



Rep. Kathleen Willis

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LRB100 20398 MJP 39195 a

1 AMENDMENT TO HOUSE BILL 4664

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4664 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Continuing Care Retirement Community Transparency Act.

6 Section 5. Purpose. This Act is intended to establish new  
7 and strengthen existing rights for Illinois seniors residing in  
8 continuing care retirement communities. Given that the  
9 Department on Aging estimates a 57% increase in State residents  
10 ages 60 and over from the years 2000 to 2030, the General  
11 Assembly recognizes the need to proactively pass this Act to  
12 ensure adequate protections for Illinois seniors. The General  
13 Assembly finds the adoption of this Act necessary to increase  
14 standards to safeguard seniors from potentially harmful,  
15 ambiguous, or unfair agreements associated with independent  
16 living and continuing care retirement communities. The

1 proposed reforms will further demonstrate the State of  
2 Illinois' commitment to protecting seniors in their homes,  
3 communities, and applicable long-term care establishments and  
4 facilities.

5 Section 10. Definitions. As used in this Act:

6 "Continuing care contract" means a contract to provide to a  
7 person for the duration of the person's life or for a term in  
8 excess of 11 months services that may include nursing services,  
9 medical services, personal care services, or any combination of  
10 these services, in addition to maintenance services for the  
11 person in a facility, conditioned upon the transfer of an  
12 entrance fee to the provider of the services in addition to or  
13 in lieu of the payment of regular periodic charges for the care  
14 and services involved.

15 "Department" means the Department of Public Health.

16 "Director" means the Director of Public Health.

17 "Entrance fee" means an initial or deferred transfer to a  
18 provider of a sum of money or property that is made or promised  
19 to be made by a person entering into a continuing care contract  
20 and assures a resident of services under the terms of a  
21 continuing care contract.

22 "Facility" means a place or places in which a provider  
23 undertakes to provide: (1) a resident with nursing services,  
24 medical services, or personal care services, in addition to  
25 maintenance services for the person's life or a term in excess

1 of 11 months in accordance with a continuing care contract; and  
2 (2) a non-resident with nursing services, medical services, or  
3 personal care services, in addition to maintenance services for  
4 the person's life or a term in excess of 11 months.

5 "Living unit" means an apartment, room, or other area  
6 within a facility set aside for the exclusive use of one or  
7 more identified residents.

8 "Maintenance services" means food, shelter, and laundry  
9 services.

10 "Medical services" means those services pertaining to  
11 medical or dental care that are performed in behalf of a  
12 patient at the direction of a physician licensed under the  
13 Medical Practice Act of 1987 or a dentist licensed under the  
14 Illinois Dental Practice Act by the physician or dentist, by a  
15 registered nurse licensed under the Nurse Practice Act, by a  
16 licensed practical nurse licensed under the Nurse Practice Act,  
17 or by other professional and technical personnel.

18 "Non-resident" means a person admitted to a facility who  
19 has not entered into a continuing care contract.

20 "Nursing services" means those services pertaining to the  
21 curative, restorative, and preventive aspects of nursing care  
22 that are performed at the direction of a physician licensed  
23 under the Medical Practice Act of 1987 by or under the  
24 supervision of a registered nurse licensed under the Nurse  
25 Practice Act or a licensed practical nurse licensed under the  
26 Nurse Practice Act.

1 "Personal care services" means assistance with meals,  
2 dressing, movement, bathing, or other personal needs or  
3 maintenance, or general supervision and oversight of the  
4 physical and mental well-being of an individual, who may be  
5 incapable of managing his or her person whether or not a  
6 guardian has been appointed for the individual.

7 "Provider" means a person who provides services in  
8 accordance with a continuing care contract.

9 "Resident" means a person who enters into a continuing care  
10 contract with a provider or who is designated in a continuing  
11 care contract to be a person provided with maintenance  
12 services, nursing services, medical services, personal care  
13 services, or any combination of these services.

14 Section 15. Required disclosures; continuing care contract  
15 requirements.

16 (a) At the time of or before the execution of a continuing  
17 care contract or at the time of or before the transfer of any  
18 money or other property to a provider by or on behalf of a  
19 prospective resident, whichever shall first occur, the  
20 provider shall deliver a disclosure statement to the person  
21 with whom the continuing care contract is to be entered into,  
22 the text of which shall contain, to the extent not clearly and  
23 completely set forth in the continuing care contract attached  
24 as an exhibit to the continuing care contract, at least the  
25 following information:

1           (1) The name and business address of the provider and a  
2 statement of whether the provider is a partnership,  
3 corporation, or other type of legal entity.

4           (2) A description of the business experience of the  
5 provider in the operation or management of similar  
6 facilities and of the manager of the facility, if the  
7 facility will be managed on a day-to-day basis by an  
8 organization other than the provider. The description  
9 shall include information on any matter in which the  
10 manager or provider: (i) has been convicted of a felony or  
11 pleaded nolo contendere to a felony charge or been held  
12 liable or enjoined in a civil action by final judgment, if  
13 the felony or civil action involved fraud, embezzlement,  
14 fraudulent conversion, or misappropriation of property; or  
15 (ii) is subject to a currently effective injunctive or  
16 restrictive court order or, within the last 5 years, had  
17 any State or federal license or permit suspended or revoked  
18 as a result of an action brought by a governmental agency  
19 or department, if the order or action arose out of or  
20 related to business activity of health care, including  
21 actions affecting a license to operate a long-term care  
22 facility, retirement home, home for the aged, or assisted  
23 living establishment subject to this Act or a similar law  
24 in Illinois or another state.

25           (3) A statement as to whether the provider is, or is  
26 affiliated with, a religious, charitable, or other

1 nonprofit organization; the extent of the affiliation, if  
2 any; the extent to which the affiliate organization will be  
3 responsible for the financial and contract obligations of  
4 the provider; and the provision of the federal Internal  
5 Revenue Code, if any, under which the provider or affiliate  
6 is exempt from the payment of income tax.

7 (4) The location and description of the physical  
8 property or properties of the facility, existing or  
9 proposed, and, to the extent proposed, the estimated  
10 completion date or dates, whether construction has begun,  
11 and the contingencies subject to which construction may be  
12 deferred.

13 (5) Certified financial statements of the provider,  
14 including a balance sheet as of the end of the most recent  
15 fiscal year and income statements for the 3 most recent  
16 fiscal years of the provider or such shorter period of time  
17 as the provider shall have been in existence. If the  
18 provider's fiscal year ended more than 90 days prior to the  
19 date the application is filed, interim financial  
20 statements as of a date not more than 90 days before the  
21 filing shall be included, but need not be certified.

22 (6) If the operation of the facility has not yet  
23 commenced, a statement of the anticipated source and  
24 application of the funds used or to be used in the purchase  
25 or construction of the facility, including: (i) an estimate  
26 of the cost of purchasing or constructing and equipping the

1 facility, including related costs such as financing  
2 expense, legal expense, land costs, occupancy development  
3 costs, and all other similar costs that the provider  
4 expects to incur or become obligated for before the  
5 commencement of operations; (ii) a description of any  
6 mortgage loan or other long-term financing intended to be  
7 used for the financing of the facility, including the  
8 anticipated terms and costs of the financing; (iii) an  
9 estimate of the total entrance fees to be received from  
10 residents at or before commencement of operation of the  
11 facility; (iv) an estimate of the funds, if any, that are  
12 anticipated to be necessary to fund start-up losses and  
13 provide reserve funds to ensure full performance of the  
14 obligations of the provider under a continuing care  
15 contract; (v) a projection of estimated income from fees  
16 and charges other than entrance fees, showing individual  
17 rates presently anticipated to be charged and including a  
18 description of the assumptions used for calculating the  
19 estimated occupancy rate of the facility and the effect on  
20 the income of the facility of government subsidies for  
21 health care services; and (vi) such other material  
22 information concerning the facility or the provider as the  
23 provider wishes to include.

24 (7) Forecasted financial statements for the provider  
25 of the next 5 years, including a balance sheet, a statement  
26 of operations, a statement of cash flows, and a statement

1 detailing all significant assumptions, compiled by an  
2 independent certified public accountant.

3 The cover page of the disclosure statement shall state, in  
4 a prominent location and in boldface type, the date of the  
5 disclosure statement and that the delivery of the disclosure  
6 statement to a contracting party before the execution of a  
7 continuing care contract is required by this Section but that  
8 the disclosure statement has not been reviewed or approved by  
9 any government agency or representative to ensure accuracy or  
10 completeness of the information set out. A copy of the standard  
11 form of a continuing care contract used by the provider shall  
12 be attached to each disclosure statement. The Department may  
13 require a provider to alter or amend its disclosure statement  
14 in order to provide full and fair disclosure to prospective  
15 residents. The Department may also require the revision of a  
16 disclosure statement that it finds to be unnecessarily complex,  
17 confusing, or illegible.

18 (b) A continuing care contract for a facility used by a  
19 provider shall provide all of the following:

20 (1) The party contracting with the provider may rescind  
21 the continuing care contract at any time before occupying a  
22 living unit in the facility, in which event the party  
23 shall, within a reasonable period, receive a refund of all  
24 money or property transferred to the provider, less: (i)  
25 those costs specifically incurred by the provider or  
26 facility at the request of the party and described in the



1 continuing care contract or an addendum thereto signed by  
2 the party; and (ii) a reasonable service charge, if set out  
3 in the continuing care contract, not to exceed 1% of the  
4 entrance fee. If the living unit is available for occupancy  
5 on the occupancy date agreed upon in the continuing care  
6 contract, and the party failed to occupy the living unit,  
7 the party shall be deemed to have rescinded the continuing  
8 care contract, unless the party and the provider agree in  
9 writing to extend the occupancy date.

10 (2) If the living unit is not available for occupancy  
11 on the date agreed upon in the continuing care contract,  
12 then the party has 14 days to rescind the continuing care  
13 contract. If the continuing care contract is rescinded,  
14 then, within a reasonable period, the party shall receive a  
15 refund of all money or property transferred to the provider  
16 plus a reasonable inconvenience fee, if set out in the  
17 continuing care contract, not to exceed 1% of the amount of  
18 the entrance fee.

19 (3) If a resident dies before occupying a living unit  
20 in the facility, the continuing care contract is  
21 automatically canceled and the legal representative of the  
22 resident shall receive a refund of all money or property  
23 transferred to the provider, less: (i) those costs  
24 specifically incurred by the provider or facility at the  
25 request of the party and described in the continuing care  
26 contract or an addendum to the continuing care contract

1 signed by the party; and (ii) a reasonable service charge,  
2 if set out in the continuing care contract, not to exceed  
3 1% of the entrance fee.

4 (4) The services provided or proposed to be provided  
5 under a continuing care contract, including the extent to  
6 which medical care is furnished, and specify those services  
7 that are included in the basic continuing care contract and  
8 those made available at or by the facility at extra charge.

9 (5) A description of all fees required of residents,  
10 including the entrance fee and periodic charges, if any. If  
11 the facility is already in operation, or if the provider or  
12 manager operates one or more similar facilities within the  
13 State, there shall be included tables showing the frequency  
14 and average dollar amount of each increase in monthly rates  
15 at each facility for the previous 5 years or such shorter  
16 period as the facility may have been operated by the  
17 provider or manager.

18 (6) The health and financial conditions required for an  
19 individual to be accepted as a resident and to continue as  
20 a resident once accepted, including the effect of any  
21 change in the health or financial condition of a person  
22 between the date of entering a continuing care contract and  
23 the date of initial occupancy of a living unit by that  
24 person.

25 (7) The provisions that have been made or will be made,  
26 if any, to provide reserve funding or security to enable

1 the provider to fully perform its obligations under a  
2 continuing care contract, including the establishment of  
3 escrow accounts, trusts, or reserve funds.

4 (c) A provider providing continuing care at a facility on  
5 the effective date of this Act under a continuing care contract  
6 that requires prepayment for some or all of the covered  
7 services shall, within 180 days after the effective date of  
8 this Act, forward a copy of the following to the Department:

9 (1) the disclosure statement required under  
10 subsection (a) to be delivered to a person with whom a  
11 continuing care contract shall be entered; and

12 (2) the continuing care contract to be entered into  
13 by the provider under subsection (b) with a person who  
14 will occupy a living unit in a facility.

15 The Department shall make the information available to the  
16 public.

17 (d) Residents may:

18 (1) establish a residents' association and elect the  
19 officers of the residents' association;

20 (2) receive, upon request, a current copy of a  
21 facility's disclosure statement as described in subsection  
22 (a), and providers shall, upon request, make a reasonable  
23 effort to explain the terms and information contained  
24 within the disclosure document; however, nothing in this  
25 paragraph (2) shall be construed to modify the contractual  
26 rights of residents or providers; providers may make

1 reasonable provisions for the form and manner in which the  
2 requests shall be submitted;

3 (3) submit comments to providers on matters that may  
4 affect the health and welfare of residents and affect the  
5 future of the facility, including, but not limited to, the  
6 facility's size and ownership and the provider's financial  
7 health; providers may make reasonable provisions for the  
8 form and manner in which the comments shall be submitted  
9 and shall seek comment from residents when designing or  
10 adopting policies that significantly affect the future of  
11 the facility;

12 (4) receive, upon request, information regarding any  
13 major construction, modification, expansion, or renovation  
14 of the facility, including information on cost estimates,  
15 funding, financing, projected income, schedule, and  
16 impacts on the existing facility; providers may make  
17 reasonable provisions for the form and manner in which the  
18 requests shall be submitted; and

19 (5) receive, upon request, information regarding the  
20 purpose and intended funding of all financial reserves kept  
21 by a provider; providers may make reasonable provisions for  
22 the form and manner in which the requests may be submitted.

23 (e) A provider shall:

24 (1) offer a reasonable explanation of any adjustment in  
25 monthly fees and other major fees paid by residents; and

26 (2) inform residents of matters that may affect the

1 health and welfare of residents and affecting the future of  
2 the facility, including, but not limited to, the facility's  
3 size and ownership and the provider's financial health; on  
4 these matters, the providers shall facilitate  
5 communications between residents and management, which may  
6 include residents' representation on the provider's  
7 managing body, but need not depend solely on board  
8 representation.

9 (f) Notwithstanding the remedy set forth in subsection (b),  
10 a violation of this Section by a provider for a facility shall  
11 constitute an unlawful practice under the Consumer Fraud and  
12 Deceptive Business Practices Act.

13 (g) A facility must comply with this Section on and after  
14 180 days after the effective date of this Act.

15 Section 20. Audits of providers. The Director or his or her  
16 authorized designee may conduct an audit or other examination  
17 of the financial affairs of any provider as often as the  
18 Director deems it necessary for the protection of the interests  
19 of the residents and the people of this State and, for this  
20 purpose, shall have access to the books, records, financial  
21 data, and other documents maintained by the facility.

22 Section 25. Annual report. A printed report compiled by the  
23 provider of a facility shall be provided to all residents of  
24 the facility on an annual basis and submitted to the Department

1 on an annual basis. The report shall be provided to a resident  
2 electronically, upon request. The report shall be updated with  
3 the information for the preceding year as well as future  
4 projections, where specified. The report shall be in 12-point  
5 bold type and provide, at minimum, the following:

6 (1) a statement detailing the facility's financial  
7 condition;

8 (2) audited balance sheets;

9 (3) a statement of income and expenses;

10 (4) a statement of cash flow;

11 (5) a list of reserve assets;

12 (6) a summary of the most recent State inspections;

13 (7) the policy if financial difficulties arise;

14 (8) the rules and regulations of the facility;

15 (9) the life changes policy; and

16 (10) anticipated fee increases for the upcoming year.

17 Section 30. Online consumer database. The Department shall  
18 provide the public with online access to the annual reports  
19 required under Section 25, facility inspection reports, and any  
20 other documentation that the Department determines may be  
21 useful for the public regarding these facilities.

22 Section 35. Electronic submissions required. All  
23 documentation submitted to the Department under this Act shall  
24 be submitted electronically in a format stipulated by the

1 Department.

2 Section 90. The Consumer Fraud and Deceptive Business  
3 Practices Act is amended by adding Section 2VVV as follows:

4 (815 ILCS 505/2VVV new)

5 Sec. 2VVV. Violations of the Continuing Care Retirement  
6 Community Transparency Act. A provider for a facility under the  
7 Continuing Care Retirement Community Transparency Act who  
8 violates Section 15 of the Continuing Care Retirement Community  
9 Transparency Act commits an unlawful practice within the  
10 meaning of this Act."