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HEALTH AND SAFETY CODE - HSC

DIVISION 2. LICENSING PROVISIONS [1200 - 1796.70] (*Division 2 enacted by Stats. 1939, Ch. 60.*)

CHAPTER 10. Continuing Care Contracts [1770 - 1793.91] (*Chapter 10 repealed and added by Stats. 1990, Ch. 875, Sec. 2.*)

ARTICLE 4. Certificate of Authority [1786 - 1786.2] (*Article 4 added by Stats. 1990, Ch. 875, Sec. 2.*)

1786. (a) The department shall issue a provisional certificate of authority when an applicant has done all of the following:

- (1) Complied with the approved marketing plans.
- (2) Met and continues to meet the requirements imposed under subdivision (a) of Section 1783.3. The issuance of the provisional certificate of authority shall not require, and shall not be dependent upon the release of escrowed funds. Release of escrowed funds shall be governed by Section 1783.3.
- (3) Completed construction of the continuing care retirement community or applicable phase.
- (4) Obtained the required licenses.
- (5) Paid the remainder of the application fee.
- (6) Executed a permanent mortgage loan or other long-term financing.
- (7) Provided the department with a recorded copy of the Notice of Statutory Limitation on Transfer required by subdivision (aa) of Section 1779.4.
- (8) Met all applicable provisions of this chapter.

(b) The provisional certificate of authority shall expire 12 months after issuance unless both of the following occur:

- (1) No later than 60 days prior to the expiration of the provisional certificate of authority, the provider petitions the department and demonstrates good cause in writing for an extension of the provisional certificate of authority.
- (2) The department determines that the provider is capable of meeting the requirements of Section 1786.2 during the extension period.

(c) The department shall exercise its discretion to determine the length of the extension period.

(d) After the provisional certificate of authority is issued providers may continue to take deposits by modifying the deposit agreement as appropriate. The new deposit agreement shall clearly state the rights of the depositor and the provider. The applicant shall submit the agreements to the department for review and approval prior to use. A provider that holds a provisional certificate of authority or certificate of authority may accept fees paid by potential residents to be placed on a waiting list without using a deposit agreement. These waiting list fees may not exceed five hundred dollars (\$500), and shall be refunded to the potential resident upon written request.

(e) All holders of a provisional certificate of authority shall request in writing a certificate of authority when the requirements of Section 1786.2 have been met.

(Amended by Stats. 2000, Ch. 820, Sec. 46. Effective January 1, 2001.)

1786.2. (a) The department shall not issue a certificate of authority to an applicant or a provider, until the department determines that each of the following has occurred:

(1) A provisional certificate of authority has been issued or all of the requirements for a provisional certificate of authority have been satisfied. In the case of an application for a new certificate of authority due to an organizational change, if the continuing care retirement community is financially sound and operating in compliance with this chapter, it shall be sufficient for the purposes of this paragraph that the department has approved the application in writing.

(2) One of the following requirements has been met:

(A) At a minimum, continuing care contracts have been executed for 80 percent of the total residential living units in the continuing care retirement community, with payment in full of the entrance fee.

(B) At a minimum, continuing care contracts have been executed for 70 percent of the total residential living units in the continuing care retirement community, with payment in full of the entrance fee, and the provider has submitted an updated financial and marketing plan, satisfactory to the department, demonstrating that the proposed continuing care retirement community will be financially viable.

(C) At a minimum, continuing care contracts have been executed for 50 percent of the total residential living units in the continuing care retirement community, with payment in full of the entrance fee, and the provider furnishes and maintains a letter of credit or other security, satisfactory to the department, sufficient to bring the total amount of payments to a level equivalent to 80 percent of the total entrance fees for the entire continuing care retirement community.

(3) A minimum five-year financial plan of operation remains satisfactory to the department.

(4) Adequate reserves exist as required by Sections 1792 and 1792.6. For a new continuing care retirement community without an operating history, the department may approve calculation of required reserves on a pro forma basis in conjunction with compliance with approved marketing plans.

(5) All applicable provisions of this chapter have been met.

(b) When issued, the certificate of authority, whether full or conditioned, shall remain in full force unless forfeited by operation of law under Section 1793.7, inactivated under Section 1793.8, or suspended or revoked by the department pursuant to Section 1793.21.

(c) The provider shall display the certificate of authority in a prominent place within the continuing care retirement community.

(Amended by Stats. 2000, Ch. 820, Sec. 47. Effective January 1, 2001.)