

AN ACT

ENTITLED, An Act to provide certain requirements for new continuing care retirement communities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. For the purposes of this Act, a continuing care agreement is an agreement to provide a person board and lodging, in addition to care in a nursing facility or assisted living center, as defined in § 34-12-1.1, for the duration of the person's life, in consideration for an entrance fee paid to the provider.

Section 2. For the purposes of this Act, an entrance fee is an initial or deferred transfer to a provider of a sum of money, or other property, made or promised to be made, as a full or partial consideration for acceptance of the person in the facility under a continuing care agreement, if the amount exceeds five thousand dollars or the sum of periodic charges for three months of residency, whichever is greater.

Section 3. For the purposes of this Act, a continuing care retirement community is a facility that offers any person, under a continuing agreement, board and lodging, in addition to care in a nursing facility or assisted living center, regardless of whether the lodging and care is provided at the same location.

Section 4. A continuing care retirement community and any agreement it enters into with its residents is not subject to any provision of Title 58 except as contained in this Act. This Act does not provide any exemption for the sale of long-term care or other insurance product to a continuing care retirement community. This Act does not provide any exemption for the sale of long-term care or other insurance products by persons other than the continuing care retirement community to residents of the continuing care retirement community.

Section 5. A continuing care retirement community shall provide the following information to any resident or prospective resident: information about all owners and operators of the facility; the

affiliation, if any, with other charitable, nonprofit, or religious organizations and any financial obligations of these organizations for the operation of the facility; a description of the goods and services available to the resident as part of the agreement; a listing of services available to residents for extra cost; a description of fees charged to residents; and the most recent financial statement of the provider.

Section 6. Any provider proposing to develop a new continuing care retirement community, which has not previously been in operation in this state, shall establish an escrow account with a bank in this state. Any entrance fees or portions of the entrance fees collected from prospective residents before the commencement of operation of the planned facility shall be deposited in this account. Escrowed deposits may not be released to the provider until completion of construction of the facility as evidenced by certificates of occupancy or other permits to commence operation. Deposits shall be released to prospective residents within thirty days of a receipt of a written notice of cancellation. The provider may retain any accrued interest from canceled deposits and a service fee not to exceed five hundred dollars. A copy of the escrow agreement shall be filed with the director of the Division of Insurance.

Section 7. Any new continuing care retirement community may not start construction until escrowed deposits of at least ten percent of the proposed entrance fee has been received for at least fifty percent of the proposed living units planned to be constructed. This section does not apply to the building of a continuing care retirement community if the funds used for building such facility are exclusively derived from sources other than prospective residents.

Section 8. The provider shall notify the director of the Division of Insurance when the required amount of escrowed deposits have been reached for construction to start. In addition, notice shall be provided to the director of the Division of Insurance when escrowed deposits are released to the provider.

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I certify that the attached Act
originated in the

SENATE as Bill No. 228

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 228
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 19__

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State