
By: **Chairman, Finance Committee (Departmental - Aging)**
Introduced and read first time: January 28, 2002
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Aging - Continuing Care Retirement Communities -**
3 **Regulation**

4 FOR the purpose of requiring a continuing care provider to have an authorized officer
5 to perform certain duties at certain meetings; requiring certain governing bodies
6 of a continuing care provider to include certain subscribers as full and regular
7 members of the governing body; altering the appointment to certain select
8 committees; requiring a continuing care retirement community to make certain
9 information available to its subscribers; modifying the requirements relating to
10 operating reserves; requiring a continuing care facility's disclosure statement to
11 include certain items; requiring a continuing care provider to refund certain
12 moneys paid within a certain time frame; requiring a provider to provide certain
13 services related to assisted living and comprehensive care under certain
14 circumstances; specifying when certain fees must be refunded; specifying the
15 circumstances to be considered by the Financial Review Committee in the
16 Department of Aging (Department) when determining when there is a risk of
17 financial failure of a continuing care facility; requiring certain communications
18 within the Financial Review Committee to be confidential; requiring the
19 Financial Review Committee, after receipt of an application, to notify the
20 Department in writing of certain recommendations; requiring a continuing care
21 provider to advise the Department of the dates, times, and locations of certain
22 meetings; requiring a continuing care provider to make its approved financial
23 plans available to its subscribers; providing for certain civil money penalties
24 against a continuing care provider under certain circumstances after the
25 Department issues certain notification of a violation; providing the provider an
26 opportunity to correct certain violations under certain circumstances; providing
27 that the Department may take certain actions if the provider does not correct
28 certain violations within a certain time; requiring the Department to issue
29 certain orders regarding certain civil money penalties; requiring a continuing
30 care provider to pay certain penalties to the Department within a certain
31 amount of time; providing for certain additional relief to certain subscribers
32 injured by certain violations; altering who may institute certain actions for
33 certain violations; specifying certain appeal rights for persons upon whom civil
34 penalties are assessed; clarifying and expanding circumstances under which the
35 Department may seek a receivership of certain continuing care retirement

1 communities; providing for a delinquency proceeding under certain
2 circumstances for certain continuing care providers; requiring certain liability
3 immunity to certain persons under court order; providing for a court order under
4 certain circumstances to direct certain persons to undertake certain steps
5 against certain continuing care providers; requiring certain directives in an
6 order to rehabilitate a continuing care provider; providing for an appointed
7 receiver to be a conservator, rehabilitator, or receiver of certain continuing care
8 providers; requiring the appointed receiver to report at certain times on certain
9 court related issues concerning conservation, rehabilitation, and receivership of
10 certain continuing care providers; providing for preferred claims and secured
11 claims, contingent and unliquidated claims, and certain offsets of debts and
12 credits; defining certain terms; modifying certain terms; making certain stylistic
13 and technical changes; and generally relating to continuing care retirement
14 communities.

15 BY repealing and reenacting, with amendments,
16 Article 70B - Department of Aging
17 Section 7, 9, 11A, 11B, 11C, 14, 17A, 19, 20, and 21
18 Annotated Code of Maryland
19 (1998 Replacement Volume and 2001 Supplement)

20 BY adding to
21 Article 70B - Department of Aging
22 Section 7A, 14A, 15A, 18A, and 20A through 20U, inclusive
23 Annotated Code of Maryland
24 (1998 Replacement Volume and 2001 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

27 **Article 70B - Department of Aging**

28 7.

29 (a) In this subtitle the following words have the meanings indicated.

30 (b) "Assisted living program" has the meaning stated in § 19-1801 of the
31 Health - General Article.

32 (c) "Certified financial statement" means a complete audit prepared and
33 certified by an independent certified public accountant.

34 (d) [(1)] "Continuing care" means furnishing OR MAKING AVAILABLE shelter
35 and either medical and nursing services or other health related services to an
36 individual 60 years of age or older not related by blood or marriage to the provider for
37 the life of the individual or for a period in excess of 1 year under [a] ONE OR MORE
38 written [agreement] AGREEMENTS that [requires] REQUIRE a transfer of assets or
39 an entrance fee notwithstanding periodic charges.

1 [(2) "Health related services" means, at a minimum, priority for nursing
2 home admission or assistance in the activities of daily living, exclusive of the
3 provision of meals.

4 (3) Medical and nursing services and other health related services may
5 be covered by the entrance fee, the periodic charges, or may be purchased, at the
6 option of the subscriber, for an additional fee.]

7 (e) "Continuing care agreement" means [the] AN agreement between [the] A
8 provider and A subscriber to provide continuing care.

9 (F) (1) "CONTRACTUAL ENTRANCE FEE REFUND" MEANS A REPAYMENT OF
10 ALL OR PART OF A SUBSCRIBER'S ENTRANCE FEE TO THE SUBSCRIBER OR THE
11 SUBSCRIBER'S ESTATE OR DESIGNATED BENEFICIARY, AS REQUIRED BY THE TERMS
12 OF THE CONTINUING CARE AGREEMENT.

13 (2) "CONTRACTUAL ENTRANCE FEE REFUND" DOES NOT MEAN A
14 PAYMENT REQUIRED BY § 14 OR § 15 OF THIS SUBTITLE.

15 (G) "CREDITOR" MEANS A PERSON WITH A CLAIM AGAINST A CONTINUING
16 CARE PROVIDER.

17 (H) "DELINQUENCY PROCEEDING" MEANS A PROCEEDING UNDER THIS
18 SUBTITLE TO LIQUIDATE, REHABILITATE, REORGANIZE, OR CONSERVE A
19 CONTINUING CARE PROVIDER.

20 [(f)] (I) "Deposit" means a portion of an entrance fee.

21 [(g)] (J) "Entrance fee" means an initial or deferred payment of a sum of
22 money or any other consideration other than a surcharge that assures a subscriber
23 continuing care for a term of years or for life. An accommodation fee, admission fee, or
24 other fee of similar form and application shall be considered to be an entrance fee.

25 [(h)] (K) "Expansion" means any single new capital addition, excluding
26 renovation and normal repair and maintenance, that meets either of the following
27 criteria:

28 (1) If independent or assisted living units are to be constructed, then the
29 number of units to be constructed must be less than or equal to 25% of the number of
30 existing independent and assisted living units; or

31 (2) If independent or assisted living units are not to be constructed, then
32 the total projected cost must be an amount that is more than the sum of:

33 (i) 10% of the total operating expenses, less depreciation,
34 amortization, and interest expense of the facility as shown on the certified financial
35 statement for the most recent fiscal year for which a certified financial statement is
36 available; and

1 (ii) The amount of the existing reserves properly allocable to, and so
2 allocated for, the expansion.

3 (L) "EXTENSIVE CONTRACT" MEANS A CONTINUING CARE AGREEMENT THAT
4 PROVIDES RESIDENTIAL FACILITIES, MEALS, AMENITIES, AND LONG-TERM CARE
5 SERVICES IN LICENSED ASSISTED LIVING AND COMPREHENSIVE CARE PROGRAMS
6 FOR AS LONG AS A SUBSCRIBER NEEDS THEM AND FOR NO INCREASE IN THE
7 SUBSCRIBER'S ENTRANCE FEE OR PERIODIC FEES, EXCEPT FOR AN ADJUSTMENT TO
8 ACCOUNT FOR INCREASED OPERATING COSTS CAUSED BY INFLATION OR OTHER
9 FACTORS UNRELATED TO THE INDIVIDUAL SUBSCRIBER.

10 [(i)] (M) "Facility" means a physical plant in which continuing care is
11 provided in accordance with this subtitle.

12 [(j)] (N) "Financial difficulty" means current or impending financial
13 conditions that impair or may impair the ability of the provider to meet existing or
14 future obligations.

15 (O) "GENERAL ASSETS" MEANS:

16 (1) ALL PROPERTY THAT IS NOT SPECIFICALLY MORTGAGED, PLEDGED,
17 DEPOSITED, OR OTHERWISE ENCUMBERED FOR THE SECURITY OR BENEFIT OF
18 SPECIFIED PERSONS OR A LIMITED CLASS OF PERSONS;

19 (2) TO THE EXTENT THAT PROPERTY OF A CONTINUING CARE PROVIDER
20 IS SPECIFICALLY ENCUMBERED, THE AMOUNT OF THE PROPERTY OR ITS PROCEEDS
21 THAT EXCEEDS THE AMOUNT NECESSARY TO DISCHARGE THE ENCUMBRANCE; AND

22 (3) ASSETS HELD IN TRUST AND ASSETS HELD ON DEPOSIT FOR THE
23 SECURITY OR BENEFIT OF ALL SUBSCRIBERS AND CREDITORS IN THE UNITED
24 STATES.

25 (P) "GOVERNING BODY" MEANS A BOARD OF DIRECTORS, BOARD OF
26 TRUSTEES, OR SIMILAR GROUP THAT ULTIMATELY DIRECTS THE AFFAIRS OF A
27 PROVIDER, BUT WHOSE MEMBERS ARE NOT REQUIRED TO HAVE AN EQUITY
28 INTEREST IN THE PROVIDER.

29 (Q) (1) "HEALTH RELATED SERVICES" MEANS SERVICES THAT ARE NEEDED
30 BY A SUBSCRIBER TO MAINTAIN THE SUBSCRIBER'S HEALTH.

31 (2) "HEALTH RELATED SERVICES" INCLUDE:

32 (I) PRIORITY ADMISSION TO A NURSING HOME OR ASSISTED
33 LIVING PROGRAM; OR

34 (II) ASSISTANCE IN THE ACTIVITIES OF DAILY LIVING NOT
35 INCLUDING THE PROVISION OF MEALS.

36 (R) "MAKING AVAILABLE EITHER MEDICAL AND NURSING SERVICES OR
37 OTHER HEALTH RELATED SERVICES" MEANS THE PROVIDER OR AN AFFILIATE OF

1 THE PROVIDER HAS MADE THE SERVICES READILY ACCESSIBLE FOR USE BY A
2 SUBSCRIBER WHETHER OR NOT THE SERVICES ARE SPECIFICALLY OFFERED IN THE
3 WRITTEN AGREEMENT FOR SHELTER.

4 (S) "MODIFIED CONTRACT" MEANS A CONTINUING CARE AGREEMENT THAT:

5 (1) WOULD BE AN EXTENSIVE CONTRACT BUT FOR ITS LIMITING THE
6 AMOUNT OF LONG-TERM CARE SERVICES TO BE PROVIDED IN A LICENSED ASSISTED
7 LIVING OR COMPREHENSIVE CARE PROGRAM FOR NO INCREASE IN THE PERIODIC
8 FEE; AND

9 (2) PROVIDES THAT LONG-TERM CARE SERVICES IN A LICENSED
10 ASSISTED LIVING OR COMPREHENSIVE CARE PROGRAM BEYOND THE LIMITED
11 AMOUNT TO BE PROVIDED FOR NO INCREASE IN THE PERIODIC FEE WILL BE
12 PROVIDED ON A PER DIEM, FEE-FOR-SERVICE, OR OTHER AGREED UPON RATE.

13 [(k)] (T) "Person" means any natural person, firm, association, corporation,
14 company, trust, partnership, limited liability company, public body, or other business
15 or nonprofit entity.

16 [(l)] (U) "Processing fee" means the fee imposed by the provider for
17 determining the financial, mental, and physical eligibility of an applicant for entrance
18 into a facility.

19 [(m)] (V) "Provider" means any person who undertakes to provide continuing
20 care and who is:

21 (1) The owner or operator of a facility; or

22 (2) An applicant for or the holder of a certificate of registration.

23 (W) "RECEIVER" INCLUDES A CONSERVATOR, REHABILITATOR, AND
24 LIQUIDATOR.

25 [(n)] (X) "Records" means the information maintained by the provider for the
26 proper operation of the facility under this subtitle.

27 [(o)] (Y) "Renovation" means any single capital improvement to, or
28 replacement of, the existing facility, or any part of the existing facility, but excluding
29 normal repair and maintenance, that will not increase the number of independent or
30 assisted living units and for which the total projected cost is an amount that is more
31 than the sum of:

32 (1) 20% of the total operating expenses, less depreciation, amortization,
33 and interest expense of the facility as shown on the certified financial statement for
34 the most recent fiscal year for which a certified financial statement is available; and

35 (2) The amount of the existing reserves properly allocable to, and so
36 allocated for, the renovation.

1 (Z) (1) "SECURED CLAIM" MEANS A CLAIM THAT:

2 (I) IS SECURED BY MORTGAGE, TRUST DEED, PLEDGE, DEPOSIT AS
3 SECURITY, ESCROW, OR OTHERWISE; OR

4 (II) HAS BECOME A LIEN ON SPECIFIC ASSETS THROUGH JUDICIAL
5 PROCESS.

6 (2) "SECURED CLAIM" DOES NOT INCLUDE A SPECIAL DEPOSIT CLAIM OR
7 A CLAIM AGAINST GENERAL ASSETS.

8 (AA) (1) "SPECIAL DEPOSIT CLAIM" MEANS A CLAIM SECURED BY A DEPOSIT
9 REQUIRED BY LAW FOR THE SECURITY OR BENEFIT OF A LIMITED CLASS OF
10 PERSONS.

11 (2) "SPECIAL DEPOSIT CLAIM" DOES NOT INCLUDE A CLAIM AGAINST
12 GENERAL ASSETS.

13 [(p)] (BB) "Subscriber" means an individual for whom a continuing care
14 agreement is purchased.

15 [(q)] (CC) "Surcharge" means a separate and additional charge, other than a
16 second person entrance fee, imposed simultaneously with the entrance fee, that may
17 be required of some but not all subscribers because of a condition or circumstance that
18 applies only to those subscribers.

19 (DD) "TRANSFER" MEANS, WHEN USED IN CONJUNCTION WITH PROPERTY:

20 (1) THE SALE OR OTHER DIRECT OR INDIRECT DISPOSITION OF
21 PROPERTY OR AN INTEREST IN PROPERTY;

22 (2) THE FIXING OF A LIEN ON PROPERTY OR AN INTEREST IN PROPERTY;
23 OR

24 (3) THE RETENTION OF A SECURITY TITLE TO PROPERTY DELIVERED TO
25 A DEBTOR.

26 (EE) "WRITTEN AGREEMENT" DOES NOT INCLUDE AN AGREEMENT THAT IS
27 REGULATED AS CONTINUING CARE AT HOME UNDER § 22A OF THIS SUBTITLE OR AS
28 INSURANCE UNDER THE INSURANCE ARTICLE.

29 7A.

30 MEDICAL AND NURSING SERVICES AND OTHER HEALTH RELATED SERVICES
31 MAY BE COVERED BY AN ENTRANCE FEE OR PERIODIC CHARGES OR, AT THE OPTION
32 OF THE SUBSCRIBER, MAY BE PURCHASED FOR AN ADDITIONAL FEE.

33 9.

34 (a) A provider may not offer continuing care, enter into or renew continuing
35 care agreements, begin construction for a new facility, begin construction of an

1 expansion to or renovation of an existing facility, or collect deposits for continuing
2 care in this State unless the provider has complied with the applicable provisions of
3 §§ 10 and 11 of this subtitle. Any new capital addition that will result in the
4 construction of a number of independent and assisted living units that is greater than
5 25% of the number of existing units is considered new development and is subject to
6 § 10 of this subtitle. Any new capital addition that does not involve the construction of
7 independent or assisted living units and that does not meet the standard of §
8 [7(g)(2)] 7(K)(2) of this subtitle is not subject to Department review under §§ 10 and
9 11 of this subtitle. Any capital improvement or replacement that does not meet the
10 standard of § [7(o)] 7(Y) of this subtitle, is not subject to Department review under §
11 10 or § 11 of this subtitle.

12 (b) When a provider has more than 1 facility offering continuing care, separate
13 applications for preliminary and final certificates of registration and renewal
14 certificates shall be made for each facility.

15 11A.

16 (a) At least annually, each provider shall conduct a meeting, open to all of the
17 provider's subscribers, at which an authorized officer of the provider shall present a
18 summary of the provider's operations, significant changes from the previous year, and
19 the goals and objectives for the next year. The [governing body of the] provider shall
20 make provisions to HAVE AN AUTHORIZED OFFICER receive and answer questions
21 from subscribers at the meeting.

22 (B) (1) A PROVIDER THAT HAS A GOVERNING BODY SHALL INCLUDE AT
23 LEAST ONE OF THE PROVIDER'S SUBSCRIBERS AS A FULL AND REGULAR MEMBER OF
24 THE GOVERNING BODY.

25 (2) IF A PROVIDER THAT HAS A GOVERNING BODY OWNS OR OPERATES
26 MORE THAN THREE FACILITIES IN THE STATE, THERE SHALL BE AT LEAST ONE OF
27 THE PROVIDER'S SUBSCRIBERS AS A FULL AND REGULAR MEMBER OF THE
28 GOVERNING BODY FOR EVERY THREE FACILITIES IN THE STATE.

29 (3) (I) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (II) OF THIS
30 PARAGRAPH, A GOVERNING BODY MEMBER SELECTED TO MEET THE REQUIREMENTS
31 OF THIS SUBSECTION SHALL BE A SUBSCRIBER AT A FACILITY IN THE STATE AND BE
32 SELECTED ACCORDING TO THE SAME GENERAL WRITTEN STANDARDS AND CRITERIA
33 USED TO SELECT OTHER MEMBERS OF THE GOVERNING BODY.

34 (II) THE GOVERNING BODY SHALL CONFER WITH THE RESIDENT
35 ASSOCIATION AT EACH FACILITY OF THE PROVIDER BEFORE THE SUBSCRIBER
36 OFFICIALLY JOINS THE GOVERNING BODY.

37 [(b)] (C) [Each] A PROVIDER THAT DOES NOT HAVE A governing body [of a
38 provider that does not have at least one subscriber as a member or as a regular
39 attendee at its meeting with a right to address the governing body] shall appoint a
40 select committee of its [members] OFFICERS OR PARTNERS to meet at least twice
41 annually with the [facility's] resident association AT EACH OF ITS FACILITIES to
42 address concerns of the subscribers and to ensure that the opinions of subscribers are

1 relayed to [the governing body] ALL OFFICERS OR PARTNERS OF THE PROVIDER. If a
2 [community] FACILITY does not have a resident association, the committee shall
3 meet with a reasonable number of representatives, not required to exceed fifteen,
4 elected by the subscribers.

5 (D) COPIES OF ALL MATERIALS THAT A PROVIDER SUBMITS TO THE
6 DEPARTMENT THAT ARE REQUIRED TO BE DISCLOSED UNDER THE PUBLIC
7 INFORMATION ACT SHALL BE MADE READILY AVAILABLE BY THE PROVIDER FOR ITS
8 SUBSCRIBERS TO REVIEW AT THE FACILITY.

9 11B.

10 (a) In this section, "net operating expenses" means the provider's total
11 operating expenses related to furnishing continuing care at each facility of the
12 provider, less depreciation, amortization, unusual and infrequent expenses, and
13 changes in the obligation to provide future services. Interest expenses may be
14 excluded from calculation of net operating expenses, if the provider has funded a debt
15 service reserve or other interest reserve under requirements imposed by a financial
16 institution or under applicable financing documents, to the extent and in the amount
17 the fund includes amounts to cover interest for the year in question.

18 (b) Except as otherwise provided in this section, the provider shall set aside
19 for each facility subject to this subtitle operating reserves that equal 15% of the
20 facility's net operating expenses for the most recent fiscal year for which a certified
21 financial statement is available. The reserves shall be maintained in reasonably
22 liquid form in the judgment of the provider.

23 (c) The provider shall compute operating reserves for each facility as of the
24 end of the facility's most recent fiscal year and, simultaneously with submission of its
25 application for a renewal certificate, shall indicate compliance by setting forth in a
26 letter to the Department from a certified public accountant the amount actually set
27 aside or by disclosing the amount in a certified financial statement.

28 (d) A provider may apply toward the reserve required by this section any
29 reserves, other than debt service reserves, maintained under applicable financing
30 document requirements if the reserves are available to the provider to meet the
31 facility's operating expenses.

32 (e) For the purpose of calculating the provider's operating reserves,
33 investments held to the credit of the reserves shall be calculated at their market
34 value as of the end of the provider's most recent fiscal year for which a certified
35 financial statement is available.

36 (f) The provider shall notify the Department in writing simultaneously with
37 drawing any amount from the funds available to satisfy the operating reserve that is
38 required by subsection (b) of this section. Within 30 days of such draw, the provider
39 shall submit to the Department a written plan for restoring the funds in the reserve
40 to the level required by subsection (b) of this section.

1 (g) (1) [Any provider that holds a certificate of registration or a preliminary
2 certificate of registration or approval of its feasibility study on October 1, 1996] A
3 PROVIDER shall have up to 10 full fiscal years after THE LATER OF October 1, 1996 OR
4 THE DATE OF ITS INITIAL CERTIFICATE to meet the requirement of subsection (b) of
5 this section.

6 (2) [Any such] A provider shall meet the requirement of subsection (b) of
7 this section at a minimum rate of 10% per year as of the end of each fiscal year after
8 THE LATER OF October 1, 1996 OR THE DATE OF ITS INITIAL CERTIFICATE, up to a
9 total of 100% as of the end of the 10th fiscal year.

10 (3) The Department may allow any such provider to modify the
11 minimum rate or authorize an additional amount of time to meet the requirement of
12 subsection (b) of this section, if the modification is necessary to maintain the financial
13 viability of the facility.

14 [(h) (1) Except as provided under paragraph (2) of this subsection, a provider
15 that does not by October 1, 1996 hold a certificate of registration or a preliminary
16 certificate of registration or receive approval by the Department of the provider's
17 feasibility study must meet the requirements of subsection (b) of this section from the
18 end of the second full fiscal year after the fiscal year in which the provider may
19 obtain, under § 11(c) of this subtitle, the use of funds held in escrow.

20 (2) For the time specified in paragraph (3) of this subsection, a provider
21 that does not by October 1, 1996 hold a certificate of registration or a preliminary
22 certificate of registration or receive approval of the Department of the provider's
23 feasibility study is exempt from the requirements of subsection (b) of this section if
24 the provider has a binding agreement with a financial institution, as defined in §
25 1-101 of the Financial Institutions Article, that unconditionally obligates the
26 financial institution to furnish the provider credit in an amount at least equal to the
27 amount required in subsection (b) of this section.

28 (3) A provider meeting the requirements of paragraph (2) of this
29 subsection is exempt from the requirements of subsection (b) of this section until the
30 earlier of:

31 (i) The end of the tenth full fiscal year after the fiscal year in
32 which the provider may obtain, under § 11(c) of this subtitle, the use of funds held in
33 escrow; or

34 (ii) The date on which the binding agreement with a financial
35 institution expires.]

36 [(i)] (H) For any facility in which some residents are not parties to continuing
37 care agreements, the provider shall compute the amount of the operating reserve
38 requirement based on the portion of the net operating expenses which bears the same
39 ratio to the total net operating expense as the number of units certified by the
40 Department bears to the total number of living units.

1 11C.

2 (a) (1) The provider shall furnish without cost to all prospective subscribers,
3 before payment of any part of the entrance fee or, if earlier, the execution of a
4 continuing care agreement, and annually to all subscribers on request, a disclosure
5 statement for each facility of the provider holding a preliminary certificate of
6 registration or a certificate of registration.

7 (2) The provider shall submit its initial disclosure statement to the
8 Department for review at least 45 days before distributing the statement to any
9 prospective subscribers.

10 (b) (1) The provider shall revise the disclosure statement annually and file
11 the disclosure statement with the Department within 120 days after the end of the
12 provider's fiscal year.

13 (2) The Department shall review the disclosure statement solely to
14 ensure compliance with this section.

15 (c) The disclosure statement shall include:

16 (1) The name, address, and description of the facility and the name and
17 address of any parent or subsidiary person;

18 (2) The organizational structure and management of the provider,
19 including:

20 (i) If the provider is a corporation or limited liability company, the
21 name of the corporation or limited liability company, the state in which the
22 corporation is incorporated or the limited liability company is formed, and the name
23 of the chief executive officer;

24 (ii) If the provider is a partnership, the names of the general
25 partners, the state governing the formation of the partnership, and the name of the
26 primary individual responsible for managing the partnership;

27 (iii) If the provider is an unincorporated association, the names of
28 the members, the state governing the association's activities, and the name of the
29 primary individual responsible for managing the association;

30 (iv) If the provider is a partnership having a corporation or limited
31 liability company as one or more of its general partners, the name of the corporation
32 or limited liability company, the state in which the corporation is incorporated or the
33 limited liability company is formed, and the name of the chief executive officer;

34 (v) If the provider is a trust, the name of the trustee, the names of
35 the owners of the beneficial interests in the trust, the state governing the trust, and
36 the name of the primary individual responsible for overseeing the trust's activities;
37 and

1 (vi) A statement regarding whether the provider is qualified, or
2 intends to qualify, as a tax-exempt organization under the Internal Revenue Code;

3 (3) A statement regarding any affiliation of the provider with a religious,
4 charitable, or other nonprofit organization, and the extent to which the organization
5 is responsible for the financial and contractual obligations of the provider;

6 (4) A description of all basic fees, including entrance fees, fees for health
7 related services, and periodic fees, collected by the provider from subscribers, setting
8 forth the amount and frequency of the fee changes during each of the previous 5
9 years. If the facility has been in operation less than 5 years, then the description shall
10 be for each year that it has been in operation;

11 (5) A statement describing provisions that have been or will be made to
12 comply with the operating reserve requirements as described in § 11B of this subtitle,
13 and a general statement regarding the provider's investment policy related to the
14 required reserves, including how often the reserve fund investment is reviewed and
15 by whom;

16 (6) A copy of the most recent certified financial statement obtainable
17 under generally accepted accounting principles;

18 (7) A description of the long-term financing for the facility;

19 (8) If the facility has not reached 85% occupancy of independent living
20 units, a summary of the feasibility study;

21 (9) A cash flow forecast statement for the current and the next 2 fiscal
22 years;

23 (10) The names and occupations of the officers, directors, trustees,
24 managing or general partners, and any other persons with a 10% or greater equity or
25 beneficial interest in the provider, and a description of the financial interest in or
26 occupation with the provider;

27 (11) The name and address of any professional service firm, association,
28 trust, partnership, company, or corporation in which a person identified in item (10)
29 of this subsection has a 10% or greater financial interest and which is anticipated to
30 provide goods, premises, or services to the facility or provider of a value of \$10,000 or
31 more within any fiscal year, including a description of the goods, premises, or services
32 and their anticipated cost to the facility or provider. However, the disclosure of salary,
33 wage, or benefit information of employees of the provider is not required;

34 (12) The name of the proposed manager or management company if the
35 facility is or will be managed on a day-to-day basis by a person other than an
36 individual directly employed by the provider, and a description of the business
37 experience, if any, of the manager or company in the operation or management of
38 similar facilities;

1 (13) A description of any matter in which an individual identified in item
2 (10) of this subsection:

3 (i) Has been convicted of a felony or pleaded nolo contendere to a
4 felony charge, if the felony involved fraud, embezzlement, fraudulent conversion, or
5 misappropriation of property;

6 (ii) Has been held liable or enjoined in a civil action by final
7 judgment if the civil action involved fraud, embezzlement, fraudulent conversion, or
8 misappropriation as a fiduciary; or

9 (iii) Has been subject to an effective injunctive or restrictive order of
10 a court of record or, within the past 10 years, had any state or federal license or
11 permit suspended or revoked as a result of an action brought by a governmental
12 agency, arising out of or relating to business activity or health care, including actions
13 affecting a license to operate any facility or service for aging, impaired, or dependent
14 persons;

15 (14) A description of the form of governance of the provider, including the
16 composition of the governing body, and a statement that the provider shall satisfy the
17 requirements of § 11A of this subtitle;

18 (15) If applicable, a description of the conditions under which the provider
19 may be issued a certificate of registration and may use escrowed deposits, and a
20 statement of the amount of the subscriber's deposit that may be used;

21 (16) A summary of the basic services provided or proposed to be provided
22 at the facility under the continuing care agreement, including the extent to which
23 health related services are furnished, that clearly states which services are indicated
24 in the agreement as included in the basic fee or fees and which services are or will be
25 made available at or by the facility at an extra charge;

26 (17) A statement that the provider shall amend its disclosure statement if,
27 at any time, in the opinion of the provider or the Department, an amendment is
28 necessary to prevent the disclosure statement from containing any material
29 misstatement of fact required by this section to be stated in the disclosure statement
30 or omission of a material fact required by this section to be stated in the disclosure
31 statement;

32 (18) A description of any activity involving a renovation or an expansion,
33 whether or not subject to Department review, during the preceding fiscal year or
34 proposed for the current fiscal year;

35 (19) A statement if it is the provider's policy to impose a surcharge on
36 some, but not all, subscribers because of some condition or circumstance and that the
37 surcharge will not be considered part of the entrance fee in the statutory refund
38 under § 15 of this subtitle; [and]

39 (20) A DESCRIPTION OF THE EXISTENCE AND ROLE OF THE RESIDENT
40 ASSOCIATION; AND

1 [(20)] (21) Such other material information concerning the facility or the
2 provider as the Department requires or that the provider wishes to include.

3 (d) The disclosure statement shall contain a cover page that states, in a
4 prominent location and type face, the date of the disclosure statement and that the
5 issuance of a certificate of registration does not constitute approval, recommendation,
6 or endorsement of the facility by the Department, nor is it evidence of, or does it attest
7 to, the accuracy or completeness of the information set out in the disclosure
8 statement.

9 (e) Any amended disclosure statement:

10 (1) Shall be filed with the Department at the same time that it is
11 delivered to any subscriber or prospective subscriber; and

12 (2) Is subject to all the requirements of this subtitle.

13 (f) (1) In addition to any other requirements of this section, if a provider's
14 continuing care agreement includes a provision to provide assisted living program
15 services and the provider does not execute a separate assisted living agreement, the
16 disclosure statement shall contain with regard to the assisted living program:

17 (i) The name and address and a description of each facility that the
18 provider operates;

19 (ii) A statement regarding the relationship of the provider to other
20 providers or services if the relationship affects the care of the resident;

21 (iii) A description of any special [programing] PROGRAMMING,
22 staffing, and training provided by the program for individuals with particular needs
23 or conditions such as cognitive impairment;

24 (iv) Notice of:

25 1. The availability of locks for storage;

26 2. The availability of locks, if any, for the subscriber's room;

27 3. The security procedures which the provider shall
28 implement to protect the subscriber and the subscriber's property; and

29 4. The provider's right, if any, to enter a subscriber's room;

30 (v) A statement of the obligations of the provider, the subscriber, or
31 the subscriber's agent as to:

32 1. Arranging for or overseeing medical care;

33 2. Monitoring the health status of the subscriber;

1 3. Purchasing or renting essential or desired equipment and
2 supplies; and

3 4. Ascertaining the cost of and purchasing durable medical
4 equipment;

5 (vi) An explanation of the assisted living program's complaint or
6 grievance procedure; and

7 (vii) Notice of any material changes in the assisted living program.

8 (2) The provider shall:

9 (i) Furnish annually without cost to each subscriber revisions to
10 the disclosure statement provisions under paragraph (1) of this subsection;

11 (ii) Ensure that each subscriber, or the subscriber's agent, initials
12 the revised disclosure statement to indicate acknowledgment of the revisions; and

13 (iii) Make available a copy of each initialed disclosure statement for
14 inspection by the Department of Health and Mental Hygiene under Title 19, Subtitle
15 18, of the Health - General Article.

16 14.

17 (a) A subscriber shall have the right to rescind a continuing care agreement
18 for any reason prior to the date of occupancy by the said subscriber.

19 (b) (1) If, prior to the date of occupancy, the subscriber dies, the provider
20 determines that the subscriber is ineligible for entrance into the facility, or the
21 subscriber elects to terminate the continuing care agreement because of a substantial
22 change in the subscriber's physical, mental or financial condition, the agreement
23 shall be automatically canceled, and the subscriber or the subscriber's legal
24 representative shall receive within 30 days thereafter a full refund of all moneys paid
25 to the provider, except:

26 (i) Those special additional costs incurred by the provider due to
27 modifications in the structure or furnishings of the unit specifically requested by the
28 subscriber that do not exceed the costs of modification or reasonable costs of
29 restoration actually incurred by the provider and set forth in writing in a separate
30 addendum to the agreement and signed by the subscriber, and

31 (ii) A processing fee approved by the Department.

32 (2) In the event that the subscriber rescinds the continuing care
33 agreement within 90 days after entering into the agreement and prior to the date of
34 occupancy of the unit for any reason other than the reasons specified in subsection
35 (b)(1) of this section, the refund provisions shall be the same as those provided for in
36 subsection (b)(1) of this section. If, prior to the date of occupancy of a unit, the
37 subscriber rescinds the continuing care agreement after the 90-day period for any

1 reason other than the reasons specified in subsection (b)(1) of this section, the
2 provider may require the subscriber to forfeit an amount up to 25% of the subscriber's
3 entrance fee deposit.

4 (c) A subscriber may rescind a continuing care agreement at any time if the
5 terms of the agreement are in violation of the terms of this subtitle and the subscriber
6 is injured by the violation. The subscriber shall be entitled to treble damages for
7 extensive injuries arising from the violations.

8 (d) (1) If an applicant for admission to a continuing care facility withdraws
9 the application prior to execution of a continuing care agreement, the applicant shall
10 receive a full refund of all moneys paid to the provider except a processing fee
11 approved by the Department.

12 (2) THE REFUND SHALL BE PAID WITHIN 60 DAYS OF THE WITHDRAWAL.

13 14A.

14 (A) (1) IF A SUBSCRIBER'S CONTINUING CARE AGREEMENT IS AN
15 EXTENSIVE OR MODIFIED AGREEMENT THAT PROMISES A PROVIDER WILL PROVIDE
16 ASSISTED LIVING SERVICES, AND IF THE PROVIDER DOES NOT HAVE AN ASSISTED
17 LIVING BED AVAILABLE AT THE FACILITY WHEN THE SUBSCRIBER NEEDS THE
18 PROMISED CARE, THE PROVIDER SHALL PROVIDE THE ASSISTED LIVING SERVICES
19 THE SUBSCRIBER NEEDS IN ACCORDANCE WITH PARAGRAPH (2) OF THIS
20 SUBSECTION.

21 (2) THE PROVIDER SHALL PROVIDE ASSISTED LIVING SERVICES
22 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO A SUBSCRIBER:

23 (I) AT THE SAME RATE THE SUBSCRIBER WOULD HAVE TO PAY IF
24 AN ASSISTED LIVING BED WAS AVAILABLE; AND

25 (II) AT THE PROVIDER'S OPTION:

26 1. IN THE SUBSCRIBER'S INDEPENDENT LIVING UNIT; OR

27 2. IN A NEARBY LICENSED ASSISTED LIVING FACILITY.

28 (B) (1) IF A SUBSCRIBER'S CONTINUING CARE AGREEMENT IS AN
29 EXTENSIVE OR MODIFIED AGREEMENT THAT PROMISES THE PROVIDER WILL
30 PROVIDE THE SUBSCRIBER WITH COMPREHENSIVE CARE SERVICES IF THE
31 SUBSCRIBER NEEDS THEM, AND IF THE PROVIDER DOES NOT HAVE A
32 COMPREHENSIVE CARE BED AVAILABLE WHEN THE SUBSCRIBER NEEDS THE
33 PROMISED CARE, THE PROVIDER SHALL PROVIDE THE COMPREHENSIVE CARE
34 SERVICES NEEDED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

35 (2) A PROVIDER SHALL PROVIDE THE SERVICES REQUIRED BY
36 PARAGRAPH (1) OF THIS SUBSECTION:

1 (I) AT THE SAME RATES A SUBSCRIBER WOULD HAVE PAID IF A
2 COMPREHENSIVE BED WAS AVAILABLE; AND

3 (II) AT THE PROVIDER'S OPTION:

4 1. IN THE SUBSCRIBER'S INDEPENDENT OR ASSISTED
5 LIVING UNIT; OR

6 2. IN A NEARBY LICENSED COMPREHENSIVE CARE FACILITY.
7 15A.

8 (A) IF A CONTINUING CARE AGREEMENT IS TERMINATED BY THE
9 SUBSCRIBER'S ELECTION OR DEATH WITHIN THE FIRST 90 DAYS OF OCCUPANCY, THE
10 PROVIDER SHALL PAY ANY CONTRACTUAL ENTRANCE FEE REFUND WITHIN 30 DAYS
11 OF THE EARLIER TO OCCUR OF:

12 (1) THE RECONTRACTING FOR THE UNIT OF THAT SUBSCRIBER; OR

13 (2) THE LATER TO OCCUR OF:

14 (I) THE 90TH DAY AFTER THE DATE OF TERMINATION; OR

15 (II) THE DAY THE INDEPENDENT LIVING UNITS AT THE FACILITY
16 HAVE OPERATED AT 95% OF CAPACITY FOR THE PREVIOUS 6 MONTHS.

17 (B) A PROVIDER SHALL PAY ANY CONTRACTUAL ENTRANCE FEE REFUND DUE
18 UNDER A CONTINUING CARE AGREEMENT TO WHICH IT IS A PARTY WITHIN 60 DAYS
19 OF THE AGREEMENT BEING TERMINATED BY A SUBSCRIBER'S ELECTION OR DEATH,
20 IF ON THE TERMINATION DATE THE FOLLOWING CONDITIONS EXIST:

21 (1) THE SUBSCRIBER NO LONGER RESIDES IN A UNIT AT THE LEVEL OF
22 CARE IN WHICH THE SUBSCRIBER RESIDED UPON INITIALLY ENTERING THE
23 FACILITY;

24 (2) THE SUBSCRIBER RESIDES IN A UNIT AT A HIGHER LEVEL OF CARE
25 THAN THE LEVEL OF CARE IN WHICH THE SUBSCRIBER RESIDED UPON INITIALLY
26 ENTERING THE FACILITY; AND

27 (3) THE LAST UNIT IN WHICH THE SUBSCRIBER RESIDED AT THE LEVEL
28 OF CARE IN WHICH THE SUBSCRIBER RESIDED UPON INITIALLY ENTERING THE
29 FACILITY HAS BEEN OCCUPIED BY OR RESERVED FOR ANOTHER SUBSCRIBER WHO
30 HAS PAID AN ENTRANCE FEE.

31 17A.

32 (a) There is a Financial Review Committee.

33 (b) (1) The Committee consists of 7 members appointed by the Secretary.

1 (2) Of the 7 members, 2 shall be knowledgeable in the field of continuing
2 care, 2 shall be certified public accountants, 1 shall be from the financial community,
3 and 2 shall be consumer members, preferably subscribers of continuing care facilities.

4 (3) The term of a member is 3 years. The terms of members are
5 staggered as required by the terms provided for members of the Committee on July 1,
6 1985.

7 (4) A member may serve consecutive terms.

8 (5) The Committee shall elect its chairman.

9 (6) Members may not receive compensation, however, members are
10 entitled to reimbursement for expenses incurred in the performance of their official
11 duties as provided for in the State budget.

12 (7) Any Financial Review Committee member shall have the immunity
13 from liability described under § 5-514 of the Courts and Judicial Proceedings Article.

14 (8) A Financial Review Committee member may not participate in a
15 review of a continuing care provider's financial condition if that member has an
16 interest in the provider, as defined by the Maryland Public Ethics Law.

17 (9) The deliberations of the Committee AND COMMUNICATIONS
18 BETWEEN THE DEPARTMENT AND THE COMMITTEE, INCLUDING BUT NOT LIMITED
19 TO RECOMMENDATIONS OF THE COMMITTEE, shall be confidential.

20 (c) (1) After reviewing [the] A provider's application for a renewal
21 certificate, the Department may refer the application and accompanying materials to
22 the Committee for its consideration. The Committee shall review the application and
23 the materials and may request additional information from the Department. Within
24 45 days of receipt of an application, the Committee shall notify the Department in
25 writing:

26 (I) whether or not the Committee [finds] RECOMMENDS FINDING
27 the provider in financial difficulty[.];

28 (II) WHETHER OR NOT THE COMMITTEE RECOMMENDS
29 IDENTIFYING THE FINANCIAL DIFFICULTY AS INCLUDING A SIGNIFICANT RISK OF
30 FINANCIAL FAILURE IN ACCORDANCE WITH SUBSECTION (H) OF THIS SECTION; AND

31 (III) stating the REASON OR reasons for its [findings]
32 RECOMMENDATIONS.

33 (2) The Committee may request one 30-day extension from the
34 Secretary. The Secretary may grant OR DENY the extension.

35 (d) (1) Within 25 days of being notified of the Committee's RECOMMENDED
36 findings, the Department shall consider the RECOMMENDED findings of the
37 Committee and make a final determination of WHETHER financial difficulty EXISTS,

1 INCLUDING WHETHER IT FINDS A SIGNIFICANT RISK OF FINANCIAL FAILURE IN
2 ACCORDANCE WITH SUBSECTION (H) OF THIS SECTION. If the Department
3 determines that the provider is in financial difficulty it shall immediately notify the
4 provider by certified mail, return receipt requested, AND INFORM THE PROVIDER OF
5 WHETHER THE DEPARTMENT HAS DETERMINED THAT THERE IS A SIGNIFICANT RISK
6 OF FINANCIAL FAILURE.

7 (2) (I) THE PROVIDER SHALL ADVISE ITS SUBSCRIBERS OF THE
8 DEPARTMENT'S DETERMINATION IN A MEETING TO BE HELD BY THE PROVIDER WITH
9 REPRESENTATIVES OF THE SUBSCRIBERS.

10 (II) THE MEETING SHALL BE HELD WITHIN 10 DAYS OF THE
11 PROVIDER'S RECEIPT OF NOTICE FROM THE DEPARTMENT.

12 (III) THE PROVIDER SHALL ADVISE THE DEPARTMENT OF THE DATE,
13 TIME, AND LOCATION OF SUCH MEETING.

14 (e) [Any] A provider notified of financial difficulty by the Department shall
15 prepare and submit to the Department for its approval a 5-year financial plan to
16 correct the causes of the financial difficulty. The financial plan shall be submitted
17 within 60 days of notification. The provider may request one 30-day extension from
18 the Secretary. The Secretary may grant the extension. The Department shall respond
19 to the provider within 60 days of receipt of the proposed plan. The Department may
20 work with the provider to establish the financial plan and may consult with the
21 Financial Review Committee prior to approving the plan. Upon approval the plan
22 shall be implemented. THE PROVIDER SHALL MAKE AVAILABLE TO ITS SUBSCRIBERS
23 COPIES OF ITS APPROVED 5-YEAR PLAN.

24 (f) The Department may withhold the renewal certificate or withdraw a
25 certificate of registration:

26 (1) If the provider does not prepare a financial plan;

27 (2) If the provider is unwilling or unable to prepare a financial plan;

28 (3) If the financial plan is inadequate to correct the current or impending
29 financial condition which necessitated the financial plan; or

30 (4) If the provider fails to implement the plan.

31 (g) The provider shall submit to the Department an annual progress report for
32 the term of its financial plan and shall revise its financial plan if the Department
33 determines that revisions are necessary.

34 (H) THE DEPARTMENT MAY DETERMINE THAT THERE EXISTS A SIGNIFICANT
35 RISK OF THE FINANCIAL FAILURE OF A PROVIDER BASED ON ONE OR MORE OF THE
36 FOLLOWING FINDINGS OR CIRCUMSTANCES:

1 (1) THE PROVIDER HAS FAILED TO MEET LOAN COVENANTS THAT GIVE
2 A LENDER OR A BOND TRUSTEE THE OPTION TO EXERCISE REMEDIES ON ITS
3 COLLATERAL;

4 (2) AN ACTUARIAL REPORT HAS BEEN PROVIDED TO THE DEPARTMENT
5 REFLECTING SIGNIFICANT UNDERFUNDING OF FUTURE LIABILITIES THAT ARE
6 UNLIKELY TO BE READILY ADDRESSED;

7 (3) THERE IS A SIGNIFICANT SHORTFALL BY THE PROVIDER IN
8 MAINTAINING REQUIRED RESERVES FOR A SIGNIFICANT PERIOD OF TIME;

9 (4) A SIGNIFICANT BALLOON PAYMENT OR FUTURE LOAN PAYMENT
10 WILL BECOME DUE WITHIN THE NEXT 12 MONTHS AND THE PROVIDER IS UNABLE TO
11 DEMONSTRATE THAT IT WILL OBTAIN A MODIFICATION FROM ITS LENDER, HAVE
12 THE RESOURCES TO MAKE THE PAYMENT, OR HAVE THE ABILITY TO REFINANCE;

13 (5) THERE IS A SIGNIFICANT DECLINING OCCUPANCY LIKELY TO HAVE
14 A MATERIAL ADVERSE FINANCIAL IMPACT;

15 (6) THERE HAS BEEN A MATERIAL ADVERSE CHANGE IN DEBT SERVICE
16 COVERAGE RATIO FOR AN EXTENDED PERIOD OF TIME THAT REDUCES THE RATIO TO
17 LESS THAN 1.0;

18 (7) THERE HAS BEEN A SIGNIFICANT DECLINE IN DAY'S CASH ON HAND
19 THAT IS UNRELATED TO ADDITIONS TO PROPERTY, PLANT, AND EQUIPMENT OR
20 OTHER COMMUNITY ENHANCEMENTS AND THAT COULD RESULT IN AN INABILITY TO
21 PAY OBLIGATIONS OF THE PROVIDER AS THEY BECOME DUE;

22 (8) THERE HAS BEEN A SIGNIFICANT INCREASE IN THE OPERATING
23 RATIO, ADJUSTED FOR UNREALIZED GAINS AND LOSSES ON INVESTMENTS, THAT
24 COULD RESULT IN THE INABILITY OF THE PROVIDER TO MEET ITS OBLIGATIONS; OR

25 (9) THE REFUSAL OR INABILITY OF THE PROVIDER TO PROVIDE
26 ACCURATE INFORMATION OR DATA REQUIRED TO BE SUBMITTED TO THE
27 DEPARTMENT UNDER THIS SUBTITLE AND RELATED REGULATIONS.

28 18A.

29 (A) (1) THE DEPARTMENT MAY IMPOSE A CIVIL MONEY PENALTY AGAINST A
30 PROVIDER FOR ACTION OR INACTION THAT VIOLATES THIS SUBTITLE OR ANY
31 REGULATION ADOPTED BY THE DEPARTMENT UNDER THIS SUBTITLE.

32 (2) (I) IF A VIOLATION RESULTS FROM A PROVIDER'S FAILURE TO
33 OBTAIN AN APPROVAL FROM THE DEPARTMENT THAT IS REQUIRED BY THIS
34 SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE, THE DEPARTMENT
35 MAY IMMEDIATELY IMPOSE A CIVIL MONEY PENALTY IN ACCORDANCE WITH
36 SUBSECTION (D) OF THIS SECTION.

37 (II) IF A VIOLATION DOES NOT RESULT FROM A PROVIDER'S
38 FAILURE TO OBTAIN AN APPROVAL FROM THE DEPARTMENT REQUIRED BY THIS

1 SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE, THE PROVIDER
2 SHALL BE GIVEN AN OPPORTUNITY TO CORRECT THE VIOLATION IN ACCORDANCE
3 WITH SUBSECTIONS (B) AND (C) OF THIS SECTION.

4 (B) IF THE DEPARTMENT ISSUES A NOTICE TO CORRECT A VIOLATION UNDER
5 SUBSECTION (A) OF THIS SECTION, THE NOTICE SHALL PROVIDE:

6 (1) THE TIME IN WHICH A PLAN OF CORRECTION THAT IS ACCEPTABLE
7 TO THE DEPARTMENT IS TO BE SUBMITTED;

8 (2) THE TIME IN WHICH AN IDENTIFIED VIOLATION MUST BE
9 SUBSTANTIALLY CORRECTED; AND

10 (3) THAT FAILURE TO SUBMIT AN ACCEPTABLE PLAN OF CORRECTION
11 AS REQUIRED BY ITEM (1) OF THIS SUBSECTION OR TO CORRECT THE IDENTIFIED
12 VIOLATION MAY RESULT IN AN ORDER IMPOSING A CIVIL MONEY PENALTY UNDER
13 SUBSECTION (D) OF THIS SECTION.

14 (C) IF AT THE EXPIRATION OF THE TIME SET FORTH IN SUBSECTION (B)(2) OF
15 THIS SECTION THE DEPARTMENT DETERMINES A VIOLATION HAS NOT BEEN
16 CORRECTED, THE DEPARTMENT MAY:

17 (1) EXTEND THE TIME FRAME IN WHICH THE VIOLATION MUST BE
18 CORRECTED; OR

19 (2) IMPOSE A CIVIL MONEY PENALTY UNDER SUBSECTION (D) OF THIS
20 SECTION.

21 (D) (1) THE DEPARTMENT MAY IMPOSE A CIVIL MONEY PENALTY NOT TO
22 EXCEED \$5,000 FOR EACH VIOLATION.

23 (2) IN SETTING THE AMOUNT OF A CIVIL MONEY PENALTY UNDER THIS
24 SECTION, THE DEPARTMENT SHALL CONSIDER THE FOLLOWING FACTORS:

25 (I) THE NUMBER, NATURE, AND SERIOUSNESS OF THE
26 VIOLATIONS;

27 (II) THE DEGREE OF RISK TO THE HEALTH, LIFE, OR PHYSICAL OR
28 FINANCIAL SAFETY OF THE SUBSCRIBERS CAUSED BY THE VIOLATIONS;

29 (III) THE EFFORTS MADE BY THE PROVIDER TO CORRECT THE
30 VIOLATIONS;

31 (IV) WHETHER THE AMOUNT OF THE PROPOSED CIVIL MONEY
32 PENALTY WILL JEOPARDIZE THE FINANCIAL ABILITY OF THE PROVIDER TO
33 CONTINUE OPERATING; AND

34 (V) OTHER FACTORS AS JUSTICE MAY REQUIRE.

35 (3) IF A CIVIL MONEY PENALTY IS IMPOSED UNDER THIS SECTION, THE
36 DEPARTMENT SHALL ISSUE AN ORDER STATING:

- 1 (I) THE BASIS ON WHICH THE ORDER IS MADE;
- 2 (II) EACH REGULATION OR STATUTE VIOLATED;
- 3 (III) EACH PENALTY IMPOSED AND THE TOTAL AMOUNT OF THE
4 CIVIL MONEY PENALTY IMPOSED; AND
- 5 (IV) THE MANNER IN WHICH THE AMOUNT OF THE CIVIL MONEY
6 PENALTY WAS CALCULATED.

7 (4) (I) THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO A
8 PROVIDER OF THE IMPOSITION OF A CIVIL MONEY PENALTY.

9 (II) THE NOTICE SHALL BE SERVED ON THE PROVIDER BY
10 CERTIFIED MAIL AND SHALL INCLUDE THE ORDER AND A STATEMENT ON HOW TO
11 FILE AN ADMINISTRATIVE APPEAL.

12 (5) IF A CIVIL MONEY PENALTY IS IMPOSED UNDER THIS SECTION, THE
13 PROVIDER SHALL HAVE THE RIGHT TO APPEAL FROM THE ORDER IN ACCORDANCE
14 WITH TITLE 10, SUBTITLE 2 (ADMINISTRATIVE PROCEDURE ACT) OF THE STATE
15 GOVERNMENT ARTICLE.

16 (E) (1) A PROVIDER SHALL PAY ALL PENALTIES TO THE DEPARTMENT
17 WITHIN 10 DAYS AFTER THE PROVIDER RECEIVES A FINAL ORDER IMPOSING A CIVIL
18 MONEY PENALTY.

19 (2) AN ORDER IMPOSING A CIVIL MONEY PENALTY IS FINAL WHEN THE
20 PROVIDER HAS EXHAUSTED ALL OPPORTUNITIES TO CONTEST THE PENALTY IN
21 ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

22 (3) IF A PROVIDER DOES NOT COMPLY WITH THIS SECTION, THE
23 DEPARTMENT MAY FILE A CIVIL ACTION TO RECOVER THE PENALTY.

24 (4) THE DEPARTMENT SHALL DEPOSIT ALL PENALTIES COLLECTED
25 UNDER THIS SECTION INTO THE GENERAL FUND.

26 19.

27 Any subscriber injured by a violation of this subtitle may bring an APPROPRIATE
28 ACTION FOR EQUITABLE RELIEF OR AN action for the recovery of damages in any
29 court of general jurisdiction. In such cases the court may award reasonable attorney's
30 fees to a subscriber in whose favor a judgment is rendered.

31 20.

32 (a) [Any subscriber injured by a violation of this subtitle, or the] THE
33 Department [on behalf of any subscriber,] may institute an action for an appropriate
34 temporary restraining order or injunction FOR A VIOLATION OF THIS SUBTITLE.

35 (B) THE DEPARTMENT MAY USE THE RECEIVERSHIP PROVISIONS OF THIS
36 SUBTITLE TO PROTECT THE INTERESTS OF CONTINUING CARE SUBSCRIBERS IN:

1 (1) THE SUBSTANTIAL ADVANCE PAYMENTS SUBSCRIBERS HAVE MADE
2 IN THE FORM OF ENTRANCE FEES AND, WHEN APPLICABLE, PERIODIC FEES, FOR
3 FUTURE CONTINUING CARE WITHOUT NECESSARILY HAVING ANY OWNERSHIP IN OR
4 CONTROL OF THE PROVIDER OR THE FACILITY;

5 (2) THE INSURANCE ASPECTS OF CONTINUING CARE AGREEMENTS, AS
6 APPLICABLE; AND

7 (3) THE CONTINUED DELIVERY OF SERVICES COMMITTED TO UNDER
8 CONTINUING CARE AGREEMENTS.

9 (C) [Any injured subscriber, or the] THE Department [on behalf of any
10 injured subscriber,] may petition for the appointment of a receiver:

11 (1) In the event of a threat of immediate closure of a facility;

12 (2) If the provider is not honoring its contracts with its subscribers; [or]

13 (3) To prohibit the improper diversion of its assets and records from the
14 facility or the State; OR

15 (4) IF THE DEPARTMENT HAS MADE A DETERMINATION OF A
16 SIGNIFICANT RISK OF FINANCIAL FAILURE IN ACCORDANCE WITH § 17A(D) AND (H)
17 OF THIS SUBTITLE.

18 (D) THE DEPARTMENT MAY PURSUE THE APPOINTMENT OF A RECEIVER
19 PRIOR TO THE PROVIDER FILING A PLAN OF CORRECTION.

20 [(b)] (E) The receiver shall have such power to rehabilitate, conserve, or
21 liquidate as is conferred by the order of appointment and by the provisions of [Title 9,
22 Subtitle 2 of the Insurance Article relating to rehabilitation and liquidation of
23 insurance companies] SECTIONS 20A THROUGH 20U OF THIS SUBTITLE.

24 20A.

25 NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND SUBJECT TO THE
26 PROVISIONS OF § 21 OF THIS ARTICLE, A DELINQUENCY PROCEEDING WITH RESPECT
27 TO A CONTINUING CARE PROVIDER IS THE EXCLUSIVE METHOD OF LIQUIDATING,
28 REHABILITATING, REORGANIZING, OR CONSERVING THE CONTINUING CARE
29 PROVIDER.

30 20B.

31 THE SECRETARY, DEPUTY SECRETARY, SPECIAL DEPUTY SECRETARY, OR ANY
32 PERSON ACTING AS RECEIVER IN A REHABILITATION, LIQUIDATION, OR
33 CONSERVATION OF A CONTINUING CARE PROVIDER AS A RESULT OF A COURT ORDER
34 SHALL HAVE THE SAME IMMUNITY FROM LIABILITY THAT THE INSURANCE
35 COMMISSIONER, DEPUTY COMMISSIONER, SPECIAL DEPUTY COMMISSIONER, OR ANY
36 PERSON ACTING AS RECEIVER IN A REHABILITATION, LIQUIDATION, OR

1 CONSERVATION OF AN INSURER WOULD HAVE UNDER § 5-410 OF THE COURTS
2 ARTICLE.

3 20C.

4 (A) (1) THIS SUBSECTION APPLIES EVEN IF A PAPER OR INSTRUMENT IS
5 NOT:

6 (I) EXECUTED BY THE SECRETARY OR A DEPUTY, EMPLOYEE, OR
7 ATTORNEY OF RECORD OF THE SECRETARY; AND

8 (II) CONNECTED WITH THE COMMENCEMENT OF AN ACTION OR
9 PROCEEDING BY OR AGAINST THE SECRETARY OR WITH THE SUBSEQUENT CONDUCT
10 OF THE ACTION OR PROCEEDING.

11 (2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE SECRETARY
12 MAY NOT BE REQUIRED TO PAY TO A PUBLIC OFFICER IN THE STATE A FEE FOR
13 FILING, RECORDING, OR ISSUING A TRANSCRIPT OR CERTIFICATE OR FOR
14 AUTHENTICATING A PAPER OR INSTRUMENT THAT RELATES TO THE EXERCISE BY
15 THE SECRETARY OF A POWER OR DUTY OF THE SECRETARY UNDER THIS SUBTITLE.

16 (B) (1) THE SECRETARY OR DEPUTY SECRETARY, WHEN ACTING AS
17 RECEIVER OR ANCILLARY RECEIVER UNDER THIS SUBTITLE, SHALL PAY ALL COURT
18 COSTS OUT OF THE ASSETS OF THE CONTINUING CARE PROVIDER BEFORE ANY
19 DISTRIBUTION TO CREDITORS OR TERMINATION OF REHABILITATION.

20 (2) IN ALL CASES, COURT COSTS AND THOSE SPECIFIED IN SUBSECTION
21 (A) OF THIS SECTION SHALL:

22 (I) BE CHARGED IN THE ACCOUNTS OF THE SECRETARY TO THE
23 COURT; OR

24 (II) BE PAID BY THE CONTINUING CARE PROVIDER AS A CONDITION
25 OF TERMINATION OF THE ACTION OR PROCEEDING.

26 20D.

27 (A) (1) IN A DELINQUENCY PROCEEDING IN WHICH THE SECRETARY HAS
28 BEEN APPOINTED RECEIVER, THE SECRETARY MAY:

29 (I) APPOINT ONE OR MORE SPECIAL DEPUTY SECRETARIES TO ACT
30 FOR THE SECRETARY; AND

31 (II) EMPLOY COUNSEL, CLERKS, AND ASSISTANTS.

32 (2) COMPENSATION OF THE SPECIAL DEPUTIES, COUNSEL, CLERKS, AND
33 ASSISTANTS AND ALL EXPENSES OF TAKING POSSESSION OF THE CONTINUING CARE
34 PROVIDER AND OF CONDUCTING THE DELINQUENCY PROCEEDING:

35 (I) SHALL BE SET BY THE SECRETARY, SUBJECT TO APPROVAL BY
36 THE COURT; AND

1 (II) SHALL BE PAID OUT OF THE ASSETS OR FUNDS OF THE
2 CONTINUING CARE PROVIDER.

3 (3) WITHIN THE LIMITS OF DUTIES IMPOSED ON A SPECIAL DEPUTY
4 CONCERNING A DELINQUENCY PROCEEDING, THE SPECIAL DEPUTY:

5 (I) SHALL POSSESS ALL POWERS GIVEN TO THE RECEIVER; AND

6 (II) IN THE EXERCISE OF THOSE POWERS, IS SUBJECT TO ALL THE
7 DUTIES IMPOSED ON THE RECEIVER CONCERNING THE DELINQUENCY PROCEEDING.

8 (B) IN A CIVIL PROCEEDING FILED AGAINST A SPECIAL DEPUTY SECRETARY
9 APPOINTED UNDER THIS SUBTITLE, THE SPECIAL DEPUTY SECRETARY IS ENTITLED
10 TO REPRESENTATION BY THE ATTORNEY GENERAL AS SPECIFIED IN TITLE 12,
11 SUBTITLE 3, PART II OF THE STATE GOVERNMENT ARTICLE.

12 20E.

13 (A) THE CIRCUIT COURT OF BALTIMORE CITY:

14 (1) HAS EXCLUSIVE ORIGINAL JURISDICTION OVER DELINQUENCY
15 PROCEEDINGS; AND

16 (2) MAY ISSUE ALL NECESSARY AND PROPER ORDERS TO CARRY OUT
17 THIS SUBTITLE.

18 (B) IF SERVICE IS MADE IN ACCORDANCE WITH THE MARYLAND RULES OR
19 OTHER APPLICABLE LAW, A COURT WITH SUBJECT MATTER JURISDICTION OVER AN
20 ACTION BROUGHT UNDER THIS SUBTITLE ALSO HAS JURISDICTION OVER:

21 (1) AN OFFICER, DIRECTOR, MANAGER, TRUSTEE, ORGANIZER,
22 PROMOTER, OR ATTORNEY IN FACT OF A CONTINUING CARE PROVIDER AGAINST
23 WHICH A DELINQUENCY PROCEEDING HAS BEEN COMMENCED, IN AN ACTION
24 RESULTING FROM OR INCIDENTAL TO THE PERSON'S RELATIONSHIP WITH THE
25 CONTINUING CARE PROVIDER;

26 (2) A PERSON THAT, AT THE TIME OF OR AFTER COMMENCEMENT OF
27 THE DELINQUENCY PROCEEDING, HELD OR WAS IN CONTROL OF ASSETS IN WHICH
28 THE RECEIVER CLAIMS AN INTEREST ON BEHALF OF THE CONTINUING CARE
29 PROVIDER, IN AN ACTION CONCERNING THE ASSETS OF THE PROVIDER; AND

30 (3) A PERSON OBLIGATED TO THE CONTINUING CARE PROVIDER IN ANY
31 WAY, IN AN ACTION ON OR INCIDENTAL TO THE OBLIGATION.

32 (C) THE VENUE OF ALL DELINQUENCY PROCEEDINGS IS IN BALTIMORE CITY.

33 20F.

34 (A) THE SECRETARY SHALL COMMENCE A DELINQUENCY PROCEEDING
35 AGAINST A CONTINUING CARE PROVIDER BY APPLYING TO THE COURT FOR AN

1 ORDER THAT DIRECTS THE CONTINUING CARE PROVIDER TO SHOW CAUSE WHY THE
2 COURT SHOULD NOT GRANT THE RELIEF REQUESTED.

3 (B) (1) THE COURT MAY CONSIDER AN APPLICATION FOR COMMENCEMENT
4 OF A DELINQUENCY PROCEEDING ONLY IF THE APPLICATION IS FILED BY THE
5 SECRETARY IN THE NAME OF THE STATE.

6 (2) AFTER A HEARING UNDER THE TERMS OF THE SHOW CAUSE ORDER,
7 THE COURT:

8 (I) SHALL GRANT OR DENY THE APPLICATION; AND

9 (II) MAY ORDER OTHER RELIEF AS THE NATURE OF THE CASE AND
10 THE INTERESTS OF THE CREDITORS, STOCKHOLDERS, MEMBERS, SUBSCRIBERS, OR
11 THE PUBLIC MAY REQUIRE.

12 20G.

13 (A) THE SECRETARY MAY APPLY TO THE COURT FOR AN ORDER THAT DIRECTS
14 THE SECRETARY TO CONSERVE OR REHABILITATE A CONTINUING CARE PROVIDER,
15 IF THE CONTINUING CARE PROVIDER:

16 (1) IS A CONTINUING CARE PROVIDER FOR WHICH THE DEPARTMENT
17 HAS MADE A DETERMINATION OF SIGNIFICANT RISK OF FINANCIAL FAILURE UNDER
18 § 17A OF THIS SUBTITLE;

19 (2) HAS REFUSED TO SUBMIT TO THE SECRETARY OR A DEPUTY OR
20 EXAMINER OF THE SECRETARY, FOR REASONABLE EXAMINATION, ANY OF THE
21 PROPERTY, BOOKS, RECORDS, ACCOUNTS, OR AFFAIRS OF THE CONTINUING CARE
22 PROVIDER, OR OF A SUBSIDIARY OR RELATED COMPANY OF THE CONTINUING CARE
23 PROVIDER WITHIN THE CONTINUING CARE PROVIDER'S CONTROL;

24 (3) HAS CONCEALED OR REMOVED ITS ASSETS OR RECORDS;

25 (4) HAS WILLFULLY VIOLATED ITS CHARTER, ARTICLES OF
26 INCORPORATION, A STATE LAW, OR AN ORDER OF THE SECRETARY;

27 (5) AFTER REASONABLE NOTICE, HAS FAILED PROMPTLY AND
28 EFFECTIVELY TO TERMINATE THE EMPLOYMENT, STATUS, AND INFLUENCE OVER
29 THE MANAGEMENT OF THE CONTINUING CARE PROVIDER OF A PERSON THAT HAS
30 EXECUTIVE AUTHORITY IN FACT OVER THE CONTINUING CARE PROVIDER AND HAS
31 REFUSED TO BE EXAMINED UNDER OATH ABOUT THE AFFAIRS OF THE CONTINUING
32 CARE PROVIDER IN THE STATE OR ELSEWHERE;

33 (6) HAS BEEN OR IS THE SUBJECT OF AN APPLICATION FOR
34 APPOINTMENT OF A RECEIVER, TRUSTEE, CUSTODIAN, SEQUESTRATOR, OR SIMILAR
35 FIDUCIARY OF THE CONTINUING CARE PROVIDER OR ITS PROPERTY IN AN ACTION
36 THAT WAS NOT FILED UNDER THIS SUBTITLE, REGARDLESS OF WHETHER THE
37 APPOINTMENT:

1 (I) HAS BEEN MADE;

2 (II) MAY DENY THE COURTS OF THE STATE JURISDICTION; OR

3 (III) MAY PREJUDICE AN ORDERLY DELINQUENCY PROCEEDING
4 UNDER THIS SUBTITLE;

5 (7) HAS CONSENTED TO THE ORDER FOR CONSERVATION OR
6 REHABILITATION THROUGH A MAJORITY OF ITS DIRECTORS, STOCKHOLDERS,
7 MEMBERS, OR SUBSCRIBERS;

8 (8) HAS FAILED TO PAY A FINAL JUDGMENT RENDERED AGAINST IT IN
9 THE STATE ON A CONTINUING CARE AGREEMENT ISSUED OR ASSUMED BY THE
10 CONTINUING CARE PROVIDER, WITHIN 60 DAYS AFTER THE LATEST OF:

11 (I) THE DAY ON WHICH THE JUDGMENT BECAME FINAL;

12 (II) THE DAY ON WHICH THE TIME FOR TAKING AN APPEAL
13 EXPIRED; OR

14 (III) THE DAY ON WHICH AN APPEAL WAS DISMISSED BEFORE FINAL
15 TERMINATION;

16 (9) AFTER EXAMINATION BY THE SECRETARY, IS FOUND TO BE IN A
17 CONDITION IN WHICH FURTHER TRANSACTION OF ITS BUSINESS WILL BE
18 HAZARDOUS TO ITS SUBSCRIBERS, BONDHOLDERS, CREDITORS, OR THE PUBLIC;

19 (10) HAS FAILED TO REMOVE A PERSON THAT HAS EXECUTIVE
20 AUTHORITY IN FACT OVER THE CONTINUING CARE PROVIDER AFTER THE
21 SECRETARY HAS FOUND THAT PERSON TO BE DISHONEST OR UNTRUSTWORTHY IN A
22 MANNER THAT MAY AFFECT THE BUSINESS OF THE CONTINUING CARE PROVIDER;

23 (11) HAS REASONABLE CAUSE TO KNOW, OR SHOULD HAVE KNOWN,
24 THAT THERE HAS BEEN:

25 (I) EMBEZZLEMENT OF FUNDS FROM THE CONTINUING CARE
26 PROVIDER;

27 (II) WRONGFUL SEQUESTRATION OR DIVERSION OF ASSETS OF THE
28 CONTINUING CARE PROVIDER;

29 (III) FORGERY OR FRAUD THAT AFFECTS THE CONTINUING CARE
30 PROVIDER; OR

31 (IV) OTHER ILLEGAL CONDUCT IN, BY, OR WITH RESPECT TO THE
32 CONTINUING CARE PROVIDER;

33 (12) IS CONTROLLED DIRECTLY OR INDIRECTLY BY A PERSON THAT THE
34 SECRETARY FINDS TO BE UNTRUSTWORTHY; OR

1 (13) HAS FAILED TO FILE A FINANCIAL REPORT REQUIRED BY LAW
2 WITHIN THE TIME ALLOWED BY LAW AND, AFTER WRITTEN DEMAND BY THE
3 SECRETARY, HAS FAILED TO GIVE AN IMMEDIATE AND ADEQUATE EXPLANATION.

4 (B) (1) IF THE APPOINTMENT OF THE SECRETARY AS RECEIVER IS NOT
5 THEN IN EFFECT, AND EVEN IF NO PREVIOUS ORDER HAS DIRECTED THE SECRETARY
6 TO REHABILITATE A CONTINUING CARE PROVIDER, THE SECRETARY MAY APPLY TO
7 THE COURT FOR AN ORDER THAT APPOINTS THE SECRETARY AS RECEIVER AND
8 THAT DIRECTS THE SECRETARY TO LIQUIDATE THE CONTINUING CARE PROVIDER IF
9 THE CONTINUING CARE PROVIDER:

10 (I) HAS NOT DONE BUSINESS FOR AT LEAST 1 YEAR;

11 (II) IS A CONTINUING CARE PROVIDER DETERMINED TO HAVE A
12 SIGNIFICANT RISK OF FINANCIAL FAILURE UNDER § 17A OF THIS SUBTITLE AND HAS
13 COMMENCED VOLUNTARY LIQUIDATION OR DISSOLUTION, OR ATTEMPTS TO
14 COMMENCE OR PROSECUTE AN ACTION OR PROCEEDING TO LIQUIDATE ITS
15 BUSINESS OR AFFAIRS, TO DISSOLVE ITS CORPORATE CHARTER, OR TO PROCURE THE
16 APPOINTMENT OF A RECEIVER, TRUSTEE, CUSTODIAN, OR SEQUESTRATOR UNDER
17 ANY LAW EXCEPT THIS ARTICLE;

18 (III) IS DOING BUSINESS IN A FRAUDULENT MANNER; OR

19 (IV) IS IN A CONDITION IN WHICH FURTHER REHABILITATION
20 EFFORTS ON ANY GROUNDS SPECIFIED IN SUBSECTION (A) OF THIS SECTION APPEAR
21 TO BE USELESS.

22 (2) IF AT ANY TIME DURING A REHABILITATION PROCEEDING THE
23 SECRETARY DETERMINES THAT FURTHER EFFORTS TO REHABILITATE THE
24 CONTINUING CARE PROVIDER WOULD BE USELESS, THE SECRETARY MAY APPLY TO
25 THE COURT FOR AN ORDER OF LIQUIDATION.

26 20H.

27 (A) (1) AN ORDER TO REHABILITATE A CONTINUING CARE PROVIDER
28 SHALL:

29 (I) APPOINT THE SECRETARY AS REHABILITATOR;

30 (II) DIRECT THE SECRETARY:

31 1. TO TAKE POSSESSION OF THE PROPERTY OF THE
32 CONTINUING CARE PROVIDER AND CONDUCT THE BUSINESS OF THE CONTINUING
33 CARE PROVIDER UNDER THE GENERAL SUPERVISION OF THE COURT; AND

34 2. TO TAKE ACTION THE COURT DIRECTS TO REMOVE THE
35 CAUSES AND CONDITIONS THAT HAVE MADE REHABILITATION NECESSARY;

36 (III) VEST TITLE TO ALL PROPERTY OF THE CONTINUING CARE
37 PROVIDER IN THE REHABILITATOR; AND

1 (IV) REQUIRE THE REHABILITATOR TO MAKE ACCOUNTINGS TO
2 THE COURT THAT:

3 1. ARE AT INTERVALS AS THE COURT SPECIFIES IN ITS
4 ORDER, BUT NOT LESS FREQUENTLY THAN TWO TIMES EACH YEAR; AND

5 2. INCLUDE THE OPINION OF THE REHABILITATOR ABOUT
6 THE LIKELIHOOD OF SUCCESS OF THE REHABILITATION.

7 (2) ISSUANCE OF AN ORDER OF REHABILITATION:

8 (I) DOES NOT CONSTITUTE AN ANTICIPATORY BREACH OF ANY
9 CONTRACT OF THE CONTINUING CARE PROVIDER; AND

10 (II) IS NOT GROUNDS FOR RETROACTIVE REVOCATION OR
11 RETROACTIVE CANCELLATION OF A CONTRACT OF THE CONTINUING CARE
12 PROVIDER, UNLESS THE REHABILITATOR REVOKES OR CANCELS THE CONTRACT.

13 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE SECRETARY,
14 OR AN INTERESTED PERSON ON DUE NOTICE TO THE SECRETARY, MAY APPLY TO THE
15 COURT AT ANY TIME FOR AN ORDER THAT:

16 (I) TERMINATES A REHABILITATION PROCEEDING; AND

17 (II) ALLOWS THE CONTINUING CARE PROVIDER TO RESUME
18 POSSESSION OF ITS PROPERTY AND THE CONDUCT OF ITS BUSINESS.

19 (2) AN ORDER UNDER THIS SUBSECTION MAY NOT BE ISSUED UNLESS,
20 AFTER A HEARING, THE COURT DETERMINES THAT THE PURPOSES OF THE
21 REHABILITATION PROCEEDING HAVE BEEN FULLY ACCOMPLISHED.

22 (C) (1) AN ORDER TO LIQUIDATE THE BUSINESS OF A CONTINUING CARE
23 PROVIDER SHALL DIRECT THE SECRETARY PROMPTLY TO:

24 (I) TAKE POSSESSION OF THE PROPERTY OF THE CONTINUING
25 CARE PROVIDER;

26 (II) LIQUIDATE THE BUSINESS OF THE CONTINUING CARE
27 PROVIDER;

28 (III) DEAL WITH THE PROPERTY AND BUSINESS OF THE
29 CONTINUING CARE PROVIDER IN THE NAME OF THE SECRETARY OR IN THE NAME OF
30 THE CONTINUING CARE PROVIDER, AS THE COURT DIRECTS; AND

31 (IV) NOTIFY EACH CREDITOR THAT MAY HAVE A CLAIM AGAINST
32 THE CONTINUING CARE PROVIDER TO PRESENT THE CREDITOR'S CLAIM.

33 (2) THE SECRETARY MAY APPLY FOR, AND THE COURT MAY ISSUE, AN
34 ORDER TO DISSOLVE THE CORPORATE EXISTENCE OF A CONTINUING CARE
35 PROVIDER:

1 (I) ON APPLICATION OF THE SECRETARY FOR AN ORDER TO
2 LIQUIDATE THE CONTINUING CARE PROVIDER; OR

3 (II) AT ANY TIME AFTER THE COURT HAS GRANTED THE ORDER OF
4 LIQUIDATION.

5 (D) AN ORDER TO CONSERVE THE ASSETS OF A CONTINUING CARE PROVIDER
6 SHALL REQUIRE THE SECRETARY PROMPTLY TO TAKE POSSESSION OF AND
7 CONSERVE THE PROPERTY OF THE CONTINUING CARE PROVIDER IN THE STATE,
8 SUBJECT TO FURTHER DIRECTION BY THE COURT.

9 20-I.

10 (A) IN THIS SECTION, "APPOINTED RECEIVER" MEANS A PERSON, OTHER THAN
11 THE SECRETARY, THAT THE COURT APPOINTS AS A CONSERVATOR, REHABILITATOR,
12 OR RECEIVER UNDER THIS SECTION.

13 (B) (1) ON MOTION OF THE COURT OR THE SECRETARY, THE COURT MAY
14 ISSUE AN ORDER THAT APPOINTS OR SUBSTITUTES A PERSON OTHER THAN THE
15 SECRETARY AS CONSERVATOR, REHABILITATOR, OR RECEIVER:

16 (I) ON INITIAL APPLICATION BY THE SECRETARY FOR AN ORDER
17 TO APPOINT THE SECRETARY AS CONSERVATOR, REHABILITATOR, OR RECEIVER
18 UNDER THIS SUBTITLE; OR

19 (II) AT ANY TIME DURING THE COURSE OF A CONSERVATORSHIP,
20 REHABILITATION, OR RECEIVERSHIP UNDER THIS SUBTITLE.

21 (2) AN APPOINTED RECEIVER HAS THE SAME POWERS AND DUTIES
22 THAT THE SECRETARY HAS UNDER THIS SUBTITLE AS CONSERVATOR,
23 REHABILITATOR, OR RECEIVER.

24 (C) (1) IN ADDITION TO ANY OTHER REPORT REQUIRED BY THE COURT, THE
25 COURT SHALL REQUIRE AN APPOINTED RECEIVER AT LEAST QUARTERLY TO FILE
26 WITH THE SECRETARY AND COURT A REPORT ABOUT:

27 (I) THE STATUS OF THE CONSERVATORSHIP, REHABILITATION, OR
28 RECEIVERSHIP; AND

29 (II) THE ACTIVITIES OF THE APPOINTED RECEIVER SINCE THE
30 LAST REPORT FILED UNDER THIS PARAGRAPH.

31 (2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
32 SUBSECTION AT A MINIMUM SHALL INCLUDE:

33 (I) INFORMATION OF THE CHARACTER REQUIRED BY TITLE 13 OF
34 THE MARYLAND RULES THAT APPLIES TO RECEIVERS GENERALLY;

1 (II) ANY OTHER INFORMATION NECESSARY TO PROVIDE A
2 COMPLETE REPORT ON THE FINANCIAL AFFAIRS AND CONDITION OF THE
3 CONSERVATORSHIP, REHABILITATION, OR RECEIVERSHIP;

4 (III) A COMPLETE ACCOUNT OF ALL EFFORTS BY THE APPOINTED
5 RECEIVER SINCE THE LAST REPORT:

6 1. TO SELL OR DISPOSE OF THE REMAINING BUSINESS OR
7 ASSETS OF THE CONTINUING CARE PROVIDER; OR

8 2. TO OTHERWISE BRING TO A PROMPT CONCLUSION THE
9 CONSERVATORSHIP, REHABILITATION, OR RECEIVERSHIP; AND

10 (IV) COPIES OF ANY ACTUARIAL OR OTHER EVALUATIONS OF THE
11 BUSINESS AND ASSETS UNDER THE CONTROL OF THE APPOINTED RECEIVER.

12 (3) THE REPORT SHALL BE AUDITED UNLESS FOR GOOD CAUSE THE
13 COURT WAIVES THE AUDIT.

14 (D) SUBJECT TO ANY PROTECTIVE ORDER THAT THE COURT CONSIDERS
15 APPROPRIATE, INFORMATION FILED UNDER SEAL SHALL BE PROVIDED TO THE
16 SECRETARY.

17 (E) THE APPOINTED RECEIVER SHALL GIVE THE SECRETARY FULL ACCESS TO
18 ALL DOCUMENTS AND RECORDS RELATED TO THE CONSERVATORSHIP,
19 REHABILITATION, OR RECEIVERSHIP THAT ARE IN THE POSSESSION OF THE
20 APPOINTED RECEIVER.

21 (F) THE SECRETARY MAY BE A PARTY TO A CONSERVATORSHIP,
22 REHABILITATION, OR RECEIVERSHIP FOR WHICH THERE IS AN APPOINTED
23 RECEIVER.

24 (G) (1) SUBJECT TO APPROVAL OF THE COURT, THE SECRETARY MAY
25 NEGOTIATE FOR SALE OF ALL OR PART OF THE ASSETS OR BUSINESS OF THE
26 CONTINUING CARE PROVIDER PLACED IN CONSERVATORSHIP, REHABILITATION, OR
27 RECEIVERSHIP.

28 (2) THE APPOINTED RECEIVER:

29 (I) SHALL COOPERATE FULLY IN ANY SALES NEGOTIATION UNDER
30 PARAGRAPH (1) OF THIS SUBSECTION; AND

31 (II) MAY OBJECT TO THE TERMS OF A SALE OF THE ASSETS OR
32 BUSINESS OF THE CONTINUING CARE PROVIDER THAT RESULTS FROM THE
33 NEGOTIATION.

34 (3) AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, THE COURT
35 MAY LIMIT THE EFFORTS OF THE SECRETARY TO UNDERTAKE OR CONTINUE
36 NEGOTIATIONS FOR THE SALE OF THE ASSETS OR BUSINESS OF THE CONTINUING
37 CARE PROVIDER IF THE NEGOTIATIONS WOULD IMPAIR THE ABILITY OF THE

1 APPOINTED RECEIVER TO ENGAGE IN SIMILAR NEGOTIATIONS OR DISCHARGE
2 OTHER RESPONSIBILITIES.

3 (H) (1) IF THE SECRETARY DETERMINES THAT AN APPOINTED RECEIVER IS
4 NOT ADEQUATELY DISCHARGING THE DUTIES AND RESPONSIBILITIES OF THE
5 POSITION, THE SECRETARY MAY FILE WITH THE COURT AN APPLICATION THAT
6 SEEKS TO DISCHARGE THE APPOINTED RECEIVER AND TO APPOINT THE SECRETARY
7 AS CONSERVATOR, REHABILITATOR, OR RECEIVER OR TO APPOINT ANOTHER
8 RECEIVER.

9 (2) IF THE SECRETARY ESTABLISHES BY A PREPONDERANCE OF THE
10 EVIDENCE THAT GROUNDS EXIST FOR DISCHARGE OF AN APPOINTED RECEIVER, THE
11 COURT SHALL GRANT THE APPLICATION OF THE SECRETARY TO DISCHARGE THE
12 APPOINTED RECEIVER AND TO APPOINT THE SECRETARY AS CONSERVATOR,
13 REHABILITATOR, OR RECEIVER OR TO APPOINT ANOTHER RECEIVER.

14 20J.

15 WITHIN 15 DAYS AFTER APPOINTMENT AS RECEIVER OR CONSERVATOR FOR A
16 CONTINUING CARE PROVIDER AGAINST WHICH A DELINQUENCY PROCEEDING HAS
17 BEEN COMMENCED, THE RECEIVER OR CONSERVATOR SHALL NOTIFY EACH
18 SUBSCRIBER OF THE CONTINUING CARE PROVIDER, BY LETTER OR OTHER MEANS
19 APPROVED BY THE COURT, OF THE COMMENCEMENT OF THE DELINQUENCY
20 PROCEEDING AND OF THE POSSIBILITY THAT THE CONTINUING CARE AGREEMENT
21 OF THE SUBSCRIBER MAY BE CANCELED.

22 20K.

23 AN APPEAL MAY BE TAKEN TO THE COURT OF SPECIAL APPEALS FROM:

24 (1) AN ORDER THAT GRANTS OR REFUSES REHABILITATION,
25 LIQUIDATION, OR CONSERVATION; AND

26 (2) ANY OTHER ORDER IN A DELINQUENCY PROCEEDING THAT HAS THE
27 CHARACTER OF A FINAL ORDER AS TO THE PARTICULAR PART OF THE DELINQUENCY
28 PROCEEDING COVERED BY THE ORDER.

29 20L.

30 (A) TO FACILITATE THE REHABILITATION, LIQUIDATION, CONSERVATION, OR
31 DISSOLUTION OF A CONTINUING CARE PROVIDER UNDER THIS SUBTITLE, THE
32 SECRETARY, SUBJECT TO THE APPROVAL OF THE COURT, MAY:

33 (1) BORROW MONEY;

34 (2) EXECUTE, ACKNOWLEDGE, AND DELIVER NOTES OR OTHER
35 EVIDENCES OF INDEBTEDNESS FOR THE LOAN;

1 (3) SECURE THE REPAYMENT OF THE LOAN BY THE MORTGAGE,
2 PLEDGE, ASSIGNMENT, OR TRANSFER IN TRUST OF ALL OR PART OF THE PROPERTY
3 OF THE CONTINUING CARE PROVIDER; AND

4 (4) TAKE ANY OTHER ACTION NECESSARY AND PROPER TO
5 CONSUMMATE THE LOAN AND TO PROVIDE FOR ITS REPAYMENT.

6 (B) THE SECRETARY IS NOT OBLIGATED PERSONALLY OR IN AN OFFICIAL
7 CAPACITY TO REPAY A LOAN MADE UNDER THIS SECTION.

8 20M.

9 (A) WHENEVER UNDER THIS SUBTITLE A RECEIVER IS TO BE APPOINTED IN A
10 DELINQUENCY PROCEEDING FOR A CONTINUING CARE PROVIDER, THE COURT
11 SHALL:

12 (1) APPOINT THE SECRETARY AS RECEIVER; AND

13 (2) ORDER THE SECRETARY PROMPTLY TO TAKE POSSESSION OF THE
14 ASSETS OF THE CONTINUING CARE PROVIDER AND TO ADMINISTER THE ASSETS
15 UNDER THE ORDERS OF THE COURT.

16 (B) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, BEGINNING ON THE
17 DATE OF ISSUANCE OF AN ORDER THAT DIRECTS THE SECRETARY TO REHABILITATE
18 OR LIQUIDATE A CONTINUING CARE PROVIDER, THE SECRETARY AS RECEIVER IS
19 VESTED BY OPERATION OF LAW WITH TITLE TO AND MAY TAKE POSSESSION OF ALL
20 OF THE PROPERTY, CONTRACTS, RIGHTS OF ACTION, BOOKS, AND RECORDS OF THE
21 CONTINUING CARE PROVIDER, WHEREVER LOCATED.

22 (C) THE FILING OF THE ORDER THAT DIRECTS POSSESSION TO BE TAKEN, OR
23 A CERTIFIED COPY OF THE ORDER, IN AN OFFICE WHERE INSTRUMENTS AFFECTING
24 TITLE TO PROPERTY ARE REQUIRED TO BE FILED PROVIDES THE SAME NOTICE AS
25 WOULD BE PROVIDED BY A DEED, BILL OF SALE, OR OTHER EVIDENCE OF TITLE
26 THAT IS SO FILED.

27 (D) (1) THE SECRETARY AS RECEIVER SHALL ADMINISTER PROPERLY ALL
28 ASSETS THAT COME INTO THE POSSESSION OR CONTROL OF THE SECRETARY.

29 (2) IF CONSIDERED DESIRABLE TO PROTECT THE ASSETS, THE COURT
30 AT ANY TIME MAY REQUIRE A BOND FROM THE SECRETARY OR DEPUTY SECRETARY.

31 (3) ON TAKING POSSESSION OF THE ASSETS OF A CONTINUING CARE
32 PROVIDER AND SUBJECT TO THE DIRECTION OF THE COURT, THE SECRETARY
33 IMMEDIATELY SHALL:

34 (1) CONDUCT THE BUSINESS OF THE DOMESTIC CONTINUING
35 CARE PROVIDER; OR

1 (II) TAKE ACTION AUTHORIZED BY THIS SUBTITLE TO
2 REHABILITATE, LIQUIDATE, OR CONSERVE THE AFFAIRS OR ASSETS OF THE
3 DOMESTIC CONTINUING CARE PROVIDER.

4 20N.

5 (A) (1) WHENEVER UNDER THIS SUBTITLE AN ANCILLARY RECEIVER IS TO
6 BE APPOINTED IN A DELINQUENCY PROCEEDING FOR A CONTINUING CARE
7 PROVIDER NOT DOMICILED IN THE STATE, THE COURT SHALL APPOINT THE
8 SECRETARY AS ANCILLARY RECEIVER.

9 (2) THE SECRETARY SHALL FILE A PETITION REQUESTING
10 APPOINTMENT AS ANCILLARY RECEIVER UNDER § 20G(E) OF THIS SUBTITLE IF:

11 (I) THE SECRETARY FINDS THAT THERE ARE SUFFICIENT ASSETS
12 OF THE CONTINUING CARE PROVIDER LOCATED IN THE STATE TO JUSTIFY THE
13 APPOINTMENT OF AN ANCILLARY RECEIVER; OR

14 (II) TEN OR MORE PERSONS RESIDING IN THE STATE WITH CLAIMS
15 AGAINST THE CONTINUING CARE PROVIDER FILE A PETITION WITH THE SECRETARY
16 REQUESTING THE APPOINTMENT OF AN ANCILLARY RECEIVER.

17 (B) FOR THE PURPOSE OF LIQUIDATING A CONTINUING CARE PROVIDER
18 DOMICILED IN A RECIPROCAL STATE, THE DOMICILIARY RECEIVER:

19 (1) IS VESTED BY OPERATION OF LAW WITH TITLE TO ALL OF THE
20 PROPERTY, CONTRACTS, AND RIGHTS OF ACTION, AND ALL OF THE BOOKS AND
21 RECORDS OF THE CONTINUING CARE PROVIDER LOCATED IN THIS STATE;

22 (2) IMMEDIATELY MAY OBTAIN POSSESSION OF ANY BOOKS AND
23 RECORDS OF THE CONTINUING CARE PROVIDER FOUND IN THIS STATE;

24 (3) SUBJECT TO SUBSECTION (C)(1) OF THIS SECTION, MAY RECOVER
25 OTHER ASSETS OF THE CONTINUING CARE PROVIDER LOCATED IN THIS STATE; AND

26 (4) MAY SUE IN THIS STATE TO RECOVER ANY ASSETS OF THE
27 CONTINUING CARE PROVIDER TO WHICH THE DOMICILIARY RECEIVER IS ENTITLED
28 UNDER THE LAWS OF THIS STATE.

29 (C) (1) ON APPOINTMENT OF AN ANCILLARY RECEIVER IN THIS STATE, THE
30 ANCILLARY RECEIVER:

31 (I) HAS THE SOLE RIGHT TO RECOVER OTHER ASSETS OF THE
32 CONTINUING CARE PROVIDER SPECIFIED IN SUBSECTION (B)(3) OF THIS SECTION
33 DURING THE ANCILLARY RECEIVERSHIP PROCEEDING;

34 (II) SHALL:

35 1. AS SOON AS PRACTICABLE LIQUIDATE FROM THE
36 SECURITIES OF THE ANCILLARY RECEIVER THOSE SPECIAL DEPOSIT CLAIMS AND

1 SECURED CLAIMS THAT ARE PROVED AND ALLOWED IN AN ANCILLARY PROCEEDING
2 IN THIS STATE; AND

3 2. PAY THE NECESSARY EXPENSES OF THE ANCILLARY
4 PROCEEDING; AND

5 (III) SHALL TRANSFER PROMPTLY ALL REMAINING ASSETS TO THE
6 DOMICILIARY RECEIVER.

7 (2) SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, THE ANCILLARY
8 RECEIVER AND DEPUTIES OF THE ANCILLARY RECEIVER HAVE THE SAME POWERS
9 AND ARE SUBJECT TO THE SAME DUTIES CONCERNING ADMINISTRATION OF THE
10 ASSETS OF THE CONTINUING CARE PROVIDER AS A RECEIVER OF A CONTINUING
11 CARE PROVIDER DOMICILED IN THIS STATE.

12 20-O.

13 (A) DURING PENDENCY OF A DELINQUENCY PROCEEDING FOR A CONTINUING
14 CARE PROVIDER IN THIS STATE OR A RECIPROCAL STATE, AN ATTACHMENT,
15 GARNISHMENT, EXECUTION, OR SIMILAR ACTION OR PROCEEDING MAY NOT BE
16 COMMENCED OR MAINTAINED IN A COURT OF THIS STATE AGAINST THE
17 CONTINUING CARE PROVIDER OR ITS ASSETS.

18 (B) A LIEN OBTAINED OR AN ACTION OR PROCEEDING PROHIBITED BY
19 SUBSECTION (A) OF THIS SECTION IS VOID AS AGAINST ANY RIGHTS ARISING IN THE
20 DELINQUENCY PROCEEDING, IF THE LIEN WAS OBTAINED OR THE ACTION OR
21 PROCEEDING COMMENCED WITHIN 4 MONTHS BEFORE OR AT ANY TIME AFTER
22 COMMENCEMENT OF A DELINQUENCY PROCEEDING.

23 20P.

24 (A) A TRANSFER OF OR LIEN ON THE PROPERTY OF A CONTINUING CARE
25 PROVIDER IS VOIDABLE IF THE TRANSFER OR LIEN IS:

26 (1) MADE OR CREATED WITHIN 4 MONTHS BEFORE THE ISSUANCE OF A
27 SHOW CAUSE ORDER UNDER THIS SUBTITLE;

28 (2) MADE OR CREATED WITH THE INTENT TO GIVE A CREDITOR A
29 PREFERENCE OR TO ENABLE THE CREDITOR TO OBTAIN A GREATER PERCENTAGE OF
30 THE DEBT THAN ANOTHER CREDITOR OF THE SAME CLASS; AND

31 (3) ACCEPTED BY THE CREDITOR HAVING REASONABLE CAUSE TO
32 BELIEVE THAT THE PREFERENCE WILL OCCUR.

33 (B) EACH DIRECTOR, OFFICER, EMPLOYEE, STOCKHOLDER, MEMBER,
34 SUBSCRIBER, AND ANY OTHER PERSON ACTING ON BEHALF OF A CONTINUING CARE
35 PROVIDER THAT IS CONCERNED IN A VOIDABLE TRANSFER UNDER SUBSECTION (A)
36 OF THIS SECTION AND EACH PERSON THAT, AS A RESULT OF THE VOIDABLE
37 TRANSFER, RECEIVES ANY PROPERTY OF THE CONTINUING CARE PROVIDER OR
38 BENEFITS FROM THE VOIDABLE TRANSFER:

1 (1) IS PERSONALLY LIABLE; AND

2 (2) SHALL ACCOUNT TO THE SECRETARY.

3 (C) THE SECRETARY AS RECEIVER IN A DELINQUENCY PROCEEDING MAY:

4 (1) AVOID A TRANSFER OF OR LIEN ON THE PROPERTY OF A
5 CONTINUING CARE PROVIDER THAT A CREDITOR, STOCKHOLDER, SUBSCRIBER, OR
6 MEMBER OF THE CONTINUING CARE PROVIDER MIGHT HAVE AVOIDED; AND

7 (2) RECOVER THE TRANSFERRED PROPERTY OR ITS VALUE FROM THE
8 PERSON THAT RECEIVED IT UNLESS THAT PERSON WAS A BONA FIDE HOLDER FOR
9 VALUE BEFORE THE DATE OF ISSUANCE OF A SHOW CAUSE ORDER UNDER THIS
10 SUBTITLE.

11 20Q.

12 (A) (1) THE SECRETARY SHALL DEPOSIT MONEYS COLLECTED IN A
13 DELINQUENCY PROCEEDING IN A STATE OR NATIONAL BANK, SAVINGS BANK, OR
14 TRUST COMPANY.

15 (2) DEPOSITS MADE BY THE SECRETARY UNDER PARAGRAPH (1) OF THIS
16 SUBSECTION HAVE PRIORITY OF PAYMENT EQUAL TO ANY OTHER PRIORITY
17 SPECIFIED BY THE BANKING LAWS OF THIS STATE IF THE DEPOSITORY:

18 (I) IS AN INSTITUTION ORGANIZED AND SUPERVISED UNDER THE
19 LAWS OF THIS STATE; AND

20 (II) BECOMES INSOLVENT OR LIQUIDATES VOLUNTARILY OR
21 INVOLUNTARILY.

22 (3) THE SECRETARY MAY DEPOSIT ALL OR PART OF THE MONEYS
23 COLLECTED IN A NATIONAL BANK OR TRUST COMPANY AS A TRUST FUND.

24 (B) TO THE EXTENT THAT AN INVESTMENT OR ACCOUNT IS INSURED BY THE
25 FEDERAL DEPOSIT INSURANCE CORPORATION, THE SECRETARY MAY INVEST IN
26 SHARES OF OR DEPOSITS IN A SAVINGS AND LOAN ASSOCIATION OR BUILDING AND
27 LOAN ASSOCIATION.

28 20R.

29 (A) (1) IF ON ISSUANCE OF AN ORDER OF LIQUIDATION UNDER THIS
30 SUBTITLE OR AT ANY TIME DURING A LIQUIDATION PROCEEDING THE CONTINUING
31 CARE PROVIDER IS NOT CLEARLY SOLVENT, THE COURT, AFTER NOTICE IT
32 CONSIDERS PROPER AND A HEARING, SHALL ISSUE AN ORDER THAT THE
33 CONTINUING CARE PROVIDER IS AN IMPAIRED CONTINUING CARE PROVIDER.

34 (2) NOTWITHSTANDING ANY PREVIOUS NOTICE GIVEN TO CREDITORS,
35 AFTER ISSUANCE OF AN ORDER UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE
36 SECRETARY SHALL NOTIFY EACH PERSON THAT MAY HAVE A CLAIM AGAINST THE

1 CONTINUING CARE PROVIDER THAT THE CLAIM IS FOREVER BARRED UNLESS THE
2 PERSON FILES THE CLAIM WITH THE SECRETARY AT A PLACE AND WITHIN THE TIME
3 SPECIFIED IN THE NOTICE.

4 (3) THE TIME SPECIFIED IN THE NOTICE:

5 (I) SHALL BE AS SET BY THE COURT FOR FILING CLAIMS; BUT

6 (II) MAY NOT BE LESS THAN 6 MONTHS AFTER ISSUANCE OF THE
7 ORDER THAT THE CONTINUING CARE PROVIDER IS AN IMPAIRED CONTINUING CARE
8 PROVIDER.

9 (4) THE NOTICE SHALL BE GIVEN IN THE MANNER AND FOR THE
10 REASONABLE PERIOD OF TIME THAT THE COURT ORDERS.

11 (B) (1) EACH CLAIMANT SHALL SET FORTH IN REASONABLE DETAIL:

12 (I) THE AMOUNT OF THE CLAIM OR THE BASIS ON WHICH THE
13 AMOUNT CAN BE DETERMINED;

14 (II) THE FACTS ON WHICH THE CLAIM IS BASED; AND

15 (III) ANY PRIORITY ASSERTED BY THE CLAIMANT.

16 (2) EACH CLAIM SHALL:

17 (I) BE VERIFIED BY THE AFFIDAVIT OF THE CLAIMANT OR A
18 PERSON AUTHORIZED TO ACT ON BEHALF OF THE CLAIMANT WHO HAS KNOWLEDGE
19 OF THE FACTS; AND

20 (II) BE SUPPORTED BY ANY DOCUMENTS THAT MAY BE MATERIAL
21 TO THE CLAIM.

22 (3) EACH CLAIM FILED IN THE STATE SHALL BE FILED WITH THE
23 DOMICILIARY RECEIVER OR ANCILLARY RECEIVER IN THE STATE ON OR BEFORE THE
24 LAST DATE SPECIFIED UNDER THIS SUBTITLE FOR FILING OF CLAIMS.

25 (C) THE RECEIVER SHALL:

26 (1) REPORT A CLAIM TO THE COURT:

27 (I) WITHIN 10 DAYS AFTER RECEIVING THE CLAIM; OR

28 (II) WITHIN AN ADDITIONAL PERIOD SET BY THE COURT FOR GOOD
29 CAUSE SHOWN; AND

30 (2) RECOMMEND IN THE REPORT ACTION TO BE TAKEN ON THE CLAIM.

31 (D) (1) ON RECEIPT OF THE REPORT OF THE RECEIVER, THE COURT SHALL:

32 (I) SET A TIME FOR HEARING THE CLAIM; AND

1 (II) DIRECT THE CLAIMANT OR RECEIVER TO GIVE NOTICE AS THE
2 COURT DETERMINES TO EACH PERSON THAT APPEARS TO THE COURT TO BE
3 INTERESTED IN THE CLAIM.

4 (2) THE NOTICE GIVEN IN ACCORDANCE WITH THIS SUBSECTION SHALL:

5 (I) SPECIFY THE TIME AND PLACE OF THE HEARING; AND

6 (II) STATE CONCISELY:

7 1. THE AMOUNT AND NATURE OF THE CLAIM;

8 2. ANY PRIORITY ASSERTED BY THE CLAIMANT; AND

9 3. THE RECOMMENDATION OF THE RECEIVER ABOUT THE
10 CLAIM.

11 (E) (1) AT THE HEARING SPECIFIED UNDER SUBSECTION (D) OF THIS
12 SECTION:

13 (I) EACH PERSON WITH AN INTEREST IN THE CLAIM MAY APPEAR;
14 AND

15 (II) THE COURT SHALL ISSUE AN ORDER IN WHICH THE COURT
16 ALLOWS IN PART, OR DISALLOWS THE CLAIM.

17 (2) AN ORDER UNDER THIS SUBSECTION IS A FINAL ORDER SUBJECT TO
18 APPEAL.

19 (F) (1) IN A DELINQUENCY PROCEEDING COMMENCED IN THIS STATE
20 AGAINST A DOMESTIC CONTINUING CARE PROVIDER, A CLAIMANT WHO RESIDES IN A
21 RECIPROCAL STATE MAY FILE A CLAIM WITH:

22 (I) ANY ANCILLARY RECEIVER IN THE RECIPROCAL STATE; OR

23 (II) THE DOMICILIARY RECEIVER.

24 (2) EACH CLAIM FILED UNDER THIS SUBSECTION MUST BE FILED ON OR
25 BEFORE THE LAST DATE SET FOR THE FILING OF CLAIMS IN THE DELINQUENCY
26 PROCEEDING IN THE DOMICILIARY STATE.

27 (3) A CONTROVERTED CLAIM OF A CLAIMANT WHO RESIDES IN A
28 RECIPROCAL STATE MAY BE PROVED:

29 (I) IN THIS STATE; OR

30 (II) IF AN ANCILLARY PROCEEDING HAS BEEN COMMENCED IN THE
31 RECIPROCAL STATE, IN THE ANCILLARY PROCEEDING.

32 (4) IF THE CLAIMANT ELECTS TO PROVE A CLAIM IN THE ANCILLARY
33 PROCEEDING, AND IF THE SAME NOTICE AND OPPORTUNITY TO BE HEARD IS GIVEN

1 THE DOMICILIARY RECEIVER OF THIS STATE AS IS PROVIDED UNDER SUBSECTION
2 (G) OF THIS SECTION FOR AN ANCILLARY PROCEEDING IN THIS STATE, THE FINAL
3 ALLOWANCE OF THE CLAIM BY THE COURTS OF THE ANCILLARY STATE SHALL BE
4 ACCEPTED IN THIS STATE AS CONCLUSIVE AS TO:

5 (I) THE AMOUNT OF THE CLAIM; AND

6 (II) ANY PRIORITY OF THE CLAIM AGAINST SPECIAL DEPOSITS OR
7 OTHER SECURITY LOCATED IN THE ANCILLARY STATE.

8 (G) (1) IN A DELINQUENCY PROCEEDING IN A RECIPROCAL STATE AGAINST
9 A CONTINUING CARE PROVIDER DOMICILED IN THAT STATE, A CLAIMANT WHO
10 RESIDES IN THIS STATE MAY FILE A CLAIM WITH:

11 (I) ANY ANCILLARY RECEIVER APPOINTED IN THIS STATE; OR

12 (II) THE DOMICILIARY RECEIVER.

13 (2) EACH CLAIM FILED UNDER THIS SUBSECTION MUST BE FILED ON OR
14 BEFORE THE LAST DATE SET FOR THE FILING OF CLAIMS IN THE DELINQUENCY
15 PROCEEDING IN THE DOMICILIARY STATE.

16 (3) A CONTROVERTED CLAIM OF A CLAIMANT WHO RESIDES IN THIS
17 STATE MAY BE PROVED:

18 (I) IN THE DOMICILIARY STATE, AS PROVIDED BY THE LAW OF THE
19 DOMICILIARY STATE; OR

20 (II) IF AN ANCILLARY PROCEEDING HAS BEEN COMMENCED IN
21 THIS STATE, IN THE ANCILLARY PROCEEDING.

22 (4) IF THE CLAIMANT ELECTS TO PROVE THE CLAIM IN THIS STATE, THE
23 CLAIMANT SHALL:

24 (I) FILE THE CLAIM WITH THE ANCILLARY RECEIVER; AND

25 (II) GIVE WRITTEN NOTICE TO THE DOMICILIARY RECEIVER BY
26 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, BEARING A POSTMARK FROM THE
27 UNITED STATES POSTAL SERVICE, OR BY PERSONAL SERVICE AT LEAST 40 DAYS
28 BEFORE THE DATE SET FOR THE HEARING.

29 (5) THE NOTICE SHALL CONTAIN:

30 (I) A CONCISE STATEMENT OF THE AMOUNT OF THE CLAIM;

31 (II) THE FACTS ON WHICH THE CLAIM IS BASED; AND

32 (III) ANY PRIORITY ASSERTED BY THE CLAIMANT.

33 (6) THE DOMICILIARY RECEIVER MAY APPEAR OR BE REPRESENTED IN
34 ANY PROCEEDING IN THIS STATE THAT INVOLVES ADJUDICATION OF THE CLAIM IF,

1 WITHIN 30 DAYS AFTER THE CLAIMANT GIVES THE NOTICE REQUIRED BY THIS
2 SUBSECTION, THE DOMICILIARY RECEIVER GIVES WRITTEN NOTICE OF AN INTENT
3 TO CONTEST THE CLAIM:

4 (I) TO THE ANCILLARY RECEIVER AND TO THE CLAIMANT; AND

5 (II) BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, BEARING A
6 POSTMARK FROM THE UNITED STATES POSTAL SERVICE OR BY PERSONAL SERVICE.

7 (7) THE FINAL ALLOWANCE OF THE CLAIM BY THE COURTS OF THIS
8 STATE SHALL BE ACCEPTED AS CONCLUSIVE AS TO:

9 (I) THE AMOUNT OF THE CLAIM; AND

10 (II) ANY PRIORITY OF THE CLAIM AGAINST SPECIAL DEPOSITS OR
11 OTHER SECURITY LOCATED IN THIS STATE.

12 20S.

13 (A) IN THIS SECTION, "PREFERRED CLAIM" MEANS A CLAIM THAT IS GIVEN
14 PRIORITY OF PAYMENT FROM THE GENERAL ASSETS OF A CONTINUING CARE
15 PROVIDER UNDER THE LAWS OF THE STATE OR THE UNITED STATES.

16 (B) (1) THE FIRST \$500 OF COMPENSATION OR WAGES OWED TO AN OFFICER
17 OR EMPLOYEE OF A CONTINUING CARE PROVIDER FOR SERVICES RENDERED WITHIN
18 3 MONTHS BEFORE THE COMMENCEMENT OF A DELINQUENCY PROCEEDING
19 AGAINST THE CONTINUING CARE PROVIDER SHALL BE PAID BEFORE PAYMENT OF
20 ANY OTHER DEBT OR CLAIM.

21 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE SECRETARY
22 MAY PAY THE COMPENSATION REQUIRED TO BE PAID UNDER THIS SUBSECTION AS
23 SOON AS PRACTICABLE AFTER COMMENCEMENT OF THE DELINQUENCY
24 PROCEEDING.

25 (3) AT ALL TIMES, THE SECRETARY SHALL RESERVE FUNDS THAT THE
26 SECRETARY BELIEVES ARE SUFFICIENT FOR EXPENSES OF ADMINISTRATION.

27 (4) THE PRIORITY REQUIRED UNDER THIS SUBSECTION IS INSTEAD OF
28 ANY OTHER SIMILAR PRIORITY THAT MAY BE AUTHORIZED BY LAW AS TO WAGES OR
29 COMPENSATION.

30 (C) PRIORITY OVER ALL OTHER CLAIMS IN A LIQUIDATION PROCEEDING,
31 OTHER THAN CLAIMS FOR WAGES SPECIFIED IN SUBSECTION (B) OF THIS SECTION,
32 EXPENSES OF ADMINISTRATION, AND TAXES, SHALL BE GIVEN TO CLAIMS BY
33 SUBSCRIBERS THAT ARISE FROM CONTINUING CARE AGREEMENTS WITH THE
34 CONTINUING CARE PROVIDER, INCLUDING CLAIMS TO THE STATUTORY REFUND
35 MANDATED BY § 15 OF THIS SUBTITLE.

1 (D) (1) THE OWNER OF A SECURED CLAIM AGAINST A CONTINUING CARE
2 PROVIDER FOR WHICH A RECEIVER HAS BEEN APPOINTED IN THIS STATE OR
3 ANOTHER STATE MAY:

4 (I) SURRENDER THE SECURITY AND FILE THE CLAIM AS A
5 GENERAL CREDITOR; OR

6 (II) HAVE THE CLAIM DISCHARGED BY RESORT TO THE SECURITY.

7 (2) IF THE OWNER OF A SECURED CLAIM HAS THE CLAIM DISCHARGED
8 BY RESORT TO THE SECURITY, ANY DEFICIENCY SHALL BE TREATED AS A CLAIM
9 AGAINST THE GENERAL ASSETS OF THE CONTINUING CARE PROVIDER ON THE SAME
10 BASIS AS THE CLAIMS OF UNSECURED CREDITORS.

11 (3) THE AMOUNT OF A DEFICIENCY IS CONCLUSIVE IF ADJUDICATED:

12 (I) IN AN ANCILLARY PROCEEDING UNDER THIS SUBTITLE; OR

13 (II) BY A COURT OF COMPETENT JURISDICTION IN A PROCEEDING
14 IN WHICH THE DOMICILIARY RECEIVER HAS BEEN GIVEN NOTICE AND AN
15 OPPORTUNITY TO BE HEARD.

16 (4) IF THE AMOUNT OF A DEFICIENCY IS NOT CONCLUSIVE, THE
17 AMOUNT SHALL BE DETERMINED IN A DELINQUENCY PROCEEDING IN THE
18 DOMICILIARY STATE.

19 (E) (1) IN A DELINQUENCY PROCEEDING AGAINST A CONTINUING CARE
20 PROVIDER DOMICILED IN THE STATE, CLAIMS OWING TO RESIDENTS OF ANCILLARY
21 STATES ARE PREFERRED CLAIMS IF SIMILAR CLAIMS ARE PREFERRED UNDER THE
22 LAWS OF THIS STATE.

23 (2) ALL CLAIMS OWING TO RESIDENTS OF ANCILLARY STATES OR
24 NONRESIDENTS HAVE EQUAL PRIORITY OF PAYMENT FROM GENERAL ASSETS
25 REGARDLESS OF WHERE THE GENERAL ASSETS ARE LOCATED.

26 (F) IN A DELINQUENCY PROCEEDING AGAINST A CONTINUING CARE
27 PROVIDER DOMICILED IN A RECIPROCAL STATE, CLAIMS OWING TO RESIDENTS OF
28 THIS STATE ARE PREFERRED CLAIMS IF SIMILAR CLAIMS ARE PREFERRED UNDER
29 THE LAWS OF THAT STATE.

30 20T.

31 (A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, CONTINGENT
32 AND UNLIQUIDATED CLAIMS MAY NOT SHARE IN A DISTRIBUTION OF THE ASSETS OF
33 A CONTINUING CARE PROVIDER THAT HAS BEEN ADJUDICATED TO BE AN IMPAIRED
34 CONTINUING CARE PROVIDER BY AN ORDER ISSUED UNDER THIS SUBTITLE.

35 (2) IF PROPERLY PRESENTED, A CONTINGENT AND UNLIQUIDATED
36 CLAIM SHALL BE CONSIDERED AND MAY BE ALLOWED TO SHARE IF:

1 (I) THE CLAIM BECOMES ABSOLUTE AGAINST THE CONTINUING
2 CARE PROVIDER ON OR BEFORE THE LAST DAY FOR FILING CLAIMS AGAINST THE
3 ASSETS OF THE CONTINUING CARE PROVIDER; OR

4 (II) THERE IS A SURPLUS AND THE LIQUIDATION IS
5 SUBSEQUENTLY CONDUCTED ON THE BASIS THAT THE CONTINUING CARE
6 PROVIDER IS SOLVENT.

7 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
8 CLAIM OF A PERSON THAT HAS A SECURED CLAIM MAY NOT BE ALLOWED AT A SUM
9 GREATER THAN THE DIFFERENCE BETWEEN:

10 (I) THE VALUE OF THE CLAIM WITHOUT SECURITY; AND

11 (II) THE VALUE OF THE SECURITY ITSELF ON:

12 1. THE DATE OF ISSUANCE OF THE LIQUIDATION ORDER; OR

13 2. ANOTHER DATE SET BY THE COURT FOR DETERMINING
14 RIGHTS AND LIABILITIES AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.

15 (2) IF THE CLAIMANT SURRENDERS THE SECURITY TO THE SECRETARY,
16 THE CLAIM SHALL BE ALLOWED IN THE FULL AMOUNT FOR WHICH IT IS VALUED.

17 (C) SUBJECT TO THE PROVISIONS OF THIS SUBTITLE ON THE RIGHTS OF
18 CLAIMANTS HOLDING CONTINGENT CLAIMS, AND UNLESS OTHERWISE DIRECTED BY
19 THE COURT, THE RIGHTS AND LIABILITIES OF A CONTINUING CARE PROVIDER AND
20 CREDITORS, STOCKHOLDERS, MEMBERS, SUBSCRIBERS, AND OTHER PERSONS
21 INTERESTED IN THE ESTATE OF THE CONTINUING CARE PROVIDER ARE FIXED ON
22 THE DATE ON WHICH THE ORDER THAT DIRECTS THE LIQUIDATION OF THE
23 CONTINUING CARE PROVIDER IS FILED IN THE OFFICE OF THE CLERK OF THE COURT
24 THAT ISSUED THE ORDER.

25 20U.

26 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN ALL CASES
27 OF MUTUAL DEBTS AND CREDITS BETWEEN A CONTINUING CARE PROVIDER AND
28 ANOTHER PERSON IN CONNECTION WITH A DELINQUENCY PROCEEDING, THE DEBTS
29 AND CREDITS SHALL BE OFFSET AND THE BALANCE ONLY SHALL BE ALLOWED OR
30 PAID.

31 (B) AN OFFSET MAY NOT BE ALLOWED IN FAVOR OF ANOTHER PERSON IF:

32 (1) ON THE DATE OF ISSUANCE OF A LIQUIDATION ORDER OR
33 OTHERWISE, AS SPECIFIED IN § 20S(C) OF THIS SUBTITLE, THE OBLIGATION OF THE
34 CONTINUING CARE PROVIDER TO THE PERSON WOULD NOT ENTITLE THE PERSON TO
35 SHARE AS A CLAIMANT IN THE ASSETS OF THE CONTINUING CARE PROVIDER; OR

1 (2) THE OBLIGATION OF THE CONTINUING CARE PROVIDER TO THE
2 PERSON WAS PURCHASED BY OR TRANSFERRED TO THE PERSON FOR USE AS AN
3 OFFSET.

4 21.

5 If [the] A provider [files for] IS THE SUBJECT OF A bankruptcy or [is placed in]
6 receivership ACTION, the CLAIMS OF subscribers [as a class] shall be [considered as
7 creditors] ADMINISTERED IN ACCORDANCE WITH § 20S OF THIS SUBTITLE for the
8 purpose of any legal action in conjunction with the bankruptcy or receivership.

9 SECTION 2. AND BE IT FURTHER ENACTED, That:

10 (a) (1) If a person's existing operations become subject to the Continuing
11 Care Contracts subtitle of Article 70B of the Annotated Code of Maryland on October
12 1, 2002 when this Act becomes effective, the person shall have until:

13 (i) January 1, 2003 to submit a feasibility study to the Department
14 of Aging that satisfies the requirement of § 10 of Article 70B of the Annotated Code of
15 Maryland;

16 (ii) 2 months after the feasibility study is approved by the
17 Department of Aging, to submit an application for a preliminary certificate that
18 satisfies the requirements of § 10 of Article 70B of the Annotated Code of Maryland;
19 and

20 (iii) 2 months after the Department of Aging issues a preliminary
21 certificate to submit an application for an initial certificate that satisfies the
22 requirements of § 11 of Article 70B of the Annotated Code of Maryland.

23 (2) The Secretary of Aging for good cause may extend the time
24 requirements of this subsection.

25 (b) When determining whether a continuing care provider, whose existing
26 operations become subject to the Continuing Care Contracts subtitle of Article 70B of
27 the Annotated Code of Maryland as a result of the Act has met the 65% presales
28 requirement of Article 70B, § 11(a)(1) of the Annotated Code of Maryland, the
29 Department of Aging may count the agreements the person entered into before
30 October 1, 2002 even if the agreements were not approved in advance by the
31 Department for use as a continuing care agreement.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
33 effect October 1, 2002.