



# HOUSE BILL 357: Continuing Care Retirement Communities Act.

2025-2026 General Assembly

<b>Committee:</b>	Senate Rules and Operations of the Senate	<b>Date:</b>	June 20, 2025
<b>Introduced by:</b>	Reps. Humphrey, Almond, Arp, Setzer	<b>Prepared by:</b>	Bill Patterson*
<b>Analysis of:</b>	Third Edition		Staff Attorney

**OVERVIEW:** *House Bill 357 would repeal the current laws regulating community care retirement communities and create the "Continuing Care Retirement Communities Act."*

**CURRENT LAW:** Continuing care retirement communities (CCRCs) are currently regulated by the Department of Insurance under Article 64 of Chapter 58 of the General Statutes.

**BILL ANALYSIS:** House Bill 357 would repeal the current laws regulating CCRCs and replace them with the following provisions to be known as the "Continuing Care Retirement Communities Act" in a new Article 64A in Chapter 58. Many of the provisions are substantially similar to the current law, and there are also a number of new provisions.

## **PART I. General Provisions**

Part 1 would amend existing definitions and create new definitions under the Act.

Before providing continuing care or leasing land for a continuing care retirement community, a person would have to obtain approval from the Commissioner of Insurance (COI).

All filings required by the COI would be submitted electronically.

The COI could waive or modify any provision of the Act for a state of emergency or disaster or an incident beyond the provider's reasonable control.

Certain documents of the provider would be confidential and not public record.

A provider would be prohibited from advertising in a way that conflicts with its disclosure statement or any continuing care contract.

## **PART II. Approval, Certification, Licensure, and Permitting Process**

Part 2 would require a person to obtain different types of approvals from the COI during the process of establishing a continuing care business and building a continuing care retirement community. Each approval would have its own application and approval requirements.

Before marketing a proposed continuing care retirement community to measure its viability and accepting deposits to reserve a unit, a person would have to obtain a permit from the COI.

A person would pay \$2,000 and apply to the COI for a start-up certificate, which if approved, would allow the person to enter into contracts and accept entrance fees and deposits, begin site preparation work, and construct model independent living units for marketing.

After receiving approval for a preliminary certificate from the COI, a person could construct a continuing care retirement community.

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Approval by the COI of a permanent license would allow a provider to open a continuing care retirement community and provide continuing care. If the COI determines that a person did not meet the requirements for a permanent license, the COI could deny the application or issue a restricted permanent license. If a restricted license is issued, the COI would explain the restrictions and the conditions that must be satisfied to qualify for a permanent license.

After the issuance of a permit, a provider would submit periodic status reports to the COI. After the issuance of a certificate or license, a provider would submit periodic sales, development, and financial reports to the COI and post its disclosure statement on the Department's website.

The COI would follow a specific schedule when responding to, reviewing, and approving or disapproving applications.

## **PART III. Expansion**

Part 3 would require a provider to notify and obtain written approval from the COI before marketing and collecting deposits for a proposed expansion of a continuing care retirement community that is 20% or more of existing independent living units. Approval of the expansion notification would allow the provider to advertise the expansion, enter into contracts, and collect deposits for independent living units. Construction on the expansion would also have to be approved by the COI.

## **PART IV. Escrow Account**

Part 4 would establish rules and regulations for a provider's handling of entrance fees and deposits and escrow accounts and escrow agreements. All entrance fees and deposits would be deposited in an escrow account and not commingled with any other funds. The escrow agent, escrow agreement, and any changes to the escrow agreement, would be approved by the COI. Interest, income, and other gains derived from funds held in an escrow account would not be released or distributed from the escrow account without the written approval of the COI. The COI would also have to approve when any escrow fund is encumbered or used as collateral. A provider would have to petition the COI in writing to request a release of escrowed entrance fees and deposits. The escrow agent would release the fees and deposits only after receiving permission from the COI in writing.

## **PART V. Disclosure Statement**

Part 5 would create new definitions under this Part and require a provider to prepare a disclosure statement for each continuing care retirement community operated in the State and establish what must be included in the statement. The COI would be required to review the statement for completeness, but not accuracy. The COI could require the provider to amend the statement to provide full disclosure to the residents and if the statement is incomplete, unnecessarily complex, voluminous, confusing, or illegible. The COI would post the statement for each continuing care retirement community on the Department's website.

A provider would be required to deliver a disclosure statement to a prospective resident upon either the execution of a contract or the transfer of money or a deposit, whichever occurs first. The resident would sign an acknowledgement of receipt, and the provider would keep a copy of all the documents for at least five years.

Within 150 days of the end of each fiscal year, a provider would file a revised disclosure statement and pay a filing fee of \$2,000. The COI would post the revised statement on the Department's website, and the provider would make the statement available to all residents and depositors. If the provider fails to file a revised disclosure statement by the due date, and no extension has been granted, a \$1,000 late fee will be charged.

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A provider could revise its disclosure statement at any time if, in the opinion of the provider, revision is necessary to prevent an otherwise current disclosure statement from containing a material misstatement of fact or omitting a required material fact. The COI would post the revised statement on the Department's website.

## **PART VI. Binding Reservation Agreement and Continuing Care Contract**

Part 6 would establish requirements for binding reservation agreements between a depositor and a provider and continuing care contracts between a resident and a provider. The documents would contain provisions addressing when the agreement or contract could be rescinded, would be automatically cancelled, and when money would be refunded to a depositor or resident.

In addition, a continuing care contract would have to provide additional information including fees to be charged to residents and the policies on increasing fees or adjusting fees if a resident is absent or cannot pay. A continuing care contract would also include a notice provision encouraging residents to seek financial and legal advice before signing the contract.

## **PART VII. Continuing Care at Home**

Part 7 would require a person, who has either a permanent license or a restricted permanent license, to obtain a license from the COI and pay a \$500 application fee before arranging or providing continuing care at home. After receiving a license, the provider would be required to file a disclosure statement and periodic reports with the COI.

A continuing care at home contract between an individual and a provider would contain provisions addressing when the contract could be rescinded, would be automatically cancelled, and when money would be refunded to a depositor or resident.

In addition, a continuing care at home contract would have to provide additional information including all required fees and the policies on adjusting fees and the services to be provided. A continuing care at home contract would also include a notice provision encouraging residents to seek financial and legal advice before signing the contract.

## **PART VIII. Financial Reporting and Monitoring**

Part 8 would require a provider to have an annual audit by certified public accountant and to file the resulting audited financial statements with the COI within 150 days of the end of each fiscal year. In addition to the list of what must be included and the preparation requirements, the audited financial statements would report the financial position of the provider as of the end of the most recent fiscal year and the results of its operations, cash flows, and changes in equity or net assets for the past year. If the provider had previously filed audited financial statements with the COI, the statements would compare the amounts as of the most current year end and the amounts as of the immediately preceding year end. If a provider also provides continuing care at home, the audited financial statements must include revenue and expenses related to those services separately from the provider's other operations.

Within 45 days after the end of each fiscal quarter, a provider would be required to file financial statements with the COI and notify the COI of any changes in the provider's governing body or organizational documents.

At least once every three years, a provider would submit an actuarial study to the COI for each continuing care retirement community and any continuing care at home program it operates.

If the COI determines that additional information is needed to properly monitor the financial conditions or operations of a provider or to protect the interests of residents or the general public, the COI may require additional information from a provider.

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## **PART IX. Notification Requirements**

Part 9 would require a provider to notify the COI and all residents in writing within 10 business days of certain events including failing to maintain the operating reserve required under the Act and violating any debt agreement. A provider would be required to notify the COI of any material changes or deviations in information submitted to the COI within 10 business days of becoming aware of the change or deviation.

## **PART X. Other Transactions and Changes**

Part 10 would prohibit the transfer of a permit, certificate, or license issued under the Act, and no permit, certificate, or license would have value for sale or exchange as property. Any provider or person who owns real property or leases or uses real property in the operations of a continuing care retirement community would first have to obtain approval from the COI before selling, transferring, or purchasing any real property used in the operations of a continuing care retirement community. The provider would request approval at least 45 days prior to the transaction and give notice to all affected residents and depositors of the proposed transaction within 10 business days after receiving approval from the COI.

A person would be required to obtain the COI's approval before entering into an agreement to merge with, or acquire control of, a provider holding a certificate or license under the Act. The provider would give notice to all affected residents and depositors of the proposed merger or acquisition within 10 business days after receiving approval from the COI.

Before contracting with a third party for the management of a continuing care retirement community, the provider must obtain approval from the COI and inform all residents in writing of the request for approval within 10 business days after the request for approval is submitted to the COI. The provider must remove a third-party manager immediately under certain circumstances.

## **PART XI. Operating Reserve**

Part 11 would establish an operating reserve requirement for a provider after opening a continuing care retirement community. The COI would be able to increase the amount a provider is required to maintain or require the provider to place the operating reserve on deposit with the COI if the COI determines that the provider is in a hazardous condition. The provider would have to notify all residents in writing if the COI took such actions and provide a power of attorney to the COI.

A provider would fund its operating reserve with qualifying assets including cash and cash equivalents, investment grade securities, corporate stock that is traded on a public securities exchange that can be readily valued and liquidated for cash, and other assets considered to be acceptable by the COI. Assets maintained by the provider as an operating reserve would not be subject to any liens, charges, judgments, garnishments, or creditors' claims and would not be pledged as collateral or otherwise encumbered. A provider could fund an operating reserve by filing a surety bond or letter of credit with the COI.

To release an operating reserve in whole, or in part, a provider would submit a detailed request in writing to the COI, and at the same time, provide written notice of the request to all residents. The COI could deny the request if it is determined that the release is not in the best interests of the residents.

When a provider files its audited financial statements with the COI, it would also file an operating reserve certification.

## **PART XII. Offense and Penalties**

Part 12 would allow the COI to deny an application or request for approval or restrict or revoke any permit, certificate, license, or other authorization issued under the Act if an applicant or provider committed certain acts or violations.

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If the COI issued a cease-and-desist order, restriction, or revocation, the provider would have to notify all residents and depositors of the action within five business days. While a revocation order is under appeal, the provider could not accept any new deposits or entrance fees, however, a revocation would not release the provider from its obligations under continuing care and continuing care at home contracts.

The COI would consider several factors to determine if a provider is in a hazardous condition including whether the provider is impaired or insolvent, adverse findings in audit financial statements and actuarial opinions, whether the provider is contractually past due on entrance fee refunds, the age and collectability of receivables, and past or possibly future cash flow or liquidity problems.

After determining that a provider is in a hazardous condition, the COI could issue an order requiring a provider to submit a corrective action plan within 45 days and to notify all residents and depositors of the order. The plan would include proposals of how to eliminate the hazardous condition and a date the provider anticipates it will rectify the problems and deficiencies identified by the COI.

The COI would have investigative authority inside and outside of the State.

A provider, who enters into an agreement or contract with a person without first delivering a disclosure statement to the person, or who enters into an agreement or contract with a person who relies on a false disclosure statement, would be liable to that person for actual damages and repayment of all fees regardless of whether the provider had actual knowledge of the misstatement or omission in the disclosure statement. A person would be prohibited from filing or maintaining this claim of action against a provider, if before filing, the provider offered a refund of all amounts paid to the provider plus interest and the person failed to accept it within 30 days of receipt of the offer.

The statute of limitations for a claim created under the Act would be three years after the alleged violation.

A person who willfully and knowingly violates a provision of the Act is guilty of a Class 1 misdemeanor.

After notice and opportunity for hearing, a permit, certificate, license, or other approval issued by the COI would be forfeited under certain circumstances including when the provider terminates marketing a proposed continuing care retirement community, a permit, certificate, or license is surrendered, or a continuing care retirement community closes. All residents and depositors would be notified within five business days after a forfeiture.

For violating the Act, the COI could prohibit a provider from entering into agreements and contracts and order the provider to make rescission offers to any resident or depositor. A resident or depositor would have to accept the offer within 30 days of receipt of the offer.

## **PART XIII. Delinquency Proceedings**

Part 13 would allow the COI to commence a supervision proceeding pursuant to Article 30 (Insurers Supervision, Rehabilitation, Liquidation) in Chapter 58 (Insurance) of the General Statutes or apply to the Superior Court of Wake County or to the federal bankruptcy court that may have previously taken jurisdiction over a provider for an order to rehabilitate or liquidate a provider if certain factors apply including that the provider is in a hazardous condition, is bankrupt or insolvent, or has failed to maintain an escrow account or operating reserve required under the Act. If the COI commences a supervision proceeding, the provider would be required to notify all residents and depositors within 5 business days. If a rehabilitation or liquidation proceeding is commenced, the COI would notify the residents and depositors within 5 business days or as directed by the Court. If the objectives of a rehabilitation have been accomplished, the Court could terminate the rehabilitation. An order for rehabilitation would be refused and vacated if a provider posts bond in an amount determined by the COI to be equal to the reserve funding that would need to be available to fulfill the provider's obligations.

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## **PART XIV. Residents' Right to Organization and Semiannual Meetings**

Part 14 would require the governing body of a provider to hold in-person semiannual meetings with residents of each continuing care retirement community and to provide residents at least seven days' advance notice of the meetings. In the event of a state of emergency or disaster, meetings could be held via telephone, video conference, or video broadcast.

## **PART XV. Miscellaneous Provisions**

Part 15 would create a 12-member Continuing Care Advisory Committee comprised of providers, residents, and professionals involved in the continuing care retirements community industry. The COI would appoint six members. The President Pro Tempore of the Senate and the Speaker of the House would appoint three members each. Any vacancy would be filled by the appointing authority.

Nothing in the Act would affect the authority of DHHS to license or regulate long-term care facilities.

**EFFECTIVE DATE:** The act would become effective December 1, 2025, and apply to offenses committed on or after that date and contracts issued, renewed, or amended on or after that date.

*\* LAD Staff Attorney Trina Griffin substantially contributed to this summary.*