SB 360

Department of Legislative Services

Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 360 (Senator Brinkley)
Finance Health and Government Operations

Elderly Persons - Conversion of Existing Accommodations to a Continuing Care Retirement Community

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This bill allows a facility that provides housing or shelter to convert to a continuing care facility after meeting Department of Aging requirements.

Fiscal Summary

State Effect: Potential increase in special fund expenditures and revenues. The increase depends on the number of facilities that provide housing or shelter that seek to convert to continuing care facilities.

Local Effect: None.

Small Business Effect: Potential meaningful impact for facilities considered small businesses.

Analysis

Bill Summary: Conversion to a continuing care facility is allowed for a facility where the residential accommodations existed before a statement of intent is filed and at least 60% of the available residential accommodations of the facility owner were occupied during the two previous fiscal years.

A conversion application submitted to the Department of Aging must verify that at least 80% of the project accommodations that are not licensed as assisted living or comprehensive care beds are occupied or reserved in accordance with: (1) leases; (2) continuing care agreements executed with subscribers who have provided a deposit that is equal to at least 10% of the total entrance fee and has been deposited by the provider under an escrow agreement; or (3) other appropriate contractual arrangements.

The facility must set aside as its operating reserves an amount equal to at least 15% of the pro rata proportion of the net operating expenses. The pro rata proportion of net operating expenses must equal the number of units in the facility certified by the department divided by the total number of accommodations in the facility multiplied by the net operating expenses for the most recent fiscal year for which a certified financial statement is available.

A provider whose facility has been the subject of a conversion may not terminate, or fail to renew, a lease for accommodation in order to enter into a continuing care agreement for that accommodation.

Current Law: All providers who intend to develop a facility must file a statement of intent with the Department of Aging at least 30 days before submitting a feasibility study for departmental approval. A provider may not collect deposits for continuing care or begin building a new facility without approval of the feasibility study.

The feasibility study must include the following information: a statement of purpose; documentation of the provider's financial resources; a statement of necessary capital expenditures to accomplish the project and the plan for acquiring necessary capital; a plan demonstrating the financial feasibility of the project; a study demonstrating the market for the project; an actuarial forecast; a statement of the planned fee structure; a description of the facility proposed; a copy of the proposed escrow and deposit agreements; and the form and substance of any advertising campaign or proposed advertisement for the facility available at the time of filing.

The provider may collect deposits from prospective subscribers once a feasibility study is approved and funds collected are maintained in an escrow account.

A provider may not provide continuing care until the issuance of a certificate of registration by the department. The application must contain specified information, including verification that subscribers' continuing care agreements have been executed for at least 65% of the independent living units and at least 10% of the total entrance fee for each contracted unit has been collected.

A preliminary certificate of registration must be issued by the department if it determines that: the feasibility study was approved; the continuing care agreement meets requirements; all financial and organizational materials have been submitted; and the form and substance of all advertising and other promotional materials filed are not deceptive, misleading, or likely to mislead.

The initial certificate of registration may be issued for up to 18 months at the department's discretion. Annually, within 120 days after the end of the fiscal year, the provider must file an application for a renewal certificate.

Background: The Department of Aging is aware of one rental retirement community that would be interested in offering continuing care contracts. Rental, condominium, and cooperative retirement communities that meet the bill's requirements could apply to become continuing care retirement communities (CCRCs). CCRCs offer a full range of housing, residential services, and health care to older residents as their needs change over time.

The department would receive a filing fee with each applicant's feasibility study submission, ranging from $7,500 to $25,000, based on the total number of units at the community.

State Fiscal Effect: Special fund revenues could increase in fiscal 2004 and out-years depending on the number of facilities that apply for conversion to become CCRCs. Special fund expenditures could increase if a large number of facilities apply for conversion, resulting in the department having to hire additional staff to process the applications. In any event, the conversion fees should cover any such expenditures. However, the department is aware of only one facility interested in converting to a CCRC.

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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