

Approved March 20, 1986  
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by Sen. Neil H. Arasmith at  
Chairperson

9:00 a.m./~~p.m.~~ on March 19, 1986 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research  
Myrta Anderson, Legislative Research  
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

Rita D'Agostino, State Banking Department  
John Yeager, Clearview City  
Ron Todd, Kansas Insurance Department  
John Grace, Kansas Association of Homes for the Aging  
Stu Entz, Kansas Association of Homes for the Aging

The minutes of March 18 were approved.

The hearing began on HB 2837 dealing with the change of the name of a bank. Rita D'Agostino of the State Banking Department testified in support of the bill.  
(See Attachment I.)

The chairman asked if this has been a problem of late. Ms. D'Agostino said that it has been and added that six or seven banks have changed names in the last six months.

Sen. Harder made a motion to report HB 2837 favorable for passage. Sen. Karr seconded, and the motion carried.

The hearing on HB 2251 followed dealing with regulation of continuing care agreements and the registration of providers of continuing care which had been carried over from last session. John Yeager, a resident of Clearview City, testified in support of the bill. He noted that he had sent each committee member copies of an article from the newspaper indicating that a major corporation is going to build more of these type homes. He informed the committee that he had been told by the Attorney General's office that they could not help him due to the fact that nothing illegal had been done. Everyone to whom he has talked says that the situation in Clearview City is an isolated incident, but Mr. Yeager feels that there is a potential for the same thing to happen to other senior citizens in the future. He views the bill as an insurance measure if anything goes wrong in the future as in car insurance.

The chairman asked if anyone would have to approve the contents of continuing care agreements under the provisions of the bill. Mr. Yeager said there was no such provision and that the main concern is the filing of an account of expenses. Clearview City residents are concerned about excesses of use of money. The rates are continually increased for the reason of increased costs and increased utility costs, but yet services are not delivered to the residents. Thus, he feels it should be mandated that the continuing care provider file a financial statement showing expenses and how the money is used.

Sen. Werts asked if many residents of Clearview City are moving out. Mr. Yeager said many are, but he feels this is not the answer because no matter where they go, the potential to be taken advantage of is there. He feels there is a need to "plug the hole" so it cannot happen again.

The chairman asked if the additional charges assessed to the residents of Clearview City were for specific things. Mr. Yeager said there is nothing in writing, but they are told that utilities and expenses are up. However, the power and light company says that the utility expenses are down.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,

room 529-S, Statehouse, at 9:00 a.m./~~pm~~ on March 19, 1986.

Sen. Karr asked how Clearview City is managed. Mr. Yeager said it is now in probate court because the owner died without leaving a will. The court appoints banks to manage it. Management does not reside in Clearview City.

Sen. Reilly said that he sympathizes with the residents of Clearview City, but the bill will not help the situation. Mr. Yeager agreed but felt that it will help future senior citizens. He added that those who are operating honestly should have no fear of the bill.

Ron Todd of the Kansas Insurance Department testified neither in opposition to or in support of the bill. He stated that the department has worked with the bill over the years and would not object to taking over the administration of it. The chairman noted that retirement villages and nursing homes are different in that nursing homes are registered and retirement homes are not. He asked Mr. Todd if perhaps it would be better if the retirement homes were registered with the Department of Health and Environment. Mr. Todd said that this is a possibility.

Sen. Reilly asked Mr. Todd what is in the bill that would give regulatory power to the department to address Mr. Yeager's problems. Mr. Todd said that nothing mentioned by Mr. Yeager would be regulated by the department, but a notice would be required to be given to the people before agreements are signed so what the provider must abide by would be on file.

John Grace, Kansas Association of Homes for the Aging, testified in opposition to HB 2251. (See Attachment II.)

Sen. Karr asked Mr. Grace how this quasi-illegal problem in Clearview City of which the court seems to be a part can be handled. Mr. Grace said every facility in the state raises rates. The question is if it is reasonable and if the contracts allow for raising of rates. If they do, it is legal. As rates raise, residents should be getting the benefits rather than stockholders.

Gen. Gannon asked Mr. Grace why he objects to the bill. Mr. Grace answered that it is another compliance, it is vague, and makes a provision for a new crime. Those homes which he represents are operating above board now, and he can see no reason for the bill. He concluded that you cannot legislate good management which is the problem in Clearview City.

Sen. Kerr asked Mr. Grace if he would object to making certified audits mandatory and available to residents. Mr. Grace had no objections to this. Sen. Kerr asked Mr. Yeager the same. Mr. Yeager noted that if mistakes are found in a certified audit, the residents would still have to hire an attorney. The chairman said that under current statutes, the Board of Accountancy is very strict. Mr. Yeager stated that if this is the best compromise possible, he would accept it rather than nothing. Mr. Grace noted that this still would not solve management problems. The chairman felt that an audit would provide something tangible if increases are made for repair services that are subsequently not done.

Mr. Grace handed out pamphlets which his organization provides for public information. (See Attachment III.)

Committee members asked how many continuing care providers for profit exist in Kansas. Mr. Grace said there are none except Clearview City. However, Mr. Yeager said that although he cannot name any, a large corporation will be building more as indicated in the article he had sent to committee members earlier.

Stu Entz with the Kansas Association of Homes for the Aging testified that the bill does more than require recording. He has no problem with the concept, but the additional provision for criminal conviction in the bill is vague and adds another crime. He questions if the bill is really necessary.

The chairman suggested that members of the Senate from the immediate area of Clearview City get together and discuss this problem. He feels that the possibility of making the bill strictly a requirement for a CPA audit of these facilities is a starting point in finding the solution to this problem.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS  
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
3/19/86	Carol A. O'Connell	Topeka	State Banking Dept.
3/19/86	Lowell E. Strahan	Geneva	Lakeview Village
3/19/86	Red Shearer	Kansas City	K.C. Presbyterian Manor
	John Grace	Topeka	KS Homes for Aging
3/19/86	Dorcia Lu Schulz	Kansas City, Mo.	Kansas City Presbyterian Manor

TESTIMONY OF: Rita M. D'Agostino, General Counsel  
Kansas Banking Department

PRESENTED TO: Senate Committee on Financial Institutions and Insurance

DATE: March 19, 1986

House Bill No. 2837 would require all proposed name changes pertaining to state-chartered banks be submitted to and approved by the State Banking Board.

K.S.A. 9-801 requires that the name selected for a newly chartered bank be accepted or rejected by the State Banking Board. We have interpreted this requirement to follow through to subsequent name changes. Without such a requirement the initial approval by the Board would be rendered meaningless.

The proposed legislation clarifies the required subsequent approval.

MDH:jas

*Attachment I*



The Organization of  
Nonprofit Homes and  
Services for the Elderly

Kansas Association of Homes for the Aging  
One Townsite Plaza  
Fifth and Kansas Avenue  
Topeka, Kansas 66603

913-233-7443

March 19, 1986

Senate Financial Institutions & Insurance Committee

Re: House Bill 2251 - An Act concerning  
Continuing Care Agreements:

Testimony presented by: John Grace, Executive Director of the Kansas Association of Homes for the Aging, the Organization of Church, Government, and Community sponsored homes and services for the Aging of Kansas.

Chairman Arasmith and Members of the Committee.

We oppose House Bill 2251.

We commend the sponsor of this bill in their sincere efforts to provide some additional protection for the elderly consumers. We also empathize with the residents of Clearview City in their unique situation.

In reviewing this bill we would ask you to consider three points. First of all, is the situation that occurred in Clearview City typical of the life care industry in Kansas?" When you examine this "industry" I believe you'll find that the situation in Clearview City is an isolated incident. The standard operating procedure for the twenty three homes that are members of our Association that offer a Continuing Care Contract is one of full disclosure of contract and financial information. Each home offers the following:

- (1) Residency Agreements in Contracts Outlining all aspects of cost, refunds, etc.
- (2) Annual Certified Public Accounting Audit.
- (3) Annual Audit is available to residents for review.
- (4) All Homes are registered with Secretary of State.

The second issue to consider, "Is there adequate protection under current law to provide for reasonable protection for elderly consumers?" We believe that the criminal fraud and deception statutes, civil fraud and contract law, do provide effective remedies for the older citizens of our state.

And the third issue is the financial cost of implementation of this bill. The fiscal note presented by the Insurance Commissioner is over \$70,000 annually for this legislation.

In summary, Mr. Chairman and members of the committee, we ask you to report this bill adversely. The Homes of our association have always, and we will continue to take our responsibility seriously in serving the older persons of Kansas in a just and reasonable manner.

*Attachment II*

**The Continuing Care Retirement Community:  
A Guidebook for Consumers Order Form**

Enclose payment with order.  
Make check payable to "AAHA."

**Mail to:** American Association of Homes for the Aging,  
1050 17th St. N.W., Suite 770, Washington, D.C. 20036.  
(202) 296-5960

Price includes shipping/handling. Allow 4-6 weeks for delivery.

Name \_\_\_\_\_

Street Address \_\_\_\_\_ Apt. \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone ( ) \_\_\_\_\_

No. of Copies	Unit Price	Total Amt. Enclosed
		\$2.00

**National Continuing Care Directory Order Form**

Enclose payment with order.  
Make check payable to "AARP Books."

**Mail to:** AARP Books, 400 S. Edward St.,  
Mount Prospect, IL 60056.

Name \_\_\_\_\_

AARP Membership No. (if applicable) \_\_\_\_\_

Street Address \_\_\_\_\_ Apt. \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone ( ) \_\_\_\_\_

No. of Copies	Unit Price	Shipping/Handling per copy	Total Amt. Enclosed
	\$13.95 (AARP Members: \$9.95)	\$1.45	

# THE CONTINUING CARE



# RETIREMENT COMMUNITY

A Lifestyle Offering

- Security
- Independence
- Privacy
- A continuum of care

Attachment II

## AS YOU APPROACH RETIREMENT, WHERE WILL YOU LIVE? HOW WILL YOU LIVE?

Your retirement years offer the attraction of freedom to pursue interests unhampered by the demands of a job and its day-to-day responsibilities. Yet retirement can create anxieties—about maintaining a way of life, about financial and personal security, about physical well-being. These anxieties can prevent you from fully enjoying these years, *unless* you approach them thoughtfully. Before you retire, consider how you might change your lifestyle to increase peace of mind.

The continuing care retirement community (CCRC) offers an innovative, appealing lifestyle choice for single or married senior adults. We sometimes put off planning for how we will spend our retirement because we have been frightened by myths about "institutions" or "old folks homes." Continuing care, sometimes called life care, is a lifestyle option for the older person which dispels stereotypes about retirement homes and lessens the fear of becoming dependent on family. The earmark of the nonprofit CCRC is the *caring* community. Thus, continuing care's supportive community environment allows the older person to attain personal fulfillment and maintain dignity.

## WHAT IS CONTINUING CARE?

- It replaces fear about the future with physical and financial security.
- It ensures independence and access to health care for the rest of your life.

In addition . . .

- It offers privacy in your own apartment or cottage, among your own furnishings.
- It frees you from maintenance and even housekeeping chores.
- It creates opportunities to enjoy the companionship of friends and neighbors of similar age.

The nonprofit continuing care retirement community has an overriding aim: to provide a *continuum of care*. This means that the community tailors its services and residential options to meet individual needs and preferences. It provides for them in a continuum including independent and congregate living, personal, intermediate and skilled nursing care. It strives to create an environment that allows each resident to participate in the community's life to whatever degree desired.

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## LOCATING A CONTINUING CARE COMMUNITY

Consider visiting several continuing care communities to better assess their suitability to your needs and preferred lifestyle. Many communities welcome prospective residents for brief trial visits so they can experience how daily living might be enjoyed there.

You can locate communities in the geographic areas of your choice by consulting the national directory of continuing care retirement communities co-produced by the American Association of Homes for the Aging (AAHA) and the American Association of Retired Persons (AARP). (See back panel for ordering information.)

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## CAN YOU AFFORD TO LIVE IN A CONTINUING CARE RETIREMENT COMMUNITY?

Because the continuing care community provides care for life, it necessarily involves a financial investment by the resident. But when you consider that continuing care residents may enjoy more active lives longer than older persons living alone and that your needs, regardless of how they might change after entering the community, will be met for the rest of your life (although some contracts may specify certain exclusions—read terms carefully), then continuing care can be a prudent use of retirement income.

Here are some financial aspects of continuing care:

- **Accommodation Fee**  
Most continuing care retirement communities require the resident to pay a one-time accommodation or entry fee, in addition to monthly payments for services included in the continuing care contract. Monthly fees usually are adjusted annually. These fees vary from one community to another, depending on the type of housing and services each offers and the extent to which long term nursing care is covered.

- **Contract**  
Each community will offer you an agreement or contract stating the services to be provided. You will want to review specific provisions for:

*Living quarters* (size and type, maintenance and housekeeping responsibilities, furnishings, utilities included, etc.)

*Medical care* (doctor and hospital services, nursing care, various therapies)

*Recreational and educational activities*

*Transportation*

*Meals and special diets* (number of meals per day guaranteed by monthly fee, group or private dining, availability of entrée selection, etc.)

*Personal assistance* (help with bathing, dressing, etc.)

*Emergency help*

*Additional or individualized services*

Some continuing care communities may offer a variety of fee structure and contract options. Therefore, it is advisable to consider those which best suit your personal circumstances and then discuss them with your financial adviser.

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## WHAT ELSE SHOULD YOU KNOW ABOUT CONTINUING CARE?

As you explore the continuing care option for your later years, you may want more information, particularly concerning the financial and contractual aspects of these communities. The American Association of Homes for the Aging publishes a booklet, *The Continuing Care Retirement Community: A Guidebook for Consumers*, which provides detailed discussion of these concerns and a checklist for evaluating communities which most interest you. (See back panel for ordering information.)

Deciding how to spend retirement is a major step in life. Too many people think hastily about it and then brush it aside with the comment, "I'm not ready for it yet." Unfortunately, when they are ready, they frequently learn that the continuing care retirement community of their choice has a long waiting list, or that they are no longer sufficiently independent to enjoy the benefits continuing care has to offer. It is important to plan for your retirement beforehand so you can direct your own future.

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As you consider how you will spend your later years, remember the advantages of living in a nonprofit continuing care retirement community:

- Physical and financial security
- Peace of mind
- Companionship among peers
- A private home, *plus* access to community facilities
- A community that *cares* about you

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## WHERE TO WRITE FOR HELP

Use the order forms on back to write for these additional sources of information on continuing care retirement communities.

### **The Continuing Care Retirement Community: A Guidebook for Consumers**

This consumer guidebook examines all aspects of the variety of contractual arrangements offered by CCRCs. Designed to assist persons about to enter a CCRC and their families, this book contains information about payment plans for care, financial condition of the CCRC, its administration, styles of shelter and service, refunds and adjustments in fees, and a checklist of facts the consumer should know before signing a continuing care contract.

**\$2.00**

### **National Continuing Care Directory**

A directory aimed at consumers, this book provides comprehensive individual descriptions of approximately 400 CCRCs nationwide. It lists fees, types of apartments or cottages, special features, and general and health related services available at each CCRC. It also geographically locates the facility in relation to a major urban center and describes the physical plant.

**\$13.95**  
(AARP Members: **\$9.95**)