

CHAPTER 54

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 95-1247

BY REPRESENTATIVE Schwarz;
also SENATORS Wham, Casey, and Tebedo.**AN ACT****CONCERNING RESERVE REQUIREMENTS OF LIFE CARE INSTITUTIONS.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** 12-13-107 (1), (2) (c), (2) (e), (2) (f), (2) (g), (2) (h), (3), and (5), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-13-107. Reserve requirements. (1) Any provider shall maintain reserves covering obligations under all life care agreements. The reserves shall be equivalent to ~~sixty-five percent of the amount of any advance deposit, entrance fee, or other lump-sum initial payment made by each resident of the facility. The deposit shall then be amortized for the purposes of these reserves over the first five-year period of each such resident's residency, on a straight-line basis, but at no time during the period of an agreement shall the reserves be less than thirty percent of the original reserve requirement.~~ THE SUM OF THE FOLLOWING:

(a) (I) FOR THOSE DEBT OBLIGATIONS THAT ARE COLLATERIZED BY THE PROVIDER'S FACILITY AND THAT REQUIRE A BALLOON PAYMENT, THE AMOUNT OF INTEREST DUE AND PAYABLE OR ACCRUED IN THE NEXT EIGHTEEN MONTHS.

(II) FOR PURPOSES OF THIS PARAGRAPH (a), ANY AMOUNTS HELD IN RESERVE OR ESCROW TO FULFILL DEBT AGREEMENTS SHALL BE CONSIDERED ELIGIBLE TO MEET THE REQUIREMENTS OF THIS PARAGRAPH (a).

(b) (I) FOR ALL OTHER DEBT OBLIGATIONS THAT ARE COLLATERIZED BY THE PROVIDER'S FACILITY, AN AMOUNT EQUAL TO THE NEXT TWELVE MONTHS' PRINCIPAL AND INTEREST.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(II) FOR PURPOSES OF THIS PARAGRAPH (b), ANY AMOUNTS HELD IN RESERVE OR ESCROW TO FULFILL DEBT AGREEMENTS SHALL BE CONSIDERED ELIGIBLE TO MEET THE REQUIREMENTS OF THIS PARAGRAPH (b).

(c) (I) AN AMOUNT NOT LESS THAN TWENTY PERCENT OF THE FACILITY'S OPERATING EXPENSES FOR THE IMMEDIATELY PRECEDING YEAR.

(II) FOR PURPOSES OF THIS PARAGRAPH (c), "OPERATING EXPENSES":

(A) INCLUDES ALL EXPENSES OF THE FACILITY, EXCEPT INTEREST INCLUDED IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (1) AND DEPRECIATION OR AMORTIZATION EXPENSES; AND

(B) MEANS BUDGETED EXPENSES PURSUANT TO A BUDGET APPROVED BY THE GOVERNING BOARD OF THE PROVIDER, FOR PROVIDERS IN OPERATION LESS THAN TWELVE MONTHS.

(2) The reserves shall consist of the following:

(c) Notes receivable ~~secured by first deeds of trust and first mortgages~~ FROM RESIDENTS TO THE EXTENT OF THE PORTION DUE AND PAYABLE WITHIN TWELVE MONTHS;

(e) ~~Real estate used to provide care and housing for residents, or equities therein, owned by the provider, to the extent of seventy-five percent of the net value thereof. Values shall be fixed by an appraiser selected from a list provided by the commissioner.~~

(f) (I) ~~Furniture and equipment situated in property used to provide care and housing for residents, to the extent of thirty percent of the net value thereof. Net value is defined as cost less accumulated depreciation.~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (f), ACCOUNTS RECEIVABLE WITH RESPECT TO LIFE CARE CONTRACTS THAT ARE:

(A) NOT CONSIDERED PAST DUE BY THE PROVIDER IF OWED TO THE PROVIDER BY A NATURAL PERSON;

(B) DUE FROM THE UNITED STATES OR ANY AGENCY THEREOF, ANY STATE IN THE UNITED STATES OR ANY AGENCY THEREOF, OR ANY INSTITUTION, PENSION FUND, OR TRUST FUND FROM WHICH COLLECTION IS REASONABLY ASSURED.

(II) ACCOUNTS RECEIVABLE THAT ARE ELIGIBLE UNDER THIS PARAGRAPH (f) MAY BE USED TO FULFILL NO MORE THAN FIFTY PERCENT OF THE PROVIDER'S TOTAL RESERVE REQUIREMENT.

(g) ~~Real estate or equities therein owned by the provider as an investment, the rents from which are used to discharge obligations to the residents or to reinvest as a part of the reserves. The value of such real estate is to be based on cost, or as fixed by an appraiser selected from a list provided by the commissioner.~~

(h) ~~Undeveloped contiguous real estate owned by the provider as the proposed site~~

for the construction of new life care units;

~~(3) At least ten percent of the reserves necessary to maintain all life care contracts shall consist of listed bonds, stocks, savings accounts, savings certificates, or certificates of deposit in state or national banks or in savings and loan associations located in this state, or a money market fund approved by the commissioner.~~

~~(5) The reserves required by this section shall be treated as a liability on financial statements of the provider.~~

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 7, 1995