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By: ~~Delegate Donoghue~~ Delegates Donoghue, Hurson, Hammen, Benson,  
Boutin, Bromwell, Costa, Elliott, Goldwater, Haynes, Hubbard, Kach,  
Mandel, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks,  
Pendergrass, Redmer, Rosenberg, Rudolph, Smigiel, and Weldon

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Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 20, 2003

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

4 FOR the purpose of ~~limiting the definition of a governing body of a continuing care~~  
5 ~~provider to certain providers; expanding the time period in which authorizing~~  
6 the Department of Aging may to consider certain agreements entered into by  
7 ~~certain continuing care providers~~ persons when determining whether a certain  
8 sales requirement has been met under certain circumstances; providing that if  
9 ~~certain continuing care providers~~ persons demonstrate by a certain date that  
10 certain development and investment has been completed for ~~expanding a~~  
11 ~~continuing care facility, the remaining portion of the project may not be~~  
12 ~~considered new development~~ a certain facility, the Department may issue a  
13 certain certificate if the applicant provides certain assurances; and generally  
14 relating to continuing care retirement communities.

15 ~~BY repealing and reenacting, with amendments,~~  
16 ~~Article 70B - Department of Aging~~  
17 ~~Section 7(p)~~  
18 ~~Annotated Code of Maryland~~  
19 ~~(1998 Replacement Volume and 2002 Supplement)~~

20 BY repealing and reenacting, without amendments,  
21 Article 70B - Department of Aging  
22 Section 7(a) and (p) and 11A(a), (b), and (c)

1 Annotated Code of Maryland  
2 (1998 Replacement Volume and 2002 Supplement)

3 BY repealing and reenacting, with amendments,  
4 Chapter 150 of the Acts of the General Assembly of 2002  
5 Section 2

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

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

9 7.

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

11 (p) "Governing body" means a board of directors, board of trustees, or similar  
12 group that ultimately directs the affairs of a provider ~~THAT HAS ALL OF ITS~~  
13 ~~FACILITIES LOCATED WITHIN MARYLAND~~, but whose members are not required to  
14 have an equity interest in the provider.

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 provider shall make provisions to have  
20 an authorized officer receive and answer questions from subscribers at the meeting.

21 (b) (1) A provider that has a governing body shall include at least one of the  
22 provider's subscribers as a full and regular member of the governing body.

23 (2) If a provider that has a governing body owns or operates more than  
24 three facilities in the State, there shall be at least one of the provider's subscribers as  
25 a full and regular member of the governing body for every three facilities in the State.

26 (3) (i) Subject to the provisions of subparagraph (ii) of this paragraph,  
27 a governing body member selected to meet the requirements of this subsection shall  
28 be a subscriber at a facility in the State and be selected according to the same general  
29 written standards and criteria used to select other members of the governing body.

30 (ii) The governing body shall confer with the resident association at  
31 each facility of the provider before the subscriber officially joins the governing body.

32 (c) A provider that does not have a governing body shall appoint a select  
33 committee of its officers or partners to meet at least twice annually with the resident  
34 association at each of its facilities to address concerns of the subscribers and to ensure  
35 that the opinions of subscribers are relayed to all officers or partners of the provider.  
36 If a facility does not have a resident association, the committee shall meet with a

1 reasonable number of representatives, not required to exceed fifteen, elected by the  
2 subscribers.

3

**Chapter 150 of the Acts of 2002**

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

5 (a) (1) If a person's existing operations become subject to the Continuing  
6 Care Contracts subtitle of Article 70B of the Annotated Code of Maryland on October  
7 1, 2002 when this Act becomes effective, the person shall have until:

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

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

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

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

20 (b) When determining whether a ~~continuing care provider~~ PERSON, whose  
21 existing operations become subject to the Continuing Care Contracts subtitle of  
22 Article 70B of the Annotated Code of Maryland as a result of the Act has met the 65%  
23 presales requirement of Article 70B, § 11(a)(1) of the Annotated Code of Maryland, the  
24 Department of Aging may count the agreements FOR CONTINUING CARE SERVICES  
25 the person entered into before ~~October 1, 2002 AND UP UNTIL THE TIME THE~~  
26 DEPARTMENT OF AGING ISSUES A PRELIMINARY CERTIFICATE TO THE PERSON, even  
27 if the agreements were not approved in advance by the Department for use as a  
28 continuing care agreement IF:

29 (1) THE AGREEMENTS ENTERED INTO AFTER OCTOBER 1, 2002 BUT  
30 BEFORE ISSUANCE OF THE PRELIMINARY CERTIFICATE ARE APPROVED BY THE  
31 DEPARTMENT; AND

32 (2) THE AGREEMENTS SPECIFY THAT:

33 (I) THE PERSON IS IN THE PROCESS OF APPLYING FOR A  
34 CERTIFICATE OF REGISTRATION FROM THE DEPARTMENT OF AGING; AND

35 (II) IF THE PERSON OBTAINS THE CERTIFICATE:

36 1. THE PERSON WILL OFFER CONTRACTS APPROVED BY THE  
37 DEPARTMENT AS CONTINUING CARE AGREEMENTS TO FUTURE SUBSCRIBERS; AND

1    2. THE RESIDENT WILL BE ENTITLED TO RESCIND THE  
2 RESIDENT'S EXISTING AGREEMENT AND ENTER INTO A CONTINUING CARE  
3 AGREEMENT APPROVED BY THE DEPARTMENT AS A SUBSTITUTE FOR THE ORIGINAL  
4 AGREEMENT THE RESIDENT ENTERED INTO WITH THE PERSON.

5        SECTION 2. AND BE IT FURTHER ENACTED, That if a ~~continuing care~~  
6 ~~provider person~~, whose existing operations become subject to the Continuing Care  
7 Contracts subtitle of Article 70B of the Annotated Code of Maryland as a result of  
8 Chapter 150 of the Acts of the General Assembly of 2002, demonstrates that, as of  
9 October 1, 2002, the ~~provider person~~ had already completed the site acquisition, site  
10 development, and infrastructure investment intended to support a project planned  
11 before October 1, 2002 that ~~will~~ would expand the number of independent living and  
12 assisted living units at the ~~provider's~~ facility, any ~~remaining portion of that project~~  
13 ~~may not be considered new development as described in § 9(a) of Article 70B of the~~  
14 ~~Annotated Code of Maryland, regardless of whether the number of independent and~~  
15 ~~assisted living units to be constructed in the project exceeds 25% of the total number~~  
16 ~~of existing units. For purposes of review and approval by the Department of Aging,~~  
17 ~~the standards applied to that project shall be limited to those that are used to approve~~  
18 ~~an expansion as described in § 11(j) of Article 70B of the Annotated Code of Maryland~~  
19 person's facility, the Department may issue an initial certificate for a number of units  
20 that would not otherwise be financially viable if the applicant for the certificate  
21 provides assurances that satisfy the Department that the applicant has made  
22 adequate provisions to ensure subscribers will receive a refund in the amount  
23 specified in Article 70B, § 15 of the Annotated Code of Maryland if the project becomes  
24 insolvent before completion.

25        SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 ~~October~~ June 1, 2003.