

**GENERAL ASSEMBLY OF NORTH CAROLINA**



**Session 2009**

**Legislative Fiscal Note**

**BILL NUMBER:** Senate Bill 354 (Fifth Edition)

**SHORT TITLE:** Continuing Care Retire. Community/Home Care.

**SPONSOR(S):** Senator Kinnaird

<b>FISCAL IMPACT</b>					
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2010-11</u></b>	<b><u>FY 2011-12</u></b>	<b><u>FY 2012-13</u></b>	<b><u>FY 2013-14</u></b>	<b><u>FY 2014-15</u></b>
<b>REVENUES</b>	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500
<b>EXPENDITURES</b>	\$111,623	\$114,703	\$123,732	\$131,565	\$137,528
<b>POSITIONS (cumulative):</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Insurance and Department of Health and Human Services					
<b>EFFECTIVE DATE:</b> See Bill Summary below.					

**BILL SUMMARY:**

SB 354 increases the application fee for a continuing care license. It would also allow Continuing Care Retirement Communities (CCRCs) to provide or arrange for home care services for an individual who has entered into a continuing care contract, but who is not receiving lodging.

**Section 1** of the bill amends G.S. 58-64-5(b) to increase the application fee for a continuing care license from \$500 to \$1,000.

**Section 2** amends the definitions contained in G.S. 58-64-1 as follows:

- "*Continuing care*" is amended to include the provision or arrangement of home care services by a provider of lodging at a facility to an individual who has entered into a continuing care contract with the provider, but is not yet receiving lodging.

- "*Home care services*" -- as defined in G.S. 131E-136.
- "*Lodging*" -- a living unit and meals as set forth in a contract approved by DOI.

**Section 3** amends G.S. 58-64-25(b) regarding the provisions that must be contained in a continuing care contract to require that when a contract provides for the provision or arrangement of continuing care without lodging, the contract must specify the procedures for determining when the individual will transition to receiving both lodging and health related services.

**Section 4** amends Article 64 of Chapter 58 by adding a new section to specify the information a continuing care retirement community (CCRC) that wishes to provide continuing care services without lodging must submit to the Department of Insurance:

- An application to offer continuing care services without lodging.
- An amended disclosure statement (currently required for regular CCRC operation under G.S. 58-64-20 and G.S. 58-64-30) with a description of the proposed continuing care services that will be provided without lodging, including the target market, the types of services to be provided, and the fees to be charged.
- A copy of the written service agreement which must contain those provisions as prescribed in current law.
- A summary of an actuarial report that presents the impact of providing continuing care services without lodging on the overall operation of the continuing care retirement community.
- A financial feasibility study prepared by a certified public accountant showing the financial impact of providing continuing care services without lodging on the applicant and the continuing care retirement facility or facilities. The study must include a statement of activities reporting the revenue and expense details for providing continuing care services without lodging, as well as, any impact the provision of these services will have on operating reserves.
- Evidence of the license required under Part 3, Article 6, of Chapter 131E (Home Care Agency Licensure Act) to provide home care services, or a contract with a licensed home care agency for the provision of home care services to the individuals under the continuing care services without lodging program.

**Section 5** requires DOI and the Department of Health and Human Services to identify any statutory, regulatory, or practical barriers that prevent or discourage individuals that contract with continuing care retirement communities from receiving home care services for as long they need home care services and are able to be safely cared for in their homes. The Departments are required to provide an interim status report on or before November 1, 2010, and a final report on or before September 1, 2011, to the NC Study Commission on Aging and the Joint Legislative Health Care Oversight Committee.

The fee increase would become effective July 1, 2010, and apply to applications filed on or after that date. Sections 2, 3, 4, and 5 would become effective when the act becomes law. If funding is not provided in the 2010 budget for a specified position within DOI to oversee the new services, Sections 2, 3, and 4 would expire July 1, 2012. In that event, CCRCs would not be permitted to continue to enter into contracts for the provision or arrangement of continuing care without

lodging, but existing contracts executed prior to the sunset date would remain in effect, and CCRCs would be permitted to provide home care service without lodging after July 1, 2012, pursuant to the terms of such contracts.

### **BACKGROUND INFORMATION:**

**G.S. 58-64-1 (1)** defines continuing care as the "furnishing to an individual other than an individual related by blood, marriage, or adoption to the person furnishing the care, of lodging together with nursing services, medical services, or other health related services, under an agreement effective for the life of the individual or for a period longer than one year." G.S. 58-64-5 requires a provider offering or providing continuing care to obtain a license from the Commissioner of Insurance. G.S. 58-64-25 specifies the continuing care contract requirements.

**G.S. 131E-136 (3)** defines "Home care services" as any of the following services and directly related medical supplies and appliances, which are provided to an individual in a place of temporary or permanent residence used as an individual's home:

- a. Nursing care provided by or under the supervision of a registered nurse.
- b. Physical, occupational, or speech therapy, when provided to an individual who also is receiving nursing services, or any other of these therapy services, in a place of temporary or permanent residence used as the individual's home.
- c. Medical social services.
- d. In-home aide services that involve hands-on care to an individual.
- e. Infusion nursing services.
- f. Assistance with pulmonary care, pulmonary rehabilitation or ventilation.
- g. In-home companion, sitter, and respite care services provided to an individual.
- h. Homemaker services provided in combination with in-home companion, sitter, respite, or other home care services.

### **ASSUMPTIONS AND METHODOLOGY:**

#### *Revenue*

Section 1 of the bill amends G.S. 58-64-5(b) to increase the application fee for a continuing care license from \$500 to \$1,000. Over the last five years, the Department of Insurance reports that there have been on average 2.6 applications submitted per year. Assuming that there will be 3 applications submitted per year, Fiscal Research estimates that there will be \$3,000 of revenue generated each fiscal year (3 applications multiplied by the \$1,000 application fee). Since there is already a \$500 fee in place, the additional amount of revenue generated as a result of this bill is \$1,500 per fiscal year (\$3,000 of revenue generated multiplied by one-half).

#### *Administrative Costs*

The Department of Insurance (DOI) indicates that its current staff will not be able to absorb the additional workload required in order to administer SB 354. DOI anticipates that it will need one Insurance Company Examiner Manager position to fulfill the requirements of this legislation. The

Insurance Company Examiner Manager would be placed in charge of the Continuing Care Retirement Community Unit of the Financial Evaluations Division of DOI.

The Financial Evaluation Division has regulatory oversight for Continuing Care Retirement Communities (CCRCs), which serves approximately 13,000 elderly residents in North Carolina. Presently, there are 57 CCRCs in operation and 13 in various stages of development. This bill will require that CCRCs providing these additional off-site services be reviewed for compliance relative to certain disclosure standards that must be met initially for both prospective at home residents initially, and facility (on campus) residents, thereafter, on an annual basis.

DOI reports that this bill would significantly impact the operations of the Financial Evaluation Division. Presently, the Financial Evaluation Division does not have financial analysis staff dedicated to the financial oversight of CCRCs. The Insurance Company Examiner Manager would administer CCRC laws of North Carolina by evaluating the financial condition and operations of the CCRCs during the licensing process and on a continuing basis, thereafter. The Insurance Company Examiner Manager would conduct a review of annual and interim financial statements, audited reports and other financial data filed or requested by DOI to carry out these tasks.

In total, DOI estimates that it will need \$111,623 for the Insurance Company Examiner Manager in FY 2010-11 (a breakdown of these expenses is provided in the chart below). Fiscal Research concurs with this estimate.

<b>Description</b>	<b>Associated Cost FY 2010-11</b>
Insurance Company Examiner Manager	
Salary	\$83,000
Social Security	\$6,388
Retirement	\$8,776
Medical Insurance	\$4,929
Operating Expenses	
Rentals/Leases	\$1,200 R
Travel	\$1,150 R
Communications & Data	
Processing	\$880 R
General Administration Supplies	\$1,000 R
Equipment/Office Furniture	\$3,800 NR
<b>TOTAL</b>	<b>\$111,623</b>

**SOURCES OF DATA:** Department of Insurance

**TECHNICAL CONSIDERATIONS:** None

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Fiscal Research Division

**DATE:** June 29, 2010



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