

## **Summary of 2015 Changes to Ch. 651, Florida Statutes/ (HB 749 by Rep. Charles VanZant R- Palatka)**

### **History of HB 749**

- ✓ Developed by a FLiCRA/LeadingAge Florida Task Force that met from Sept. 2013 until Sept. 2014.
- ✓ Includes modifications to the Task Force proposal that address the Office of Insurance Regulation (OIR) concerns.
- ✓ Signed into law by Governor Scott on May 26, 2015

### **Entrance Fee Contracts**

- ✓ For traditional contracts, requires a continuing care retirement community (CCRC) to make entrance fee refunds within 90 days after the contract is terminated and the unit is vacated vs. current law which requires the refund to be made no later than 120 days after the resident gives notice of intent to cancel. CCRCs will have until January 1, 2016 to modify their contracts to implement this change. This change makes more sense since some residents give notice that do not relocate for six months.
- ✓ Phases out contracts that tie a refund to the unit that is vacated by specifying that they will not be approved by the OIR after October 1, 2015. Those contracts that have been approved prior to that date may not be used after October 1, 2016.
- ✓ Effective January 1, 2016, requires CCRCs with contracts that tie entrance fee refunds to the next entrance fee received for a “like or similar unit” to include a maximum time frame to be set by the provider for making a refund when the contract is not voluntarily terminated (the resident moves out of the community). Consumers who are shopping for a CCRC will have the advantage of knowing before they sign a refundable contingency entrance fee contract of knowing the maximum amount of time that their estate will have to wait for a refund if the unit type they select has marketing challenges in the future. (An estimated 30% of CCRCs offered these types of contracts.)
- ✓ Defines “like or similar unit” as a group of dwellings with similar characteristics such as comparable square footage, number of bedrooms, location, age of construction, or a combination of one or more of these features. Each category must consist of at least 5% of the total number of residential units designated for independent living or 10 residential units, whichever is less. A category of single-family homes may contain fewer than 10 units. This provision was included in the

bill to provide some assurance that a sufficient number of units are in each category for refunds to be made within a reasonable period of time.

- ✓ For contracts issued on or after October 1, 2015 that are terminated voluntarily and tie the refund to the receipt of the next entrance fee for a like or similar unit, the refund must be made within 30 days of receipt of the next entrance fee for whatever unit or unit type is specified in the contract.

### *Accredited CCRCs*

- ✓ Clarifies that a CCRC must be accredited without stipulation for OIR to waive quarterly reports or conduct audits every 5 years instead of the standard 3 years. The waiver of these regulatory requirements is at the OIR's discretion and is not mandated.

### *Disclosure*

- ✓ Requires the provider to give a copy of the final examination report and corrective action plan, if one is required by the OIR, to the chair or officer of the governing body of the provider within 60 days of the issuance of the report.
- ✓ Requires the OIR to notify the executive officer of the governing body in writing of all deficiencies identified during examinations/inspections. Requires the OIR to verify during routine inspections that this is done.
- ✓ Requires CCRCs to provide a copy of the most recent third-party financial audit to the president or chair of the residents' council.

### *Bankruptcy*

- ✓ Requires a facility that files for chapter 11 bankruptcy to include with its filing, the name and contact information of a designated resident selected by the residents' council for consideration to serve on the Creditors' Committee, if appropriate.

### *Residents' Councils*

- ✓ Requires every CCRC to establish a residents' council. (Under current law, this is an option, but all CCRCs have a council.)
- ✓ Clarifies that a residents' council is the formal liaison between residents and the provider and the forum for residents to submit issues or inquiries related to the quality of life and the cultural environment of the CCRC.
- ✓ Clarifies that the activities of the residents' council are independent of the provider, and the provider is not responsible for associated costs or ensuring compliance with residents' council responsibilities.
- ✓ Requires a residents' council to adopt by-laws and governing documents that: (1) define how residents may submit issues and (2) include a reasonable timeframe for responding to resident issues and inquiries.

- ✓ Specifies that by-laws may include term limits to foster new leaders.

### Quarterly Meetings

- ✓ Deletes redundant or obsolete language related to quarterly meetings between residents and the provider.

### Resident Representation on the Board of Directors

- ✓ Specifies that a CCRC may appoint at its sole discretion a resident to the board or governing body, and authorizes the CCRC to establish criteria for selecting that resident.

### Effective Date

- ✓ Except where otherwise noted, the changes to chapter 651 take effect on October 1, 2015.