

§ 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.)