



2019 Legislative Proposal Continuing Care Retirement Communities

Senate Bill 1070 sponsored by Senator's Lee and Passidomo and a House Bill sponsored by Representative Clay Yarborough makes needed changes to Florida's continuing care laws to protect Florida retirees living in CCRCs.

Major problems occurred at University Village in Tampa, a CCRC that went into bankruptcy. In the University Village legal case, the owner's attorneys used loopholes in Chapter 651 to legally prevent the Office of Insurance Regulation from removing a general partner that illegally seized control of the community and prevented OIR from appointing a receiver.

The abuses of process caused a delay in enforcement of over 18 months which the owners used to siphon cash out of University Village, in part by assessing exorbitant weekly management fees and using the Minimum Liquid Reserve funds to illegally collateralize a sale of University Village's nursing home from one shell entity to another shell entity.

Over the past two years, FLiCRA and LeadingAge Florida have been working with providers, residents, lenders, attorneys and the Office of Insurance Regulation (OIR) on the changes to Chapter 651 needed to help prevent a recurrence of a University Village type of situation. The proposed bills focus on four primary areas:

- **Closes loopholes** - Will eliminate opportunities for abuse of process that resulted in substantial delays in the University Village case. For example, clarifies the circumstances under which OIR's remedial power may be suspended and clarifies OIR's ability to review changes in ownership or in the general partner.
- **Protects residents** – Provides clearer performance metrics that trigger OIR review of troubled CCRCs and a preference for resident claims. Also clarifies the permissible use of required reserves.
- **Provides greater transparency** - by improving the level of information shared with residents. For example, when providers submit information to OIR related to ownership changes, they must also provide the information to the residents.
- **Provides OIR with the information and enforcement tools needed** - to promptly enforce against any future rogue actors.