



HOUSE BILL 357: Continuing Care Retirement Communities Act.

2025-2026 General Assembly

Analysis of: S.L. 2025-58

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S.L. 2025-58 (House Bill 357) revises the laws governing continuing care retirement communities by repealing Article 64 of Chapter 55 of the General Statutes and replacing it with a new Article 64A, the "Continuing Care Retirement Communities Act" (Act). Continuing care contracts and continuing care at home contracts that are issued, renewed, or amended on or after December 1, 2025, are subject to following requirements of the Act.

General Provisions. – As used in the Act, the term “continuing care” is defined as the rendering of housing in an independent housing unit, together with related services, including access as needed to progressive levels of health care, to an individual unrelated by blood, marriage, or adoption to the person rendering the care, pursuant to a contract effective for the life of the individual or for longer than one year. The term “continuing care at home,” as used in the Act, is defined as a program offered by a provider holding a permanent license under the Act that provides continuing care to an individual who is not yet receiving housing.

Approval from the Commissioner of Insurance (COI) is required before a person can provide or offer to provide continuing care or can lease land for the purpose of operating a continuing care retirement community. All required filings are submitted electronically. The COI is authorized to waive any provision of the Act in the event of a state of emergency or disaster or an incident beyond the provider's reasonable control. Certain documents provided to the COI by a provider are confidential and not public records, are not subject to subpoena, and are not discoverable or admissible in any private civil action. A provider's advertising must conform with disclosures required by the Act and with contracts offered by the provider.

Approval, Certification, Licensure, and Permitting Process. – Establishing a continuing care business requires approval from the COI in several stages, each with its own application and approval requirements. Before constructing a continuing care retirement community or converting an existing structure into a continuing care retirement community, a provider must obtain a preliminary certificate from the COI. Before opening the continuing care retirement community or providing continuing care, a provider must receive a permanent license from the COI. If an applicant does not meet the requirements for a permanent license, the COI is authorized to deny the application or to issue a restricted permanent license. If a restricted license is issued, the COI must explain the restrictions under which the continuing care retirement community be operated, and the conditions that must be satisfied to qualify for a permanent license.

Expansion. – The COI's written approval is required before a provider markets and collects deposits for a proposed expansion of a continuing care retirement community in which the number of additional units will equal or exceed 20% of the number of existing units.

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Escrow Account. – All entrance fees and deposits received by a provider must 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, must be approved by the COI. The COI's written permission is required for release or distribution of interest, income, and other gains derived from escrowed funds, for use of escrowed funds as collateral, or for release of escrowed entrance fees and deposits by the escrow agent.

Disclosure Statement. – A provider must give each prospective resident a disclosure statement for each continuing care retirement community operated in the State containing specific information about the provider, which must also be published on the DOI website. A provider must file a revised disclosure statement with the COI at the end of each fiscal year, together with a \$2,000 filing fee.

Binding Reservation Agreement and Continuing Care Contract. – Reservation agreements and continuing care contracts must contain provisions addressing when the agreement or contract can be rescinded or cancelled and when money can be refunded to the depositor or resident. In addition, a continuing care contract must disclose all fees charged to residents, resident property rights, policies for fee adjustments when a resident is absent or cannot pay, and any requirement that the resident maintain long-term care insurance or apply for any public assistance.

Continuing Care at Home. – Only a person licensed to operate a continuing care retirement community may apply for a license to provide continuing care at home. The application fee is \$500. After receiving a license, the provider must file a disclosure statement and periodic reports with the COI. A continuing care at home contract must contain specific information on when the contract can be rescinded or cancelled and when money will be refunded to a depositor or resident. In addition, a continuing care at home contract must disclose all required fees and the services to be provided under the contract.

Financial Reporting and Monitoring. – A provider must file an audited financial statement with the COI within 150 days of the end of each fiscal year. If a provider also provides continuing care at home, the audited financial statement must include revenue and expenses related to those services separately from the revenue and expenses from the provider's other operations. Within 45 days after the end of each fiscal quarter, a provider must file a financial statement 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 must submit an actuarial study to the COI for each continuing care retirement community and any continuing care at home program it operates.

Notification Requirements. – A provider must notify the COI and all residents in writing within 10 business days of certain events including a failure to maintain the operating reserve required under the Act and violation of any debt agreement. A provider must 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.

Other Transactions and Changes. – A provider is prohibited from transferring a permit, certificate, or license issued under the Act, and no permit, certificate, or license has 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 must 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 must 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.

The COI's approval is required before a person enters into an agreement to merge with, or acquire control of, a provider holding a certificate or license under the Act. The provider must notify all affected residents

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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 submitting the request to the COI. The provider is required to remove a third-party manager immediately under certain circumstances.

Operating Reserve. – After opening a continuing care retirement community, a provider is required to maintain an operating reserve equal to 50% of the total operating costs of the community projected for the 12-month period following the period covered by the most recently filed disclosure statement. The amount of the required reserve is adjusted based on a statutory formula after the community's average independent living unit occupancy rate is at least 90%.

The COI is authorized to increase the required amount of the reserve or require it to be deposited with the COI if the provider is determined to be in a hazardous condition. If the COI takes such action, the provider must notify all residents in writing and provide a power of attorney to the COI.

A provider's operating reserve is funded 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. The act prohibits the operating reserve's assets from being subject to any liens, charges, judgments, garnishments, or creditors' claims, or pledged as collateral or otherwise encumbered, except for assets held as part of a security pledge of assets or similar collateralization that is a part of the provider's debt financing.

As alternative to the use of qualifying assets, a provider is permitted to fund its operating reserve by filing a surety bond or letter of credit with the COI.

Before releasing any part of an operating reserve, a provider is required to submit a detailed request in writing to the COI and simultaneously provide written notice of the request to all residents. The COI is authorized to deny a request that is determined not to be in the best interests of the residents.

Offenses and Penalties. – The COI can 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 commits certain acts or violations.

If the COI issues a cease-and-desist order, restriction, or revocation, the provider must notify all residents and depositors of such action within five business days. While a revocation order is under appeal, the provider cannot accept new deposits or entrance fees. However, revocation does not release the provider from its obligations under its continuing care contracts and continuing care at home contracts.

The COI considers 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 is authorized to order the provider to submit a corrective action plan within 45 days and to notify all residents and depositors of the order. The plan must include proposals for eliminating the hazardous condition and a date by which the provider anticipates having rectified the identified problems and deficiencies.

A provider that enters into an agreement or contract with a person without first providing them with a disclosure statement, or that provides a person with a disclosure statement containing a material misrepresentation or omission upon which the person relies, is liable in an action brought by the person

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within three years after the alleged violation, for actual damages and repayment of all fees, less the costs of care, services, and housing provided before the discovery of the violation or material misstatement or omission, together with interest, court costs, and reasonable attorneys' fees. However, such an action must not be permitted to be maintained if, before it is commenced, the provider offers to refund all amounts paid, less costs of provided care, services, and housing, plus interest, and the person fails to accept the offer within 30 days of its receipt.

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

After giving a provider notice and opportunity for hearing, a permit, certificate, license, or other approval issued by the COI is forfeited upon the occurrence of certain events, including the provider's termination of its marketing of a proposed continuing care retirement community, its surrender of a permit, certificate, or license, or its closure of a continuing care retirement community. A provider must notify all residents and depositors within five business days after such forfeiture.

For violating the Act, the COI is authorized to 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 must accept a rescission offer within 30 days of its receipt.

Delinquency Proceedings. – If a provider is determined to be in a hazardous condition, is bankrupt or insolvent, or has failed to maintain an escrow account or operating reserve required under the Act, the COI is authorized to commence a supervision proceeding or apply for a court order to rehabilitate or liquidate the provider. If the COI commences a supervision proceeding, the provider must notify all residents and depositors within five business days. If a rehabilitation or liquidation proceeding is commenced, the COI must notify the residents and depositors within five business days or as otherwise directed by the court. An order for rehabilitation will be refused or vacated if a provider posts bond in an amount determined by the COI to be equal to the reserve funding required to fulfill the provider's obligations.

Residents' Right to Organization and Semiannual Meetings. – The residents of a continuing care retirement community are entitled to establish a residents' council to advocate for their rights and serve as a liaison with the provider. The provider's governing body is required to hold semiannual in-person meetings with residents of each continuing care retirement community, and to provide the residents with at least seven days' advance notice of the meeting. In the event of a state of emergency or disaster, the meeting is permitted to be held via telephone, video conference, or video broadcast.

Miscellaneous Provisions. – No act or agreement of a resident or individual purchasing continuing care for a resident under any contract for continuing care or continuing care at home may be effective to waive the Act's provisions.

A 12-member Continuing Care Advisory Committee must be established, comprising providers, residents, and professionals involved in the continuing care retirements community industry. Six members are appointed by the COI and three members each must be appointed by the President Pro Tempore of the Senate and the Speaker of the House. The committee, which must meet at least twice a year, must advise the COI on matters pertaining to the operation and regulation of continuing care retirement communities and continuing care at home programs, report to the COI on the continuing care retirement community industry and problems or concerns of providers and residents, and recommend changes in relevant statutes and rules.

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

This act becomes effective December 1, 2025, and applies to offenses committed on or after that date and to contracts issued, renewed, or amended on or after that date.