

§ 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.)