Article 64A.

Continuing Care Retirement Communities.

Part 1. General Provisions.

§ 58-64A-1. Title.

This Article shall be known and may be cited as the "Continuing Care Retirement Communities Act." (2025-58, s. 2.)

§ 58-64A-2. Legislative intent.

The General Assembly recognizes that continuing care retirement community residents often expend a significant portion of their savings when contracting with a provider for continuing care and devastating consequences can result if a provider becomes insolvent or unable to provide continuing care. It is the intent of the General Assembly to promote the dignity and protect the health, safety, and welfare of older citizens of North Carolina by (i) encouraging the development of continuing care retirement communities and (ii) requiring providers offering or providing continuing care in this State to obtain a license and to be monitored and regulated by the North Carolina Department of Insurance under this Article. This Article applies to both for-profit and nonprofit providers. (2025-58, s. 2.)

§ 58-64A-5. Definitions.

The following definitions apply to this Article:

(1) Accepted actuarial standards of practice. – Standards of practice that conform with Actuarial Standards of Practice No. 3 for Continuing Care Retirement Communities, Revised Edition, effective June 1, 2022, including subsequent amendments and editions.

(2) Actuarial opinion. – An opinion issued by an actuary in accordance with accepted actuarial standards of practice.

(3) Actuarial study. – An analysis that includes an actuary's opinion of whether the provider or applicant is in satisfactory actuarial balance in accordance with accepted actuarial standards of practice.

(4) Actuary. – An individual qualified to sign an actuarial opinion in accordance with the American Academy of Actuaries' qualification standards and who is a member in good standing with the American Academy of Actuaries.

(5) Advertisement. – Any written, visual, or electronic information provided to potential residents, or their representatives, to induce those persons to subscribe to or enter into a nonbinding reservation agreement, binding reservation agreement, continuing care contract, or continuing care at home contract.

(6) Affiliate. – A person that, directly or indirectly, through one or more other persons, controls, is controlled by, or is under common control with a provider or applicant.

(7) Annual debt service. – The current year's capitalized interest cost plus interest expense and scheduled principal payments, excluding any balloon principal payment amounts and any portion of the annual debt service that has been or will be funded by debt for the payment of debt service.

(8) Applicant. – Any person with a pending application or other request for approval under this Article.

(9) Audited financial statements. – Financial statements that have been prepared in accordance with Generally Accepted Accounting Principles and examined by an independent certified public accountant.

(10) Binding reservation agreement. – A binding contractual agreement between a provider and a depositor that requires the payment of a deposit to reserve the right to purchase continuing care, including the right to live in an independent living unit at a continuing care retirement community. A purchase and sale agreement for an independent living unit shall not be considered a binding reservation agreement for the purposes of this Article.

(11) Cancel. – To terminate the force and effect of an agreement or contract.

(12) Continuing care. – The rendering to an individual other than an individual related by blood, marriage, or adoption to the person rendering the care, of housing in an independent living unit, together with related services, including access, when needed, to progressive levels of health care, including either assisted living care, as defined in G.S. 131D-2.1, or nursing care, as defined in G.S. 131E-176, or both, regardless of whether the health care is provided at the continuing care retirement community where the individual resides or another location, or through a contractual relationship with a third party, pursuant to a contract effective for the life of the individual or for a period longer than one year.

(13) Continuing care at home. – A program offered by a provider holding a permanent license under this Article that provides continuing care to an individual who is not yet receiving housing, which may include programs that offer an individual an opportunity to move to an independent living unit at a future date, if desired, according to the provider's established priority and admissions policies at the continuing care retirement community sponsoring the continuing care at home program.

(14) Continuing care retirement community. – A retirement community consisting of one or more structures where a provider renders continuing care to residents. A distinct phase of development approved by the Commissioner may be considered to be the continuing care retirement community when a project is being developed in successive distinct phases over a period of time.

(15) Control. – The direct or indirect ability to direct or cause the direction of the management and policies of a person, including the right to designate or elect not less than a majority of the members of its board of directors or other governing board or body.

(16) Controlling person. – The person that controls an applicant or provider.

(17) Debt service coverage ratio. – A capital structure ratio that measures a provider's ability to pay annual debt service with cash flow from net cash revenues and net entrance fee receipts. The quotient shall be calculated by dividing the sum of total excess of revenues over or under expenses plus interest expense, depreciation expense, amortization expense, other noncash operating losses or expenses, and net cash proceeds from entrance fees, minus entrance fee amortization, entrance fee refunds contractually past due, and other noncash operating gains or revenues divided by annual debt service. Entrance fees received from the initial residents of independent living units at a continuing

care retirement community that have been financed in whole or in part with the proceeds of indebtedness shall be excluded from the net proceeds from entrance fees up to an amount equal to the aggregate of the principal amount of the indebtedness.

(18) Deposit. – Any transfer of consideration made by a depositor to a provider to reserve an independent living unit at a continuing care retirement community.

(19) Entrance fee. – The sum of any initial, amortized, or deferred transfer of consideration made or to be made by, or on behalf of, an individual entering into a continuing care or continuing care at home contract.

(20) Escrow agent. – Any person approved by the Commissioner to hold entrance fees and deposits required to be placed in escrow under this Article.

(21) Escrow agreement. – An agreement between a provider and an escrow agent by which entrance fees and deposits required to be held in escrow in accordance with this Article are held by the escrow agent until release is permitted in accordance with this Article.

(22) Hazardous condition. – A present, or reasonably anticipated future condition, whereby (i) a provider is unlikely to be able to meet its continuing care obligations or to pay other obligations in the normal course of business or (ii) the continued operation of a provider or continuing care retirement community in its current condition is potentially harmful to depositors, residents, creditors, or the general public.

(23) Housing. – A living unit set forth in a continuing care contract.

(24) Independent certified public accountant. – A certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which he or she is licensed to practice who is not employed by, or otherwise affiliated with, an applicant or provider.

(25) Independent living unit. – A living unit in a continuing care retirement community for residents who are routinely able to carry out activities of daily living, as defined in G.S. 160D-915, with minimal or no assistance. The accommodations may be in the form of apartments, flats, houses, cottages, condominium units, or rooms. Receiving home care or similar services, regardless of whether the services are provided by the provider or another person, does not preclude a living unit from being considered an independent living unit.

(26) Insolvent. – A condition whereby the provider is unable to pay its obligations as they come due in the normal course of business.

(27) Living unit. – An independent living unit, adult care home bed, nursing bed, or other area within a continuing care retirement community set aside for the exclusive use or control of one or more identified residents.

(28) Long-term care facility. – As defined in G.S. 131E-231.

(29) Manager. – A person who administers the day-to-day business operations of a continuing care retirement community for a provider, subject to the policies, directives, and oversight of the provider.

(30) Net cash proceeds from entrance fees. – Total entrance fees received less entrance fees refunded, and less initial entrance fees received for new independent living units.

(31) Nonbinding reservation agreement. – An agreement between a provider and a depositor, which may be canceled by either party upon written notice at any time, confirming a person's desire to reserve an independent living unit at a continuing care retirement community on a nonbinding basis.

(32) Obligated group. – One or more persons that agree to be jointly and severally bound by a financing structure containing security provisions and covenants applicable to the group.

(33) Occupancy rate. – A ratio used to show the actual occupancy or utilization of living units, calculated by living unit type, at a continuing care retirement community for a given time period expressed as a percent. The occupancy rate shall be a rolling average that is equal to 100 times the quotient obtained by dividing occupied living unit days by living unit days available. For purposes of this definition, "living unit days available" is the maximum number of living unit days that would have been provided if all available living units were filled during the given time period. The total shall equal the sum of all living units, minus any living units that are unavailable for occupancy, on each day for the given time period. For purposes of this definition, "occupied living unit days" is the sum of each daily living unit census at the continuing care retirement community for a given time period, excluding any second person occupants. The total shall equal the sum of each daily census for the given time period.

(34) Periodic fee. – The fee charged to a resident on a monthly or other periodic basis for housing, services, or both.

(35) Person. – An individual, partnership, firm, association, corporation, joint-stock company, trust, any similar entity, or any combination of the foregoing acting in concert.

(36) Presale. – Entering into an agreement or contract with a depositor for an independent living unit that is not yet constructed or available for occupancy.

(37) Primary market area. – The area from which a continuing care retirement community will likely draw the majority of its residents.

(38) Prospective financial statements. – Financial forecasts or financial projections, including the summaries of significant assumptions and accounting policies prepared by an independent certified public accountant.

(39) Provider. – A person that offers or undertakes to provide continuing care under a continuing care or continuing care at home contract, or that represents himself, herself, or itself as providing continuing care. For the purposes of this Article, the term provider shall also include a person who has been issued a permit to accept deposits, a start-up certificate, or a preliminary certificate.

(40) Related party. – A person or persons that have common interests with a provider as a result of ownership, control, or by contract, including affiliates, principal owners, management, or their affiliates and their management and members of the immediate family of the principal owners, management, or their affiliates and their management.

(41) Resident. – An individual who enters into a continuing care or continuing care at home contract with a provider, or who is designated to be the individual to receive care under the contract.

(42) Satisfactory actuarial balance. – Meeting all of the required conditions, as of a specified valuation date, as set forth in accordance with accepted actuarial standard of practice. (2025-58, s. 2.)

§ 58-64A-10. Rulemaking authority.

The Commissioner may adopt rules to implement the provisions of this Article. (2025-58, s. 2.)

§ 58-64A-15. Dividends and distributions.

No dividend or other distribution of equity or net assets shall be paid by any provider after the Commissioner has determined that the provider is in a hazardous condition or has been determined to not be in satisfactory actuarial balance in an actuarial study filed with the Commissioner pursuant to G.S. 58-64A-210, or when the payment would have the effect of creating a hazardous condition in the provider or cause the provider to not be in satisfactory actuarial balance. (2025-58, s. 2.)

§ 58-64A-20. Commissioner approval required to offer or provide continuing care.

No person shall engage in the business of offering or providing continuing care in this State without a certification, license, permit, or other approval from the Commissioner as provided in this Article. Engaging in the business of offering or providing continuing care in this State includes all of the following:

(1) Accepting any deposit or any other payment that is related to continuing care.
(2) Entering into any nonbinding reservation agreement, binding reservation agreement, continuing care contract, or continuing care at home contract.
(3) Commencing construction of a prospective continuing care retirement community.
(4) Converting an existing building or buildings to a continuing care retirement community.
(5) Executing new nonbinding reservation agreements, binding reservation agreements, continuing care contracts, or continuing care at home contracts after a permit, certificate, or license issued pursuant to this Article has been inactivated, surrendered, or forfeited.
(6) Assuming responsibility for continuing care and continuing care at home contracts.
(7) Advertising or marketing to the general public any product similar to continuing care through the use of such terms as "life care," "life plan," "continuing care," or "guaranteed care for life," or similar terms, words, or phrases. (2025-58, s. 2.)

§ 58-64A-25. Leasing real property for a continuing care retirement community.

(a) An applicant or provider who intends to collect or does collect entrance fees shall not lease any land or other real property from another person if the land or other real property is to be used as a material part of a continuing care retirement community operated by the applicant or provider without first obtaining approval from the Commissioner.

(b) When considering whether to allow an applicant or provider to lease any of the real property of a continuing care retirement community under this section, the Commissioner shall consider all relevant factors, including all of the following:

(1) The terms of the proposed lease, including the proposed length of the lease and any proposed purchase options.

(2) The owner of the real property and the owner's relationship to the applicant or provider.

(3) The distance from any existing real property owned by the applicant or provider. (2025-58, s. 2.)

§ 58-64A-30. Required electronic filings and submissions.

Except when required by the Commissioner to submit a hard copy, all applicants and providers shall submit all filings required by this Article electronically, in a form and manner acceptable to the Commissioner and in compliance with the Uniform Electronic Transactions Act. (2025-58, s. 2.)

§ 58-64A-35. Waiver or modification.

The Commissioner may waive or modify any provision of this Article if the Commissioner determines a waiver or modification is justified based on any of the following:

(1) A state of emergency or disaster being proclaimed in this State or for an area within this State under G.S. 166A-19.20 or G.S. 166A-19.21 or whenever the President of the United States has issued a major disaster declaration for the State or for an area within the State under the Stafford Act, 42 U.S.C. § 5121, et seq.

(2) An incident beyond a provider's reasonable control, including an act of God, insurrection, strike, fire, pandemic, epidemic, power outage, or systemic technological failure that substantially affects the daily business operations of a provider or a continuing care retirement community. (2025-58, s. 2.)

§ 58-64A-40. Confidential treatment.

(a) All of the following shall be confidential and privileged, shall not be considered a public record under either G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action:

(1) Any third-party management contract or proposed management contract provided to the Commissioner pursuant to G.S. 58-64A-55(a)(3) or G.S. 58-64A-240(a).

(2) Any lease agreement or proposed lease agreement provided to the Commissioner pursuant to G.S. 58-64A-25 or G.S. 58-64A-55(a)(4).

(3) Any request for approval provided to the Commissioner pursuant to G.S. 58-64A-230(d) or G.S. 58-64A-235(a).

(4) The actuarial study, other than the statement of actuarial opinion, provided to the Commissioner pursuant to G.S. 58-64A-60(a)(3), 58-64A-90(b)(3), 58-64A-185(a)(4), or 58-64A-210.

(5) Any market study provided to the Commissioner pursuant to G.S. 58-64A-55(a)(9) or G.S. 58-64A-185(a)(5).

(6) Any feasibility study provided to the Commissioner pursuant to G.S. 58-64A-60(a)(2) or G.S. 58-64A-90(b)(2).

(7) Documents, materials, or other information in the possession or control of the Commissioner that are obtained by or disclosed to the Commissioner or any other person in the course of an investigation or examination made pursuant to G.S. 58-64A-295 or G.S. 58-64A-380.

(8) All working papers, information, documents, and copies of those materials produced by, obtained by, or disclosed to the Commissioner in connection with the financial analysis of a provider by the Commissioner.

(b) Notwithstanding subsection (a) of this section, the Commissioner is authorized to use these documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties. The Commissioner shall not otherwise make these documents, materials, or other information public without the prior written consent of the provider to which it pertains unless the Commissioner, after giving the provider and its related parties who would be affected thereby notice and opportunity to be heard, determines that the interest of residents or the public will be served by their publication, in which event the Commissioner may publish all or any part of the information in a manner deemed appropriate by the Commissioner.

(c) Neither the Commissioner nor any person who received any documents, materials, or other information while acting under the authority of the Commissioner pursuant to this Article or with whom any documents, materials, or other information are shared pursuant to this Article shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a) of this section.

(d) Any document, material, or other information that is shared with the Commissioner that is not covered under subsection (a) of this section that an applicant, provider, or other person believes is confidential or a trade secret should be marked as confidential or as a trade secret before submitting to the Commissioner. Any document, material, or other information that is not marked as confidential is not eligible for confidential treatment pursuant to G.S. 132-1.2.

(e) To assist in the performance of the duties imposed by this Article, the Commissioner may do both of the following:

(1) Share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (a) or (d) of this section, with other state, federal, and international regulatory agencies, and with state, federal, and international law enforcement authorities, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information and has verified in writing the legal authority to maintain confidentiality.

(2) Receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

(f) The sharing of information by the Commissioner pursuant to this section shall not constitute a delegation of regulatory authority or rulemaking, and the Commissioner is solely responsible for the administration, execution, and enforcement of the provisions of this Article.

(g) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in subsection (e) of this section. (2025-58, s. 2.)

§ 58-64A-45. Advertisement in conflict with disclosures and contracts.

A provider may not engage in any type of advertisement for a continuing care retirement community if the advertisement contains a statement or representation which materially conflicts with the disclosures required under this Article or materially conflicts with any continuing care or continuing care at home contract offered by the provider. (2025-58, s. 2.)

Part 2. Approval, Certification, Licensure, and Permitting Process.

§ 58-64A-50. Permit to accept deposits.

(a) No person shall market a proposed continuing care retirement community without a permit from the Commissioner. A person may apply for a permit by paying an application fee of two hundred dollars ($200.00) and filing an application on a form prescribed by the Commissioner. The application form shall include all of the following:

(1) The name, business address, and telephone number of the applicant.
(2) The name and business address of the applicant's controlling person, if control of the applicant does not reside with the applicant.
(3) A proposed nonbinding reservation agreement.
(4) A proposed escrow agreement that meets the requirements of G.S. 58-64A-105.
(5) A description of the proposed continuing care retirement community which shall include all of the following:
    a. The location of the proposed continuing care retirement community.
    b. The types of living units to be offered.
    c. The types of continuing care contracts to be offered.
    d. A description of the services that will be provided to residents, including an indication if any services will be provided by any related parties or third parties.
    e. A description of the applicant's corporate structure and experience in developing or operating continuing care retirement communities, including the experience of any related party of the applicant.

(b) The Commissioner shall comply with the review schedule in G.S. 58-64A-70 in response to an application for a permit to accept deposits.

(c) The Commissioner shall approve an application for a permit to accept deposits if all of the following requirements are met:

(1) The application complies with this section.
(2) None of the grounds for denial listed in G.S. 58-64A-280 apply to the applicant.
(3) The proposed escrow agreement meets the requirements of G.S. 58-64A-105.
(4) The proposed escrow agent and depository are acceptable in accordance with G.S. 58-64A-100.

(d) After the issuance of a permit to accept deposits, the applicant may do all of the following:

(1) Disseminate materials describing the intent to develop a continuing care retirement community.
(2) Enter into nonbinding reservation agreements.
(3) Collect deposits in an amount not to exceed five thousand dollars ($5,000). All deposits collected shall be placed in escrow and shall only be released in accordance with Part 4 of this Article.

(e) After the issuance of a permit to accept deposits, the Commissioner shall require the provider to file periodic status reports in a form prescribed by the Commissioner. (2025-58, s. 2.)

§ 58-64A-55. Start-up certificate.

(a) A person may apply for a start-up certificate by paying an application fee of two thousand dollars ($2,000) and submitting all of the following to the Commissioner for review:

(1) A statement signed by the applicant, under penalty of perjury, certifying that to the best of the applicant's knowledge and belief, the items submitted in the application are correct. If the applicant is a corporation, the chief executive officer or other authorized individual shall sign the statement. If there are multiple applicants, these requirements shall apply to each applicant.
(2) A statement disclosing any revocation or other disciplinary action taken, or in the process of being taken, against a license, permit, or certificate held or previously held by the applicant, any current or former related party, or any person included or to be included in a current or proposed obligated group.
(3) If the applicant intends to employ a third-party management company to manage the continuing care retirement community, a copy of the management contract or proposed management contract, if available, along with a narrative describing the proposed third-party management company's experience managing continuing care retirement communities.
(4) If the applicant intends to lease any land or other real property to be used as part or all of the proposed continuing care retirement community, the name of the person from whom the land or other real property will be leased along with a copy of the lease agreement, or proposed lease agreement, if available, or a statement describing the applicant's intentions, including the intended length of the lease, if a lease agreement or proposed lease agreement is not available. If the applicant intends to lease any of the real property of the continuing care retirement community and to collect entrance fees, Commissioner approval must be received pursuant to G.S. 58-64A-25.
(5) If the applicant is not the owner of the proposed site, a statement identifying the current owner and any plans the applicant has for acquiring the proposed site, including details of any purchase option and requirements for a purchase option deposit. If a purchase option requires a purchase option deposit, the purchase option deposit shall be placed in escrow or secured in a manner acceptable to the Commissioner.
(6) A list of all continuing care retirement communities currently or previously owned, operated, managed, or developed by the applicant or any related party of the applicant. The list shall do all of the following:

a. Furnish the name, address, city, and state of each continuing care retirement community listed, and explain the existing or past relationship to the applicant.
b. Specify the current status of each continuing care retirement community listed and include any administrative actions or financial problems that currently exist, or have existed, within three years after any relationship was terminated.

(7) A disclosure statement that meets the requirements of G.S. 58-64A-150.

(8) If the applicant intends to enter into binding reservation agreements, a copy of the binding reservation agreement that the applicant intends to use.

(9) A market study prepared by a person experienced in the preparation of continuing care retirement community market studies.

(10) Any other data, financial statements, and pertinent information as the Commissioner may reasonably require with respect to the applicant, the applicant's controlling person, or the proposed continuing care retirement community to assist in determining the market and financial viability of the proposed continuing care retirement community and the competency, experience, and integrity of the applicant's and, if applicable, the applicant's controlling person's, governing body, officers, and management.

(b) The Commissioner shall comply with the review schedule in G.S. 58-64A-70 in response to an application for a start-up certificate.

(c) The Commissioner shall approve an application for a start-up certificate if all of the following requirements are met:

(1) The application complies with this section.

(2) None of the grounds for denial listed in G.S. 58-64A-280 apply to the applicant.

(3) The disclosure statement meets the requirements of G.S. 58-64A-150.

(4) A market for the proposed continuing care retirement community appears to exist and the continuing care retirement community appears to be financially viable, as evidenced by the market study and the five-year prospective financial statements included in the applicant's disclosure statement.

(5) The applicant's and, if applicable, the applicant's controlling person's, governing body, officers, and management are, in the Commissioner's opinion, competent, experienced, and of good integrity.

(d) After issuing a start-up certificate, the Commissioner shall do all of the following:

(1) Require the provider to submit periodic sales, development, and unaudited financial statements in a form prescribed by the Commissioner.

(2) Post the disclosure statement of the continuing care retirement community on the Department's website.

(e) After receiving a start-up certificate from the Commissioner, the provider may do all of the following:

(1) Enter into binding reservation agreements and continuing care contracts.

(2) Accept entrance fees and deposits greater than five thousand dollars ($5,000). All or any part of an entrance fee or deposit collected shall be placed in escrow and shall only be released in accordance with Part 4 of this Article.

(3) Begin site preparation work.

(4) Construct model independent living units for marketing. (2025-58, s. 2.)

§ 58-64A-60. Preliminary certificate.

(a) A person may apply for a preliminary certificate by submitting all of the following to the Commissioner for review:

(1) A statement signed by the applicant, under penalty of perjury, certifying that to the best of the applicant's knowledge and belief, the items submitted in the application are correct. If the applicant is a corporation, the chief executive officer or other authorized individual shall sign the statement. If there are multiple applicants, these requirements shall apply to each applicant.

(2) A feasibility study, prepared by an independent person experienced in preparing feasibility studies for continuing care retirement communities, with financial, marketing, and actuarial assumptions that projects the market and financial viability of the proposed continuing care retirement community. The study shall include all of the following:

a. A description of the proposed continuing care retirement community, its service package, the number and type of living units, fee structure, and anticipated opening date, including a detailed schedule of projected periodic fees and a description of how the projected periodic fees were computed.

b. A description of any proposed construction plans, construction financing, and permanent financing for the proposed continuing care retirement community.

c. A description of the anticipated source, cost, terms, and uses of all funds to be used in the real property acquisition, construction, marketing, and operation for the proposed continuing care retirement community, including all of the following:

1. A description of all debt to be incurred by the applicant, including the source, anticipated terms, and costs of financing.

2. A description of the source and amount of equity to be contributed by the applicant or any other person.

3. A description of the source and amount of all other funds, including entrance fees, that will be necessary to complete and operate the proposed continuing care retirement community.

4. A statement itemizing all estimated project costs, including the real property costs, the cost of acquiring or designing and constructing the proposed continuing care retirement community, and all similar costs that the applicant expects to incur prior to the commencement of operation. This itemization shall identify all costs related to the proposed continuing care retirement community, including financing expenses, resident acquisition costs, marketing costs, and furniture and equipment.

5. An estimate of any reserves required by financing and the operating reserve required pursuant to Part 11 of this Article.

6. An estimate of the amount of funds, if any, that will be necessary to fund start-up losses and to otherwise provide additional financial resources in an amount sufficient to ensure full

performance by the applicant of its continuing care contract obligations.

d. An analysis of the potential market for the applicant's proposed continuing care retirement community, addressing all of the following:
    1. The population, household growth, age distribution, household income, household tenure, and resale housing values within the primary market area.
    2. A demand analysis of the range of likely target consumers within the primary market area as well as estimated penetration rates.
    3. An economic analysis of current market conditions and trends that can impact the feasibility of the proposed continuing care retirement community, positively or negatively, including real estate, income, employment, and the general economic outlook for the primary market area and surrounding areas.
    4. An analysis of the project location and immediate area in relationship to key variables, including accessibility, employment, and proximity to health care, retail, and other services.
    5. The types of services and amenities desired and the forms of ownership or interest in real property preferred.
    6. Existing and planned competition in the primary market area.
e. A description of the sales and marketing plan, including all of the following:
    1. Marketing projections, anticipated sales, and cancellation rates.
    2. Month-by-month projections of independent living unit sales through stabilized occupancy.
    3. A description of the marketing methods, staffing, and advertising media to be used by the applicant.
    4. An estimate of the total entrance fees to be received prior to opening the proposed continuing care retirement community.
f. Projected move-in rates and resident profiles, including couple mix by living unit type, age distribution, adult care home bed and nursing bed utilization, and living unit turnover or resale rates.
g. A description or analysis of costs and revenues throughout the development and resident fill-up period of the proposed continuing care retirement community.
h. Prospective financial statements for the period commencing on the first day of the applicant's current fiscal year through at least the fifth year of operation which shall be prepared in accordance with standards adopted by the American Institute of Certified Public Accountants.
i. Any other factors that, in the opinion of the preparer, will affect the feasibility of the proposed continuing care retirement community.
j. The name of the person who prepared the feasibility study and the experience of the person in preparing similar studies or otherwise consulting in the field of continuing care.

k. An evaluation and opinion by the person who prepared the feasibility study of the underlying assumptions used as a basis for the study, including a statement on whether the assumptions are reasonable and proper.

(3) An actuarial study prepared in accordance with accepted actuarial standards of practice which estimates the earliest year that the proposed continuing care retirement community is projected to be in satisfactory actuarial balance. Applicants who do not or will not collect entrance fees or some other prepayment of costs are exempt from this requirement and shall only be required to submit an actuarial projection of future population flows and adult care home bed and nursing bed needs. An actuarial projection of future population flows and adult care home bed and nursing bed needs shall use (i) appropriate mortality, morbidity, withdrawal, occupancy, and other demographic assumptions and (ii) a projection period that extends to a point at which, in the actuary's professional judgment, the use of a longer period would not materially affect the results and conclusions.

(4) An updated disclosure statement that meets the requirements of G.S. 58-64A-150.

(5) At least one of the following:

a. Confirmation of signed binding reservation agreements or continuing care contracts for at least fifty percent (50%) of the new independent living units, reserved by a deposit equal to at least ten percent (10%) of the entrance fee.

b. Confirmation of signed binding reservation agreements or continuing care contracts for at least fifty percent (50%) of the new independent living units, reserved by a nonrefundable deposit equal to the periodic fee for at least two months for proposed continuing care retirement communities that have no entrance fee.

c. Confirmation of one hundred thousand dollars ($100,000) placed on deposit with the Commissioner, if the applicant (i) does not collect presale entrance fees or deposits in an amount equal to at least ten percent (10%) of the entrance fee or (ii) does not collect presale entrance fees or deposits and does not collect nonrefundable deposits equal to the periodic fee of at least two months. This deposit is subject to the following requirements:

1. The deposit shall only be returned to the applicant upon issuance of a permanent license.
2. The deposit shall be made in accordance with G.S. 58-5-20.
3. The deposit shall automatically be forfeited if the applicant does not obtain a permanent license within five years after the issuance of a preliminary certificate. Forfeited deposits shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(6) If applicable, confirmation that commitments have been secured for construction financing and long-term financing or that a documented plan

acceptable to the Commissioner has been adopted by the applicant for long-term financing.

(b) The Commissioner shall comply with the review schedule in G.S. 58-64A-70 in response to an application for a preliminary certificate.

(c) The Commissioner shall approve an application for a preliminary certificate if all of the following requirements are met:

(1) The application complies with this section.

(2) None of the grounds for denial listed in G.S. 58-64A-280 apply to the applicant.

(3) The feasibility study meets all of the following requirements:

a. Includes in the prospective financial statements all obligations and liabilities to be undertaken by the applicant pursuant to the terms of the proposed continuing care contracts.

b. Demonstrates that the anticipated sources of funds to finance and operate the proposed continuing care retirement community are equal to or greater than the anticipated uses of funds to (i) construct or acquire the proposed continuing care retirement community and (ii) fund start-up losses and provide sufficient resources to ensure full performance of the applicant's continuing care contract obligations.

c. Demonstrates that the continuing care retirement community is financially feasible.

(4) A market for the continuing care retirement community appears to exist, based on data that meets all of the following requirements:

a. Is specific to the proposed continuing care retirement community.

b. Considers existing and proposed competition in the primary market area.

c. Demonstrates the existence of a market for the age, marital status, number, population trends, net worth, home values, and income of the potential residents.

d. Demonstrates that the rate of penetration in the proposed market area is within acceptable industry ranges.

(5) The actuarial study, if applicable, projects that the proposed continuing care retirement community will be in satisfactory actuarial balance within a reasonable period of time after achieving stabilized occupancy, as determined by the Commissioner, or if no actuarial study is required, the actuarial projection of future population flows demonstrates a sufficient number of adult care home beds and nursing beds to meet the future needs of residents and the future contractual obligations of the applicant, as determined by the Commissioner.

(6) The applicant has met one of the requirements in subdivision (5) of subsection (a) of this section.

(7) If applicable, the applicant has secured commitments for construction financing and long-term financing or that a documented plan acceptable to the Commissioner has been adopted by the applicant for long-term financing.

(8) The applicant demonstrates an ability to comply with this Article and to provide continuing care as proposed and meet all financial obligations related to its operations.

(d) After issuing a preliminary certificate, the Commissioner shall do both of the following:

(1) Require the provider to submit periodic sales, development, and unaudited financial statements in a form prescribed by the Commissioner.

(2) Post the disclosure statement of the continuing care retirement community on the Department's website.

(e) After receiving a preliminary certificate from the Commissioner, the provider may do both of the following:

(1) Construct a continuing care retirement community.

(2) Convert an existing structure or structures into a continuing care retirement community. (2025-58, s. 2.)

§ 58-64A-65. Permanent license.

(a) A person may apply for a permanent license by submitting all of the following to the Commissioner for review:

(1) A statement signed by the applicant, under penalty of perjury, certifying that to the best of the applicant's knowledge and belief, the items submitted in the application are correct. If the applicant is a corporation, the chief executive officer or other authorized individual shall sign the statement. If there are multiple applicants, these requirements shall apply to each applicant.

(2) An updated disclosure statement that meets the requirements of G.S. 58-64A-150.

(3) Confirmation that the applicant has established a plan to have health care available to residents promised in continuing care contracts upon opening, either by the applicant directly, or through contractual agreements.

(4) At least one of the following:

a. Confirmation of signed binding reservation agreements or continuing care contracts for at least seventy percent (70%) of the new independent living units, reserved by a deposit equal to at least ten percent (10%) of the entrance fee.

b. Confirmation of signed binding reservation agreements or continuing care contracts for at least seventy percent (70%) of the new independent living units, reserved by a nonrefundable deposit equal to the periodic fee for at least two months for proposed continuing care retirement communities that have no entrance fee.

c. Confirmation of the one hundred thousand dollar ($100,000) deposit required pursuant to G.S. 58-64A-60(a)(5)c.

(5) Confirmation that the applicant has long-term financing in place, and if the applicant is leasing the land or other real property of the continuing care retirement community, confirmation that the lease is in place and, if applicable, that the lease has been approved by the Commissioner pursuant to G.S. 58-64A-25.

(6) Confirmation that the applicant is in compliance with all other state, federal, municipal, and county laws and regulations. If the applicant is not in compliance, the applicant shall include a statement that describes the nature of the deficiency.

(7) A statement concerning any litigation, orders, judgments, or decrees which may involve or impact the applicant or proposed continuing care retirement community.

(8) Evidence that the applicant has in place the operating reserve required by Part 11 of this Article.

(b) The Commissioner shall comply with the review schedule in G.S. 58-64A-70 in response to an application for a permanent license.

(c) The Commissioner shall approve an application for a permanent license if all of the following requirements are met:

(1) The application complies with this section.

(2) None of the grounds for denial listed in G.S. 58-64A-280 apply to the applicant.

(d) After receiving a permanent license from the Commissioner, the provider may do both of the following:

(1) Open the continuing care retirement community.

(2) Provide continuing care.

(e) If the Commissioner determines that the requirements of subsection (c) of this section are not met, the Commissioner may do either of the following:

(1) Deny the application.

(2) Issue a restricted permanent license with an explanation of (i) the restrictions established by the Commissioner under subsection (f) of this section and (ii) the conditions the provider must satisfy to qualify for a permanent license.

(f) After receiving a restricted permanent license from the Commissioner, the provider may operate a continuing care retirement community under restrictions established by the Commissioner until the Commissioner issues a permanent license. When the Commissioner issues a restricted permanent license, the provider shall inform all depositors and residents within 10 business days of (i) all restrictions imposed by the restricted permanent license and (ii) all conditions that the provider must satisfy to qualify for a permanent license.

(g) After issuing a permanent license or restricted permanent license, the Commissioner shall do both of the following:

(1) Require the provider to submit periodic occupancy reports and financial statements in a form prescribed by the Commissioner.

(2) Post the disclosure statement of the continuing care retirement community on the Department's website.

(h) A permanent license or restricted permanent license shall be valid for as long as the Commissioner determines that the provider continues to meet the requirements of this Article. (2025-58, s. 2.)

§ 58-64A-70. Review schedule.

The Commissioner shall comply with the following schedule in response to an application for (i) a permit to accept deposits, (ii) a start-up certificate, (iii) a preliminary certificate, (iv) a permanent license, (v) an expansion, (vi) a continuing care at home license, (vii) an expansion notification, and (viii) a request for approval pursuant to G.S. 58-64A-230, 58-64A-235, and 58-64A-240:

(1) Within five business days after receipt of an application, a notification, a request for approval, or of materials intended to supplement an incomplete application,

notification, or request for approval, the Commissioner shall acknowledge receipt in writing.

(2) Within 10 business days after receipt of an application for a permit to accept deposits, permanent license, and an expansion notification, or of materials intended to supplement an incomplete application or expansion notification, and within 30 days after receipt of an application for a start-up certificate, a preliminary certificate, a continuing care at home license, and an expansion, or a request for approval, or of materials intended to supplement an incomplete application or request for approval, the Commissioner shall determine if the application, notification, or request for approval is complete and inform the applicant in writing of the determination. If the Commissioner determines that the application, notification, or request for approval is incomplete, the notice to the applicant shall specifically set forth and request any additional information the Commissioner determines is necessary to complete the application, notification, or request for approval.

(3) When the Commissioner determines an application, notification, or request for approval is complete, the Commissioner shall approve or deny the application, notification, or request for approval as follows:

a. Within five business days for a permit to accept deposits and an expansion notification.

b. Within 30 days for a start-up certificate, permanent license, continuing care at home license, expansion, and a request for approval.

c. Within 45 days for a preliminary certificate. (2025-58, s. 2.)

§ 58-64A-75. Expiration of a permit to accept deposits and start-up certificate.

(a) A permit to accept deposits and a start-up certificate issued pursuant to this Article expires 36 months after issuance.

(b) A provider issued a permit to accept deposits or a start-up certificate may request an extension of the permit or certificate. The request for extension shall be made in writing and include both of the following:

(1) The reasons why the provider has not applied for a start-up certificate or preliminary certificate, as applicable.

(2) The estimated date the provider expects to file the start-up certificate application or the preliminary certificate application, as applicable.

(c) In response to a request for an extension, the Commissioner shall do one of the following:

(1) If the Commissioner determines there is satisfactory cause for the delay, the Commissioner shall extend the permit to accept deposits or a start-up certificate for up to one year and may, in the Commissioner's discretion, require the provider to update information previously filed pursuant to G.S. 58-64A-50 or G.S. 58-64A-55 before approving any extension. There is no limit to the number of extensions that may be granted by the Commissioner.

(2) If the Commissioner determines that there is no satisfactory cause for the delay, the Commissioner shall instruct the escrow agent to refund to depositors all deposits held in escrow, plus any interest that may be due under the terms of any

nonbinding reservation agreement, binding reservation agreement, or continuing care contract.

(d) Within 10 business days of the Commissioner's denial of an extension, the provider shall notify each depositor of the Commissioner's denial of the extension, of the expiration of the permit to accept deposits or a start-up certificate, and of any right to a refund of their deposits. (2025-58, s. 2.)

§ 58-64A-80. Denial of an application, notification, or other request for approval.

(a) If the Commissioner denies an application, notification, or any other request for approval pursuant to this Article, the Commissioner shall notify the applicant in writing of the denial. The notification shall state the grounds for the denial. To obtain a review of the Commissioner's denial, the applicant shall make written demand upon the Commissioner within 30 days after service upon the applicant of notification of the denial. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. If the applicant disagrees with the outcome of the review and seeks a hearing under Article 3A of Chapter 150B of the General Statutes, the applicant shall make a written demand upon the Commissioner for the hearing within 30 days after service upon the applicant of the notification of the outcome.

(b) If the Commissioner denies an application, notification, or other request for approval pursuant to this Article, no portion of the fee associated with the application, notification, or request for approval shall be refunded. (2025-58, s. 2.)

Part 3. Expansion.

§ 58-64A-85. Expansion notification.

(a) Prior to marketing and collecting deposits for a proposed expansion of a continuing care retirement community that is twenty percent (20%) or more of existing independent living units, a provider shall do both of the following:

(1) Notify and obtain written approval from the Commissioner.

(2) Notify all residents in writing of the provider's intent to expand the number of independent living units at the continuing care retirement community. This notification shall include the description required by subdivision (b)(1) of this section.

(b) The expansion notification to the Commissioner required by this section shall include all of the following:

(1) A description of the proposed expansion project, including the number of independent living units to be added.

(2) If the provider intends to enter into nonbinding reservation agreements, binding reservation agreements, or both, a copy of the proposed agreements that the provider intends to use.

(3) A proposed escrow agreement that meets the requirements of G.S. 58-64A-105.

(4) An updated disclosure statement that meets the requirements of G.S. 58-64A-150.

(c) The Commissioner shall comply with the review schedule in G.S. 58-64A-70 in response to an expansion notification.

(d) The Commissioner shall approve the expansion notification if all of the following requirements are met:

(1) The expansion notification complies with this section.
(2) None of the grounds for denial listed in G.S. 58-64A-280 apply to the provider.
(3) The proposed escrow agreement meets the requirements of G.S. 58-64A-105.
(4) The proposed escrow agent and depository are acceptable in accordance with G.S. 58-64A-100.

(e) After the Commissioner approves the expansion notification, the provider shall submit periodic sales and development reports to the Commissioner in a form prescribed by the Commissioner.

(f) After the Commissioner approves the expansion notification, the provider may do all of the following:

(1) Disseminate materials, including advertisements, describing the intent to expand the number of independent living units at the continuing care retirement community.
(2) Enter into nonbinding reservation agreements, binding reservation agreements, and continuing care contracts for the proposed independent living units.
(3) Collect entrance fees and deposits for the proposed independent living units. All deposits collected shall be placed in escrow and shall only be released in accordance with Part 4 of this Article, unless otherwise exempted by the Commissioner. (2025-58, s. 2.)

§ 58-64A-90. Expansion application.

(a) Prior to commencing construction of an expansion of a continuing care retirement community that is twenty percent (20%) or more of existing independent living units, a provider shall do both of the following:

(1) Receive Commissioner approval of an expansion notification pursuant to G.S. 58-64A-85.
(2) Apply to the Commissioner for approval to commence construction.

(b) The application required by this section shall include all of the following:

(1) An application fee of one thousand dollars ($1,000).
(2) A feasibility study, prepared by an independent person experienced in preparing feasibility studies for continuing care retirement communities, with financial, marketing, and actuarial assumptions that projects the market and financial viability of the proposed expansion. The study shall include all of the following items:
    a. A description of the applicant's proposed expansion project, including the number of independent living units being added, fee structure, a description of how the projected fees were computed, and the anticipated project time line.
    b. A description of the construction plans, construction financing, and permanent financing for the proposed expansion project, including all of the following:
        1. A description of all debt to be incurred by the applicant, including the source, anticipated terms, and costs of financing.
        2. A description of the source and amount of any equity to be contributed by the applicant.

3. A description of the source and amount of all other funds, including entrance fees, that will be necessary to complete and operate the proposed expansion.
4. A statement itemizing all estimated project costs, including the real property costs, the cost of designing and constructing the proposed expansion, and all similar costs that the applicant expects to incur prior to the opening of the expansion. This itemization shall identify all costs related to the proposed expansion, including financing expenses, resident acquisition costs, marketing costs, and furniture, fixtures, and equipment.
5. An estimate of any reserves required by financing and the operating reserve required pursuant to Part 11 of this Article.

c. An analysis of the potential market for the proposed expansion, addressing all of the following:
1. The population, household growth, age distribution, household income, household tenure, and resale housing values within the primary market area.
2. A demand analysis of the range of likely target consumers within the primary market area as well as estimated penetration rates.
3. An economic analysis of current market conditions and trends that can impact the feasibility of the proposed expansion, positively or negatively, including real estate, income, employment, and the general economic outlook for the primary market area and surrounding areas.
4. Existing and planned competition in the primary market area.

d. A description of the sales and marketing plan, including all of the following:
1. Marketing projections, anticipated sales, and cancellation rates.
2. Month-by-month projections of independent living unit sales through stabilized occupancy.
3. A description of the marketing methods, staffing, and advertising media to be used by the applicant.
4. An estimate of the total entrance fees to be received.

e. Projected move-in rates and resident profiles, adult care home bed and nursing bed utilization, and living unit turnover or resale rates.

f. A description or analysis of costs and revenues throughout the development and resident fill-up period of the proposed expansion.

g. Five-year prospective financial statements of the applicant which shall be prepared in accordance with standards adopted by the American Institute of Certified Public Accountants.

h. Any other factors that, in the opinion of the preparer, will affect the feasibility of the expansion.

i. The name of the person who prepared the feasibility study and their experience in preparing similar studies or otherwise consulting in the field of continuing care.

j. An evaluation and opinion by the person who prepared the feasibility study of the underlying assumptions used as a basis for the study, including a statement whether the assumptions are reasonable and proper.

(3) An actuarial study prepared in accordance with accepted actuarial standards of practice which estimates when the continuing care retirement community is projected to be in satisfactory actuarial balance once stabilized occupancy of the expansion is achieved. Applicants who do not collect entrance fees or some other type of up-front prepayment of costs are exempt from this requirement and shall only be required to submit an actuarial projection of future population flows and adult care home bed and nursing bed needs. An actuarial projection of future population flows and adult home care bed and nursing bed needs shall use (i) appropriate mortality, morbidity, withdrawal, occupancy, and other demographic assumptions and (ii) a projection period that extends to a point at which, in the actuary's professional judgment, the use of a longer period would not materially affect the results and conclusions.

(4) An updated disclosure statement that meets the requirements of G.S. 58-64A-150.

(5) If applicable, confirmation that the applicant has secured commitments for construction financing and long-term financing or that a documented plan acceptable to the Commissioner has been adopted by the applicant for long-term financing.

(6) If the expansion includes any land or other real property that is to be leased, confirmation, if applicable, that the lease has been approved by the Commissioner pursuant to G.S. 58-64A-25.

(7) Any other data and pertinent information as the Commissioner may reasonably require with respect to the applicant or the continuing care retirement community to determine the feasibility of the expansion.

(c) The Commissioner shall comply with the review schedule in G.S. 58-64A-70 in response to an expansion application.

(d) The Commissioner shall approve the expansion application if all of the following requirements are met:

(1) The expansion application complies with this section.

(2) None of the grounds for denial listed in G.S. 58-64A-280 apply to the applicant.

(3) The feasibility study meets all of the following requirements:

a. Includes in the prospective financial statements all current obligations and liabilities of the applicant as well as those to be undertaken by the applicant.

b. Demonstrates that the expansion is financially viable and will not have an unreasonably adverse effect on the financial ability of the applicant to furnish continuing care.

c. Demonstrates the existence of a market for the proposed expansion based on reliable data, which meets all of the following requirements:

1. Is specific to the continuing care retirement community.

2. Considers existing and proposed competition in the primary market area.

3. Demonstrates that the rate of penetration in the proposed market area is within acceptable industry ranges.

(4) The applicant demonstrates the ability to provide continuing care and meet all financial and contractual obligations related to its operations, including the financial requirements of this Article.

(5) The applicant, if applicable, has secured commitments for construction financing and long-term financing or that a documented plan acceptable to the Commissioner has been adopted by the applicant for long-term financing.

(6) The actuarial study, if applicable, projects that the continuing care retirement community will be in satisfactory actuarial balance within a reasonable period of time once stabilized occupancy of the expansion is achieved, or if no actuarial study is required, the actuarial projection of future population flows demonstrates a sufficient number of adult care home beds and nursing beds to meet the needs of residents and the contractual obligations of the applicant.

(e) After the Commissioner approves the expansion application, the provider shall submit periodic sales and development reports to the Commissioner in a form prescribed by the Commissioner to monitor the expansion project.

(f) After the Commissioner approves the expansion application, the provider may commence construction of the new independent living units at the continuing care retirement community as proposed and, upon completion of construction and the satisfaction of all other legal requirements, open the expansion and provide continuing care to the residents of the new independent living units. (2025-58, s. 2.)

§ 58-64A-95. Expansion entrance fees and deposits.

All entrance fees and deposits collected for independent living units in an expansion requiring Commissioner approval under this Part shall be placed in an escrow account in accordance with Part 4 of this Article unless otherwise exempted by the Commissioner. (2025-58, s. 2.)

Part 4. Escrow Account.

§ 58-64A-100. Escrow account required.

All entrance fees and deposits, when required by this Article, shall be deposited by the provider in an escrow account and shall be maintained in a segregated account without any commingling with other funds, including any funds or accounts owned by the provider. The escrow agent and all terms governing an escrow account shall be approved in advance by the Commissioner. (2025-58, s. 2.)

§ 58-64A-105. Escrow agreement requirements.

The escrow agreement between an applicant or a provider and the escrow agent shall be in writing and include, in addition to any other provisions required by law, all of the following:

(1) A provision requiring that all funds received shall be placed into the escrow account in accordance with G.S. 58-64A-115.

(2) A provision for investment of escrow account funds in a manner consistent with G.S. 58-64A-120.

(3) A provision regarding the payment of interest earned on the funds held in the escrow account in the manner specified in G.S. 58-64A-125.

(4) A provision for refunds to depositors in the manner specified by G.S. 58-64A-135.
(5) A provision that any refund or release of escrow account funds be performed in the manner specified in G.S. 58-64A-135 and G.S. 58-64A-140, including a statement as to whom payment of interest earned on the funds will be made.
(6) A statement that the purpose of the escrow agreement is to protect residents and prospective residents.
(7) The amount of the escrow agent fee.
(8) A provision that funds deposited shall not be subject to any liens or charges by the escrow agent.
(9) A provision requiring the escrow agent to furnish the provider with a monthly statement indicating the amount of any disbursements from or deposits to the escrow account and the condition of the account during the monthly period covered by the statement.
(10) A provision requiring the escrow agent to furnish to the Commissioner, upon the request of the Commissioner, periodic reports, including the monthly statement required pursuant to subdivision (9) of this section, certifying the amount of funds held on deposit.
(11) A provision requiring the escrow agent to furnish to a depositor, upon the request of a depositor, a statement indicating the depositor's portion of the escrow account.
(12) Representations by the escrow agent that it is not and shall not be during the term of the escrow agreement, a related party of the provider, a lender to the provider, or a fiduciary for any lender or bondholder for the provider, unless approved by the Commissioner. (2025-58, s. 2.)

§ 58-64A-110. Changes to escrow agreement.

All changes to an escrow agreement shall be submitted to, and approved by, the Commissioner before use by a provider. (2025-58, s. 2.)

§ 58-64A-115. Entrance fee and deposit delivery to the escrow agent.

(a) The provider shall deliver to the escrow agent any entrance fees or deposits required to be maintained in an escrow account pursuant to this Article within 10 business days after receipt by the provider.

(b) Any deposit delivery to an escrow agent pursuant to this Article shall be accompanied with a copy of the executed nonbinding reservation agreement, binding reservation agreement, or continuing care contract, a copy of the receipt given to the depositor, a summary of all deposits made on that date, and any other materials required by the escrow agent. (2025-58, s. 2.)

§ 58-64A-120. Investment of funds in escrow.

(a) All entrance fees and deposits subject to an escrow agreement under this Article shall be maintained by the escrow agent in one of the following manners:
(1) Investment in an interest-bearing account.
(2) Investment in instruments guaranteed by the federal government or an agency of the federal government.
(3) Investment in investment funds secured by federally guaranteed instruments.

(b) Any investment shall not diminish the funds held in escrow below the amounts required by this Article. (2025-58, s. 2.)

§ 58-64A-125. Earnings from funds in escrow.

(a) Interest, income, and other gains derived from funds held in an escrow account shall not be released or distributed from the escrow account except upon written approval of the Commissioner.

(b) Approval by the Commissioner for the release of earnings generated from funds held in escrow shall be based upon an assessment that funds remaining in the escrow account meet the requirements of this Article and, if applicable, will be sufficient to pay refunds and any interest promised to all depositors.

(c) When release of earnings is approved by the Commissioner, interest earned by the funds in the escrow account shall be distributed to the provider or depositors in accordance with the terms of the continuing care contract, binding reservation agreement, or nonbinding reservation agreement. (2025-58, s. 2.)

§ 58-64A-130. Escrowed funds not to be used as collateral.

No funds held in an escrow account shall be encumbered or used as collateral for any obligation of the provider, or any other person, unless the provider obtains prior written approval from the Commissioner for the encumbrance or use as collateral. The Commissioner shall not approve any encumbrance or use as collateral under this section unless the encumbrance or use as collateral is expressly subordinated to the rights of depositors under this Article to refunds of their entrance fees or deposits. (2025-58, s. 2.)

§ 58-64A-135. Refunds of escrowed entrance fees and deposits.

(a) An escrow agent shall refund to a depositor, or their legal representative, all amounts required by the depositor's nonbinding reservation agreement, binding reservation agreement, or continuing care contract upon receiving written notice from the provider of any of the following:

(1) The death of a depositor.
(2) Nonacceptance by the provider.
(3) Voluntary cancellation.
(4) The denial of an application pursuant to this Article.
(5) Written notice from the Commissioner.

(b) Refunds required in subsection (a) of this section shall be paid within 10 business days after the escrow agent receives the written notice described in subsection (a) of this section.

(c) If voluntary cancellation of a continuing care contract or a binding reservation agreement occurs after construction of the continuing care retirement community or expansion of a continuing care retirement community has begun, but prior to the independent living unit's initial occupancy, the refund may be delayed until another depositor has reserved a similar independent living unit and paid the necessary entrance fee or deposit. This delay shall not exceed one year, unless the time period is extended by the Commissioner upon a showing of good cause by the provider. (2025-58, s. 2.)

§ 58-64A-140. Release of escrowed entrance fees and deposits.

(a) To request a release of the first twenty-five percent (25%) of each escrowed entrance fee and deposit, a provider shall petition in writing to the Commissioner and certify all of the following:

(1) The provider has presold at least fifty percent (50%) of the proposed independent living units, having received a minimum ten percent (10%) deposit of the total of each applicable entrance fee and placed it in escrow. Any independent living unit for which a refund is pending shall not be counted toward the fifty percent (50%) requirement.

(2) The provider has long-term financing in place for the proposed continuing care retirement community or expansion, or if the provider is leasing the land or other real property of the continuing care retirement community, certification that the lease is in place and, if applicable, that the lease has been approved by the Commissioner pursuant to G.S. 58-64A-25.

(3) For a proposed continuing care retirement community, the aggregate entrance fees received or receivable by the provider pursuant to binding reservation agreements and continuing care contracts, plus the anticipated proceeds of any first mortgage loan or other long-term financing commitment, plus any equity being contributed by the provider or a related party, are equal to not less than ninety percent (90%) of the following amount: (i) the aggregate cost of constructing or purchasing, equipping, and furnishing the proposed continuing care retirement community, plus (ii) not less than ninety percent (90%) of the funds estimated to be necessary to fund start-up losses and to reasonably assure full performance of the provider's future continuing care obligations, as reported in the statement of cash flows required by G.S. 58-64A-150(a)(37).

(b) To request a release of the remaining seventy-five percent (75%) of escrowed entrance fees and deposits, a provider shall petition in writing to the Commissioner and certify all of the following:

(1) The provider has presold at least seventy percent (70%) of the proposed independent living units, having received a minimum ten percent (10%) deposit of each applicable entrance fee and maintains at least seventy-five percent (75%) of each entrance fee or deposit received in escrow, or has maintained an independent living unit occupancy minimum of seventy percent (70%) for at least 60 days. Any independent living unit for which a refund is pending shall not be counted toward the seventy percent (70%) requirement.

(2) Construction or purchase of the independent living units has been completed and an occupancy permit, if applicable, has been issued by the local government having authority to issue those permits.

(3) The independent living units are available for occupancy by the new residents.

(c) The Commissioner shall instruct the escrow agent in writing to release to the provider entrance fees and deposits in the escrow account only when the Commissioner has confirmed the information provided by the provider pursuant to subsection (a) or subsection (b) of this section.

(d) The escrow agent shall release the entrance fees and deposits held in the escrow account to the provider only when the Commissioner has instructed it to do so in writing.

(e) When a provider discloses in an application that construction will be completed and commence operating in different phases, the Commissioner shall apply the requirements in subsections (a) and (b) of this section to any one or group of phases requested by the provider,

provided the provider demonstrates in the prospective financial statements filed with the application that the phase or group of phases is financially viable without the need for any additional phases.

(f) For the purposes of this section, a refund is pending if a depositor has canceled a continuing care contract or a binding reservation agreement but has not yet received a refund, either because of timing or because another depositor has not reserved a similar independent living unit and paid the necessary entrance fee or deposit in order to trigger a refund to the canceling depositor. (2025-58, s. 2.)

Part 5. Disclosure Statement.

§ 58-64A-145. Definitions.

The following definitions apply to this Part:

(1) Adjusted net operating margin ratio. – A profitability ratio that measures the margin generated from the core operations of a provider and net cash proceeds from entrance fees. The quotient shall be calculated by dividing the sum of resident operating income and net proceeds from entrance fees by the sum of resident revenue and net cash proceeds from entrance fees.

(2) Average daily cash operating expenses. – The total expenses of a provider incurred in the conduct of the provider's business over a defined period of time, divided by the number of days in that period. For purposes of this definition, "total expenses" includes interest expense, but excludes depreciation expense, amortization expense, realized or unrealized nonoperating losses or expenses, bad debt expense, and other noncash expenses.

(3) Capital expenditures as a percentage of depreciation ratio. – A capital structure ratio that indicates the level of capital reinvestment by a provider. The quotient shall be computed by dividing total purchases of property, plant, and equipment by total depreciation expense.

(4) Cushion ratio. – A liquidity ratio that measures a provider's ability to pay its annual debt service using its unrestricted cash and investments. The quotient shall be computed by dividing unrestricted cash and investments by annual debt service.

(5) Days cash on hand ratio. – A liquidity ratio that measures the number of days of cash operating expenses a provider could cover using its existing unrestricted cash and investments. The quotient shall be computed by dividing unrestricted cash and investments by average daily cash operating expenses.

(6) Multi-entity organization. – A collection of distinct legal entities that are under common control.

(7) Net operating margin ratio. – A profitability ratio that measures the margin generated from the core operations of a provider. The quotient shall be calculated by dividing resident operating income by resident revenue.

(8) Operating ratio. – A profitability ratio that measures whether current year cash operating revenues are sufficient to cover current year cash operating expenses without the inclusion of cash from entrance fee receipts. The quotient shall be computed by dividing total operating expenses, excluding depreciation expense and amortization expense, by total operating revenues, excluding amortization of entrance fees and other deferred revenue.

(9) Resale fee. – A contractual assessment by the provider against the proceeds from the sale of an independent living unit.

(10) Resident expense. – Total operating expenses excluding interest expense, depreciation expense, amortization expense, and income taxes.

(11) Resident revenue. – Total operating revenue excluding interest and dividend income, entrance fee amortization, and contributions.

(12) Unrestricted cash and investments. – The sum of the provider's unrestricted cash, cash equivalents and investments, and any provider restricted funds that are available to pay debt or to pay operating expenses. For purposes of this definition, the assets serving as the operating reserve required by G.S. 58-64A-245 shall be considered unrestricted.

(13) Unrestricted cash and investments to long-term debt ratio. – A capital structure ratio that (i) measures a provider's position in available cash and marketable securities in relation to its long-term debt and (ii) measures a provider's ability to withstand annual fluctuations in cash. The quotient shall be calculated by dividing unrestricted cash and investments by total long-term debt, less the current portion of long-term debt. (2025-58, s. 2.)

§ 58-64A-150. Disclosure statement.

(a) A provider shall prepare a disclosure statement for each continuing care retirement community operated or to be operated in this State that includes all of the following information:

(1) The name, business address, and telephone number of the provider and a statement of whether the provider is a partnership, corporation, or other type of legal entity.

(2) A statement disclosing whether the provider is for-profit or nonprofit, and if nonprofit, the provision of the federal Internal Revenue Code under which the provider is exempt from the payment of income tax, and a statement disclosing whether the provider is current on all tax filings.

(3) A statement disclosing whether the provider is privately owned or publicly owned.

(4) A statement disclosing whether the provider is part of a multi-entity organization, and if so, both of the following:

a. A statement indicating whether the audited financial statements required by subdivision (36) of this subsection are prepared on a consolidated basis with all entities included and, if not, a statement indicating how the audited financial statements are prepared.

b. A company structure chart showing the provider's relationship with the other entities in the multi-entity organization.

(5) A statement identifying the controlling person of the provider, if control does not exist with the provider, including the controlling person's business address.

(6) The name, business address, education, work experience, and length of service with the provider or the provider's controlling person of (i) all officers, directors, trustees, managers, managing or general partners of the provider and, if applicable, the provider's controlling person, and any person having a ten percent (10%) or greater equity or beneficial interest in the provider or the provider's controlling person and (ii) any person who will be managing the

continuing care retirement community on a day-to-day basis, and a description of the person's interest in or occupation with the provider or controlling person. If any person required to be named pursuant to this subdivision does not have a business address or uses this person's home address as the person's business address, the provider shall list the address of the provider as the person's business address. A provider shall not disclose the personal address of any person required to be named pursuant to this subdivision, unless required to do so by another provision of law or a court order.

(7) The following information on all persons named in response to subdivisions (1), (5), and (6) of this subsection:

a. A description of the person's business experience, if any, in the operation or management of a continuing care retirement community.

b. The name and address of any professional service firm, association, trust, partnership, or corporation in which this person has, or which has in this person, a ten percent (10%) or greater interest and which it is presently intended shall currently or in the future provide goods, leases, or services to the provider of an aggregate value of five thousand dollars ($5,000) or more within any fiscal year, including a description of the goods, leases, or services and the actual or probable cost to the provider, or a statement that this cost cannot presently be estimated and the reason why it cannot be presently estimated.

c. A description of any matter in which the person (i) has been convicted of any felony or pleaded nolo contendere to a felony charge, (ii) has been held liable or enjoined in a civil action by final judgment involving fraud, embezzlement, fraudulent conversion, or misappropriation of property, or (iii) is subject to a currently effective injunctive or restrictive court order, or within the past five years, had any state or federal license or permit suspended or revoked as a result of an action brought by a governmental agency or department.

(8) A brief summary of the role and responsibilities of the board of directors or other governing body of the provider and, if applicable, the provider's controlling person, including how the members of the board of directors or other governing body are selected and their responsibilities.

(9) A statement disclosing whether any related party provides, or will provide in the case of a continuing care retirement community under development, goods, leases, or services to the provider of an aggregate value of five thousand dollars ($5,000) or more within any fiscal year, not already disclosed pursuant to subdivision (7) or (15) of this subsection, and a description of the goods, leases, or services and the actual or probable cost to the provider, or a statement that this cost cannot presently be estimated and the reason why it cannot be presently estimated.

(10) A statement indicating whether the provider has a relationship with any religious, charitable, or other organization or person, along with the nature and extent of that relationship.

(11) The name of any other person who will be responsible for the financial and contractual obligations of the provider not already disclosed and the extent of their responsibility.

(12) A statement as to whether the provider is, or will be, a part of an obligated group and, if so, the names of the other persons in, or to be in, the obligated group.

(13) A statement as to whether the provider, or any obligated group that the provider is a part of, is not in compliance with any covenant contained in any debt agreement and, if not in compliance, specifying each failure to comply and the steps being taken to cure the noncompliance.

(14) A statement indicating whether the provider currently employs or will employ a third-party manager for the continuing care retirement community and, if so, the name of the third-party manager employed and their experience in providing management services within the continuing care retirement community industry.

(15) If the provider is leasing or intends to lease from another person any part of the real property of the continuing care retirement community, a statement disclosing the parties to the lease, the original lease term, and the remaining term of the lease.

(16) A statement as to whether the provider has endowment funds or has endowment funds available through a related party, that are available to provide financial aid to residents, including a description of the funds and any restrictions on their use.

(17) The name, address, and description of the physical property or properties of the continuing care retirement community, existing or proposed, and to the extent proposed, the estimated completion date or dates, whether construction has begun, and the contingencies subject to which construction may be deferred.

(18) The number of existing living units, or the number of living units to be constructed, at the continuing care retirement community.

(19) If the provider is licensed to provide continuing care at home, a description of the continuing care at home program, including the primary market area served.

(20) The number or estimated number of residents of the continuing care retirement community to be provided services by the provider pursuant to a continuing care or continuing care at home contract.

(21) The 12-month daily average occupancy rate at the continuing care retirement community, by living unit type, as of the provider's fiscal year-end for the past five years or for each year of the continuing care retirement community's operation if it has been in operation for less than five years.

(22) A statement indicating whether the provider held the semiannual meetings required by G.S. 58-64A-360 during the previous fiscal year, including the dates held.

(23) A description of any property rights of residents in the real property of the continuing care retirement community.

(24) The services provided or proposed to be provided pursuant to continuing care and continuing care at home contracts, including the extent to which health care is furnished, and a clear statement of which services are included for specified periodic fees and which services are or will be made available for an extra

charge. The description shall include a statement describing what health care services are or will be provided by the provider directly and what health care services are or will be provided through a contract with a third party.

(25) A description of all nonancillary fees required of residents, including entrance fees, periodic fees, transfer fees, and resale fees, if any. The description shall include all of the following:

a. A statement of the fees that will be charged if a resident marries or otherwise increases the number of persons residing in the resident's living unit while a resident of the continuing care retirement community, and a statement of the terms concerning the entry of a spouse or other person to the continuing care retirement community and the consequences if the spouse or other person does not meet the requirements for entry.

b. The manner by which the provider may adjust periodic fees and the limitations on the adjustments, if any; and, if the continuing care retirement community is already in operation, a table showing the frequency, average percent increase, and average dollar amount of each increase in periodic fees for the previous five years, or for each year of the continuing care retirement community's and, if applicable, continuing care at home program's operation if it has been in operation for less than five years. If the continuing care retirement community is not yet in operation, the provider shall include a table showing the expected frequency, average percent increase, and average dollar amount of each increase in periodic fees utilized in the five-year prospective financial statements required pursuant to subdivision (37) of this subsection.

c. A table showing the current entrance fee charges as well as the frequency, average percent increase, and average dollar amount of each increase in entrance fees for the previous five years, or for each year of the continuing care retirement community and, if applicable, continuing care at home program's operation if it has been in operation for less than five years. If the continuing care retirement community is not yet in operation, the provider shall include a table showing the expected frequency, average percent increase, and average dollar amount of each increase in entrance fees utilized in the five-year prospective financial statements required pursuant to subdivision (37) of this subsection.

(26) For providers who offer refundable entrance fee continuing care or continuing care at home contracts, a statement disclosing:

a. The conditions that must be met before all or any portion of an entrance fee will be refunded.

b. The number and aggregate dollar amount of refundable entrance fee refunds that, as of the provider's most recent fiscal year-end:

1. Will be due once all contractual conditions are met.

2. Are currently due, including a disclosure of the number and aggregate dollar amount of refunds that are 30 or more days past due.

3. Will be due, once all conditions are met, to residents who have permanently vacated their independent living unit and now reside in a non-independent living unit provided by the provider.
4. Will be due to residents who have permanently vacated their independent living unit and now reside in a non-independent living unit provided by the provider whose former independent living unit has already been resold.

(27) The circumstances under which a resident will be permitted to remain a resident at the continuing care retirement community in the event of possible financial difficulties of the resident.

(28) The terms and conditions under which a continuing care and continuing care at home contract may be canceled by the provider, or by the resident, and the conditions, if any, under which all or any portion of the entrance fee or any other fee will be refunded in the event of cancellation of the continuing care or continuing care at home contract by the provider, or by the resident, or in the event of the death of the resident, prior to, or following, occupancy of a living unit or the start of services not already disclosed in subdivision (26) of this subsection.

(29) The conditions under which a living unit occupied by a resident may be made available by the provider to a different or new resident other than on the death of the prior resident.

(30) The conditions or circumstances under which a provider may require a resident to move from the resident's living unit to another living unit for the safety of the resident or for the good of the provider.

(31) The health and financial condition required for an individual to be accepted as a resident and to continue as a resident once accepted, including the effect of any change in the health or financial condition of a person between the date of entering into a continuing care or continuing care at home contract and the date of initial occupancy of a living unit or the start of services.

(32) Any age and insurance requirements for admission.

(33) The provisions that have been made or will be made, including the requirements of G.S. 58-64A-100 and G.S. 58-64A-245, to provide reserve funding or security to enable the provider to refund entrance fees and deposits when due and to fulfill all of its other obligations under binding reservation agreements, continuing care contracts, and continuing care at home contracts, including the establishment of escrow accounts, trusts, or reserve funds, together with the manner in which these funds will be invested, and the names and experience of any person or persons who will make the investment decisions. The information provided shall also include a schedule detailing how the operating reserve for the continuing care retirement community has been calculated which shall agree with the amount calculated and reported to the Commissioner pursuant to G.S. 58-64A-270.

(34) A description of any expansion, renovation, or planned expansion or renovation of the continuing care retirement community.

(35) An explanation if the provider's most recent audited financial statements were not prepared within 150 days or if an audit opinion was received other than an unqualified opinion.

(36) Audited financial statements meeting the requirements of G.S. 58-64A-200.

(37) Five-year prospective financial statements of the provider that are either compiled or examined by an independent certified public accountant, that can be prepared on a stand-alone basis, or consolidated or combined with the same persons as the annual audited financial statements filed with the Commissioner pursuant to G.S. 58-64A-200, and that meet all of the following requirements:

a. Include a summary of significant assumptions and a summary of significant accounting policies.

b. Include, if financial projections, an identification of the hypothetical assumptions and a description of the limitations on the usefulness of the presentation.

c. Include as supplemental information, if prepared on a consolidated or combined basis, a consolidating or combining:

1. Balance sheet.
2. Statement of operations and changes in net assets or equity.
3. Statement of cash flows.

d. Include a statement of operations as supplemental information for each continuing care retirement community operated under this Article if the provider operates more than one continuing care retirement community or has operations that are separate and distinct from the operation of a continuing care retirement community operating under this Article.

e. Contain the same line items and categories as the annual audited financial statements filed with the Commissioner pursuant to G.S. 58-64A-195.

f. For continuing care retirement communities that are under development, the prospective financial statements required by this subdivision shall include narrative disclosure detailing all significant assumptions used in the preparation of the prospective financial statements, including all of the following:

1. Details of any long-term financing for the purchase or construction of the continuing care retirement community, including interest rate, repayment terms, loan covenants, and assets pledged.
2. Details of any leasing agreements where the provider is leasing from another person any part of the real property of the continuing care retirement community, including the length of the lease and the remaining term.
3. Details of any other funding sources that the provider anticipates using to fund any start-up losses or to provide reserve funds to assure full performance of the obligations of the provider under continuing care contracts.
4. The total entrance fees to be received from or on behalf of, residents at, or prior to, commencement of operations along with

anticipated accounting methods used in the recognition of revenues from and expected refunds of entrance fees.

5. A description of any equity capital to be received by the provider.
6. The cost of the acquisition of the continuing care retirement community or, if the continuing care retirement community is to be constructed, the estimated construction cost and cost to acquire the land.
7. Related costs, including financing and development costs, that the provider expects to incur or become obligated for prior to the commencement of operations.
8. The marketing and resident acquisition costs to be incurred prior to commencement of operations.
9. A description of the assumptions used for calculating the estimated occupancy rate of the continuing care retirement community and the effect on the income of the provider of government subsidies for health care services.

(38) A narrative describing the reasons for any material differences between (i) the five-year prospective financial statements included as a part of the disclosure statement recorded most immediately subsequent to the start of the provider's most recently completed fiscal year and (ii) the actual results of operations of the provider's most recently completed fiscal year.

(39) A table detailing the following key financial metrics for the past three fiscal years, including the most recent fiscal year, or for each year the provider has been in operation if the provider has been in operation for less than three years, plus the next three fiscal years, based on the provider's current and prior annual audited financial statements and current five-year prospective financial statements. If there is a material year over year change in any of the key financial metrics, the provider shall include a narrative describing the reasons for the material change. For providers who are part of an obligated group, the ratios shall be computed for the provider alone and for the obligated group.

a. Liquidity ratios:
    1. Days cash on hand ratio.
    2. Cushion ratio.
b. Profitability ratios:
    1. Operating ratio.
    2. Net operating margin ratio.
    3. Adjusted net operating margin ratio.
c. Capital structure ratios:
    1. Debt service coverage ratio.
    2. Unrestricted cash and investments to long-term debt ratio.
    3. Capital expenditures as a percentage of depreciation expense ratio.

(40) If the provider has had an actuarial study prepared within the prior three years, a statement of actuarial opinion which includes a description of the key

assumptions used to prepare the actuarial study and an opinion on satisfactory actuarial balance.

(41) A summary of the last examination report issued by the Commissioner, if any, with references to the page numbers of the examination report noting any deficiencies found by the Commissioner, and the actions taken by the provider to rectify those deficiencies, indicating in the summary where the full examination report may be inspected at the continuing care retirement community. The summary required by this subdivision shall not be required if the last examination report is more than three years old.

(42) Any other material information concerning the continuing care retirement community, the provider, or any related party of the provider, which, if omitted, would lead a reasonable person not to enter a continuing care or continuing care at home contract with the provider.

(b) A copy of the most common continuing care and continuing care at home contract used by the provider shall be attached to each disclosure statement. To the extent multiple continuing care or continuing care at home contracts are utilized by the provider for the continuing care retirement community, a narrative shall be included within the disclosure statement listing each contract type offered and the material differences of each.

(c) The cover page of the disclosure statement shall, in a prominent location and in boldface type, include all of the following:

(1) The date of the disclosure statement.

(2) The last date through which the disclosure statement may be delivered.

(3) That the delivery of the disclosure statement to a contracting party before the execution of a binding reservation agreement, continuing care contract, or continuing care at home contract is required by this Article.

(4) That the disclosure statement has not been reviewed or approved by any government agency or representative to ensure accuracy of the information set out.

(5) That the disclosure statement has been filed with, and recorded by, the North Carolina Department of Insurance in accordance with this Article.

(6) That the disclosure statement contains all of the information required by this Article, that it is correct, in all material respects, and that knowingly delivering a disclosure statement that contains an untrue statement or omits a material fact may subject the provider to penalties as set forth in this Article.

(d) The date on the cover page of the disclosure statement shall coincide with the last day of the provider's fiscal year covered by the information contained within the disclosure statement.

(e) The disclosure statement shall be in plain English and in language understandable by a layperson and combine conciseness, simplicity, and accuracy to fully advise residents and potential residents of the items required by this section.

(f) The Commissioner shall review the disclosure statement for completeness but is not required to review the disclosure statement for accuracy.

(g) The Commissioner may require a provider to alter or amend a disclosure statement to provide full and fair disclosure to residents and prospective residents, and the Commissioner may require the revision of a disclosure statement which the Commissioner finds to be incomplete, unnecessarily complex, voluminous, confusing, or illegible.

(h) The Commissioner may prescribe a standardized format for the disclosure statement required by this section.

(i) The Commissioner shall post the current disclosure statement for each continuing care retirement community on the Department's website in accordance with this Article. (2025-58, s. 2.)

§ 58-64A-155. Required delivery of disclosure statement.

(a) A provider shall deliver a current disclosure statement meeting the requirements of G.S. 58-64A-150 to the person or the person's legal representative with whom a binding reservation agreement, continuing care contract, or continuing care at home contract is to be entered into. The disclosure statement shall be delivered no later than the earliest of the following occurrences: (i) the execution of a binding reservation agreement, continuing care contract, or continuing care at home contract, or (ii) the transfer of any money or other consideration, other than a nonbinding reservation agreement deposit, to a provider by or on behalf of a prospective resident. For purposes of this subsection, a disclosure statement is current if (i) it is dated within one year plus 160 days prior to the date of delivery and (ii) it is the most recently recorded disclosure statement on file with the Commissioner.

(b) The delivery required by this section may be by electronic means if the provider obtains the written consent of the person with whom the binding reservation agreement, continuing care contract, or continuing care at home contract is to be entered into. For the purposes of this subsection, delivery by electronic means shall mean delivery by either of the following methods:

(1) Delivery to an email address at which the person has consented to receive the disclosure statement.

(2) Both of the following:

a. Posting the disclosure statement on an electronic network or site accessible by the internet through use of a mobile application, computer, mobile device, tablet, or any other electronic device.

b. Sending separate notice of the posting described in sub-subdivision a. of this subdivision to the email address at which the person consented to receive notice of the disclosure statement posting.

(c) After receiving delivery of a disclosure statement pursuant to this section, a prospective resident shall sign an acknowledgement of receipt. The acknowledgement shall include (i) the date, (ii) the name of the person signing, and (iii) the date of the disclosure statement received, including date revised, if any. The provider shall provide a copy of the acknowledgement of receipt to the person signing and shall maintain the original. The acknowledgement of receipt required by this subsection may be received, given, and maintained in either an electronic or paper form.

(d) A copy of all disclosure statements, including all amendments, filed with and recorded by the Commissioner shall be maintained by the provider, in either electronic or paper form, for at least five years. (2025-58, s. 2; 2025-25, s. 29(1).)

§ 58-64A-160. Annual revised disclosure statements.

(a) Within 150 days following the end of each fiscal year, a provider shall file with the Commissioner a revised disclosure statement setting forth current information required pursuant to G.S. 58-64A-150. The annual disclosure statement revision shall be accompanied by an annual filing fee of two thousand dollars ($2,000).

(b) Within five business days of receipt of an annual revised disclosure statement and the annual filing fee, the Commissioner shall notify the provider in writing that (i) the revised disclosure statement has been received and recorded, (ii) the provider has met the filing requirements of this section, and (iii) the annual revised disclosure statement is now considered to be the current disclosure statement for purposes of this Article. After sending the notice, the Commissioner shall post the annual revised disclosure statement on the Department's website within five business days. After receiving the Commissioner's notice, the provider shall make the annual revised disclosure statement available to all residents and depositors either in electronic or paper form.

(c) The Commissioner may, upon a showing of good cause by the provider, extend the due date of the annual disclosure statement revision for a reasonable period of time not to exceed 30 days.

(d) If the annual disclosure statement revision is not received by the due date and no extension has been granted, a one thousand dollar ($1,000) late fee shall accompany submission of the annual disclosure statement revision. The Commissioner may waive the late fee upon a showing of good cause by the provider. (2025-58, s. 2.)

§ 58-64A-165. Other revisions to disclosure statement.

(a) A provider may 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 material fact required to be stated therein. A provider that revises its disclosure statement for this purpose shall submit the revised disclosure statement to the Commissioner before delivery of the disclosure statement to any resident or prospective resident.

(b) If a disclosure statement is revised in accordance with this section or G.S. 58-64A-150(g), the cover page shall additionally be revised to reflect the revision date.

(c) Within five business days of receipt of a revised disclosure statement pursuant to this section, the Commissioner shall notify the provider in writing that the revised disclosure statement has been received and recorded and is considered to be the current disclosure statement for purposes of this Article. After sending this notification, the Commissioner shall post the revised disclosure statement on the Department's website within five business days. After receiving the Commissioner's notification, a provider revising its disclosure statement pursuant to this section shall make the revised disclosure statement available to all residents either in electronic or paper form. (2025-58, s. 2.)

Part 6. Binding Reservation Agreement and Continuing Care Contract.

§ 58-64A-170. Binding reservation agreement.

A binding reservation agreement shall include all of the following:

(1) A provision that the person entering into the agreement may rescind the agreement within 30 days following the later of the following occurrences: (i) the execution of the agreement or (ii) the receipt of a disclosure statement that meets the requirements of G.S. 58-64A-150.

(2) A provision that the agreement shall be automatically canceled if either of the following occurs: (i) a depositor dies before signing a continuing care contract or (ii) a depositor would be precluded from signing a continuing care contract

and occupying a living unit in the continuing care retirement community under the terms of a continuing care contract due to illness, injury, or incapacity.

(3) A provision that, if an agreement is rescinded, automatically canceled, or otherwise canceled by the depositor, the depositor shall receive a refund of all money or other consideration transferred to the provider. All of the following shall be deducted from the depositor's refund:

a. Nonstandard costs specifically incurred by the provider at the request of the depositor and described in the agreement.

b. Any nonrefundable fees specifically set forth in the agreement.

c. Any service charge specifically set forth in the agreement that shall not exceed the greater of (i) three thousand dollars ($3,000) or (ii) two percent (2%) of the entrance fee. In no event shall the service charge exceed the amount of consideration transferred to the provider by the depositor or a service charge be assessed due to the termination of the agreement because of the failure of the provider to meet its obligations under the agreement, or upon the failure of the provider to obtain a permanent license in accordance with this Article.

(4) A provision that any refund due to a depositor for a cancellation or termination for reasons not provided for in this section shall be computed in accordance with the terms of the agreement. (2025-58, s. 2.)

§ 58-64A-175. Continuing care contract.

(a) A continuing care contract shall include all of the following:

(1) A provision that the person contracting with the provider may rescind the contract within 30 days following the later of (i) the execution of the contract or (ii) the receipt of a disclosure statement that meets the requirements of G.S. 58-64A-150, and a resident to whom the contract pertains is not required to move into the continuing care retirement community before the expiration of the 30-day period.

(2) A provision that, if a resident dies before occupying a living unit in the continuing care retirement community, or if, on account of illness, injury, or incapacity, a resident would be precluded from occupying a living unit in the continuing care retirement community under the terms of the contract, the contract is automatically canceled.

(3) A provision that, for rescinded or canceled contracts under this subsection and contracts canceled before a living unit is initially available for occupancy by the first resident of a living unit, the resident or the resident's legal representative, shall receive a refund of all money or other consideration transferred to the provider, less (i) periodic fees specified in the contract and applicable only to the period a living unit was actually occupied by the resident; (ii) those nonstandard costs specifically incurred by the provider at the request of the resident and described in the contract or any contract amendment signed by the resident; (iii) nonrefundable fees, if set out in the contract; and (iv) a reasonable service charge, if set out in the contract, not to exceed the greater of three thousand dollars ($3,000) or two percent (2%) of the entrance fee. In no event shall the service charge exceed the amount of consideration transferred to the

provider by the resident, or a service charge be assessed due to the termination of the contract because of the failure of the provider to meet its obligations under the contract, or upon the failure of the provider to obtain a permanent license in accordance with this Article.

(4) A provision that any refund due to a resident for a cancellation or termination for reasons not provided for in this section shall be computed in accordance with the terms of the contract.

(b) A continuing care contract shall specify all of the following:

(1) All fees required of residents, including any entrance fee and any ongoing periodic fees.

(2) The services to be provided.

(3) The policy regarding changing the resident's living unit, if necessary, for the protection of the health or safety of the resident or the general and economic welfare of other residents.

(4) The policies to be implemented if the resident cannot pay the periodic fees.

(5) The terms governing the refund of any portion of the entrance fee in the event of death or cancellation by the resident or provider.

(6) The policy regarding increasing the periodic fees.

(7) A description of the living unit.

(8) Any property rights of the resident.

(9) The policy, if any, regarding periodic fee adjustments if the resident is absent from the continuing care retirement community.

(10) Any requirement that the resident maintain long-term care insurance or apply for Medicaid benefits or any other public assistance program.

(c) A continuing care contract shall include the following notice immediately above the contract signature line and be in type that is boldfaced, capitalized, underlined, or otherwise set out from the surrounding written material so as to be conspicuous:

"NOTICE

Because the authority to enter into continuing care contracts granted by the North Carolina Department of Insurance is neither a guarantee of performance by the provider nor an endorsement of any continuing care contract provision, prospective residents must carefully consider the risks, benefits, and costs before signing a continuing care contract and are strongly encouraged to seek financial and legal advice before doing so." (2025-58, s. 2.)

Part 7. Continuing Care at Home.

§ 58-64A-180. Home care services defined.

As used is this Part, "home care services" is defined in G.S. 131E-136. (2025-58, s. 2.)

§ 58-64A-185. Application.

(a) No person shall arrange or provide continuing care at home unless licensed by the Commissioner pursuant to this Article. Only a provider who has obtained a permanent license or a restricted permanent license pursuant to this Article may apply to the Commissioner for a continuing care at home license. The application shall include all of the following:

(1) An application fee of five hundred dollars ($500.00).

(2) A draft amended disclosure statement containing a description of the proposed continuing care at home program, including the primary market area to be served, the types of services to be provided, and the fees to be charged.
(3) A copy of the proposed continuing care at home contract.
(4) An actuarial study prepared in accordance with accepted actuarial standards of practice which estimates when the continuing care at home program is projected to be in satisfactory actuarial balance. Providers who do not collect entrance fees or some other type of up-front prepayment of costs are exempt from this requirement and shall only be required to submit an actuarial projection of future population flows and adult care home bed and nursing bed needs using appropriate mortality, morbidity, withdrawal, occupancy, and other demographic assumptions, and using a projection period that extends to a point at which, in the actuary's professional judgment, the use of a longer period would not materially affect the results and conclusions.
(5) A market study prepared by a person experienced in the preparation of market studies for continuing care at home or similar programs that demonstrates sufficient interest in a continuing care at home program.
(6) Prospective financial statements prepared by an independent certified public accountant that show the financial impact of providing continuing care at home on the provider and the continuing care retirement community. The prospective financial statements shall include a statement of activities reporting the revenue and expense details for providing continuing care at home, as well as the impact the program will have on the operations of the provider and the continuing care retirement community, including the operating reserve.
(7) Evidence of the license required under Part 3 of Article 6 of Chapter 131E of the General Statutes to provide home care services, or a contract with a licensed home care agency for the provision of home care services to be provided to residents under the continuing care at home program.

(b) The Commissioner shall comply with the review schedule in G.S. 58-64A-70 in response to an application for a continuing care at home license.

(c) The Commissioner shall approve an application for a continuing care at home license if all of the following requirements are met:
(1) The application complies with this section.
(2) None of the grounds for denial listed in G.S. 58-64A-280 apply to the applicant.
(3) The applicant is able to provide continuing care at home as proposed.
(4) There is sufficient consumer interest in the continuing care at home program proposed by the applicant, as evidenced by the market study.
(5) The program proposed by the applicant will not have a detrimental financial impact on the applicant and continuing care retirement community, as determined by the Commissioner.

(d) After receiving a continuing care at home license, the provider may arrange or provide continuing care at home and shall file an amended disclosure statement with the Commissioner which contains the information regarding continuing care at home required by G.S. 58-64A-150.

(e) After the issuance of a continuing care at home license, the Commissioner shall require a provider to submit periodic reports in a form prescribed by the Commissioner to monitor the status of the continuing care at home program. (2025-58, s. 2.)

§ 58-64A-190. Continuing care at home contract.

(a) A continuing care at home contract shall include all of the following provisions:

(1) A provision that the individual contracting with the provider may rescind the contract within 30 days following the later of (i) the execution of the contract or (ii) the receipt of a disclosure statement that meets the requirements of G.S. 58-64A-150.

(2) A provision that, if a resident dies prior to the effective start date of services, or if, on account of illness, injury, or incapacity, a resident would be precluded from meeting the eligibility terms of the contract, the contract is automatically canceled.

(3) A provision that, for rescinded or canceled contracts under this subsection, the resident, or the resident's legal representative, shall receive a refund of all money or other consideration transferred to the provider, less (i) periodic fees specified in the contract and applicable only to the period when services were provided to the resident; (ii) nonrefundable fees, if set out in the contract; and (iii) a reasonable service charge, if set out in the contract, not to exceed the greater of three thousand dollars ($3,000) or two percent (2%) of the entrance fee, if any.

(4) A provision that any refund due to a resident for any other cancellation or termination not provided for in subdivisions (1) and (2) of this subsection shall be computed in accordance with the terms of the contract.

(b) A continuing care at home contract shall specify all of the following:

(1) All fees required, including any entrance fee and any ongoing periodic fees.

(2) The services to be provided.

(3) The policies to be implemented if the resident cannot pay the periodic fees.

(4) The terms governing the refund of any portion of the entrance fee in the event of death or cancellation by the resident or provider.

(5) The policy regarding the adjustment of periodic fees.

(6) Whether transportation will be provided to residents, including travel to and from the continuing care retirement community for services.

(7) The mechanism for monitoring residents who live outside the continuing care retirement community.

(8) The process that will be followed to establish priority if a resident wishes to exercise the resident's right to move into an independent living unit at a continuing care retirement community operated by the provider.

(9) The process the provider will follow if it becomes necessary for the resident to move into a long-term care facility.

(10) The policy that will be followed if a resident chooses not to move to a long-term care facility when recommended by the provider.

(11) The policy, if any, that would entitle a resident to select placement in a long-term care facility that is not owned and operated by the provider or by a related party of the provider.

(12) A statement describing any applicable geographical limits of the continuing care at home program, and the policy that will be followed in the event that a

resident relocates to a different residence outside the geographical limits covered by the continuing care at home program.

(c) A continuing care at home contract shall include the following notice immediately above the contract signature line and be in type that is boldfaced, capitalized, underlined, or otherwise set out from the surrounding written material so as to be conspicuous:

"NOTICE

Because the authority to enter into continuing care at home contracts granted by the North Carolina Department of Insurance is neither a guarantee of performance by the provider nor an endorsement of any continuing care at home contract provision, prospective residents must carefully consider the risks, benefits, and costs before signing a continuing care at home contract and are strongly encouraged to seek financial and legal advice before doing so." (2025-58, s. 2.)

Part 8. Financial Reporting and Monitoring.

§ 58-64A-195. General requirements related to filing and extensions for filing of annual audited financial statements.

(a) All providers shall have an annual audit by an independent certified public accountant and shall file audited financial statements with the Commissioner within 150 days following the end of each fiscal year.

(b) Extensions of the filing date may be granted by the Commissioner for 30-day periods upon a showing by the provider and its independent certified public accountant of the reasons for requesting an extension and determination by the Commissioner of good cause for an extension. The request for extension must be received in writing not less than 10 days before the due date and in sufficient detail to permit the Commissioner to make an informed decision with respect to the requested extension.

(c) If an initial extension is granted in accordance with the provisions in subsection (b) of this section, a similar extension of 30 days is granted for the filing of the provider's annual disclosure statement. (2025-58, s. 2.)

§ 58-64A-200. Contents of annual audited financial statements.

(a) The annual audited financial statements shall 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 year then ended. The audited financial statements shall be comparative, presenting the amounts as of the end of the most current year-end and the amounts as of the immediately preceding year-end. However, in the first year in which a provider is required to file audited financial statements, the comparative data may be omitted.

(b) The audited financial statements shall include the following:

(1) Report of independent certified public accountant.
(2) Balance sheet reporting assets, liabilities, and net assets or equity.
(3) Statement of operations.
(4) Statement of cash flows.
(5) Statement of changes in net assets or equity.
(6) Notes to financial statements.

(c) The audited financial statements shall be prepared in accordance with one of the following requirements:

(1) If a provider is required by generally accepted accounting principles to have their financial statements consolidated with other persons, the audited

consolidated financial statements shall include a consolidating balance sheet, a consolidating statement of operations and changes in net assets or equity, and a consolidating statement of cash flows as supplemental information to the audited consolidated financial statements. This supplemental information shall also include a statement of operations for each continuing care retirement community operated by the provider under this Article.

(2) If the provider includes one or more persons acting in concert to offer and provide continuing care, the audited financial statements shall be combined and shall include a combining balance sheet, a combining statement of operations and changes in net assets or equity, and a combining statement of cash flows as supplemental information to the audited combined financial statements. This supplemental information shall also include a statement of operations for each continuing care retirement community operated by the provider under this Article.

(3) If a provider is part of an obligated group, the audited financial statements shall be either consolidated or combined with the other members of the obligated group and shall include a combining or consolidating balance sheet, a combining or consolidating statement of operations and changes in net assets or equity, and a combining or consolidating statement of cash flows as supplemental information to the audited combined or consolidated financial statements. This supplemental information shall also include a statement of operations for each continuing care retirement community operated by the provider under this Article.

(4) If the provider is not required by generally accepted accounting principles to have their financial statements consolidated with other persons, does not include one or more persons acting in concert to offer and provide continuing care, and is not part of an obligated group, then the audited financial statements shall be a stand-alone financial audit of the provider. The audited financial statements must include as supplemental information, if the provider operates more than one continuing care retirement community or has operations that are separate and distinct from the operation of a continuing care retirement community or communities under this Article, a statement of operations for each continuing care retirement community operated by the provider under this Article.

(d) If a provider is also licensed to provide continuing care at home, the audited financial statements shall account for the related revenue and expenses generated from the continuing care at home program separate from the provider's other operations when providing the information required by this section. (2025-58, s. 2.)

§ 58-64A-205. Quarterly reporting.

Within 45 days after the end of each fiscal quarter, a provider shall file with the Commissioner all of the following:

(1) Quarterly unaudited financial statements of the provider and any obligated group of which the provider is a member, which shall include a balance sheet, a statement of operations, and a statement of cash flows, which shall contain the

same categories and line items as the annual audited financial statements filed with the Commissioner pursuant to G.S. 58-64A-195.

(2) The 12-month daily average occupancy rate by living unit type at each continuing care retirement community operated by the provider in this State in a form prescribed by the Commissioner.

(3) Notice of the following:

a. Any change in the provider's or the provider's controlling person's board of directors or other governing body, president, chief executive officer, and chief financial officer. Notice shall include the name of the provider, the name of the controlling person, if applicable, the name of the person previously holding the position, the name of the person currently holding the position, a brief biography of the person currently holding the position, and the date the position change took place.

b. Any change in the organizational documents of the provider, including changes in the provider's articles of incorporation and bylaws. Copies of the changed documents shall be submitted with the notification to the Commissioner. (2025-58, s. 2.)

§ 58-64A-210. Actuarial study.

(a) A provider shall submit to the Commissioner, at least once every three years, an actuarial study prepared in accordance with accepted actuarial standards of practice for each continuing care retirement community operated by the provider in this State and any continuing care at home program that the provider is licensed for pursuant to this Article.

(b) If the actuary is unable to form an opinion, or if the opinion is adverse or qualified, the statement of actuarial opinion and the actuarial study shall specifically state the reason.

(c) The Commissioner may request the information required in this section more frequently to assist in the determination of a possible hazardous condition.

(d) A provider required to file an actuarial study under this section that held a license on the effective date of this section shall file an actuarial study with the Commissioner before the expiration of three years following the effective date of this section [December 1, 2025]. Thereafter, each provider shall file its required actuarial study before the expiration of three years following the date it last filed an actuarial study with the Commissioner.

(e) A provider required to file an actuarial study under this section that did not hold a license on the effective date of this section [December 1, 2025] shall file its first actuarial study within 45 days following the due date for the provider's annual audited financial statements for the fiscal year in which the provider obtained its permanent license. Thereafter, the provider shall file its required actuarial study before the expiration of three years following the date it last filed an actuarial study with the Commissioner.

(f) A provider that only offers health care on a fee-for-service basis or only provides a limited discount or limited number of free days in a long-term care facility shall be exempt, unless otherwise required by the Commissioner, from the actuarial study requirement in this section. Providers exempt pursuant to this subsection shall submit to the Commissioner, at least once every five years, an actuarial projection of future population flows and adult care home bed and nursing bed needs using appropriate mortality, morbidity, withdrawal, occupancy, and other demographic assumptions and using a projection period that extends to a point at which, in the actuary's professional judgment, the use of a longer period would not materially affect the results and

conclusions. The Commissioner may require an actuarial projection of future population flows and adult care home bed and nursing bed needs sooner if there has been an increase or decrease of twenty percent (20%) or more of one or more types of living units at a continuing care retirement community during the provider's most recent fiscal year. (2025-58, s. 2.)

§ 58-64A-215. Additional reporting.

If the Commissioner determines that additional information is needed to properly monitor the financial condition or operations of a provider or continuing care retirement community or is otherwise needed to protect the interests of residents and the general public, the Commissioner may require a provider licensed under this Article to file any of the following:

(1) Monthly unaudited financial statements in the format required by G.S. 58-64A-205 which shall be due no later than 45 days after the end of each month.

(2) Any other data, financial statements, and pertinent information as the Commissioner may reasonably require regarding (i) the provider, (ii) the provider's obligated group, (iii) the continuing care retirement community, or (iv) any related party, if the provider relies on a contractual or financial relationship with the related party in order to meet the financial requirements of this Article, or has a material amount invested in, or has a material amount of receivables due from, the related party. (2025-58, s. 2.)

Part 9. Notification Requirements.

§ 58-64A-220. Notifications to Commissioner and residents.

A provider shall notify the Commissioner and all residents in writing within 10 business days whenever any of the following apply:

(1) The provider fails to maintain the operating reserve required pursuant to Part 11 of this Article.

(2) The provider, or any obligated group of which the provider is a member, violates or seeks modification, waiver, or extension of any material covenant or material payment terms contained in any debt agreement.

(3) The provider has any entrance fee refunds that become more than 30 days contractually past due.

(4) The provider plans to reduce the number of any type of living unit by twenty percent (20%) or more. The notification shall include a statement describing the reasons for the reduction and the effect, if any, on residents and the financial condition of the provider. For the purposes of this subdivision, the percentage shall be based on the type of living unit being reduced.

(5) The provider makes any change to its name, or the name of a continuing care retirement community operated by the provider in this State, including the adoption of an assumed business name.

(6) Any proceeding for denial, suspension, or revocation of any license or permit needed to operate all or part of a continuing care retirement community in this State. (2025-58, s. 2.)

§ 58-64A-225. Material changes or deviations in information.

(a) An applicant or provider shall notify the Commissioner of material changes or deviations in any information submitted to the Commissioner pursuant to this Article within 10 business days after the applicant or provider becomes aware of the change or deviation.

(b) Within 30 days after receiving notice of a material change or deviation, the Commissioner shall advise the applicant or provider in writing whether any additional action needs to be taken as a result of the material change or deviation.

(c) The Commissioner may suspend any approval, certification, license, or permit issued pursuant to this Article if the applicant or provider fails to give written notice of material changes or deviations required by this section. The suspension shall remain in effect until the Commissioner has (i) assessed the potential impact of the material changes or deviations on the applicant or provider and the interests of residents and depositors and (ii) taken any action necessary under this Article to protect the interests of any residents and depositors.

(d) For the purposes of this section, material changes or deviations mean any change or extraordinary occurrence which creates or causes, or could create or cause, an applicant or provider to be in a hazardous condition or, for a proposed continuing care retirement community or proposed expansion of a continuing care retirement community, to no longer be financially viable. (2025-58, s. 2.)

Part 10. Other Transactions and Changes.

§ 58-64A-230. Purchase, sale, or transfer of ownership interest in the real property of a continuing care retirement community.

(a) No permit, certificate, or license issued pursuant to this Article is transferable, and no permit, certificate, or license issued pursuant to this Article has value for sale or exchange as property.

(b) A provider or any other person who owns the real property used in the operations of a continuing care retirement community shall obtain approval from the Commissioner before consummating any sale or transfer of any real property used in the operations of a continuing care retirement community, including a sale-leaseback transaction, or any interest in a continuing care retirement community, other than the sale of an independent living unit to a resident or other transferee.

(c) A provider shall obtain approval from the Commissioner before consummating any purchase of real property currently leased and used by the provider in the operations of a continuing care retirement community. Any purchase option to be entered into by the provider that requires a purchase option deposit shall only be entered into if the deposit is placed in an escrow account or secured in another method acceptable to the Commissioner.

(d) A provider shall request approval of any transaction listed in subsection (b) or (c) of this section by filing a request for approval with the Commissioner, made under oath or affirmation, at least 45 days prior to consummating the transaction. The request for approval required by this subsection shall include all of the following:

(1) The identity and description of the persons involved in the transaction.
(2) A description of the transaction and the terms of the transaction.
(3) A description of the financial impact on the applicant.
(4) If applicable, a plan for ensuring performance of existing continuing care and continuing care at home contract obligations.
(5) Any other information reasonably required by the Commissioner.

(e) The Commissioner shall comply with the review schedule in G.S. 58-64A-70 in response to a request for approval pursuant to this section.

(f) The Commissioner shall approve a request for approval if all of the following requirements are met:

(1) The request complies with this section.

(2) None of the grounds for denial listed in G.S. 58-64A-280 apply to the applicant.

(3) The transaction does not jeopardize the financial stability of the applicant or prejudice the interest of residents.

(g) A provider shall give written notice to all affected residents and depositors of the proposed transaction within 10 business days after receiving approval from the Commissioner.

(h) The Commissioner may revoke or restrict the certificate or license of a provider or take other administrative action pursuant to Part 12 of this Article if a provider violates the provisions of this section. (2025-58, s. 2.)

§ 58-64A-235. Change of control of a provider.

(a) No person shall enter into an agreement to merge with, or to otherwise acquire control of, a provider holding a certificate or license under this Article unless the transaction is approved by the Commissioner. To obtain the Commissioner's approval, the acquiring person shall file a request for approval with the Commissioner.

(b) The request for approval required by this section shall be in a form prescribed by the Commissioner, made under oath or affirmation, and shall contain all of the following information:

(1) The name and address of each acquiring person and the following additional information regarding those persons:

a. If the person is not an individual, a report of the nature of its business operations during the past five years or for a lesser period as the person and any predecessors have been in existence.

b. A description of the business intended to be done by the person and the person's related parties.

c. A list of all individuals who are or who have been selected to become directors or executive officers of the person, or who perform or will perform functions appropriate to those positions.

d. For each individual listed pursuant to this subdivision, the person's principal occupation and all offices and positions held during the past five years and any conviction of crimes other than minor traffic violations during the past 10 years.

(2) The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control; a description of any transaction wherein funds were or are to be obtained for that purpose, including any pledge of the provider's stock, or the stock of any of its subsidiaries or controlling persons; and the identity of persons providing the consideration.

(3) Fully audited financial information as to the earnings and financial condition of each acquiring person for the preceding five fiscal years, or for a lesser period as the acquiring person and any predecessors have been in existence, and similar unaudited information as of a date not earlier than 90 days prior to the filing of the written notice.

(4) Any plans or proposals that each acquiring person may have to liquidate the provider, or any continuing care retirement community operated by the provider in this State, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.
(5) A description of the effect, if any, that the merger or other acquisition of control will have on the financial condition of the provider.
(6) A description of any change in the provision of goods and services to the provider and residents.
(7) A description of any agreements made or to be made with residents which will amend any continuing care or continuing care at home contract at the time of the transfer of control.
(8) A description of any service or contractual obligation with residents which will change as a result of the change in control.
(9) Any additional information as the Commissioner may require as necessary or appropriate for the protection of residents or in the public interest.

(c) The Commissioner shall comply with the review schedule in G.S. 58-64A-70 in response to a request for approval pursuant to this section.

(d) The Commissioner shall approve a request for approval pursuant to this section if all of the following requirements are met:
(1) The request for approval complies with this section.
(2) None of the grounds for denial listed in G.S. 58-64A-280 apply to the applicant.
(3) After the change of control, the provider will be able to satisfy the certification or licensure requirements, as applicable, of this Article.
(4) The financial condition of any acquiring person will not jeopardize the financial stability of the provider or prejudice the interest of any residents.
(5) Any plans or proposals that any acquiring person has to liquidate the provider, or any continuing care retirement community operated by the provider in this State, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are fair and reasonable to residents and in the public interest.
(6) The competence, experience, and integrity of those persons who would control the operation of the provider are such that the change of control will not harm the interests of residents or of the public.

(e) A provider shall give written notice to all affected residents and depositors of the proposed merger or other acquisition of control within 10 business days after the acquiring person has received approval from the Commissioner.

(f) The Commissioner may revoke or restrict the license or certificate of a provider or take other administrative action pursuant to Part 12 of this Article if a provider violates the provisions of this section. (2025-58, s. 2.)

§ 58-64A-240. Third-party management.

(a) A provider shall request the approval of the Commissioner before entering into a contract with a third party for the management of a continuing care retirement community. The request for approval required by this section shall include a copy of the proposed management contract, the information required by subdivisions (6) and (7) of G.S. 58-64A-150(a) regarding the

proposed third-party manager, a description of the third party's experience in managing continuing care retirement communities, and the reason for the change in management.

(b) The provider shall inform all residents in writing of the request for approval submitted to the Commissioner pursuant to this section within 10 business days after the request for approval is submitted to the Commissioner.

(c) The Commissioner shall comply with the review schedule in G.S. 58-64A-70 in response to a request for approval pursuant to this section.

(d) The Commissioner may disapprove of the request for approval if the Commissioner determines either of the following:

(1) The proposed third-party manager is incompetent or untrustworthy or so lacking in managerial experience as to make the operation of the continuing care retirement community potentially hazardous to residents.

(2) The proposed third-party manager is affiliated directly or indirectly through ownership, control, or business relations with any person or persons whose business operations are or have been marked by manipulation of assets or accounts or by bad faith, to the detriment of residents, members, stockholders, investors, creditors, or the public.

(e) The provider shall remove any third-party manager immediately upon discovery of either of the following:

(1) That a manager has been convicted of any felony or pleaded nolo contendere to a felony charge or has been held liable or enjoined in a civil action by final judgment involving fraud, embezzlement, fraudulent conversion, or misappropriation of property.

(2) That a manager is now, or was in the past, affiliated directly or indirectly through ownership interest of ten percent (10%) or more in, or control of, any business, corporation, or other entity that has been convicted of any felony or pleaded nolo contendere to a felony charge or has been held liable or enjoined in a civil action by final judgment involving fraud, embezzlement, fraudulent conversion, or misappropriation of property. (2025-58, s. 2.)

Part 11. Operating Reserve.

§ 58-64A-245. Operating reserve requirement.

(a) A provider shall maintain after the opening of a continuing care retirement community an operating reserve equal to fifty percent (50%) of the total operating costs of the continuing care retirement community forecasted or projected for the 12-month period following the period covered by the most recent disclosure statement filed with the Department.

(b) Once a continuing care retirement community achieves a 12-month daily average independent living unit occupancy rate of ninety percent (90%) or higher, a provider shall only be required to maintain an operating reserve in an amount calculated using the table below, unless otherwise instructed by the Commissioner:

12-Month Daily Average Independent Living Unit Occupancy Rate	Operating Reserve Requirement as a Percentage of Total Operating Costs of the Continuing Care Retirement Community
90% or above	25.00%
86% to 89.9%	31.25%
83% to 85.9%	37.50%

80% to 82.9%.....43.75%
Below 80%.....50.00%

(c) A provider who has a 12-month daily average independent living unit occupancy rate equal to or in excess of ninety-three percent (93%) and has no long-term debt or a debt service coverage ratio in excess of 2.00 as of the provider's most recent fiscal year-end shall only be required to maintain an operating reserve equal to twelve and one-half percent (12.5%) of total operating costs of the continuing care retirement community, unless otherwise instructed by the Commissioner.

(d) The Commissioner may increase the amount a provider is required to maintain as its operating reserve, not to exceed fifty percent (50%) of total operating costs as calculated in accordance with G.S. 58-64A-250, for a continuing care retirement community operated by the provider or require that a provider immediately place the operating reserve on deposit with the Commissioner if the Commissioner has determined that the provider is in a hazardous condition pursuant to G.S. 58-64A-285.

(e) A provider shall notify all residents in writing within 10 business days if the Commissioner, pursuant to subsection (d) of this section, increases the amount a provider is required to maintain as its operating reserve for a continuing care retirement community operated by the provider or requires the operating reserve to be placed on deposit with the Commissioner.

(f) If the Commissioner requires a provider to place an operating reserve on deposit with the Commissioner, the provider shall at the same time deliver to the Commissioner a power of attorney executed by the provider's president and secretary, or other proper person or persons, authorizing the sale or transfer of said qualifying assets, or any part, for the purpose of paying any of the liabilities of the provider related to the continuing care retirement community for which the operating reserve is maintained. (2025-58, s. 2.)

§ 58-64A-250. Operating reserve calculation.

(a) The five-year prospective financial statements as required by G.S. 58-64A-150(a)(37), together with the 12-month daily average independent living unit occupancy rate of the continuing care retirement community, shall serve as the basis for computing the operating reserve. A provider shall calculate and adjust, if necessary, the required operating reserve on at least a semiannual basis, including the date the operating reserve is certified in accordance with G.S. 58-64A-270.

(b) In addition to total operating expenses, total operating costs will include debt service, consisting of principal and interest payments, along with taxes and insurance on any mortgage loan or other long-term financing, but will exclude depreciation, amortized expenses, and extraordinary items as approved by the Commissioner. If the debt service portion is accounted for by way of another reserve account, the debt service portion may be excluded upon satisfactory evidence of the existence and purpose of the other reserve account.

(c) A provider shall apply in writing for a determination by the Commissioner in order to exclude extraordinary items from total operating costs and shall provide documentation to support the request. The Commissioner shall comply with the review schedule in G.S. 58-64A-70 in response to a request for approval pursuant to this subsection.

(d) For providers that have voluntarily and permanently discontinued entering into continuing care contracts, or who operate a continuing care retirement community where not all occupants are under continuing care contracts, the Commissioner may allow a reduced operating reserve if the Commissioner finds that the reduction is consistent with the financial protections imposed by this Article. In making this determination, the Commissioner may consider factors

including the financial condition of the provider, the number of outstanding continuing care contracts, the ratio of persons under continuing care contracts to those persons who do not hold a continuing care contract, and the 12-month daily average independent living unit occupancy rate.

(e) A provider who has increased the number of independent living units available at a continuing care retirement community in excess of twenty percent (20%) shall be allowed to exclude the total number of independent living units in the expansion project for a period of 18 months after the independent living units become available for occupancy when computing the operating reserve required by this Part.

(f) The Commissioner may allow a different calculation for a provider's required operating reserve for a continuing care retirement community operated by the provider if the calculation, in the opinion of the Commissioner, does not diminish the residents' protections provided for by this Part. (2025-58, s. 2.)

§ 58-64A-255. Qualifying assets.

(a) A provider shall fund its operating reserve with any of the following qualifying assets:

(1) Cash.

(2) Cash equivalents.

(3) Investment grade securities. For the purposes of this subdivision, investment grade securities are any of the following:

a. Securities issued or directly and fully guaranteed or insured by the government of the United States of America or any of its agencies or instrumentalities.

b. Debt securities or debt instruments with a rating of BBB- or higher by Standard & Poor's or Baa3 or higher by Moody's, or, if no rating of Standard & Poor's or Moody's then exists, the equivalent of that rating by any other nationally recognized statistical rating organizations maintained by the National Association of Insurance Commissioners.

c. Investments in any fund that invests exclusively in investments of the type described in sub-subdivision a. or b. of this subdivision, which fund may also hold immaterial amounts of cash pending investment or distribution.

(4) Corporate stock that is traded on a public securities exchange that can be readily valued and liquidated for cash, including shares in mutual funds and exchange-traded funds that hold portfolios consisting predominantly of these stocks.

(5) Other assets considered to be acceptable to the Commissioner on a case-by-case basis.

(b) Except as otherwise provided in this subsection, the assets maintained by the provider as an operating reserve for a continuing care retirement community operated by the provider under this Article shall not be subject to any liens, charges, judgments, garnishments, or creditors' claims and shall not be hypothecated, pledged as collateral, or otherwise encumbered in any manner. A provider may encumber assets held as an operating reserve as part of a security pledge of assets or similar collateralization that is part of the provider's debt financing and is included in the provider's debt indenture security instruments related thereto or other similar instrument.

(c) For the purpose of calculating the amount to be maintained by the provider to satisfy its operating reserve requirement, all qualifying assets shall be valued at their current fair market value. (2025-58, s. 2.)

§ 58-64A-260. Surety bond; letter of credit.

(a) Alternative Funding Methods. – In lieu of funding the operating reserve with qualifying assets as set forth in G.S. 58-64A-255, a provider may fund all or a portion of the operating reserve required by this Part by filing with the Commissioner a surety bond or letter of credit as set forth in this section.

(b) Surety Bond. – A surety bond shall be in a form acceptable to the Commissioner and issued by an insurer authorized by the Commissioner to write surety business in this State. All of the following shall apply to surety bonds issued pursuant to this Article:

(1) The surety bond may be exchanged or replaced with another surety bond if (i) the surety bond applies to obligations and liabilities that arose during the period of the original surety bond, (ii) the surety bond meets the requirements of this section, and (iii) 90 days' advance written notice is provided to the Commissioner.

(2) Notice of cancellation or nonrenewal of the surety bond required by this section shall be provided to the provider and the Commissioner in writing at least 45 days before cancellation or nonrenewal.

(3) A surety bond may be canceled by the issuer of the bond with respect to future obligations or liabilities upon proper notice pursuant to this section and without regard to approval or acceptance of the Commissioner.

(c) Letter of Credit. – A provider may file a clean, irrevocable, unconditional letter of credit issued or confirmed by a qualified United States financial institution as defined in G.S. 58-7-26(b) naming the Commissioner as beneficiary. The terms of the letter of credit shall be approved by the Commissioner before issuance and before its renewal or modification. The letter of credit shall provide all of the following information:

(1) Ninety days' prior written notice to both the provider and the Commissioner of the financial institution's determination not to renew or extend the term of the letter of credit.

(2) Unless otherwise arranged by the provider to the satisfaction of the Commissioner, deposit by the financial institution of letter of credit funds in an account designated by the Commissioner no later than 30 days before the expiration of the letter of credit.

(3) Deposit by the financial institution of letter of credit funds in an account designated by the Commissioner within five business days following written instructions from the Commissioner that, in the sole judgment of the Commissioner, funding of the operating reserve is required. (2025-58, s. 2.)

§ 58-64A-265. Operating reserve release.

(a) An operating reserve shall only be released, in whole or in part, upon the submittal of a detailed request from the provider and approval of that request by the Commissioner. This request shall be submitted in writing for the Commissioner to review at least 10 business days prior to the proposed date of release.

(b) In order to receive the approval of the Commissioner, a provider shall explain why a release is necessary and, if applicable, submit a repayment schedule to replenish the operating reserve to the amount required by G.S. 58-64A-245. Within five business days after the date a request is deemed complete, the Commissioner shall provide the provider with a written notice of approval or disapproval of the request. The Commissioner may disapprove any request to release the funds if it is determined that the release is not in the best interest of residents.

(c) A provider shall give written notice to residents of any request made pursuant to subsection (a) of this section at the same time the written request is submitted to the Commissioner. (2025-58, s. 2.)

§ 58-64A-270. Operating reserve certification.

At the time a provider files its annual audited financial statements pursuant to G.S. 58-64A-195, a provider shall file a form acceptable to the Commissioner computing, reporting, and certifying all of the following:

(1) The 12-month daily average independent living unit occupancy rate at the continuing care retirement community, or a shorter period of time that the continuing care retirement community has been in operation, as of the date of certification.
(2) The amount the provider is required to hold as its operating reserve.
(3) A description of the qualifying assets or other form of security and, if applicable, their respective values, as defined and valued in accordance with G.S. 58-64A-255, that the provider maintains for its operating reserve. (2025-58, s. 2.)

Part 12. Offenses and Penalties.

§ 58-64A-275. Definition of impairment.

As used is this Part, "impaired" means a weakened financial state or condition that may affect a provider's ability to pay its obligations as they come due in the normal course of business. (2025-58, s. 2.)

§ 58-64A-280. Grounds for discretionary refusal, restriction, or revocation of a permit, certificate, or license.

(a) The Commissioner may (i) deny an application or any other request for approval or (ii) restrict or revoke any permit, certificate, license, or other authorization issued under this Article if the Commissioner finds that the applicant or provider did any of the following:

(1) Willfully violated any provision of this Article or of any rule or order of the Commissioner.
(2) Made a material omission, misstatement, or misrepresentation, or committed fraud in obtaining a permit, certificate, license, or other authorization.
(3) Engaged in any fraudulent or dishonest practices in the conduct of its business.
(4) Misappropriated, converted, or improperly withheld any monies.
(5) Failed to file an annual disclosure statement, annual audited financial statements, or any other materials requested by the Commissioner or otherwise required by this Article.
(6) Failed to deliver to prospective residents a disclosure statement as required by this Article.

(7) Delivered to prospective residents a disclosure statement that makes a material misstatement or omits a material fact and the provider, at the time of the delivery of the disclosure statement, had actual knowledge of the misstatement or omission.
(8) Failed to make a revised disclosure statement available to residents.
(9) Made any material misrepresentations to depositors, prospective residents, or residents of a continuing care retirement community operated or to be operated in this State.
(10) Failed to maintain the escrow account required under this Article or released a portion of an escrow account required to be maintained under this Article.
(11) Failed to deposit entrance fees and deposits into an escrow account as required by this Article.
(12) Failed to maintain the operating reserve required under this Article or released a portion of the operating reserve required to be maintained under this Article without Commissioner approval.
(13) Violated a restriction of its permit, certificate, or license.
(14) After request by the Commissioner for an investigation or examination, refused access to records or information; refused to be investigated or examined or to produce its accounts, records, and files for an investigation or examination; refused to give information with respect to its affairs; or refused to perform any other legal obligations related to an investigation or examination.
(15) Failed to fulfill obligations under continuing care and continuing care at home contracts.
(16) Violated the provisions of G.S. 58-64A-230, 58-64A-235, or 58-64A-240.
(17) Failed to comply with the terms of a cease and desist order.
(18) Has been determined by the Commissioner to be in a hazardous condition.

(b) Findings of fact in support of a denial, restriction, or revocation shall be accompanied by an explicit statement of the Commissioner's understanding of the underlying facts supporting the findings.

(c) If the Commissioner has good cause to believe that a provider has committed a violation for which revocation could be ordered, the Commissioner may first issue a cease and desist order. If the cease and desist order is not or cannot be effective in remedying the violation, the Commissioner may, after notice and hearing, order that a permit, certificate, or license be revoked. That revocation order may be appealed to the Superior Court of Wake County in the manner provided by G.S. 58-63-35. The provider shall accept no new deposits or entrance fees while the revocation order is under appeal.

(d) If the Commissioner issues a cease and desist order or restricts or revokes a provider's permit, certificate, or license, the provider shall notify all residents and depositors of the cease and desist order, restriction, or revocation within five business days.

(e) The Commissioner may, upon finding of changed circumstances, remove a restriction.

(f) The revocation by the Commissioner of a certificate or license shall not release the provider from obligations assumed through continuing care and continuing care at home contracts.

(g) Within 20 business days after receiving a notice of revocation of a license, a provider shall provide to the Commissioner and all residents a written plan detailing specifically how the provider intends to continue to meet its continuing care obligations.

(h) A provider who has their permanent license revoked shall continue to maintain an operating reserve and to file its annual audited financial statements, annual disclosure statement, and pay annual fees to the Commissioner as required under this Article as if the permanent license had continued in full force, but the provider shall not issue any new continuing care or continuing care at home contracts.

(i) A provider who has a permit, certificate, or license revoked shall provide written notice within five business days to all depositors, shall reimburse all deposits collected, and shall provide documentation to the Commissioner verifying that all deposits have been returned to depositors. (2025-58, s. 2.)

§ 58-64A-285. Hazardous condition.

The Commissioner may consider any of the following standards to determine whether a provider is in a hazardous condition:

(1) Whether the provider is impaired or insolvent.

(2) Adverse findings reported in examination reports, audit financial statements, and actuarial opinions, reports, or summaries.

(3) Whether the provider has failed to establish, maintain, or has substantially depleted the operating reserve required by this Article.

(4) Whether the provider is contractually past due on entrance fee refunds.

(5) The age and collectability of receivables.

(6) Whether a related party is impaired, insolvent, bankrupt, or threatened with insolvency or bankruptcy, or delinquent in payment of its monetary or any other obligations and which in the opinion of the Commissioner may affect the solvency of the provider.

(7) Whether the provider, or any obligated group that the provider is a part of, is not in compliance with any covenant contained in any debt agreement.

(8) Whether the provider is aware of any existing circumstances which would hinder or cause the provider, or any member of an obligated group that the applicant or provider is a part of, to not be able to perform on any debt agreement.

(9) Contingent liabilities, pledges, or guaranties that either individually or collectively involve a total amount that in the Commissioner's opinion may affect a provider's solvency.

(10) Whether the management of a provider, including officers, directors, or any other person who directly or indirectly controls the operations of an applicant, provider, or continuing care retirement community, fails to possess and demonstrate the competence, experience, or integrity considered by the Commissioner to be necessary to serve the provider or continuing care retirement community in that position.

(11) Whether the management of a provider has failed to respond to the Commissioner's inquiries about the condition of the applicant or provider or has furnished false and misleading information in response to an inquiry by the Commissioner.

(12) Whether the applicant or provider has failed to meet financial, disclosure statement, or other filing requirements in the absence of a reason satisfactory to the Commissioner.

(13) Whether the management of an applicant or provider has filed any false or misleading financial statement, has released a false or misleading financial statement to a lending institution or to the general public, or has made a false or misleading entry or omitted an entry of material amount in the applicant's or provider's books.

(14) Whether the applicant or provider has experienced or will experience in the foreseeable future cash flow or liquidity problems.

(15) Any other finding determined by the Commissioner to be hazardous to the applicant's or provider's depositors, residents, creditors, or the general public. (2025-58, s. 2.)

§ 58-64A-290. Corrective action plan.

(a) If the Commissioner has determined that a provider is in a hazardous condition, the Commissioner may, in lieu of taking action under G.S. 58-64A-280 or G.S. 58-64A-335, and after notice and opportunity for hearing, issue an order requiring a provider to (i) submit a corrective action plan within 45 days and (ii) notify all residents and depositors within five business days of the Commissioner's order. The corrective action plan shall include both of the following:

(1) Proposals of corrective actions the provider intends to take which would be expected to result in the elimination of the hazardous condition.

(2) A date when the provider anticipates it will rectify the problems and deficiencies identified by the Commissioner.

(b) Within 45 days after the submittal of a corrective action plan, the Commissioner shall notify the provider whether the corrective action plan shall be implemented or is, in the judgment of the Commissioner, unsatisfactory. If the Commissioner determines the corrective action plan is unsatisfactory, the notification to the provider shall set forth the reasons for the determination and may set forth proposed revisions that will render the corrective action plan satisfactory in the judgment of the Commissioner. After receiving notification from the Commissioner, the provider shall prepare a revised corrective action plan, if applicable, which may incorporate by reference any revisions proposed by the Commissioner and shall submit the revised corrective action plan to the Commissioner within 30 days after notification from the Commissioner. If the corrective action plan is approved, the provider shall immediately implement the corrective action plan, distribute a copy of the plan to all residents and depositors, and begin reporting to the Commissioner on the implementation and progress of the corrective action plan in accordance with a schedule and in a format established by the Commissioner. Each report shall also be distributed to all residents and depositors at the time the report is submitted to the Commissioner.

(c) If the corrective action plan is disapproved, or if a corrective action plan is not submitted, the Commissioner may engage consultants to develop a corrective action plan. After the corrective action plan is developed, the Commissioner shall direct the provider to implement the corrective action plan and to distribute a copy of the corrective action plan to all residents and depositors. Expenses incurred by the Commissioner to engage consultants shall be paid by the provider.

(d) This section shall not be construed to delay or prevent the Commissioner from taking any regulatory measures deemed necessary regarding the provider.

(e) The provider shall distribute its approved corrective action plan and its most recent report to the Commissioner to a prospective resident at the time the provider distributes its current disclosure statement pursuant to G.S. 58-64A-155. Subsections (b) and (c) of G.S. 58-64A-155

shall apply to the corrective action plan and the most recent report to the Commissioner required to be distributed pursuant to this subsection. (2025-58, s. 2.)

§ 58-64A-295. Investigations and subpoenas.

(a) The Commissioner may make public or private investigations within or outside of this State as necessary to (i) determine whether any person has violated or is about to violate any provision of this Article, (ii) aid in the enforcement of this Article, or (iii) verify statements contained in any disclosure statement or other filing filed or delivered under this Article.

(b) For the purpose of any investigation or proceeding under this Article, the Commissioner may require or permit any person to file a statement in writing, under oath or otherwise, as to any of the facts and circumstances concerning the matter to be investigated.

(c) For the purpose of any investigation or proceeding under this Article, the Commissioner or the Commissioner's designee may exercise all powers granted to the Commissioner with respect to insurance companies. (2025-58, s. 2.)

§ 58-64A-300. Civil liability.

(a) A provider who enters into a binding reservation agreement, continuing care contract, or continuing care at home contract under this Article without having first delivered a disclosure statement meeting the requirements of Part 5 of this Article to the person with whom the binding reservation agreement, continuing care contract, or continuing care at home contract was entered into, or enters into a binding reservation agreement, continuing care contract, or continuing care at home contract with a person who has relied on a disclosure statement that materially misrepresents or omits to state a material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they are made, not misleading, shall be liable to that person for actual damages and repayment of all fees paid to the provider violating this Article, less the costs of care, services, and housing provided to the resident by or on whose behalf the binding reservation agreement, continuing care contract, or continuing care at home contract was entered into prior to discovery of the violation, misstatement, or omission or the time the violation, misstatement, or omission should reasonably have been discovered, together with interest thereon at the legal rate for judgments, and court costs and reasonable attorneys' fees.

(b) Liability under this section exists regardless of whether the provider had actual knowledge of the misstatement or omission.

(c) A person may not file or maintain an action under this section if the person, before filing the action, received a written offer of a refund of all amounts paid to the provider, together with interest at the rate established monthly by the Commissioner of Banks pursuant to G.S. 24-1.1(c), less the cost of care, services, and housing provided prior to receipt of the offer, and if the offer recited the provisions of this section and the recipient of the offer failed to accept it within 30 days of actual receipt.

(d) An action may not be maintained to enforce a liability created under this Article unless brought before the expiration of three years after the alleged violation. (2025-58, s. 2.)

§ 58-64A-305. Criminal penalties.

(a) Any person who willfully and knowingly violates any provision of this Article is guilty of a Class 1 misdemeanor. The Commissioner may refer any available evidence concerning a violation of this Article, or of any rule adopted or order issued pursuant to this Article, to the Attorney General or a district attorney. The Attorney General or a district attorney may institute the

appropriate criminal proceedings under this Article, with or without evidentiary referral from the Commissioner. Nothing in this Article limits the power of the State to punish any person for any conduct that constitutes a crime under any other statute.

(b) Any action brought against any person shall not abate by reason of a sale or other transfer of ownership of the continuing care retirement community except with the express written consent of the Commissioner. (2025-58, s. 2.)

§ 58-64A-310. Forfeiture.

(a) A permit, certificate, license, or other approval issued by the Commissioner pursuant to this Article shall be forfeited, after notice and opportunity for hearing, when any one of the following occurs:

(1) The provider terminates marketing a proposed continuing care retirement community.
(2) The provider surrenders to the Commissioner its permit, certificate, or license.
(3) The provider sells or otherwise transfers all or part of a continuing care retirement community without the Commissioner's approval in accordance with G.S. 58-64A-230.
(4) A change occurs in the control of the provider without the Commissioner's approval in accordance with G.S. 58-64A-235.
(5) The provider merges with another person without the Commissioner's approval in accordance with G.S. 58-64A-235.
(6) The provider moves the continuing care retirement community from one location to another without the Commissioner's prior approval.
(7) The provider abandons the continuing care retirement community or its obligations under continuing care and continuing care at home contracts.
(8) The provider is evicted from the structures that make up the continuing care retirement community.
(9) The provider closes a continuing care retirement community.

(b) The provider shall notify all residents and depositors within five business days after a forfeiture of a permit, certificate, or license. (2025-58, s. 2.)

§ 58-64A-315. Remedies available in cases of unlawful contracting.

(a) If the Commissioner determines that a provider is or has been violating the provisions of this Article, the Commissioner may, after notice and opportunity for hearing, order the provider to cease entering into binding reservation agreements, continuing care contracts, and continuing care at home contracts and make a rescission offer to any resident or depositor who entered into a binding reservation agreement, continuing care contract, or continuing care at home contract while the provider was violating the provisions of this Article in accordance with the provisions of this section.

(b) After the Commissioner issues an order pursuant to subsection (a) of this section, every binding reservation agreement, continuing care contract, or continuing care at home contract entered into in violation of this Article may be rescinded at the election of the resident or depositor without penalty.

(c) No resident or depositor shall have the benefit of this section who, within 30 days of receipt, has refused or failed to accept an offer made in writing by the provider to rescind the binding reservation agreement, continuing care contract, or continuing care at home contract in

question and to refund the full amount paid by the resident or depositor with interest at the rate established monthly by the Commissioner of Banks pursuant to G.S. 24-1.1(c) on the full amount paid for the binding reservation agreement, continuing care contract, or continuing care at home contract for the period from the date of payment by the depositor or resident to the date of repayment, less the cost of care, services, and housing provided, if applicable, and the amount of any costs specifically incurred by the provider at the request of the resident or depositor and set forth in writing, signed by both parties to the binding reservation agreement, continuing care contract, or continuing care at home contract. (2025-58, s. 2.)

§ 58-64A-325. Nonexclusive remedies.

The civil, criminal, and administrative remedies available to the Commissioner pursuant to this Article are not exclusive and may be sought and employed by the Commissioner, in any combination, to enforce this Article. (2025-58, s. 2.)

§ 58-64A-330. Soliciting or accepting new agreements or contracts by impaired or insolvent providers.

Regardless of whether delinquency proceedings as to a provider have been or are to be initiated, a provider may not actively solicit, approve the solicitation of, or enter into new binding reservation agreements, continuing care contracts, or continuing care at home contracts in this State after the provider knew, or reasonably should have known, that the provider was impaired or insolvent except with the written permission of the Commissioner. The Commissioner shall approve or disapprove the continued marketing of new binding reservation agreements, continuing care contracts, and continuing care at home contracts within 15 days after receiving a request from a provider. If the provider has declared bankruptcy, the bankruptcy court or trustee appointed by the court has jurisdiction over those matters. (2025-58, s. 2.)

Part 13. Delinquency Proceedings.

§ 58-64A-335. Supervision, rehabilitation, and liquidation.

(a) The Commissioner may commence a supervision proceeding pursuant to Article 30 of this Chapter or may apply to the Superior Court of Wake County or to the federal bankruptcy court that may have previously taken jurisdiction over the provider or continuing care retirement community for an order directing the Commissioner or authorizing the Commissioner to rehabilitate or liquidate a provider or continuing care retirement community in accordance with Article 30 of this Chapter, if the Commissioner determines, after notice and an opportunity for hearing, that any of the following apply:

(1) A portion of an escrow account or operating reserve required to be maintained under this Article has been or is proposed to be released in violation of this Article.
(2) A provider has been or will be unable to fully perform its obligations pursuant to continuing care and continuing care at home contracts, or to meet prospective financial data previously filed by the provider.
(3) A provider has failed to maintain the escrow account required under this Article.
(4) A provider is in a hazardous condition.
(5) A provider is bankrupt or insolvent, or in imminent danger of becoming bankrupt or insolvent.

(b) If the Commissioner commences a supervision proceeding, the provider shall notify all residents and depositors of the proceeding within five business days.

(c) If an order is issued directing or authorizing the Commissioner to rehabilitate or to liquidate a provider or continuing care retirement community, the Commissioner shall notify all affected residents and depositors of the rehabilitation or liquidation order within five business days or as otherwise directed by the Court.

(d) If, at any time, the Court finds, upon petition of the Commissioner, a provider, or on its own motion, that the objectives of an order to rehabilitate a provider have been accomplished and that the continuing care retirement community or communities owned by, or operated by, the provider can be returned to the provider's management without further jeopardy to the residents or depositors of the continuing care retirement community or communities, the Court may, upon a full report and accounting of the conduct of the provider's affairs during the rehabilitation and of the provider's current financial condition, terminate the rehabilitation and, by order, return the continuing care retirement community or communities owned by, or operated by, the provider, along with the assets and affairs of the provider, to the provider's management.

(e) When applying for an order to rehabilitate or liquidate a provider, the Commissioner shall give due consideration in the application to the manner in which the welfare of persons who have contracted with the provider for continuing care may be best served.

(f) An order for rehabilitation shall be refused or vacated if the provider posts a bond, by a recognized surety authorized to do business in this State and executed in favor of the Commissioner on behalf of persons who may be found entitled to a refund of entrance fees and deposits from the provider or other damages in the event the provider is unable to fulfill its contracts to provide continuing care, in an amount determined by the Court to be equal to the reserve funding that would otherwise need to be available to fulfill the provider's obligations.

(g) G.S. 58-30-12 shall not apply to providers under this Article. (2025-58, s. 2.)

§ 58-64A-340. Receiverships; exception for long-term care facility beds.

When the Commissioner has been appointed as a receiver under Article 30 of this Chapter for a provider or a continuing care retirement community subject to this Article, the Department of Health and Human Services may, notwithstanding any other provision of law, accept and approve the addition of adult care home beds or nursing beds for a continuing care retirement community owned by, or operated by, the provider, if it appears to the Court, upon petition of the Commissioner or the provider, or on the Court's own motion, that (i) the best interests of the provider or (ii) the welfare of persons who have previously contracted with the provider or may contract with the provider may be best served by the addition of adult care home beds or nursing beds. (2025-58, s. 2.)

§ 58-64A-345. Contracts as preferred claims in liquidation.

(a) In the event of liquidation of a provider, all continuing care and continuing care at home contracts executed by the provider shall be deemed preferred claims against all assets owned by the provider.

(b) Notwithstanding subsection (a) of this section, the claims of all continuing care and continuing care at home contracts shall be subordinate to the liquidator's cost of administration or any secured claim. (2025-58, s. 2.)

Part 14. Residents' Rights to Organization and Semiannual Meetings.

§ 58-64A-350. Definition of residents' council.

As used is this Part, "residents' council" means a group duly elected by residents at a continuing care retirement community to advocate for residents' rights and to serve as a liaison between residents and the provider with respect to resident welfare and interests. (2025-58, s. 2.)

§ 58-64A-355. Right to organization.

A resident living in a continuing care retirement community operated by a provider licensed under this Article has the right of self-organization, the right to be represented by an individual of the resident's own choosing, and the right to engage in concerted activities to keep informed on the operation of the provider and the continuing care retirement community in which the resident resides or for other mutual aid or protection. The right to organize includes the right to establish a residents' council. (2025-58, s. 2.)

§ 58-64A-360. Semiannual meetings.

(a) The board of directors or other governing body of a provider or its designated representative shall hold in-person semiannual meetings with the residents of each continuing care retirement community operated by the provider in this State for free discussions of subjects, including, but not limited to, income, expenditures, financial trends and problems, and proposed changes in policies, programs, and services as they apply to the provider, the continuing care retirement community, and the continuing care retirement community's residents. For the purposes of this section, a semiannual meeting shall be a single meeting that is open to all residents and not a series of meetings with individual residents. Nothing in this section shall prevent a provider from making a semiannual meeting available via electronic means to residents of the continuing care retirement community who are unable to attend in person.

(b) At least one independent member of the board of directors or other governing body of the provider shall attend the semiannual meetings in person. A provider may apply to the Commissioner for a waiver from the requirement of this subsection based on unique circumstances.

(c) Residents shall be entitled to at least seven days' advance notice of each meeting under subsection (a) of this section. The agenda and any materials that are distributed at the meetings shall remain available upon request to residents for at least 60 days after each semiannual meeting.

(d) Whenever a state of emergency or disaster has been proclaimed in this State or for an area within this State under G.S. 166A-19.20 or G.S. 166A-19.21, or whenever the President of the United States has issued a major disaster declaration for the State or for an area within the State under the Stafford Act, 42 U.S.C. § 5121, et seq., that directly affects the continuing care retirement community, semiannual meetings required under this section may be held by electronic means, including any of the following:

(1) Telephone.
(2) Video conference.
(3) Video broadcast.

(e) If a semiannual meeting is held under subsection (d) of this section, notice of the method residents may use to attend the meeting shall be published with the notice of the meeting. The meeting shall be recorded in the format in which it is conducted. Acceptable recording formats include, but are not limited to, all of the following:

(1) A sound-only recording.
(2) A video recording with sound and picture.

(3) A digital or analog broadcast capable of being recorded.

(f) Recordings made pursuant to subsection (e) of this section shall remain available to residents for at least 60 days after being made available to residents.

(g) A provider shall report in the disclosure statement required under G.S. 58-64A-150 the dates on which the semiannual meetings were held during the provider's previous fiscal year. (2025-58, s. 2.)

Part 15. Miscellaneous Provisions.

§ 58-64A-365. Waiver of statutory protection.

No act, agreement, or statement of any resident, or of an individual purchasing continuing care for a resident under any continuing care or continuing care at home contract shall constitute a valid waiver of any provision of this Article intended for the benefit or protection of the resident or the individual purchasing continuing care for the resident. (2025-58, s. 2.)

§ 58-64A-370. Continuing Care Advisory Committee.

(a) There shall be a 12-member Continuing Care Advisory Committee comprised of providers, residents, and professionals involved in the continuing care retirement community industry. The members shall be appointed as follows:

(1) Six members appointed by the Commissioner as follows:
   a. Two residents of continuing care retirement communities.
   b. One owner of a continuing care retirement community.
   c. One provider of continuing care at a continuing care retirement community or one provider of a continuing care at home program.
   d. One person who, on account of his or her vocation, employment, or affiliation, can be classified as a representative of residents of continuing care retirement communities.
   e. One person who, on account of his or her vocation, employment, or affiliation, can be classified as a representative of continuing care retirement communities.

(2) Three members appointed by the President Pro Tempore of the Senate as follows:
   a. One person who, on account of his or her vocation, employment, or affiliation, can be classified as a representative of residents of continuing care retirement communities.
   b. One person who, on account of his or her vocation, employment, or affiliation, can be classified as a representative of continuing care retirement communities.
   c. One person who is a certified public accountant and is licensed to practice public accountancy in this State.

(3) Three members appointed by the Speaker of the House of Representatives as follows:
   a. One person who, on account of his or her vocation, employment, or affiliation, can be classified as a representative of residents of continuing care retirement communities.

b. One person who, on account of his or her vocation, employment, or affiliation, can be classified as a representative of continuing care retirement communities.
c. One person who is a certified public accountant and is licensed to practice public accountancy in this State.

(b) The Committee shall meet all of the following requirements:
(1) Meet at least twice per year.
(2) Hold other meetings at times and places as the Committee chair may direct.
(3) Act in an advisory capacity to the Commissioner on matters pertaining to the operation and regulation of continuing care retirement communities and continuing care at home programs.
(4) Report to the Commissioner on developments in the continuing care retirement community industry, including continuing care at home and similar programs, and problems or concerns of providers and residents.
(5) Recommend changes in relevant statutes and rules.

(c) The term of each Committee member shall be three years, but each Committee member shall serve until a successor has been appointed by the appointing authority. Committee members may serve two consecutive terms. Any appointment to fill a vacancy on the Committee created by resignation, dismissal, death, or disability of a member shall be for the remainder of the unexpired term and filled by the appointing authority.

(d) Committee members shall serve without pay but shall be reimbursed for travel expenses by the Department at the rates set out in G.S. 138-6. (2025-58, s. 2.)

§ 58-64A-375. Other licensing or regulation.

(a) Nothing in this Article affects the authority of the Department of Health and Human Services or any successor agency otherwise provided by law to license or regulate any long-term care facility.

(b) Continuing care retirement communities and providers licensed under this Article that are also subject to the provisions of the North Carolina Condominium Act under Chapter 47C of the General Statutes shall not be subject to the provisions of Chapter 39A of the General Statutes, provided that the continuing care retirement community's declaration of condominium does not require the payment of any fee or charge not otherwise provided for in a resident's continuing care contract, or other separate contract for the provisions of membership or services. (2025-58, s. 2.)

§ 58-64A-380. Examination.

(a) The Commissioner or the Commissioner's designee may, in the Commissioner's discretion, visit a provider offering continuing care in this State to examine its books and records. Expenses incurred by the Commissioner in conducting examinations under this section shall be paid by the provider examined.

(b) The provisions of G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-155, 58-2-180, 58-2-185, and 58-6-5 apply to this Article and are hereby incorporated by reference.

(c) If a provider relies on a contractual or financial relationship with another person in order to meet the financial requirements of this Article, the Commissioner or the Commissioner's designee may examine the person that has a contractual or financial relationship with the provider to the extent necessary to ascertain the financial condition of the provider.

(d) A provider shall make a copy of the examination report issued by the Commissioner available for inspection by all residents within 10 business days after issuance. (2025-58, s. 2.)