

SB 438 – Continuing Care Contracts (Similar HB 783)

This bill creates s. 651.1065, F.S., stating that “a proprietor, general partner, member, officer, director, trustee, or manager of a continuing care retirement community, except with the written permission of the office, may not permit the continuing care retirement community to solicit or accept new continuing care contracts in this state after the proprietor, general partner, member, officer, director, trustee, or manager knew, or reasonably should have known, that the continuing care retirement community was impaired or insolvent.” An **unranked, 3rd degree felony** is created for violating this prohibition.

This bill also amends the unranked, 3rd degree felony under s. 651.125, F.S., making it a requirement for a valid provisional certificate of authority or certificate of authority for a person who maintains, enters into, or, as manager or officer or in any other administrative capacity, assists in entering into, maintaining, or performing any continuing care or continuing care at-home contract. Currently, one must be doing so in pursuance of a valid certificate of authority or renewal thereof.

Per Florida Office of Insurance Regulation, in FY 16-17, two Continuing Care providers were insolvent, with one, and potentially the other continuing to solicit or accept contracts during this time. The concept of impairment does not exist under current law, and providers do not currently report all of the information necessary to determine if a provider would be considered impaired if this bill passed.

Per DOC, in FY 16-17, there were no offenders sentenced under s. 651.125, F.S

In FY 16-17, the incarceration rate for an unranked, 3rd degree felony was 9.5%.

CONFERENCE ADOPTED ESTIMATE: Positive Insignificant

Requested by: House