

TITLE 710 SECURITIES DIVISION**Readoption Review**

LSA Document # 24-641

I. Statement Whether the Subject Matter Covered by the Rule Remains Carried out by the Agency

The Indiana Securities Division continues to have regulatory authority over the Continuing Care Retirement Communities.

II. Rationale for the Continued Need for the Rule

There is a continued need for the rules contained in [710 IAC 2](#). These rules supplement the provisions of [IC 23-2-4](#) by clarifying the providers' requirements in obtaining and maintaining proper registration. Additionally, the rules benefit the prospective residents who may be investing in a continuing care contract through the requirements of annual disclosures to ensure the provider is financially able to meet the terms of the contract. The rules help prevent the potentially tragic consequences that can arise when a provider becomes insolvent or unable to continue the care anticipated in the continuing care contract entered into between the provider and the prospective resident.

Expenses to regulated entities include an initial application fee of \$250 and an annual disclosure filing fee of \$100.

These amounts have remained consistent since the act was passed. These expenses covers the Division's review of the application for registration as well as the annual review of the financial condition of the provider. These fees are statutory and are not considered in the readoption of [710 IAC 2](#).

The regulatory goal is achieved through the statutory code and supplemental administrative code. These goals are achieved in the least restrictive manner by providing alternate ways of meeting registration requirements of the providers. For example, [710 IAC 2](#) allows for regulated entities to submit letters of credit in lieu of having an escrow account. Additionally, if the regulated entity is unable to submit the annual disclosure by the designated due date, the provider may request an extension of the due date. This allows the providers more flexibility in meeting their requirements and is not unduly burdensome.

III. Analysis of fees, fines, and civil penalties under [IC 4-22-2-19.6](#)

The rules do not contain any fees, fines, or civil penalties as those are all statutory.

IV. Cost-Benefit, Economic Impact, Fiscal Impact, or Regulatory Burden Statements

No prior cost-benefit, economic impact, fiscal impact, or regulatory burden statement has been performed. The Division has prepared a regulatory analysis to submit along with the Readoption Review. However, there are only two fees associated with registration of continuing care retirement communities: a \$250 initial application fee and a \$100 annual statement fee. These fees cover the costs of the Division for staff to review and approve the registrations. The fee amounts have remained the same since the inception of the act.

V. Alternative Methods of Achieving the Purpose of the Rule

Any economic impact on the regulated entities is nominal. As previously stated, the fees cover the cost of the staff to review and approve the registrations of the providers. Additionally, the fees in Indiana are lower than some other states.

VI. Complaints and Comments

The Division is unaware of any complaints or comments from any of the providers regarding the rules or regulatory authority of the Division over the providers.

VII. Difficulties Encountered

The Division has not encountered any difficulties in administering the rules. The Division works with the regulated entities with the objective that the provider is able to continuously provide the services to its residents as anticipated in the continuing care contracts.

VIII. Changes in Technology, Economic Conditions, or Other Factors

The Division has not experienced any difficulties relating to the advancement of technology in regulating continuing care retirement communities. However, economic conditions have presented some concerns with the financial conditions with a small number of providers, leading one to file for bankruptcy. With the objective of keeping the regulated entity in business so that the residents are able to enjoy the living arrangements they contracted for, the Division has worked with the providers to balance the objective of protecting the investor while assisting the provider to remain in business.

IX. Other State or Federal Requirements

The Division reviewed the administrative code and statutes of Illinois, Kentucky, Michigan, Ohio, Idaho and South Dakota. All of these states are similar to Indiana in that they require registration, disclosures, and regulatory oversight. For example, in Illinois administrative code, the similarities with [710 IAC 2](#) included similar definitions, the form of the application, the contents of the application that supplement the statutory requirements of the application, annual registration, and disclosure requirements. Kentucky also provides for the form of the application of providers and the continued licensing form. Likewise, Michigan had similar provisions on the content and form of applications, financial feasibility, escrow accounts, disclosures and advertising materials provided to prospective residents. Overall, the comparison of other states does not reveal that they have less restrictive requirements than [710 IAC 2](#).

X. Previous Amendments

The rules were promulgated in 1985. In 2008, the rules were readopted without any changes. In 2015, the rules were readopted without any changes. The rules were last adopted in 2021 without any changes.

XI. Integration into Indiana Code

Although the rules have not been amended since they were promulgated, they are still relevant. The rules supplement [IC 23-2-4](#) in that they provide clarity to the regulated entities on the procedures of applications, form, and content of disclosures and alternatives to an escrow account. For example, [710 IAC 2-2-1](#) applies and enforces the legislative enactments of [IC 23-2-4-3](#). It interprets [IC 23-2-4-3\(d\)](#) by identifying the policy and practice of the Division on what is considered "filed." Similarly, [710 IAC 2-2-2](#) applies the legislative enactment of the registration requirements found in [IC 23-2-4-4](#), and explains what is needed to comply with the statutory requirements. Likewise, [710 IAC 2-3](#) applies and enforces the legislative enactment of [IC 23-2-4-4](#), which sets the general requirements of an initial disclosure. The rules of [710 IAC 2-3-1](#) through [710 IAC 2-3-6](#) interpret [IC 23-2-4-4](#) by providing additional details on the form, contents and distribution of the initial disclosure. All of the rules of [710 IAC 2](#) are appropriate as rules rather than statutes because they expand on the statutory requirements of [710 IAC 2](#).

XII. Contact Information of Staff to Answer Substantive Questions

Marie Castetter
Indiana Securities Commissioner
Indiana Securities Division
302 W. Washington St., E111
Indianapolis, IN 46204
(317) 232-0735

mcastetter@sos.in.gov

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