

HOUSE BILL No. 2148

By Committee on Aging and Long Term Care

2-4

1 AN ACT concerning continuing care retirement facilities; relating to
2 continuing care contracts; disclosure statements; application fees;
3 amending K.S.A. 40-2231, 40-2233 and 40-2235 and repealing the
4 existing sections.

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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 40-2231 is hereby amended to read as follows: 40-
8 2231. As used in this act:

9 (a) "Continuing care contract" means an agreement pursuant to
10 which a provider undertakes to furnish to a person, not related by
11 consanguinity or affinity to the provider, shelter and medical or nursing
12 services or other health-related benefits which require a present or
13 deferred transfer of assets or an entrance fee in the amount of \$5,000 or
14 equivalent value or such greater amount as set by the commissioner in
15 rules and regulations in addition to or in lieu of periodic charges-, *that is*
16 *effective for (1) the life of the resident or (2) more than one year.*
17 Continuing care contract shall also mean an agreement of any other
18 provider who voluntarily applies for a certificate pursuant to K.S.A. 40-
19 2235, *and amendments thereto.*

20 (b) "Entrance fee" means the total of any initial or deferred transfer
21 to, or for the benefit of, a provider of a sum of money or other property
22 *valued at an amount exceeding three months' rent*, made or promised to
23 be made as full or partial consideration for acceptance of a person as a
24 resident pursuant to a continuing care contract. *The term does not include*
25 *a deposit made under a reservation agreement.*

26 (c) "Home" means the facility or facilities occupied, or planned to be
27 occupied, by five or more residents where the provider undertakes
28 pursuant to the continuing care contract to provide continuing care to
29 such residents.

30 (d) "Provider" or "continuing care provider" means the person,
31 corporation, partnership, association or other legal entity which agrees to
32 provide continuing care to residents in a home.

33 (e) "Resident" means an individual or individuals who have entered
34 into an agreement with a provider for continuing care in a home.

35 (f) "Commissioner" means commissioner of insurance of the state of
36 Kansas.

1 (g) *"Reservation agreement" means an agreement that requires the*
2 *payment of a deposit to reserve a living unit for a prospective resident.*

3 Sec. 2. K.S.A. 40-2233 is hereby amended to read as follows: 40-
4 2233. (a) A provider shall file with the commissioner within four months
5 of completion of such provider's fiscal year the annual disclosure
6 statement referred to in K.S.A. 40-2232, *and amendments thereto*, the
7 continuing care contract referred to in K.S.A. 40-2234, *and amendments*
8 *thereto* and an annual audit certified by a certified public accountant.

9 (b) *A provider that files a disclosure statement under K.S.A. 40-*
10 *2232, and amendments thereto, shall pay to the commissioner:*

11 (1) *A filing fee of \$500; and*

12 (2) *a fee of not more than \$2 for each living unit in the facility,*
13 *excluding a unit devoted to that portion of the facility that is a licensed*
14 *nursing facility.*

15 Sec. 3. K.S.A. 40-2235 is hereby amended to read as follows: 40-
16 2235. (a) No provider shall act as or hold themselves out to be a
17 continuing care provider, as defined in this act, in this state, unless the
18 provider shall hold a certificate of registration as a continuing care
19 provider issued by the commissioner of insurance. *The commissioner*
20 *shall promulgate rules and regulations stating the information an*
21 *applicant for a certificate of authority must submit.*

22 (b) *On receiving an application for a certificate of registration, the*
23 *commissioner shall conduct a hearing on the application.*

24 (c) *The commissioner shall grant an application for a certificate of*
25 *registration if the commissioner finds that:*

26 (1) *The applicant or the facility is financially sound;*

27 (2) *the competence, experience, and integrity of the applicant, its*
28 *board of directors, its officers and its management make it in the public*
29 *interest to issue the certificate; and*

30 (3) *the applicant is capable of complying with this act.*

31 (d) *The commissioner shall issue an order approving or*
32 *disapproving an application not later than 180 days after the date on*
33 *which the application is filed.*

34 (e) *The commissioner may limit the issuance of certificates of*
35 *registration to incorporated entities only.*

36 (f) Application for such certificate shall be made to the
37 commissioner on a form prescribed by such commissioner and shall be
38 accompanied by a filing fee of ~~\$50~~ \$10,000. Such certificate may be
39 continued for successive annual periods by notifying the commissioner of
40 insurance of such intent and payment of a ~~\$25~~ \$250 continuation fee.
41 Such certificate shall be issued to a continuing care provider or continued
42 by the commissioner unless the commissioner after due notice and
43 hearing shall have determined that the continuing care provider is not in

1 compliance with this act.

2 (g) *A provider that files an application for a certificate of*
3 *registration for a facility that was occupied by at least one resident or*
4 *was under construction on July 1, 2011 shall pay to the commissioner:*

5 (1) *A fee of \$2,000; and*

6 (2) *a fee of \$2 for each living unit in the facility, excluding a unit*
7 *devoted to that portion of the facility that is a licensed nursing facility.*

8 Sec. 4. K.S.A. 40-2231, 40-2233 and 40-2235 are hereby repealed.

9 Sec. 5. This act shall take effect and be in force from and after its
10 publication in the statute book.

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