The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL:	SB 1070
INTRODUCER:	Senator Lee
SUBJECT:	Continuing Care Contracts
DATE:	March 8, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Pre-meeting**
2.			CF	
3.			AP	

I. Summary:

SB 1070 revises provisions within ch. 651, F.S., of the Insurance Code governing continuing care retirement communities (CCRC) or providers, which are regulated by the Office of Insurance Regulation (OIR). The CCRCs provide lifelong housing, household assistance, and nursing care in exchange for a significant entrance fee and monthly fees. The CCRCs appeal to older Americans because they offer an independent lifestyle for as long as possible but also provide the reassurance that, as residents age or become unable to care for themselves, they will receive the additional care they need.

The bill provides the following changes relating to CCRCs:

Regulatory Oversight

- Creates an early intervention system, based on the CCRC's performance, designed to identify, mitigate, or resolve financial issues so that a provider may avoid bankruptcy, as well as protect the interests of the residents. The bill revises monthly, quarterly, and annual reporting by CCRCs to provide more relevant and timely information about financial performance.
- Imposes an express duty on CCRCs to produce records during an examination and gives the OIR standing to petition a court for production of such records.
- Authorizes the OIR, under certain conditions, to issue an immediate suspension order on a CCRC as well as cease and desist order on a person that violates specified laws.
- Revises and streamlines provisions of law relating to applications for licensure and acquisition of a CCRC.
- Provides additional authority for the OIR to disapprove and remove unqualified management.

Protections and Transparency for Residents

- Requires providers to make additional information, notices, and reports available to the residents or residents' council.
- Revises the current process for the resolution of resident's complaints to provide greater transparency regarding the process.
- Revises the membership of the Continuing Care Advisory Council to increase the number of resident members from three to four.

The bill does not have a fiscal impact on the Office of Insurance Regulation.

The bill provides an effective date of July 1, 2020.

II. Present Situation:

Continuing Care Retirement Communities (CCRC)

A provider or a CCRC offer shelter and nursing care or personal services upon the payment of an entrance fee.[1] The CCRCs offer a transitional approach to the aging process, accommodating residents' changing level of care. A CCRC can include independent living apartments or houses, as well as an assisted living facility or a nursing home. The CCRCs may also offer at-home programs that provide residents CCRC services while continuing to live in their own homes until they are ready to move to the CCRC.[2] A CCRC enters into contracts with seniors (residents) to provide housing and medical care in exchange for an entrance fee and monthly fees. Entrance fees are a significant commitment by the resident as entrance fees range from around $100,000 to over $1 million.

Regulation of CCRCs

In Florida, regulatory oversight responsibility of CCRCs is shared between the Agency for Health Care Administration (AHCA) and the Office of Insurance Regulation (OIR).[3] The OIR regulates CCRC providers[4] as specialty insurers. The AHCA regulates aspects of CCRCs related to the provision of health care, such as nursing facilities, assisted living facilities, home health agencies, quality of care, and medical facilities.[5] There are currently 70 licensed continuing care retirement communities in Florida.[6] About 30,000 residents live in CCRCs.[7]

[1] Section 651.011(2), F.S.
[2] Sections 651.057 and 651.118, F.S.
[3] Chapter 651, F.S., and s. 20.121, F.S.
[4] Section 651.011(12), F.S., a provider means an owner or operator.
[5] Agency for Health Care Administration reports, available at *http://www.floridahealthfinder.gov/reports-guides/nursinghomesfl.aspx* (last viewed Feb. 7, 2019) and s. 651.118, F.S.
[6] Office of Insurance Regulation, *Presentation to the Governor's Continuing Care Advisory Council* (Aug. 2017), available at https://www.floir.com/siteDocuments/CCRCAdvisoryCouncilOIRPresentation08172017.pdf (last viewed Feb. 28, 2019).
[7] *Id.*

Oversight by the Office of Insurance Regulation

The OIR has primary responsibility to license, regulate and monitor the operation of CCRCs and to determine facilities' financial condition and the management capabilities of their managers and owners.[8] Continuing care services are governed by a contract between the facility and the resident of a CCRC, which are subject to approval by the OIR.[9] If a provider is accredited through a process "substantially equivalent" to the requirements of ch. 651, F.S., the OIR may waive requirements of the chapter.[10]

In order to operate a CCRC in Florida, a provider must obtain from the OIR a certificate of authority predicated upon first receiving a provisional certificate of authority.[11] The application process involves submitting various financial statements and information, feasibility studies, and copies of contracts.[12] Further, the applicant must provide evidence that the applicant is reputable and of responsible character.[13] A certificate of authority will be issued once a provider meets the requirements prescribed in s. 651.023, F.S.[14]

If a provider fails to meet the requirements of ch. 651, F.S., relating to a provisional certificate of authority or a COA, the OIR must notify the provider of any deficiencies and require the provider to take corrective action within a period determined by the OIR. If the provider does not correct the deficiencies by the expiration of such time required by the OIR, the OIR may initiate delinquency proceedings as provided in s. 651.114, F.S., or seek other relief provided under ch. 651, F.S. The OIR may deny, suspend, or revoke the provisional certificate of authority or the certificate of authority of any applicant or provider for grounds specified in s. 651.106, F.S**.**

Continuing Care Contracts

All CCRC contracts provide for a refund of a declining portion of the entrance fee if the contract is cancelled for reasons other than the death of the resident, during the first 4 years of occupancy in the CCRC by the resident.[15] However, some contracts may exceed this requirement and contain minimum refund provisions that guarantee a refund of a specified portion of the entrance fee upon the death of the resident or termination of the contract regardless of the length of occupancy by the resident.

Financial Requirements/Solvency

Each CCRC is required to file an annual report with the OIR, which includes an audited financial report and other detailed financial information, such as a listing of assets maintained in the liquid reserve, as required under s. 651.035, F.S., and information about fees required of residents.[16] Providers are required to maintain a minimum liquid reserve, as applicable, as prescribed in s. 651.035, F.S., and provide quarterly reports to the OIR.

[8] See ss. 651.021, 651.22, and 651.023, F.S.
[9] Section 651.055(1), F.S.
[10] Section 651.028, F.S.
[11] Section 651.022, F.S.
[12] See ss. 651.021-651.023, F.S.
[13] Section 651.022(2)(c), F.S.
[14] Section 651.023(4)(a), F.S.
[15] Section 651.055, F.S.
[16] Section 651.026, F.S.

Rights of Residents in a Continuing Care Retirement Community

The OIR is authorized to discipline a provider for violations of residents' rights.[17] These rights include: a right to live in a safe and decent living environment, free from abuse and neglect; freedom to participate in and benefit from community services and activities and to achieve the highest possible level of independence, autonomy, and interaction within the community; and the right to present grievances and recommend changes in policies, procedures, and services to the staff of the facility, governing officials, or any other person without restraint, interference, coercion, discrimination, or reprisal.[18]

Each CCRC must establish a resident's council to provide a forum for residents' input on issues that affect the general residential quality of life, such as the facility's financial trends, and problems, as well as proposed changes in policies, programs, and services.[19] The CCRCs are required to maintain and make available certain public information and records.[20]

Residents are also represented on the Continuing Care Advisory Council, which acts in an advisory capacity to OIR, meeting at least once a year to recommend to the OIR changes in statutes and rules, and upon the request of OIR to assist with any corrective action, rehabilitation or cessation of the business plan of a provider. The Council is composed of ten members, including:

- Three administrators of CCRC facilities;
- Three residents of CCRCs;
- An attorney;
- A certified public accountant;
- A representative of the business community whose expertise is in the area of management; and,
- A representative of the financial community who is not a facility owner or administrator.[21]

Department of Financial Services

The Department of Financial Services (DFS) may interact with a resident after a CCRC contractual agreement has been signed by both parties or during a mediation or arbitration process.[22] Typically, residents will contact the Division of Consumer Services of the Department of Financial Services, which receives inquiries and complaints involving products and entities regulated by the OIR or the DFS.[23] The DFS coordinates with the OIR in the resolution of complaints or inquiries.

States primarily regulate insurance companies, and the state of domicile serves as the primary regulator for insurers. Federal law provides that insurance companies may not file for

[17] Section 651.083, F.S.
[18] *Id*.
[19] Section 651.081, F.S.
[20] Section 651.091, F.S.
[21] Section 651.121, F.S.
[22] *See* Rules 69O-193.062 and 69O-193.063, F.A.C.
[23] Section 624.307, F.S.

bankruptcy.[24] Instead, the state, through the Division of Rehabilitation and Liquidation of the Department of Financial Services (DFS), is responsible for rehabilitating or liquidating an insurer.[25] If an insurer is found to be insolvent and is ordered to be liquidated by a court, a receiver takes over the insurer under court supervision and processes the assets and liabilities through liquidation. If the DFS institutes receivership or liquidation proceedings against a CCRC, the continuing care contracts are deemed preferred claims against assets of the provider.[26] Such claims are subordinate, however, to any secured claim. Florida law does not specify the claim status of continuing care contracts in a bankruptcy proceeding.

III. Effect of Proposed Changes:

Section 1 amends s. 651.011, F.S., to create definitions of the following terms: actuarial opinion, actuarial study, actuary, controlling company, corrective order, days cash on hand, debt service coverage ratio, department, impaired, manager, management, or management company, obligated group, occupancy, and regulatory action level event. The term, "impaired," means any of the following has occurred:

- A provider has failed to maintain its minimum liquid reserve as required in s. 651.035, F.S., unless the provider has received prior written approval from the office for a withdrawal pursuant to s. 651.035(6), F.S., and is compliant with the approved payment schedule; or
- Effective July 1, 2021:
  - For a provider with mortgage financing from a third-party lender or public bond issue, the provider's debt service coverage ratio is less than 1:1 and the provider's days cash on hand is less than 90; or
  - For a provider without mortgage financing from a third-party lender or public bond issue, the provider's days cash on hand is less than 90.

The term, "regulatory action level event," is defined to mean that any of the following has occurred:

- The provider's debt service coverage ratio is less than the minimum ratio specified in the provider's bond covenants or lending agreement for long-term financing, or, if the provider does not have a debt service coverage ratio required by its lending institution, the provider's debt service coverage ratio is less than 1.20:1 as of the most recent annual report filed with the OIR. If the provider is a member of an obligated group having cross-collateralized debt, the obligated group's debt service coverage ratio must be used as the provider's debt service coverage ratio.
- The provider's days cash on hand is less than the minimum number of days cash on hand specified in the provider's bond covenants or lending agreement for long-term financing. If the provider does not have a days cash on hand required by its lending institution, the days cash on hand may not be less than 100 as of the most recent annual report filed with the OIR. If the provider is a member of an obligated group having cross-collateralized debt, the days cash on hand of the obligated group must be used as the provider's days cash on hand.

[24] The Bankruptcy Code expressly provides that "a domestic insurance company" may not be the subject of a federal bankruptcy proceeding. 11 U.S.C. s. 109(b)(2). The exclusion of insurers from the federal bankruptcy court process is consistent with federal policy generally allowing states to regulate the business of insurance. *See* 15 U.S.C. ss. 1011- 1012.
[25] Sections 631.051 and 631.061, F.S. Chapter 631, F.S., governs the receivership process for insurance companies in Florida.
[26] Section 651.071, F.S.

- The average occupancy of the provider's facility over the 12-month period ending on the reporting date is less than 80 percent.

Sections 2 and 21 amend ss. 651.012 and 651.057, F.S., by providing technical, conforming changes.

Regulatory Oversight and Solvency

Section 3 amends s. 651.013, F.S., to expand the scope of laws applicable to continuing care retirement communities (CCRCs) to include ss. 624.307, 624.308, 624.310, 624.102, 624.311, 624.312, 624.318 and 624.422, F.S. These provisions provide the OIR with additional authority to take enforcement authority against licensed entities, affiliates, and unlicensed entities subject to OIR's regulation. Further, these provisions specify that CCRCs must appoint the Chief Financial Officer for service of process; clarify the role of the DFS Division of Consumer Services in resolving consumer complaints; specify requirements for the retention of records by the OIR; provide immunity from civil liability for persons providing the DFS, Financial Services Commission (FSC), or the OIR with information about the condition of an insurer, clarify the authority of the OIR in regards to examinations and investigations; and specify the duty of every person being examined to provide records during an examination or investigation. Finally, s. 624.312, F.S., provides that reproductions and certified copies of records are admissible as evidence.

Section 5 amends s. 651.021, F.S., which relates to the certificate of authority process, to transfer provisions relating to expansion of a certified facility to the newly created s. 651.0246, F.S.

Section 6 creates s. 651.0215, F.S., to allow an applicant to qualify for a certificate of authority without first obtaining a provisional certificate of authority if certain conditions are met, including:

- Placement of all reservation deposits and entrance fees in escrow and not pledging initial entrance fees for construction or purchase of the facility or as a security for long-term financing.
- Compliance with reservation deposit requirements that it may not exceed the lesser of $40,000 or 10 percent of the then-current fee for the unit selected by a resident, which is refundable in certain circumstances.
- Submission of a feasibility study, financial forecasts or projections, an audited financial report, and quarterly unaudited financial reports;
- Evidence of compliance with conditions of the lenders' conditions;
- Documentation evidencing that aggregate amount of entrance fee received by or pledged by the applicant and other specified sources equal at least 100 percent of the aggregate cost of constructing, acquiring, equipping, and furnishing the facility plus 100 percent of the anticipated start-up losses of the facility;
- Evidence that the applicant will meet minimum liquid requirements; and
- Such other reasonable data and information requested by the OIR.

The section provides a timeline for the review and approval or disapproval of the application.

Section 7 amends s. 651.022, F.S., which relates to the provisional certificate of authority process, to clarify that an applicant must disclose material changes that occur while a provisional certificate of authority application is pending before the OIR. The section provides a timeline for the review and approval or disapproval of the application.

Section 8 amends s. 651.023, F.S., relating to the requirements for a certificate of authority application. The section provides the OIR may not approve a COA if it includes in the financing plan any encumbrance on renewal or replacement reserves required by ch. 651, F.S. After issuance of a provisional certificate of authority, the OIR will issue the holder a certificate of authority if the holder provides certain information. The bill clarifies the deadlines for the OIR's approval or denial of completed applications. In order for a unit to be considered reserved, the provider must collect a minimum deposit of the lesser of $40,000 or 10 percent of the then-current entrance fee for that unit.

Section 9 amends s. 651.024, F.S., to clarify which filing or application for acquisition applies to each type of transaction, including the new, consolidated provisions of s. 651.0245, F.S. The section clarifies that the assumption of the role of a general partner of a CCRC or the assumption of ownership, or possession of, or control over, 10 percent or more of a provider's assets requires an acquisition filing. However, this type of acquisition is not subject to the filing requirements pursuant to s. 651.022, s. 651.023, or s. 651.0245, F.S. A person who seeks to acquire and become the provider for a facility will be subject to s. 651.0245, F.S., and is not required to make filings pursuant to ss. 651.4615, 651.022, and 651.023, F.S.

Section 10 creates s. 651.0245, F.S., to consolidate the application for the simultaneous acquisition of a facility and issuance of a certificate of authority into a single application. The section provides that a person must obtain the OIR's prior approval before acquiring a facility operating under an existing certificate of authority and engaging in the business of continuing care.

Section 11 creates s. 651.0246, F.S., relating to expansions, to clarify the requirements and approval process. The section establishes financial and reporting requirements for an expansion of a facility equivalent to the addition of at least 20 percent of the existing units or 20 percent more continuing care at-home contracts. If a facility meets certain conditions, the expansion is not subject to prior approval by the OIR.

Section 12 amends s. 651.026, F.S., to require a facility to submit on an annual basis, an audited financial report and the management's calculation of the provider's debt service coverage ratio occupancy rate, calculation of minimum liquid reserves, and day's cash on hand for the current reporting period. The OIR is required to publish an annual industry benchmarking report that contains specified information about the industry's performance.

Section 13 amends s. 651.0261, F.S., to codify the current discretionary monthly financial reporting rule[27] and revise the quarterly financial reporting requirements for providers. The section requires a provider to submit quarterly unaudited financial statements, day's cash on hand, debt service coverage ratio, occupancy rate, and a detailed listing of assets in the minimum

[27] Rule 69O-193.005, F.A.C.

liquid reserve with the quarterly and monthly unaudited financial statement filings, if applicable. This will assist the OIR in determining whether a provider is impaired and to take action to assist providers who may fall below the impairment threshold. The OIR may waive the quarterly reporting requirements if a written request from a provider that is accredited or that has obtained an investment grade credit rating from a U.S. credit rating agency. This section specifies conditions that may trigger a monthly financial reporting to the OIR, such as the provider is subject to administrative supervision proceedings, a corrective action plan, or the provider or facility displays a declining financial condition.

Section 14 amends s. 651.028, F.S., to provides that if a provider or obligated group has obtained an investment grade credit rating from Moody's Investors Services, Standard & Poor's, or Fitch Ratings, the OIR may waive any requirements of ch. 631, F.S., if the OIR finds that such waivers are not inconsistent with the protections intended by this chapter. Currently, the OIR may waive ch. 631, F.S., requirements if a provider is accredited.

Section 15 amends s. 651.033, F.S., to clarify the terms and conditions relating to an escrow account, withdrawals, and the duties of escrow agents.

Section 16 creates s. 651.034, F.S., to establish a financial and operating framework of required actions if a regulatory action level event or an impairment occurs. Once a regulatory action level event is triggered, the OIR is required to examine the provider, review the provider's corrective action plan, and issue a corrective order specifying any corrective actions that the OIR deems necessary with exceptions. The OIR may consult with members of the Continuing Care Advisory Council and other consultants to review a provider's corrective action plan, examine a provider, and formulate the corrective order with respect to a provider. Further, this section details the information the provider must submit to the OIR if a regulatory action level event occurs, which would include the submission of a corrective action plan within 30 days after the regulatory action level event. The OIR must approve or disapprove the corrective plan within 15 days.

If an impairment of a provider occurs, the OIR may take action, which could include "any remedy available under ch. 631, F.S." An impairment is sufficient grounds for the Department of Financial Services to be appointed as receiver. The section provides that the OIR may exempt a provider from provisions relating to the regulatory action level event and impairment if certain conditions are met. This section does not preclude or limit any power or duty of the DFS or the OIR. The current intervention framework for CCRCs is triggered only after a provider becomes insolvent, meaning it is unable to pay its obligations as they come due in the normal course of business.

Section 17 amends s. 651.035, F.S., relating to the minimum liquid reserve requirements, withdrawals, and reporting. Each facility must file annually with the OIR a calculation of the minimum liquid reserve along with the annual report. The section allows a provider to withdraw funds held in escrow without the approval of the OIR if the amount in escrow exceeds the requirements of this section and the withdrawal will not affect compliance with this section. For all other proposed withdrawals, the provider must file information documenting the necessity of the withdrawal. Within 30 days after the file is deemed complete, the OIR must notify the provider of its approval or disapproval of the withdrawal request. The section also requires a provider that does not have a mortgage loan or other financing on the facility, to deposit monthly

in escrow one-twelfth of its annual property tax liability. The section authorizes the OIR to require the transfer of up to 100 percent of the funds held in the minimum liquid reserve to the custody of the Bureau of Collateral Management of the DFS if the OIR finds that the provider is impaired or insolvent in order to ensure the safety of those assets.

Section 18 creates s. 651.043, F.S., relating to changes in management. This section establishes criteria for the OIR to use in determining whether management meets minimum qualification standards and allows for the disapproval and removal of unqualified management. Providers are required to file notices of a change in management with the OIR within 10 days of the appointment of new management. The OIR must approve or disapprove the filing within 15 days after the filing is deemed complete. Disapproved management must be removed within 30 days after receipt of the OIR's notice. Currently, the OIR does not have authority to disapprove unaffiliated management except by taking action against the certificate of authority of the provider.

Effective July 1, 2019, management contracts must be in writing. Currently, Rule 690-193.002(13), F.A.C., specifies that a manager or management company agrees to administer the day-to-day activities of a facility pursuant to a written contract with the provider. However, the rule does not address situations where a manager or management company does not have a written contract with the provider. This change closes a loophole that has allowed management serving under an oral contract to evade regulation by the OIR.

Section 19 amends s. 651.051, F.S., to clarify requirements for the maintenance of records and assets to provide that they must be maintained or readily accessible to the OIR.

Section 24 amends s. 651.095, F.S., to clarify that the terms, "life plan and life plan at-home" may not be used in advertisements by entities not licensed pursuant to ch. 651, F.S.

Section 25 amends s. 651.105, F.S., relating to examinations by the OIR. The section requires a provider to respond to written correspondence from the OIR. Further, the section provides that the OIR has standing to petition a circuit court for mandatory injunctive relief to compel access to and require a provider to produce requested records. Unless a provider or facility is impaired or subject to a regulatory level event, any parent, subsidiary, or affiliate is not subject to examination by the OIR as part of a routine examination. However, an exception is provided if a facility or provider relies on a contractual or financial relationship with a parent, subsidiary, or affiliate in order to demonstrate that the financial condition of the provider or facility is in compliance with ch. 651, F.S.

Section 26 amends s. 651.106, F.S., to provide additional grounds for the OIR to refuse, suspend, or revoke a COA. The section provides that the OIR may deny an application, suspend, or revoke the provisional certificate of authority or certificate of authority if the provider is impaired or the owners, managers, or controlling persons are not reputable or lack sufficient management expertise or experience to operate a CCRC.

Section 27 creates s. 651.1065, F.S., which prohibits an impaired or insolvent provider from soliciting or accepting new contracts after the proprietor, general partner, its member, officer, director, trustee, or manager knew, or reasonably should have known, that the CCRC is impaired

or insolvent, even if a delinquency hearing had not been initiated. The section provides discretion for the OIR to allow the issuance of new contracts where safeguards are adequate unless the facility has declared bankruptcy. A violation of this section is a felony of the third degree.

Section 29 amends s. 651.114, F.S., relating to delinquency proceedings and remedial rights. A provider must develop a plan for obtaining compliance or solvency within 30 days after a request from the advisory council or the office. The advisory council is required to respond within 30 days after receipt of a plan. The section clarifies that the OIR may take other regulatory action while a plan is under review. If the financial condition of the provider is impaired or the provider fails to submit a corrective plan within 30 days of the request or submits an insufficient plan, the OIR may specify a plan, and direct the provider to implement it.

The section requires a provider to give residents a written notice of a delinquency proceeding under ch. 631, F.S., within 3 business days of initiation. If a ch. 631, F.S., show a cause order is issued, the provider must respond within 20 days after service. Any hearing must be held within 60 days after the order to show cause. A hearing to determine whether cause exists for the DFS to be appointed a receiver must be commenced within 60 days after an order directing a provider to show cause.

Section 30 creates s. 651.1141, F.S., to provide that the following statutory violations are an immediate danger to the public health, safety, or welfare of the residents of this state:

- The installation of a general partner of a provider or assumption of ownership or possession or control of 10 percent or more of a provider's assets in violation of s. 651.024, F.S., or s. 651.0245, F.S.;
- The removal or commitment of 10 percent or more for the required minimum liquid reserve funds in violation of s. 651.035, F.S.; or
- The assumption of control over a facility's operations in violation of s. 651.043, F.S., has occurred.

If the OIR determines that a person or entity is engaging or has engaged in one or more of the above activities, the OIR may, pursuant to s. 120.569, F.S., issue an immediate final order directing that such person or entity cease and desist that activity; or suspend the certificate of authority of the facility. This provision will allow the OIR to take more expedited action to protect the assets of the provider and the significant investments of the residents.

Section 32 amends s. 651.125, F.S., to clarify that any person who assists in entering into, maintaining, or performing any continuing care or continuing care at-home contract subject to ch. 651, F.S., without a valid provisional certificate of authority or certificate of authority commits a felony of the third degree.

Increased Transparency and Protections for Residents

Section 4 amends s. 651.019, F.S., to require a provider to provide a general outline of the amount and terms of any new financing or refinancing to the residents' council at least 30 days before the closing date of the transaction. Such documents must be submitted to the OIR within 30 days after the closing date. Under current law, the residents' council receives notice of all

financing documents filed with the OIR. Further, providers are required to file a general outline and intended use of proceeds with the OIR prior to the closing date of the financing.

Section 20 amends s. 651.055, F.S., to require all contracts to include a notice that a copy of ch. 651, F.S., is on file at the facility, and disclose that an individual has a right to inspect financial statements and inspection report of the facility before signing the contract.

Section 22 amends s. 651.071, F.S., to deem all continuing care and continuing care at-home contracts preferred claims or policyholder loss claims pursuant to s. 631.271(1)(b), F.S., in the event the provider is liquidated or put into receivership. The intent of this provision is to protect the claims of residents in the event of a liquidation.

Section 23 amends s. 651.091, F.S., to create additional provider notice and reporting requirements to the residents or residents' council. These reports assist residents and prospective residents to remain apprised of the status and stability of the provider and to take action to protect their interests. The section requires the provider to furnish information to the chair of the residents' council, such as, a notice of the issuance of any examination reports, a notice of the initiation of any legal or administrative proceedings by the OIR or the DFS, and the reasons for any increase in the monthly fee that exceeds the consumer price index. A facility is required to post in a prominent place the contact information for the OIR and the Division of Consumer Services of the Department of Financial Services.

Section 28 amends s. 651.111, F.S., by revising provisions relating to the OIR's authority to conduct inspections initiated by resident complaints. The section requires the OIR to acknowledge receipt of a complaint within 15 days and issue a written closure statement to the complainant upon the final disposition of the complaint.

Section 31 amends s. 651.121, F.S., relating to the Continuing Care Advisory Council, to increase the number of residents on the council from three to four and remove the requirement that one of the 10 members is an attorney.

Section 33 provides that, except as otherwise expressly provided in this bill and except for this section, the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill consolidates various applications, which may result in a reduction in application fees incurred by applicants.

B. Private Sector Impact:

The bill provides additional consumer protections for current and potential residents of a continuing care retirement community (CCRC). The establishment of the early intervention framework will allow the OIR to work with a provider much sooner in order to mitigate or resolve any potential issues that would put resident interests in jeopardy.

The consolidation of the acquisition filings may result in a reduction of administrative costs for affected CCRCs.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Some of the provisions in the bill relating or referencing to ch. 631, F.S., are inconsistent.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 651.011, 651.012, 651.013, 651.019, 651.021, 861.022, 651.023, 651.026, 651.0261, 651.028, 651.035, 651.051, 651.055, 651.057, 651.071, 651.091, 651.095, 651.105, 651.106, 651.111, 651.114, 651.121, and 651.125.

This bill creates the following sections of the Florida Statutes: 651.0215, 651.0245, 651.0246, 651.043, 651.034, 651.1065, and 651.1141.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.