

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 103

(Chairman, Finance Committee)

(By Request – Departmental – Aging)

Finance

Health and Government Operations

Department of Aging - Continuing Care Contracts

This departmental bill makes various changes to the statute authorizing Department of Aging to regulate continuing care contracts.

Fiscal Summary

State Effect: The bill's requirements could be handled with existing budgeted resources.

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:

- authorizes the department to exempt providers with substantially limited long-term care liability exposure from the requirement to submit an actuarial study every three years to the department;
- identifies the circumstances in which certain information must be publicly disclosed, including certain feasibility studies and additional information involving a sale of a facility or provider;

- authorizes the Secretary of Aging to waive the requirement that a subscriber (an individual for whom a continuing care contract is purchased) must be on the continuing care provider's board for a provider that is in the process of decertifying as a provider if the Secretary determines there are no subscribers willing and able to serve on the governing body;
- requires adding the following information to the provider's disclosure statement that is distributed to prospective subscribers: the identity of the owner of the facility and of the land on which it is located, the provider's name and address, and a description of the provider's financial arrangements for the renewal and replacement of the buildings;
- amends the existing requirements related to changes in ownership or control of a continuing care provider or facility – clarifying that the provider is responsible for providing the financial plan;
- adds additional requirements regarding grievances that require a provider to respond in writing within five days after receiving a subscriber's written grievance and gives a subscriber who files a written grievance the right to a meeting with management within 45 days after the provider receives the written grievance;
- requires a continuing care agreement to state that the subscriber received the current version of the provider's written rules at least two weeks before signing the continuing care contract;
- clarifies the requirements related to designating a beneficiary of any refundable portion of the entrance fee;
- clarifies the requirements involving certain continuing care agreement terminations and entrance fee refunds; and
- gives the Secretary of Aging (instead of the department) the authority to impose a civil money penalty against a provider for a violation of continuing care statutory or regulatory requirements.

Current Law: Article 70B, Section 7 of the Annotated Code of Maryland sets the continuing care contract requirements. A provider must receive the Department of Aging's approval before the provider may offer continuing care, enter into or renew continuing care agreements, begin construction on a new facility or expand or renovate an existing facility, or collect deposits for continuing care. Each provider must conduct an annual meeting open to its subscribers at which it will present a summary of its operations, significant changes made in the previous year, and its goals and objectives for the next year. There must be an opportunity for subscribers to ask questions at this meeting.

Statute also sets requirements for: making disclosure statements to prospective subscribers; selling or transferring continuing care facility ownership; selling or

transferring a provider's assets; rescinding a continuing care agreement; dismissing or discharging a subscriber prior to the agreement's expiration; refunding the entrance fee due to the agreement's termination; establishing financial plan requirements; imposing a criminal penalty for certain violations; and imposing a civil penalty for violating statutory or regulatory requirements.

Background: This bill is the product of recommendations developed by the Continuing Care Advisory Committee, an advisory group composed of industry and consumer representatives. The department formed the committee in 1994 to study Article 70B and the related regulations and make recommendations to the department.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Aging, Department of Legislative Services

Fiscal Note History: First Reader - January 31, 2006
ncs/jr Revised - Senate Third Reader - March 21, 2006

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