officials must be recognized as the  
430 residents' council under this section and s. 651.085. Within 30  
431 days after the election of a newly elected president or chair of  
432 the residents' council, the provider shall give the president or  
433 chair a copy of this chapter and rules adopted thereunder, or  
434 direct him or her to the appropriate public website to obtain  
435 this information. Only one residents' council may represent

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436 residents before the governing body of the provider as described  
437 in s. 651.085(2).

438 ~~(d) A residents' council shall adopt its own bylaws and~~  
439 ~~governance documents subject to the vote and approval of the~~  
440 ~~residents. The residents' council shall provide for open~~  
441 ~~meetings when appropriate. The residents' council governing~~  
442 documents shall define the manner in which residents may submit  
443 an issue to the council and define a reasonable timeframe in  
444 which the residents' council shall respond to a resident  
445 submission or inquiry. A residents' council may include term  
446 limits in its governing documents to ensure consistent  
447 integration of new leaders. If a licensed facility files for  
448 bankruptcy under chapter 11 of the United States Bankruptcy  
449 Code, 11 U.S.C. chapter 11, the facility, in its required filing  
450 of the 20 largest unsecured creditors with the United States  
451 Trustee, shall include the name and contact information of a  
452 designated resident selected by the residents' council, and a  
453 statement explaining that the designated resident was chosen by  
454 the residents' council to serve as a representative of the  
455 residents' interest on the creditors' committee, if appropriate.

456 Section 9. Paragraph (f) of subsection (1) of section  
457 651.083, Florida Statutes, is amended to read:

458 651.083 Residents' rights.—

459 (1) No resident of any facility shall be deprived of any  
460 civil or legal rights, benefits, or privileges guaranteed by  
461 law, by the State Constitution, or by the United States  
462 Constitution solely by reason of status as a resident of a  
463 facility. Each resident of a facility has the right to:

464 (f) Present grievances and recommend changes in policies,



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465 procedures, and services to the staff of the facility, governing  
466 officials, or any other person without restraint, interference,  
467 coercion, discrimination, or reprisal. This right includes  
468 access to ombudsman volunteers or staff and advocates and the  
469 right to be a member of, and active in, and to associate with,  
470 advocacy or special interest groups or associations.

471 Section 10. Subsections (2), (3), and (5) of section  
472 651.085, Florida Statutes, are amended to read:

473 651.085 Quarterly meetings between residents and the  
474 governing body of the provider; resident representation before  
475 the governing body of the provider.—

476 (2) A residents' council formed pursuant to s. 651.081,  
477 members of which are elected by the residents, shall nominate  
478 and elect ~~designate~~ a designated resident representative to  
479 represent them on matters specified in subsection (3) before the  
480 governing body of the provider. The initial designated resident  
481 representative elected under this section shall be elected to  
482 serve at least 12 months. The designated resident representative  
483 need not be a current member of the residents' council; however,  
484 such individual must meet the definition of a resident under s.  
485 651.011.

486 (3) The designated resident representative shall be  
487 notified by a representative of the provider at least 14 days in  
488 advance of any meeting of the full governing body at which the  
489 annual budget and proposed changes or increases in resident fees  
490 or services are on the agenda or will be discussed. The  
491 designated resident representative shall be invited to attend  
492 and participate in that portion of the meeting designated for  
493 the discussion of such changes. A designated resident

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494 representative shall perform his or her duties in good faith.  
495 For a provider that owns or operates more than one facility in  
496 this state, each facility must have its own designated resident  
497 representative.

498 (5) The board of directors or governing board of a licensed  
499 provider may at its sole discretion allow a resident of the  
500 facility to be a voting member of the board or governing body of  
501 the facility. The board of directors or governing board of a  
502 licensed provider may establish specific criteria for the  
503 nomination, selection, and term of a resident as a member of the  
504 board or governing body. If the board or governing body of a  
505 licensed provider operates more than one licensed facility,  
506 regardless of whether the facility is in-state or out-of-state,  
507 the board or governing body may select at its sole discretion  
508 one resident from among its facilities to serve on the board of  
509 directors or governing body on a rotating basis. A resident who  
510 serves as a member of a board or governing body of the facility  
511 shall perform his or her duties in a fiduciary manner, including  
512 the duty of confidentiality, duty of care, duty of loyalty, and  
513 duty of obedience, as required of any individual serving on the  
514 board or governing body.

515 Section 11. Present paragraphs (e) through (k) and (l) of  
516 subsection (2) of section 651.091, Florida Statutes, are  
517 redesignated as paragraphs (f) through (l) and (n),  
518 respectively, new paragraph (e) and paragraph (m) are added to  
519 that subsection, and paragraph (m) is added to subsection (3) of  
520 that section, to read:

521 651.091 Availability, distribution, and posting of reports  
522 and records; requirement of full disclosure.—

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523 (2) Every continuing care facility shall:

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

529 (m) Notify the president or chair of the residents' council  
530 in writing of a change in management within 10 business days  
531 after the change.

532 (3) Before entering into a contract to furnish continuing  
533 care or continuing care at-home, the provider undertaking to  
534 furnish the care, or the agent of the provider, shall make full  
535 disclosure, obtain written acknowledgment of receipt, and  
536 provide copies of the disclosure documents to the prospective  
537 resident or his or her legal representative, of the following  
538 information:

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

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

545 651.105 Examination.—

546 (1) (a) The office may at any time, and shall at least once  
547 every 3 years, examine the business of any applicant for a  
548 certificate of authority and any provider engaged in the  
549 execution of care contracts or engaged in the performance of  
550 obligations under such contracts, in the same manner as is  
551 provided for the examination of insurance companies pursuant to

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552 ss. 624.316 and 624.318. For a provider as deemed accredited  
553 under s. 651.028, such examinations must take place at least  
554 once every 5 years. An examination covering the preceding 3 or 5  
555 fiscal years of the provider, as applicable, must be commenced  
556 within 12 months after the end of the most recent fiscal year  
557 covered by the examination. Such examination may include events  
558 subsequent to the end of the most recent fiscal year and the  
559 events of any prior period which relate to possible violations  
560 of this chapter or which affect the present financial condition  
561 of the provider. At least once every 3 or 5 fiscal years, as  
562 applicable, the office shall conduct an interview in person,  
563 telephonically, or through electronic communication with the  
564 current president or chair of the residents' council, or another  
565 designated officer of the council if the president or chair is  
566 not available, as part of the examination process.

567 (b) Such examinations must be made by a representative or  
568 examiner designated by the office whose compensation will be  
569 fixed by the office pursuant to s. 624.320. Routine examinations  
570 may be made by having the necessary documents submitted to the  
571 office; and, for this purpose, financial documents and records  
572 conforming to commonly accepted accounting principles and  
573 practices, as required under s. 651.026, are deemed adequate.  
574 The final written report of each examination must be filed with  
575 the office and, when so filed, constitutes a public record. Any  
576 provider being examined shall, upon request, give reasonable and  
577 timely access to all of its records. The representative or  
578 examiner designated by the office may at any time examine the  
579 records and affairs and inspect the physical property of any  
580 provider, whether in connection with a formal examination or

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581 not.

582 ~~(6) A representative of the provider must give a copy of~~  
583 ~~the final examination report and corrective action plan, if one~~  
584 ~~is required by the office, to the executive officer of the~~  
585 ~~governing body of the provider within 60 days after issuance of~~  
586 ~~the report.~~

587 Section 13. Section 651.012, Florida Statutes, is amended  
588 to read:

589 651.012 Exempted facility; written disclosure of  
590 exemption.—Any facility exempted under ss. 632.637(1)(e) and  
591 651.011(24) ~~ss. 632.637(1)(e) and 651.011(23)~~ must provide  
592 written disclosure of such exemption to each person admitted to  
593 the facility. This disclosure must be written using language  
594 likely to be understood by the person and must briefly explain  
595 the exemption.

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

598 651.0261 Quarterly and monthly statements.—

599 (1) Within 45 days after the end of each fiscal quarter,  
600 each provider shall file a quarterly unaudited financial  
601 statement of the provider or of the facility in the form  
602 prescribed by commission rule and days cash on hand, occupancy,  
603 debt service coverage ratio, and a detailed listing of the  
604 assets maintained in the liquid reserve as required under s.  
605 651.035. The last quarterly statement for a fiscal year is not  
606 required if a provider does not have pending a regulatory action  
607 level event, impairment, or a corrective action plan. If a  
608 provider falls below two or more of the thresholds set forth in  
609 s. 651.011(26) ~~s. 651.011(25)~~ at the end of any fiscal quarter,

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610 the provider shall submit to the office, at the same time as the  
611 quarterly statement, an explanation of the circumstances and a  
612 description of the actions it will take to meet the  
613 requirements.

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