

**ASSEMBLY BILL**

**No. 1698**

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**Introduced by Assembly Member Portantino**

February 15, 2012

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An act to amend Sections 1569.145, 1569.80, 1771, 1771.3, 1771.8, and 1790 of, and to add Section 1779.12 to, the Health and Safety Code, relating to continuing care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1698, as introduced, Portantino. Continuing care home services.

Existing law provides for the regulation by the State Department of Social Services of activities relating to continuing care contracts that govern care provided to an elderly resident in a continuing care retirement community for the duration of the resident's life or a term in excess of one year. Existing law designates the contents of a continuing care contract, including the conditions under which a resident of a continuing care retirement community may be voluntarily or involuntarily transferred from his or her designated living unit.

Under existing law, an entity that issues, delivers, or publishes, or as manager or officer or in any other administrative capacity, assists in the issuance, delivery, or publication of any printed matter, oral representation, or advertising material that does not comply with the requirements of the law relating to continuing care contracts is guilty of a misdemeanor.

Under existing law, the department licenses and regulates residential care facilities for the elderly, as defined.

This bill would exempt a care at-home program, as defined, from the licensing provisions applicable to residential care facilities for the elderly, if certain conditions are met. The bill would define a continuing

care at-home program as a care at-home program operated by a continuing care provider that meets prescribed requirements provided for in the bill. The bill would increase from \$7,500 to \$10,000 the maximum entrance fee for certain residence agreements that is exempt from continuing care contract provisions, and would require adjustments for cost-of-living increases every 4 years.

By revising the provisions relating to continuing care providers, this bill would change the definition of an existing crime, thus imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1569.145 of the Health and Safety Code
- 2 is amended to read:
- 3 1569.145. (a) This chapter shall not apply to any of the
- 4 following:
- 5 (a)
- 6 (1) A health facility, as defined by Section 1250.
- 7 (b)
- 8 (2) A clinic, as defined by Section 1200.
- 9 (c)
- 10 (3) A facility conducted by and for the adherents of a
- 11 well-recognized church or religious denomination for the purpose
- 12 of providing facilities for the care or treatment of the sick who
- 13 depend upon prayer or spiritual means for healing in the practice
- 14 of the religion of that church or denomination.
- 15 (d)
- 16 (4) A house, institution, hotel, congregate housing project for
- 17 the elderly, or other similar place that is limited to providing one
- 18 or more of the following: housing, meals, transportation,
- 19 housekeeping, or recreational and social activities; or that have
- 20 residents independently accessing supportive services, provided,
- 21 however, that no resident thereof requires an element of care and

1 supervision or protective supervision as determined by the director.  
2 This ~~subdivision shall~~ *paragraph does* not include a home or  
3 residence that is described in ~~subdivision (f)~~ *paragraph (6)*.

4 (e)

5 (5) Recovery houses or other similar facilities providing group  
6 living arrangements for persons recovering from alcoholism or  
7 drug addiction where the facility provides no care or supervision.

8 (f) (1)

9 (6) (A) An arrangement for the care and supervision of a person  
10 or persons by a family member.

11 (2)

12 (B) An arrangement for the care and supervision of a person or  
13 persons from only one family by a close friend, whose friendship  
14 preexisted the contact between the provider and the recipient, and  
15 both of the following are met:

16 (A)

17 (i) The care and supervision is provided in a home or residence  
18 chosen by the recipient.

19 (B)

20 (ii) The arrangement is not of a business nature and occurs only  
21 as long as the needs of the recipient for care and supervision are  
22 adequately met.

23 (g) (1) (A) ~~Any housing~~

24 (7) (A) *Any housing* occupied by elderly or disabled persons,  
25 or both, that is approved and operated pursuant to Section 202 of  
26 Public Law 86-372 (12 U.S.C. Sec. 1701q), or Section 811 of  
27 Public Law 101-625 (42 U.S.C. Sec. 8013), or whose mortgage is  
28 insured pursuant to Section 236 of Public Law 90-448 (12 U.S.C.  
29 Sec. 1715z), or that receives mortgage assistance pursuant to  
30 Section 221d(3) of Public Law 87-70 (12 U.S.C. Sec. 1715l), where  
31 supportive services are made available to residents at their option,  
32 as long as the project owner or operator does not contract for or  
33 provide the supportive services. *The project owner or operator*  
34 *may coordinate, or help residents gain access to, the supportive*  
35 *services, either directly, or through a service coordinator.*

36 (B) Any housing that qualifies for a low-income housing credit  
37 pursuant to Section 252 of Public Law 99-514 (26 U.S.C. Sec. 42)  
38 or that is subject to the requirements for rental dwellings for  
39 low-income families pursuant to Section 8 of Public Law 93-383  
40 (42 U.S.C. Sec. 1437f), and that is occupied by elderly or disabled

1 persons, or both, where supportive services are made available to  
2 residents at their option, as long as the project owner or operator  
3 does not contract for or provide the supportive services.

4 ~~(2) The project owner or operator to which paragraph (1) applies  
5 may coordinate, or help residents gain access to, the supportive  
6 services, either directly, or through a service coordinator.~~

7 *(8) A care at-home program in which a person or entity provides  
8 one or more services, including, but not limited to, care and  
9 supervision, meal preparation, housekeeping, laundry, home  
10 maintenance, grounds maintenance, companionship, social  
11 activities, recreational activities, and referrals to other care  
12 providers, to an elderly person in his or her residence.*

13 *(A) For purposes of this paragraph, a care at-home program  
14 includes a continuing care program, as described in Section  
15 1779.12.*

16 *(B) A person or entity that provides services to an elderly person  
17 under a care at-home program shall satisfy all the requirements  
18 of Chapter 10 (commencing with Section 1770) before entering  
19 into a continuing care contract with a recipient of care at-home  
20 services.*

21 ~~(h)~~  
22 (9) A similar facility determined by the director.

23 ~~(i)~~  
24 (b) For purposes of this section, ~~“family member” means the~~  
25 *following definitions shall apply:*

26 *(1) “Close friend” means a person who is attached to another  
27 by feelings of personal regard, as indicated by both parties  
28 involved.*

29 *(2) “Family member” means a spouse, by marriage or otherwise,  
30 child or stepchild, by natural birth or by adoption, parent, brother,  
31 sister, half brother, half sister, parent-in-law, brother-in-law,  
32 sister-in-law, nephew, niece, aunt, uncle, first cousin, or a person  
33 denoted by the prefix “grand” or “great,” or the spouse of one of  
34 these persons.*

35 *(3) “Residence” means a house, apartment, or other dwelling  
36 where all of the following conditions are met:*

37 *(A) Only family members or close friends of the elderly person  
38 receiving services under a care at-home program reside with the  
39 recipient of care at-home services in the residence.*

1 (B) *The residence is either owned or rented by the elderly person*  
2 *receiving the services under a care at-home program, or owned*  
3 *or rented by a family member or close friend of the person*  
4 *receiving services.*

5 (C) *Neither the residence as a whole, nor any part of it, is*  
6 *licensed as a residential care facility for the elderly.*

7 (D) *A provider of care at-home program services does not have*  
8 *any direct or indirect ownership or financial interest in the*  
9 *residence. For purposes of this paragraph, indirect ownership or*  
10 *financial interest includes any interest held by a corporation,*  
11 *limited liability company, partnership, or any other entity in which*  
12 *the care at-home provider, a family member, or family members,*  
13 *individually or in combination, hold a majority interest.*

14 (E) *The provider of care at-home program services has not had*  
15 *any influence or involvement in the care at-home recipient's*  
16 *decision to occupy the residence.*

17 (j)

18 (c) A person shall not be exempted from this chapter's licensure  
19 requirements if he or she has been appointed as conservator of the  
20 person, estate of the person, or both, if the person is receiving care  
21 and supervision from the conservator as regulated by this chapter,  
22 unless the conservator is otherwise exempted under other  
23 provisions of this section.

24 SEC. 2. Section 1569.80 of the Health and Safety Code is  
25 amended to read:

26 1569.80. (a) A resident of a residential care facility for the  
27 elderly, or the resident's representative, or both, shall have the  
28 right to participate in decisionmaking regarding the care and  
29 services to be provided to the resident. Accordingly, prior to, or  
30 within two weeks after, the resident's admission, the facility shall  
31 coordinate a meeting with the resident and the resident's  
32 representative, if any, an appropriate member or members of the  
33 facility's staff, if the resident is receiving home health services in  
34 the facility, a representative of the home health agency involved,  
35 and any other appropriate parties. The facility shall ensure that  
36 participants in the meeting prepare a written record of the care the  
37 resident will receive in the facility, and the resident's preferences  
38 regarding the services provided at the facility.

39 (b) Once prepared, the written record described in subdivision  
40 (a) shall be used by the facility, and, if applicable pursuant to

1 Section 1569.725, the home health agency, to determine the care  
2 and services provided to the resident. If the resident has a regular  
3 physician, the written record shall be sent by the facility to that  
4 physician.

5 (c) The written record described in subdivision (a) shall be  
6 reviewed, and, if necessary, revised, at least once every 12 months,  
7 or upon a significant change in the resident's condition, as defined  
8 by regulations, whichever occurs first. The review shall take place  
9 at a meeting coordinated by the facility, and attended by the  
10 resident, the resident's representative, if any, an appropriate  
11 member or members of the facility's staff, and, if the resident is  
12 receiving home health services in the facility, a representative from  
13 the home health agency involved.

14 (d) This section shall not preclude a residential care facility for  
15 the elderly or home health agency from satisfying other state or  
16 federal obligations at a meeting required by subdivision (a) or (c).

17 (e) If the residential care facility for the elderly is a continuing  
18 care retirement community, as defined in paragraph ~~(10)~~ (11) of  
19 subdivision (c) of Section 1771, this section shall apply only to  
20 residents who require care and supervision, as defined in  
21 subdivision (b) of Section 1569.2.

22 SEC. 3. Section 1771 of the Health and Safety Code is amended  
23 to read:

24 1771. Unless the context otherwise requires, the definitions in  
25 this section govern the interpretation of this chapter.

26 (a) (1) "Affiliate" means any person, corporation, limited  
27 liability company, business trust, trust, partnership, unincorporated  
28 association, or other legal entity that directly or indirectly controls,  
29 is controlled by, or is under common control with, a provider or  
30 applicant.

31 (2) "Affinity group" means a grouping of entities sharing a  
32 common interest, philosophy, or connection (e.g., military officers,  
33 religion).

34 (3) "Annual report" means the report each provider is required  
35 to file annually with the department, as described in Section 1790.

36 (4) "Applicant" means any entity, or combination of entities,  
37 that submits and has pending an application to the department for  
38 a permit to accept deposits and a certificate of authority.

39 (5) "Assisted living services" includes, but is not limited to,  
40 assistance with personal activities of daily living, including

1 dressing, feeding, toileting, bathing, grooming, mobility, and  
2 associated tasks, to help provide for and maintain physical and  
3 psychosocial comfort.

4 (6) “Assisted living unit” means the living area or unit within  
5 a continuing care retirement community that is specifically  
6 designed to provide ongoing assisted living services.

7 (7) “Audited financial statement” means financial statements  
8 prepared in accordance with generally accepted accounting  
9 principles including the opinion of an independent certified public  
10 accountant, and notes to the financial statements considered  
11 customary or necessary to provide full disclosure and complete  
12 information regarding the provider’s financial statements, financial  
13 condition, and operation.

14 (b) (reserved)

15 (c) (1) “Cancel” means to destroy the force and effect of an  
16 agreement or continuing care contract.

17 (2) “Cancellation period” means the 90-day period, beginning  
18 when the resident physically moves into the continuing care  
19 retirement community, during which the resident may cancel the  
20 continuing care contract, as provided in Section 1788.2.

21 (3) “Care” means nursing, medical, or other health-related  
22 services, protection or supervision, assistance with the personal  
23 activities of daily living, or any combination of those services.

24 (4) “Cash equivalent” means certificates of deposit and United  
25 States treasury securities with a maturity of five years or less.

26 (5) “Certificate” or “certificate of authority” means the  
27 certificate issued by the department, properly executed and bearing  
28 the State Seal, authorizing a specified provider to enter into one  
29 or more continuing care contracts at a single specified continuing  
30 care retirement community.

31 (6) “Condition” means a restriction, specific action, or other  
32 requirement imposed by the department for the initial or continuing  
33 validity of a permit to accept deposits, a provisional certificate of  
34 authority, or a certificate of authority. A condition may limit the  
35 circumstances under which the provider may enter into any new  
36 deposit agreement or contract, or may be imposed as a condition  
37 precedent to the issuance of a permit to accept deposits, a  
38 provisional certificate of authority, or a certificate of authority.

39 (7) “Consideration” means some right, interest, profit, or benefit  
40 paid, transferred, promised, or provided by one party to another

1 as an inducement to contract. Consideration includes some  
 2 forbearance, detriment, loss, or responsibility, that is given,  
 3 suffered, or undertaken by a party as an inducement to another  
 4 party to contract.

5 (8) “Continuing care contract” means a contract that includes  
 6 a continuing care promise made, in exchange for an entrance fee,  
 7 the payment of periodic charges, or both types of payments. A  
 8 continuing care contract may consist of one agreement or a series  
 9 of agreements and other writings incorporated by reference.

10 (9) *“Continuing care at-home program” means a care at-home*  
 11 *program, as described in paragraph (8) of subdivision (a) of*  
 12 *Section 1569.145, that is operated by a continuing care provider*  
 13 *that has satisfied each of the requirements specified in Section*  
 14 *1779.12, and that is operated in the manner described in this*  
 15 *chapter. A provider that provides services to elderly persons under*  
 16 *a continuing care at-home program shall satisfy all the*  
 17 *requirements of this chapter before entering into a continuing care*  
 18 *contract with a recipient of care at-home services.*

19 ~~(9)~~

20 (10) “Continuing care promise” means a promise, expressed or  
 21 implied, by a provider to provide one or more elements of care to  
 22 an elderly resident for the duration of his or her life or for a term  
 23 in excess of one year. Any such promise or representation, whether  
 24 part of a continuing care contract, other agreement, or series of  
 25 agreements, or contained in any advertisement, brochure, or other  
 26 material, either written or oral, is a continuing care promise.

27 ~~(10)~~

28 (11) “Continuing care retirement community” means a facility  
 29 located within the State of California where services promised in  
 30 a continuing care contract are provided. A distinct phase of  
 31 development approved by the department may be considered to  
 32 be the continuing care retirement community when a project is  
 33 being developed in successive distinct phases over a period of  
 34 time. When the services are provided in residents’ own homes, the  
 35 homes into which the provider takes those services are considered  
 36 part of the continuing care retirement community.

37 ~~(11)~~

38 (12) “Control” means directing or causing the direction of the  
 39 financial management or the policies of another entity, including  
 40 an operator of a continuing care retirement community, whether

1 by means of the controlling entity’s ownership interest, contract,  
2 or any other involvement. A parent entity or sole member of an  
3 entity controls a subsidiary entity provider for a continuing care  
4 retirement community if its officers, directors, or agents directly  
5 participate in the management of the subsidiary entity or in the  
6 initiation or approval of policies that affect the continuing care  
7 retirement community’s operations, including, but not limited to,  
8 approving budgets or the administrator for a continuing care  
9 retirement community.

10 (d) (1) “Department” means the State Department of Social  
11 Services.

12 (2) “Deposit” means any transfer of consideration, including a  
13 promise to transfer money or property, made by a depositor to any  
14 entity that promises or proposes to promise to provide continuing  
15 care, but is not authorized to enter into a continuing care contract  
16 with the potential depositor.

17 (3) “Deposit agreement” means any agreement made between  
18 any entity accepting a deposit and a depositor. Deposit agreements  
19 for deposits received by an applicant prior to the department’s  
20 release of funds from the deposit escrow account shall be subject  
21 to the requirements described in Section 1780.4.

22 (4) “Depository” means a bank or institution that is a member  
23 of the Federal Deposit Insurance Corporation or a comparable  
24 deposit insurance program.

25 (5) “Depositor” means any prospective resident who pays a  
26 deposit. Where any portion of the consideration transferred to an  
27 applicant as a deposit or to a provider as consideration for a  
28 continuing care contract is transferred by a person other than the  
29 prospective resident or a resident, that third-party transferor shall  
30 have the same cancellation or refund rights as the prospective  
31 resident or resident for whose benefit the consideration was  
32 transferred.

33 (6) “Director” means the Director of Social Services.

34 (e) (1) “Elderly” means an individual who is 60 years of age  
35 or older.

36 (2) “Entity” means an individual, partnership, corporation,  
37 limited liability company, and any other form for doing business.  
38 Entity includes a person, sole proprietorship, estate, trust,  
39 association, and joint venture.

1 (3) “Entrance fee” means the sum of any initial, amortized, or  
 2 deferred transfer of consideration made or promised to be made  
 3 by, or on behalf of, a person entering into a continuing care contract  
 4 for the purpose of ensuring care or related services pursuant to that  
 5 continuing care contract or as full or partial payment for the  
 6 promise to provide care for the term of the continuing care contract.  
 7 Entrance fee includes the purchase price of a condominium,  
 8 cooperative, or other interest sold in connection with a promise of  
 9 continuing care. An initial, amortized, or deferred transfer of  
 10 consideration that is greater in value than 12 times the monthly  
 11 care fee shall be presumed to be an entrance fee.

12 (4) “Equity” means the value of real property in excess of the  
 13 aggregate amount of all liabilities secured by the property.

14 (5) “Equity interest” means an interest held by a resident in a  
 15 continuing care retirement community that consists of either an  
 16 ownership interest in any part of the continuing care retirement  
 17 community property or a transferable membership that entitles the  
 18 holder to reside at the continuing care retirement community.

19 (6) “Equity project” means a continuing care retirement  
 20 community where residents receive an equity interest in the  
 21 continuing care retirement community property.

22 (7) “Equity securities” shall refer generally to large and  
 23 midcapitalization corporate stocks that are publicly traded and  
 24 readily liquidated for cash, and shall include shares in mutual funds  
 25 that hold portfolios consisting predominantly of these stocks and  
 26 other qualifying assets, as defined by Section 1792.2. Equity  
 27 securities shall also include other similar securities that are  
 28 specifically approved by the department.

29 (8) “Escrow agent” means a bank or institution, including, but  
 30 not limited to, a title insurance company, approved by the  
 31 department to hold and render accountings for deposits of cash or  
 32 cash equivalents.

33 (f) “Facility” means any place or accommodation where a  
 34 provider provides or will provide a resident with care or related  
 35 services, whether or not the place or accommodation is constructed,  
 36 owned, leased, rented, or otherwise contracted for by the provider.

37 (g) (reserved)

38 (h) (reserved)

39 (i) (1) “Inactive certificate of authority” means a certificate that  
 40 has been terminated under Section 1793.8.

1 (2) “Investment securities” means any of the following:

2 (A) Direct obligations of the United States, including obligations  
3 issued or held in book-entry form on the books of the United States  
4 Department of the Treasury or obligations the timely payment of  
5 the principal of, and the interest on, which are fully guaranteed by  
6 the United States.

7 (B) Obligations, debentures, notes, or other evidences of  
8 indebtedness issued or guaranteed by any of the following:

9 (i) The Federal Home Loan Bank System.

10 (ii) The Export-Import Bank of the United States.

11 (iii) The Federal Financing Bank.

12 (iv) The Government National Mortgage Association.

13 (v) The Farmer’s Home Administration.

14 (vi) The Federal Home Loan Mortgage Corporation of the  
15 Federal Housing Administration.

16 (vii) Any agency, department, or other instrumentality of the  
17 United States if the obligations are rated in one of the two highest  
18 rating categories of each rating agency rating those obligations.

19 (C) Bonds of the State of California or of any county, city and  
20 county, or city in this state, if rated in one of the two highest rating  
21 categories of each rating agency rating those bonds.

22 (D) Commercial paper of finance companies and banking  
23 institutions rated in one of the two highest categories of each rating  
24 agency rating those instruments.

25 (E) Repurchase agreements fully secured by collateral security  
26 described in subparagraph (A) or (B), as evidenced by an opinion  
27 of counsel, if the collateral is held by the provider or a third party  
28 during the term of the repurchase agreement, pursuant to the terms  
29 of the agreement, subject to liens or claims of third parties, and  
30 has a market value, which is determined at least every 14 days, at  
31 least equal to the amount so invested.

32 (F) Long-term investment agreements, which have maturity  
33 dates in excess of one year, with financial institutions, including,  
34 but not limited to, banks and insurance companies or their affiliates,  
35 if the financial institution’s paying ability for debt obligations or  
36 long-term claims or the paying ability of a related guarantor of the  
37 financial institution for these obligations or claims, is rated in one  
38 of the two highest rating categories of each rating agency rating  
39 those instruments, or if the short-term investment agreements are  
40 with the financial institution or the related guarantor of the financial

1 institution, the long-term or short-term debt obligations, whichever  
2 is applicable, of which are rated in one of the two highest long-term  
3 or short-term rating categories, of each rating agency rating the  
4 bonds of the financial institution or the related guarantor, provided  
5 that if the rating falls below the two highest rating categories, the  
6 investment agreement shall allow the provider the option to replace  
7 the financial institution or the related guarantor of the financial  
8 institution or shall provide for the investment securities to be fully  
9 collateralized by investments described in subparagraph (A), and,  
10 provided further, if so collateralized, that the provider has a  
11 perfected first security lien on the collateral, as evidenced by an  
12 opinion of counsel and the collateral is held by the provider.

13 (G) Banker's acceptances or certificates of deposit of, or time  
14 deposits in, any savings and loan association that meets any of the  
15 following criteria:

16 (i) The debt obligations of the savings and loan association, or  
17 in the case of a principal bank, of the bank holding company, are  
18 rated in one of the two highest rating categories of each rating  
19 agency rating those instruments.

20 (ii) The certificates of deposit or time deposits are fully insured  
21 by the Federal Deposit Insurance Corporation.

22 (iii) The certificates of deposit or time deposits are secured at  
23 all times, in the manner and to the extent provided by law, by  
24 collateral security described in subparagraph (A) or (B) with a  
25 market value, valued at least quarterly, of no less than the original  
26 amount of moneys so invested.

27 (H) Taxable money market government portfolios restricted to  
28 obligations issued or guaranteed as to payment of principal and  
29 interest by the full faith and credit of the United States.

30 (I) Obligations the interest on which is excluded from gross  
31 income for federal income tax purposes and money market mutual  
32 funds whose portfolios are restricted to these obligations, if the  
33 obligations or mutual funds are rated in one of the two highest  
34 rating categories by each rating agency rating those obligations.

35 (J) Bonds that are not issued by the United States or any federal  
36 agency, but that are listed on a national exchange and that are rated  
37 at least "A" by Moody's Investors Service, or the equivalent rating  
38 by Standard and Poor's Corporation or Fitch Investors Service.

39 (K) Bonds not listed on a national exchange that are traded on  
40 an over-the-counter basis, and that are rated at least "Aa" by

1 Moody’s Investors Service or “AA” by Standard and Poor’s  
2 Corporation or Fitch Investors Service.

3 (j) (reserved)

4 (k) (reserved)

5 (l) “Life care contract” means a continuing care contract that  
6 includes a promise, expressed or implied, by a provider to provide  
7 or pay for routine services at all levels of care, including acute  
8 care and the services of physicians and surgeons, to the extent not  
9 covered by other public or private insurance benefits, to a resident  
10 for the duration of his or her life. Care shall be provided under a  
11 life care contract in a continuing care retirement community having  
12 a comprehensive continuum of care, including a skilled nursing  
13 facility, under the ownership and supervision of the provider on  
14 or adjacent to the premises. No change may be made in the monthly  
15 fee based on level of care. A life care contract shall also include  
16 provisions to subsidize residents who become financially unable  
17 to pay their monthly care fees.

18 (m) (1) “Monthly care fee” means the fee charged to a resident  
19 in a continuing care contract on a monthly or other periodic basis  
20 for current accommodations and services including care, board,  
21 or lodging. Periodic entrance fee payments or other prepayments  
22 shall not be monthly care fees.

23 (2) “Monthly fee contract” means a continuing care contract  
24 that requires residents to pay monthly care fees.

25 (n) “Nonambulatory person” means a person who is unable to  
26 leave a building unassisted under emergency conditions in the  
27 manner described by Section 13131.

28 (o) (reserved)

29 (p) (1) “Per capita cost” means a continuing care retirement  
30 community’s operating expenses, excluding depreciation, divided  
31 by the average number of residents.

32 (2) “Periodic charges” means fees paid by a resident on a  
33 periodic basis.

34 (3) “Permanent closure” means the voluntary or involuntary  
35 termination or forfeiture, as specified in subdivisions (a), (b), (g),  
36 (h), and (i) of Section 1793.7, of a provider’s certificate of authority  
37 or license, or another action that results in the permanent relocation  
38 of residents. Permanent closure does not apply in the case of a  
39 natural disaster or other event out of the provider’s control.

- 1 (4) “Permit to accept deposits” means a written authorization  
 2 by the department permitting an applicant to enter into deposit  
 3 agreements regarding a single specified continuing care retirement  
 4 community.
- 5 (5) “Prepaid contract” means a continuing care contract in which  
 6 the monthly care fee, if any, may not be adjusted to cover the actual  
 7 cost of care and services.
- 8 (6) “Preferred access” means that residents who have previously  
 9 occupied a residential living unit have a right over other persons  
 10 to any assisted living or skilled nursing beds that are available at  
 11 the community.
- 12 (7) “Processing fee” means a payment to cover administrative  
 13 costs of processing the application of a depositor or prospective  
 14 resident.
- 15 (8) “Promise to provide one or more elements of care” means  
 16 any expressed or implied representation that one or more elements  
 17 of care will be provided or will be available, such as by preferred  
 18 access.
- 19 (9) “Proposes” means a representation that an applicant or  
 20 provider will or intends to make a future promise to provide care,  
 21 including a promise that is subject to a condition, such as the  
 22 construction of a continuing care retirement community or the  
 23 acquisition of a certificate of authority.
- 24 (10) “Provider” means an entity that provides continuing care,  
 25 makes a continuing care promise, or proposes to promise to provide  
 26 continuing care. “Provider” also includes any entity that controls  
 27 an entity that provides continuing care, makes a continuing care  
 28 promise, or proposes to promise to provide continuing care. The  
 29 department shall determine whether an entity controls another  
 30 entity for purposes of this article. No homeowner’s association,  
 31 cooperative, or condominium association may be a provider.
- 32 (11) “Provisional certificate of authority” means the certificate  
 33 issued by the department, properly executed and bearing the State  
 34 Seal, under Section 1786. A provisional certificate of authority  
 35 shall be limited to the specific continuing care retirement  
 36 community and number of units identified in the applicant’s  
 37 application.
- 38 (q) (reserved)
- 39 (r) (1) “Refund reserve” means the reserve a provider is required  
 40 to maintain, as provided in Section 1792.6.

1 (2) “Refundable contract” means a continuing care contract that  
2 includes a promise, expressed or implied, by the provider to pay  
3 an entrance fee refund or to repurchase the transferor’s unit,  
4 membership, stock, or other interest in the continuing care  
5 retirement community when the promise to refund some or all of  
6 the initial entrance fee extends beyond the resident’s sixth year of  
7 residency. Providers that enter into refundable contracts shall be  
8 subject to the refund reserve requirements of Section 1792.6. A  
9 continuing care contract that includes a promise to repay all or a  
10 portion of an entrance fee that is conditioned upon reoccupancy  
11 or resale of the unit previously occupied by the resident shall not  
12 be considered a refundable contract for purposes of the refund  
13 reserve requirements of Section 1792.6, provided that this  
14 conditional promise of repayment is not referred to by the applicant  
15 or provider as a “refund.”

16 (3) “Resale fee” means a levy by the provider against the  
17 proceeds from the sale of a transferor’s equity interest.

18 (4) “Reservation fee” refers to consideration collected by an  
19 entity that has made a continuing care promise or is proposing to  
20 make this promise and has complied with Section 1771.4.

21 (5) “Resident” means a person who enters into a continuing  
22 care contract with a provider, or who is designated in a continuing  
23 care contract to be a person being provided or to be provided  
24 services, including care, board, or lodging.

25 (6) “Residential care facility for the elderly” means a housing  
26 arrangement as defined by Section 1569.2.

27 (7) “Residential living unit” means a living unit in a continuing  
28 care retirement community that is not used exclusively for assisted  
29 living services or nursing services.

30 (8) “Residential temporary relocation” means the relocation of  
31 one or more residents, except in the case of a natural disaster that  
32 is out of the provider’s control, from one or more residential living  
33 units, assisted living units, skilled nursing units, or a wing, floor,  
34 or entire continuing care retirement community building, due to a  
35 change of use or major repairs or renovations. A residential  
36 temporary relocation shall mean a relocation pursuant to this  
37 subdivision that lasts for a period of at least nine months but that  
38 does not exceed 18 months without the written agreement of the  
39 resident.

40 (s) (reserved)

1 (t) (1) “Termination” means the ending of a continuing care  
 2 contract as provided for in the terms of the continuing care contract.

3 (2) “Transfer trauma” means death, depression, or regressive  
 4 behavior, that is caused by the abrupt and involuntary transfer of  
 5 an elderly resident from one home to another and results from a  
 6 loss of familiar physical environment, loss of well-known  
 7 neighbors, attendants, nurses and medical personnel, the stress of  
 8 an abrupt break in the small routines of daily life, or the loss of  
 9 visits from friends and relatives who may be unable to reach the  
 10 new facility.

11 (3) “Transferor” means a person who transfers, or promises to  
 12 transfer, consideration in exchange for care and related services  
 13 under a continuing care contract or proposed continuing care  
 14 contract, for the benefit of another. A transferor shall have the  
 15 same rights to cancel and obtain a refund as the depositor under  
 16 the deposit agreement or the resident under a continuing care  
 17 contract.

18 SEC. 4. Section 1771.3 of the Health and Safety Code is  
 19 amended to read:

20 1771.3. (a) This chapter shall not apply to either of the  
 21 following:

- 22 (1) An arrangement for the care of a person by a relative.
- 23 (2) An arrangement for the care of a person or persons from  
 24 only one family by a friend.

25 (b) This chapter shall not apply to any admission or residence  
 26 agreements offered by residential communities for the elderly or  
 27 residential care facilities for the elderly that promise residents  
 28 preferred access to assisted living services or nursing care, when  
 29 each of the following conditions is satisfied:

- 30 (1) Residents pay on a fee-for-service basis for available assisted  
 31 living services and nursing care.
- 32 (2) The fees paid for available assisted living services and  
 33 nursing care are the same for residents who have previously  
 34 occupied a residential living unit as for residents who have not  
 35 previously occupied a residential living unit.
- 36 (3) No entrance fee or prepayment for future care or access,  
 37 other than monthly care fees, is paid by, or charged to, any resident  
 38 at the community or facility. For purposes of this paragraph, the  
 39 term entrance fee shall not include initial, deferred, or amortized  
 40 payments that cumulatively do not exceed ~~seven thousand five~~

1 ~~hundred dollars (\$7,500)~~ *ten thousand dollars (\$10,000)*. This  
2 *maximum shall be adjusted every four years by the department*  
3 *after consultation with the continuing care advisory committee*  
4 *and considered changes in the Consumer Price Index for the*  
5 *Western United States, as well as any other economic and*  
6 *industry-related factors the department determines to be relevant.*

7 (4) The provider has not made a continuing care promise of  
8 preferred access, other than a promise as described in paragraph  
9 (5).

10 (5) The admission or residence agreement states:

11 (A) “This agreement does not guarantee that an assisted living  
12 or nursing bed will be available for residents, but, instead, promises  
13 preferred access to any assisted living or nursing beds that are  
14 available at the community or facility. The promise of preferred  
15 access gives residents who have previously occupied a residential  
16 living unit a right over other persons to such beds.”

17 (B) “A continuing care contract promises that care will be  
18 provided to residents for life or for a term in excess of a year.  
19 (Name of community or facility) is not a continuing care retirement  
20 community and (name of provider) does not hold a certificate of  
21 authority to enter into continuing care contracts and is not required  
22 to have the same fiscal reserves as a continuing care provider. This  
23 agreement is not a continuing care contract and is exempted from  
24 the continuing care statutes under subdivision (b) of Section 1771.3  
25 of the Health and Safety Code so long as the conditions set forth  
26 in that section are met.”

27 (6) The admission or residence agreement also states the policies  
28 and procedures regarding transfers to higher levels of care within  
29 the community or facility.

30 (c) Any entity may apply to the department for a Letter of  
31 Exemption stating that the requesting entity satisfies the  
32 requirements for an exemption under this section.

33 (d) The department shall issue a Letter of Exemption to a  
34 requesting entity if the department determines either of the  
35 following:

36 (1) The requesting entity satisfies each of the requirements for  
37 an exemption under subdivision (b).

38 (2) The requesting entity satisfies each of the requirements for  
39 an exemption under subdivision (b) other than the requirements

1 of paragraph (2) of subdivision (b), and there is no substantial  
2 difference between the following:

3 (A) The fees for available assisted living services and skilled  
4 nursing care paid by residents who have previously occupied a  
5 residential living unit.

6 (B) The fees for available assisted living services and skilled  
7 nursing care paid by residents who have not previously occupied  
8 a residential living unit.

9 (e) An application to the department for a Letter of Exemption  
10 shall include all of the following:

11 (1) A nonrefundable one thousand dollar (\$1,000) application  
12 fee.

13 (2) The name and business address of the applicant.

14 (3) A description of the services and care available or provided  
15 to residents of the community or facility.

16 (4) Documentation establishing that the requesting entity  
17 satisfies the requirements for an exemption under this section,  
18 including all of the following:

19 (A) A schedule showing all fees for assisted living services and  
20 skilled nursing care charged to residents at the facility or  
21 community who have previously occupied a residential living unit.

22 (B) A schedule showing all fees for assisted living services and  
23 skilled nursing care charged to residents at the facility or  
24 community who have not previously occupied a residential living  
25 unit.

26 (C) A description of the differences between the fees for assisted  
27 living services and skilled nursing care charged to residents who  
28 have not previously occupied a residential unit and the fees for  
29 assisted living services and skilled nursing care charged to residents  
30 who have previously occupied a residential unit.

31 (D) A schedule showing any other fees charged to residents of  
32 the community or facility.

33 (E) Copies of all admission and residence agreement forms that  
34 have been entered into, or will be entered into, with residents at  
35 the community or facility.

36 (5) Any other information reasonably requested by the  
37 department.

38 (f) If at any time any of the conditions stated in this section are  
39 not satisfied, then the requirements of this chapter apply, and the

1 department may impose appropriate remedies and penalties set  
2 forth in Article 7 (commencing with Section 1793.5).

3 SEC. 5. Section 1771.8 of the Health and Safety Code is  
4 amended to read:

5 1771.8. (a) The Legislature finds and declares all of the  
6 following:

7 (1) The residents of continuing care retirement communities  
8 have a unique and valuable perspective on the operations of and  
9 services provided in the community in which they live.

10 (2) Resident input into decisions made by the provider is an  
11 important factor in creating an environment of cooperation,  
12 reducing conflict, and ensuring timely response and resolution to  
13 issues that may arise.

14 (3) Continuing care retirement communities are strengthened  
15 when residents know that their views are heard and respected.

16 (b) The Legislature encourages continuing care retirement  
17 communities to exceed the minimum resident participation  
18 requirements established by this section by, among other things,  
19 the following:

20 (1) Encouraging residents to form a resident association, and  
21 assisting the residents, the resident association, and its governing  
22 body to keep informed about the operation of the continuing care  
23 retirement community.

24 (2) Encouraging residents of a continuing care retirement  
25 community or their elected representatives to select residents to  
26 participate as board members of the governing body of the  
27 provider.

28 (3) Quickly and fairly resolving any dispute, claim, or grievance  
29 arising between a resident and the continuing care retirement  
30 community.

31 (c) The governing body of a provider, or the designated  
32 representative of the provider, shall hold, at a minimum,  
33 semiannual meetings with the residents of the continuing care  
34 retirement community, or the resident association or its governing  
35 body, for the purpose of the free discussion of subjects including,  
36 but not limited to, income, expenditures, and financial trends and  
37 issues as they apply to the continuing care retirement community  
38 and proposed changes in policies, programs, and services. Nothing  
39 in this section precludes a provider from taking action or making

1 a decision at any time, without regard to the meetings required  
2 under this subdivision.

3 (d) At least 30 days prior to the implementation of any increase  
4 in the monthly care fee, the designated representative of the  
5 provider shall convene a meeting, to which all residents shall be  
6 invited, for the purpose of discussing the reasons for the increase,  
7 the basis for determining the amount of the increase, and the data  
8 used for calculating the increase. This meeting may coincide with  
9 the semiannual meetings provided for in subdivision (c). At least  
10 14 days prior to the meeting to discuss any increase in the monthly  
11 care fee, the provider shall make available to each resident or  
12 resident household comparative data showing the budget for the  
13 upcoming year, the current year's budget, and actual and projected  
14 expenses for the current year, and a copy shall be posted in a  
15 conspicuous location at each facility.

16 (e) The governing body of a provider or the designated  
17 representative of the provider shall provide residents with at least  
18 14 days' advance notice of each meeting provided for in  
19 subdivisions (c) and (d), and shall permit residents attending the  
20 meeting to present issues orally and in writing. The governing  
21 body of a provider or the designated representative of the provider  
22 shall post the notice of, and the agenda for, the meeting in a  
23 conspicuous place in the continuing care retirement community  
24 at least 14 days prior to the meeting. The governing body of a  
25 provider or the designated representative of the provider shall make  
26 available to residents of the continuing care retirement community,  
27 upon request, the agenda and accompanying materials at least  
28 seven days prior to the meeting.

29 (f) Each provider shall make available to the resident association  
30 or its governing body, or if neither exists, to a committee of  
31 residents, a financial statement of activities for that facility  
32 comparing actual costs to budgeted costs broken down by expense  
33 category, not less than semiannually, and shall consult with the  
34 resident association or its governing body, or, if neither exists,  
35 with a committee of residents, during the annual budget planning  
36 process. *A provider who operates a continuing care at-home*  
37 *program shall also make available a financial statement of*  
38 *activities showing the revenue and expense details for the program.*  
39 The effectiveness of consultations during the annual budget  
40 planning process shall be evaluated, at a minimum, every two years

1 by the continuing care retirement community administration. The  
2 evaluation, including any policies adopted relating to cooperation  
3 with residents, shall be made available to the resident association  
4 or its governing body, or, if neither exists, to a committee of  
5 residents at least 14 days prior to the next semiannual meeting of  
6 residents and the provider's governing body provided for in  
7 subdivision (c), and a copy of the evaluation shall be posted in a  
8 conspicuous location at each facility.

9 (g) Each provider shall, within 10 days after the annual report  
10 required pursuant to Section 1790 is submitted to the department,  
11 provide, at a central and conspicuous location in the community,  
12 a copy of the annual report, including the multifacility statement  
13 of activities, and including a copy of the annual audited financial  
14 statement, but excluding personal confidential information.

15 (h) Each provider shall maintain, as public information, available  
16 upon request to residents, prospective residents, and the public,  
17 minutes of the board of director's meetings and shall retain these  
18 records for at least three years from the date the records were filed  
19 or issued.

20 (i) The governing body of a provider that is not part of a  
21 multifacility organization with more than one continuing care  
22 retirement community in the state shall accept at least one resident  
23 of the continuing care retirement community it operates to  
24 participate as a nonvoting resident representative to the provider's  
25 governing body.

26 (j) In a multifacility organization having more than one  
27 continuing care retirement community in the state, the governing  
28 body of the multifacility organization shall elect either to have at  
29 least one nonvoting resident representative to the provider's  
30 governing body for each California-based continuing care  
31 retirement community the provider operates or to have a  
32 resident-elected committee composed of representatives of the  
33 residents of each California-based continuing care retirement  
34 community that the provider operates select or nominate at least  
35 one nonvoting resident representative to the provider's governing  
36 body for every three California-based continuing care retirement  
37 communities or fraction thereof that the provider operates. If a  
38 multifacility organization elects to have one representative for  
39 every three communities that the provider operates, the provider  
40 shall provide to the president of the residents association of each

1 of the communities that do not have a resident representative, the  
 2 same notice of board meetings, board packets, minutes, and other  
 3 materials as the resident representative. At the reasonable discretion  
 4 of the provider, information related to litigation, personnel,  
 5 competitive advantage, or confidential information that is not  
 6 appropriate to disclose, may be withheld.

7 (k) In order to encourage innovative and alternative models of  
 8 resident involvement, a resident selected pursuant to subdivision  
 9 (i) to participate as a resident representative to the provider’s  
 10 governing body may, at the option of the resident association, be  
 11 selected in any one of the following ways:

12 (1) By a majority vote of the resident association of a provider  
 13 or by a majority vote of a resident-elected committee of residents  
 14 of a multifacility organization.

15 (2) If no resident association exists, any resident may organize  
 16 a meeting of the majority of the residents of the continuing care  
 17 retirement community to select or nominate residents to represent  
 18 them before the governing body.

19 (3) Any other method designated by the resident association.

20 (l) The resident association, or organizing resident, or in the  
 21 case of a multifacility organization, the resident-elected committee  
 22 of residents, shall give residents of the continuing care retirement  
 23 community at least 30 days’ advance notice of the meeting to select  
 24 a resident representative and shall post the notice in a conspicuous  
 25 place at the continuing care retirement community.

26 (m) (1) Except as provided in subdivision (n), the resident  
 27 representative shall receive the same notice of board meetings,  
 28 board packets, minutes, and other materials as members and shall  
 29 be permitted to attend, speak *at*, and participate in, all meetings  
 30 of the board.

31 (2) Resident representatives may share information from board  
 32 meetings with other residents, unless the information is confidential  
 33 or doing so would violate fiduciary duties to the provider. In  
 34 addition, a resident representative shall be permitted to attend  
 35 meetings of the board committee or committees that review the  
 36 annual budget of the facility or facilities and recommend increases  
 37 in monthly care fees. The resident shall receive the same notice  
 38 of committee meetings, information packets, minutes, and other  
 39 materials as committee members, and shall be permitted to attend,  
 40 speak *at*, and participate in, committee meetings. Resident

1 representatives shall perform their duties in good faith and with  
2 such care, including reasonable inquiry, as an ordinarily prudent  
3 person in a like position would use under similar circumstances.

4 (n) Notwithstanding subdivision (m), the governing body may  
5 exclude resident representatives from its executive sessions and  
6 from receiving board materials to be discussed during executive  
7 ~~session~~ sessions. However, resident representatives shall be  
8 included in executive sessions and shall receive all board materials  
9 to be discussed during executive sessions related to discussions of  
10 the annual budgets, increases in monthly care fees, indebtedness,  
11 and expansion of new and existing continuing care retirement  
12 communities.

13 (o) The provider shall pay all reasonable travel costs for the  
14 resident representative.

15 (p) The provider shall disclose in writing the extent of resident  
16 involvement with the board to prospective residents.

17 (q) Nothing in this section prohibits a provider from exceeding  
18 the minimum resident participation requirements of this section  
19 by, for example, having more resident meetings or more resident  
20 representatives to the board than required or by having one or more  
21 residents on the provider's governing body who are selected with  
22 the active involvement of residents.

23 (r) On or before April 1, 2003, the department shall do all of  
24 the following:

25 (1) Make recommendations to the Legislature as to whether any  
26 changes in current law regarding resident representation to the  
27 board is needed.

28 (2) Provide written guidelines available to residents and  
29 providers that address issues related to board participation,  
30 including rights and responsibilities, and that provide guidance on  
31 the extent to which resident representatives who are not voting  
32 members of the board have a duty of care, loyalty, and obedience  
33 to the provider and the extent to which providers can classify  
34 information as confidential and not subject to disclosure by resident  
35 representatives to other residents.

36 SEC. 6. Section 1779.12 is added to the Health and Safety  
37 Code, to read:

38 1779.12. (a) A provider of a continuing care at-home program,  
39 prior to operating the program, shall do all of the following:

- 1 (1) Hold a certificate of authority issued by the department
- 2 authorizing the provider to enter into continuing care contracts.
- 3 (2) File with the department for its approval an abbreviated
- 4 application to commence and operate the program. The application
- 5 shall include, but not be limited to, all of the following:
- 6 (A) A description of the proposed continuing care at-home
- 7 program, including the target market, the types of services to be
- 8 provided, and the fees to be charged.
- 9 (B) A description of the intended use of the provider's
- 10 continuing care retirement community to furnish services to
- 11 continuing care at-home residents. The provider shall specifically
- 12 describe those areas of the continuing care retirement community
- 13 that will be made available to participants in the continuing care
- 14 at-home program.
- 15 (C) Information showing the financial feasibility of the
- 16 continuing care at-home program and the program's financial
- 17 impact on the provider and its continuing care facility or facilities.
- 18 (D) A sample copy of the proposed written service agreement.
- 19 (E) An actuarial analysis that presents the impact the continuing
- 20 care at-home program will have on the overall operation of the
- 21 continuing care retirement community.
- 22 (3) Notify the residents of the provider's existing continuing
- 23 care retirement community or communities of its application,
- 24 within 30 days of submitting the application to the department. A
- 25 summary of the application shall be made available at the
- 26 provider's community or communities accessible to the provider's
- 27 continuing care retirement community residents and the general
- 28 public. The summary shall indicate where a complete copy of the
- 29 application may be inspected. A complete copy of the application
- 30 shall be available for inspection at each continuing care retirement
- 31 community that may be used to provide services to any person in
- 32 the continuing care at-home program.
- 33 (b) The provider shall enter into a written service agreement
- 34 with each of its continuing care at-home clients. The service
- 35 agreement shall include, but need not be limited to, provisions
- 36 setting forth all of the following:
- 37 (1) A description of the services to be provided.
- 38 (2) The fees to be paid by the client, including, but not limited
- 39 to, a description of, and the basis for, any potential increase in
- 40 those fees.

1 (3) The grounds for termination of the service agreement, and  
2 the grounds upon which the provider may recommend that the  
3 client be transferred to another facility.

4 (4) The duration of the service agreement.

5 (c) (1) The provider may recommend to the client, or to his or  
6 her legal representative, that the client transfer to an appropriate  
7 licensed health facility or residential care facility if the client's  
8 health or care needs exceed the provider's ability to provide needed  
9 services, or exceed the provider's authorized scope of services.

10 (2) The provider may provide services, as specified in the service  
11 agreement, in the facility or in the client's residence. The provider  
12 shall give continuing care retirement community residents priority  
13 over continuing care at-home residents when applying for skilled  
14 nursing services.

15 (d) A provider of a continuing care at-home program may do  
16 all of the following:

17 (1) Furnish one or more services to an elderly person in the  
18 elderly person's own residence, including, but not limited to, the  
19 following:

20 (A) Care and supervision.

21 (B) Remote monitoring.

22 (C) Assistance with bathing, dressing, or grooming.

23 (D) Assistance with the storage and administration of  
24 medications.

25 (E) Meals, housekeeping, laundry, home maintenance, grounds  
26 maintenance, companionship, social activities, recreational  
27 activities, and referrals to other care and service providers.

28 (2) Furnish, at the provider's discretion, additional services on  
29 the provider's campus, as appropriate. This paragraph does not  
30 authorize an unlicensed person to provide services, or services to  
31 be provided in an unlicensed setting, if a license or licensed setting  
32 is otherwise required by law.

33 (3) Furnish any additional supportive services in an elderly  
34 person's residence, as specified in the service agreement, in a  
35 manner that is consistent with the licensing statutes and regulations.

36 (4) Recommend the installation within the residence of the  
37 elderly person of a smoke detection system, a fire alarm, a fire  
38 suppression sprinkler system, a medical alert system, a system for  
39 routine inspections, or other safety features.

1 (5) Notwithstanding the restrictions contained in subparagraphs  
2 (D) and (E) of paragraph (3) of subdivision (b) of Section  
3 1569.145, hold an ownership or financial interest in the continuing  
4 care at-home recipient’s residence and be involved in the recipient’s  
5 decision to reside in the residence.

6 SEC. 7. Section 1790 of the Health and Safety Code is amended  
7 to read:

8 1790. (a) Each provider that has obtained a provisional or final  
9 certificate of authority and each provider that possesses an inactive  
10 certificate of authority shall submit an annual report of its financial  
11 condition. The report shall consist of audited financial statements  
12 and required reserve calculations, with accompanying certified  
13 public accountants’ opinions thereon, the reserve information  
14 required by paragraph (2), Continuing Care Provider Fee and  
15 Calculation Sheet, evidence of fidelity bond as required by Section  
16 1789.8, and certification that the continuing care contract in use  
17 for new residents has been approved by the department, all in a  
18 format provided by the department, and shall include all of the  
19 following information:

20 (1) A certification, if applicable, that the entity is maintaining  
21 reserves for prepaid continuing care contracts, statutory reserves,  
22 and refund reserves.

23 (2) Full details on the status, description, and amount of all  
24 reserves that the provider currently designates and maintains, and  
25 on per capita costs of operation for each continuing care retirement  
26 community operated.

27 (3) Disclosure of any amounts accumulated or expended for  
28 identified projects or purposes, including, but not limited to,  
29 projects designated to meet the needs of the continuing care  
30 retirement community as permitted by a provider’s nonprofit status  
31 under Section 501(c)(3) of the Internal Revenue Code, and amounts  
32 maintained for contingencies. The disclosure of a nonprofit  
33 provider shall state how the project or purpose is consistent with  
34 the provider’s tax-exempt status. The disclosure of a for-profit  
35 provider shall identify amounts accumulated for specific projects  
36 or purposes and amounts maintained for contingencies. Nothing  
37 in this subdivision shall be construed to require the accumulation  
38 of funds or funding of contingencies, nor shall it be interpreted to  
39 alter existing law regarding the reserves that are required to be  
40 maintained.

1 (4) *Disclosure of the financial impact of any continuing care*  
2 *at-home program operated by the provider, or supported by the*  
3 *provider with either financing or the use of the provider's*  
4 *continuing care facilities, on the facility's overall financial health.*  
5 *This disclosure shall include a statement of activities showing the*  
6 *revenue and expense details for the continuing care at-home*  
7 *program.*

8 ~~(4)~~

9 (5) Full details on any increase in monthly care fees, the basis  
10 for determining the increase, and the data used to calculate the  
11 increase.

12 ~~(5)~~

13 (6) The required reserve calculation schedules shall be  
14 accompanied by the auditor's opinion as to compliance with  
15 applicable statutes.

16 ~~(6)~~

17 (7) Any other information as the department may require.

18 (b) Each provider shall file the annual report with the department  
19 within four months after the provider's fiscal yearend. If the  
20 complete annual report is not received by the due date, a one  
21 thousand dollar (\$1,000) late fee shall accompany submission of  
22 the reports. If the reports are more than 30 days past due, an  
23 additional fee of thirty-three dollars (\$33) for each day over the  
24 first 30 days shall accompany submission of the report. The  
25 department may, at its discretion, waive the late fee for good cause.

26 (c) The annual report and any amendments thereto shall be  
27 signed and certified by the chief executive officer of the provider,  
28 stating that, to the best of his or her knowledge and belief, the  
29 items are correct.

30 (d) A copy of the most recent annual audited financial statement  
31 shall be transmitted by the provider to each transferor requesting  
32 the statement.

33 (e) A provider shall amend its annual report on file with the  
34 department at any time, without the payment of any additional fee,  
35 if an amendment is necessary to prevent the report from containing  
36 a material misstatement of fact or omitting a material fact.

37 (f) If a provider is no longer entering into continuing care  
38 contracts, and currently is caring for 10 or fewer continuing care  
39 residents, the provider may request permission from the  
40 department, in lieu of filing the annual report, to establish a trust

1 fund or to secure a performance bond to ensure fulfillment of  
 2 continuing care contract obligations. The request shall be made  
 3 each year within 30 days after the provider’s fiscal yearend. The  
 4 request shall include the amount of the trust fund or performance  
 5 bond determined by calculating the projected life costs, less the  
 6 projected life revenue, for the remaining continuing care residents  
 7 in the year the provider requests the waiver. If the department  
 8 approves the request, the following shall be submitted to the  
 9 department annually:

10 (1) Evidence of trust fund or performance bond and its amount.

11 (2) A list of continuing care residents. If the number of  
 12 continuing care residents exceeds 10 at any time, the provider shall  
 13 comply with the requirements of this section.

14 (3) A provider fee as required by subdivision (c) of Section  
 15 1791.

16 (g) If the department determines a provider’s annual audited  
 17 report needs further analysis and investigation, as a result of  
 18 incomplete and inaccurate financial statements, significant financial  
 19 deficiencies, development of ~~work-out~~ *workout* plans to stabilize  
 20 financial solvency, or for any other reason, the provider shall  
 21 reimburse the department for reasonable actual costs incurred by  
 22 the department or its representative. The reimbursed funds shall  
 23 be deposited in the Continuing Care Contract Provider Fee Fund.

24 SEC. 8. No reimbursement is required by this act pursuant to  
 25 Section 6 of Article XIII B of the California Constitution because  
 26 the only costs that may be incurred by a local agency or school  
 27 district will be incurred because this act creates a new crime or  
 28 infraction, eliminates a crime or infraction, or changes the penalty  
 29 for a crime or infraction, within the meaning of Section 17556 of  
 30 the Government Code, or changes the definition of a crime within  
 31 the meaning of Section 6 of Article XIII B of the California  
 32 Constitution.