



General Assembly

Substitute Bill No. 5358

January Session, 2015



AN ACT ESTABLISHING A BILL OF RIGHTS FOR RESIDENTS OF CONTINUING-CARE RETIREMENT COMMUNITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-520 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2015*):

3 As used in this section, sections [17b-520] 17b-521 to 17b-535,
4 inclusive, as amended by this act, and sections 2 to 4, inclusive, of this
5 act:

6 [(a)] (1) "Continuing-care contract" means an agreement pursuant to
7 which a provider undertakes to furnish to a person not related by
8 consanguinity or affinity to the provider, care and shelter in a facility
9 or care at home with the right to future access to care and shelter in
10 such facility and medical or nursing services or other health-related
11 benefits for the life of a person or for a period in excess of one year,
12 and which requires a present or future transfer of assets or an entrance
13 fee in addition to or instead of periodic charges, and the amount of the
14 assets required to be transferred or the entrance fee is equal to or in
15 excess of the amount set by the commissioner in regulations adopted
16 pursuant to section 17b-533, as amended by this act;

17 [(b)] (2) "Entrance fee" means the total of any initial or deferred
18 transfer to, or for the benefit of, a provider of a sum of money or other

19 property made or promised to be made as full or partial consideration
20 for acceptance or maintenance of a person as a resident pursuant to a
21 continuing-care contract;

22 [(c)] (3) "Facility" means the place in which a provider undertakes to
23 furnish shelter and care to a person pursuant to a continuing-care
24 contract;

25 [(d)] (4) "Provider" means any person, corporation, limited liability
26 company, business trust, trust, partnership, unincorporated association
27 or other legal entity, or any combination of such entities, undertaking
28 to furnish care and shelter in a facility or care at home with the right to
29 future access to care and shelter in such facility and medical or nursing
30 services or other health-related benefits pursuant to a continuing-care
31 contract;

32 [(e)] (5) "Resident" means any person entitled to receive present or
33 future shelter, care and medical or nursing services or other health-
34 related benefits pursuant to a continuing-care contract, provided
35 nothing in [sections 17b-520] this section, sections 2 to 4, inclusive, of
36 this act or sections 17b-521 to 17b-535, inclusive, as amended by this
37 act, shall affect rights otherwise afforded to residents while they are
38 patients in health care facilities as defined in subsections (a), (b) and (c)
39 of section 19a-490;

40 (6) "Residents council" means a board duly elected by residents at a
41 facility to advocate for residents' rights and function as an advisory
42 board to the provider with respect to resident welfare and interests;

43 [(f)] (7) "Affiliate of a provider" means any person, corporation,
44 limited liability company, business trust, trust, partnership,
45 unincorporated association or other legal entity directly or indirectly
46 controlling, controlled by or in common control with a provider;

47 [(g)] (8) "Offer" means an offer through either personal, telephone or
48 mail contact or other communication directed to or received by a
49 person at a location within this state as an inducement, solicitation or

50 attempt to encourage a person to enter into a continuing-care contract
51 and shall include any paid advertisement published or broadcast
52 within this state, except for advertisements in periodicals where more
53 than two-thirds of the circulation is outside this state but shall not
54 include marketing or feasibility studies;

55 [(h)] (9) "Shelter" means a room, apartment, cottage or other living
56 area in a facility set aside for the exclusive use of one or more persons
57 pursuant to a continuing-care contract;

58 [(i)] (10) "Medical or nursing services or other health-related
59 benefits" means services or benefits which shall include care in a
60 nursing facility, priority admission to a nursing facility, home health
61 care or assistance with activities of daily living, to which a resident
62 becomes contractually entitled;

63 [(j)] (11) "Department" means the Department of Social Services;

64 [(k)] (12) "Commissioner" means the Commissioner of Social
65 Services.

66 Sec. 2. (NEW) (*Effective July 1, 2015*) Each resident of a continuing-
67 care retirement facility is entitled to:

68 (1) A voice in all decisions affecting the resident's health, welfare
69 and financial security;

70 (2) Transparency regarding the financial stability of the provider
71 operating the facility at which the resident resides;

72 (3) Timely notification of developments affecting the facility,
73 including, but not limited to: (A) Ownership changes of the provider
74 operating the facility at which the resident resides, (B) a change in the
75 financial condition of the provider operating the facility at which the
76 resident resides, and (C) construction and renovation at the facility at
77 which the resident resides;

78 (4) Independence in decisions regarding medical care and assisted
79 living services; and

80 (5) Reasonable accommodations for persons with disabilities.

81 Sec. 3. (NEW) (*Effective July 1, 2015*) (a) Each provider shall develop
82 a process for facilitating communication between residents and the
83 personnel, management, board of directors and owner of the provider.
84 Such process shall include, but not be limited to:

85 (1) Permitting residents at each facility to form a residents council;

86 (2) Allowing residents, including those who serve on the residents
87 council, to serve as voting members of the provider's board of directors
88 or other governing body if the rules applicable to such board or other
89 governing body allow for resident membership and such board or
90 other governing body approves such membership; and

91 (3) If the provider does not have a board of directors or similar
92 governing body, or if a residents council is not established, then a
93 provider shall seek comments from residents in advance of designing
94 or adopting policies that affect the provider's ability to avert financial
95 distress, as defined in section 17b-527 of the general statutes, as
96 amended by this act.

97 (b) On or before January 1, 2016, and not less than every two years
98 thereafter, each provider shall conduct a resident satisfaction survey at
99 each facility. The results of the survey shall be made available to the
100 residents council at each such facility, or to each resident, if there is no
101 residents council. A copy of the survey results shall also be posted in a
102 conspicuous location at each facility.

103 Sec. 4. (NEW) (*Effective July 1, 2015*) (a) A provider shall not prevent
104 or otherwise infringe upon a resident's right to obtain treatment, care
105 and services, including, but not limited to, home health and hospice
106 care, from persons providing health care who have not entered into a
107 contract with or are not affiliated with the provider, subject to the

108 provider's policies and procedures for protecting the health and safety
109 of residents.

110 (b) Residents at a continuing-care retirement facility receiving
111 assisted living or skilled nursing services shall be entitled to all rights
112 and protections afforded under the law, including the right to refuse
113 medications and treatments. A provider shall not prevent or otherwise
114 infringe upon a resident's right to participate, as fully and
115 meaningfully as the resident is able, in making the decision about a
116 permanent move to an assisted living facility or skilled nursing care
117 unit. A provider shall inform family members designated by the
118 resident of the resident's medical condition and care plan. A provider
119 shall not prevent or otherwise infringe upon a resident's right to refuse
120 medications and treatments.

121 (c) Each provider operating a facility shall make reasonable
122 accommodations, in accordance with the Americans with Disabilities
123 Act, 42 USC 12101, et seq., the Fair Housing Amendments Act of 1988,
124 42 USC 3601, et seq., and section 46a-64c of the general statutes to
125 ensure that services and notices are accessible and communicated to
126 residents who have hearing loss, low vision or other disabilities.

127 Sec. 5. Section 17b-521 of the general statutes is repealed and the
128 following is substituted in lieu thereof (*Effective July 1, 2015*):

129 No provider shall offer or enter into a continuing-care contract in
130 this state or with any resident of this state or regarding any facility in
131 this state and no change in ownership of such a facility shall be
132 completed unless the provider or proposed owner, as the case may be,
133 has (1) registered with the department by filing a (A) current
134 disclosure statement that meets the requirements of section 17b-522, as
135 amended by this act, (B) financial information [that meets the
136 requirements of] as required pursuant to section 17b-527, as amended
137 by this act, and (C) a sworn statement of the escrow agent to the effect
138 that the escrows required by sections 17b-524, as amended by this act,
139 and 17b-525, as amended by this act, have been established; [, has] (2)

140 received acknowledgment of such filing; and [has] (3) paid an annual
141 filing fee of twenty-four dollars per residential unit operated by such
142 provider. Acknowledgment of filing shall be furnished to the provider
143 by the commissioner within ten business days of the date of filing. The
144 commissioner may waive the requirements of this section if a change
145 of ownership is proposed pursuant to section 17b-532 or a federal
146 bankruptcy proceeding.

147 Sec. 6. Section 17b-522 of the general statutes is repealed and the
148 following is substituted in lieu thereof (*Effective July 1, 2015*):

149 (a) Before the execution of a contract to provide continuing care, or
150 before the transfer of any money or other property to a provider by or
151 on behalf of a prospective resident, whichever shall occur first, the
152 provider shall deliver to the person with whom the contract is to be
153 entered into, or to that person's legal representative, a conspicuous
154 statement notifying the prospective resident that:

155 (1) A continuing-care contract is a financial investment and his
156 investment may be at risk;

157 (2) The provider's ability to meet its contractual obligations under
158 such contract depends on its financial performance;

159 (3) [He] The prospective contract holder is advised to consult an
160 attorney or other professional experienced in matters relating to
161 investments in continuing-care facilities before he signs a contract for
162 continuing care; and

163 (4) The department does not guarantee the security of his
164 investment.

165 (b) Before the execution of a contract to provide continuing care, or
166 before the transfer of any money or other property to a provider by or
167 on behalf of a prospective resident, whichever shall occur first, the
168 provider shall deliver to the person with whom the contract is to be
169 entered into, or to that person's legal representative, a disclosure

170 statement. The text of the disclosure statement shall contain, to the
171 extent not clearly and completely set forth in the contract for
172 continuing care attached as an exhibit thereto, at least the following
173 information:

174 (1) The name and business address of the provider and a statement
175 of whether the provider is a partnership, corporation or other legal
176 entity;

177 (2) The names of the officers, directors, trustees, or managing and
178 general partners of the provider, the names of persons having a five
179 per cent or greater ownership interest in the provider, and a
180 description of each such person's occupation with the provider;

181 (3) A description of the business experience of the provider and of
182 the manager of the facility if the facility will be managed on a day-to-
183 day basis by an organization other than the provider, in the
184 administration of continuing-care contracts or in the administration of
185 similar contractual arrangements;

186 (4) A description of any matter in which the provider, any of the
187 persons described in subdivision (2) of this subsection, or the manager
188 has been convicted of a felony or pleaded nolo contendere to a felony
189 charge, or held liable or enjoined in a civil action by final judgment, if
190 the felony or civil action involved fraud, embezzlement, fraudulent
191 conversion or misappropriation of property; or is subject to a currently
192 effective injunction or restrictive or remedial order of a court of record,
193 within the past five years has had any state or federal license or permit
194 suspended or revoked as a result of an action brought by a
195 governmental agency or department, rising out of or relating to
196 business activity or health care, including, but not limited to, actions
197 affecting the operation of a foster care facility, nursing home,
198 retirement home, residential care home, or any facility subject to
199 sections 17b-520 to 17b-535, inclusive, as amended by this act, sections
200 2 to 4, inclusive, of this act, or a similar statute in another state or
201 country;

202 (5) A statement as to whether or not the provider is, or is affiliated
203 with, a religious, charitable, nonprofit, or for-profit organization; the
204 extent of the affiliation, if any; the extent to which the affiliate
205 organization will be responsible for the financial and contractual
206 obligations of the provider; and the provision of the federal Internal
207 Revenue Code, if any, under which the provider or affiliate is exempt
208 from the payment of income tax;

209 (6) The location and a description of the physical property or
210 properties of the provider, existing or proposed; and, if proposed, the
211 estimated completion date or dates, whether or not construction has
212 begun, and the contingencies subject to which construction may be
213 deferred;

214 (7) The goods and services provided or proposed to be provided
215 without additional charge under the contract for continuing care
216 including the extent to which medical or nursing care or other health-
217 related benefits are furnished;

218 (8) The disposition of interest earned on entrance fees or other
219 deposits held in escrow;

220 (9) A description of the conditions under which the continuing-care
221 contract may be terminated, whether before or after occupancy, by the
222 provider or by the resident. In the case of termination by the provider,
223 a description of the manner and procedures by which a decision to
224 terminate is reached by the provider, including grounds for
225 termination, the participation of a resident's council or other group, if
226 any, in reaching such a decision, and any grievance, appeal or other
227 similar procedures available to a resident whose contract has been
228 terminated by the provider;

229 (10) A statement setting forth the rights of a surviving spouse who
230 is a resident of the facility and the effect of the continuing-care contract
231 on the rights of a surviving spouse who is not a resident of the facility,
232 in the event of the death of a resident, subject to any limitations

233 imposed upon such rights by statute or common law principles;

234 (11) A statement of the effect of a resident's marriage or remarriage
235 while in the facility on the terms of such resident's continuing-care
236 contract;

237 (12) Subject to the provisions of subsection [(g)] (j) of this section, a
238 statement of the provider's policy regarding disposition of a resident's
239 personal property in the event of death, temporary or permanent
240 transfer to a nursing facility, or termination of the contract by the
241 provider;

242 (13) A statement that payment of an entrance fee or other transfer of
243 assets pursuant to a continuing-care contract may have significant tax
244 consequences and that any person considering such a payment or
245 transfer may wish to consult a qualified advisor;

246 (14) The provisions that have been made or will be made by the
247 provider for reserve funding and any other security to enable the
248 provider to perform fully its obligations under continuing-care
249 contracts, including, but not limited to, escrow accounts established in
250 compliance with sections 17b-524, as amended by this act, and 17b-525,
251 as amended by this act, trusts or reserve funds, together with the
252 manner in which such funds will be invested and the names and
253 experience of the persons making or who will make investment
254 decisions; [. Disclosure shall include a summary of the information
255 contained in the five-year financial information filed with the
256 commissioner pursuant to section 17b-527; such summary shall set
257 forth by year any anticipated excess of future liabilities over future
258 revenues and shall describe the manner in which the provider plans to
259 meet such liabilities;]

260 (15) [Audited and certified financial statements of the provider,
261 including (A) a balance sheet as of the end of the most recent fiscal
262 year, and (B) income statements for the three] The provider's financial
263 statements, including a balance sheet, income statement and statement

264 of cash flow, associated notes or comments to these statements,
265 audited by an independent certified public accounting firm for the two
266 most recent fiscal years of the provider or such shorter period of time
267 as the provider shall have been in existence;

268 (16) Subject to the provisions of subsection [(g)] (j) of this section, if
269 the operation of the facility has not yet commenced, or if the
270 construction of the facility is to be completed in stages, a statement of
271 the anticipated source and application of the funds used or to be used
272 in the purchase or construction of the facility or each stage of the
273 facility, including:

274 (A) An estimate of such costs as financing expense, legal expense,
275 land costs, marketing costs, and other similar costs which the provider
276 expects to incur or become obligated for prior to the commencement of
277 operations of each stage of the facility;

278 (B) A description of any mortgage loan or any other financing
279 intended to be used for the financing of the facility or each stage of the
280 facility, including the anticipated terms and costs of such financing;

281 (C) An estimate of the total entrance fees to be received from or on
282 behalf of residents at or prior to commencement of operation of each
283 stage of the facility; and

284 (D) An estimate of the funds, if any, which are anticipated to be
285 necessary to fund start-up losses and provide reserve funds to assure
286 full performance of the obligations of the provider under continuing-
287 care contracts;

288 (17) Pro forma [annual income] cash flow statements for the facility
289 for the next [five] three fiscal years, including a summary of
290 projections used in the assumptions for such pro forma statements,
291 including, but not limited to, anticipated resident turnover rates,
292 average age of residents, health care utilization rates, the number of
293 health care facility admissions per year, days of care per year and the
294 number of permanent transfers;

295 (18) The facility's current rate schedules for entrance fees, monthly
296 fees, fees for ancillary services and current occupancy rates;

297 [(18)] (19) A description of all entrance fees and periodic charges, if
298 any, required of residents and a record of past increases in such fees
299 and charges during the previous [seven] five years;

300 [(19) For each facility operated by the provider, the total actuarial
301 present value of prepaid healthcare obligations assumed by the
302 provider under continuing-care contracts as calculated on an
303 actuarially sound basis using reasonable assumptions for mortality
304 and morbidity;]

305 (20) A statement that all materials required to be filed with the
306 department are on file, a brief description of such materials, and the
307 address of the department at which such materials may be reviewed;

308 (21) The cover page of the disclosure statement shall state, in a
309 prominent location and type face, the date of the disclosure statement
310 and that registration does not constitute approval, recommendation, or
311 endorsement by the department or state, nor does such registration
312 evidence the accuracy or completeness of the information set out in the
313 disclosure statement;

314 (22) If the construction of the facility is to be completed in stages, a
315 statement as to whether all services will be provided at the completion
316 of each stage and, if not, the services that will not be provided listed in
317 bold print; [.]

318 (23) A sworn statement of the applicable escrow agents to the effect
319 that the escrows required by sections 17b-524, as amended by this act,
320 and 17b-525, as amended by this act, have been established and
321 maintained or an independent certified public accounting firm has
322 verified such escrow accounts.

323 (c) Each provider operating a facility in this state shall make the
324 information filed with the department, pursuant to this section,

325 available to each such resident for viewing during regular business
326 hours and, upon request, shall provide such resident with a copy of
327 the most recent filing with the department. Each provider shall notify
328 each resident, at least annually, of the right to view the filings and of
329 the right to a copy of the most recent filing.

330 (d) The registration of a facility pursuant to section 17b-521, as
331 amended by this act, shall remain effective unless withdrawn by the
332 provider or unless the provider fails to file the documents specified in
333 this section within one hundred fifty days following the end of the first
334 fiscal year in which such registration is filed. The provider shall file a
335 revised disclosure statement at least annually with the commissioner.
336 The provider shall also file a narrative describing any material
337 differences between the pro forma income and cash flow statements
338 filed pursuant to this section and the actual results of operations
339 during the most recently concluded fiscal year. A provider may revise
340 its previously filed disclosure statement at any time if, in the opinion
341 of the provider, revision is necessary to prevent the disclosure
342 statement from containing a material misstatement of fact or from
343 omitting a material fact required to be included in the statement. Only
344 the most recently filed disclosure statement, as amended from time to
345 time, shall be deemed current for the purposes of sections 17b-520 to
346 17b-535, inclusive, as amended by this act, and sections 2 to 4,
347 inclusive, of this act.

348 (e) The facility shall amend the most recently filed disclosure
349 statement prior to undertaking major facility construction, renovation,
350 or expansion or change of ownership to avoid a material misstatement
351 or omission of a material fact.

352 [(c)] (f) (1) Not more than sixty nor less than ten days before the
353 execution of a contract to provide continuing care, the provider shall
354 deliver a current disclosure statement to the person with whom the
355 contract is to be entered into or to that person's legal representative.

356 (2) Not more than sixty nor less than ten days before a person

357 occupies a continuing care facility, the provider shall deliver a revised
358 and up-to-date disclosure statement to the prospective resident or to
359 that person's legal representative, except that if there have been no
360 revisions to the disclosure statement previously delivered pursuant to
361 subdivision (1) of this subsection, the provider shall deliver a
362 statement to the prospective resident or representative that there have
363 been no revisions to the original disclosure statement.

364 ~~[(d)]~~ (g) The statement required under subsections (a) and (b) of this
365 section shall be signed and dated by the prospective resident before
366 the execution of a contract to provide continuing care or before the
367 transfer of any money or other property to a provider by or on behalf
368 of the prospective resident. Each such statement shall contain an
369 acknowledgment that such statement and the continuing-care contract
370 have been reviewed by the prospective resident or his legal
371 representative. Such signed statements shall be kept on file by the
372 provider for a period of not less than the term of the contract.

373 ~~[(e)]~~ (h) Each statement required under subsections (a) and (b) of
374 this section and the continuing-care contract shall be in language easily
375 readable and understandable in accordance with the provisions of
376 subsections (a) and (b) of section 42-152.

377 ~~[(f)]~~ (i) A copy of the standard form or forms of the continuing-care
378 contract used by the provider shall be attached as an exhibit to each
379 disclosure statement.

380 ~~[(g)]~~ (j) The provisions of subdivisions (12) and (16) of subsection (b)
381 of this section shall not apply to a continuing-care contract for the
382 provision of care in a person's home.

383 ~~[(h)]~~ (k) The commissioner may adopt regulations in accordance
384 with the provisions of chapter 54 to specify any additional information
385 required in the disclosure statement.

386 Sec. 7. Section 17b-523 of the general statutes is repealed and the
387 following is substituted in lieu thereof (*Effective July 1, 2015*):

388 (a) Each continuing-care contract shall provide:

389 (1) That the party contracting with the provider may rescind the
390 contract by notifying the provider in writing by registered or certified
391 mail of such rescission within thirty days following the execution of
392 the contract; that in the event of such rescission, any money or
393 property transferred to the provider shall be refunded, less (A) those
394 costs specifically incurred by the provider or facility at the request of
395 the resident and described in the contract or in an addendum thereto
396 signed by the resident; and (B) a reasonable service charge, not to
397 exceed the greater of one thousand dollars or two per cent of the
398 entrance fees; and, if applicable, that the resident to whom the contract
399 pertains shall not be required to move into the facility before the
400 expiration of the thirty-day period;

401 (2) That if, after the thirty-day period, a resident dies before
402 occupying a contracted-for living unit, or on account of illness, injury
403 or incapacity is precluded from occupying a contracted-for living unit
404 under the terms of the continuing-care contract, or a resident dies
405 before the commencement of care under a continuing-care contract to
406 provide care in such person's home, upon notice to the provider by
407 registered or certified mail, the contract is automatically cancelled and
408 the resident or the resident's legal representative shall receive a refund
409 of all money or property transferred to the provider, less (A) those
410 costs specifically incurred by the provider or facility at the request of
411 the resident and described in the contract or in an addendum thereto
412 signed by the resident; (B) a reasonable service charge not to exceed
413 the greater of one thousand dollars, or two per cent of the entrance fee,
414 and (C) if the contract includes occupying a living unit in a facility and
415 the unit was actually available for occupancy, the usual monthly
416 charge for that unit, prorated on a per diem basis, for the period
417 beginning seven days after the execution of the contract and ending on
418 the last day of the month in which the provider receives notice that the
419 resident will not occupy the unit;

420 (3) [That] For contracts entered into after July 1, 2015, that if

421 construction of the facility has not yet begun, construction will not
422 begin until a minimum number of living units, which shall not be less
423 than one-half of the units in the facility [or if the construction is to be
424 completed in stages, one-half of the units evidencing financial
425 feasibility in accordance with section 17b-526,] or fifty per cent of any
426 designated part or parts thereof determined by the commissioner have
427 been presold, and a minimum deposit of [five per cent of the entrance
428 fee per unit for all presold units or] ten thousand dollars per unit for
429 all presold units [, whichever is less,] has been received by the
430 provider. The requirements of this subdivision shall not apply to any
431 continuing-care contract for the provision of care in a person's home.

432 (b) Each continuing-care contract shall also specify:

433 (1) The circumstances under which the resident will be permitted to
434 continue to receive care and shelter in a facility or care at home with
435 the right to future access to care and shelter in such facility and
436 medical or nursing services or other health-related benefits, and other
437 benefits under the continuing-care contract in the event of possible
438 financial difficulties on the part of the resident;

439 (2) The terms and conditions under which a contract for continuing
440 care may be cancelled by the provider or by the resident; and the
441 conditions, if any, under which all or any portion of the entrance fee
442 will be refunded in the event of cancellation of the contract by the
443 provider or by the resident or in the event of the death of the resident
444 prior to or following occupancy of a living unit, provided for contracts
445 entered into after July 1, 2015, any refund shall be delivered to the
446 resident or the resident's estate not later than two years from the date
447 the living unit is vacated or when contractual conditions for releasing
448 the refund have been met, whichever occurs first;

449 (3) The conditions under which a living unit occupied by a resident
450 may be made available by the provider to a different or new resident
451 other than on the death of the original resident;

452 (4) The manner in which the provider may adjust periodic charges
453 or other recurring fees and the limitations of such adjustments, if any,
454 [and, if there is no such limitation, a clear statement that such increases
455 may be made at the discretion of the provider] including, but not
456 limited to, for contracts entered into after July 1, 2015, no periodic
457 charges on other recurring fees may be increased unless a resident has
458 been provided not less than thirty days' advance written notice of such
459 fee increase.

460 Sec. 8. Section 17b-524 of the general statutes is repealed and the
461 following is substituted in lieu thereof (*Effective July 1, 2015*):

462 (a) Prior to soliciting or entering into any contract for the provision
463 of continuing care, the provider shall establish with a bank or trust
464 company as an escrow agent, an entrance fee escrow pursuant to
465 which the provider shall deposit with the escrow agent, within
466 seventy-two hours of receipt by the provider, each entrance fee or
467 portion of an entrance fee received by the provider from or on behalf
468 of a resident prior to the date the resident is permitted to occupy a
469 living unit in the facility. [If the prospective resident, as defined in
470 section 17b-520, is a resident of this state at the time the continuing-
471 care contract is signed, the] The bank or trust company serving as
472 escrow agent for such fees received from such a resident shall have [its
473 principal] a place of business in this state. The entrance fee escrow
474 shall be subject to release as follows:

475 (1) If the entrance fee applies to a living unit that has been
476 previously occupied in the facility, the entrance fee shall be released to
477 the provider at the time the living unit becomes available for
478 occupancy by the new resident, or shall be returned to the resident or
479 the resident's personal representative under the conditions described
480 in section 17b-523, as amended by this act, if the escrow agent has
481 received written demand by registered or certified mail for return of
482 the entrance fee prior to the release thereof to the provider;

483 (2) If the entrance fee applies to a living unit which has not

484 previously been occupied by any resident, the entrance fee shall be
485 returned to the resident or the resident's legal representative under the
486 conditions described in section 17b-523, as amended by this act, if the
487 escrow agent receives written demand by registered or certified mail
488 for return of the entrance fee prior to release thereof to the provider, or
489 the entrance fee shall be released to the provider at the time all of the
490 following conditions have been met:

491 (A) The sum of the entrance fees received or receivable by the
492 provider pursuant to binding contracts for continuing care, plus the
493 anticipated proceeds of any first mortgage loan or other long-term
494 financing commitment, plus funds from other sources in the actual
495 possession of the provider, equals or exceeds the sum of seventy-five
496 per cent of the aggregate cost of constructing or purchasing, equipping
497 and furnishing the facility plus seventy-five per cent of the funds
498 estimated in the statement of anticipated source and application of
499 funds submitted by the provider as part of its disclosure statement to
500 be necessary to fund start-up losses of the facility plus seventy-five per
501 cent of the amount of the reserve fund escrow required to be
502 maintained by the provider pursuant to section 17b-525, as amended
503 by this act;

504 (B) A commitment has been received by the provider for any
505 permanent mortgage loan or other long-term financing described in
506 the statement of anticipated source and application of funds included
507 in the current disclosure statement on file pursuant to section 17b-522,
508 as amended by this act, and any conditions of the commitment prior to
509 disbursement of funds thereunder, other than completion of the
510 construction or closing of the purchase of the facility, have been
511 substantially satisfied; and

512 (C) If construction of the facility has not been substantially
513 completed, all governmental permits or approvals necessary prior to
514 the commencement of construction have been obtained; and a
515 maximum price contract has been entered into between the provider
516 and a general contractor responsible for construction of the facility; a

517 bond covering the faithful performance of the construction contract by
518 the general contractor and the payment of all obligations arising
519 thereunder has been issued by an insurer authorized to do business in
520 this state with the provider as obligee; a loan agreement has been
521 entered into by the provider for an interim construction loan in an
522 amount, when combined with the amount of entrance fees then held in
523 escrow under the provisions of this section plus the amount of funds
524 from other sources then in the actual possession of the provider, that
525 will equal or exceed the estimated cost of constructing, equipping and
526 furnishing the facility; not less than ten per cent of the amount of the
527 construction loan has been disbursed by the lender for physical
528 construction or site preparation work completed; and orders at firm
529 prices have been placed by the provider for not less than fifty per cent
530 in value, including installation charges if applicable, of items necessary
531 for equipping and furnishing the facility in accordance with the
532 description set forth in the disclosure statement required by section
533 17b-522, as amended by this act; or if construction or purchase of the
534 facility has been substantially completed, an occupancy permit
535 covering the living unit has been issued by the local government
536 having authority to issue these permits.

537 (b) The aggregate amount of entrance fees which may be released to
538 the provider pursuant to subparagraph (A) of subdivision (2) of
539 subsection (a) of this section prior to the date on which any reserve
540 fund escrow required to be established under section 17b-525, as
541 amended by this act, is established shall not exceed the aggregate
542 amount of entrance fees then received or receivable by the provider
543 pursuant to binding contracts for continuing care less the amount of
544 the entrance fees received or receivable which may be required to be
545 initially maintained in the reserve fund escrow.

546 (c) The provider shall provide each prospective resident who has
547 signed a contract for continuing care with the name, address, and
548 telephone number of the escrow agent and shall file a copy of the
549 escrow agreement with the department.

550 (d) The provisions of this section shall not apply to any continuing-
551 care contract for the provision of care in a person's home.

552 Sec. 9. Section 17b-525 of the general statutes is repealed and the
553 following is substituted in lieu thereof (*Effective July 1, 2015*):

554 (a) Except as provided in section 17b-534, on and after the date any
555 facility located in this state is first occupied by any resident, the
556 provider shall establish and maintain on a current basis, in escrow
557 with a bank, trust company, or other escrow agent having [its
558 principal] a place of business in this state, a portion of all entrance fees
559 received by the provider in an aggregate amount sufficient to cover: (1)
560 All principal and interest, rental or lease payments due during the next
561 [twelve] ~~six~~ months on account of any first mortgage loan or any other
562 long-term financing of the facility; and (2) the total cost of operations
563 of the facility for a one-month period, excluding debt service, rental or
564 lease payments as described in subdivision (1) of this subsection and
565 excluding capital expenditures. A provider may use funds in an
566 account established by or pursuant to a mortgage loan, bond indenture
567 or other long-term financing in its computation of the reserve amounts
568 required to satisfy the provisions of this section, provided such funds
569 are available to make payments when operating funds are insufficient
570 for these purposes. To the extent that a provider is required pursuant
571 to a mortgage loan, bond indenture or other long-term financing to
572 maintain a certain number of days of cash on hand, cash amounts held
573 pursuant to such a requirement may be applied toward the provider's
574 computation of the operating reserve amount required to satisfy the
575 provisions of this subsection. Notwithstanding any provision of this
576 subsection, the commissioner may accept the terms or covenants
577 regarding the establishment or maintenance of reserve or escrow funds
578 or financial ratios associated with a mortgage loan, bond indenture or
579 other long-term financing as an alternative to the reserve provisions set
580 forth in this subsection. The escrow agent may release up to one-
581 twelfth of the required principal balance of funds held in escrow
582 pursuant to said subdivision not more than once during any calendar

583 month, if the provider so requests in writing. The commissioner may
584 authorize the escrow agent to release additional funds held in escrow
585 pursuant to subdivisions (1) and (2) of this subsection, upon
586 application by the provider setting forth the reasons for the requested
587 release and a plan for replacing these funds within one year; the
588 commissioner shall respond within fifteen business days. If any escrow
589 funds so released are not replaced within one year the escrow agent
590 shall so notify the commissioner. A provider shall promptly notify the
591 commissioner in the event such provider uses funds held in escrow
592 pursuant to subdivisions (1) and (2) of this subsection. Upon written
593 application by a provider, the commissioner may authorize a facility to
594 maintain a reserve escrow or escrows in an amount less than the
595 amounts set forth in this section, if the commissioner finds that the
596 contractual liabilities of the provider and the best interests of the
597 residents may be adequately protected by a reserve escrow or escrows
598 in a lesser amount.

599 (b) No entrance fee escrows established or maintained under section
600 17b-524, as amended by this act, shall be subordinated to other loans or
601 commitments of any kind. No reserve fund escrows established or
602 maintained under this section shall be subordinated to other loans or
603 commitments, other than first mortgage loans or other long-term
604 financing obligations of the facility. No entrance fee [escrows or
605 reserve fund escrows] escrow shall be [(1)] pledged as collateral [, (2)]
606 for any loan or commitment, provided that a reserve fund escrow may
607 be pledged as collateral for a first mortgage loan or other long-term
608 financing obligation of the facility. No entrance fee escrows or reserve
609 fund escrows shall be (1) invested in any building or [healthcare]
610 health care facility of any kind, [(3)] (2) used for capital construction or
611 improvements or for the purchase of real estate, or [(4)] (3) removed
612 from the state if required to be maintained within this state. Interest on
613 the reserve fund required under this section shall be payable to the
614 provider.

615 (c) Any affiliate of a provider that controls any part of the reserve

616 escrow funds is liable for the debts of the provider up to the amount of
617 the provider's contribution to the fund plus any prorated interest the
618 fund may earn.

619 Sec. 10. Section 17b-526 of the general statutes is repealed and the
620 following is substituted in lieu thereof (*Effective July 1, 2015*):

621 (a) Construction of any facility or, if the construction of the facility is
622 to be completed in stages, construction of any stage of the facility shall
623 not begin until (1) fifty per cent of all the living units within the
624 planned facility, or fifty per cent of any designated part or parts
625 thereof determined by the commissioner [as evidencing financial
626 feasibility in accordance with subdivision (2) of subsection (b) of this
627 section,] have been presold, (2) a minimum deposit of [five per cent of
628 the entrance fee per unit for all presold units or] ten thousand dollars
629 per unit for all presold units [, whichever is less,] has been received by
630 the provider, and (3) the thirty-day rescission period set forth in
631 subdivision (1) of subsection (a) of section 17b-523, as amended by this
632 act, has expired.

633 [(b) When the construction of a facility is to be completed in stages,
634 construction of any stage shall not begin until (1) the financial
635 feasibility of the designated part of the project to be constructed,
636 maintained and operated as a facility prior to the construction,
637 maintenance and operation of the remaining planned part or parts has
638 been demonstrated to the commissioner by the filing of proof of
639 committed construction financing or other documentation of financial
640 feasibility deemed sufficient by the commissioner, and (2) the
641 commissioner has issued a written notice stating that proof of
642 committed construction financing or other documentation of financial
643 feasibility deemed sufficient by the commissioner has been filed. The
644 commissioner shall issue a written notice as to whether the proof or
645 other documentation submitted is sufficient within twenty days of the
646 filing of such proof or other documentation.

647 (c) Upon receipt of a notice of the commissioner stating that proof of

648 committed construction financing or other documentation of financial
649 feasibility filed pursuant to subsection (b) of this section is deemed
650 insufficient, the provider shall have thirty days from the date of the
651 issuance of such notice to file a written request for a hearing in
652 accordance with chapter 54. The final decision of the commissioner
653 after a hearing shall be subject to appeal in accordance with section 4-
654 183. Notwithstanding the provisions of subsection (f) of section 4-183,
655 no stay of the final decision of the commissioner shall be granted
656 pending the outcome of any appeal of such decision.]

657 (b) A provider shall give a resident, individually or through a
658 residents council, not less than one hundred twenty days' advance
659 written notice of any major construction, modification, renovation or
660 expansion project. Such notice shall include, but not be limited to, (1) a
661 project schedule and areas to be impacted, (2) funding needed for the
662 project, (3) financing plans, (4) the expected amount of debt to be
663 incurred, and (5) projected income from the project. If the provider
664 plans to use any incurred debt to fund a project at a location other than
665 the facility, the provider shall hold at least one meeting with residents
666 to discuss the project and advise residents in writing of any impact on
667 the resident's monthly service fee. The notice provisions in this section
668 shall not apply to immediate renovation or construction necessary to
669 address a public safety or health issue or issue related to a natural
670 disaster, provided reasonable written notice of such project is provided
671 to the residents council or to each resident.

672 Sec. 11. Section 17b-527 of the general statutes is repealed and the
673 following is substituted in lieu thereof (*Effective July 1, 2015*):

674 [(a) A provider operating a facility located in this state shall file with
675 the department annually, in a form and manner prescribed by the
676 commissioner, financial and actuarial information for each facility
677 located in this state and operated by the provider or by a manager
678 under contract to the provider. The commissioner shall prescribe the
679 information to be filed which shall include but is not limited to the
680 following: Financial statements including certified current balance

681 sheets and certified income statements and pro forma statements for
682 the next five years as provided in section 17b-522 and such information
683 as is necessary to assess the actuarial soundness thereof; the basis for
684 amortization assumptions for the provider's capital costs; the facility's
685 current rate schedule; a statement of source and application of funds
686 for the five-year period beginning the year of initial filing pursuant to
687 section 17b-521 or subsequent filing pursuant to section 17b-529;
688 current and anticipated residential turnover rates; the average age of
689 the residents for the next five years; healthcare utilization rates,
690 including admission rates and days per one hundred residents by level
691 of care; occupancy rates; the number of healthcare admissions per
692 year; the days of care per year; and the number of permanent transfers.
693 Financial and actuarial projections contained in such studies shall be
694 determined on an actuarially sound basis using reasonable
695 assumptions for mortality, morbidity and interest. Each provider
696 operating a facility in this state shall make the information filed with
697 the department pursuant to this subsection available to each such
698 resident for viewing during regular business hours and, upon request,
699 shall provide such resident with a copy of the most recent filing with
700 the department. Each provider shall notify each resident, at least
701 annually, of the right to view the filings and of the right to a copy of
702 the most recent filing. The commissioner may adopt regulations in
703 accordance with chapter 54 to prescribe financial and actuarial
704 information to be filed pursuant to this subsection.]

705 [(b)] (a) A provider operating a facility in this state shall notify the
706 commissioner in writing prior to refinancing its existing indebtedness
707 or making any material change in its business or corporate structure.

708 (b) A provider shall notify the commissioner and the residents at all
709 facilities it operates not less than three months in advance of any
710 changes in ownership of the provider. The commissioner may excuse a
711 provider from the requirements of this section, on a case-by-case basis,
712 if reasonable written notice of the change in ownership is also
713 provided to each residents council at each facility operated by the

714 provider or, if no residents council exists, to each resident.

715 (c) A provider shall provide residents at all facilities it operates not
716 less than thirty days' advance written notice of increases in any
717 monthly service fees charged to the residents, along with an
718 explanation of such increases and an opportunity for dialogue and
719 comments from residents concerning such increases.

720 [(c)] (d) The commissioner may require a provider operating a
721 facility in this state to submit such information as the commissioner
722 requests if the commissioner has reason to believe that such facility is
723 in financial distress. The commissioner may require a provider
724 constructing a facility in this state to submit such information as the
725 commissioner requests if the commissioner has reason to believe that
726 such facility is at risk of being in financial distress. "Financial distress"
727 means the issuance of a negative going concern opinion, or failure to
728 meet debt service payments, or drawing down on debt service reserve.

729 [(d)] (e) The commissioner may adopt regulations in accordance
730 with chapter 54 to prescribe additional conditions that constitute
731 financial distress. To the extent that a provider seeks modification,
732 waiver or extension of any of the provider's material financial
733 covenants or material payment terms under a mortgage loan, bond
734 indenture or other long-term financing agreement, the provider shall
735 report such requests in writing to the commissioner with a copy to the
736 applicable residents council of the facility or facilities operated by the
737 provider in this state, not later than seven business days after making
738 such requests. If the commissioner determines that a facility is in
739 financial distress, the provider of that facility shall, pursuant to a
740 process established by the commissioner, propose a remediation plan
741 to improve the provider's financial health. Such remediation plan shall
742 be submitted for approval and supervision by the commissioner and
743 shall be disclosed to the residents council of the provider. The provider
744 shall file regular reports with the commissioner and the provider's
745 residents council, regarding its progress in meeting its approved
746 remediation plan. Such reports shall be filed on a quarterly basis or on

747 an alternative schedule established by the commissioner.

748 Sec. 12. Subsection (c) of section 17b-529 of the general statutes is
749 repealed and the following is substituted in lieu thereof (*Effective July*
750 *1, 2015*):

751 (c) Nothing contained in sections 17b-520 to 17b-535, inclusive, as
752 amended by this act, or sections 2 to 4, inclusive, of this act shall be
753 construed to limit the remedies a person has under any other provision
754 of law.

755 Sec. 13. Section 17b-530 of the general statutes is repealed and the
756 following is substituted in lieu thereof (*Effective July 1, 2015*):

757 Any person who wilfully and knowingly violates any provision of
758 sections 17b-520 to 17b-535, inclusive, as amended by this act, or
759 sections 2 to 4, inclusive, of this act shall be fined not more than ten
760 thousand dollars or imprisoned for a period not to exceed one year, or
761 both.

762 Sec. 14. Section 17b-531 of the general statutes is repealed and the
763 following is substituted in lieu thereof (*Effective July 1, 2015*):

764 (a) The commissioner, or any agent authorized by the
765 commissioner, may conduct investigations within or outside of this
766 state as the commissioner deems necessary to determine whether any
767 person has violated any provision regarding the registration,
768 disclosure and escrow provisions relating to continuing-care contracts
769 or any regulation adopted pursuant to section 17b-533, as amended by
770 this act, or to aid in the enforcement of sections 17b-520 to 17b-535,
771 inclusive, as amended by this act, sections 2 to 4, inclusive, of this act
772 or in the prescribing of regulations under said sections. The
773 commissioner, or any agent authorized by the commissioner, shall
774 have the power to conduct any inquiry, investigation or hearing
775 pursuant to the provisions of this section relating to continuing-care
776 contracts and shall have the power to administer oaths and take
777 testimony under oath relative to the matter of inquiry or investigation.

778 At any hearing ordered by the commissioner, the commissioner or
779 such agent having authority by law to issue such process may
780 subpoena witnesses and require the production of records, papers and
781 documents pertinent to such inquiry. If any person disobeys such
782 process or, having appeared in obedience thereto, refuses to answer
783 any pertinent question put to [him] such person by the commissioner
784 or [his] the commissioner's authorized agent or to produce any records
785 and papers pursuant thereto, the commissioner or [his] the
786 commissioner's agent may apply to the superior court for the judicial
787 district of Hartford or for the judicial district wherein the person
788 resides or wherein the provider or the facility is located, or to any
789 judge of said court if the same is not in session, setting forth such
790 disobedience to process or refusal to answer, and said court or such
791 judge shall cite such person to appear before said court or such judge,
792 and upon appropriate order, to show cause why answer to such
793 question or production of such records should not be made.

794 (b) If as the result of any investigation relating to continuing-care
795 contracts, the commissioner determines that any provider has violated
796 any provision of sections 17b-520 to 17b-535, inclusive, as amended by
797 this act, or sections 2 to 4, inclusive, of this act the commissioner may,
798 notwithstanding the provisions of chapter 54, request the Attorney
799 General to seek a temporary or permanent injunction and such other
800 relief as may be appropriate to enjoin such provider from continuing
801 such violation or violations. If the court determines that such violation
802 or violations exist, it may grant such injunctive relief and such other
803 relief as justice may require and may set a time period within which a
804 provider shall comply with any such order. Any appeal taken from
805 any permanent injunction granted under this section shall not stay the
806 operation of such injunction unless the court is of the opinion that
807 great and irreparable injury will be done by not staying the operation
808 of such injunction. If the commissioner determines that any person has
809 violated the provisions of sections 17b-520 to 17b-535, inclusive, as
810 amended by this act, or sections 2 to 4, inclusive, of this act, the
811 commissioner may request the Attorney General to seek restitution or

812 damages and such other relief as may be appropriate on behalf of any
813 person injured by such violation.

814 Sec. 15. Section 17b-533 of the general statutes is repealed and the
815 following is substituted in lieu thereof (*Effective July 1, 2015*):

816 The commissioner shall adopt regulations in accordance with the
817 provisions of chapter 54 to carry out the provisions of sections 2 to 4,
818 inclusive, of this act, and sections 17b-520 to 17b-535, inclusive, as
819 amended by this act, including the prescribing of the minimum
820 amount of assets to be transferred or entrance fee which shall subject a
821 continuing-care contract to the provisions of said sections.

822 Sec. 16. Section 17b-535 of the general statutes is repealed and the
823 following is substituted in lieu thereof (*Effective July 1, 2015*):

824 There shall be an Advisory Committee on Continuing Care
825 appointed by the commissioner that shall meet not later than August 1,
826 2015, and at least quarterly thereafter. The advisory committee shall be
827 comprised of professionals such as accountants, actuaries, and
828 insurance representatives; representatives of the continuing-care
829 industry; a designee of the Commissioner of Social Services, who shall
830 report to the commissioner after every meeting on actions taken and
831 recommendations made at the meeting; and others knowledgeable in
832 the field of continuing care and familiar with the provisions of sections
833 17b-520 to 17b-535, inclusive, as amended by this act, and sections 2 to
834 4, inclusive, of this act. The advisory committee shall assist the
835 continuing-care staff in its review and registration of functions, shall
836 report to the commissioner on developments in the field, any special
837 problems associated with continuing care, and concerns of providers
838 and residents, and, when appropriate, shall recommend changes in
839 relevant statutes and regulations.

840 Sec. 17. Section 17b-528 of the general statutes is repealed. (*Effective July*
841 *1, 2015*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2015	17b-520
Sec. 2	July 1, 2015	New section
Sec. 3	July 1, 2015	New section
Sec. 4	July 1, 2015	New section
Sec. 5	July 1, 2015	17b-521
Sec. 6	July 1, 2015	17b-522
Sec. 7	July 1, 2015	17b-523
Sec. 8	July 1, 2015	17b-524
Sec. 9	July 1, 2015	17b-525
Sec. 10	July 1, 2015	17b-526
Sec. 11	July 1, 2015	17b-527
Sec. 12	July 1, 2015	17b-529(c)
Sec. 13	July 1, 2015	17b-530
Sec. 14	July 1, 2015	17b-531
Sec. 15	July 1, 2015	17b-533
Sec. 16	July 1, 2015	17b-535
Sec. 17	July 1, 2015	Repealer section

Statement of Legislative Commissioners:

In Section 3(a)(3), "resident council" was changed to "residents council" for internal consistency; in Section 4(c), "42 USC 1997" was changed to "42 USC 3601" for accuracy; in Section 6(b)(17), "health care admissions" was changed to "health care facility admissions" for clarity; in Section 7, "effective date of this section" was changed to "July 1, 2015" for clarity; in Section 9, "this section" was changed to "the provisions of this section" and "this subsection" was changed to "the provisions of this subsection" for internal consistency; in Section 10, "related to" was changed to "issue related to" for clarity; and in Section 11, "provider must report" was changed to "provider shall report" for internal consistency.

HS *Joint Favorable Subst.*