

CONTINUING CARE COMMUNITY DISCLOSURE ACT (EXCERPT)
Act 448 of 2014

***** 554.963.new THIS NEW SECTION IS EFFECTIVE APRIL 2, 2015 *****

554.963.new Investigations.

Sec. 63. (1) The department may conduct investigations within or outside this state to determine if any of the following apply:

(a) An offering of a continuing care agreement under this act poses or may pose an unreasonable risk as described in subsection (3).

(b) A person has violated or is about to violate this act or a rule promulgated or order issued under this act.

(2) The department may require or permit a person to file a written statement under oath or otherwise as to all the facts and circumstances concerning the matter to be investigated under subsection (1). If the person fails to reply with all required information to a written request from the department within 15 days after receipt of the letter, the department may issue a cease and desist order.

(3) The department may determine that an offering creates an unreasonable risk to members under this act if any of the following apply:

(a) Monthly service fees or assessments are not used for the purpose designated.

(b) With respect to an offering by a continuing care community seeking registration or exemption, the offering fails to provide for adequate reserves or other adequate revenue sources for operations, repairs, and renovations. The department may utilize an industry representative or accounting representative to determine the adequacy of revenue sources.

(c) With respect to a continuing care community making an offering, the continuing care community has been in operation less than 1 year or is in the development stage at the time of registration and has failed to achieve reservations for 75% of the living units at the date of first occupancy, unless the department finds that the financial condition of the continuing care community or the escrow arrangements established in connection with the offering are such as to outweigh any special risk.

(4) For the purpose of an investigation or proceeding under this act, the department may administer oaths and affirmations and receive evidence. To subpoena witnesses or require the production of books, papers, or other documents or records, the department must obtain an order of the circuit court by a showing that there is good cause to believe that a violation has taken place or is about to take place. However, in a contested case, the department itself may issue subpoenas and is subject to section 73 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.273.

History: 2014, Act 448, Eff. Apr. 2, 2015.