

# State of South Dakota

SEVENTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 1998

391B0655

## SENATE ENGROSSED NO. **SB228** - 2/10/98

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.**

Introduced by: Senators Hutmacher, Dunn (Rebecca), Lange, Lawler, Paisley, Reedy, and Whiting and Representatives Fischer-Clemens, Belatti, Collier, Cutler, Duniphan, Haley, Kazmerzak, Lucas, Sokolow, and Volesky

1 FOR AN ACT ENTITLED, An Act to provide certain requirements for new continuing care  
2 retirement communities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. For the purposes of this Act, a continuing care agreement is an agreement to  
5 provide a person board and lodging, in addition to care in a nursing facility or assisted living  
6 center, as defined in § 34-12-1.1, for the duration of the person's life, in consideration for an  
7 entrance fee paid to the provider.

8 Section 2. For the purposes of this Act, an entrance fee is an initial or deferred transfer to a  
9 provider of a sum of money, or other property, made or promised to be made, as a full or partial  
10 consideration for acceptance of the person in the facility under a continuing care agreement, if  
11 the amount exceeds five thousand dollars or the sum of periodic charges for three months of  
12 residency, whichever is greater.

13 Section 3. For the purposes of this Act, a continuing care retirement community is a facility  
14 that offers any person, under a continuing agreement, board and lodging, in addition to care in

1 a nursing facility or assisted living center, regardless of whether the lodging and care is provided  
2 at the same location.

3 Section 4. A continuing care retirement community and any agreement it enters into with its  
4 residents is not subject to any provision of Title 58 except as contained in this Act. This Act does  
5 not provide any exemption for the sale of long-term care or other insurance product to a  
6 continuing care retirement community. This Act does not provide any exemption for the sale of  
7 long-term care or other insurance products by persons other than the continuing care retirement  
8 community to residents of the continuing care retirement community.

9 Section 5. A continuing care retirement community shall provide the following information  
10 to any resident or prospective resident: information about all owners and operators of the facility;  
11 the affiliation, if any, with other charitable, nonprofit, or religious organizations and any financial  
12 obligations of these organizations for the operation of the facility; a description of the goods and  
13 services available to the resident as part of the agreement; a listing of services available to  
14 residents for extra cost; a description of fees charged to residents; and the most recent financial  
15 statement of the provider.

16 Section 6. Any provider proposing to develop a new continuing care retirement community,  
17 which has not previously been in operation in this state, shall establish an escrow account with  
18 a bank in this state. Any entrance fees or portions of the entrance fees collected from prospective  
19 residents before the commencement of operation of the planned facility shall be deposited in this  
20 account. Escrowed deposits may not be released to the provider until completion of construction  
21 of the facility as evidenced by certificates of occupancy or other permits to commence operation.  
22 Deposits shall be released to prospective residents within thirty days of a receipt of a written  
23 notice of cancellation. The provider may retain any accrued interest from canceled deposits and  
24 a service fee not to exceed five hundred dollars. A copy of the escrow agreement shall be filed  
25 with the director of the Division of Insurance.

1       Section 7. Any new continuing care retirement community may not start construction until  
2       escrowed deposits of at least ten percent of the proposed entrance fee has been received for at  
3       least fifty percent of the proposed living units planned to be constructed.

4       Section 8. The provider shall notify the director of the Division of Insurance when the  
5       required amount of escrowed deposits have been reached for construction to start. In addition,  
6       notice shall be provided to the director of the Division of Insurance when escrowed deposits are  
7       released to the provider.

1 **BILL HISTORY**

2 1/26/98 First read in Senate and referred to Health and Human Services. S.J. 201

3 1/30/98 Scheduled for Committee hearing on this date.

4 2/2/98 Scheduled for Committee hearing on this date.

5 2/2/98 Health and Human Services Deferred to another day.

6 2/4/98 Scheduled for Committee hearing on this date.

7 2/4/98 Deferred to 36th legislative day, AYES 5, NAYS 2. S.J. 326

8 2/6/98 Health and Human Services Reconsidered, AYES 4, NAYS 0.

9 2/6/98 Health and Human Services Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 355

10 2/9/98 Health and Human Services Hog Housed.

11 2/10/98 Motion to Amend, Passed. S.J. 428

12 2/10/98 Senate Do Pass Amended, Passed, AYES 33, NAYS 0. S.J. 428