SB 355

Department of Legislative Services

Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

Senate Bill 355 (Chairman, Finance Committee)
(Departmental - Aging)

Finance Environmental Matters

Department of Aging - Continuing Care Retirement Communities - Regulation

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This departmental bill makes various changes to the Continuing Care Act.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill's penalty provision. The Department of Aging could implement the bill's changes using existing budgeted resources. No effect on expenditures.

Local Effect: None.

Small Business Effect: The Department of Aging has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill broadens what health related services Continuing Care Retirement Communities (CCRC) must provide and what it means to make medical and nursing services or other health related services available to subscribers. Health related services must include priority admission to a nursing home or assisted living program, or assistance in daily living activities that do not include meals. Making available either medical and nursing services or other health related services means the provider or affiliate has the services readily accessible for subscribers whether or not the services are specifically offered in the written agreement for shelter. If a continuing care agreement promises assisted living or comprehensive care services and the CCRC does not have those services available at the facility when the individual needs them, the provider still must make those services available. The services must be provided either in the individual's independent living unit or in a nearby licensed assisted living or comprehensive care facility, whichever the CCRC prefers, at the same rate the individual would have paid if the promised facility had space available.

The bill enables people to receive refunds from CCRCs more quickly if they move out within the first 90 days. It also requires providers to refund an individual's entrance fee within 60 days of an agreement being terminated or of the individual's death under certain circumstances. An entrance fee is defined as a sum of money or other consideration, other than a surcharge, paid that assures continuing care for more than one year or for life and is at least three times the weighted average of the monthly cost of periodic fees charged for independent and assisted living units.

The bill requires CCRCs to include at least one resident on its governing board. If the provider owns or operates more than three CCRCs in the State, there must be at least one resident on the governing board for every three facilities.

The Department of Aging (MDoA) may petition for the appointment of a receiver for a CCRC if the department has determined that there is a significant risk of the provider's financial failure.

In addition, CCRCs will have a more flexible time frame to fund their operating reserves. CCRCs will have up to ten fiscal years after the later of October 1, 1996 or the date of the CCRC's initial certificate of registration to set aside operating reserves for each facility that equal 15% of the net operating expenses for the most recent fiscal year a certified financial statement is available.

MDoA may impose a civil penalty of up to $5,000 per violation for any action or inaction that violates the bill's provisions or related regulations. Before imposing the penalty, MdoA must give a violation notice to the provider. CCRCs will have the right to appeal the penalty under the Administrative Procedure Act. All money collected from penalties must be deposited into the general fund.

Current Law: The Continuing Care Contract Act was enacted in 1980. CCRCs furnish shelter and either medical and nursing services or other health related services to an individual 60 years old or older, and not related to the provider, which requires the transfer of assets or an entrance fee.

Any individual receiving continuing care services or the department on behalf of the individual may petition the appointment of a receiver: in the event of a threat of immediate closure of the facility; if the CCRC is not honoring its contracts with its subscribers; or to prohibit the improper diversion of its assets and records from the facility or the State. The receiver shall have the power to rehabilitate, conserve, or liquidate the facility.

Background: This bill is a result of recommendations made by the department's Continuing Care Advisory Committee. There are 31 continuing care retirement communities within the State.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Department of Aging, Department of Legislative Services

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