

HOUSE BILL 940

J3, O2

9lr0380
CF SB 680

By: **Delegates Carter, Oaks, Tarrant, Robinson, Conaway, Rosenberg, and Gutierrez**

Introduced and read first time: February 12, 2009

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Continuing Care Retirement Communities – Construction – Environmental**
3 **Impact Statement**

4 FOR the purpose of requiring a feasibility study prepared by certain continuing care
5 providers to include certain information for certain proposed projects; providing
6 that the Department of Aging may approve a feasibility study under certain
7 circumstances if the Department makes a certain determination in consultation
8 with the Department of the Environment; and generally relating to the
9 construction of continuing care retirement communities.

10 BY repealing and reenacting, with amendments,
11 Article – Human Services
12 Section 10–409
13 Annotated Code of Maryland
14 (2007 Volume and 2008 Supplement)

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

17 **Article – Human Services**

18 10–409.

19 (a) A provider may not collect deposits for continuing care or begin
20 construction of a new facility until the Department approves a feasibility study.

21 (b) A person who intends to submit a feasibility study under subsection (c) of
22 this section shall file with the Department a statement of intent to provide continuing
23 care at least 30 days before the person submits the feasibility study to the
24 Department.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) A feasibility study shall:

2 (1) be filed in a form satisfactory to the Department; and

3 (2) include at least the following information:

4 (i) a statement of the purpose of the proposed construction or
5 conversion;

6 (ii) documentation of the financial resources of the provider;

7 (iii) a statement of the capital expenditures necessary to
8 accomplish the project and the plan for acquiring the necessary capital;

9 (iv) a plan demonstrating the financial feasibility of the
10 proposed project, including future funding sources;

11 (v) a study that demonstrates the market for the project;

12 (vi) an actuarial forecast reviewed by a qualified actuary;

13 (vii) a statement of the planned fee structure, including any
14 proposed escalator or other automatic adjustment provision;

15 (viii) a description of the facility proposed to be used or being used
16 for continuing care;

17 (ix) a copy of the proposed escrow and deposit agreements; [and]

18 (x) the form and substance of any proposed advertisement,
19 advertising campaign, or promotional material for the facility that is available at the
20 time of filing; AND

21 (XI) **IF THE PROPOSED PROJECT WILL BE CONSTRUCTED ON**
22 **UNDEVELOPED PROPERTY OF 10 ACRES OR MORE:**

23 **1. AN ENVIRONMENTAL IMPACT STATEMENT; AND**

24 **2. DOCUMENTATION OF CONSIDERATION OF THE**
25 **FEASIBILITY OF USING ANY OTHER PROPERTY IN THE JURISDICTION THAT IS**
26 **ZONED FOR THE PROPOSED USE.**

27 (d) **(1)** The Department may approve a feasibility study if the Department
28 determines that:

1 [(1) (I)] the number of comprehensive care or assisted living beds in
2 the facility for which licenses are required by the Department of Health and Mental
3 Hygiene is not inconsistent with the State health plan;

4 [(2) (II)] a reasonable financial plan has been submitted for
5 developing and operating the project;

6 [(3) (III)] a market for the facility appears to exist;

7 [(4) (IV)] a recognized authority prepared the feasibility study;

8 [(5) (V)] the actuarial forecast supports the projections for the
9 project;

10 [(6) (VI)] the Department has approved the escrow agreement and
11 deposit agreement; and

12 [(7) (VII)] the approved escrow agreement is executed by the provider
13 and the financial institution.

14 **(2) IF AN ENVIRONMENTAL IMPACT STATEMENT HAS BEEN**
15 **SUBMITTED, THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF**
16 **THE ENVIRONMENT, MAY APPROVE A FEASIBILITY STUDY IF THE DEPARTMENT**
17 **DETERMINES THAT THE PROPOSED PROJECT WILL NOT HAVE A SIGNIFICANT**
18 **NEGATIVE IMPACT ON THE ENVIRONMENT.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 June 1, 2009.