

HOUSE BILL 952

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9lr1772
CF SB 778

By: Delegates Hubbard, Costa, Krebs, ~~and Weldon~~ Weldon, Hammen, Pendergrass, Benson, Bromwell, Donoghue, Elliott, Kach, Kipke, Kullen, McDonough, Montgomery, Morhaim, Nathan-Pulliam, Oaks, Pena-Melnyk, Reznik, Riley, Tarrant, and V. Turner

Introduced and read first time: February 12, 2009

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 25, 2009

CHAPTER _____

1 AN ACT concerning

2 **Continuing Care ~~Department of Aging and Maryland Insurance~~**
3 **~~Administration~~ Transfer of Oversight Agreements and Related Agreements**

4 ~~FOR the purpose of transferring oversight of continuing care from the Department of~~
5 ~~Aging to the Maryland Insurance Administration; requiring the Administration,~~
6 ~~in consultation with certain groups, to conduct a certain review and to provide a~~
7 ~~certain report to the General Assembly on or before a certain date; making~~
8 ~~certain stylistic and technical changes; requiring the publisher of the Annotated~~
9 ~~Code of Maryland to make certain corrective changes; providing for the effective~~
10 ~~date of certain provisions of this Act; providing for the termination of certain~~
11 ~~provisions of this Act; and generally relating to the oversight of continuing care.~~

12 FOR the purpose of requiring the Department of Aging to review and approve or
13 disapprove certain continuing care agreements and any other related
14 agreements within a certain number of days; authorizing the Department to
15 submit comments to or request additional information from a provider who has
16 submitted certain agreements to the Department; providing for the suspension
17 of a certain review period; requiring the Department to provide a certain
18 written notice to certain providers if the Department does not approve a certain
19 agreement; providing for a certain appeal under certain circumstances;
20 requiring the Department to limit its review of certain modifications to certain
21 agreements in a certain manner; providing that certain providers are not
22 required to submit certain agreements or requests for modification to the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Department for approval; and generally relating to the oversight of continuing
 2 care.

3 BY repealing and reenacting, with amendments,

4 Article – Human Services

5 Section 10–445

6 Annotated Code of Maryland

7 (2007 Volume and 2008 Supplement)

8 ~~BY transferring~~

9 ~~Article – Human Services~~

10 ~~Section 10 401 through 10 405 and the part “Part I. Definitions; General~~
 11 ~~Provisions”; 10 407 through 10 416 and the part “Part II. Continuing~~
 12 ~~Care in a Retirement Community – Certificates of Registration”; 10 419~~
 13 ~~through 10 429 and the part “Part III. Providers”; 10 432 through~~
 14 ~~10 441 and the part “Part IV. Facilities and Assets”; 10 444 through~~
 15 ~~10 450 and the part “Part V. Continuing Care Agreements”; 10 453~~
 16 ~~through 10 460 and the part “Part VI. Continuing Care at Home”;~~
 17 ~~10 463 through 10 469 and the part “Part VII. Financial Review”;~~
 18 ~~10 472 through 10 493 and the part “Part VIII. Delinquency~~
 19 ~~Proceedings”; and 10 496 through 10 499 and the part “Part IX.~~
 20 ~~Prohibited Acts; Penalties; Remedies”, and the subtitle “Subtitle 4.~~
 21 ~~Continuing Care”, respectively~~
 22 ~~Annotated Code of Maryland~~
 23 ~~(2007 Volume and 2008 Supplement)~~

24 ~~to be~~

25 ~~Article – Insurance~~

26 ~~Section 30 101 through 30 105 and the subtitle “Subtitle 1. Definitions;~~
 27 ~~General Provisions”; 30 201 through 30 210 and the subtitle “Subtitle 2.~~
 28 ~~Continuing Care in a Retirement Community – Certificates of~~
 29 ~~Registration”; 30 301 through 30 311 and the subtitle “Subtitle 3.~~
 30 ~~Providers”; 30 401 through 30 410 and the subtitle “Subtitle 4. Facilities~~
 31 ~~and Assets”; 30 501 through 30 507 and the subtitle “Subtitle 5.~~
 32 ~~Continuing Care Agreements”; 30 601 through 30 608 and the subtitle~~
 33 ~~“Subtitle 6. Continuing Care at Home”; 30 701 through 30 707 and the~~
 34 ~~subtitle “Subtitle 7. Financial Review”; 30 801 through 30 822 and the~~
 35 ~~subtitle “Subtitle 8. Delinquency Proceedings”; and 30 901 through~~
 36 ~~30 904 and the “Subtitle 9. Prohibited Acts; Penalties; Remedies”, and~~
 37 ~~the title “Title 30. Continuing Care”, respectively~~
 38 ~~Annotated Code of Maryland~~
 39 ~~(2006 Replacement Volume and 2008 Supplement)~~

40 ~~BY repealing and reenacting, with amendments,~~

41 ~~Article – Insurance~~

42 ~~Section 30 101, 30 102, 30 103, 30 105, 30 201, 30 202, 30 203, 30 204,~~
 43 ~~30 205, 30 206, 30 207, 30 208, 30 209, 30 210, 30 302, 30 303,~~
 44 ~~30 304, 30 305, 30 306, 30 307, 30 309, 30 311, 30 401, 30 402,~~
 45 ~~30 403, 30 404, 30 405, 30 406, 30 407, 30 409, 30 410, 30 501,~~

1 ~~30 502, 30 503, 30 601, 30 602, 30 603, 30 604, 30 605, 30 606,~~
 2 ~~30 607, 30 608, 30 701, 30 702, 30 703, 30 704, 30 705, 30 706,~~
 3 ~~30 707, 30 801, 30 802, 30 803, 30 804, 30 805, 30 806, 30 807,~~
 4 ~~30 808, 30 809, 30 810, 30 813, 30 814, 30 816, 30 817, 30 818,~~
 5 ~~30 819, 30 820, 30 821, 30 822, 30 901, 30 902, 30 903, and 30 904~~

6 ~~Annotated Code of Maryland~~
 7 ~~(2006 Replacement Volume and 2008 Supplement)~~
 8 ~~(As enacted by Section 1 of this Act)~~

9 ~~BY repealing and reenacting, with amendments,~~
 10 ~~Article — Insurance~~
 11 ~~Section 30 102~~
 12 ~~Annotated Code of Maryland~~
 13 ~~(2006 Replacement Volume and 2008 Supplement)~~
 14 ~~(As enacted by Chapter 503 of the Acts of the General Assembly of 2007 and~~
 15 ~~Section 1 of this Act)~~

16 ~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF~~
 17 ~~MARYLAND, That Section(s) 10 401 through 10 405 and the part “Part I.~~
 18 ~~Definitions; General Provisions”; 10 407 through 10 416 and the part “Part II.~~
 19 ~~Continuing Care in a Retirement Community — Certificates of Registration”; 10 419~~
 20 ~~through 10 429 and the part “Part III. Providers”; 10 432 through 10 441 and the~~
 21 ~~part “Part IV. Facilities and Assets”; 10 444 through 10 450 and the part “Part V.~~
 22 ~~Continuing Care Agreements”; 10 453 through 10 460 and the part “Part VI.~~
 23 ~~Continuing Care at Home”; 10 463 through 10 469 and the part “Part VII. Financial~~
 24 ~~Review”; 10 472 through 10 493 and the part “Part VIII. Delinquency Proceedings”;~~
 25 ~~and 10 496 through 10 499 and the part “Part IX. Prohibited Acts; Penalties;~~
 26 ~~Remedies”, and the subtitle “Subtitle 4. Continuing Care”, respectively, of Article —~~
 27 ~~Human Services of the Annotated Code of Maryland be transferred to be Section(s)~~
 28 ~~30 101 through 30 105 and the subtitle “Subtitle 1. Definitions; General Provisions”;~~
 29 ~~30 201 through 30 210 and the subtitle “Subtitle 2. Continuing Care in a Retirement~~
 30 ~~Community — Certificates of Registration”; 30 301 through 30 311 and the subtitle~~
 31 ~~“Subtitle 3. Providers”; 30 401 through 30 410 and the subtitle “Subtitle 4. Facilities~~
 32 ~~and Assets”; 30 501 through 30 507 and the subtitle “Subtitle 5. Continuing Care~~
 33 ~~Agreements”; 30 601 through 30 608 and the subtitle “Subtitle 6. Continuing Care at~~
 34 ~~Home”; 30 701 through 30 707 and the subtitle “Subtitle 7. Financial Review”;~~
 35 ~~30 801 through 30 822 and the subtitle “Subtitle 8. Delinquency Proceedings”; 30 901~~
 36 ~~through 30 904 and the subtitle “Subtitle 9. Prohibited Acts; Penalties; Remedies”;~~
 37 ~~and the title “Title 30. Continuing Care”, respectively, of Article — Insurance of the~~
 38 ~~Annotated Code of Maryland.~~

39 ~~SECTION 2. AND BE IT FURTHER ENACTED~~ 1. BE IT ENACTED BY THE
 40 GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

41 **Article - ~~Insurance~~ Human Services**

42 10-445.

1 (a) (1) (I) If a provider's feasibility study has been approved under §
2 10-409 of this subtitle, the Department [shall decide whether to approve a continuing
3 care agreement within 180 days after receipt of a complete agreement], **WITHIN 120**
4 **DAYS AFTER RECEIPT OF A CONTINUING CARE AGREEMENT OR ANY OTHER**
5 **RELATED AGREEMENT SUBMITTED BY A PROVIDER, SHALL DETERMINE**
6 **WHETHER THE AGREEMENT COMPLIES WITH THE REQUIREMENTS OF THIS**
7 **SUBTITLE.**

8 (II) AT ANY TIME DURING THE REVIEW PROCESS, THE
9 DEPARTMENT MAY SUBMIT COMMENTS TO OR REQUEST ADDITIONAL
10 INFORMATION FROM THE PROVIDER TO DETERMINE WHETHER THE
11 AGREEMENT COMPLIES WITH THE REQUIREMENTS OF THIS SUBTITLE.

12 (III) IF THE DEPARTMENT SUBMITS COMMENTS OR A
13 REQUEST FOR ADDITIONAL INFORMATION UNDER SUBPARAGRAPH (II) OF THIS
14 PARAGRAPH, THE 120-DAY REVIEW PERIOD UNDER SUBPARAGRAPH (I) OF THIS
15 PARAGRAPH IS SUSPENDED.

16 (IV) ON RECEIPT OF ANY REQUESTED INFORMATION OR
17 MODIFICATIONS TO THE AGREEMENT NECESSITATED BY THE DEPARTMENT'S
18 COMMENTS UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE
19 DEPARTMENT, WITHIN THE NUMBER OF DAYS REMAINING IN THE 120-DAY
20 REVIEW PERIOD, SHALL:

21 1. COMPLETE ITS REVIEW TO DETERMINE WHETHER
22 THE AGREEMENT MEETS THE REQUIREMENTS OF THIS SUBTITLE; AND

23 2. APPROVE OR DISAPPROVE THE AGREEMENT.

24 (V) 1. IF THE DEPARTMENT DOES NOT APPROVE THE
25 AGREEMENT, THE DEPARTMENT SHALL NOTIFY THE PROVIDER IN WRITING,
26 INCLUDING CITATIONS TO THE SPECIFIC PROVISIONS OF LAW THAT THE
27 DEPARTMENT DETERMINED WERE NOT COMPLIED WITH IN THE AGREEMENT.

28 2. A PROVIDER MAY APPEAL THE DISAPPROVAL OF
29 AN AGREEMENT UNDER SUBPARAGRAPH (IV) OF THIS PARAGRAPH UNDER THE
30 PROVISIONS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

31 (2) If the Department does not act within [180] 120 days, the
32 agreement is deemed approved.

33 (b) The provider shall maintain the continuing care agreement at the facility
34 and make it available for inspection by the Department of Health and Mental Hygiene
35 under Title 19, Subtitle 18, of the Health – General Article **AND TITLE 10, SUBTITLE**
36 **3 OF THE HEALTH – GENERAL ARTICLE.**

1 **(C) IF A PROVIDER IS SEEKING APPROVAL FOR A MODIFICATION TO AN**
 2 **APPROVED CONTINUING CARE AGREEMENT OR OTHER RELATED AGREEMENT,**
 3 **THE DEPARTMENT SHALL LIMIT ITS REVIEW TO:**

4 **(1) THE SECTION OF THE AGREEMENT BEING MODIFIED AND ANY**
 5 **SECTIONS DIRECTLY AFFECTED BY THE MODIFICATION; AND**

6 **(2) ANY SECTION OF THE AGREEMENT THAT MAY HAVE BEEN**
 7 **AFFECTED BY A CHANGE IN THE LAW OR A REGULATION THAT WAS ENACTED**
 8 **AFTER THE DEPARTMENT APPROVED THE AGREEMENT.**

9 **(D) IF THE PROVIDER EXECUTES A SEPARATE ASSISTED LIVING**
 10 **AGREEMENT OR COMPREHENSIVE CARE AGREEMENT, THE PROVIDER IS NOT**
 11 **REQUIRED TO SUBMIT THE ASSISTED LIVING AGREEMENT OR COMPREHENSIVE**
 12 **CARE AGREEMENT OR ANY REQUESTS FOR MODIFICATIONS TO THE**
 13 **DEPARTMENT FOR APPROVAL.**

14 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
 15 **July 1, 2009.**

16 ~~30-101.~~

17 ~~(a) In this [subtitle] TITLE the following words have the meanings indicated.~~

18 ~~(b) "Assisted living program" has the meaning stated in § 19-1801 of the~~
 19 ~~Health General Article.~~

20 ~~(c) "Certified financial statement" means a complete audit prepared and~~
 21 ~~certified by an independent certified public accountant.~~

22 ~~(d) "Continuing care" means:~~

23 ~~(1) continuing care in a retirement community; or~~

24 ~~(2) continuing care at home.~~

25 ~~(e) "Continuing care agreement" means an agreement between a provider~~
 26 ~~and a subscriber to provide continuing care.~~

27 ~~(f) (1) "Continuing care at home" means providing medical, nursing, or~~
 28 ~~other health related services directly or by contractual arrangement:~~

29 ~~(i) to an individual who is at least 60 years of age and not~~
 30 ~~related by blood or marriage to the provider;~~

1 (ii) ~~for the life of the individual or for a period exceeding 1 year;~~
2 ~~and~~

3 (iii) ~~under a written agreement that requires a transfer of assets~~
4 ~~or an entrance fee notwithstanding periodic charges.~~

5 (2) ~~“Continuing care at home” includes providing assistance with the~~
6 ~~physical maintenance of the individual’s dwelling.~~

7 (g) ~~“Continuing care in a retirement community” means providing shelter~~
8 ~~and providing either medical and nursing or other health related services or making~~
9 ~~the services readily accessible through the provider or an affiliate of the provider,~~
10 ~~whether or not the services are specifically offered in the written agreement for~~
11 ~~shelter.~~

12 (1) ~~to an individual who is at least 60 years of age and not related by~~
13 ~~blood or marriage to the provider;~~

14 (2) ~~for the life of the individual or for a period exceeding 1 year; and~~

15 (3) ~~under one or more written agreements that require a transfer of~~
16 ~~assets or an entrance fee notwithstanding periodic charges.~~

17 (h) (1) ~~“Contractual entrance fee refund” means a repayment of all or part~~
18 ~~of a subscriber’s entrance fee to the subscriber or the subscriber’s estate or designated~~
19 ~~beneficiary, as required by the terms of the continuing care agreement.~~

20 (2) ~~“Contractual entrance fee refund” does not include a payment~~
21 ~~required under [§ 10 446 or § 10 448] § 30 503 OR § 30 505 of this [subtitle] TITLE.~~

22 (i) ~~“Conversion” means converting a physical plant that provides housing or~~
23 ~~shelter into a facility if:~~

24 (1) ~~the residential accommodations exist before a statement of intent~~
25 ~~is filed under [§ 10 409(b)] § 30 203(B) of this [subtitle] TITLE; and~~

26 (2) ~~at least 60% of the available residential accommodations of the~~
27 ~~facility owner were occupied during the [two] 2 fiscal years prior to the filing of a~~
28 ~~statement of intent.~~

29 (j) ~~“Deposit” means a portion of an entrance fee.~~

30 (k) (1) ~~“Entrance fee” means a sum of money or other consideration paid~~
31 ~~initially or in deferred payments, that:~~

32 (i) ~~assures a subscriber continuing care for the life of the~~
33 ~~subscriber or for a period exceeding 1 year; and~~

1 (ii) ~~is at least three times the weighted average of the monthly~~
2 ~~cost of the periodic fees charged for independent living and assisted living units.~~

3 (2) ~~“Entrance fee” includes a fee of similar form and application,~~
4 ~~regardless of title.~~

5 (3) ~~“Entrance fee” does not include a surcharge.~~

6 (1) (1) ~~“Expansion” means any single new capital addition to an existing~~
7 ~~facility that meets either of the following criteria:~~

8 (i) ~~if independent or assisted living units are to be constructed,~~
9 ~~the number of units to be constructed is less than or equal to 25% of the number of~~
10 ~~existing independent and assisted living units; or~~

11 (ii) ~~if independent or assisted living units are not to be~~
12 ~~constructed, the total projected cost exceeds the sum of:~~

13 1. ~~10% of the total operating expenses, less depreciation,~~
14 ~~amortization, and interest expense of the facility as shown on the certified financial~~
15 ~~statement for the most recent fiscal year for which a certified financial statement is~~
16 ~~available; and~~

17 2. ~~the amount of the existing reserves properly allocable~~
18 ~~to, and allocated for, the expansion.~~

19 (2) ~~“Expansion” does not include renovation and normal repair and~~
20 ~~maintenance.~~

21 (m) ~~“Facility” means a physical plant in which continuing care in a~~
22 ~~retirement community is provided in accordance with this subtitle.~~

23 (n) ~~“Financial difficulty” means current or impending financial conditions~~
24 ~~that impair or may impair the ability of a provider to meet existing or future~~
25 ~~obligations.~~

26 (o) ~~“Governing body” means a board of directors, board of trustees, or similar~~
27 ~~group that ultimately directs the affairs of a provider, but whose members are not~~
28 ~~required to have an equity interest in the provider.~~

29 (p) (1) ~~“Health related services” means services that are needed by a~~
30 ~~subscriber to maintain the subscriber’s health.~~

31 (2) ~~“Health related services” includes:~~

32 (i) ~~priority admission to a nursing home or assisted living~~
33 ~~program; or~~

1 (ii) ~~except for the provision of meals, assistance with the~~
2 ~~activities of daily living.~~

3 (q) ~~“Person” includes a governmental entity or unit.~~

4 (r) ~~“Processing fee” means a fee imposed by a provider for determining the~~
5 ~~financial, mental, and physical eligibility of an applicant for entrance into a facility.~~

6 (s) ~~“Provider” means a person who:~~

7 (1) ~~undertakes to provide continuing care; and~~

8 (2) ~~is:~~

9 (i) ~~the owner or operator of a facility; or~~

10 (ii) ~~an applicant for or the holder of a preliminary, initial, or~~
11 ~~renewal certificate of registration.~~

12 (t) ~~“Records” means information maintained by a provider for the proper~~
13 ~~operation of a facility under this subtitle.~~

14 (u) (1) ~~“Renovation” means any single capital improvement to, or~~
15 ~~replacement of, all or part of an existing facility that will not increase the number of~~
16 ~~independent or assisted living units and for which the total projected cost exceeds the~~
17 ~~sum of:~~

18 (i) ~~20% of the total operating expenses, less depreciation,~~
19 ~~amortization, and interest expense of the facility as shown on the certified financial~~
20 ~~statement for the most recent fiscal year for which a certified financial statement is~~
21 ~~available; and~~

22 (ii) ~~the amount of existing reserves properly allocable to, and~~
23 ~~allocated for, the renovation.~~

24 (2) ~~“Renovation” does not include normal repair or maintenance.~~

25 (v) ~~“Subscriber” means an individual for whom a continuing care agreement~~
26 ~~is purchased.~~

27 (w) (1) ~~“Surcharge” means a separate and additional charge that:~~

28 (i) ~~is imposed simultaneously with the entrance fee; and~~

29 (ii) ~~may be required of some, but not all, subscribers because of~~
30 ~~a condition or circumstance that applies only to those subscribers.~~

1 (2) ~~“Surcharge” does not include a second person entrance fee.~~

2 ~~30-103.~~

3 (a) ~~The [Department] ADMINISTRATION shall:~~

4 (1) ~~administer this [subtitle] TITLE;~~

5 (2) ~~prepare and furnish all forms necessary or desirable under this~~
6 ~~[subtitle] TITLE;~~

7 (3) ~~establish and collect reasonable filing fees to carry out this~~
8 ~~[subtitle] TITLE;~~

9 (4) ~~adopt regulations necessary to enforce this [subtitle] TITLE; and~~

10 (5) ~~prepare and distribute relevant public information and educational~~
11 ~~materials designed to advise individuals, institutions, and organizations of their rights~~
12 ~~and responsibilities under this [subtitle] TITLE.~~

13 (b) (1) ~~Except as provided in paragraph (2) of this subsection, the~~
14 ~~[Department] ADMINISTRATION shall make available to interested persons any~~
15 ~~information required to be provided to the [Department] ADMINISTRATION under~~
16 ~~this [subtitle] TITLE and publicize the availability of the information.~~

17 (2) (i) ~~A feasibility study filed under [§ 10-408] § 30-202 of this~~
18 ~~[subtitle] TITLE may not be disclosed until the [Department] ADMINISTRATION~~
19 ~~issues an initial certificate of registration for the project.~~

20 (ii) ~~Information required to be provided under [§ 10-434(b)(2)] §~~
21 ~~30-403(b)(2) of this [subtitle] TITLE shall be disclosed only to the extent required~~
22 ~~under the Public Information Act.~~

23 ~~30-105.~~

24 (a) ~~In this section, “Fund” means the Continuing Care Fund.~~

25 (b) ~~There is a Continuing Care Fund.~~

26 (c) ~~The purpose of the Fund is to defray the costs of administering this~~
27 ~~[subtitle] TITLE.~~

28 (d) ~~The [Department of Aging] ADMINISTRATION shall administer the~~
29 ~~Fund.~~

1 (e) (1) ~~The Fund is a special, nonlapsing fund that is not subject to §~~
2 ~~7-302 of the State Finance and Procurement Article.~~

3 (2) ~~The State Treasurer shall hold the Fund separately, and the~~
4 ~~Comptroller shall account for the Fund.~~

5 (f) ~~The Fund consists of:~~

6 (1) ~~all fees collected under this [subtitle] TITLE;~~

7 (2) ~~money appropriated in the State budget to the Fund;~~

8 (3) ~~investment earnings of the Fund; and~~

9 (4) ~~any other money from any other source accepted for the benefit of~~
10 ~~the Fund.~~

11 (g) ~~The Fund may be used only for the purposes specified in this [subtitle]~~
12 ~~TITLE.~~

13 (h) (1) ~~The State Treasurer shall invest the money of the Fund in the~~
14 ~~same manner as other State money may be invested.~~

15 (2) ~~Any investment earnings of the Fund shall be paid into the Fund.~~

16 (i) ~~Expenditures from the Fund may be made only in accordance with the~~
17 ~~State budget.~~

18 (j) ~~Money expended from the Fund for administering this [subtitle] TITLE is~~
19 ~~supplemental to and is not intended to take the place of funding that otherwise would~~
20 ~~be appropriated for administering this [subtitle] TITLE.~~

21 ~~30-201.~~

22 ~~This [part] SUBTITLE applies only to continuing care in a retirement~~
23 ~~community operations.~~

24 ~~30-202.~~

25 (a) ~~A provider shall comply with the applicable provisions of [§§ 10-409~~
26 ~~through 10-415] §§ 30-203 THROUGH 30-209 of this subtitle before the provider~~
27 ~~may:~~

28 (1) ~~offer continuing care in a retirement community;~~

29 (2) ~~enter into or renew continuing care agreements;~~

1 (3) ~~begin construction of a new facility;~~

2 (4) ~~begin construction of an expansion to or renovation of an existing~~
3 ~~facility; or~~

4 (5) ~~collect deposits for continuing care in this State.~~

5 (b) (1) ~~A new capital addition to a facility that will result in the~~
6 ~~construction of a number of independent and assisted living units that is greater than~~
7 ~~25% of the number of existing units is considered new development and is subject to~~
8 ~~[\$§ 10 409 through 10 411] §§ **30 203 THROUGH 30 205** of this subtitle.~~

9 (2) ~~A new capital addition to a facility that does not involve the~~
10 ~~construction of independent or assisted living units and that does not meet the~~
11 ~~standard of [§ 10 401(1)(1)(ii)] § **30 101(L)(1)(II)** of this [subtitle] **TITLE** is not~~
12 ~~subject to review by the [Department] **ADMINISTRATION** under [§§ 10 409 through~~
13 ~~10 415] §§ **30 203 THROUGH 30 209** of this subtitle.~~

14 (3) ~~A capital improvement or replacement that does not meet the~~
15 ~~standard of [§ 10 401(w)] § **30 101(W)** of this [subtitle] **TITLE** is not subject to~~
16 ~~review by the [Department] **ADMINISTRATION** under [§§ 10 409 through 10 415] §§~~
17 ~~**30 203 THROUGH 30 209** of this subtitle.~~

18 (e) ~~A provider that has more than one facility offering continuing care shall~~
19 ~~make a separate application for each facility for preliminary, initial, and renewal~~
20 ~~certificates of registration.~~

21 ~~30 203.~~

22 (a) ~~A provider may not collect deposits for continuing care or begin~~
23 ~~construction of a new facility until the [Department] **ADMINISTRATION** approves a~~
24 ~~feasibility study.~~

25 (b) ~~A person who intends to submit a feasibility study under subsection (c) of~~
26 ~~this section shall file with the [Department] **ADMINISTRATION** a statement of intent~~
27 ~~to provide continuing care at least 30 days before the person submits the feasibility~~
28 ~~study to the [Department] **ADMINISTRATION**.~~

29 (e) ~~A feasibility study shall:~~

30 (1) ~~be filed in a form satisfactory to the [Department]~~
31 ~~**ADMINISTRATION**; and~~

32 (2) ~~include at least the following information:~~

33 (i) ~~a statement of the purpose of the proposed construction or~~
34 ~~conversion;~~

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- 1 (ii) ~~documentation of the financial resources of the provider;~~
- 2 (iii) ~~a statement of the capital expenditures necessary to~~
3 ~~accomplish the project and the plan for acquiring the necessary capital;~~
- 4 (iv) ~~a plan demonstrating the financial feasibility of the~~
5 ~~proposed project, including future funding sources;~~
- 6 (v) ~~a study that demonstrates the market for the project;~~
- 7 (vi) ~~an actuarial forecast reviewed by a qualified actuary;~~
- 8 (vii) ~~a statement of the planned fee structure, including any~~
9 ~~proposed escalator or other automatic adjustment provision;~~
- 10 (viii) ~~a description of the facility proposed to be used or being used~~
11 ~~for continuing care;~~
- 12 (ix) ~~a copy of the proposed escrow and deposit agreements; and~~
- 13 (x) ~~the form and substance of any proposed advertisement,~~
14 ~~advertising campaign, or promotional material for the facility that is available at the~~
15 ~~time of filing.~~
- 16 (d) ~~The [Department] ADMINISTRATION may approve a feasibility study if~~
17 ~~the [Department] ADMINISTRATION determines that:~~
- 18 (1) ~~the number of comprehensive care or assisted living beds in the~~
19 ~~facility for which licenses are required by the Department of Health and Mental~~
20 ~~Hygiene is not inconsistent with the State health plan;~~
- 21 (2) ~~a reasonable financial plan has been submitted for developing and~~
22 ~~operating the project;~~
- 23 (3) ~~a market for the facility appears to exist;~~
- 24 (4) ~~a recognized authority prepared the feasibility study;~~
- 25 (5) ~~the actuarial forecast supports the projections for the project;~~
- 26 (6) ~~the [Department] ADMINISTRATION has approved the escrow~~
27 ~~agreement and deposit agreement; and~~
- 28 (7) ~~the approved escrow agreement is executed by the provider and the~~
29 ~~financial institution.~~

1 ~~30-204.~~

2 (a) ~~A provider may collect deposits from prospective subscribers if:~~

3 (1) ~~the [Department] ADMINISTRATION has approved the provider's~~
4 ~~feasibility study; and~~

5 (2) ~~funds collected are maintained in an escrow account.~~

6 (b) ~~Each deposit agreement shall comply with the requirements of subsection~~
7 ~~(c) or (d) of this section.~~

8 (c) ~~If a deposit agreement is used for a deposit on a unit for which the~~
9 ~~provider has not received written approval to withdraw deposits, the deposit~~
10 ~~agreement shall:~~

11 (1) ~~state that all deposits and entrance fees will be held in escrow~~
12 ~~until:~~

13 (i) ~~an initial certificate of registration for the unit is issued;~~

14 (ii) ~~construction is completed;~~

15 (iii) ~~a certificate of occupancy, or its equivalent, is issued by the~~
16 ~~local jurisdiction; and~~

17 (iv) ~~the provider has the appropriate licenses or certificates from~~
18 ~~the Department of Health and Mental Hygiene, the Maryland Health Care~~
19 ~~Commission, and the [Department] ADMINISTRATION;~~

20 (2) ~~describe the disposition of any interest earned on deposits and~~
21 ~~entrance fees;~~

22 (3) ~~state the amount of any processing fee and whether it will be~~
23 ~~refunded if the deposit agreement is canceled; and~~

24 (4) ~~describe the disposition of the deposit if the deposit agreement is~~
25 ~~canceled before the continuing care agreement is executed.~~

26 (d) ~~If a deposit agreement is used for a deposit on a unit for which the~~
27 ~~provider has received written approval to withdraw deposits, the deposit agreement~~
28 ~~shall:~~

29 (1) ~~state that the provider may use all deposits and entrance fees at~~
30 ~~any time; or~~

1 ~~(2) describe any applicable limitations on the use of deposits and~~
2 ~~entrance fees.~~

3 ~~30-205.~~

4 ~~(a) A provider may not enter into a continuing care agreement until the~~
5 ~~[Department] ADMINISTRATION issues a preliminary certificate of registration.~~

6 ~~(b) An application for a preliminary certificate of registration shall be filed in~~
7 ~~a form satisfactory to the [Department] ADMINISTRATION.~~

8 ~~(c) An application shall include at least the following information:~~

9 ~~(1) the name and address of the facility and the name and address of~~
10 ~~any affiliate, parent, or subsidiary;~~

11 ~~(2) the organizational structure and management of the provider,~~
12 ~~including:~~

13 ~~(i) for a corporation or limited liability company, its name, the~~
14 ~~state in which it is incorporated or formed, and the name of the chief executive officer;~~

15 ~~(ii) for a partnership, the names of the general partners, the~~
16 ~~state governing its formation, and the name of the primary individual responsible for~~
17 ~~managing it;~~

18 ~~(iii) for an unincorporated association, the names of the~~
19 ~~members, the state governing its activities, and the name of the primary individual~~
20 ~~responsible for managing it;~~

21 ~~(iv) for a partnership that has a corporation or limited liability~~
22 ~~company as one or more of its general partners, the name of each corporation or~~
23 ~~limited liability company, the state in which it is incorporated or formed, and the~~
24 ~~name of the chief executive officer;~~

25 ~~(v) for a trust, the name of the trustee, the names of the owners~~
26 ~~of beneficial interests in the trust, the state governing it, and the name of the primary~~
27 ~~individual responsible for overseeing its activities;~~

28 ~~(vi) the name and occupation of each officer, director, trustee,~~
29 ~~managing or general partner, and each person with a 10% or greater financial equity~~
30 ~~or beneficial interest in the provider and a description of the person's financial interest~~
31 ~~in or occupation with the provider;~~

32 ~~(vii) the name and address of any entity in which a person~~
33 ~~identified in item (vi) of this paragraph has a 10% or greater financial interest and~~
34 ~~that is anticipated to provide goods, premises, or services with a value of \$10,000 or~~

1 ~~more to the facility or provider in a fiscal year and a description of the goods, premises,~~
2 ~~or services and their anticipated cost to the facility or provider, which need not include~~
3 ~~salary, wage, or benefit information of employees of the provider; and~~

4 ~~(viii) a statement whether the provider is qualified, or intends to~~
5 ~~qualify, as a tax exempt organization under the Internal Revenue Code;~~

6 ~~(3) a copy of the corporate charter, partnership agreement, articles of~~
7 ~~association, membership agreement, trust agreement, or similar instrument or~~
8 ~~agreement governing the legal organization of the provider;~~

9 ~~(4) (i) a certified financial statement of the provider for as many of~~
10 ~~the most recent fiscal years, not exceeding 3 years, for which certified financial~~
11 ~~statements are obtainable under generally accepted accounting principles; and~~

12 ~~(ii) if the provider's fiscal year ended more than 90 days before~~
13 ~~the date the application is filed, an income statement, which need not be certified,~~
14 ~~covering the period between the end of the fiscal year and a date not more than 90~~
15 ~~days before the date the application is filed;~~

16 ~~(5) a statement of any affiliation with a religious, charitable, or other~~
17 ~~nonprofit organization, the extent of the affiliation, and the extent, if any, to which the~~
18 ~~affiliate organization will be responsible for the provider's financial and contractual~~
19 ~~obligations;~~

20 ~~(6) a copy of the proposed continuing care agreement;~~

21 ~~(7) a copy of any priority admission agreements between the provider~~
22 ~~and any health care provider for health related services;~~

23 ~~(8) a statement of the current fee structure, including escalator or~~
24 ~~other automatic adjustment provisions;~~

25 ~~(9) a statement of the role of any publicly funded benefit or insurance~~
26 ~~program in the financing of care;~~

27 ~~(10) the form and substance of any advertisement, advertising~~
28 ~~campaign, or other promotional material for the facility that has not been previously~~
29 ~~submitted to the [Department] **ADMINISTRATION**; and~~

30 ~~(11) other reasonable and pertinent information that the [Department]~~
31 ~~**ADMINISTRATION** requires.~~

32 ~~(d) The [Department] **ADMINISTRATION** shall issue a preliminary~~
33 ~~certificate of registration to a provider if:~~

34 ~~(1) the feasibility study has been approved; and~~

1 (2) ~~the [Department] ADMINISTRATION determines that:~~

2 (i) ~~the proposed continuing care agreement meets the~~
3 ~~requirements of [§§ 10-444, 10-445, 10-446, and 10-448] §§ 30-501, 30-502,~~
4 ~~30-503, AND 30-505 of this [subtitle] TITLE;~~

5 (ii) ~~all of the financial and organizational materials required to~~
6 ~~be submitted under subsection (c) of this section have been submitted to the~~
7 ~~[Department] ADMINISTRATION; and~~

8 (iii) ~~the form and substance of all advertisements, advertising~~
9 ~~campaigns, and other promotional materials submitted are not deceptive, misleading,~~
10 ~~or likely to mislead.~~

11 (e) ~~If a preliminary certificate of registration is not issued within 6 months~~
12 ~~after the feasibility study is approved, or a longer time allowed by the [Department]~~
13 ~~ADMINISTRATION for good cause shown, the provider shall refund all deposits and~~
14 ~~stop marketing continuing care under that application.~~

15 (f) ~~A provider that plans to advertise before an initial certificate of~~
16 ~~registration is issued under [§ 10-412] § 30-206 of this subtitle shall submit to the~~
17 ~~[Department] ADMINISTRATION the form and substance of any advertisement,~~
18 ~~advertising campaign, or other promotional material before it may be used.~~

19 ~~30-206.~~

20 (a) ~~A provider may not provide continuing care until the [Department]~~
21 ~~ADMINISTRATION issues an initial certificate of registration.~~

22 (b) ~~An application for an initial certificate of registration shall be filed in a~~
23 ~~form satisfactory to the [Department] ADMINISTRATION.~~

24 (e) ~~An application shall include at least the following information:~~

25 (1) ~~for a project other than a conversion, verification that continuing~~
26 ~~care agreements have been executed with subscribers for at least 65% of the~~
27 ~~independent living units and THAT at least 10% of the total entrance fee for each~~
28 ~~contracted unit has been collected;~~

29 (2) ~~for a conversion project, verification that at least 80% of the~~
30 ~~accommodations in the project that are not licensed as assisted living or~~
31 ~~comprehensive care beds are occupied or reserved in accordance with:~~

32 (i) ~~leases;~~

1 (ii) ~~continuing care agreements executed with subscribers who~~
2 ~~have paid a deposit that:~~

3 1. ~~equals at least 10% of the total entrance fee; and~~

4 2. ~~has been deposited by the provider under an escrow~~
5 ~~agreement approved by the [Department] ADMINISTRATION; or~~

6 (iii) ~~other appropriate contractual arrangements;~~

7 (3) ~~verification that the provider has received a written commitment~~
8 ~~for permanent long term financing; and~~

9 (4) ~~if construction financing is required, verification that the provider~~
10 ~~has applied for the financing.~~

11 (d) (1) ~~If requested by the permanent financing lender, the [Department]~~
12 ~~ADMINISTRATION may issue a letter stating that the requirements of subsection~~
13 ~~(e)(1) of this section have been met.~~

14 (2) ~~If requested by the construction lender, the [Department]~~
15 ~~ADMINISTRATION may issue a letter stating that:~~

16 (i) ~~the requirements of subsection (e)(1) and (3) of this section~~
17 ~~have been met; and~~

18 (ii) ~~the initial certificate of registration will be issued on the~~
19 ~~closing of the construction loan.~~

20 (e) (1) ~~The [Department] ADMINISTRATION shall issue an initial~~
21 ~~certificate of registration to a provider if the [Department] ADMINISTRATION~~
22 ~~determines that:~~

23 (i) ~~the provider has a preliminary certificate of registration;~~

24 (ii) ~~the provider has submitted the required documents;~~

25 (iii) ~~the form and substance of all advertisements, advertising~~
26 ~~campaigns, and other promotional materials submitted are not deceptive, misleading,~~
27 ~~or likely to mislead;~~

28 (iv) ~~for a project other than a conversion, continuing care~~
29 ~~agreements have been executed with subscribers for at least 65% of the independent~~
30 ~~living units and at least 10% of the entrance fee has been paid as a deposit for each~~
31 ~~contracted unit;~~

~~(v) for a conversion project, at least 80% of the accommodations in the project 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 paid a deposit that:~~

~~A. equals at least 10% of the total entrance fee; and~~

~~B. has been deposited by the provider under an escrow agreement approved by the [Department] ADMINISTRATION; or~~

~~3. other appropriate contractual arrangements;~~

~~(vi) if construction financing is required, closing on the financing has occurred; and~~

~~(vii) the provider has a commitment for permanent long term financing.~~

~~(2) The [Department] ADMINISTRATION may issue the initial certificate of registration for a period not exceeding 18 months.~~

~~(f) A deposit held in escrow may not be used until:~~

~~(1) an initial certificate of registration has been issued;~~

~~(2) construction is completed;~~

~~(3) the provider has a certificate of occupancy or the equivalent from the appropriate local jurisdiction; and~~

~~(4) the provider has the appropriate licenses or certificates from the Department of Health and Mental Hygiene or the [Department] ADMINISTRATION.~~

~~(g) If an initial certificate of registration is not issued within 24 months after the issuance of a preliminary certificate of registration, or a longer time allowed by the [Department] ADMINISTRATION for good cause shown, the provider shall refund all deposits and stop offering continuing care under that application.~~

~~30-207.~~

~~(a) (1) Each year, within 120 days after the end of a provider's fiscal year, the provider shall file an application for a renewal certificate of registration in a form satisfactory to the [Department] ADMINISTRATION.~~

1 ~~(2) A renewal application shall contain:~~

2 ~~(i) any additions or changes to the information required by [§§~~
3 ~~10 408 through 10 410] §§ 30 202 THROUGH 30 204 of this subtitle;~~

4 ~~(ii) an audited financial statement for the preceding fiscal year~~
5 ~~prepared in accordance with an audit guide that the [Department] ADMINISTRATION~~
6 ~~adopts;~~

7 ~~(iii) an operating budget for the current fiscal year and a~~
8 ~~projected operating budget for the next fiscal year;~~

9 ~~(iv) a cash flow projection for the current fiscal year and the next~~
10 ~~[two] 2 fiscal years;~~

11 ~~(v) a projection of the life expectancy and the number of~~
12 ~~residents who will require nursing home care;~~

13 ~~(vi) an actuarial study reviewed by a qualified actuary and~~
14 ~~submitted every 3 years, unless the provider is exempted from the requirement for an~~
15 ~~actuarial study by regulations adopted by the [Department] ADMINISTRATION~~
16 ~~exempting categories of providers that the [Department] ADMINISTRATION~~
17 ~~determines have substantially limited long term care liability exposure;~~

18 ~~(vii) the form and substance of any proposed advertisement,~~
19 ~~advertising campaign, or other promotional material not previously submitted to the~~
20 ~~[Department] ADMINISTRATION; and~~

21 ~~(viii) any further information that the [Department]~~
22 ~~ADMINISTRATION requires.~~

23 ~~(b) (1) The [Department] ADMINISTRATION may charge a late fee if the~~
24 ~~application and accompanying information are not received by the [Department]~~
25 ~~ADMINISTRATION within 120 days after the end of the provider's fiscal year.~~

26 ~~(2) Failure to file the required information within 90 days after the~~
27 ~~due date is a violation of this [subtitle] TITLE.~~

28 ~~(e) The [Department] ADMINISTRATION shall issue a renewal certificate of~~
29 ~~registration if the [Department] ADMINISTRATION determines that:~~

30 ~~(1) the required documents have been filed;~~

31 ~~(2) any revised continuing care agreements meet the requirements of~~
32 ~~this [subtitle] TITLE;~~

1 ~~(3) if the provider has been found to be in financial difficulty, the~~
2 ~~provider has complied with [Part VII] SUBTITLE 7 of this [subtitle] TITLE;~~

3 ~~(4) when appropriate, the facility has been licensed or certified by the~~
4 ~~Department of Health and Mental Hygiene or the [Department] ADMINISTRATION;~~
5 ~~and~~

6 ~~(5) the form and substance of all advertisements, advertising~~
7 ~~campaigns, and other promotional materials submitted to the [Department]~~
8 ~~ADMINISTRATION are not deceptive, misleading, or likely to mislead.~~

9 ~~30-208.~~

10 ~~(a) A provider may not begin construction of a renovation until the provider~~
11 ~~receives written approval from the [Department] ADMINISTRATION.~~

12 ~~(b) (1) A provider shall file with the [Department] ADMINISTRATION a~~
13 ~~request for approval for each renovation.~~

14 ~~(2) At least 30 days before filing the request, the provider shall submit~~
15 ~~to the [Department] ADMINISTRATION a written statement of intent to file a request~~
16 ~~for approval of a renovation.~~

17 ~~(3) A request for approval of a renovation shall be in a form~~
18 ~~satisfactory to the [Department] ADMINISTRATION.~~

19 ~~(4) A request for approval shall include:~~

20 ~~(i) a statement of the purpose of and need for the renovation;~~

21 ~~(ii) a financial plan that demonstrates to the satisfaction of the~~
22 ~~[Department] ADMINISTRATION that the renovation will not have an unreasonably~~
23 ~~adverse effect on the financial ability of the provider to provide continuing care in~~
24 ~~accordance with its continuing care agreements and this [subtitle] TITLE at the~~
25 ~~facility to be renovated and at the provider's other facilities in the State; and~~

26 ~~(iii) any other information that the [Department]~~
27 ~~ADMINISTRATION requires.~~

28 ~~(e) The [Department] ADMINISTRATION shall approve a renovation if the~~
29 ~~[Department] ADMINISTRATION determines that the proposed renovation will not~~
30 ~~have an unreasonably adverse effect on the financial ability of the provider to provide~~
31 ~~continuing care in accordance with its continuing care agreements and this [subtitle]~~
32 ~~TITLE.~~

1 ~~30-200.~~

2 (a) ~~A provider may not begin construction of an expansion until the provider~~
3 ~~receives written approval from the [Department] ADMINISTRATION.~~

4 (b) (1) ~~A provider shall file with the [Department] ADMINISTRATION a~~
5 ~~request for approval for each expansion.~~

6 (2) ~~At least 30 days before filing the request, the provider shall submit~~
7 ~~to the [Department] ADMINISTRATION a written statement of intent to file a request~~
8 ~~for approval of an expansion.~~

9 (3) ~~A request for approval of an expansion shall be in a form~~
10 ~~satisfactory to the [Department] ADMINISTRATION.~~

11 (4) ~~A request for approval shall include:~~

12 (i) ~~a statement of the purpose of and need for the expansion;~~

13 (ii) ~~if the expansion involves living units, a plan that~~
14 ~~demonstrates to the satisfaction of the [Department] ADMINISTRATION that a~~
15 ~~market exists for the additional living units;~~

16 (iii) ~~a financial plan that demonstrates to the satisfaction of the~~
17 ~~[Department] ADMINISTRATION that the expansion will not have an unreasonably~~
18 ~~adverse effect on the financial ability of the provider to provide continuing care in~~
19 ~~accordance with its continuing care agreements and this [subtitle] TITLE at the~~
20 ~~facility to be expanded and at the provider's other facilities in the State; and~~

21 (iv) ~~any other information that the [Department]~~
22 ~~ADMINISTRATION requires.~~

23 (e) ~~The [Department] ADMINISTRATION shall approve an expansion and, if~~
24 ~~appropriate, issue a new certificate of registration if the [Department]~~
25 ~~ADMINISTRATION determines that the proposed expansion will not have an~~
26 ~~unreasonably adverse effect on the financial ability of the provider to provide~~
27 ~~continuing care in accordance with its continuing care agreements and this [subtitle]~~
28 ~~TITLE.~~

29 ~~30-210.~~

30 (a) ~~For cause, the [Department] ADMINISTRATION may:~~

31 (1) ~~deny a feasibility study approval; or~~

1 ~~(2) deny, suspend, or revoke a preliminary, initial, or renewal~~
2 ~~certificate of registration.~~

3 ~~(b) (1) Grounds for a denial, suspension, or revocation include:~~

4 ~~(i) violation of this subtitle;~~

5 ~~(ii) violation of a regulation the [Department]~~
6 ~~ADMINISTRATION adopts under this [subtitle] TITLE;~~

7 ~~(iii) misrepresentation; or~~

8 ~~(iv) submission of a false financial statement.~~

9 ~~(2) The [Department] ADMINISTRATION shall set forth in writing its~~
10 ~~reasons for a denial, suspension, or revocation.~~

11 ~~(e) Title 10, Subtitle 2 of the State Government Article governs the appeal of~~
12 ~~a denial, revocation, or suspension.~~

13 ~~30-302.~~

14 ~~(a) Interest expenses may be excluded from the calculation of net operating~~
15 ~~expenses for a fiscal year, if the provider funded a debt service reserve or other~~
16 ~~interest reserve under requirements imposed by a financial institution or under~~
17 ~~applicable financing documents, to the extent the reserve fund included amounts to~~
18 ~~cover interest for that fiscal year.~~

19 ~~(b) (1) Except as otherwise provided in this [part] SUBTITLE, a provider~~
20 ~~shall set aside for each facility subject to this [subtitle] TITLE operating reserves~~
21 ~~equal to 15% of the facility's net operating expenses for the most recent fiscal year for~~
22 ~~which a certified financial statement is available.~~

23 ~~(2) The provider shall keep the operating reserves in a reasonably~~
24 ~~liquid form in the judgment of the provider.~~

25 ~~(e) (1) A provider shall meet the requirements of subsection (b) of this~~
26 ~~section within 10 full fiscal years after the date of its initial certificate of registration.~~

27 ~~(2) A provider shall set aside at least 10% of the reserves required~~
28 ~~under subsection (b) of this section at the end of each fiscal year after the date of its~~
29 ~~initial certificate of registration, up to a total of 100% at the end of the 10th fiscal year.~~

30 ~~(3) The [Department] ADMINISTRATION may allow a provider to~~
31 ~~modify the minimum rate required under paragraph (2) of this subsection or extend~~
32 ~~the time to meet the requirements of subsection (b) of this section if the modification is~~
33 ~~necessary to maintain the financial viability of the facility.~~

1 ~~30-303.~~

2 (a) (1) ~~A provider shall compute operating reserves for each facility as of~~
3 ~~the end of the facility's most recent fiscal year.~~

4 (2) ~~When a provider files an application for a renewal certificate of~~
5 ~~registration, the provider shall show compliance with operating reserve requirements~~
6 ~~by including with the application:~~

7 (i) ~~a letter to the [Department] ADMINISTRATION from a~~
8 ~~certified public accountant that states the amount set aside; or~~

9 (ii) ~~a certified financial statement that states the amount set~~
10 ~~aside.~~

11 (b) ~~A provider may apply toward the operating reserves required by [§~~
12 ~~10-420(b)] § 30-302(B) of this subtitle any reserves, except debt service reserves,~~
13 ~~that are maintained under applicable financing document requirements if the reserves~~
14 ~~are available to the provider to meet the facility's operating expenses.~~

15 (c) ~~For the purpose of computing a provider's operating reserves,~~
16 ~~investments held to the credit of the reserves shall be calculated at their market value~~
17 ~~as of the end of the provider's most recent fiscal year for which a certified financial~~
18 ~~statement is available.~~

19 ~~30-304.~~

20 (a) ~~A provider shall notify the [Department] ADMINISTRATION in writing~~
21 ~~immediately on the withdrawal of any amount from the funds available to satisfy the~~
22 ~~operating reserves required by [§ 10-420(b)] § 30-302(B) of this subtitle.~~

23 (b) ~~Within 30 days after making a withdrawal described in subsection (a) of~~
24 ~~this section, the provider shall submit to the [Department] ADMINISTRATION a~~
25 ~~written plan for restoring the reserves to the level required by [§ 10-420(b)] §~~
26 ~~30-302(B) of this subtitle.~~

27 ~~30-305.~~

28 (a) ~~For a facility that has not been the subject of a conversion and that has~~
29 ~~residents who are not parties to continuing care agreements, the provider shall set~~
30 ~~aside operating reserves equal to at least 15% of the pro rata proportion of the net~~
31 ~~operating expenses calculated under subsection (b) of this section.~~

32 (b) ~~The pro rata proportion of the net operating expenses equals the number~~
33 ~~of units in the facility for which the [Department] ADMINISTRATION has issued a~~
34 ~~certificate of registration divided by the total number of accommodations in the facility~~

1 ~~multiplied by the net operating expenses for the most recent fiscal year for which a~~
2 ~~certified financial statement is available.~~

3 ~~30-306.~~

4 (a) (1) ~~A provider shall give without cost a disclosure statement for each~~
5 ~~facility for which the provider holds a preliminary, initial, or renewal certificate of~~
6 ~~registration:~~

7 (i) ~~to a prospective subscriber before the earlier of payment of~~
8 ~~any part of the entrance fee or execution of a continuing care agreement; and~~

9 (ii) ~~annually to any subscriber who requests a disclosure~~
10 ~~statement.~~

11 (2) ~~A provider shall submit its initial disclosure statement to the~~
12 ~~[Department] ADMINISTRATION for review at least 45 days before giving the~~
13 ~~statement to any prospective subscriber.~~

14 (b) (1) ~~A provider shall revise the disclosure statement annually and file~~
15 ~~it with the [Department] ADMINISTRATION within 120 days after the end of the~~
16 ~~provider's fiscal year.~~

17 (2) ~~The [Department] ADMINISTRATION shall review the disclosure~~
18 ~~statement solely to ensure compliance with [§ 10-425] § 30-307 of this subtitle.~~

19 (c) (1) ~~An amended disclosure statement is subject to each requirement of~~
20 ~~this [subtitle] TITLE.~~

21 (2) ~~A provider shall file an amended disclosure statement with the~~
22 ~~[Department] ADMINISTRATION when it is delivered to a subscriber or prospective~~
23 ~~subscriber.~~

24 ~~30-307.~~

25 (a) ~~A disclosure statement shall include:~~

26 (1) ~~the name, address, and description of the facility and the identity~~
27 ~~of the owner or owners of the facility and the land on which it is located;~~

28 (2) ~~the name and address of the provider and of any parent or~~
29 ~~subsidiary;~~

30 (3) ~~the organizational structure and management of the provider;~~
31 ~~including:~~

1 ~~(i) for a corporation or limited liability company, its name, the~~
2 ~~state in which it is incorporated or formed, and the name of the chief executive officer;~~

3 ~~(ii) for a partnership, the names of the general partners, the~~
4 ~~state governing its formation, and the name of the primary individual responsible for~~
5 ~~managing it;~~

6 ~~(iii) for an unincorporated association, the names of the~~
7 ~~members, the state governing its activities, and the name of the primary individual~~
8 ~~responsible for managing it;~~

9 ~~(iv) for a partnership that has a corporation or limited liability~~
10 ~~company as one or more of its general partners, the name of each corporation or~~
11 ~~limited liability company, the state in which it is incorporated or formed, and the~~
12 ~~name of the chief executive officer;~~

13 ~~(v) for a trust, the name of the trustee, the names of the owners~~
14 ~~of beneficial interests in the trust, the state governing it, and the name of the primary~~
15 ~~individual responsible for overseeing its activities; and~~

16 ~~(vi) a statement whether the provider is qualified, or intends to~~
17 ~~qualify, as a tax exempt organization under the Internal Revenue Code;~~

18 ~~(4) the name and occupation of each officer, director, trustee,~~
19 ~~managing or general partner, and each person with a 10% or greater equity or~~
20 ~~beneficial interest in the provider, and a description of the person's financial interest~~
21 ~~in or occupation with the provider;~~

22 ~~(5) the name and address of any entity in which a person identified in~~
23 ~~item (4) of this subsection has a 10% or greater financial interest and that is~~
24 ~~anticipated to provide goods, premises, or services with a value of \$10,000 or more to~~
25 ~~the facility or provider in a fiscal year and a description of the goods, premises, or~~
26 ~~services and their anticipated cost to the facility or provider, which need not include~~
27 ~~salary, wage, or benefit information of employees of the provider;~~

28 ~~(6) a description of any matter in which an individual identified in~~
29 ~~item (4) of this subsection:~~

30 ~~(i) has been convicted of a felony or pleaded nolo contendere to~~
31 ~~a felony charge, if the felony involved fraud, embezzlement, fraudulent conversion, or~~
32 ~~misappropriation of property;~~

33 ~~(ii) has been held liable or enjoined in a civil action by final~~
34 ~~judgment, if the civil action involved fraud, embezzlement, fraudulent conversion, or~~
35 ~~misappropriation as a fiduciary;~~

36 ~~(iii) has been subject to an effective injunctive or restrictive~~
37 ~~order of a court of record in an action that arose out of or related to business activity or~~

1 ~~health care, including an action that affected a license to operate a facility or service~~
2 ~~for senior, impaired, or dependent persons; or~~

3 ~~(iv) in the past 10 years, had a state or federal license or permit~~
4 ~~suspended or revoked because a governmental unit brought an action that arose out of~~
5 ~~or related to business activity or health care, including an action that affected a~~
6 ~~license to operate a facility or service for senior, impaired, or dependent persons;~~

7 ~~(7) a description of the provider's form of governance and the~~
8 ~~composition of its governing body, and a statement that the provider will satisfy the~~
9 ~~requirements of [§§ 10-426 and 10-427] §§ **30-308 AND 30-309** of this subtitle;~~

10 ~~(8) a statement of any affiliation of the provider with a religious,~~
11 ~~charitable, or other nonprofit organization, and the extent of the organization's~~
12 ~~responsibility for the financial and contractual obligations of the provider;~~

13 ~~(9) if the facility will be managed on a day-to-day basis by a person~~
14 ~~other than an individual who is directly employed by the provider, the name of the~~
15 ~~proposed manager or management company and a description of the business~~
16 ~~experience of the manager or company in operating or managing similar facilities;~~

17 ~~(10) a copy of the most recent certified financial statement obtainable~~
18 ~~under generally accepted accounting principles;~~

19 ~~(11) a description of the long-term financing for the facility;~~

20 ~~(12) a cash flow forecast for the current and the next [two] **2** fiscal~~
21 ~~years;~~

22 ~~(13) a description of any activity related to a renovation, expansion, or~~
23 ~~new development during the preceding fiscal year or proposed for the current fiscal~~
24 ~~year;~~

25 ~~(14) a description of:~~

26 ~~(i) the steps that have been or will be taken to comply with the~~
27 ~~operating reserve requirements under [§ 10-420(b)] § **30-302(B)** of this subtitle; and~~

28 ~~(ii) the provider's investment policy related to the required~~
29 ~~reserves, including how often and by whom the reserve fund investment is reviewed;~~

30 ~~(15) a description of the financial arrangements that the provider has~~
31 ~~made, if any, to address the renewal and replacement of the buildings and~~
32 ~~improvements at the facility, such as the establishment of a renewal and replacement~~
33 ~~fund;~~

1 ~~(16) if the facility has not reached 85% occupancy of its independent~~
2 ~~living units, a summary of the feasibility study;~~

3 ~~(17) if applicable, a description of the conditions under which the~~
4 ~~provider may be issued an initial certificate of registration and may use escrowed~~
5 ~~deposits;~~

6 ~~(18) a description of all basic fees, including entrance fees, fees for~~
7 ~~health related services, and periodic fees that the provider collects from subscribers,~~
8 ~~and the amount and frequency of any fee changes during the previous 5 years or, if the~~
9 ~~facility has been in operation less than 5 years, for each year of operation;~~

10 ~~(19) a summary of the basic services provided or proposed to be~~
11 ~~provided at the facility under the continuing care agreement, including the extent to~~
12 ~~which health related services are provided, that clearly states which services are~~
13 ~~indicated in the agreement as included in the basic fee and which services are or will~~
14 ~~be made available at or by the facility at an extra charge;~~

15 ~~(20) if applicable, a statement that it is the provider's policy to impose a~~
16 ~~surcharge on some, but not all, subscribers because of a condition or circumstance that~~
17 ~~applies only to those subscribers and that the surcharge is not part of the entrance fee~~
18 ~~refund required under [§ 10-448] § 30-505 of this [subtitle] TITLE;~~

19 ~~(21) a description of the role of any resident association;~~

20 ~~(22) a description of the internal grievance procedure;~~

21 ~~(23) a statement that the provider will amend its disclosure statement~~
22 ~~whenever the provider or the [Department] ADMINISTRATION considers an~~
23 ~~amendment necessary to prevent the disclosure statement from containing:~~

24 ~~(i) a material misstatement of a fact required by this section to~~
25 ~~be stated in the disclosure statement; or~~

26 ~~(ii) an omission of a material fact required by this section to be~~
27 ~~stated in the disclosure statement; and~~

28 ~~(24) any other material information about the facility or the provider~~
29 ~~that the [Department] ADMINISTRATION requires or that the provider wishes to~~
30 ~~include.~~

31 ~~(b) The disclosure statement shall contain a cover page that states, in a~~
32 ~~prominent location and type face:~~

33 ~~(1) the date of the disclosure statement; and~~

34 ~~(2) that the issuance of a certificate of registration does not:~~

1 (i) ~~constitute approval, recommendation, or endorsement of the~~
2 ~~facility by the [Department] ADMINISTRATION; or~~

3 (ii) ~~evidence or attest to the accuracy or completeness of the~~
4 ~~information in the disclosure statement.~~

5 (e) (1) ~~This subsection applies to a provider that:~~

6 (i) ~~has a continuing care agreement that includes a provision to~~
7 ~~provide assisted living program services; and~~

8 (ii) ~~does not execute a separate assisted living agreement.~~

9 (2) ~~In addition to any other requirement of this section, the disclosure~~
10 ~~statement shall contain the following information about the assisted living program:~~

11 (i) ~~the name and address and a description of each facility that~~
12 ~~the provider operates;~~

13 (ii) ~~a statement regarding the relationship of the provider to~~
14 ~~other providers or services if the relationship affects the care of the resident;~~

15 (iii) ~~a description of any special programming, staffing, and~~
16 ~~training provided by the program for individuals with particular needs or conditions~~
17 ~~such as cognitive impairment;~~

18 (iv) ~~notice of:~~

19 1. ~~the availability of locks for storage;~~

20 2. ~~the availability of locks for the subscriber's room;~~

21 3. ~~the security procedures that the provider will~~
22 ~~implement to protect the subscriber and the subscriber's property; and~~

23 4. ~~the provider's right, if any, to enter a subscriber's~~
24 ~~room;~~

25 (v) ~~a statement of the obligations of the provider, the~~
26 ~~subscriber, or the subscriber's agent for:~~

27 1. ~~arranging or overseeing medical care;~~

28 2. ~~monitoring the subscriber's health status;~~

1 ~~3. purchasing or renting essential or desired equipment~~
2 ~~and supplies; and~~

3 ~~4. ascertaining the cost of and purchasing durable~~
4 ~~medical equipment;~~

5 ~~(vi) an explanation of the assisted living program's complaint or~~
6 ~~grievance procedure; and~~

7 ~~(vii) notice of any material changes in the assisted living~~
8 ~~program.~~

9 ~~(3) The provider shall:~~

10 ~~(i) give to each subscriber annually and without cost revisions~~
11 ~~to the disclosure statement provisions under paragraph (2) of this subsection;~~

12 ~~(ii) ensure that each subscriber or the subscriber's agent initials~~
13 ~~the revised disclosure statement to acknowledge the revisions; and~~

14 ~~(iii) make copies of the initialed disclosure statements available~~
15 ~~for inspection by the Department of Health and Mental Hygiene under Title 19,~~
16 ~~Subtitle 18 of the Health General Article.~~

17 ~~30-309.~~

18 ~~(a) (1) If a provider has a governing body, at least one of the provider's~~
19 ~~subscribers shall be a full and regular member of the governing body.~~

20 ~~(2) If the provider owns or operates more than three facilities in the~~
21 ~~State, the governing body shall include at least one of the provider's subscribers for~~
22 ~~every three facilities in the State.~~

23 ~~(3) Subject to paragraph (4) of this subsection, a member of the~~
24 ~~governing body who is selected to meet the requirements of this subsection shall be a~~
25 ~~subscriber at a facility in the State and be selected according to the same general~~
26 ~~written standards and criteria used to select other members of the governing body.~~

27 ~~(4) The governing body shall confer with the resident association at~~
28 ~~each of the provider's facilities before the subscriber officially joins the governing body.~~

29 ~~(5) The [Secretary] COMMISSIONER may waive the requirements of~~
30 ~~this subsection for a provider in the process of decertifying as a provider, if the~~
31 ~~[Secretary] COMMISSIONER determines that there are no subscribers willing and~~
32 ~~able to serve on the governing body.~~

1 (b) (1) ~~If a provider does not have a governing body, the provider shall~~
2 ~~appoint a select committee of its officers or partners to meet at least twice a year with~~
3 ~~the resident association at each of its facilities to address concerns of the subscribers~~
4 ~~and to ensure that the opinions of subscribers are relayed to all officers or partners of~~
5 ~~the provider.~~

6 (2) ~~If a facility does not have a resident association, the committee~~
7 ~~shall meet with a reasonable number of representatives, not required to exceed~~
8 ~~[fifteen] 15, that the subscribers elect.~~

9 ~~30-311.~~

10 ~~A provider shall make readily available to its subscribers for review at the~~
11 ~~facility copies of all materials that the provider submits to the [Department]~~
12 ~~ADMINISTRATION that are required to be disclosed under the Public Information Act.~~

13 ~~30-401.~~

14 (a) (1) ~~This section and [§§ 10-433 through 10-435] §§ 30-402~~
15 ~~THROUGH 30-404 of this subtitle do not apply to a transfer of ownership of a facility,~~
16 ~~or a transfer of ownership or control of a person that owns or controls a facility, if:~~

17 (i) ~~the transfer is part of a business reorganization; and~~

18 (ii) ~~the same person or persons holding a majority of ownership~~
19 ~~or right to control before the business reorganization will retain, directly or indirectly,~~
20 ~~a majority of ownership or right to control after the business reorganization.~~

21 (2) ~~The provider shall notify the [Department] ADMINISTRATION~~
22 ~~and the facility's subscribers 30 days before any reorganization described in paragraph~~
23 ~~(1) of this subsection.~~

24 (b) ~~Unless the [Department] ADMINISTRATION approves the sale or~~
25 ~~transfer in accordance with [§§ 10-433 through 10-435] §§ 30-402 THROUGH~~
26 ~~30-404 of this subtitle, a provider that holds a preliminary, initial, or renewal~~
27 ~~certificate of registration or a person with an ownership interest in or a right to control~~
28 ~~the provider, through governing body appointments or contractual or similar~~
29 ~~arrangements, may not sell or otherwise transfer, directly or indirectly:~~

30 (1) ~~more than 50% of the provider's ownership of a facility; or~~

31 (2) ~~more than 50% of the ownership of or right to control a person that~~
32 ~~owns or controls a facility.~~

33 (e) ~~Any series of sales or other transfers described in subsection (b) of this~~
34 ~~section that occur in a 12-month period shall be aggregated for purposes of this~~

1 ~~section and [§§ 10 433 through 10 435] §§ 30 402 THROUGH 30 404 of this~~
2 ~~subtitle.~~

3 ~~30 402.~~

4 (a) (1) ~~At least 90 days before the proposed effective date of a sale or other~~
5 ~~transfer, a provider subject to [§ 10 432(b)] § 30 401(B) of this subtitle shall file with~~
6 ~~the [Department] ADMINISTRATION a statement of intent to transfer ownership or~~
7 ~~control.~~

8 (2) ~~At least 65 days before the proposed effective date of the sale or~~
9 ~~other transfer, a provider subject to [§ 10 432(b)] § 30 401(B) of this subtitle and any~~
10 ~~proposed new provider shall give written notice of the proposed sale or other transfer,~~
11 ~~including notice of the place and time of the meeting required by [§ 10 434(b)] §~~
12 ~~30 403(B) of this subtitle, to the subscribers of the affected facility and the~~
13 ~~[Department] ADMINISTRATION.~~

14 (b) (1) ~~The written notice to the [Department] ADMINISTRATION~~
15 ~~required under subsection (a)(2) of this section shall include:~~

16 (i) ~~the name and address of the existing provider and any~~
17 ~~proposed new provider and the office of each to which comments may be sent under [§~~
18 ~~10 434] § 30 403 of this subtitle;~~

19 (ii) ~~the name and address of the affected facility;~~

20 (iii) ~~the organizational structure and management of the~~
21 ~~provider and the facility after the proposed sale or other transfer is completed,~~
22 ~~including:~~

23 1. ~~if the provider is to be a corporation or limited~~
24 ~~liability company, its name, its state of incorporation or formation, and the name of~~
25 ~~the chief executive officer;~~

26 2. ~~if the provider is to be a partnership, the names of the~~
27 ~~general partners, the state governing its formation, and the name of the primary~~
28 ~~individual responsible for managing it;~~

29 3. ~~if the provider is to be an unincorporated association,~~
30 ~~the names of the members, the state governing its activities, and the name of the~~
31 ~~primary individual responsible for managing it;~~

32 4. ~~if the provider is to be a trust, the trustee's name, the~~
33 ~~names of the owners of beneficial interests in the trust, the state that governs it, and~~
34 ~~the name of the primary individual responsible for overseeing its activities;~~

1 ~~5. if the provider is to be a partnership that has a~~
2 ~~corporation or limited liability company as one or more of its general partners, the~~
3 ~~name of each corporation or limited liability company, its state of incorporation or~~
4 ~~formation, and the name of its chief executive officer; and~~

5 ~~6. the name and occupation of each officer, director,~~
6 ~~trustee, general partner, principal, and each person who will have a 10% or greater~~
7 ~~equity or beneficial interest in the provider or in a person that owns or controls the~~
8 ~~provider;~~

9 ~~(iv) a copy of the corporate charter, partnership agreement,~~
10 ~~articles of association, membership agreement, or trust agreement that will govern the~~
11 ~~legal organization of the provider after the sale or transfer;~~

12 ~~(v) a statement of any affiliation with a religious, charitable, or~~
13 ~~other nonprofit organization after the proposed sale or transfer and the extent, if any,~~
14 ~~of the affiliate organization's responsibility for the financial and contractual~~
15 ~~obligations of the provider;~~

16 ~~(vi) the name and address of any business or professional entity~~
17 ~~in which a person identified in item (iii)6 of this paragraph has a 10% or greater~~
18 ~~financial interest and that is likely to provide goods, premises, or services with a value~~
19 ~~of \$10,000 or more a year to the facility or provider after the sale or transfer, and a~~
20 ~~description of the goods, premises, or services;~~

21 ~~(vii) the name of the proposed manager or management company~~
22 ~~that will manage the day to day operations of the facility after the sale or other~~
23 ~~transfer, and a description of the business experience of the manager or company in~~
24 ~~operating or managing similar facilities;~~

25 ~~(viii) a description of any matter in which a person identified in~~
26 ~~item (iii)6 of this paragraph;~~

27 ~~1. has been convicted of a felony or pleaded nolo~~
28 ~~contendere to a felony charge, if the felony involved fraud, embezzlement, fraudulent~~
29 ~~conversion, or misappropriation of property;~~

30 ~~2. has been held liable or enjoined in a civil action by~~
31 ~~final judgment, if the civil action involved fraud, embezzlement, fraudulent~~
32 ~~conversion, or misappropriation as a fiduciary;~~

33 ~~3. was subject to an effective injunctive or restrictive~~
34 ~~order of a court of record in an action that arose out of or related to business activity or~~
35 ~~health care, including an action that affected a license to operate a facility or service~~
36 ~~for senior, impaired, or dependent persons; or~~

37 ~~4. within the past 10 years, had a state or federal license~~
38 ~~or permit suspended or revoked because of an action brought by a governmental unit~~

1 ~~arising out of or relating to business activity or health care, including actions affecting~~
2 ~~a license to operate a facility or service for senior, impaired, or dependent persons;~~

3 ~~(ix) a financial plan provided by the entity that will be the~~
4 ~~provider after the proposed sale or other transfer is completed in a form reasonably~~
5 ~~acceptable to the [Department] **ADMINISTRATION** that demonstrates the projected~~
6 ~~effects of the sale or transfer on the financial operations of the provider and the~~
7 ~~facility, including any obligations of the provider to make payments in connection with~~
8 ~~the sale or transfer from the financial resources of the provider or the facility; and~~

9 ~~(x) a statement by the entity that will be the provider after the~~
10 ~~proposed sale or transfer is completed that demonstrates that the sale or transfer is~~
11 ~~not likely to have an unreasonably adverse effect on:~~

12 ~~1. the provider's financial stability; or~~

13 ~~2. the provider's capacity to perform its continuing care~~
14 ~~agreement obligations to subscribers.~~

15 ~~(2) In addition to the information required to be provided under~~
16 ~~paragraph (1) of this subsection, a provider subject to [~~§ 10 432(b)~~] ~~§ 30 401(B)~~ of~~
17 ~~this subtitle and any proposed new provider shall provide to the [Department]~~
18 ~~**ADMINISTRATION** any other information that the [Department] **ADMINISTRATION**~~
19 ~~requires to evaluate the proposed transaction.~~

20 ~~(3) On request, the existing provider and any proposed new provider~~
21 ~~shall give to a subscriber of the affected facility the information included in the~~
22 ~~written notice to the [Department] **ADMINISTRATION** under paragraph (1) of this~~
23 ~~subsection.~~

24 ~~30 403.~~

25 ~~(a) Within 15 days after the notice required under [~~§ 10 433(a)(2)~~] ~~§~~~~
26 ~~~~30 402(A)(2)~~ of this subtitle is given, subscribers may submit to the existing~~
27 ~~provider, any proposed new provider, and the [Department] **ADMINISTRATION**~~
28 ~~written questions and comments about the proposed sale or transfer.~~

29 ~~(b) (1) Within 25 days after the notice required under [~~§ 10 433(a)(2)~~] ~~§~~~~
30 ~~~~30 402(A)(2)~~ of this subtitle is given, representatives of the existing provider and any~~
31 ~~proposed new provider shall hold a meeting with not more than 15 representatives~~
32 ~~chosen by the subscribers of the affected facility to discuss the proposed sale or~~
33 ~~transfer.~~

34 ~~(2) The subscriber representatives shall give their names and~~
35 ~~addresses to the existing provider, any proposed new provider, and the [Department]~~
36 ~~**ADMINISTRATION.**~~

1 ~~(3) Representatives of the [Department] ADMINISTRATION may~~
2 ~~attend the meeting.~~

3 ~~(e) Within 10 days after the meeting required under subsection (b) of this~~
4 ~~section, subscribers may submit to the existing provider, any proposed new provider,~~
5 ~~and the [Department] ADMINISTRATION additional written comments about the~~
6 ~~proposed sale or transfer.~~

7 ~~30-404.~~

8 ~~(a) (1) After reviewing the information required by [§§ 10-433 and~~
9 ~~10-434] §§ 30-402 AND 30-403 of this subtitle, the [Department]~~
10 ~~ADMINISTRATION shall determine whether the sale or transfer satisfies the standard~~
11 ~~for approval set forth in subsection (b) of this section.~~

12 ~~(2) The [Department] ADMINISTRATION shall make the~~
13 ~~determination within 50 days after the date of the notice required under [§~~
14 ~~10-433(a)(2)] § 30-402(A)(2) of this subtitle unless extended by the [Department]~~
15 ~~ADMINISTRATION for good cause.~~

16 ~~(3) The [Department] ADMINISTRATION shall notify the existing~~
17 ~~provider, any proposed new provider, and the subscriber representatives in writing of~~
18 ~~the determination and the reasons for it and, if applicable, that the [Department]~~
19 ~~ADMINISTRATION intends to transfer the certificate of registration to the new~~
20 ~~provider.~~

21 ~~(b) The [Department] ADMINISTRATION shall approve a sale or other~~
22 ~~transfer of ownership or control unless the [Department] ADMINISTRATION~~
23 ~~determines that the sale or transfer is likely to have an unreasonably adverse effect~~
24 ~~on:~~

25 ~~(1) the financial stability of the provider; or~~

26 ~~(2) the capacity of the provider to perform continuing care agreement~~
27 ~~obligations to subscribers.~~

28 ~~(e) (1) In accordance with Title 10, Subtitle 2 of the State Government~~
29 ~~Article, the provider may appeal the [Department's] ADMINISTRATION'S decision on~~
30 ~~the proposed sale or transfer.~~

31 ~~(2) A person other than the provider may not appeal the~~
32 ~~[Department's] ADMINISTRATION'S decision or be a party in interest to the~~
33 ~~proceedings.~~

34 ~~(3) The [Department] ADMINISTRATION shall give prompt notice of~~
35 ~~any appeal and of any decision issued in the appeal to the subscriber representatives.~~

1 ~~(d) A sale or other transfer of ownership or control subject to this section and~~
2 ~~[[§§ 10-432 through 10-434] §§ 30-401 THROUGH 30-403 of this subtitle may not be~~
3 ~~completed until 15 days after the later of:~~

4 ~~(1) the day the [Department] ADMINISTRATION issues the notice~~
5 ~~required under subsection (a)(3) of this section of its decision to approve the sale or~~
6 ~~transfer; or~~

7 ~~(2) if an appeal is taken under subsection (c) of this section, the day~~
8 ~~the administrative law judge issues a decision to allow the sale or transfer.~~

9 ~~30-405.~~

10 ~~(a) This section does not apply to:~~

11 ~~(1) a transaction undertaken under a contractual obligation in effect~~
12 ~~on October 1, 1996;~~

13 ~~(2) a transaction made in the ordinary course of business of operating~~
14 ~~a facility;~~

15 ~~(3) a refund under a contract entered into in the ordinary course of~~
16 ~~business;~~

17 ~~(4) a transfer of cash, securities, or other investment property in~~
18 ~~connection with an ordinary investment transaction;~~

19 ~~(5) a grant of a mortgage, deed of trust, or security interest to an~~
20 ~~unrelated third party;~~

21 ~~(6) a transaction involving an easement, right of way, road widening,~~
22 ~~or similar conveyance for the benefit of a public body or a utility;~~

23 ~~(7) a transaction made for an expansion or renovation; or~~

24 ~~(8) any other sale, transfer, or other disposition exempted by the~~
25 ~~[Department] ADMINISTRATION by regulation.~~

26 ~~(b) (1) A provider that holds a preliminary, initial, or renewal certificate~~
27 ~~of registration may not sell, transfer, or otherwise dispose of more than 10% of its total~~
28 ~~assets in any 12-month period unless the [Department] ADMINISTRATION approves~~
29 ~~the sale, transfer, or disposition in accordance with [[§§ 10-437 and 10-438] §§~~
30 ~~30-406 AND 30-407 of this subtitle.~~

1 ~~(2) A provider may not sell, transfer, or otherwise dispose of assets~~
2 ~~equal to or less than 10% of its total assets if the sale, transfer, or disposition is likely,~~
3 ~~according to standards set by regulation, to have an unreasonably adverse effect on:~~

4 ~~(i) the financial stability of the provider; or~~

5 ~~(ii) the capacity of the provider to perform its obligations under~~
6 ~~its continuing care agreements.~~

7 ~~(3) Determinations of total assets shall be based on the provider's~~
8 ~~latest certified financial statements available at the time the sale, transfer, or other~~
9 ~~disposition is made.~~

10 ~~30-406.~~

11 ~~(a) A provider subject to [§ 10-436(b)(1)] § 30-405(B)(1) of this subtitle~~
12 ~~shall:~~

13 ~~(1) at least 60 days before the sale, transfer, or other disposition, file~~
14 ~~with the [Department] ADMINISTRATION a statement of intent to sell, transfer, or~~
15 ~~otherwise dispose of assets; and~~

16 ~~(2) at least 30 days before the sale, transfer, or other disposition, give~~
17 ~~written notice to the [Department] ADMINISTRATION of the proposed sale, transfer,~~
18 ~~or other disposition of assets.~~

19 ~~(b) The statement of intent required to be filed with the [Department]~~
20 ~~ADMINISTRATION under subsection (a)(1) of this section shall include:~~

21 ~~(1) identification of each asset to be sold, transferred, or otherwise~~
22 ~~disposed of;~~

23 ~~(2) if the provider is subject to [§ 10-436(b)(1)] § 30-405(B)(1) of this~~
24 ~~subtitle because of a series of sales, transfers, or other dispositions that have exceeded~~
25 ~~cumulatively 10% of its total assets, identification of each asset that has been sold,~~
26 ~~transferred, or disposed of; and~~

27 ~~(3) the reason for the sale, transfer, or other disposition identified in~~
28 ~~item (1) of this subsection.~~

29 ~~(e) The notice to the [Department] ADMINISTRATION required under~~
30 ~~subsection (a)(2) of this section shall include:~~

31 ~~(1) a statement that demonstrates that the proposed sale, transfer, or~~
32 ~~other disposition is not likely to have an unreasonably adverse effect on:~~

33 ~~(i) the financial stability of the provider; or~~

1 (ii) ~~the capacity of the provider to perform its obligations under~~
2 ~~its continuing care agreements; and~~

3 (2) ~~any other information that the [Department] ADMINISTRATION~~
4 ~~requires.~~

5 ~~30-407.~~

6 (a) (1) ~~After reviewing the information required by [§ 10-437] § 30-406~~
7 ~~of this subtitle, the [Department] ADMINISTRATION shall determine whether the~~
8 ~~sale, transfer, or other disposition satisfies the standard for approval set forth in~~
9 ~~subsection (b) of this section.~~

10 (2) ~~The [Department] ADMINISTRATION shall make its~~
11 ~~determination and notify the provider in writing within 25 days after the date of the~~
12 ~~notice required by [§ 10-437(a)(2)] § 30-406(A)(2) of this subtitle, unless extended by~~
13 ~~the [Department] ADMINISTRATION for good cause.~~

14 (3) ~~If the [Department] ADMINISTRATION does not approve the~~
15 ~~proposed sale, transfer, or other disposition, the [Department] ADMINISTRATION~~
16 ~~shall include the reasons for its determination in the written notice to the provider.~~

17 (b) ~~The [Department] ADMINISTRATION shall approve the sale, transfer, or~~
18 ~~other disposition of assets unless it determines that the sale, transfer, or disposition is~~
19 ~~likely to have an unreasonably adverse effect on:~~

20 (1) ~~the financial stability of the provider; or~~

21 (2) ~~the capacity of the provider to perform its obligations under its~~
22 ~~continuing care agreements.~~

23 (c) (1) ~~By regulation, the [Department] ADMINISTRATION shall adopt~~
24 ~~reasonable objective financial standards for a proposed sale, transfer, or other~~
25 ~~disposition of assets.~~

26 (2) ~~If the [Department] ADMINISTRATION determines that the~~
27 ~~provider has met the objective financial standards, the [Department]~~
28 ~~ADMINISTRATION shall approve the proposed sale, transfer, or other disposition of~~
29 ~~assets.~~

30 (3) ~~If the [Department] ADMINISTRATION determines that the~~
31 ~~provider has not met the objective financial standards, the [Department]~~
32 ~~ADMINISTRATION may approve a proposed sale, transfer, or other disposition of~~
33 ~~assets if it satisfies the requirements set forth in subsection (b) of this section.~~

1 ~~(d) (1) In accordance with Title 10, Subtitle 2 of the State Government~~
2 ~~Article, the provider may appeal the [Department's] ADMINISTRATION'S decision on~~
3 ~~the proposed sale, transfer, or other disposition of assets.~~

4 ~~(2) A person other than the provider may not appeal the~~
5 ~~[Department's] ADMINISTRATION'S decision or be a party in interest to the~~
6 ~~proceedings.~~

7 ~~(e) A sale, transfer, or other disposition of assets subject to this [part]~~
8 ~~SUBTITLE may not be completed until 5 days after the later of:~~

9 ~~(1) the day the [Department] ADMINISTRATION issues the notice~~
10 ~~required under subsection (a)(2) of this section of its decision to approve the sale,~~
11 ~~transfer, or other disposition; or~~

12 ~~(2) if an appeal is taken under subsection (d) of this section, the day~~
13 ~~the administrative law judge issues a decision to allow the sale, transfer, or other~~
14 ~~disposition of assets.~~

15 ~~30-409.~~

16 ~~(a) A provider may not remove a record or asset of the provider related to the~~
17 ~~operation of a facility or the provision of services under a continuing care agreement~~
18 ~~from the State unless the [Department] ADMINISTRATION consents in writing.~~

19 ~~(b) Consent shall be based on the provider's submission of satisfactory~~
20 ~~evidence that the removal:~~

21 ~~(1) will facilitate and make the operations of the provider more~~
22 ~~economical; and~~

23 ~~(2) will not diminish the service or protection to be given to the~~
24 ~~provider's subscribers in the State.~~

25 ~~30-410.~~

26 ~~(a) The [Department] ADMINISTRATION may:~~

27 ~~(1) inspect a facility that offers continuing care;~~

28 ~~(2) examine the facility's books and records; and~~

29 ~~(3) audit or observe a service provided under a continuing care~~
30 ~~agreement.~~

31 ~~(b) If all or part of a facility is subject to licensure by the Department of~~
32 ~~Health and Mental Hygiene, the [Department] ADMINISTRATION shall coordinate its~~

1 ~~inspections under this section with the Department of Health and Mental Hygiene to~~
2 ~~avoid duplication.~~

3 ~~30-501.~~

4 ~~(a) Except as provided in subsection (b)(23) of this section, a requirement of~~
5 ~~this section does not apply to any continuing care agreement entered into before the~~
6 ~~effective date of the requirement.~~

7 ~~(b) In a form acceptable to the [Department] ADMINISTRATION, each~~
8 ~~continuing care agreement shall:~~

9 ~~(1) show the total consideration paid by the subscriber for continuing~~
10 ~~care, including the value of all property transferred, donations, entrance fees,~~
11 ~~subscriptions, monthly fees, and any other fees paid or payable by or on behalf of a~~
12 ~~subscriber;~~

13 ~~(2) specify all services that are to be provided by the provider to each~~
14 ~~subscriber, such as food, shelter, medical care, nursing care, or other health related~~
15 ~~services, including in detail all items that each subscriber will receive, and whether~~
16 ~~the items will be provided for life or for a designated time period;~~

17 ~~(3) designate the classes of subscribers according to types of payment~~
18 ~~plans;~~

19 ~~(4) subject to subsection (c) of this section, describe the procedures to~~
20 ~~be followed by the provider when the provider temporarily or permanently changes the~~
21 ~~subscriber's accommodations within the facility or transfers the subscriber to another~~
22 ~~health facility;~~

23 ~~(5) describe the policies that will be implemented if the subscriber~~
24 ~~becomes unable to pay the monthly fees;~~

25 ~~(6) state the policy of the provider concerning changes in~~
26 ~~accommodations and the procedure to implement that policy if the number of persons~~
27 ~~occupying an individual unit changes;~~

28 ~~(7) provide in clear and understandable language, in boldface type,~~
29 ~~and in the largest type used in the body of the agreement:~~

30 ~~(i) the terms governing the refund of any portion of the~~
31 ~~entrance fee if the provider discharges the subscriber or the subscriber cancels the~~
32 ~~agreement; and~~

33 ~~(ii) whether monthly fees, if charged, will be subject to periodic~~
34 ~~increases;~~

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- 1 ~~(8) state the terms under which an agreement is canceled by the death~~
2 ~~of the subscriber;~~
- 3 ~~(9) provide that charges for care paid in advance in a lump sum may~~
4 ~~not be increased or changed for the duration of the agreed-upon care;~~
- 5 ~~(10) state that the subscriber has received, at least [two] 2 weeks~~
6 ~~before signing the agreement, the current version of the written rules of the provider;~~
- 7 ~~(11) describe the living quarters;~~
- 8 ~~(12) if applicable, state the conditions under which a subscriber may~~
9 ~~assign a unit for the use of another individual;~~
- 10 ~~(13) state the provider's religious or charitable affiliations and the~~
11 ~~extent, if any, to which the affiliate organization is responsible for the provider's~~
12 ~~financial and contractual obligations;~~
- 13 ~~(14) state the subscriber's and provider's respective rights and~~
14 ~~obligations concerning:~~
- 15 ~~(i) use of the facility; and~~
- 16 ~~(ii) any real and personal property of the subscriber placed in~~
17 ~~the provider's custody;~~
- 18 ~~(15) state that subscribers have the right to organize and operate a~~
19 ~~subscriber association at the facility and to meet privately to conduct business;~~
- 20 ~~(16) state that there is an internal grievance procedure to address a~~
21 ~~subscriber's grievance;~~
- 22 ~~(17) state the fee adjustments, if any, that will be made if the~~
23 ~~subscriber is voluntarily absent from the facility for an extended period of time;~~
- 24 ~~(18) specify the circumstances, if any, under which the subscriber will~~
25 ~~be required to apply for Medicaid, Medicare, public assistance, or any public benefit~~
26 ~~program and whether the facility participates in Medicare or medical assistance;~~
- 27 ~~(19) state that the subscriber received a copy of the latest certified~~
28 ~~financial statement at least [two] 2 weeks before signing the agreement and that the~~
29 ~~subscriber has reviewed the statement;~~
- 30 ~~(20) provide that, on request, the provider will make available to the~~
31 ~~subscriber any certified financial statement submitted to the [Department]~~
32 ~~ADMINISTRATION;~~

1 ~~(21) if applicable, describe the conditions under which the provider may~~
2 ~~be issued an initial certificate of registration and the conditions under which the~~
3 ~~provider may use escrowed deposits, and state the amount of the subscriber's deposit;~~

4 ~~(22) state that fees collected by a provider under the terms of a~~
5 ~~continuing care agreement may only be used for purposes set forth in the agreement;~~

6 ~~(23) allow a subscriber to designate a beneficiary to receive any~~
7 ~~refundable portion of the entrance fee that is owed due to the death of the subscriber~~
8 ~~on or after the date of occupancy, if the designation is:~~

9 ~~(i) in writing;~~

10 ~~(ii) witnessed by at least two competent witnesses;~~

11 ~~(iii) not contingent; and~~

12 ~~(iv) specified in percentages and accounts for 100% of the refund~~
13 ~~due;~~

14 ~~(24) state the funeral and burial services, if any, that the provider will~~
15 ~~provide; and~~

16 ~~(25) contain the following statement in boldface type and in the largest~~
17 ~~type used in the agreement: "A preliminary certificate of registration or certificate of~~
18 ~~registration is not an endorsement or guarantee of this facility by the State of~~
19 ~~Maryland. The Maryland [Department of Aging] **INSURANCE ADMINISTRATION**~~
20 ~~urges you to consult with an attorney and a suitable financial advisor before signing~~
21 ~~any documents."~~

22 ~~(e) A subscriber's accommodations may be changed only to protect the health~~
23 ~~or safety of the subscriber or the general and economic welfare of other residents.~~

24 ~~(d) A continuing care agreement may contain, in a form acceptable to the~~
25 ~~[Department] **ADMINISTRATION**, any other appropriate provision to effectuate the~~
26 ~~purpose of the agreement.~~

27 ~~(e) (1) This subsection applies if:~~

28 ~~(i) a provider's continuing care agreement includes a provision~~
29 ~~to provide assisted living program services; and~~

30 ~~(ii) the provider does not execute a separate assisted living~~
31 ~~agreement.~~

1 ~~(2) In addition to any other requirement of this section, the continuing~~
2 ~~care agreement shall include the following provisions concerning the assisted living~~
3 ~~program:~~

4 ~~(i) a statement of the level of care that the assisted living~~
5 ~~program is licensed to offer;~~

6 ~~(ii) a description of the procedures to be followed by the provider~~
7 ~~for notifying the subscriber of the level of care the subscriber needs if the subscriber~~
8 ~~transfers to an assisted living program;~~

9 ~~(iii) a statement indicating the options available to a subscriber~~
10 ~~if the subscriber's level of care, after admission to an assisted living program, exceeds~~
11 ~~the level of care for which the provider is licensed;~~

12 ~~(iv) based on a sample list of assisted living program services~~
13 ~~that the Department of Health and Mental Hygiene maintains, a statement of which~~
14 ~~services are provided by the assisted living program and which services are not;~~

15 ~~(v) a statement of the obligations of the provider and the~~
16 ~~subscriber or the subscriber's agent for handling the subscriber's finances;~~

17 ~~(vi) a statement of the obligations of the provider and the~~
18 ~~subscriber or the subscriber's agent for disposition of the subscriber's property on the~~
19 ~~subscriber's discharge or death; and~~

20 ~~(vii) the applicable rate structure and payment provisions~~
21 ~~covering:~~

22 ~~1. all rates to be charged to the subscriber, including:~~

23 ~~A. service packages;~~

24 ~~B. fee for service rates; and~~

25 ~~C. any other nonservice related charges;~~

26 ~~2. criteria to be used for imposing additional charges to~~
27 ~~provide additional services, if the subscriber's service and care needs change;~~

28 ~~3. payment arrangements and fees, if known, for~~
29 ~~third party services not covered by the continuing care agreement, but arranged for~~
30 ~~by the subscriber, the subscriber's agent, or the assisted living program;~~

31 ~~4. identification of the persons responsible to pay all fees~~
32 ~~and charges and a clear indication of whether the person's responsibility is or is not~~
33 ~~limited to the extent of the subscriber's funds;~~

1 5. ~~a provision for notice at least 45 days before any rate~~
2 ~~increase, except for an increase necessitated by a change in the subscriber's medical~~
3 ~~condition; and~~

4 6. ~~fair and reasonable billing and payment policies.~~

5 ~~30-502.~~

6 (a) (1) ~~If a provider's feasibility study has been approved under [§~~
7 ~~10-409] § 30-203 of this [subtitle] TITLE, the [Department] ADMINISTRATION shall~~
8 ~~decide whether to approve a continuing care agreement within 180 days after receipt~~
9 ~~of a complete agreement.~~

10 (2) ~~If the [Department] ADMINISTRATION does not act within 180~~
11 ~~days, the agreement is deemed approved.~~

12 (b) ~~The provider shall maintain the continuing care agreement at the facility~~
13 ~~and make it available for inspection by the Department of Health and Mental Hygiene~~
14 ~~under Title 10, Subtitle 18, of the Health General Article.~~

15 ~~30-503.~~

16 (a) ~~A subscriber may rescind a continuing care agreement for any reason~~
17 ~~before the date of occupancy by the subscriber.~~

18 (b) (1) ~~A continuing care agreement is automatically canceled if, before~~
19 ~~the date of occupancy:~~

20 (i) ~~the subscriber dies;~~

21 (ii) ~~the provider determines that the subscriber is ineligible for~~
22 ~~admission to the facility; or~~

23 (iii) ~~the subscriber terminates the continuing care agreement~~
24 ~~because of a substantial change in the subscriber's physical, mental, or financial~~
25 ~~condition.~~

26 (2) ~~Within 30 days after a continuing care agreement is canceled~~
27 ~~under this subsection, the subscriber or the subscriber's legal representative shall~~
28 ~~receive a full refund of all money paid to the provider, less:~~

29 (i) ~~a processing fee approved by the [Department]~~
30 ~~ADMINISTRATION; and~~

31 (ii) ~~any special additional costs incurred by the provider due to~~
32 ~~modifications in the structure or furnishings of the unit specifically requested by the~~
33 ~~subscriber, if:~~

1 ~~1. the costs do not exceed the costs of modification and~~
2 ~~the reasonable costs of restoration actually incurred by the provider; and~~

3 ~~2. the costs were set forth in writing in a separate~~
4 ~~addendum to the agreement signed by the subscriber.~~

5 ~~(e) (1) If the subscriber rescinds the continuing care agreement within 90~~
6 ~~days after entering into the agreement and before the date of occupancy for any reason~~
7 ~~other than the reasons specified in subsection (b)(1) of this section, the provider shall~~
8 ~~refund the amount described in subsection (b)(2) of this section to the subscriber or the~~
9 ~~subscriber's legal representative within 30 days after the date of rescission.~~

10 ~~(2) If the subscriber rescinds the continuing care agreement more than~~
11 ~~90 days after entering into the agreement and before the date of occupancy for any~~
12 ~~reason other than the reasons specified in subsection (b)(1) of this section, the provider~~
13 ~~may retain up to 25% of the subscriber's entrance fee deposit.~~

14 ~~(d) (1) A subscriber may rescind a continuing care agreement at any time~~
15 ~~if a term of the agreement violates this [subtitle] TITLE and the subscriber is injured~~
16 ~~by the violation.~~

17 ~~(2) The subscriber is entitled to treble damages for extensive injuries~~
18 ~~arising from a violation.~~

19 ~~(e) (1) An applicant for admission to a facility who withdraws the~~
20 ~~application before executing a continuing care agreement shall receive a refund of all~~
21 ~~money paid to the provider except a processing fee approved by the [Department]~~
22 ~~ADMINISTRATION.~~

23 ~~(2) The refund shall be paid within 60 days after the applicant~~
24 ~~withdraws the application.~~

25 ~~30-601.~~

26 ~~This [part] SUBTITLE applies only to continuing care at home operations.~~

27 ~~30-602.~~

28 ~~(a) The [Department] ADMINISTRATION shall adopt regulations that:~~

29 ~~(1) set standards for continuing care at home providers; and~~

30 ~~(2) provide for the certification of continuing care at home providers~~
31 ~~and the annual renewal of certificates of registration.~~

1 ~~(b) In addition to the provisions required under subsection (a) of this section,~~
2 ~~the regulations adopted by the [Department] ADMINISTRATION shall, at a minimum:~~

3 ~~(1) provide for and encourage the establishment of continuing care at~~
4 ~~home programs;~~

5 ~~(2) for an individual who is employed by or under contract with a~~
6 ~~continuing care at home provider and who will enter a subscriber's home to provide~~
7 ~~continuing care at home services:~~

8 ~~(i) set minimum requirements;~~

9 ~~(ii) require a criminal history records check, if the individual~~
10 ~~will have routine, direct access to a subscriber; and~~

11 ~~(iii) require the provider to screen and verify the individual's~~
12 ~~character references;~~

13 ~~(3) establish standards for the renewal of certificates of registration;~~

14 ~~(4) establish standards for entrance fees, deposits, and the number of~~
15 ~~executed agreements necessary to begin operations;~~

16 ~~(5) establish conditions for the release of deposits and entrance fees~~
17 ~~from escrow accounts;~~

18 ~~(6) establish standards for when and how a subscriber or provider may~~
19 ~~rescind a continuing care at home agreement before continuing care at home services~~
20 ~~are provided to the subscriber;~~

21 ~~(7) allow a subscriber to rescind a continuing care at home agreement~~
22 ~~at any time if the terms of the agreement violate this subtitle; and~~

23 ~~(8) establish that a provider may terminate an agreement or discharge~~
24 ~~a subscriber only for just cause and establish procedures to carry out the termination~~
25 ~~or discharge.~~

26 ~~30-603.~~

27 ~~(a) A provider may not collect deposits to provide continuing care at home~~
28 ~~services until the [Department] ADMINISTRATION approves a feasibility study.~~

29 ~~(b) A provider that intends to develop a continuing care at home program~~
30 ~~and provide continuing care at home services shall file a statement of intent with the~~
31 ~~[Department] ADMINISTRATION at least 30 days before submitting the feasibility~~
32 ~~study required under this section.~~

1 (e) ~~A feasibility study shall:~~

2 (1) ~~be filed in a form satisfactory to the [Department]~~
3 ~~ADMINISTRATION; and~~

4 (2) ~~include at least the following information:~~

5 (i) ~~a statement of the purpose of the program and the need for~~
6 ~~the proposed services;~~

7 (ii) ~~documentation of the financial resources of the provider;~~

8 (iii) ~~a plan demonstrating the financial feasibility of the~~
9 ~~proposed program, including future funding sources;~~

10 (iv) ~~an actuarial forecast that has been reviewed by a qualified~~
11 ~~actuary;~~

12 (v) ~~a study demonstrating the proposed market for the program;~~

13 (vi) ~~the form and substance of any proposed advertisements,~~
14 ~~advertising campaigns, or other promotional materials for the program that is~~
15 ~~available at the time of filing;~~

16 (vii) ~~a detailed statement of the covered services; and~~

17 (viii) ~~any other information that the [Department]~~
18 ~~ADMINISTRATION requires.~~

19 (d) ~~The [Department] ADMINISTRATION shall approve a feasibility study~~
20 ~~filed under this section if the [Department] ADMINISTRATION determines that:~~

21 (1) ~~the proposed use of new or existing health facilities is not~~
22 ~~inconsistent with the State health plan;~~

23 (2) ~~a reasonable financial plan has been developed to provide~~
24 ~~continuing care at home services, including the number of agreements to be executed~~
25 ~~before beginning operations and the criteria to release funds from escrow;~~

26 (3) ~~a market for the continuing care at home program appears to exist;~~

27 (4) ~~the feasibility study was prepared by a recognized authority;~~

28 (5) ~~the provider has submitted all proposed advertisements,~~
29 ~~advertising campaigns, and other promotional materials for the program;~~

1 ~~(6) the form and substance of all advertisements, advertising~~
2 ~~campaigns, and other promotional materials submitted are not deceptive, misleading,~~
3 ~~or likely to mislead;~~

4 ~~(7) the actuarial forecast supports the market for the program;~~

5 ~~(8) the approved escrow agreement and deposit agreement state the~~
6 ~~conditions for the release of deposits and entrance fees from escrow;~~

7 ~~(9) a copy of the escrow agreement executed by the provider and the~~
8 ~~financial institution has been filed with the [Department] **ADMINISTRATION**; and~~

9 ~~(10) any other information requested by the [Department]~~
10 ~~**ADMINISTRATION** has been submitted and approved.~~

11 ~~30-604.~~

12 ~~(a) A provider may collect deposits from prospective subscribers if:~~

13 ~~(1) the [Department] **ADMINISTRATION** has approved the provider's~~
14 ~~feasibility study; and~~

15 ~~(2) the provider maintains the funds collected in an escrow account.~~

16 ~~(b) Deposits collected under subsection (a) of this section shall be held in~~
17 ~~escrow until:~~

18 ~~(1) the provider has been issued a certificate of registration under [§~~
19 ~~10-458] § **30-606** of this [subtitle] **TITLE**; or~~

20 ~~(2) a later time that the [Department] **ADMINISTRATION** may set by~~
21 ~~regulation.~~

22 ~~30-605.~~

23 ~~(a) A provider may not enter into an agreement to provide continuing care at~~
24 ~~home services until the [Department] **ADMINISTRATION** issues a preliminary~~
25 ~~certificate of registration to the provider.~~

26 ~~(b) An application for a preliminary certificate of registration shall:~~

27 ~~(1) be filed in a form satisfactory to the [Department]~~
28 ~~**ADMINISTRATION**; and~~

29 ~~(2) include at least the following information:~~

1 (i) ~~a copy of the proposed continuing care at home agreement,~~
2 ~~which shall include the following statement set forth in print no smaller than the~~
3 ~~largest type used in the body of the agreement;~~

4 ~~“A certificate of registration is not an endorsement or guarantee of this~~
5 ~~continuing care at home provider by the State of Maryland. The Maryland~~
6 ~~[Department of Aging] INSURANCE ADMINISTRATION urges you to consult an~~
7 ~~attorney and a suitable financial advisor before signing any documents.”;~~

8 (ii) ~~the form and substance of any proposed advertisements,~~
9 ~~advertising campaigns, or other promotional material for the program that is available~~
10 ~~at the time of filing the application and that has not been filed previously with the~~
11 ~~[Department] ADMINISTRATION; and~~

12 (iii) ~~any other information that the [Department]~~
13 ~~ADMINISTRATION requires.~~

14 (e) ~~The [Department] ADMINISTRATION shall issue a preliminary~~
15 ~~certificate of registration to a provider if the [Department] ADMINISTRATION~~
16 ~~determines that:~~

17 (1) ~~the proposed continuing care at home agreement is satisfactory;~~

18 (2) ~~the provider has submitted all proposed advertisements,~~
19 ~~advertising campaigns, and other promotional materials for the program;~~

20 (3) ~~the form and substance of all advertisements, advertising~~
21 ~~campaigns, and other promotional materials submitted are not deceptive, misleading,~~
22 ~~or likely to mislead;~~

23 (4) ~~the information and documents submitted with the feasibility~~
24 ~~study under [§ 10-455] § 30-603 of this subtitle are current and accurate or have~~
25 ~~been updated to make them accurate; and~~

26 (5) ~~the provider has submitted any other information that the~~
27 ~~[Department] ADMINISTRATION requests.~~

28 ~~30-606.~~

29 (a) ~~A provider may not provide continuing care at home services until the~~
30 ~~[Department] ADMINISTRATION issues a certificate of registration to the provider.~~

31 (b) ~~An application for a certificate of registration shall:~~

32 (1) ~~be filed in a form satisfactory to the [Department]~~
33 ~~ADMINISTRATION; and~~

1 ~~(2) include at least the following information:~~

2 ~~(i) verification that the required number of agreements has~~
3 ~~been executed and the corresponding deposits collected;~~

4 ~~(ii) the form and substance of any proposed advertisements,~~
5 ~~advertising campaigns, or other promotional material for the program that are~~
6 ~~available at the time of filing and that have not been filed previously with the~~
7 ~~[Department] ADMINISTRATION;~~

8 ~~(iii) verification that any other license or certificate required by~~
9 ~~other appropriate State units has been issued to the provider; and~~

10 ~~(iv) any other information that the [Department]~~
11 ~~ADMINISTRATION requires.~~

12 ~~(c) The [Department] ADMINISTRATION shall issue a certificate of~~
13 ~~registration to a provider if the [Department] ADMINISTRATION determines that:~~

14 ~~(1) the information and documents submitted with the feasibility~~
15 ~~study and application for a preliminary certificate of registration are current and~~
16 ~~accurate or have been updated to make them accurate;~~

17 ~~(2) the required number of agreements has been executed and the~~
18 ~~corresponding deposits collected;~~

19 ~~(3) any other license or certificate required by other appropriate State~~
20 ~~units has been issued to the provider;~~

21 ~~(4) the provider has submitted all proposed advertisements,~~
22 ~~advertising campaigns, and other promotional materials for the program;~~

23 ~~(5) the form and substance of all advertisements, advertising~~
24 ~~campaigns, and other promotional materials submitted are not deceptive, misleading,~~
25 ~~or likely to mislead; and~~

26 ~~(6) the provider has submitted any other information that the~~
27 ~~[Department] ADMINISTRATION required.~~

28 ~~(d) If a provider intends to advertise before the [Department]~~
29 ~~ADMINISTRATION issues a certificate of registration under subsection (c) of this~~
30 ~~section, the provider shall submit to the [Department] ADMINISTRATION any~~
31 ~~advertisement, advertising campaign, or other promotional materials before using it.~~

32 ~~(e) If a certificate of registration is not issued to a provider within 24 months~~
33 ~~after the [Department] ADMINISTRATION approves a feasibility study, or a longer~~
34 ~~time allowed by the [Department] ADMINISTRATION for good cause shown, the~~

1 ~~provider shall refund all deposits collected and stop offering continuing care at home~~
2 ~~services under that application.~~

3 ~~30-607.~~

4 (a) (1) ~~Each year, within 120 days after the end of a provider's fiscal year,~~
5 ~~the provider shall file an application for a renewal certificate of registration with the~~
6 ~~[Department] ADMINISTRATION.~~

7 (2) ~~An application shall:~~

8 (i) ~~be filed in a form satisfactory to the [Department]~~
9 ~~ADMINISTRATION; and~~

10 (ii) ~~contain any reasonable and pertinent information that the~~
11 ~~[Department] ADMINISTRATION requires.~~

12 (b) ~~The [Department] ADMINISTRATION shall issue a renewal certificate of~~
13 ~~registration if the [Department] ADMINISTRATION determines that:~~

14 (1) ~~all required documents have been filed and are satisfactory;~~

15 (2) ~~any revised agreements for continuing care at home services meet~~
16 ~~the [Department's] ADMINISTRATION'S requirements;~~

17 (3) ~~the proposed use of new or existing health facilities is not~~
18 ~~inconsistent with the State health plan;~~

19 (4) ~~the provider has submitted all proposed advertisements,~~
20 ~~advertising campaigns, and other promotional materials for the program; and~~

21 (5) ~~the form and substance of all advertisements, advertising~~
22 ~~campaigns, and other promotional materials submitted are not deceptive, misleading,~~
23 ~~or likely to mislead.~~

24 ~~30-608.~~

25 (a) ~~For cause, the [Department] ADMINISTRATION may:~~

26 (1) ~~deny a feasibility study approval; or~~

27 (2) ~~deny, suspend, or revoke a preliminary, initial, or renewal~~
28 ~~certificate of registration.~~

29 (b) (1) ~~Grounds for a denial, suspension, or revocation include:~~

30 (i) ~~violation of this subtitle;~~

1 (ii) violation of a regulation the ~~[Department]~~
2 ~~ADMINISTRATION~~ adopts under this subtitle;

3 (iii) misrepresentation; or

4 (iv) submission of a false financial statement.

5 (2) ~~The [Department] ADMINISTRATION shall set forth in writing its~~
6 ~~reasons for a denial, suspension, or revocation.~~

7 (e) ~~Title 10, Subtitle 2 of the State Government Article governs the appeal of~~
8 ~~a denial, revocation, or suspension.~~

9 ~~30-701.~~

10 ~~In this [part] SUBTITLE, "Committee" means the Financial Review Committee~~
11 ~~established in [§ 10-464] § 30-702 of this subtitle.~~

12 ~~30-702.~~

13 ~~There is a Financial Review Committee in the [Department]~~
14 ~~ADMINISTRATION.~~

15 ~~30-703.~~

16 (a) (1) ~~The Committee consists of seven members appointed by the~~
17 ~~[Secretary] COMMISSIONER.~~

18 (2) ~~Of the seven members:~~

19 (i) ~~two shall be knowledgeable in the field of continuing care;~~

20 (ii) ~~two shall be certified public accountants;~~

21 (iii) ~~one shall be from the financial community; and~~

22 (iv) ~~two shall be consumer members.~~

23 (3) ~~In appointing the consumer members, the [Secretary]~~
24 ~~COMMISSIONER shall give a preference to subscribers of continuing care facilities.~~

25 (b) (1) ~~The term of a member is 3 years.~~

26 (2) ~~The terms of members are staggered as required by the terms~~
27 ~~provided for members on October 1, 2007.~~

1 ~~(3) A member may serve consecutive terms.~~

2 ~~(e) The Committee shall elect its chair.~~

3 ~~(d) A member:~~

4 ~~(1) may not receive compensation as a member of the Committee; but~~

5 ~~(2) is entitled to reimbursement for expenses under the Standard~~
6 ~~State Travel Regulations, as provided in the State budget.~~

7 ~~(e) A member is immune from civil liability as provided in § 5-514 of the~~
8 ~~Courts Article.~~

9 ~~(f) A member may not participate in a review of a provider's financial~~
10 ~~condition if that member has an interest, as defined under the Maryland Public Ethics~~
11 ~~Law in § 15-102 of the State Government Article, in the provider.~~

12 ~~(g) The deliberations of the Committee and communications between the~~
13 ~~Department and the Committee, including recommendations of the Committee, shall~~
14 ~~be confidential.~~

15 ~~§ 0-704.~~

16 ~~(a) (1) The [Department] ADMINISTRATION may refer to the Committee~~
17 ~~for its consideration:~~

18 ~~(i) a provider's application for a renewal certificate of~~
19 ~~registration after review by the [Department] ADMINISTRATION; or~~

20 ~~(ii) a finding of possible financial difficulty, at any time.~~

21 ~~(2) The [Department] ADMINISTRATION shall provide to the~~
22 ~~Committee any materials the [Department] ADMINISTRATION considers necessary.~~

23 ~~(b) (1) The Committee shall review the referral from the [Department]~~
24 ~~ADMINISTRATION and may request additional information from the [Department]~~
25 ~~ADMINISTRATION.~~

26 ~~(2) Except as provided in subsection (c) of this section, within 45 days~~
27 ~~after receipt of a referral, the Committee shall notify the [Department]~~
28 ~~ADMINISTRATION in writing whether the Committee recommends that the~~
29 ~~[Department] ADMINISTRATION:~~

30 ~~(i) find the provider in financial difficulty; and~~

1 (ii) ~~find that the financial difficulty, if any, includes a significant~~
2 ~~risk of financial failure in accordance with [§ 10-469] § 30-707 of this subtitle.~~

3 (3) ~~In making a recommendation to the [Department]~~
4 ~~ADMINISTRATION, the Committee shall state the reason for the recommendation.~~

5 (e) (1) ~~The Committee may request from the [Secretary]~~
6 ~~COMMISSIONER one 30-day extension of the deadline under subsection (b)(2) of this~~
7 ~~section.~~

8 (2) ~~The [Secretary] COMMISSIONER may grant or deny the~~
9 ~~extension.~~

10 ~~30-705.~~

11 (a) ~~Within 25 days after receipt of the Committee's recommendations, the~~
12 ~~[Department] ADMINISTRATION shall consider the recommendations and make a~~
13 ~~final determination of whether financial difficulty exists and, if so, whether there is a~~
14 ~~significant risk of financial failure in accordance with [§ 10-469] § 30-707 of this~~
15 ~~subtitle.~~

16 (b) ~~If the [Department] ADMINISTRATION determines that the provider is~~
17 ~~in financial difficulty it shall immediately notify the provider by certified mail, return~~
18 ~~receipt requested, and inform the provider whether the [Department]~~
19 ~~ADMINISTRATION has determined that there is a significant risk of financial failure.~~

20 (e) ~~The provider shall:~~

21 (1) ~~advise its subscribers of the [Department's] ADMINISTRATION'S~~
22 ~~determination in a meeting to be held by the provider with representatives of the~~
23 ~~subscribers;~~

24 (2) ~~hold the meeting within 10 days after the provider's receipt of~~
25 ~~notice from the [Department] ADMINISTRATION; and~~

26 (3) ~~advise the [Department] ADMINISTRATION of the date, time, and~~
27 ~~location of the meeting.~~

28 ~~30-706.~~

29 (a) (1) ~~A provider notified of financial difficulty by the [Department]~~
30 ~~ADMINISTRATION shall prepare and submit to the [Department] ADMINISTRATION~~
31 ~~for its approval a 5-year financial plan to correct the causes of the financial difficulty.~~

32 (2) ~~The financial plan shall be submitted within 60 days after receipt~~
33 ~~of notification.~~

1 ~~(3) The provider may request one 30 day extension from the~~
2 ~~[Secretary] COMMISSIONER.~~

3 ~~(4) The [Secretary] COMMISSIONER may grant or deny the~~
4 ~~extension.~~

5 ~~(b) (1) The [Department] ADMINISTRATION shall respond to the~~
6 ~~provider within 60 days after receipt of the proposed financial plan.~~

7 ~~(2) The [Department] ADMINISTRATION may:~~

8 ~~(i) work with the provider to establish the financial plan; and~~

9 ~~(ii) consult with the Committee before approving the financial~~
10 ~~plan.~~

11 ~~(c) (1) On approval, the financial plan shall be implemented.~~

12 ~~(2) The provider shall make available to its subscribers copies of its~~
13 ~~approved financial plan.~~

14 ~~(d) The provider shall:~~

15 ~~(1) submit to the [Department] ADMINISTRATION an annual~~
16 ~~progress report for the term of its financial plan; and~~

17 ~~(2) revise its financial plan if the [Department] ADMINISTRATION~~
18 ~~determines that revisions are necessary.~~

19 ~~(e) The [Department] ADMINISTRATION may withhold the renewal~~
20 ~~certificate of registration or withdraw a preliminary, initial, or renewal certificate of~~
21 ~~registration if:~~

22 ~~(1) the provider does not prepare a financial plan;~~

23 ~~(2) the provider is unwilling or unable to prepare a financial plan;~~

24 ~~(3) the financial plan is inadequate to correct the current or~~
25 ~~impending financial condition that necessitated the financial plan; or~~

26 ~~(4) the provider fails to implement the financial plan.~~

27 ~~30-707.~~

1 ~~The [Department] ADMINISTRATION may determine that there exists a~~
2 ~~significant risk of the financial failure of a provider based on one or more of the~~
3 ~~following findings or circumstances:~~

4 ~~(1) the provider has failed to meet loan covenants that give a lender or~~
5 ~~a bond trustee the option to exercise remedies on its collateral;~~

6 ~~(2) an actuarial report has been provided to the [Department]~~
7 ~~ADMINISTRATION reflecting significant underfunding of future liabilities that are~~
8 ~~unlikely to be readily addressed;~~

9 ~~(3) there is a significant shortfall by the provider in maintaining~~
10 ~~required reserves for a significant period of time;~~

11 ~~(4) a significant balloon payment or future loan payment will become~~
12 ~~due within the next 12 months and the provider is unable to demonstrate that it will~~
13 ~~obtain a modification from its lender, have the resources to make the payment, or have~~
14 ~~the ability to refinance;~~

15 ~~(5) there has been a significant decline in the occupancy rate that is~~
16 ~~likely to have a material adverse financial impact on the provider;~~

17 ~~(6) there has been a material adverse change in debt service coverage~~
18 ~~ratio for an extended period of time that reduces the ratio to less than 1.0;~~

19 ~~(7) there has been a significant decline in days cash on hand that is~~
20 ~~unrelated to additions to property, plant, and equipment or other community~~
21 ~~enhancements and that could result in an inability to pay obligations of the provider~~
22 ~~as they become due;~~

23 ~~(8) there has been a significant increase in the operating ratio,~~
24 ~~adjusted for unrealized gains and losses on investments, that could result in the~~
25 ~~inability of the provider to meet its obligations; or~~

26 ~~(9) the refusal or inability of the provider to provide accurate~~
27 ~~information or data required to be submitted to the [Department] ADMINISTRATION~~
28 ~~under this [subtitle] TITLE and related regulations.~~

29 ~~30-801.~~

30 ~~(a) In this [part] SUBTITLE the following words have the meanings~~
31 ~~indicated.~~

32 ~~(b) "Creditor" means a person with a claim against a provider.~~

33 ~~(c) "Delinquency proceeding" means a proceeding under this subtitle to~~
34 ~~liquidate, rehabilitate, reorganize, or conserve a provider.~~

1 ~~(d) "General assets" means:~~

2 ~~(1) all property that is not specifically mortgaged, pledged, deposited,~~
3 ~~or otherwise encumbered for the security or benefit of specified persons or a limited~~
4 ~~class of persons;~~

5 ~~(2) to the extent that property of a provider is specifically encumbered,~~
6 ~~the amount of the property or its proceeds that exceeds the amount necessary to~~
7 ~~discharge the encumbrance; and~~

8 ~~(3) assets held in trust and assets held on deposit for the security or~~
9 ~~benefit of all subscribers and creditors in the United States.~~

10 ~~(e) "Receiver" includes a conservator, rehabilitator, and liquidator.~~

11 ~~(f) (1) "Secured claim" means a claim that:~~

12 ~~(i) is secured by mortgage, trust deed, pledge, deposit as~~
13 ~~security, escrow, or otherwise; or~~

14 ~~(ii) has become a lien on specific assets through judicial process.~~

15 ~~(2) "Secured claim" does not include a special deposit claim or a claim~~
16 ~~against general assets.~~

17 ~~(g) (1) "Special deposit claim" means a claim secured by a deposit~~
18 ~~required by law for the security or benefit of a limited class of persons.~~

19 ~~(2) "Special deposit claim" does not include a claim against general~~
20 ~~assets.~~

21 ~~(h) "Transfer" means:~~

22 ~~(1) the sale or other direct or indirect disposition of property or an~~
23 ~~interest in property;~~

24 ~~(2) the fixing of a lien on property or an interest in property; or~~

25 ~~(3) the retention of a security title to property delivered to a debtor.~~

26 ~~30-802.~~

27 ~~Notwithstanding any other provision of law and subject to [§ 10-493] § 30-822~~
28 ~~of this subtitle, a delinquency proceeding is the exclusive method of liquidating,~~
29 ~~rehabilitating, reorganizing, or conserving a provider.~~

1 ~~30-803.~~

2 The ~~[Secretary, deputy secretary, special deputy secretary]~~ **COMMISSIONER,**
3 ~~DEPUTY COMMISSIONER, SPECIAL DEPUTY COMMISSIONER,~~ or any person acting
4 as receiver in a rehabilitation, liquidation, or conservation of a provider as a result of a
5 court order shall have the same immunity from liability that ~~[the Maryland Insurance~~
6 ~~Commissioner, deputy commissioner, special deputy commissioner, or]~~ any person
7 acting as receiver in a rehabilitation, liquidation, or conservation of an insurer would
8 have under ~~§ 5-410 of the Courts Article.~~

9 ~~30-804.~~

10 (a) (1) ~~This subsection applies even if a paper or instrument is not:~~

11 (i) ~~executed by the [Secretary] COMMISSIONER or a deputy,~~
12 ~~employee, or attorney of record of the [Secretary] COMMISSIONER; and~~

13 (ii) ~~connected with the commencement of an action or~~
14 ~~proceeding by or against the [Secretary] COMMISSIONER or with the subsequent~~
15 ~~conduct of the action or proceeding.~~

16 (2) ~~Subject to subsection (b) of this section, the [Secretary]~~
17 ~~COMMISSIONER may not be required to pay to a public officer in the State a fee for~~
18 ~~filing, recording, or issuing a transcript or certificate or for authenticating a paper or~~
19 ~~instrument that relates to the exercise by the [Secretary] COMMISSIONER of a power~~
20 ~~or duty of the [Secretary] COMMISSIONER under this [subtitle] TITLE.~~

21 (b) (1) ~~The [Secretary or deputy secretary] COMMISSIONER OR DEPUTY~~
22 ~~COMMISSIONER, when acting as receiver or ancillary receiver under this [subtitle]~~
23 ~~TITLE, shall pay all court costs out of the assets of the provider before any distribution~~
24 ~~to creditors or termination of rehabilitation.~~

25 (2) ~~In all cases, court costs and those specified in subsection (a) of this~~
26 ~~section shall:~~

27 (i) ~~be charged in the accounts of the [Secretary]~~
28 ~~COMMISSIONER to the court; or~~

29 (ii) ~~be paid by the provider as a condition of termination of the~~
30 ~~action or proceeding.~~

31 ~~30-805.~~

32 (a) (1) ~~In a delinquency proceeding in which the [Secretary]~~
33 ~~COMMISSIONER has been appointed receiver, the [Secretary] COMMISSIONER may:~~

1 (i) ~~appoint one or more special deputy [secretaries]~~
2 ~~COMMISSIONERS to act for the [Secretary] COMMISSIONER; and~~

3 (ii) ~~employ counsel, clerks, and assistants.~~

4 (2) ~~Compensation of the special deputies, counsel, clerks, and~~
5 ~~assistants and all expenses of taking possession of the provider and of conducting the~~
6 ~~delinquency proceeding shall be:~~

7 (i) ~~set by the [Secretary] COMMISSIONER, subject to approval~~
8 ~~by the court; and~~

9 (ii) ~~paid out of the assets or funds of the provider.~~

10 (3) ~~Within the limits of duties imposed on a special deputy concerning~~
11 ~~a delinquency proceeding, the special deputy:~~

12 (i) ~~has all powers given to the receiver; and~~

13 (ii) ~~in the exercise of those powers, is subject to all the duties~~
14 ~~imposed on the receiver concerning the delinquency proceeding.~~

15 (b) ~~In a civil proceeding filed against a special deputy [secretary]~~
16 ~~COMMISSIONER appointed under this subtitle, the special deputy [secretary]~~
17 ~~COMMISSIONER is entitled to representation by the Attorney General as specified in~~
18 ~~Title 12, Subtitle 3, Part II of the State Government Article.~~

19 ~~30-806.~~

20 (a) ~~The Circuit Court of Baltimore City:~~

21 (1) ~~has exclusive original jurisdiction over delinquency proceedings;~~
22 ~~and~~

23 (2) ~~may issue all necessary and proper orders to carry out this~~
24 ~~[subtitle] TITLE.~~

25 (b) ~~If service is made in accordance with the Maryland Rules or other~~
26 ~~applicable law, a court with subject matter jurisdiction over an action brought under~~
27 ~~this [subtitle] TITLE also has jurisdiction over:~~

28 (1) ~~an officer, director, manager, trustee, organizer, promoter, or~~
29 ~~attorney in fact of a provider against which a delinquency proceeding has been~~
30 ~~commenced, in an action resulting from or incidental to the person's relationship with~~
31 ~~the provider;~~

1 ~~(2) a person that, at the time of or after commencement of the~~
2 ~~delinquency proceeding, held or was in control of assets in which the receiver claims~~
3 ~~an interest on behalf of the provider, in an action concerning the assets of the provider;~~
4 ~~and~~

5 ~~(3) a person obligated to the provider in any way, in an action on or~~
6 ~~incidental to the obligation.~~

7 ~~(e) The venue of all delinquency proceedings is in Baltimore City.~~

8 ~~30-807.~~

9 ~~(a) The [Secretary] COMMISSIONER shall commence a delinquency~~
10 ~~proceeding against a provider by applying to the court for an order that directs the~~
11 ~~provider to show cause why the court should not grant the relief requested.~~

12 ~~(b) (1) The court may consider an application for commencement of a~~
13 ~~delinquency proceeding only if the application is filed by the [Secretary]~~
14 ~~COMMISSIONER in the name of the State.~~

15 ~~(2) After a hearing under the terms of the show cause order, the court:~~

16 ~~(i) shall grant or deny the application; and~~

17 ~~(ii) may order other relief as the nature of the case and the~~
18 ~~interests of the creditors, stockholders, members, subscribers, or the public may~~
19 ~~require.~~

20 ~~30-808.~~

21 ~~(a) The [Secretary] COMMISSIONER may apply to the court for an order~~
22 ~~that directs the [Secretary] COMMISSIONER to conserve or rehabilitate a provider, if~~
23 ~~the provider:~~

24 ~~(1) is a provider for which the [Department] ADMINISTRATION has~~
25 ~~made a determination of significant risk of financial failure under [Part VII]~~
26 ~~SUBTITLE 7 of this [subtitle] TITLE;~~

27 ~~(2) has refused to submit to the [Secretary] COMMISSIONER or a~~
28 ~~deputy or examiner of the [Secretary] COMMISSIONER, for reasonable examination,~~
29 ~~any of the property, books, records, accounts, or affairs of the provider, or of a~~
30 ~~subsidiary or related company of the provider within the provider's control;~~

31 ~~(3) has concealed or removed its assets or records;~~

32 ~~(4) has willfully violated its charter, articles of incorporation, a State~~
33 ~~law, or an order of the [Secretary] COMMISSIONER;~~

1 ~~(5) after reasonable notice, has failed promptly and effectively to~~
2 ~~terminate the employment, status, and influence over the management of the provider~~
3 ~~of a person that has executive authority in fact over the provider and has refused to be~~
4 ~~examined under oath about the affairs of the provider in the State or elsewhere;~~

5 ~~(6) has been or is the subject of an application for appointment of a~~
6 ~~receiver, trustee, custodian, sequestrator, or similar fiduciary of the provider or its~~
7 ~~property in an action that was not filed under this [subtitle] TITLE, regardless of~~
8 ~~whether the appointment:~~

9 ~~(i) has been made;~~

10 ~~(ii) may deny the courts of the State jurisdiction; or~~

11 ~~(iii) may prejudice an orderly delinquency proceeding under this~~
12 ~~subtitle;~~

13 ~~(7) has consented to the order for conservation or rehabilitation~~
14 ~~through a majority of its directors, stockholders, members, or subscribers;~~

15 ~~(8) has failed to pay a final judgment rendered against it in the State~~
16 ~~on a continuing care agreement issued or assumed by the provider, within 60 days~~
17 ~~after the latest of:~~

18 ~~(i) the day on which the judgment became final;~~

19 ~~(ii) the day on which the time for taking an appeal expired; or~~

20 ~~(iii) the day on which an appeal was dismissed before final~~
21 ~~termination;~~

22 ~~(9) after examination by the [Secretary] COMMISSIONER, is found to~~
23 ~~be in a condition in which further transaction of its business will be hazardous to its~~
24 ~~subscribers, bondholders, creditors, or the public;~~

25 ~~(10) has failed to remove a person that has executive authority in fact~~
26 ~~over the provider after the [Secretary] COMMISSIONER has found that person to be~~
27 ~~dishonest or untrustworthy in a manner that may affect the business of the provider;~~

28 ~~(11) has reasonable cause to know, or should have known, that there~~
29 ~~has been:~~

30 ~~(i) embezzlement of funds from the provider;~~

31 ~~(ii) wrongful sequestration or diversion of assets of the provider;~~

1 (iii) ~~forgery or fraud that affects the provider; or~~

2 (iv) ~~other illegal conduct in, by, or with respect to the provider;~~

3 (12) ~~is controlled directly or indirectly by a person that the [Secretary]~~
4 ~~COMMISSIONER finds to be untrustworthy; or~~

5 (13) ~~has failed to file a financial report required by law within the time~~
6 ~~allowed by law and, after written demand by the [Secretary] COMMISSIONER, has~~
7 ~~failed to give an immediate and adequate explanation.~~

8 (b) (1) ~~If the appointment of the [Secretary] COMMISSIONER as receiver~~
9 ~~is not then in effect, and even if no previous order has directed the [Secretary]~~
10 ~~COMMISSIONER to rehabilitate a provider, the [Secretary] COMMISSIONER may~~
11 ~~apply to the court for an order that appoints the [Secretary] COMMISSIONER as~~
12 ~~receiver and that directs the [Secretary] COMMISSIONER to liquidate the provider if~~
13 ~~the provider:~~

14 (i) ~~has not done business for at least 1 year;~~

15 (ii) ~~is a provider determined to have a significant risk of~~
16 ~~financial failure under [Part VII] SUBTITLE 7 of this [subtitle] TITLE and has~~
17 ~~commenced voluntary liquidation or dissolution, or attempts to commence or prosecute~~
18 ~~an action or proceeding to liquidate its business or affairs, to dissolve its corporate~~
19 ~~charter, or to procure the appointment of a receiver, trustee, custodian, or sequestrator~~
20 ~~under any law except this title;~~

21 (iii) ~~is doing business in a fraudulent manner; or~~

22 (iv) ~~is in a condition in which further rehabilitation efforts on~~
23 ~~any grounds specified in subsection (a) of this section appear to be useless.~~

24 (2) ~~If at any time during a rehabilitation proceeding the [Secretary]~~
25 ~~COMMISSIONER determines that further efforts to rehabilitate the provider would be~~
26 ~~useless, the [Secretary] COMMISSIONER may apply to the court for an order of~~
27 ~~liquidation.~~

28 ~~30-809.~~

29 (a) (1) ~~An order to rehabilitate a provider shall:~~

30 (i) ~~appoint the [Secretary] COMMISSIONER as rehabilitator;~~

31 (ii) ~~direct the [Secretary] COMMISSIONER:~~

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~~1. to take possession of the property of the provider and conduct the business of the provider under the general supervision of the court; and~~

~~2. to take action the court directs to remove the causes and conditions that have made rehabilitation necessary;~~

~~(iii) vest title to all property of the provider in the rehabilitator; and~~

~~(iv) require the rehabilitator to make accountings to the court that:~~

~~1. are at intervals as the court specifies in its order, but not less frequently than two times each year; and~~

~~2. include the opinion of the rehabilitator about the likelihood of success of the rehabilitation.~~

~~(2) Issuance of an order of rehabilitation:~~

~~(i) does not constitute an anticipatory breach of any contract of the provider; and~~

~~(ii) is not grounds for retroactive revocation or retroactive cancellation of a contract of the provider, unless the rehabilitator revokes or cancels the contract.~~

~~(b) (1) Subject to paragraph (2) of this subsection, the [Secretary] COMMISSIONER, or an interested person on due notice to the [Secretary] COMMISSIONER, may apply to the court at any time for an order that:~~

~~(i) terminates a rehabilitation proceeding; and~~

~~(ii) allows the provider to resume possession of its property and the conduct of its business.~~

~~(2) An order under this subsection may not be issued unless, after a hearing, the court determines that the purposes of the rehabilitation proceeding have been fully accomplished.~~

~~(c) (1) An order to liquidate the business of a provider shall direct the [Secretary] COMMISSIONER promptly to:~~

~~(i) take possession of the property of the provider;~~

~~(ii) liquidate the business of the provider;~~

1 (iii) ~~deal with the property and business of the provider in the~~
2 ~~name of the [Secretary] COMMISSIONER or in the name of the provider, as the court~~
3 ~~directs; and~~

4 (iv) ~~notify each creditor that may have a claim against the~~
5 ~~provider to present the creditor's claim.~~

6 (2) ~~The [Secretary] COMMISSIONER may apply for, and the court~~
7 ~~may issue, an order to dissolve the corporate existence of a provider.~~

8 (i) ~~on application of the [Secretary] COMMISSIONER for an~~
9 ~~order to liquidate the provider; or~~

10 (ii) ~~at any time after the court has granted the order of~~
11 ~~liquidation.~~

12 (d) ~~An order to conserve the assets of a provider shall require the [Secretary]~~
13 ~~COMMISSIONER promptly to take possession of and conserve the property of the~~
14 ~~provider in the State, subject to further direction by the court.~~

15 ~~30-810.~~

16 (a) ~~In this section, "appointed receiver" means a person, other than the~~
17 ~~[Secretary] COMMISSIONER, that the court appoints as a conservator, rehabilitator,~~
18 ~~or receiver under this section.~~

19 (b) (1) ~~On motion of the court or the [Secretary] COMMISSIONER, the~~
20 ~~court may issue an order that appoints or substitutes a person other than the~~
21 ~~[Secretary] COMMISSIONER as conservator, rehabilitator, or receiver.~~

22 (i) ~~on initial application by the [Secretary] COMMISSIONER~~
23 ~~for an order to appoint the [Secretary] COMMISSIONER as conservator, rehabilitator,~~
24 ~~or receiver under this [subtitle] TITLE; or~~

25 (ii) ~~at any time during the course of a conservatorship,~~
26 ~~rehabilitation, or receivership under this [subtitle] TITLE.~~

27 (2) ~~An appointed receiver has the same powers and duties that the~~
28 ~~[Secretary] COMMISSIONER has under this [subtitle] TITLE as conservator,~~
29 ~~rehabilitator, or receiver.~~

30 (e) (1) ~~In addition to any other report required by the court, the court~~
31 ~~shall require an appointed receiver at least quarterly to file with the [Secretary]~~
32 ~~COMMISSIONER and court a report about:~~

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1 (i) ~~the status of the conservatorship, rehabilitation, or~~
2 ~~receivership; and~~

3 (ii) ~~the activities of the appointed receiver since the last report~~
4 ~~filed under this paragraph.~~

5 (2) ~~The report required under paragraph (1) of this subsection at a~~
6 ~~minimum shall include:~~

7 (i) ~~information of the character required by Title 13 of the~~
8 ~~Maryland Rules that applies to receivers generally;~~

9 (ii) ~~any other information necessary to provide a complete~~
10 ~~report on the financial affairs and condition of the conservatorship, rehabilitation, or~~
11 ~~receivership;~~

12 (iii) ~~a complete account of all efforts by the appointed receiver~~
13 ~~since the last report:~~

14 1. ~~to sell or dispose of the remaining business or assets~~
15 ~~of the provider; or~~

16 2. ~~to otherwise bring to a prompt conclusion the~~
17 ~~conservatorship, rehabilitation, or receivership; and~~

18 (iv) ~~copies of any actuarial or other evaluations of the business~~
19 ~~and assets under the control of the appointed receiver.~~

20 (3) ~~The report shall be audited unless for good cause the court waives~~
21 ~~the audit.~~

22 (d) ~~Subject to any protective order that the court considers appropriate,~~
23 ~~information filed under seal shall be provided to the [Secretary] COMMISSIONER.~~

24 (e) ~~The appointed receiver shall give the [Secretary] COMMISSIONER full~~
25 ~~access to all documents and records related to the conservatorship, rehabilitation, or~~
26 ~~receivership that are in the possession of the appointed receiver.~~

27 (f) ~~The [Secretary] COMMISSIONER may be a party to a conservatorship,~~
28 ~~rehabilitation, or receivership for which there is an appointed receiver.~~

29 (g) (1) ~~Subject to approval of the court, the [Secretary] COMMISSIONER~~
30 ~~may negotiate for sale of all or part of the assets or business of the provider placed in~~
31 ~~conservatorship, rehabilitation, or receivership.~~

32 (2) ~~The appointed receiver:~~

1 (i) ~~shall cooperate fully in any sales negotiation under~~
2 ~~paragraph (1) of this subsection; and~~

3 (ii) ~~may object to the terms of a sale of the assets or business of~~
4 ~~the provider that results from the negotiation.~~

5 (3) ~~After notice and an opportunity to be heard, the court may limit~~
6 ~~the efforts of the [Secretary] COMMISSIONER to undertake or continue negotiations~~
7 ~~for the sale of the assets or business of the provider if the negotiations would impair~~
8 ~~the ability of the appointed receiver to engage in similar negotiations or discharge~~
9 ~~other responsibilities.~~

10 (h) (1) ~~If the [Secretary] COMMISSIONER determines that an appointed~~
11 ~~receiver is not adequately discharging the duties and responsibilities of the position,~~
12 ~~the [Secretary] COMMISSIONER may file with the court an application that seeks to~~
13 ~~discharge the appointed receiver and to appoint the [Secretary] COMMISSIONER as~~
14 ~~conservator, rehabilitator, or receiver or to appoint another receiver.~~

15 (2) ~~If the [Secretary] COMMISSIONER establishes by a preponderance~~
16 ~~of the evidence that grounds exist for discharge of an appointed receiver, the court~~
17 ~~shall grant the application of the [Secretary] COMMISSIONER to discharge the~~
18 ~~appointed receiver and to appoint the [Secretary] COMMISSIONER as conservator,~~
19 ~~rehabilitator, or receiver or to appoint another receiver.~~

20 ~~30-813.~~

21 (a) ~~To facilitate the rehabilitation, liquidation, conservation, or dissolution of~~
22 ~~a provider under this [subtitle] TITLE, the [Secretary] COMMISSIONER, subject to~~
23 ~~the approval of the court, may:~~

24 (1) ~~borrow money;~~

25 (2) ~~execute, acknowledge, and deliver notes or other evidences of~~
26 ~~indebtedness for the loan;~~

27 (3) ~~secure the repayment of the loan by the mortgage, pledge,~~
28 ~~assignment, or transfer in trust of all or part of the property of the provider; and~~

29 (4) ~~take any other action necessary and proper to consummate the~~
30 ~~loan and to provide for its repayment.~~

31 (b) ~~The [Secretary] COMMISSIONER is not obligated personally or in an~~
32 ~~official capacity to repay a loan made under this section.~~

33 ~~30-814.~~

1 ~~(a) Whenever under this [subtitle] TITLE a receiver is to be appointed in a~~
2 ~~delinquency proceeding for a provider, the court shall:~~

3 ~~(1) appoint the [Secretary] COMMISSIONER as receiver; and~~

4 ~~(2) order the [Secretary] COMMISSIONER promptly to take~~
5 ~~possession of the assets of the provider and to administer the assets under the orders~~
6 ~~of the court.~~

7 ~~(b) Beginning on the date of issuance of an order that directs the [Secretary]~~
8 ~~COMMISSIONER to rehabilitate or liquidate a provider, the [Secretary]~~
9 ~~COMMISSIONER as receiver is vested by operation of law with title to and may take~~
10 ~~possession of all of the property, contracts, rights of action, books, and records of the~~
11 ~~provider, wherever located.~~

12 ~~(c) The filing of the order that directs possession to be taken, or a certified~~
13 ~~copy of the order, in an office where instruments affecting title to property are~~
14 ~~required to be filed provides the same notice as would be provided by a deed, bill of~~
15 ~~sale, or other evidence of title that is so filed.~~

16 ~~(d) (1) The [Secretary] COMMISSIONER as receiver shall administer~~
17 ~~properly all assets that come into the possession or control of the [Secretary]~~
18 ~~COMMISSIONER.~~

19 ~~(2) If considered desirable to protect the assets, the court at any time~~
20 ~~may require a bond from the [Secretary] COMMISSIONER or deputy [secretary]~~
21 ~~COMMISSIONER.~~

22 ~~(3) On taking possession of the assets of a provider and subject to the~~
23 ~~direction of the court, the [Secretary] COMMISSIONER immediately shall:~~

24 ~~(i) conduct the business of the provider; or~~

25 ~~(ii) take action authorized by this [subtitle] TITLE to~~
26 ~~rehabilitate, liquidate, or conserve the affairs or assets of the provider.~~

27 ~~30-816.~~

28 ~~(a) A transfer of or lien on the property of a provider is voidable if the~~
29 ~~transfer or lien is:~~

30 ~~(1) made or created within 4 months before the issuance of a show~~
31 ~~cause order under this [subtitle] TITLE;~~

1 ~~(2) made or created with the intent to give a creditor a preference or to~~
2 ~~enable the creditor to obtain a greater percentage of the debt than another creditor of~~
3 ~~the same class; and~~

4 ~~(3) accepted by the creditor having reasonable cause to believe that~~
5 ~~the preference will occur.~~

6 ~~(b) Each director, officer, employee, stockholder, member, subscriber, and~~
7 ~~any other person acting on behalf of a provider that is concerned in a voidable transfer~~
8 ~~under subsection (a) of this section and each person that, as a result of the voidable~~
9 ~~transfer, receives any property of the provider or benefits from the voidable transfer:~~

10 ~~(1) is personally liable; and~~

11 ~~(2) shall account to the [Secretary] COMMISSIONER.~~

12 ~~(c) The [Secretary] COMMISSIONER as receiver in a delinquency proceeding~~
13 ~~may:~~

14 ~~(1) avoid a transfer of or lien on the property of a provider that a~~
15 ~~creditor, stockholder, subscriber, or member of the provider might have avoided; and~~

16 ~~(2) recover the transferred property or its value from the person that~~
17 ~~received it unless that person was a bona fide holder for value before the date of~~
18 ~~issuance of a show cause order under this [subtitle] TITLE.~~

19 ~~30-817.~~

20 ~~(a) (1) The [Secretary] COMMISSIONER shall deposit moneys collected in~~
21 ~~a delinquency proceeding in a State or national bank, savings bank, or trust company.~~

22 ~~(2) Deposits made by the [Secretary] COMMISSIONER under~~
23 ~~paragraph (1) of this subsection have priority of payment equal to any other priority~~
24 ~~specified by the banking laws of this State if the depository:~~

25 ~~(i) is an institution organized and supervised under the laws of~~
26 ~~this State; and~~

27 ~~(ii) becomes insolvent or liquidates voluntarily or involuntarily.~~

28 ~~(3) The [Secretary] COMMISSIONER may deposit all or part of the~~
29 ~~moneys collected in a national bank or trust company as a trust fund.~~

30 ~~(b) To the extent that an investment or account is insured by the Federal~~
31 ~~Deposit Insurance Corporation, the [Secretary] COMMISSIONER may invest in shares~~
32 ~~of or deposits in a savings and loan association or building and loan association.~~

1 ~~30-818.~~

2 (a) (1) ~~If on issuance of an order of liquidation under this [subtitle] TITLE~~
3 ~~or at any time during a liquidation proceeding the provider is not clearly solvent, the~~
4 ~~court, after notice it considers proper and a hearing, shall issue an order that the~~
5 ~~provider is an impaired provider.~~

6 (2) ~~Notwithstanding any previous notice given to creditors, after~~
7 ~~issuance of an order under paragraph (1) of this subsection, the [Secretary]~~
8 ~~COMMISSIONER shall notify each person that may have a claim against the provider~~
9 ~~that the claim is forever barred unless the person files the claim with the [Secretary]~~
10 ~~COMMISSIONER at a place and within the time specified in the notice.~~

11 (3) ~~The time specified in the notice:~~

12 (i) ~~shall be as set by the court for filing claims; but~~

13 (ii) ~~may not be less than 6 months after issuance of the order~~
14 ~~that the provider is an impaired provider.~~

15 (4) ~~The notice shall be given in the manner and for the reasonable~~
16 ~~period of time that the court orders.~~

17 (b) (1) ~~Each claimant shall set forth in reasonable detail:~~

18 (i) ~~the amount of the claim or the basis on which the amount~~
19 ~~can be determined;~~

20 (ii) ~~the facts on which the claim is based; and~~

21 (iii) ~~any priority asserted by the claimant.~~

22 (2) ~~Each claim shall:~~

23 (i) ~~be verified by the affidavit of the claimant or a person~~
24 ~~authorized to act on behalf of the claimant who has knowledge of the facts; and~~

25 (ii) ~~be supported by any documents that may be material to the~~
26 ~~claim.~~

27 (3) ~~Each claim shall be filed with the receiver in the State on or before~~
28 ~~the last date specified under this [subtitle] TITLE for filing of claims.~~

29 (e) ~~The receiver shall:~~

30 (1) ~~report a claim to the court:~~

- 1 (i) ~~within 10 days after receiving the claim; or~~
- 2 (ii) ~~within an additional period set by the court for good cause~~
3 ~~shown; and~~
- 4 (2) ~~recommend in the report action to be taken on the claim.~~
- 5 (d) (1) ~~On receipt of the report of the receiver, the court shall:~~
- 6 (i) ~~set a time for hearing the claim; and~~
- 7 (ii) ~~direct the claimant or receiver to give notice as the court~~
8 ~~determines to each person that appears to the court to be interested in the claim.~~
- 9 (2) ~~The notice given in accordance with this subsection shall:~~
- 10 (i) ~~specify the time and place of the hearing; and~~
- 11 (ii) ~~state concisely:~~
- 12 1. ~~the amount and nature of the claim;~~
- 13 2. ~~any priority asserted by the claimant; and~~
- 14 3. ~~the recommendation of the receiver about the claim.~~
- 15 (e) (1) ~~At the hearing specified under subsection (d) of this section:~~
- 16 (i) ~~each person with an interest in the claim may appear; and~~
- 17 (ii) ~~the court shall issue an order in which the court allows in~~
18 ~~part, or disallows the claim.~~
- 19 (2) ~~An order under this subsection is a final order subject to appeal.~~
- 20 ~~30-819.~~
- 21 (a) In this section, ~~“preferred claim” means a claim that is given priority of~~
22 ~~payment from the general assets of a provider under the laws of the State or the~~
23 ~~United States.~~
- 24 (b) (1) ~~The first \$500 of compensation or wages owed to an officer or~~
25 ~~employee of a provider for services rendered within 3 months before the~~
26 ~~commencement of a delinquency proceeding against the provider shall be paid before~~
27 ~~payment of any other debt or claim.~~

1 ~~(2) Subject to paragraph (3) of this subsection, the [Secretary]~~
2 ~~COMMISSIONER may pay the compensation required to be paid under this subsection~~
3 ~~as soon as practicable after commencement of the delinquency proceeding.~~

4 ~~(3) At all times, the [Secretary] COMMISSIONER shall reserve funds~~
5 ~~that the [Secretary] COMMISSIONER believes are sufficient for expenses of~~
6 ~~administration.~~

7 ~~(4) The priority required under this subsection is instead of any other~~
8 ~~similar priority that may be authorized by law as to wages or compensation.~~

9 ~~(e) Priority over all other claims in a liquidation proceeding, other than~~
10 ~~claims for wages specified in subsection (b) of this section, expenses of administration,~~
11 ~~and taxes, shall be given to claims by subscribers that arise from continuing care~~
12 ~~agreements with the provider, including claims to the statutory refund required by [§~~
13 ~~10 448] § 30-505 of this [subtitle] TITLE.~~

14 ~~(d) (1) The owner of a secured claim against a provider for which a~~
15 ~~receiver has been appointed in this State or another state may:~~

16 ~~(i) surrender the security and file the claim as a general~~
17 ~~creditor; or~~

18 ~~(ii) have the claim discharged by resort to the security.~~

19 ~~(2) If the owner of a secured claim has the claim discharged by resort~~
20 ~~to the security, any deficiency shall be treated as a claim against the general assets of~~
21 ~~the provider on the same basis as the claims of unsecured creditors.~~

22 ~~(3) The amount of a deficiency is conclusive if adjudicated by a court of~~
23 ~~competent jurisdiction in a proceeding in which the receiver has been given notice and~~
24 ~~an opportunity to be heard.~~

25 ~~(4) If the amount of a deficiency is not conclusive, the amount shall be~~
26 ~~determined in a delinquency proceeding in the State.~~

27 ~~30-820.~~

28 ~~(a) (1) Subject to paragraph (2) of this subsection, contingent and~~
29 ~~unliquidated claims may not share in a distribution of the assets of a provider that has~~
30 ~~been adjudicated to be an impaired provider by an order issued under this [subtitle]~~
31 ~~TITLE.~~

32 ~~(2) If properly presented, a contingent and unliquidated claim shall be~~
33 ~~considered and may be allowed to share if:~~

1 (i) ~~the claim becomes absolute against the provider on or before~~
2 ~~the last day for filing claims against the assets of the provider; or~~

3 (ii) ~~there is a surplus and the liquidation is subsequently~~
4 ~~conducted on the basis that the provider is solvent.~~

5 (b) (1) ~~Except as provided in paragraph (2) of this subsection, a claim of a~~
6 ~~person that has a secured claim may not be allowed at a sum greater than the~~
7 ~~difference between:~~

8 (i) ~~the value of the claim without security; and~~

9 (ii) ~~the value of the security itself on:~~

10 1. ~~the date of issuance of the liquidation order; or~~

11 2. ~~another date set by the court for determining rights~~
12 ~~and liabilities as provided in subsection (c) of this section.~~

13 (2) ~~If the claimant surrenders the security to the [Secretary]~~
14 ~~COMMISSIONER, the claim shall be allowed in the full amount for which it is valued.~~

15 (c) ~~Subject to the provisions of this [subtitle] TITLE on the rights of~~
16 ~~claimants holding contingent claims, and unless otherwise directed by the court, the~~
17 ~~rights and liabilities of a provider and creditors, stockholders, members, subscribers,~~
18 ~~and other persons interested in the estate of the provider are fixed on the date on~~
19 ~~which the order that directs the liquidation of the provider is filed in the office of the~~
20 ~~clerk of the court that issued the order.~~

21 ~~30-821.~~

22 (a) ~~Except as provided in subsection (b) of this section, in all cases of mutual~~
23 ~~debts and credits between a provider and another person in connection with a~~
24 ~~delinquency proceeding, the debts and credits shall be offset and the balance only shall~~
25 ~~be allowed or paid.~~

26 (b) ~~An offset may not be allowed in favor of another person if:~~

27 (1) ~~on the date of issuance of a liquidation order or otherwise, as~~
28 ~~specified in [§ 10-491(e)] § 30-820(C) of this subtitle, the obligation of the provider to~~
29 ~~the person would not entitle the person to share as a claimant in the assets of the~~
30 ~~provider; or~~

31 (2) ~~the obligation of the provider to the person was purchased by or~~
32 ~~transferred to the person for use as an offset.~~

33 ~~30-822.~~

1 ~~If a provider is the subject of a bankruptcy or receivership action, the claims of~~
2 ~~subscribers shall be administered in accordance with [§ 10-490(c)] § 30-819(c) of this~~
3 ~~subtitle for the purpose of any legal action in conjunction with the bankruptcy or~~
4 ~~receivership.~~

5 ~~30-901.~~

6 ~~(a) A person may not maintain or operate a facility offering continuing care~~
7 ~~without having obtained an initial or renewal certificate of registration.~~

8 ~~(b) A person may not disseminate prohibited advertising or promotional~~
9 ~~materials.~~

10 ~~(c) A person may not provide false registration information to the~~
11 ~~[Department] ADMINISTRATION.~~

12 ~~(d) (1) A person who violates any provision of this [subtitle] TITLE is~~
13 ~~guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6~~
14 ~~months or a fine not exceeding \$1,000 or both.~~

15 ~~(2) Each violation of this subtitle constitutes a separate offense.~~

16 ~~30-902.~~

17 ~~(a) The [Secretary] COMMISSIONER may impose a civil money penalty~~
18 ~~against a provider for an action or inaction that violates this [subtitle] TITLE or any~~
19 ~~regulation adopted by the [Department] ADMINISTRATION under this [subtitle]~~
20 ~~TITLE.~~

21 ~~(b) (1) Before imposing a civil money penalty under subsection (a) of this~~
22 ~~section, the [Department] ADMINISTRATION shall issue a notice of violation to the~~
23 ~~provider.~~

24 ~~(2) The notice shall state:~~

25 ~~(i) when the provider must submit a plan of correction that is~~
26 ~~acceptable to the [Department] ADMINISTRATION;~~

27 ~~(ii) when each identified violation must be substantially~~
28 ~~corrected, which may not be less than 30 days; and~~

29 ~~(iii) that failure to submit an acceptable plan of correction as~~
30 ~~required under item (i) of this paragraph or to correct an identified violation may~~
31 ~~result in an order imposing a civil money penalty under subsection (d) of this section.~~

1 ~~(e) If at the expiration of the time set forth in the notice required under~~
2 ~~subsection (b) of this section the [Department] ADMINISTRATION determines a~~
3 ~~violation has not been corrected, the [Secretary] COMMISSIONER may:~~

4 ~~(1) extend the time in which the violation must be corrected; or~~

5 ~~(2) impose a civil money penalty under subsection (d) of this section.~~

6 ~~(d) (1) The [Secretary] COMMISSIONER may impose a civil money~~
7 ~~penalty not exceeding \$5,000 for each violation.~~

8 ~~(2) In setting the amount of a civil money penalty under this section,~~
9 ~~the [Secretary] COMMISSIONER shall consider the following factors:~~

10 ~~(i) the number, nature, and seriousness of the violations;~~

11 ~~(ii) the degree of risk to the health, life, or physical or financial~~
12 ~~safety of the subscribers caused by the violations;~~

13 ~~(iii) the efforts made by the provider to correct the violations;~~

14 ~~(iv) whether the amount of the proposed civil money penalty will~~
15 ~~jeopardize the financial ability of the provider to continue operating; and~~

16 ~~(v) other factors as justice may require.~~

17 ~~(3) If a civil money penalty is imposed under this section, the~~
18 ~~[Department] ADMINISTRATION shall issue an order stating:~~

19 ~~(i) the basis on which the order is made;~~

20 ~~(ii) each regulation or statute violated;~~

21 ~~(iii) each civil money penalty imposed and the total amount of~~
22 ~~the civil money penalty imposed; and~~

23 ~~(iv) the manner in which the amount of the civil money penalty~~
24 ~~was calculated.~~

25 ~~(4) (i) The [Department] ADMINISTRATION shall provide written~~
26 ~~notice to a provider of the imposition of a civil money penalty.~~

27 ~~(ii) The notice shall be served on the provider by certified mail~~
28 ~~and shall include the order and a statement on how to file an administrative appeal.~~

1 ~~(5) If a civil money penalty is imposed under this section, the provider~~
2 ~~has the right to appeal from the order in accordance with Title 10, Subtitle 2 of the~~
3 ~~State Government Article.~~

4 ~~(e) (1) A provider shall pay a civil money penalty to the [Department]~~
5 ~~ADMINISTRATION within 10 days after the provider receives a final order imposing~~
6 ~~the civil money penalty.~~

7 ~~(2) An order imposing a civil money penalty is final when the provider~~
8 ~~has exhausted all opportunities to contest the civil penalty in accordance with Title 10,~~
9 ~~Subtitle 2 of the State Government Article.~~

10 ~~(3) If a provider does not comply with this section, the [Department]~~
11 ~~ADMINISTRATION may file a civil action to recover the penalty.~~

12 ~~(4) The [Department] ADMINISTRATION shall deposit all civil money~~
13 ~~penalties collected under this section into the General Fund.~~

14 ~~30-903.~~

15 ~~(a) (1) Any subscriber injured by a violation of this [subtitle] TITLE may~~
16 ~~bring an action for equitable relief or an action for damages in any court of general~~
17 ~~jurisdiction.~~

18 ~~(2) In an action described in paragraph (1) of this subsection, the court~~
19 ~~may award reasonable attorney's fees to a subscriber in whose favor a judgment is~~
20 ~~entered.~~

21 ~~(b) The [Department] ADMINISTRATION may bring an action for an~~
22 ~~appropriate temporary restraining order or injunction for a violation of this [subtitle]~~
23 ~~TITLE.~~

24 ~~30-904.~~

25 ~~(a) The [Department] ADMINISTRATION may use the receivership~~
26 ~~provisions of [Part VIII of this subtitle] SUBTITLE 8 OF THIS TITLE to protect the~~
27 ~~interests of subscribers in:~~

28 ~~(1) the substantial advance payments subscribers have made in the~~
29 ~~form of entrance fees and, when applicable, periodic fees, for future continuing care~~
30 ~~without necessarily having any ownership in or control of the provider or the facility;~~

31 ~~(2) the insurance aspects of continuing care agreements, as applicable;~~
32 ~~and~~

33 ~~(3) the continued delivery of services committed to under continuing~~
34 ~~care agreements.~~

1 (b) ~~The [Department] ADMINISTRATION may petition for the appointment~~
2 ~~of a receiver:~~

- 3 (1) ~~if there is a threat of immediate closure of a facility;~~
4 (2) ~~if the provider is not honoring its contracts with its subscribers;~~
5 (3) ~~to prohibit the improper diversion of the provider's assets and~~
6 ~~records from the facility or the State; or~~
7 (4) ~~if the [Department] ADMINISTRATION has made a determination~~
8 ~~of a significant risk of financial failure in accordance with [§§ 10-467 and 10-469] §§~~
9 ~~30-705 AND 30-707 of this [subtitle] TITLE.~~

10 (c) ~~The [Department] ADMINISTRATION may petition for the appointment~~
11 ~~of a receiver before the provider files a plan of correction.~~

12 (d) ~~The receiver may rehabilitate, conserve, or liquidate as provided by the~~
13 ~~order of appointment and [Part VIII of this subtitle] SUBTITLE 8 OF THIS TITLE.~~

14 ~~SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland~~
15 ~~read as follows:~~

16 ~~Article — Insurance~~

17 ~~30-102.~~

18 (a) (1) ~~A continuing care at home provider is subject to each provision of~~
19 ~~this [subtitle] TITLE except [Part II] SUBTITLE 2 and [§§ 10-446 and 10-448] §§~~
20 ~~30-503 AND 30-505 OF THIS TITLE.~~

21 (2) ~~A continuing care in a retirement community provider is subject to~~
22 ~~each provision of this [subtitle] TITLE except [Part VI] SUBTITLE 6 OF THIS TITLE.~~

23 (b) (1) ~~A continuing care operation that is subject to the provisions of this~~
24 ~~[subtitle] TITLE is not subject to:~~

25 (i) ~~the Maryland Health Maintenance Organization Act under~~
26 ~~Title 19, Subtitle 7 of the Health — General Article;~~

27 (ii) ~~except for § 15-603 of [the Insurance Article, the Insurance~~
28 ~~Article] THIS ARTICLE, OTHER PROVISIONS OF THIS ARTICLE;~~

29 (iii) ~~Title 8 of the Real Property Article;~~

30 (iv) ~~any county or municipal landlord-tenant law; or~~

(v) ~~§ 19-310.1 of the Health General Article.~~

(2) ~~If a provider contractually utilizes the services of a licensed home health agency or residential service agency and is not itself directly providing the type of services provided by a home health agency or residential service agency, the provider is not subject to Title 19, Subtitles 4 and 4A of the Health General Article.~~

(3) ~~Except as provided in paragraphs (1) and (2) of this subsection, a continuing care at home provider is subject to all other applicable licensing or certification requirements of State law.~~

(e) ~~This [subtitle] TITLE does not apply to an agreement that is regulated as insurance under [the Insurance Article] THIS ARTICLE.~~

(d) ~~A provider that offers assisted living program services as part of a continuum of care in accordance with a continuing care agreement may:~~

(1) ~~execute a separate assisted living resident agreement and a separate assisted living disclosure statement; or~~

(2) ~~meet the requirements of [§§ 10-425(e) and 10-444(e)] §§ 30-307(C) AND 30-501(E) of this [subtitle] TITLE.~~

(e) ~~The liability of a provider to the Department of Health and Mental Hygiene under § 15-603 of [the Insurance Article] THIS ARTICLE shall be limited to the amount of the refund that would be due to the subscriber if the subscriber were dismissed under [§ 10-448] § 30-505 of this [subtitle] TITLE at the time of enrollment in services provided by or paid wholly or partly by the Department of Health and Mental Hygiene.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article Insurance~~

~~30-102.~~

(a) (1) ~~A continuing care at home provider is subject to each provision of this [subtitle] TITLE except [Part II] SUBTITLE 2 and [§§ 10-446 and 10-448] §§ 30-503 AND 30-505 OF THIS TITLE.~~

(2) ~~A continuing care in a retirement community provider is subject to each provision of this [subtitle] TITLE except [Part VI] SUBTITLE 6 OF THIS TITLE.~~

(b) (1) ~~A continuing care operation that is subject to the provisions of this [subtitle] TITLE is not subject to:~~

1 (i) ~~the Maryland Health Maintenance Organization Act under~~
2 ~~Title 19, Subtitle 7 of the Health General Article;~~

3 (ii) ~~except for § 15-603 of [the Insurance Article, the Insurance~~
4 ~~Article] THIS ARTICLE, OTHER PROVISIONS OF THIS ARTICLE;~~

5 (iii) ~~Title 8 of the Real Property Article; or~~

6 (iv) ~~any county or municipal landlord-tenant law.~~

7 (2) ~~If a provider contractually utilizes the services of a licensed home~~
8 ~~health agency or residential service agency and is not itself directly providing the type~~
9 ~~of services provided by a home health agency or residential service agency, the~~
10 ~~provider is not subject to Title 19, Subtitles 4 and 4A of the Health General Article.~~

11 (3) ~~Except as provided in paragraphs (1) and (2) of this subsection, a~~
12 ~~continuing care at home provider is subject to all other applicable licensing or~~
13 ~~certification requirements of State law.~~

14 (e) ~~This [subtitle] TITLE does not apply to an agreement that is regulated as~~
15 ~~insurance under [the Insurance Article] THIS ARTICLE.~~

16 (d) ~~A provider that offers assisted living program services as part of a~~
17 ~~continuum of care in accordance with a continuing care agreement may:~~

18 (1) ~~execute a separate assisted living resident agreement and a~~
19 ~~separate assisted living disclosure statement; or~~

20 (2) ~~meet the requirements of [§§ 10-425(c) and 10-444(c)] §§~~
21 ~~30-307(C) AND 30-501(E) of this [subtitle] TITLE.~~

22 (e) ~~The liability of a provider to the Department of Health and Mental~~
23 ~~Hygiene under § 15-603 of [the Insurance Article] THIS ARTICLE shall be limited to~~
24 ~~the amount of the refund that would be due to the subscriber if the subscriber were~~
25 ~~dismissed under [§ 10-448] § 30-505 of this [subtitle] TITLE at the time of~~
26 ~~enrollment in services provided by or paid wholly or partly by the Department of~~
27 ~~Health and Mental Hygiene.~~

28 ~~SECTION 5. AND BE IT FURTHER ENACTED, That the Maryland Insurance~~
29 ~~Administration, in consultation with LifeSpan Network and the continuing care~~
30 ~~retirement community, shall conduct a comprehensive review of the statutory and~~
31 ~~regulatory provisions governing continuing care to determine methods for~~
32 ~~streamlining and simplifying the continuing care process. On or before January 1,~~
33 ~~2010, the Administration shall report, in accordance with § 2-1246 of the State~~
34 ~~Government Article, to the Governor and General Assembly on the review and any~~
35 ~~changes or actions taken as a result of the review.~~

1 ~~SECTION 6. AND BE IT FURTHER ENACTED, That the publisher of the~~
 2 ~~Annotated Code of Maryland, in consultation with and subject to the approval of the~~
 3 ~~Department of Legislative Services, shall correct, with no further action required by~~
 4 ~~the General Assembly, cross references and terminology rendered incorrect by this~~
 5 ~~Act or by any other Act of the General Assembly of 2009 that affects provisions~~
 6 ~~enacted by this Act. The publisher shall adequately describe such correction in an~~
 7 ~~editor's note following the section affected.~~

8 ~~SECTION 7. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall~~
 9 ~~take effect on the taking effect of the termination provision specified in Section 6 of~~
 10 ~~Chapter 503 of the Acts of the General Assembly of 2007. If that termination provision~~
 11 ~~takes effect, Section 3 of this Act shall be abrogated and of no further force and effect.~~
 12 ~~This Act may not be interpreted to have any effect on that termination provision.~~

13 ~~SECTION 8. AND BE IT FURTHER ENACTED, That, except as provided in~~
 14 ~~Section 7 of this Act, this Act shall take effect October 1, 2009.~~

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.