

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Florida's continuing care industry is regulated under ch. 651, F.S., and is governed by the Florida Department of Financial Services. Continuing care retirement communities (CCRCs), commonly known as life-care facilities, provide residents with shelter and health care in return for an entrance fee and monthly maintenance payments.¹ Over the next 20 years, state officials predict a 40 percent increase in the number of people age 65 or over.² CCRCs generally offer a wide range of services and may additionally be licensed as assisted living and nursing home facilities.

Historically, not-for-profit religious communities and fraternal organizations sponsored most CCRCs, promising "total life care" through contractual arrangements for occupancy and services. However, private, for-profit businesses have entered the market.³ As of October 2007, there were 69 licensed CCRCs in Florida, down from 71 such facilities in 1997. In 2006, 2,302 CCRC units were sold and the total number of Floridians in CCRCs exceeded 25,000.⁴

Financial Reporting

The bill requires that the following additional financial information be contained within the CCRC's annual report:

- For CCRC providers whose financial statements are consolidated with another entity, a consolidating balance sheet and statement of income and expenses must be reported in a separate column for each entity.
- A supplemental statement of income and expenses of each department's cost center.
- An itemized schedule of property, plant and equipment having an original cost of at least \$25,000.
- Any changes to fees or services.
- Information necessary to determine the continuing care provider's compliance with its filed continuing care contract.

Additionally, the continuing care provider is required to deliver to the CCRC resident's organization a complete copy of all quarterly statements within 10 days after filing with the Office of Insurance Regulation (OIR).

Expanded Rights of Residents

The bill provides that CCRC residents will be entitled to:

¹ Under the traditional CCRC concept, entrance fees can range from \$2,000 to \$500,000 and monthly fees can range from \$250 to \$5,000 or more. Source: Florida Department of Financial Services' consumer guide to *Long Term Care & Other Options for Seniors*

² Id.

³ Id.

⁴ Florida Office of Insurance Regulation's (OIR) *Presentation to the Governor's Continuing Care Advisory Council, October 11, 2007.*

- Full accountability by the continuing care provider and the operator for the finances of the facility, including monthly maintenance fees.
- Notice of all proposed changes in fees, services, procedures, and policies that may affect the finances or welfare of the residents.
- Advance notice of all increases in maintenance fees, not only those that exceed the consumer price index as previously required.
- A listing and summary of all proposed changes in policies, programs, and services at least 30 days before the changes are to become effective.
- Majority voting rights, upon request, during all meetings of the full governing body of the continuing care provider if the provider and the operator of the facility are different individuals or entities.
- Minutes of all meetings of the operator of the facility (at the resident's cost).
- Receive and send private communications by electronic and other means.

Additionally, residents' organizations will be entitled to, at a minimum, a quarterly accounting of receipts, expenses, and other used funds, by department cost center and to examine the accounts and records. CCRCs will be required to disclose to prospective residents all agreements between the provider and entities related to the provider.

Other Regulatory Issues

Required reporting by CCRCs and regulatory authority of OIR are expanded by the bill to include the following:

- Continuing care providers must submit for OIR approval any contracts with affiliates or other related entities, with OIR responsible for determining whether or not a conflict of interest exists.
- OIR is required to provide examiners with a checklist for examining CCRCs. The checklist must include items to ensure that the continuing care provider has made all required disclosures and submitted all required information to OIR.
- OIR may suspend or revoke the authority of a CCRC for misrepresenting an increase in the monthly maintenance fees or for failure to disclose any agreement between the continuing care provider and the operator to facility residents.
- Continuing care providers, in situations where new financing, additional financing, or refinancing will increase or may increase residents' financial obligations or be detrimental to the residents, must deliver to the resident's organization a summary of all information submitted to the OIR within 10 days.

C. SECTION DIRECTORY:

Section 1. Amends 651.0026, F.S., relating to annual reports for continuing care retirement communities.

Section 2. Amends 651.0261, F.S., relating to quarterly statements.

Section 3. Amends 651.051, F.S., relating to the maintenance of assets and records in state.

Section 4. Amends 651.081, F.S., relating to continuing care facilities residents' organizations.

Section 5. Amends 651.083, F.S., relating to rights of residents of continuing care retirement communities.

Section 6. Amends 651.085, F.S., relating to quarterly meetings between residents of facilities and the governing body of providers.

Section 7. Amends 651.091, F.S., relating to posting of reports and records by continuing care retirement communities.

Section 8. Amends 651.105, F.S., relating to examinations and inspections.

Section 9. Amends 651.106, F.S., relating to refusal, suspension, or revocation of authority as a continuing care retirement community.

Section 10. Amends 651.1151, F.S., relating to administrative, vendor, and management contracts.

Section 11. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Fiscal impact information not yet received from the Office of Insurance Regulation.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Office of Insurance Regulation estimates that the CCRCs could incur substantial costs to comply with the provisions of the bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply because this bill does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The July 1, 2008 effective date may provide insufficient time for continuing care providers to come into compliance with the requirements of the bill.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES