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SENATE BILL 5395

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State of Washington                      65th Legislature                      2017 Regular Session

By Senators Rivers, Mullet, Keiser, and Pedersen

Read first time 01/23/17. Referred to Committee on Health Care.

1            AN ACT Relating to strengthening the timing and content of  
2 disclosures by continuing care retirement communities; and amending  
3 RCW 18.390.030, 18.390.060, and 18.390.070.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 18.390.030 and 2016 c 183 s 3 are each amended to  
6 read as follows:

7            (1) An applicant for a registration as a continuing care  
8 retirement community must submit the following materials to the  
9 department:

10            (a) A written application to the department providing all  
11 necessary information on a form provided by the department;

12            (b) Information about the licensed assisted living facility  
13 component of the continuing care retirement community and, if the  
14 continuing care retirement community operates a nursing home,  
15 information about that component;

16            (c) Copies of any agreements, including residency agreements and  
17 care service agreements that the continuing care retirement community  
18 intends to use for the (~~certification~~) registration period;

19            (d) A copy of the disclosure statement that includes current  
20 information required by RCW 18.390.060;

1 (e)(i) Except as provided in (e)(ii) of this subsection, copies  
2 of audited financial statements for the two most recent fiscal years.  
3 The audited financial statement for the most current period may not  
4 have been prepared more than eighteen months prior to the date that  
5 the continuing care retirement community applied for its current  
6 registration;

7 (ii) If the continuing care retirement community:

8 (A) Has obtained financing, but has been in operation less than  
9 two years, a copy of the audited financial statement for the most  
10 current period, if available, and an independent accountant's report  
11 opinion letter that has evaluated the financial feasibility of the  
12 continuing care retirement community; or

13 (B) Has not obtained financing, a summary of the actuarial  
14 analysis for the new continuing care retirement community stating  
15 that the continuing care retirement community is in satisfactory  
16 actuarial balance;

17 (f) An attestation by a management representative of the  
18 continuing care retirement community that the continuing care  
19 retirement community is in compliance with the disclosure  
20 notification requirements of RCW 18.390.060; and

21 (g) Payment of any registration fees associated with the  
22 department's cost of registering continuing care retirement  
23 communities.

24 (2) The department shall base its decision to issue a  
25 registration on the completeness of the application. If an  
26 application is incomplete, the department shall inform the applicant  
27 and give the applicant an opportunity to supplement its submission.  
28 An applicant may appeal a decision of the department to deny an  
29 application for registration.

30 (3) The department shall issue the registration within sixty days  
31 of the receipt of a complete application, payment of fees, submission  
32 of disclosures, residency agreements, and the attestation. The  
33 department's failure to timely issue a registration may not cause a  
34 delay in the change of ownership and ongoing operation of the  
35 continuing care retirement community.

36 (4) Registration is valid for two years.

37 (5) Registration is not transferable.

38 ~~((6) Materials submitted pursuant to this section are not~~  
39 ~~subject to disclosure under the public records act, chapter 42.56~~  
40 ~~RCW-))~~

1       **Sec. 2.** RCW 18.390.060 and 2016 c 183 s 6 are each amended to  
2 read as follows:

3       (1) A continuing care retirement community must prepare a  
4 disclosure statement that includes the following information:

5       (a) The names of the individual or individuals who constitute the  
6 continuing care retirement community and each of the officers,  
7 directors, trustees, or managing general partners of the legal entity  
8 and a description of each individual's duties on behalf of the legal  
9 entity;

10       (b) The business address of the continuing care retirement  
11 community;

12       (c) The type of ownership, the names of the continuing care  
13 retirement community's owner and operator, and the names of any  
14 affiliated facilities;

15       (d) The names and business addresses of any individual having any  
16 more than a ten percent direct or indirect ownership or beneficial  
17 interest in the continuing care retirement community, the percentage  
18 of the direct or indirect ownership or beneficial interest, and a  
19 description of each individual's interest in or occupation with the  
20 continuing care retirement community;

21       (e) The location and general description of the continuing care  
22 retirement community, including:

23       (i) The year the continuing care retirement community opened;

24       (ii) The location and number of living units, licensed assisted  
25 living facility beds, and nursing beds considered part of the  
26 continuing care retirement community;

27       (iii) The average annual occupancy rate for the prior three  
28 fiscal years for each type of unit or bed; and

29       (iv) Any other care facilities owned or operated by the owner of  
30 the continuing care retirement community;

31       (f) An explanation of the continuing care retirement community's  
32 policy regarding placement in off-campus assisted living facilities  
33 and nursing homes and the payment responsibilities of the continuing  
34 care retirement community and the resident in the event of off-campus  
35 placement;

36       (g) The number of residents who were placed off-site in the  
37 previous three years for assisted living and nursing services due to  
38 the lack of available capacity at the continuing care retirement  
39 community;

1 (h) An explanation of all types of fees charged by the continuing  
2 care retirement community, how each type of fee is determined,  
3 current ranges for each type of fee, and refund policies for each  
4 type of fee;

5 (i) Statements describing the continuing care retirement  
6 community's policy for notifying residents of fee increases,  
7 including the amount of prior notification that is provided;

8 (j) Statements describing the continuing care retirement  
9 community's policy related to changes in levels of care and any  
10 associated fees;

11 (k) Statements describing the continuing care retirement  
12 community's policy for the termination of a contract, including the  
13 return of any fees or deposits pursuant to the residency agreement;

14 (l) A description of services provided or proposed to be provided  
15 by the continuing care retirement community under its residency  
16 agreements, including:

17 (i) The extent to which care, long-term care, or health-related  
18 services are provided. If the services are provided at a facility  
19 that is not (~~certified~~) registered as part of the continuing care  
20 retirement community's campus, the disclosure statement must identify  
21 the location where the services are provided and any additional fees  
22 associated with the services; and

23 (ii) The services made available by the continuing care  
24 retirement community for an additional charge; and

25 (m)(i) The continuing care retirement community's two most recent  
26 annual audited financial statements prepared in accordance with  
27 generally accepted accounting principles by a certified public  
28 accountant and the most recent detailed annual actuarial analysis  
29 prepared in accordance with generally accepted actuarial principles  
30 by a qualified actuary. The most recently audited financial statement  
31 may not have been prepared more than eighteen months prior to the  
32 date that the continuing care retirement community applied for its  
33 current registration; or

34 (ii) If the continuing care retirement community is new and:

35 (A) Has obtained financing, but does not have two years of  
36 audited financial statements as required under (m)(i) of this  
37 subsection, an independent accountant's report opinion letter that  
38 has evaluated the financial feasibility of the continuing care  
39 retirement community; or

1 (B) Has not obtained financing, a summary of the actuarial  
2 analysis for the new continuing care retirement community stating  
3 that the continuing care retirement community is in satisfactory  
4 actuarial balance.

5 (2) The disclosure statement must be written in understandable  
6 language and a clear format.

7 (3) At least thirty calendar days prior to entering into any  
8 agreement, including a residency agreement or care services  
9 agreement, with, or accepting an entrance fee from, any prospective  
10 resident, a continuing care retirement community must deliver to the  
11 prospective resident a copy of the disclosure statement most recently  
12 submitted to the department.

13 **Sec. 3.** RCW 18.390.070 and 2016 c 183 s 7 are each amended to  
14 read as follows:

15 (1) A prospective resident may visit each of the different care  
16 levels of the continuing care retirement community, assisted living  
17 facility, and nursing home, and may inspect the most recent  
18 inspection reports and findings of complaint investigations related  
19 to the assisted living and nursing home components covering a period  
20 of not less than two years, as available, prior to signing a  
21 residency agreement.

22 (2) All residents of a continuing care retirement community in a  
23 living unit that is not used exclusively for assisted living or  
24 nursing services have the following expectations:

25 (a) Transparency regarding the financial stability of the  
26 provider operating the facility;

27 (b) Timely notifications of developments affecting the facility,  
28 including ownership changes of the provider operating the facility, a  
29 change in the financial condition of the provider operating the  
30 facility, and construction and renovation at the facility(~~(.—The~~  
31 ~~management of the continuing care retirement community may deem~~  
32 ~~certain information to be confidential if it is of a sensitive nature~~  
33 ~~such that disclosure of the information would materially harm the~~  
34 ~~position of the continuing care retirement community));~~

35 (c) Reasonable accommodations for persons with disabilities;

36 (d) The opportunity to participate freely in the operation of  
37 independent resident organizations and associations;

1 (e) The opportunity to seek independent counsel review of all  
2 contracts, including residency agreements, prior to executing the  
3 residency agreement; (~~and~~)

4 (f) The assurance that all requests for donations, contributions,  
5 and gifts(~~(, when made by residents)~~) to the continuing care  
6 retirement community(~~(,)~~) are voluntary and may not be used as a  
7 condition of residency;

8 (g) The receipt, upon request, of a copy of the current  
9 disclosure statement prepared under RCW 18.390.060 and any agreement  
10 most recently filed with the department under RCW 18.390.030; and

11 (h) The opportunity to participate meaningfully in decisions  
12 affecting him or her.

13 (3) The continuing care retirement community shall:

14 (a) Provide a copy of the expectations specified in this section  
15 to each prospective resident prior to signing a residency agreement;  
16 and

17 (b) Make copies of the expectations specified in this section  
18 publicly available in areas accessible to the independent residents  
19 and visitors. The copies of the expectations must also state that  
20 independent residents have the right, as an affected party, to file a  
21 complaint with the attorney general for violations of this chapter  
22 that may constitute a violation of the consumer protection act and  
23 contain information explaining how and where a complaint may be  
24 filed.

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