

Preliminary Exposure Draft

For Comment and Review

Text of Model CCRC Valuation Law

1. This Law shall be known as “The Continuing Care Retirement Community Valuation Act” and may be referred to as the CCRC Valuation Act.
2. The legislature finds that it is desirable that the financial security of commitments made to residents of a Continuing Care Retirement Community (CCRC), participants in a Continuing Care At Home (CAAH) program, or others who contract for Continuing Care be assured. The term CCRC or CCRC provider shall be construed to include all forms of Continuing Care unless otherwise indicated by the context.
3. Accordingly, the legislature now enacts this CCRC Valuation Act to define minimum standards for the computation of statutory valuation reserves in support of the commitments undertaken by CCRCs toward their residents.
4. The underlying principle for this CCRC Valuation Act is the same as similar laws applying to comparable transactions in life annuities and life insurance. That principle is that any CCRC, governed by the laws of this state, maintain financial reserves determined to be sufficient to ensure that the CCRC is likely to be able to fulfill all long term, multi-year commitments undertaken by the CCRC.
5. The [State or Commonwealth CCRC Regulator] shall annually value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all outstanding CCRC contracts of every CCRC enterprise doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, other contingency rates or tables, rate or rates of interest, and methods, including the Standard Continuing Care Contract Liabilities Valuation Method or other, used in the calculation of such reserves. In calculating such reserves, the [State or Commonwealth CCRC Regulator] may use group methods and approximate averages for fractions of a year or otherwise.

6. Such valuation shall be on a Calendar Year basis as of the end of the Calendar Year unless the [State or Commonwealth CCRC Regulator] shall have agreed otherwise.
7. In lieu of the valuation of the reserves herein required of any foreign or alien company, the [State or Commonwealth CCRC Regulator] may accept any valuation made, or caused to be made, by the corresponding CCRC regulatory authority of any state or other jurisdiction when such valuation complies with the minimum standard provided in this chapter and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the [State or Commonwealth CCRC Regulator] when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.
8. To reflect the communal and collective nature of a residential CCRC any vacant unit in the independent living or assisted living areas of such CCRC shall be valued as though the unit were occupied by a male/female couple with a contract issued to them as of the date the unit became vacant and assuming that the couple are both at the youngest age for which entry is permitted.
9. The Minimum Standard for Valuation shall be based on the following interest, mortality, incidence, and continuance tables unless otherwise directed by the [State or Commonwealth CCRC Regulator]:

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|----------------------------------|---|
| Mortality | California Continuing Care Retirement Community Resident Mortality Table (Transactions of Society Of Actuaries. 1995-96. Reports, p. 143 et seq.) |
| Mortality Improvement Projection | 1.5% per year for Males and 1.2% per year for Females |
| Long Term Care Incidence and | Society of Actuaries, Long Term Care Experience Committee Intercompany |

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| Continuation Rates | Study: 1984 -2004 (November 2007) with due regard to the type of benefit or any successor tables of incidence and continuance rates adopted by the [State or Commonwealth CCRC Regulator] on the basis of professionally qualified technical advisors. |
| Interest | As prescribed in Section 9 below |
| Contingency Margin for Adverse Deviations | 10% of the aggregate reserve including such margin |

10. The legislature also finds that withdrawal supported contracts are contrary to the lifetime or multi-year stewardship undertakings implicit in Continuing Care contracts and so no allowance for lifetime withdrawals, voluntary or otherwise, shall be permitted.

11. The interest rates used in determining the minimum standard for the valuation of CCRC and CCAH contract liabilities shall be the calendar year statutory valuation interest rates as defined below.

- a. The calendar year statutory valuation interest rates, I, shall be determined by the following formula and the results rounded to the nearer one-quarter of one percent:

$$I = .03 + W(R - .03)$$

where R is the reference interest rate defined in this section, and W is the weight factor defined in this section.

- b. Weighting factors (lifetime commitments shall be presumed to be for more than 20 years):

| | |
|----------------------------------|--------------------------|
| Contract Duration (Years) | Weighting Factors |
|----------------------------------|--------------------------|

| | |
|------------------------------------|-----|
| 10 or less | .50 |
| More than 10, but not more than 20 | .45 |
| More than 20 | .35 |

c. The reference interest rate referred to in subparagraph (a) of this subsection is defined as follows:

- (1) The lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30th of the calendar year of issue or purchase, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.
- (2) If Moody's corporate bond yield average -- monthly average corporates is no longer published by Moody's Investors Service, Inc., or if the [State or Commonwealth CCRC Regulator] determines that Moody's corporate bond yield average -- monthly average corporates as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is approved by rule adopted by the [State or Commonwealth CCRC Regulator], may be substituted.
- (3) If inflation is anticipated in any calculation required under this section then the reference interest rate calculated above shall be increased by the rate of any such inflation assumed.

12. The amount of reserves required by this section shall be determined by the Standard Continuing Care Contract Liabilities Valuation Method which is defined as the excess, if any, of the present value, at the date of valuation, of future guaranteed benefits provided for by such contracts, over the then present value of any future Entrance Fee Adjusted Periodic Net Annual Fees therefor, according to the following process.

(a) The future net fees, before Entrance Fee Adjustment, shall be determined as follows:

- (1) Calculate the present value, as of the contract effective date, of future guaranteed benefits provided for by such contracts.
- (2) Calculate the present value, as of the contract effective date, of an annuity of one per annum payable on the contract effective date and periodically thereafter.
- (3) The net level annual fee, payable periodically, is the value from Subsection (a)(1) divided by that from Subsection (a)(2).

(b) The Entrance Fee Adjustment to the net level annual fee shall be determined as follows:

- (1) Calculate the product of the annualized amount of the first periodic fee due on or after the contract effective date, times an annuity of one per annum payable on the contract effective date and periodically thereafter.
- (2) Calculate the ratio of the Entrance Fee, if any, to the sum of the Entrance Fee and the value determined in Subsection (b)(1) above.
- (3) The Net Entrance Fee is then determined by multiplying the ratio from Subsection (b)(2) by the present value as calculated in Subsection (a)(1) above.
- (4) The present value of future periodic payments is then the amount calculated in Subsection (a)(1) minus the Net Entrance Fee calculated in Subsection (b)(2) above.

(c) The Entrance Fee Adjusted Periodic Net Annual Fee shall be determined by dividing (1) the present value calculated in Subsection

(b)(4) above, by (2) the present value, as of the contract effective date, of an annuity of one per annum payable on the contract effective date and periodically thereafter.

13. Mathematically equivalent determinations shall be permitted upon petition to the [State or Commonwealth CCRC Regulator] and a certification by the [State or Commonwealth CCRC Regulator] that such alternative provides equivalent financial assurance that the CCRC will be able to fulfill its contract undertakings.

14. If the aggregate gross Entrance and gross Recurring Fees are less than the Net Fees determined above, then there shall be an additional Minimum Deficiency Reserve determined as the excess of the present value of future Net Fees over the present value of future gross Fees.

15. In any case or circumstance in which the minimum reserves cannot be determined by the methods and assumptions prescribed above, then the required reserves to be held shall be determined by alternative methods and assumptions accepted in advance for such purpose and approved in writing by a certificate issued by the [State or Commonwealth CCRC Regulator], and moreover such alternative determinations shall:

- a. Be appropriate in relation to the benefits and the pattern of fees; and
- b. Be computed by a method that is consistent with the principles of this CCRC Valuation Act.

16. This law shall be effective for all years after the calendar year of enactment.