

SENATE BILL REPORT

E2SHB 1296

As of March 21, 2019

Title: An act relating to continuing care retirement communities.

Brief Description: Concerning continuing care retirement communities.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Macri, Goodman, Appleton, Cody, Thai, Tharinger and Springer).

Brief History: Passed House: 3/08/19, 55-41.

Committee Activity: Health & Long Term Care: 3/25/19.

Brief Summary of Bill

- Establishes additional registration requirements for continuing care retirement communities (CCRCs) related to submitting actuarial reports and service and care agreements.
- Requires CCRC disclosure statements to include information related to the payment of management fees and, for certain CCRCs, an actuarial summary of the CCRC's most recent actuarial report.
- Expands the expectations of residents of CCRCs to include standards related to agreements with management companies and the refund of entrance fees.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Staff: LeighBeth Merrick (786-7445)

Background: CCRCs are entities that provide care and housing to residents under a residency agreement that lasts for longer than a year. Care services may include nursing care, medical care, assistance with activities of daily living, and protection or supervision.

Since July 1, 2017, CCRCs have been required to register with the Department of Social and Health Services (DSHS). To become registered, an applicant must submit information about the assisted living and nursing home components of the CCRC, copies of residency agreements, a copy of the current disclosure statement, copies of audited financial

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statements, and an attestation that the CCRC is in compliance with disclosure notification requirement.

Disclosure requirements for prospective residents include information about ownership; descriptive information about the facilities; policies regarding notifications of fee increases, changes in levels of care, and contract termination; a description of standard and supplemental services; and the most recent audited financial statements.

Residents of CCRCs are afforded several expectations that a CCRC must fulfill. These expectations include transparency in the financial stability of the facility, timely notification of developments affecting the facility, reasonable accommodations for persons with disabilities, the opportunity to participate in resident organizations, the opportunity to seek independent review of contracts and agreements, and the assurance that donations made by residents to the CCRC are voluntary.

Summary of Bill: Type A Contracts. A "type A contract" is defined as a care contract that includes housing, residential services, amenities, and unlimited, specific health-related services with periodic payments, subject to specific adjustments, as well as an entrance fee. Health-related services may include services provided by assisted living facilities, nursing homes, or in-home services agencies.

Continuing Care Retirement Communities Registration. Applicants for registration with DSHS as a CCRC must submit copies of any service or care agreements used for nonindependent residents. Agreements must be clear and complete and detail the mutual expectations and obligations of the resident and the CCRC.

Applicants for registration as a CCRC must also submit a copy of the CCRC's most recent actuarial report if the applicant either offers, or plans to offer, type A contracts; or does not offer type A contracts, but has obtained an actuarial report within the previous three years. The actuarial report must have been prepared within three years of the date of the CCRC's application for its current registration. The date for submitting an actuarial report may be extended up to five years if the CCRC's most recent financial statement shows a surplus and the CCRC's three most recent financial statements show positive operating earnings.

Continuing Care Retirement Communities Disclosure Statements. For fiscal years ending on or after December 31, 2019, CCRC disclosure statements must include whether, and in what manner, funds have been set aside for reserves or other contingent liabilities. In addition, if a management company controls the CCRC, the financial statements must disclose:

- the dollar amount of management fees paid by resident fees and expended by the management company to provide management services and products for the CCRC;
- the dollar amount of management fees paid by the management company to entities controlled by the management company to provide management services or products for the CCRC, including the names of the entities; and
- the amount and terms of any outstanding loans from the CCRC to the management company or any entity controlled by the management company.

Disclosure statements for CCRCs must also include an actuarial summary of the CCRC's most recent actuarial report, including material actuarial assumptions, if the CCRC either

offers type A contracts; or does not offer type A contracts, but has obtained an actuarial report within the previous three years. Residents and prospective residents of the independent living portion of the CCRC may receive a copy of the most recent full actuarial report by submitting a written request. The CCRC shall redact any personal financial or health care information before providing the full actuarial report. A resident or prospective resident that receives the full actuarial report may only disclose it to other residents of the independent living portion of a CCRC and their legal, financial, and actuarial advisers.

Disclosure statement requirements apply to any entity that manages or operates, or has a significant role in the management or operation of, an entity that agrees to provide continuing care to a resident under a residency agreement.

Continuing Care Retirement Communities Resident Expectations. The expectations of residents of the independent living portion of a CCRC are expanded to include the expectation to be able to participate in significant decisions affecting the resident's health, welfare, and financial security. Management retains its decision-making authority as provided in the residency agreement and applicable law. In addition, residents may expect all agreements and transactions between the CCRC and a management company that controls the CCRC, shall be priced at or below fair market value, be in the best interests of residents, and not substantially limit the CCRC's ability to exercise its rights under any agreement.

Residents may also expect residency agreements that provide for refundable entrance fees to assure any refund due to a resident that leaves a unit shall be based on the entrance fee the resident provided. A resident may expect refunds of the entrance fees will be available if the resident physically leaves the CCRC or dies. Once five years have passed from the issuance of a certificate of occupancy, refunds must be paid no later than the thirtieth day after the unit is reoccupied and the resident no longer lives in the CCRC or two years following the resident's departure or death, whichever occurs sooner. Each CCRC must maintain a list of vacant units, the dates on which the units became vacant, and the prices of the units. Current and prior residents of the independent living portion of the CCRC may receive a copy of the list.

Upon request, residents may receive a copy of the current disclosure statement and any agreement most recently filed with DSHS.

The CCRC must notify independent residents that audited actuarial evaluations are available within 30 days of delivery to the chief financial officer.

In addition to a resident's right to file a complaint, residents may pursue other legal remedies.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.