

§ 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.)