

§ 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.)