

Committee Substitute for Senate Bill No. 1256

An act relating to minimum liquid-reserve requirements for continuing care providers; amending s. 651.035, F.S.; deleting the requirement that a provider include property insurance premiums within the amount required as debt service reserve; deleting provisions providing for calculating the amount of such premiums; deleting a provision exempting property insurance premiums from the amount that a provider is required to maintain as an operating reserve; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (a) and (c) of subsection (2) of section 651.035, Florida Statutes, are amended to read:

651.035 Minimum liquid reserve requirements.—

(2)(a) A provider shall maintain in escrow as a debt service reserve an amount equal to the aggregate amount of all principal and interest payments due during the fiscal year on any mortgage loan or other long-term financing of the facility, including taxes ~~and insurance~~ as recorded in the audited financial statements required under s. 651.026. The amount shall include any leasehold payments and all costs related to such payments ~~same~~. If principal payments are not due during the fiscal year, the provider shall maintain in escrow as a minimum liquid reserve an amount equal to interest payments due during the next 12 months on any mortgage loan or other long-term financing of the facility, including taxes ~~and insurance~~. ~~For the purpose of this paragraph, the amount of property insurance premiums used in calculating the debt service reserve shall not exceed the amount paid in calendar year 1999. For providers initially licensed during or after calendar year 1999, the amount of property insurance premiums used in calculating the debt service reserve shall not exceed the amount paid during the first 12 months of facility operation. However, beginning January 1, 2006, and each year thereafter, until the amount maintained in escrow attributable to property insurance equals 100 percent of the premium, the provider shall increase the amount maintained in escrow for property insurance by 10 percent of the premium paid that year.~~

(c) Each provider shall maintain in escrow an operating reserve in an amount equal to 30 percent of the total operating expenses projected in the feasibility study required by s. 651.023 for the first 12 months of operation. Thereafter, each provider shall maintain in escrow an operating reserve in an amount equal to 15 percent of the total operating expenses in the annual report filed pursuant to s. 651.026. Where a provider has been in operation for more than 12 months, the total annual operating expenses shall be determined by averaging the total annual operating expenses reported to the office by the number of annual reports filed with the office within the immediate preceding 3-year period subject to adjustment in the event there is a change in the number of facilities owned. For purposes of this subsec-

tion, total annual operating expenses shall include all expenses of the facility except: depreciation and amortization; interest, ~~insurance~~ and taxes included in subsection (1); extraordinary expenses which are adequately explained and documented in accordance with generally accepted accounting principles; liability insurance premiums in excess of those paid in calendar year 1999; and changes in the obligation to provide future services to current residents. For providers initially licensed during or after calendar year 1999, liability insurance shall be included in the total operating expenses in an amount not to exceed the premium paid during the first 12 months of facility operation. Beginning January 1, 1993, the operating reserves required under this subsection shall be in an unencumbered account held in escrow for the benefit of the residents. Such funds may not be encumbered or subject to any liens or charges by the escrow agent or judgments, garnishments, or creditors' claims against the provider or facility. However, if a facility had a lien, mortgage, trust indenture, or similar debt instrument in place prior to January 1, 1993, which encumbered all or any part of the reserves required by this subsection and such funds were used to meet the requirements of this subsection, then such arrangement may be continued, unless a refinancing or acquisition has occurred, and the provider shall be in compliance with this subsection.

Section 2. This act shall take effect July 1, 2006.

Approved by the Governor June 13, 2006.

Filed in Office Secretary of State June 13, 2006.