

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>    </u>	

---

1 Committee/Subcommittee hearing bill: Commerce Committee  
2 Representative Yarborough offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove lines 628-2094 and insert:  
6 office.

7  
8 Notwithstanding chapter 120, only the provider, the escrow  
9 agent, and the office have a substantial interest in any office  
10 decision regarding release of escrow funds in any proceedings  
11 under chapter 120 or this chapter.

12 (9) The office may not approve any application that  
13 includes in the plan of financing any encumbrance of the  
14 operating reserves or renewal and replacement reserves required  
15 by this chapter.

Amendment No. 1

16           (10) The office may not issue a certificate of authority  
17 for a facility that does not have a component that is to be  
18 licensed pursuant to part II of chapter 400 or part I of chapter  
19 429, or that does not offer personal services or nursing  
20 services through written contractual agreement. A written  
21 contractual agreement must be disclosed in the contract for  
22 continuing care or continuing care at-home and is subject to s.  
23 651.1151.

24           Section 7. Subsections (2), (3), (6), and (8) of section  
25 651.022, Florida Statutes, are amended, and subsection (5) of  
26 that section is republished, to read:

27           651.022 Provisional certificate of authority;  
28 application.-

29           (2) The application for a provisional certificate of  
30 authority must ~~shall~~ be on a form prescribed by the commission  
31 and must ~~shall~~ contain the following information:

32           (a) If the applicant or provider is a corporation, a copy  
33 of the articles of incorporation and bylaws; if the applicant or  
34 provider is a partnership or other unincorporated association, a  
35 copy of the partnership agreement, articles of association, or  
36 other membership agreement; and, if the applicant or provider is  
37 a trust, a copy of the trust agreement or instrument.

38           (b) The full names, residences, and business addresses of:

39           1. The proprietor, if the applicant or provider is an  
40 individual.

Amendment No. 1

41           2. Every partner or member, if the applicant or provider  
42 is a partnership or other unincorporated association, however  
43 organized, having fewer than 50 partners or members, together  
44 with the business name and address of the partnership or other  
45 organization.

46           3. The principal partners or members, if the applicant or  
47 provider is a partnership or other unincorporated association,  
48 however organized, having 50 or more partners or members,  
49 together with the business name and business address of the  
50 partnership or other organization. If such unincorporated  
51 organization has officers and a board of directors, the full  
52 name and business address of each officer and director may be  
53 set forth in lieu of the full name and business address of its  
54 principal members.

55           4. The corporation and each officer and director thereof,  
56 if the applicant or provider is a corporation.

57           5. Every trustee and officer, if the applicant or provider  
58 is a trust.

59           6. The manager, whether an individual, corporation,  
60 partnership, or association.

61           7. Any stockholder holding at least a 10 percent interest  
62 in the operations of the facility in which the care is to be  
63 offered.

64           8. Any person whose name is required to be provided in the  
65 application under this paragraph and who owns any interest in or

Amendment No. 1

66 receives any remuneration from, directly or indirectly, any  
67 professional service firm, association, trust, partnership, or  
68 corporation providing goods, leases, or services to the facility  
69 for which the application is made, with a real or anticipated  
70 value of \$10,000 or more, and the name and address of the  
71 professional service firm, association, trust, partnership, or  
72 corporation in which such interest is held. The applicant shall  
73 describe such goods, leases, or services and the probable cost  
74 to the facility or provider and shall describe why such goods,  
75 leases, or services should not be purchased from an independent  
76 entity.

77 9. Any person, corporation, partnership, association, or  
78 trust owning land or property leased to the facility, along with  
79 a copy of the lease agreement.

80 10. Any affiliated parent or subsidiary corporation or  
81 partnership.

82 (c)1. Evidence that the applicant is reputable and of  
83 responsible character. If the applicant is a firm, association,  
84 organization, partnership, business trust, corporation, or  
85 company, the form must ~~shall~~ require evidence that the members  
86 or shareholders ~~are reputable and of responsible character,~~ and  
87 the person in charge of providing care under a certificate of  
88 authority are ~~shall likewise be required to produce evidence of~~  
89 ~~being~~ reputable and of responsible character.

Amendment No. 1

90           2. Evidence satisfactory to the office of the ability of  
91 the applicant to comply with ~~the provisions of~~ this chapter and  
92 with rules adopted by the commission pursuant to this chapter.

93           3. A statement of whether a person identified in the  
94 application for a provisional certificate of authority or the  
95 administrator or manager of the facility, if such person has  
96 been designated, or any such person living in the same location:

97           a. Has been convicted of a felony or has pleaded nolo  
98 contendere to a felony charge, or has been held liable or has  
99 been enjoined in a civil action by final judgment, if the felony  
100 or civil action involved fraud, embezzlement, fraudulent  
101 conversion, or misappropriation of property.

102           b. Is subject to a currently effective injunctive or  
103 restrictive order or federal or state administrative order  
104 relating to business activity or health care as a result of an  
105 action brought by a public agency or department, including,  
106 without limitation, an action affecting a license under chapter  
107 400 or chapter 429.

108  
109 The statement must ~~shall~~ set forth the court or agency, the date  
110 of conviction or judgment, and the penalty imposed or damages  
111 assessed, or the date, nature, and issuer of the order. Before  
112 determining whether a provisional certificate of authority is to  
113 be issued, the office may make an inquiry to determine the

Amendment No. 1

114 accuracy of the information submitted pursuant to subparagraphs  
115 1., 2., and 3. ~~1. and 2.~~

116 (d) The contracts for continuing care and continuing care  
117 at-home to be entered into between the provider and residents  
118 which meet the minimum requirements of s. 651.055 or s. 651.057  
119 and which include a statement describing the procedures required  
120 by law relating to the release of escrowed entrance fees. Such  
121 statement may be furnished through an addendum.

122 (e) Any advertisement or other written material proposed  
123 to be used in the solicitation of residents.

124 (f) Such other reasonable data, financial statements, and  
125 pertinent information as the commission or office may reasonably  
126 require with respect to the provider or the facility, including  
127 the most recent audited financial report ~~statements~~ of  
128 comparable facilities currently or previously owned, managed, or  
129 developed by the applicant or its principal, to assist in  
130 determining the financial viability of the project and the  
131 management capabilities of its managers and owners.

132 (g) The forms of the residency contracts, reservation  
133 contracts, escrow agreements, and wait list contracts, if  
134 applicable, which are proposed to be used by the provider in the  
135 furnishing of care. The office shall approve contracts and  
136 escrow agreements that comply with ss. 651.023(1)(c), 651.033,  
137 651.055, and 651.057. Thereafter, no other form of contract or

Amendment No. 1

138 agreement may be used by the provider until it has been  
139 submitted to the office and approved.

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

148 (3) In addition to the information required in subsection  
149 (2), an applicant for a provisional certificate of authority  
150 shall submit a ~~market~~ feasibility study with appropriate  
151 financial, marketing, and actuarial assumptions for the first 5  
152 years of operations. The ~~market~~ feasibility study must ~~shall~~  
153 include at least the following information:

154 (a) A description of the proposed facility, including the  
155 location, size, anticipated completion date, and the proposed  
156 construction program.

157 (b) An identification and evaluation of the primary and,  
158 if appropriate, the secondary market areas of the facility and  
159 the projected unit sales per month.

160 (c) Projected revenues, including anticipated entrance  
161 fees; monthly service fees; nursing care revenues ~~rates~~, if

Amendment No. 1

162 applicable; and all other sources of revenue, ~~including the~~  
163 ~~total amount of debt financing required.~~

164 (d) Projected expenses, including staffing requirements  
165 and salaries; cost of property, plant, and equipment, including  
166 depreciation expense; interest expense; marketing expense; and  
167 other operating expenses.

168 (e) A projected balance sheet ~~Current assets and~~  
169 ~~liabilities of the applicant.~~

170 (f) Expectations of the financial condition of the  
171 project, including the projected cash flow, and a projected  
172 ~~balance sheet~~ and an estimate of the funds anticipated to be  
173 necessary to cover startup losses.

174 (g) The inflation factor, if any, assumed in the  
175 feasibility study for the proposed facility and how and where it  
176 is applied.

177 (h) Project costs and the total amount of debt financing  
178 required, marketing projections, resident fees and charges, the  
179 competition, resident contract provisions, and other factors  
180 that ~~which~~ affect the feasibility of the facility.

181 (i) Appropriate population projections, including  
182 morbidity and mortality assumptions.

183 (j) The name of the person who prepared the feasibility  
184 study and the experience of such person in preparing similar  
185 studies or otherwise consulting in the field of continuing care.



Amendment No. 1

186 The preparer of the feasibility study may be the provider or a  
187 contracted third party.

188 (k) Any other information that the applicant deems  
189 relevant and appropriate to enable the office to make a more  
190 informed determination.

191 (5) (a) Within 30 days after receipt of an application for  
192 a provisional certificate of authority, the office shall examine  
193 the application and shall notify the applicant in writing,  
194 specifically setting forth and specifically requesting any  
195 additional information the office is permitted by law to  
196 require. If the application submitted is determined by the  
197 office to be substantially incomplete so as to require  
198 substantial additional information, including biographical  
199 information, the office may return the application to the  
200 applicant with a written notice that the application as received  
201 is substantially incomplete and, therefore, unacceptable for  
202 filing without further action required by the office. Any filing  
203 fee received shall be refunded to the applicant.

204 (b) Within 15 days after receipt of all of the requested  
205 additional information, the office shall notify the applicant in  
206 writing that all of the requested information has been received  
207 and the application is deemed to be complete as of the date of  
208 the notice. Failure to so notify the applicant in writing within  
209 the 15-day period shall constitute acknowledgment by the office  
210 that it has received all requested additional information, and

Amendment No. 1

211 the application shall be deemed to be complete for purposes of  
212 review upon the date of the filing of all of the requested  
213 additional information.

214 (6) Within 45 days after the date an application is deemed  
215 complete as set forth in paragraph (5)(b), the office shall  
216 complete its review and issue a provisional certificate of  
217 authority to the applicant based upon its review and a  
218 determination that the application meets all requirements of  
219 law, that the feasibility study was based on sufficient data and  
220 reasonable assumptions, and that the applicant will be able to  
221 provide continuing care or continuing care at-home as proposed  
222 and meet all financial and contractual obligations related to  
223 its operations, including the financial requirements of this  
224 chapter. If the application is denied, the office shall notify  
225 the applicant in writing, citing the specific failures to meet  
226 the provisions of this chapter. Such denial entitles the  
227 applicant to a hearing pursuant to chapter 120.

228 (8) The office may ~~shall~~ not approve any application that  
229 ~~which~~ includes in the plan of financing any encumbrance of the  
230 operating reserves or renewal and replacement reserves required  
231 by this chapter.

232 Section 8. Subsection (1) and subsections (4) through (9)  
233 of section 651.023, Florida Statutes, are amended, and  
234 subsection (2) of that section is republished, to read:

235 651.023 Certificate of authority; application.-

## Amendment No. 1

236 (1) After issuance of a provisional certificate of  
237 authority, the office shall issue to the holder of such  
238 provisional certificate a certificate of authority if the holder  
239 of the provisional certificate provides the office with the  
240 following information:

241 (a) Any material change in status with respect to the  
242 information required to be filed under s. 651.022(2) in the  
243 application for the provisional certificate.

244 (b) A feasibility study prepared by an independent  
245 consultant which contains all of the information required by s.  
246 651.022(3) and financial forecasts or projections prepared in  
247 accordance with standards adopted by the American Institute of  
248 Certified Public Accountants or in accordance with standards for  
249 feasibility studies or continuing care retirement communities  
250 adopted by the Actuarial Standards Board.

251 ~~1. The study must also contain an independent evaluation~~  
252 ~~and examination opinion, or a comparable opinion acceptable to~~  
253 ~~the office, by the consultant who prepared the study, of the~~  
254 ~~underlying assumptions used as a basis for the forecasts or~~  
255 ~~projections in the study and that the assumptions are reasonable~~  
256 ~~and proper and the project as proposed is feasible.~~

257 1.2. The study must take into account project costs,  
258 actual marketing results to date and marketing projections,  
259 resident fees and charges, competition, resident contract

Amendment No. 1

260 provisions, and any other factors which affect the feasibility  
261 of operating the facility.

262 ~~2.3.~~ If the study is prepared by an independent certified  
263 public accountant, it must contain an examination opinion or a  
264 compilation report acceptable to the office containing a  
265 financial forecast or projections for the first ~~5~~ 3 years of  
266 operations which take into account an actuary's mortality and  
267 morbidity assumptions as the study relates to turnover, rates,  
268 fees, and charges ~~and financial projections having a compilation~~  
269 ~~opinion for the next 3 years.~~ If the study is prepared by an  
270 independent consulting actuary, it must contain mortality and  
271 morbidity assumptions as the study relates to turnover, rates,  
272 fees, and charges ~~data~~ and an actuary's signed opinion that the  
273 project as proposed is feasible and that the study has been  
274 prepared in accordance with standards adopted by the American  
275 Academy of Actuaries.

276 (c) Subject to subsection (4), a provider may submit an  
277 application for a certificate of authority and any required  
278 exhibits upon submission of documents evidencing proof that the  
279 project has a minimum of 30 percent of the units reserved for  
280 which the provider is charging an entrance fee. ~~This does not~~  
281 ~~apply to an application for a certificate of authority for the~~  
282 ~~acquisition of a facility for which a certificate of authority~~  
283 ~~was issued before October 1, 1983, to a provider who~~  
284 ~~subsequently becomes a debtor in a case under the United States~~

382139 - h1033-line 628.docx

Published On: 4/17/2019 5:52:14 PM

Amendment No. 1

285 ~~Bankruptcy Code, 11 U.S.C. ss. 101 et seq., or to a provider for~~  
286 ~~which the department has been appointed receiver pursuant to~~  
287 ~~part II of chapter 631.~~

288 (d) Documents evidencing Proof that commitments have been  
289 secured for both construction financing and long-term financing  
290 or a documented plan acceptable to the office has been adopted  
291 by the applicant for long-term financing.

292 (e) Documents evidencing Proof that all conditions of the  
293 lender have been satisfied to activate the commitment to  
294 disburse funds other than the obtaining of the certificate of  
295 authority, the completion of construction, or the closing of the  
296 purchase of realty or buildings for the facility.

297 (f) Documents evidencing Proof that the aggregate amount  
298 of entrance fees received by or pledged to the applicant, plus  
299 anticipated proceeds from any long-term financing commitment,  
300 plus funds from all other sources in the actual possession of  
301 the applicant, equal at least 100 percent of the aggregate cost  
302 of constructing or purchasing, equipping, and furnishing the  
303 facility plus 100 percent of the anticipated startup losses of  
304 the facility.

305 (g) A complete audited financial report ~~statements~~ of the  
306 applicant, prepared by an independent certified public  
307 accountant in accordance with generally accepted accounting  
308 principles, as of the date the applicant commenced business  
309 operations or for the fiscal year that ended immediately

Amendment No. 1

310 preceding the date of application, whichever is later, and  
311 complete unaudited quarterly financial statements attested to by  
312 the applicant after the date of the last audit.

313 (h) Documents evidencing ~~Proof~~ that the applicant has  
314 complied with the escrow requirements of subsection (5) or  
315 subsection (7) and will be able to comply with s. 651.035.

316 (i) Such other reasonable data, financial statements, and  
317 pertinent information as the commission or office may require  
318 with respect to the applicant or the facility, to determine the  
319 financial status of the facility and the management capabilities  
320 of its managers and owners.

321  
322 If any material change occurs in the facts set forth in an  
323 application filed with the office pursuant to this subsection,  
324 an amendment setting forth such change must be filed with the  
325 office within 10 business days after the applicant becomes aware  
326 of such change, and a copy of the amendment must be sent by  
327 registered mail to the principal office of the facility and to  
328 the principal office of the controlling company.

329 (2) Within 30 days after receipt of the information  
330 required under subsection (1), the office shall examine such  
331 information and notify the provider in writing, specifically  
332 requesting any additional information the office is permitted by  
333 law to require. Within 15 days after receipt of all of the  
334 requested additional information, the office shall notify the

382139 - h1033-line 628.docx

Published On: 4/17/2019 5:52:14 PM

Amendment No. 1

335 provider in writing that all of the requested information has  
336 been received and the application is deemed to be complete as of  
337 the date of the notice. Failure to notify the applicant in  
338 writing within the 15-day period constitutes acknowledgment by  
339 the office that it has received all requested additional  
340 information, and the application shall be deemed complete for  
341 purposes of review on the date of filing all of the required  
342 additional information.

343 (4) The office shall issue a certificate of authority upon  
344 determining that the applicant meets all requirements of law and  
345 has submitted all of the information required by this section,  
346 that all escrow requirements have been satisfied, and that the  
347 fees prescribed in s. 651.015(2) have been paid.

348 (a) ~~A Notwithstanding satisfaction of the 30-percent~~  
349 ~~minimum reservation requirement of paragraph (1)(c), no~~  
350 ~~certificate of authority may not shall be issued until~~  
351 ~~documentation evidencing that the project has a minimum of 50~~  
352 ~~percent of the units reserved for which the provider is charging~~  
353 ~~an entrance fee, and proof is provided to the office. If a~~  
354 ~~provider offering continuing care at-home is applying for a~~  
355 ~~certificate of authority or approval of an expansion pursuant to~~  
356 ~~s. 651.021(2), the same minimum reservation requirements must be~~  
357 ~~met for the continuing care and continuing care at-home~~  
358 ~~contracts, independently of each other.~~

Amendment No. 1

359 (b) In order for a unit to be considered reserved under  
360 this section, the provider must collect a minimum deposit of the  
361 lesser of \$40,000 or 10 percent of the then-current entrance fee  
362 for that unit, and may assess a forfeiture penalty of 2 percent  
363 of the entrance fee due to termination of the reservation  
364 contract after 30 days for any reason other than the death or  
365 serious illness of the resident, the failure of the provider to  
366 meet its obligations under the reservation contract, or other  
367 circumstances beyond the control of the resident that equitably  
368 entitle the resident to a refund of the resident's deposit. The  
369 reservation contract must state the cancellation policy and the  
370 terms of the continuing care or continuing care at-home contract  
371 to be entered into.

372 (5) Up to 25 percent of the moneys paid for all or any  
373 part of an initial entrance fee may be included or pledged for  
374 the construction or purchase of the facility or as security for  
375 long-term financing. As used in this section, the term "initial  
376 entrance fee" means the total entrance fee charged by the  
377 facility to the first occupant of a unit.

378 ~~(a)~~ A minimum of 75 percent of the moneys paid for all or  
379 any part of an initial entrance fee collected for continuing  
380 care or continuing care at-home must ~~shall~~ be placed in an  
381 escrow account or on deposit with the department as prescribed  
382 in s. 651.033.



Amendment No. 1

383 ~~(b) For an expansion as provided in s. 651.021(2), a~~  
384 ~~minimum of 75 percent of the moneys paid for all or any part of~~  
385 ~~an initial entrance fee collected for continuing care and 50~~  
386 ~~percent of the moneys paid for all or any part of an initial fee~~  
387 ~~collected for continuing care at-home shall be placed in an~~  
388 ~~escrow account or on deposit with the department as prescribed~~  
389 ~~in s. 651.033.~~

390 (6) The provider is entitled to secure release of the  
391 moneys held in escrow within 7 days after receipt by the office  
392 of an affidavit from the provider, along with appropriate copies  
393 to verify, and notification to the escrow agent by certified  
394 mail, that the following conditions have been satisfied:

395 (a) A certificate of occupancy has been issued.

396 (b) Payment in full has been received for at least 70  
397 percent of the total units of a phase or of the total of the  
398 combined phases constructed. If a provider offering continuing  
399 care at-home is applying for a release of escrowed entrance  
400 fees, the same minimum requirement must be met for the  
401 continuing care and continuing care at-home contracts,  
402 independently of each other.

403 ~~(c) The consultant who prepared the feasibility study~~  
404 ~~required by this section or a substitute approved by the office~~  
405 ~~certifies within 12 months before the date of filing for office~~  
406 ~~approval that there has been no material adverse change in~~  
407 ~~status with regard to the feasibility study. If a material~~

Amendment No. 1

408 ~~adverse change exists at the time of submission, sufficient~~  
409 ~~information acceptable to the office and the feasibility~~  
410 ~~consultant must be submitted which remedies the adverse~~  
411 ~~condition.~~

412 (c)~~(d)~~ Documents evidencing Proof that commitments have  
413 been secured or a documented plan adopted by the applicant has  
414 been approved by the office for long-term financing.

415 (d)~~(e)~~ Documents evidencing Proof that the provider has  
416 sufficient funds to meet the requirements of s. 651.035, which  
417 may include funds deposited in the initial entrance fee account.

418 (e)~~(f)~~ Documents evidencing Proof ~~as to~~ the intended  
419 application of the proceeds upon release and documentation proof  
420 that the entrance fees when released will be applied as  
421 represented to the office.

422 (f) If any material change occurred in the facts set forth  
423 in the application filed with the office pursuant to subsection  
424 (1), the applicant timely filed the amendment setting forth such  
425 change with the office and sent copies of the amendment to the  
426 principal office of the facility and to the principal office of  
427 the controlling company as required under that subsection.

428  
429 Notwithstanding chapter 120, no person, other than the provider,  
430 the escrow agent, and the office, may have a substantial  
431 interest in any office decision regarding release of escrow

## Amendment No. 1

432 funds in any proceedings under chapter 120 or this chapter  
433 regarding release of escrow funds.

434 (7) In lieu of the provider fulfilling the requirements in  
435 subsection (5) and paragraphs (6) (b) and (c) ~~(d)~~, the office may  
436 authorize the release of escrowed funds to retire all  
437 outstanding debts on the facility and equipment upon application  
438 of the provider and upon the provider's showing that the  
439 provider will grant to the residents a first mortgage on the  
440 land, buildings, and equipment that constitute the facility, and  
441 that the provider has satisfied paragraphs (6) (a) ~~(e)~~ and (d)  
442 ~~(e)~~. Such mortgage shall secure the refund of the entrance fee  
443 in the amount required by this chapter. The granting of such  
444 mortgage is subject to the following:

445 (a) The first mortgage is granted to an independent trust  
446 that is beneficially held by the residents. The document  
447 creating the trust must include a provision that agrees to an  
448 annual audit and will furnish to the office all information the  
449 office may reasonably require. The mortgage may secure payment  
450 on bonds issued to the residents or trustee. Such bonds are  
451 redeemable after termination of the residency contract in the  
452 amount and manner required by this chapter for the refund of an  
453 entrance fee.

454 (b) Before granting a first mortgage to the residents, all  
455 construction must be substantially completed and substantially  
456 all equipment must be purchased. No part of the entrance fees

Amendment No. 1

457 may be pledged as security for a construction loan or otherwise  
458 used for construction expenses before the completion of  
459 construction.

460 (c) If the provider is leasing the land or buildings used  
461 by the facility, the leasehold interest must be for a term of at  
462 least 30 years.

463 (8) ~~The timeframes provided under s. 651.022(5) and (6)~~  
464 ~~apply to applications submitted under s. 651.021(2).~~ The office  
465 may not issue a certificate of authority to a facility that does  
466 not have a component that is to be licensed pursuant to part II  
467 of chapter 400 or to part I of chapter 429 or that does not  
468 offer personal services or nursing services through written  
469 contractual agreement. A written contractual agreement must be  
470 disclosed in the contract for continuing care or continuing care  
471 at-home and is subject to ~~the provisions of~~ s. 651.1151,  
472 relating to administrative, vendor, and management contracts.

473 (9) The office may not approve an application that  
474 includes in the plan of financing any encumbrance of the  
475 operating reserves or renewal and replacement reserves required  
476 by this chapter.

477 Section 9. Section 651.024, Florida Statutes, is amended  
478 to read:

479 651.024 Acquisition.—

480 (1) A person who seeks to assume the role of general  
481 partner of a provider or to otherwise assume ownership or

Amendment No. 1

482 possession of, or control over, 10 percent or more of a  
483 provider, a controlling company of the provider, or a provider's  
484 assets, based on the balance sheet from the most recent  
485 financial audit report filed with the office, is issued a  
486 certificate of authority to operate a continuing care facility  
487 or a provisional certificate of authority shall be subject to  
488 the provisions of s. 628.4615 and is not required to make  
489 filings pursuant to s. 651.022, s. 651.023, or s. 651.0245.

490 (2) A person who seeks to acquire and become the provider  
491 for a facility is subject to s. 651.0245 and is not required to  
492 make filings pursuant to ss. 628.4615, 651.022, and 651.023.

493 (3) In addition to the provider or the controlling  
494 company, the office has standing to petition a circuit court  
495 under s. 628.4615(9).

496 Section 10. Section 651.0245, Florida Statutes, is created  
497 to read:

498 651.0245 Application for the simultaneous acquisition of a  
499 facility and issuance of a certificate of authority.-

500 (1) Except with the prior written approval of the office,  
501 a person may not, individually or in conjunction with any  
502 affiliated person of such person, directly or indirectly acquire  
503 a facility operating under a subsisting certificate of authority  
504 and engage in the business of providing continuing care.

505 (2) An applicant seeking simultaneous acquisition of a  
506 facility and issuance of a certificate of authority must:

Amendment No. 1

- 507 (a) Comply with the notice requirements of s.  
508 628.4615(2) (a); and
- 509 (b) File an application in the form required by the office  
510 and cooperate with the office's review of the application.
- 511 (3) The commission shall adopt by rule application  
512 requirements equivalent to those described in ss. 628.4615(4)  
513 and (5), 651.022(2), and 651.023(1) (b). The office shall review  
514 the application and issue an approval or disapproval of the  
515 filing in accordance with ss. 628.4615(6) (a) and (c), (7)-(10),  
516 and (14); and 651.023(1) (b).
- 517 (4) In addition to the provider or the controlling  
518 company, the office has standing to petition a circuit court  
519 under s. 628.4615(9).
- 520 (5) A person may rebut a presumption of control by filing  
521 a disclaimer of control with the office on a form prescribed by  
522 the commission. The disclaimer must fully disclose all material  
523 relationships and bases for affiliation between the person and  
524 the provider or facility, as well as the basis for disclaiming  
525 the affiliation. In lieu of such form, a person or acquiring  
526 party may file with the office a copy of a Schedule 13G filed  
527 with the Securities and Exchange Commission pursuant to Rule  
528 13d-1(b) or (c), 17 C.F.R. s. 240.13d-1, under the Securities  
529 Exchange Act of 1934, as amended. After a disclaimer has been  
530 filed, the provider or facility is relieved of any duty to  
531 register or report under this section which may arise out of the

382139 - h1033-line 628.docx

Published On: 4/17/2019 5:52:14 PM

Amendment No. 1

532 provider's or facility's relationship with the person, unless  
533 the office disallows the disclaimer.

534 (6) The commission may adopt rules as necessary to  
535 administer this section.

536 Section 11. Section 651.0246, Florida Statutes, is created  
537 to read:

538 651.0246 Expansions.—

539 (1) (a) A provider must obtain written approval from the  
540 office before commencing construction or marketing for an  
541 expansion of a certificated facility equivalent to the addition  
542 of at least 20 percent of existing units or 20 percent or more  
543 of the number of continuing care at-home contracts. If the  
544 provider has exceeded the current statewide median for days cash  
545 on hand, debt service coverage ratio, and total facility  
546 occupancy for the most recent two consecutive annual reporting  
547 periods, the provider is automatically granted approval to  
548 expand the total number of existing units by up to 35 percent  
549 upon submitting a letter to the office indicating the total  
550 number of planned units in the expansion, the proposed sources  
551 and uses of funds, and an attestation that the provider  
552 understands and pledges to comply with all minimum liquid  
553 reserve and escrow account requirements. As used in this  
554 section, the term "existing units" means the sum of the total  
555 number of independent living units and assisted living units  
556 identified in the most recent annual report filed with the

Amendment No. 1

557 office pursuant to s. 651.026. For purposes of this section, the  
558 statewide median for days cash on hand, debt service coverage  
559 ratio, and total facility occupancy is the median calculated in  
560 the most recent annual report submitted by the office to the  
561 Continuing Care Advisory Council pursuant to s. 651.121(8). This  
562 section does not apply to construction for which a certificate  
563 of need from the Agency for Health Care Administration is  
564 required.

565 (b) The application for the approval of an addition  
566 consisting of 20 percent or more of existing units or continuing  
567 care at-home contracts must be on forms adopted by the  
568 commission. The application must include the feasibility study  
569 required by this section and such other information as  
570 reasonably requested by the office. If the expansion is only for  
571 continuing care at-home contracts, an actuarial study prepared  
572 by an independent actuary in accordance with standards adopted  
573 by the American Academy of Actuaries which presents the  
574 financial impact of the expansion may be substituted for the  
575 feasibility study.

576 (c) In determining whether an expansion should be  
577 approved, the office shall consider:

- 578 1. Whether the application meets all requirements of law;  
579 2. Whether the feasibility study was based on sufficient  
580 data and reasonable assumptions; and



Amendment No. 1

581 3. Whether the applicant will be able to provide  
582 continuing care or continuing care at-home as proposed and meet  
583 all financial obligations related to its operations, including  
584 the financial requirements of this chapter.

585

586 If the application is denied, the office must notify the  
587 applicant in writing, citing the specific failures to meet the  
588 provisions of this chapter. A denial entitles the applicant to a  
589 hearing pursuant to chapter 120.

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

592 (a) A feasibility study prepared by an independent  
593 certified public accountant. The feasibility study must include  
594 at least the following information:

595 1. A description of the facility and proposed expansion,  
596 including the location, the size, the anticipated completion  
597 date, and the proposed construction program.

598 2. An identification and evaluation of the primary and, if  
599 applicable, secondary market areas of the facility and the  
600 projected unit sales per month.

601 3. Projected revenues, including anticipated entrance  
602 fees; monthly service fees; nursing care revenues, if  
603 applicable; and all other sources of revenue.

604 4. Projected expenses, including for staffing requirements  
605 and salaries; the cost of property, plant, and equipment,

Amendment No. 1

606 including depreciation expense; interest expense; marketing  
607 expense; and other operating expenses.

608 5. A projected balance sheet of the applicant.

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

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

614 8. Project costs; the total amount of debt financing  
615 required; marketing projections; resident rates, fees, and  
616 charges; the competition; resident contract provisions; and  
617 other factors that affect the feasibility of the facility.

618 9. Appropriate population projections, including morbidity  
619 and mortality assumptions.

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

623 11. Financial forecasts or projections prepared in  
624 accordance with standards adopted by the American Institute of  
625 Certified Public Accountants or in accordance with standards for  
626 feasibility studies for continuing care retirement communities  
627 adopted by the Actuarial Standards Board.

628 12. An independent evaluation and examination opinion for  
629 the first 5 years of operations, or a comparable opinion  
630 acceptable to the office, by the consultant who prepared the

382139 - h1033-line 628.docx

Published On: 4/17/2019 5:52:14 PM

Amendment No. 1

631 study, of the underlying assumptions used as a basis for the  
632 forecasts or projections in the study and that the assumptions  
633 are reasonable and proper and the project as proposed is  
634 feasible.

635 13. Any other information that the provider deems relevant  
636 and appropriate to provide to enable the office to make a more  
637 informed determination.

638 (b) Such other reasonable data, financial statements, and  
639 pertinent information as the commission or office may require  
640 with respect to the applicant or the facility to determine the  
641 financial status of the facility and the management capabilities  
642 of its managers and owners.

643  
644 If any material change occurs in the facts set forth in an  
645 application filed with the office pursuant to this section, an  
646 amendment setting forth such change must be filed with the  
647 office within 10 business days after the applicant becomes aware  
648 of such change, and a copy of the amendment must be sent by  
649 registered mail to the principal office of the facility and to  
650 the principal office of the controlling company.

651 (3) A minimum of 75 percent of the moneys paid for all or  
652 any part of an initial entrance fee or reservation deposit  
653 collected for units in the expansion and 50 percent of the  
654 moneys paid for all or any part of an initial fee collected for  
655 continuing care at-home contracts in the expansion must be

Amendment No. 1

656 placed in an escrow account or on deposit with the department as  
657 prescribed in s. 651.033. Up to 25 percent of the moneys paid  
658 for all or any part of an initial entrance fee or reservation  
659 deposit may be included or pledged for the construction or  
660 purchase of the facility or as security for long-term financing.  
661 As used in this section, the term "initial entrance fee" means  
662 the total entrance fee charged by the facility to the first  
663 occupant of a unit.

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

669 (a) A certificate of occupancy has been issued.

670 (b) Payment in full has been received for at least 50  
671 percent of the total units of a phase or of the total of the  
672 combined phases constructed. If a provider offering continuing  
673 care at-home is applying for a release of escrowed entrance  
674 fees, the same minimum requirement must be met for the  
675 continuing care and continuing care at-home contracts  
676 independently of each other.

677 (c) Documents evidencing that commitments have been  
678 secured or that a documented plan adopted by the applicant has  
679 been approved by the office for long-term financing.

Amendment No. 1

680 (d) Documents evidencing that the provider has sufficient  
681 funds to meet the requirements of s. 651.035, which may include  
682 funds deposited in the initial entrance fee account.

683 (e) Documents evidencing the intended application of the  
684 proceeds upon release and documentation that the entrance fees,  
685 when released, will be applied as represented to the office.

686  
687 Notwithstanding chapter 120, only the provider, the escrow  
688 agent, and the office have a substantial interest in any office  
689 decision regarding release of escrow funds in any proceedings  
690 under chapter 120 or this chapter.

691 (5) (a) Within 30 days after receipt of an application for  
692 expansion, the office shall examine the application and shall  
693 notify the applicant in writing, specifically requesting any  
694 additional information that the office is authorized to require.  
695 Within 15 days after the office receives all the requested  
696 additional information, the office shall notify the applicant in  
697 writing that the requested information has been received and  
698 that the application is deemed complete as of the date of the  
699 notice. Failure to notify the applicant in writing within the  
700 15-day period constitutes acknowledgement by the office that it  
701 has received all requested additional information, and the  
702 application is deemed complete for purposes of review on the  
703 date the applicant files all of the required additional  
704 information. If the application submitted is determined by the

Amendment No. 1

705 office to be substantially incomplete so as to require  
706 substantial additional information, including biographical  
707 information, the office may return the application to the  
708 applicant with a written notice stating that the application as  
709 received is substantially incomplete and, therefore, is  
710 unacceptable for filing without further action required by the  
711 office. Any filing fee received must be refunded to the  
712 applicant.

713 (b) An application is deemed complete upon the office  
714 receiving all requested information and the applicant correcting  
715 any error or omission of which the applicant was timely notified  
716 or when the time for such notification has expired. The office  
717 shall notify the applicant in writing of the date on which the  
718 application was deemed complete.

719 (6) Within 45 days after the date on which an application  
720 is deemed complete as provided in paragraph (5) (b), the office  
721 shall complete its review and, based upon its review, approve an  
722 expansion by the applicant and issue a determination that the  
723 application meets all requirements of law, that the feasibility  
724 study was based on sufficient data and reasonable assumptions,  
725 and that the applicant will be able to provide continuing care  
726 or continuing care at-home as proposed and meet all financial  
727 and contractual obligations related to its operations, including  
728 the financial requirements of this chapter. If the application  
729 is denied, the office must notify the applicant in writing,

382139 - h1033-line 628.docx

Published On: 4/17/2019 5:52:14 PM

Amendment No. 1

730 citing the specific failures to meet the requirements of this  
731 chapter. The denial entitles the applicant to a hearing pursuant  
732 to chapter 120.

733 Section 12. Paragraphs (b) and (c) of subsection (2) and  
734 subsection (3) of section 651.026, Florida Statutes, are  
735 amended, subsection (10) is added to that section, and paragraph  
736 (a) of subsection (2) of that section is republished, to read:

737 651.026 Annual reports.—

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

740 (a) Any change in status with respect to the information  
741 required to be filed under s. 651.022(2).

742 (b) A financial report statements audited by an  
743 independent certified public accountant which must contain, for  
744 two or more periods if the facility has been in existence that  
745 long, all of the following:

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

748 a. A balance sheet;

749 b. A statement of income and expenses;

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

751 d. A statement of changes in cash flows.

752 2. Notes to the financial report statements considered  
753 customary or necessary for full disclosure or adequate

## Amendment No. 1

754 understanding of the financial report statements, financial  
755 condition, and operation.

756 (c) The following financial information:

757 1. A detailed listing of the assets maintained in the  
758 liquid reserve as required under s. 651.035 and in accordance  
759 with part II of chapter 625;

760 2. A schedule giving additional information relating to  
761 property, plant, and equipment having an original cost of at  
762 least \$25,000, so as to show in reasonable detail with respect  
763 to each separate facility original costs, accumulated  
764 depreciation, net book value, appraised value or insurable value  
765 and date thereof, insurance coverage, encumbrances, and net  
766 equity of appraised or insured value over encumbrances. Any  
767 property not used in continuing care must be shown separately  
768 from property used in continuing care;

769 3. The level of participation in Medicare or Medicaid  
770 programs, or both;

771 4. A statement of all fees required of residents,  
772 including, but not limited to, a statement of the entrance fee  
773 charged, the monthly service charges, the proposed application  
774 of the proceeds of the entrance fee by the provider, and the  
775 plan by which the amount of the entrance fee is determined if  
776 the entrance fee is not the same in all cases; ~~and~~

777 5. Any change or increase in fees if the provider changes  
778 the scope of, or the rates for, care or services, regardless of



Amendment No. 1

779 whether the change involves the basic rate or only those  
780 services available at additional costs to the resident;~~;~~

781 6. If the provider has more than one certificated  
782 facility, or has operations that are not licensed under this  
783 chapter, it shall submit a balance sheet, statement of income  
784 and expenses, statement of equity or fund balances, and  
785 statement of cash flows for each facility licensed under this  
786 chapter as supplemental information to the audited financial  
787 report statements required under paragraph (b); ~~and.~~

788 7. The management's calculation of the provider's debt  
789 service coverage ratio, occupancy, and days cash on hand for the  
790 current reporting period.

791 (3) The commission shall adopt by rule additional  
792 ~~meaningful~~ measures of assessing the financial viability of a  
793 provider. ~~The rule may include the following factors:~~

- 794 ~~(a) Debt service coverage ratios.~~  
795 ~~(b) Current ratios.~~  
796 ~~(c) Adjusted current ratios.~~  
797 ~~(d) Cash flows.~~  
798 ~~(e) Occupancy rates.~~  
799 ~~(f) Other measures, ratios, or trends.~~  
800 ~~(g) Other factors as may be appropriate.~~

801 (10) By August 1 annually, the office shall publish on its  
802 website an annual industry report for the preceding calendar  
803 year which contains all of the following:

Amendment No. 1

804 (a) The median days cash on hand for all providers.

805 (b) The median debt service coverage ratio for all  
806 providers.

807 (c) The median occupancy rate for all providers by  
808 setting, including independent living, assisted living, skilled  
809 nursing, and the entire facility.

810 (d) Documentation of the office's compliance with  
811 requirements in s. 651.105(1) relating to examination  
812 timeframes. Documentation must include the number of  
813 examinations completed in the preceding calendar year, the  
814 number of such examinations for which the report has been  
815 issued, and the percentage of all examinations completed within  
816 the statutorily required timeframes.

817 (e) The number of annual reports submitted to the office  
818 pursuant to this section in the preceding calendar year and the  
819 percentage of such reports that the office has reviewed in order  
820 to determine whether a regulatory action level event has  
821 occurred.

822 Section 13. Section 651.0261, Florida Statutes, is amended  
823 to read:

824 651.0261 Quarterly and monthly statements.—

825 (1) Within 45 days after the end of each fiscal quarter,  
826 each provider shall file a quarterly unaudited financial  
827 statement of the provider or of the facility in the form  
828 prescribed by commission rule and days cash on hand, occupancy,

Amendment No. 1

829 debt service coverage ratio, and a detailed listing of the  
830 assets maintained in the liquid reserve as required under s.  
831 651.035. The last quarterly statement for a fiscal year is not  
832 required if a provider does not have pending a regulatory action  
833 level event, impairment, or a corrective action plan. If a  
834 provider falls below two or more of the thresholds set forth in  
835 s. 651.011(25) at the end of any fiscal quarter, the provider  
836 shall submit to the office, at the same time as the quarterly  
837 statement, an explanation of the circumstances and a description  
838 of the actions it will take to meet the requirements.

839 (2) If the office finds, ~~pursuant to rules of the~~  
840 ~~commission,~~ that such information is needed to properly monitor  
841 the financial condition of a provider or facility or is  
842 otherwise needed to protect the public interest, the office may  
843 require the provider to file:

844 (a) Within 25 days after the end of each month, a monthly  
845 unaudited financial statement of the provider or of the facility  
846 in the form prescribed by the commission by rule and a detailed  
847 listing of the assets maintained in the liquid reserve as  
848 required under s. 651.035, ~~within 45 days after the end of each~~  
849 ~~fiscal quarter, a quarterly unaudited financial statement of the~~  
850 ~~provider or of the facility in the form prescribed by the~~  
851 ~~commission by rule. The commission may by rule require all or~~  
852 ~~part of the statements or filings required under this section to~~  
853 ~~be submitted by electronic means in a computer-readable form~~

Amendment No. 1

854 ~~compatible with the electronic data format specified by the~~  
855 ~~commission.~~

856 (b) Such other data, financial statements, and pertinent  
857 information as the commission or office may reasonably require  
858 with respect to the provider or the facility, its directors, or  
859 its trustees; or with respect to any parent, subsidiary, or  
860 affiliate, if the provider or facility relies on a contractual  
861 or financial relationship with such parent, subsidiary, or  
862 affiliate in order to meet the financial requirements of this  
863 chapter, to determine the financial status of the provider or of  
864 the facility and the management capabilities of its managers and  
865 owners.

866 (3) A filing under subsection (2) may be required if any  
867 of the following applies:

868 (a) The provider is:

869 1. Subject to administrative supervision proceedings;  
870 2. Subject to a corrective action plan resulting from a  
871 regulatory action level event and for up to 2 years after the  
872 factors that caused the regulatory action level event have been  
873 corrected; or

874 3. Subject to delinquency or receivership proceedings or  
875 has filed for bankruptcy.

876 (b) The provider or facility displays a declining  
877 financial position.

Amendment No. 1

878        (c) A change of ownership of the provider or facility has  
879 occurred within the previous 2 years.

880        (d) The provider is found to be impaired.

881        (4) The commission may by rule require all or part of the  
882 statements or filings required under this section to be  
883 submitted by electronic means in a computer-readable format  
884 compatible with an electronic data format specified by the  
885 commission.

886        Section 14. Section 651.028, Florida Statutes, is amended  
887 to read:

888        651.028 Accredited facilities.—~~If A provider or facility is~~  
889 deemed accredited under this statute if it is accredited without  
890 stipulations or conditions by a process found by the commission  
891 ~~office to be acceptable, and~~ substantially equivalent to the  
892 provisions of this chapter, ~~the office may, pursuant to rule of~~  
893 ~~the commission, waive any requirements of this chapter with~~  
894 ~~respect to the provider if the office finds that such waivers~~  
895 are not inconsistent and consistent with the security  
896 protections intended by this chapter.

897        Section 15. Subsections (1), (2), (3), and (5) of section  
898 651.033, Florida Statutes, are amended, and subsection (6) is  
899 added to that section, to read:

900        651.033 Escrow accounts.—

Amendment No. 1

901 (1) When funds are required to be deposited in an escrow  
902 account pursuant to s. 651.0215, s. 651.022, s. 651.023, s.  
903 651.0246, s. 651.035, or s. 651.055:

904 (a) The escrow account must ~~shall~~ be established in a  
905 Florida bank, Florida savings and loan association, ~~or~~ Florida  
906 trust company, or a national bank that is chartered and  
907 supervised by the Office of the Comptroller of the Currency  
908 within the United States Department of the Treasury and that has  
909 a branch in this state, which is acceptable to the office, or  
910 such funds must be deposited ~~on deposit~~ with the department, and  
911 ~~the funds deposited therein shall~~ be kept and maintained in an  
912 account separate and apart from the provider's business  
913 accounts.

914 (b) An escrow agreement shall be entered into between the  
915 bank, savings and loan association, or trust company and the  
916 provider of the facility; the agreement shall state that its  
917 purpose is to protect the resident or the prospective resident;  
918 and, upon presentation of evidence of compliance with applicable  
919 portions of this chapter, or upon order of a court of competent  
920 jurisdiction, the escrow agent shall release and pay over the  
921 funds, or portions thereof, together with any interest accrued  
922 thereon or earned from investment of the funds, to the provider  
923 or resident as directed.

924 (c) Any agreement establishing an escrow account required  
925 under ~~the provisions of this chapter~~ is ~~shall be~~ subject to

Amendment No. 1

926 approval by the office. The agreement must ~~shall~~ be in writing  
927 and ~~shall~~ contain, in addition to any other provisions required  
928 by law, a provision whereby the escrow agent agrees to abide by  
929 the duties imposed by paragraphs (b) and (e), (3) (a), (3) (b),  
930 and (5) (a) and subsection (6) under this section.

931 (d) All funds deposited in an escrow account, if invested,  
932 shall be invested as set forth in part II of chapter 625;  
933 however, such investment may not diminish the funds held in  
934 escrow below the amount required by this chapter. Funds  
935 deposited in an escrow account are not subject to charges by the  
936 escrow agent except escrow agent fees associated with  
937 administering the accounts, or subject to any liens, judgments,  
938 garnishments, creditor's claims, or other encumbrances against  
939 the provider or facility except as provided in s. 651.035(1).

940 (e) At the request of either the provider or the office,  
941 the escrow agent shall issue a statement indicating the status  
942 of the escrow account.

943 (2) Notwithstanding s. 651.035(7), ~~In addition, the escrow~~  
944 ~~agreement shall provide that the escrow agent or another person~~  
945 ~~designated to act in the escrow agent's place and the provider,~~  
946 ~~except as otherwise provided in s. 651.035, shall notify the~~  
947 ~~office in writing at least 10 days before the withdrawal of any~~  
948 ~~portion of any funds required to be escrowed under the~~  
949 ~~provisions of s. 651.035. However,~~ in the event of an emergency  
950 and upon petition by the provider, the office may ~~waive the 10-~~

Amendment No. 1

951 ~~day notification period and~~ allow a withdrawal of up to 10  
952 percent of the required minimum liquid reserve. The office shall  
953 have 3 working days to deny the petition for the emergency 10-  
954 percent withdrawal. If the office fails to deny the petition  
955 within 3 working days, the petition is ~~shall be~~ deemed to have  
956 been granted by the office. For purposes ~~the purpose~~ of this  
957 section, the term "working day" means each day that is not a  
958 Saturday, Sunday, or legal holiday as defined by Florida law.  
959 Also, for purposes ~~the purpose~~ of this section, the day the  
960 petition is received by the office is ~~shall not be~~ counted as  
961 one of the 3 days.

962 (3) ~~In addition,~~ When entrance fees are required to be  
963 deposited in an escrow account pursuant to s. 651.0215, s.  
964 651.022, s. 651.023, s. 651.0246, or s. 651.055:

965 (a) The provider shall deliver to the resident a written  
966 receipt. The receipt must show the payor's name and address, the  
967 date, the price of the care contract, and the amount of money  
968 paid. A copy of each receipt, together with the funds, must  
969 ~~shall~~ be deposited with the escrow agent or as provided in  
970 paragraph (c). The escrow agent must ~~shall~~ release such funds to  
971 the provider 7 days after the date of receipt of the funds by  
972 the escrow agent if the provider, operating under a certificate  
973 of authority issued by the office, has met the requirements of  
974 s. 651.0215(8), s. 651.023(6), or s. 651.0246. However, if the  
975 resident rescinds the contract within the 7-day period, the



Amendment No. 1

976 escrow agent must ~~shall~~ release the escrowed fees to the  
977 resident.

978 (b) At the request of an individual resident of a  
979 facility, the escrow agent shall issue a statement indicating  
980 the status of the resident's portion of the escrow account.

981 (c) At the request of an individual resident of a  
982 facility, the provider may hold the check for the 7-day period  
983 and may ~~shall~~ not deposit it during this time period. If the  
984 resident rescinds the contract within the 7-day period, the  
985 check must ~~shall~~ be immediately returned to the resident. Upon  
986 the expiration of the 7 days, the provider shall deposit the  
987 check.

988 (d) A provider may assess a nonrefundable fee, which is  
989 separate from the entrance fee, for processing a prospective  
990 resident's application for continuing care or continuing care  
991 at-home.

992 (5) When funds are required to be deposited in an escrow  
993 account pursuant to s. 651.0215, s. 651.022, s. 651.023, s.  
994 651.0246, or s. 651.035, the following ~~shall~~ apply:

995 (a) The escrow agreement must ~~shall~~ require that the  
996 escrow agent furnish the provider with a quarterly statement  
997 indicating the amount of any disbursements from or deposits to  
998 the escrow account and the condition of the account during the  
999 period covered by the statement. The agreement must ~~shall~~  
1000 require that the statement be furnished to the provider by the

Amendment No. 1

1001 escrow agent on or before the 10th day of the month following  
1002 the end of the quarter for which the statement is due. If the  
1003 escrow agent does not provide the quarterly statement to the  
1004 provider on or before the 10th day of the month following the  
1005 month for which the statement is due, the office may, in its  
1006 discretion, levy against the escrow agent a fine not to exceed  
1007 \$25 a day for each day of noncompliance with the provisions of  
1008 this subsection.

1009 (b) If the escrow agent does not provide the quarterly  
1010 statement to the provider on or before the 10th day of the month  
1011 following the quarter for which the statement is due, the  
1012 provider shall, on or before the 15th day of the month following  
1013 the quarter for which the statement is due, send a written  
1014 request for the statement to the escrow agent by certified mail  
1015 return receipt requested.

1016 (c) On or before the 20th day of the month following the  
1017 quarter for which the statement is due, the provider shall file  
1018 with the office a copy of the escrow agent's statement or, if  
1019 the provider has not received the escrow agent's statement, a  
1020 copy of the written request to the escrow agent for the  
1021 statement.

1022 (d) The office may, in its discretion, in addition to any  
1023 other penalty that may be provided for under this chapter, levy  
1024 a fine against the provider not to exceed \$25 a day for each day

Amendment No. 1

1025 the provider fails to comply with the provisions of this  
1026 subsection.

1027 (e) Funds held on deposit with the department are exempt  
1028 from the reporting requirements of this subsection.

1029 (6) Except as described in paragraph (3)(a), the escrow  
1030 agent may not release or otherwise allow the transfer of funds  
1031 without the written approval of the office, unless the  
1032 withdrawal is from funds in excess of the amounts required by  
1033 ss. 651.0215, 651.022, 651.023, 651.0246, 651.035, and 651.055.

1034 Section 16. Section 651.034, Florida Statutes, is created  
1035 to read:

1036 651.034 Financial and operating requirements for  
1037 providers.-

1038 (1)(a) If a regulatory action level event occurs, the  
1039 office must:

1040 1. Require the provider to prepare and submit a corrective  
1041 action plan or, if applicable, a revised corrective action plan;

1042 2. Perform an examination pursuant to s. 651.105 or an  
1043 analysis, as the office considers necessary, of the assets,  
1044 liabilities, and operations of the provider, including a review  
1045 of the corrective action plan or the revised corrective action  
1046 plan; and

1047 3. After the examination or analysis, issue a corrective  
1048 order, if necessary, specifying any corrective actions that the  
1049 office determines are required.

Amendment No. 1

1050        (b) In determining corrective actions, the office shall  
1051 consider any factor relevant to the provider based upon the  
1052 office's examination or analysis of the assets, liabilities, and  
1053 operations of the provider. The provider must submit the  
1054 corrective action plan or the revised corrective action plan  
1055 within 30 days after the occurrence of the regulatory action  
1056 level event. The office shall review and approve or disapprove  
1057 the corrective action plan within 45 business days.

1058        (c) The office may use members of the Continuing Care  
1059 Advisory Council, individually or as a group, or may retain  
1060 actuaries, investment experts, and other consultants to review a  
1061 provider's corrective action plan or revised corrective action  
1062 plan, examine or analyze the assets, liabilities, and operations  
1063 of a provider, and formulate the corrective order with respect  
1064 to the provider. The costs and expenses relating to consultants  
1065 must be borne by the affected provider.

1066        (2) Except when the office's remedial rights are suspended  
1067 pursuant to s. 651.114(11) (a), the office must take action  
1068 necessary to place an impaired provider under regulatory  
1069 control, including any remedy available under part I of chapter  
1070 631. An impairment is sufficient grounds for the department to  
1071 be appointed as receiver as provided in chapter 631, except when  
1072 the office's remedial rights are suspended pursuant to s.  
1073 651.114(11) (a). If the office's remedial rights are suspended  
1074 pursuant to s. 651.114(11) (a), the impaired provider must make

Amendment No. 1

1075 available to the office copies of any corrective action plan  
1076 approved by the third-party lender or trustee to cure the  
1077 impairment and any related required report. For purposes of s.  
1078 631.051, impairment of a provider is defined according to the  
1079 term "impaired" under s. 651.011. The office may forego taking  
1080 action for up to 180 days after the impairment if the office  
1081 finds there is a reasonable expectation that the impairment may  
1082 be eliminated within the 180-day period.

1083 (3) There is no liability on the part of, and a cause of  
1084 action may not arise against, the commission, department, or  
1085 office, or their employees or agents, for any action they take  
1086 in the performance of their powers and duties under this  
1087 section.

1088 (4) The office shall transmit any notice that may result  
1089 in regulatory action by registered mail, certified mail, or any  
1090 other method of transmission which includes documentation of  
1091 receipt by the provider. Notice is effective when the provider  
1092 receives it.

1093 (5) This section is supplemental to the other laws of this  
1094 state and does not preclude or limit any power or duty of the  
1095 department or office under those laws or under the rules adopted  
1096 pursuant to those laws.

1097 (6) The office may exempt a provider from subsection (1)  
1098 or subsection (2) until stabilized occupancy is reached or until  
1099 the time projected to achieve stabilized occupancy as reported

Amendment No. 1

1100 in the last feasibility study required by the office as part of  
1101 an application filing under s. 651.0215, s. 651.023, s. 651.024,  
1102 or s. 651.0246 has elapsed, but for no longer than 5 years after  
1103 the date of issuance of the certificate of occupancy.

1104 (7) The commission may adopt rules to administer this  
1105 section, including, but not limited to, rules regarding  
1106 corrective action plans, revised corrective action plans,  
1107 corrective orders, and procedures to be followed in the event of  
1108 a regulatory action level event or an impairment.

1109 Section 17. Paragraphs (a), (b), and (c) of subsection (1)  
1110 of section 651.035, Florida Statutes, are amended, and  
1111 subsections (7) through (11) are added to that section, to read:

1112 651.035 Minimum liquid reserve requirements.—

1113 (1) A provider shall maintain in escrow a minimum liquid  
1114 reserve consisting of the following reserves, as applicable:

1115 (a) Each provider shall maintain in escrow as a debt  
1116 service reserve the aggregate amount of all principal and  
1117 interest payments due during the fiscal year on any mortgage  
1118 loan or other long-term financing of the facility, including  
1119 property taxes as recorded in the audited financial report  
1120 ~~statements~~ required under s. 651.026. The amount must include  
1121 any leasehold payments and all costs related to such payments.  
1122 If principal payments are not due during the fiscal year, the  
1123 provider must ~~shall~~ maintain in escrow as a minimum liquid  
1124 reserve an amount equal to interest payments due during the next

Amendment No. 1

1125 12 months on any mortgage loan or other long-term financing of  
1126 the facility, including property taxes. If a provider does not  
1127 have a mortgage loan or other financing on the facility, the  
1128 provider must deposit monthly in escrow as a minimum liquid  
1129 reserve an amount equal to one-twelfth of the annual property  
1130 tax liability as indicated in the most recent tax notice  
1131 provided pursuant to s. 197.322(3), and must annually pay  
1132 property taxes out of such escrow.

1133 (b) A provider that has outstanding indebtedness that  
1134 requires a debt service reserve to be held in escrow pursuant to  
1135 a trust indenture or mortgage lien on the facility and for which  
1136 the debt service reserve may only be used to pay principal and  
1137 interest payments on the debt that the debtor is obligated to  
1138 pay, and which may include property taxes and insurance, may  
1139 include such debt service reserve in computing the minimum  
1140 liquid reserve needed to satisfy this subsection if the provider  
1141 furnishes to the office a copy of the agreement under which such  
1142 debt service is held, together with a statement of the amount  
1143 being held in escrow for the debt service reserve, certified by  
1144 the lender or trustee and the provider to be correct. The  
1145 trustee shall provide the office with any information concerning  
1146 the debt service reserve account upon request of the provider or  
1147 the office. Any such separate debt service reserves are not  
1148 subject to the transfer provisions set forth in subsection (8).

Amendment No. 1

1149 (c) Each provider shall maintain in escrow an operating  
1150 reserve equal to 30 percent of the total operating expenses  
1151 projected in the feasibility study required by s. 651.023 for  
1152 the first 12 months of operation. Thereafter, each provider  
1153 shall maintain in escrow an operating reserve equal to 15  
1154 percent of the total operating expenses in the annual report  
1155 filed pursuant to s. 651.026. If a provider has been in  
1156 operation for more than 12 months, the total annual operating  
1157 expenses must ~~shall~~ be determined by averaging the total annual  
1158 operating expenses reported to the office by the number of  
1159 annual reports filed with the office within the preceding 3-year  
1160 period subject to adjustment if there is a change in the number  
1161 of facilities owned. For purposes of this subsection, total  
1162 annual operating expenses include all expenses of the facility  
1163 except+ depreciation and amortization; interest and property  
1164 taxes included in paragraph (a); extraordinary expenses that are  
1165 adequately explained and documented in accordance with generally  
1166 accepted accounting principles; liability insurance premiums in  
1167 excess of those paid in calendar year 1999; and changes in the  
1168 obligation to provide future services to current residents. For  
1169 providers initially licensed during or after calendar year 1999,  
1170 liability insurance must ~~shall~~ be included in the total  
1171 operating expenses in an amount not to exceed the premium paid  
1172 during the first 12 months of facility operation. ~~Beginning~~  
1173 ~~January 1, 1993,~~ The operating reserves required under this

382139 - h1033-line 628.docx

Published On: 4/17/2019 5:52:14 PM



Amendment No. 1

1174 subsection must ~~shall~~ be in an unencumbered account held in  
1175 escrow for the benefit of the residents. Such funds may not be  
1176 encumbered or subject to any liens or charges by the escrow  
1177 agent or judgments, garnishments, or creditors' claims against  
1178 the provider or facility. However, if a facility had a lien,  
1179 mortgage, trust indenture, or similar debt instrument in place  
1180 before January 1, 1993, which encumbered all or any part of the  
1181 reserves required by this subsection and such funds were used to  
1182 meet the requirements of this subsection, then such arrangement  
1183 may be continued, unless a refinancing or acquisition has  
1184 occurred, and the provider is ~~shall be~~ in compliance with this  
1185 subsection.

1186 (7) (a) A provider may withdraw funds held in escrow  
1187 without the approval of the office if the amount held in escrow  
1188 exceeds the requirements of this section and if the withdrawal  
1189 will not affect compliance with this section.

1190 (b)1. For all other proposed withdrawals, in order to  
1191 receive the consent of the office, the provider must file  
1192 documentation showing why the withdrawal is necessary for the  
1193 continued operation of the facility and such additional  
1194 information as the office reasonably requires.

1195 2. The office shall notify the provider when the filing is  
1196 deemed complete. If the provider has complied with all prior  
1197 requests for information, the filing is deemed complete after 30  
1198 days without communication from the office.

Amendment No. 1

1199 3. Within 30 days after the date a file is deemed  
1200 complete, the office shall provide the provider with written  
1201 notice of its approval or disapproval of the request. The office  
1202 may disapprove any request to withdraw such funds if it  
1203 determines that the withdrawal is not in the best interest of  
1204 the residents.

1205 (8) The office may order the immediate transfer of up to  
1206 100 percent of the funds held in the minimum liquid reserve to  
1207 the custody of the department pursuant to part III of chapter  
1208 625 if the office finds that the provider is impaired or  
1209 insolvent. The office may order such a transfer regardless of  
1210 whether the office has suspended or revoked, or intends to  
1211 suspend or revoke, the certificate of authority of the provider.

1212 (9) Each facility shall file with the office annually,  
1213 together with the annual report required by s. 651.026, a  
1214 calculation of its minimum liquid reserve determined in  
1215 accordance with this section on a form prescribed by the  
1216 commission.

1217 (10) Any increase in the minimum liquid reserve must be  
1218 funded not later than 61 days after the minimum liquid reserve  
1219 calculation is due to be filed as provided in s. 651.026.

1220 (11) If the minimum liquid reserve is less than the  
1221 required minimum amount at the end of any fiscal quarter due to  
1222 a change in the market value of the invested funds, the provider  
1223 must fund the shortfall within 10 business days.

Amendment No. 1

1224 Section 18. Effective July 1, 2019, section 651.043,  
1225 Florida Statutes, is created to read:

1226 651.043 Approval of change in management.-

1227 (1) A contract with a management company entered into  
1228 after July 1, 2019, must be in writing and include a provision  
1229 that the contract will be canceled upon issuance of an order by  
1230 the office pursuant to this section and without the application  
1231 of a cancellation fee or penalty. If a provider contracts with a  
1232 management company, a separate written contract is not required  
1233 for the individual manager employed by the management company or  
1234 contractor hired by the management company to oversee a  
1235 facility. If a management company executes a contract with an  
1236 individual manager or contractor, the contract is not required  
1237 to be submitted to the office unless requested by the office.

1238 (2) A provider shall notify the office, in writing or  
1239 electronically, of any change in management within 10 business  
1240 days. For each new management company or manager not employed by  
1241 a management company, the provider shall submit to the office  
1242 the information required by s. 651.022(2) and a copy of the  
1243 written management contract, if applicable.

1244 (3) For a provider that is found to be impaired or that  
1245 has a regulatory action level event pending, the office may  
1246 disapprove new management and order the provider to remove the  
1247 new management after reviewing the information required under  
1248 subsection (2).

382139 - h1033-line 628.docx

Published On: 4/17/2019 5:52:14 PM

Amendment No. 1

1249 (4) For a provider other than that specified in subsection  
1250 (3), the office may disapprove new management and order the  
1251 provider to remove the new management after receiving the  
1252 required information under subsection (2), if the office:

1253 (a) Finds that the new management is incompetent or  
1254 untrustworthy;

1255 (b) Finds that the new management is so lacking in  
1256 managerial experience as to make the proposed operation  
1257 hazardous to the residents or potential residents;

1258 (c) Finds that the new management is so lacking in  
1259 experience, ability, and standing as to jeopardize the  
1260 reasonable promise of successful operation; or

1261 (d) Has good reason to believe that the new management is  
1262 affiliated directly or indirectly through ownership, control, or  
1263 business relations with any person or persons whose business  
1264 operations are or have been marked by manipulation of assets or  
1265 accounts or by bad faith, to the detriment of residents,  
1266 stockholders, investors, creditors, or the public.

1267  
1268 The office shall complete its review as required under  
1269 subsections (3) and (4) and, if applicable, issue notice of  
1270 disapproval of the new management within 30 business days after  
1271 the filing is deemed complete. A filing is deemed complete upon  
1272 the office's receipt of all requested information and the  
1273 provider's correction of any error or omission for which the

Amendment No. 1

1274 provider was timely notified. If the office does not issue  
1275 notice of disapproval of the new management within 30 business  
1276 days after the filing is deemed complete, the new management is  
1277 deemed approved.

1278 (5) Management disapproved by the office must be removed  
1279 within 30 days after receipt by the provider of notice of such  
1280 disapproval.

1281 (6) The office may revoke, suspend, or take other  
1282 administrative action against the certificate of authority of  
1283 the provider if the provider:

1284 (a) Fails to timely remove management disapproved by the  
1285 office;

1286 (b) Fails to timely notify the office of a change in  
1287 management;

1288 (c) Appoints new management without a written contract  
1289 when a written contract is required under this section; or

1290 (d) Repeatedly appoints management that was previously  
1291 disapproved by the office or that is not approvable under  
1292 subsection (4).

1293 (7) The provider shall remove any management immediately  
1294 upon discovery of either of the following conditions, if the  
1295 conditions were not disclosed in the notice to the office  
1296 required under subsection (2):

1297 (a) That a manager has been found guilty of, or has pled  
1298 guilty or no contest to, a felony charge, or has been held

Amendment No. 1

1299 liable or has been enjoined in a civil action by final judgment,  
1300 if the felony or civil action involved fraud, embezzlement,  
1301 fraudulent conversion, or misappropriation of property.

1302 (b) That a manager is now, or was in the past, affiliated,  
1303 directly or indirectly, through ownership interest of 10 percent  
1304 or more in, or control of, any business, corporation, or other  
1305 entity that has been found guilty of or has pled guilty or no  
1306 contest to a felony charge, or has been held liable or has been  
1307 enjoined in a civil action by final judgment, if the felony or  
1308 civil action involved fraud, embezzlement, fraudulent  
1309 conversion, or misappropriation of property.

1310  
1311 The failure to remove such management is grounds for revocation  
1312 or suspension of the provider's certificate of authority.

1313 Section 19. Section 651.051, Florida Statutes, is amended  
1314 to read:

1315 651.051 Maintenance of assets and records in state.—All  
1316 records and assets of a provider must be maintained or readily  
1317 accessible in this state or, if the provider's corporate office  
1318 is located in another state, such records must be electronically  
1319 stored in a manner that will ensure that the records are readily  
1320 accessible to the office. No records or assets may be removed  
1321 from this state by a provider unless the office consents to such  
1322 removal in writing before such removal. Such consent must ~~shall~~  
1323 be based upon the provider's submitting satisfactory evidence

Amendment No. 1

1324 that the removal will facilitate and make more economical the  
1325 operations of the provider and will not diminish the service or  
1326 protection thereafter to be given the provider's residents in  
1327 this state. Before ~~Prior to~~ such removal, the provider shall  
1328 give notice to the president or chair of the facility's  
1329 residents' council. If such removal is part of a cash management  
1330 system which has been approved by the office, disclosure of the  
1331 system must ~~shall~~ meet the notification requirements. The  
1332 electronic storage of records on a web-based, secured storage  
1333 platform by contract with a third party is acceptable if the  
1334 records are readily accessible to the office.

1335 Section 20. Subsection (3) of section 651.055, Florida  
1336 Statutes, is amended to read:

1337 651.055 Continuing care contracts; right to rescind.-

1338 (3) The contract must include or be accompanied by a  
1339 statement, printed in boldfaced type, which reads: "This  
1340 facility and all other continuing care facilities (also known as  
1341 life plan communities) in the State of Florida are regulated by  
1342 the Office of Insurance Regulation pursuant to chapter 651,  
1343 Florida Statutes. A copy of the law is on file in this facility.  
1344 The law gives you or your legal representative the right to  
1345 inspect our most recent financial statement and inspection  
1346 report before signing the contract. The financial structure of a  
1347 continuing care provider can be complex, and the decision to  
1348 enter into a contract for continuing care is a long-term

382139 - h1033-line 628.docx

Published On: 4/17/2019 5:52:14 PM

Amendment No. 1

1349 commitment between a resident and the continuing care provider.  
1350 You may wish to consult an attorney or financial advisor before  
1351 entering into such contract."

1352 Section 21. Subsection (2) of section 651.057, Florida  
1353 Statutes, is amended to read:

1354 651.057 Continuing care at-home contracts.—

1355 (2) A provider that holds a certificate of authority and  
1356 wishes to offer continuing care at-home must also:

1357 (a) Submit a business plan to the office with the  
1358 following information:

1359 1. A description of the continuing care at-home services  
1360 that will be provided, the market to be served, and the fees to  
1361 be charged;

1362 2. A copy of the proposed continuing care at-home  
1363 contract;

1364 3. An actuarial study prepared by an independent actuary  
1365 in accordance with the standards adopted by the American Academy  
1366 of Actuaries which presents the impact of providing continuing  
1367 care at-home on the overall operation of the facility; and

1368 4. A ~~market~~ feasibility study that meets the requirements  
1369 of s. 651.022(3) and documents that there is sufficient interest  
1370 in continuing care at-home contracts to support such a program;

1371 (b) Demonstrate to the office that the proposal to offer  
1372 continuing care at-home contracts to individuals who do not



Amendment No. 1

1373 immediately move into the facility will not place the provider  
1374 in an unsound financial condition;

1375 (c) Comply with the requirements of s. 651.0246(1) ~~s.~~  
1376 ~~651.021(2)~~, except that an actuarial study may be substituted  
1377 for the feasibility study; and

1378 (d) Comply with the requirements of this chapter.

1379 Section 22. Subsection (1) of section 651.071, Florida  
1380 Statutes, is amended to read:

1381 651.071 Contracts as preferred claims on liquidation or  
1382 receivership.—

1383 (1) In the event of receivership or liquidation  
1384 proceedings against a provider, all continuing care and  
1385 continuing care at-home contracts executed by a provider are  
1386 ~~shall be~~ deemed preferred claims against all assets owned by the  
1387 provider; however, such claims are subordinate to any secured  
1388 claim. For purposes of s. 631.271, such contracts are deemed  
1389 Class 2 claims.

1390 Section 23. Subsections (2) and (3) of section 651.091,  
1391 Florida Statutes, are amended, and subsection (4) of that  
1392 section is republished, to read:

1393 651.091 Availability, distribution, and posting of reports  
1394 and records; requirement of full disclosure.—

1395 (2) Every continuing care facility shall:

1396 (a) Display the certificate of authority in a conspicuous  
1397 place inside the facility.

Amendment No. 1

1398 (b) Post in a prominent position in the facility which is  
1399 accessible to all residents and the general public a concise  
1400 summary of the last examination report issued by the office,  
1401 with references to the page numbers of the full report noting  
1402 any deficiencies found by the office, and the actions taken by  
1403 the provider to rectify such deficiencies, indicating in such  
1404 summary where the full report may be inspected in the facility.

1405 (c) Post in a prominent position in the facility,  
1406 accessible to all residents and the general public, a notice  
1407 containing the contact information for the office and the  
1408 Division of Consumer Services of the department and stating that  
1409 the division or office may be contacted for the submission of  
1410 inquiries and complaints with respect to potential violations of  
1411 this chapter committed by a provider. Such contact information  
1412 must include the division's website and the toll-free consumer  
1413 helpline and the office's website and telephone number.

1414 (d) Provide notice to the president or chair of the  
1415 residents' council within 10 business days after issuance of a  
1416 final examination report or the initiation of any legal or  
1417 administrative proceeding by the office or the department and  
1418 include a copy of such document.

1419 (e)-(e) Post in a prominent position in the facility which  
1420 is accessible to all residents and the general public a summary  
1421 of the latest annual statement, indicating in the summary where  
1422 the full annual statement may be inspected in the facility. A

Amendment No. 1

1423 listing of any proposed changes in policies, programs, and  
1424 services must also be posted.

1425 (f)~~(d)~~ Distribute a copy of the full annual statement and  
1426 a copy of the most recent third-party ~~third party~~ financial  
1427 audit filed with the annual report to the president or chair of  
1428 the residents' council within 30 days after filing the annual  
1429 report with the office, and designate a staff person to provide  
1430 explanation thereof.

1431 (g)~~(e)~~ Deliver the information described in s. 651.085(4)  
1432 in writing to the president or chair of the residents' council  
1433 and make supporting documentation available upon request ~~Notify~~  
1434 ~~the residents' council of any plans filed with the office to~~  
1435 ~~obtain new financing, additional financing, or refinancing for~~  
1436 ~~the facility and of any applications to the office for any~~  
1437 ~~expansion of the facility.~~

1438 (h)~~(f)~~ Deliver to the president or chair of the residents'  
1439 council a summary of entrance fees collected and refunds made  
1440 during the time period covered in the annual report and the  
1441 refund balances due at the end of the report period.

1442 (i)~~(g)~~ Deliver to the president or chair of the residents'  
1443 council a copy of each quarterly statement within 30 days after  
1444 the quarterly statement is filed with the office if the facility  
1445 is required to file quarterly.

1446 (j)~~(h)~~ Upon request, deliver to the president or chair of  
1447 the residents' council a copy of any newly approved continuing

Amendment No. 1

1448 care or continuing care at-home contract within 30 days after  
1449 approval by the office.

1450 (k) Provide to the president or chair of the residents'  
1451 council a copy of any notice filed with the office relating to  
1452 any change in ownership within 10 business days after such  
1453 filing by the provider.

1454 (l) Make the information available to prospective  
1455 residents pursuant to paragraph (3) (d) available to current  
1456 residents and provide notice of changes to that information to  
1457 the president or chair of the residents' council within 3  
1458 business days.

1459 (3) Before entering into a contract to furnish continuing  
1460 care or continuing care at-home, the provider undertaking to  
1461 furnish the care, or the agent of the provider, shall make full  
1462 disclosure, and provide copies of the disclosure documents to  
1463 the prospective resident or his or her legal representative, of  
1464 the following information:

1465 (a) The contract to furnish continuing care or continuing  
1466 care at-home.

1467 (b) The summary listed in paragraph (2) (b) .

1468 (c) All ownership interests and lease agreements,  
1469 including information specified in s. 651.022(2) (b) 8.

1470 (d) In keeping with the intent of this subsection relating  
1471 to disclosure, the provider shall make available for review  
1472 master plans approved by the provider's governing board and any

Amendment No. 1

1473 plans for expansion or phased development, to the extent that  
1474 the availability of such plans does not put at risk real estate,  
1475 financing, acquisition, negotiations, or other implementation of  
1476 operational plans and thus jeopardize the success of  
1477 negotiations, operations, and development.

1478 (e) Copies of the rules and regulations of the facility  
1479 and an explanation of the responsibilities of the resident.

1480 (f) The policy of the facility with respect to admission  
1481 to and discharge from the various levels of health care offered  
1482 by the facility.

1483 ~~(g) The amount and location of any reserve funds required~~  
1484 ~~by this chapter, and the name of the person or entity having a~~  
1485 ~~claim to such funds in the event of a bankruptcy, foreclosure,~~  
1486 ~~or rehabilitation proceeding.~~

1487 (g)(h) A copy of s. 651.071.

1488 (h)(i) A copy of the resident's rights as described in s.  
1489 651.083.

1490 (i) Notice of the issuance of a final examination report  
1491 or the initiation of any legal or administrative proceeding by  
1492 the office or the department, including where the report or  
1493 filing may be inspected in the facility, and that, upon request,  
1494 an electronic copy or specific website address will be provided  
1495 from which the document can be downloaded at no cost.

1496 (j) Notice that, if the resident does not exercise the  
1497 right to rescind a continuing care contract within 7 days after

Amendment No. 1

1498 executing the contract, the resident's funds held in escrow  
1499 pursuant to s. 651.055(2) will be released to the provider.

1500

1501

1502

-----

1503

**T I T L E   A M E N D M E N T**

1504

Remove lines 55-64 and insert:

1505

requiring the office to annually publish on its

1506

website a specified industry report; amending s.

1507

651.0261, F.S.; requiring providers to file quarterly

1508

unaudited financial statements and other specified

1509

information; providing an exception for filing a

1510

certain quarterly statement; revising information that

1511

the office may require providers to file and the

1512

circumstances under which such information must be

1513

filed; revising the commission's rulemaking authority;

1514

amending s. 651.028, F.S.; providing criteria for a

1515

provider or facility to be deemed accredited;

1516

specifying rulemaking requirements and authority of

1517

the commission; amending s.