

The House Committee on Insurance offers the following substitute to SB 111:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 45 of Title 33 of the Official Code of Georgia Annotated, relating to  
2 continuing care providers and facilities, so as to define certain terms; to provide for a  
3 provider to offer continuing care at home; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 style="text-align:center">**SECTION 1.**

6 Chapter 45 of Title 33 of the Official Code of Georgia Annotated, relating to continuing care  
7 providers and facilities, is amended by revising Code Section 33-45-1, relating to definitions,  
8 as follows:

9 "33-45-1.

10 As used in this chapter, the term:

11 (1) 'Continuing care' means furnishing pursuant to a continuing care agreement:

12 (A) Lodging that is not:

13 (i) In a skilled nursing facility, as such term is defined in paragraph (34) of Code  
14 Section 31-6-2;

15 (ii) An intermediate care facility, as such term is defined in paragraph (22) of Code  
16 Section 31-6-2;

17 (iii) An assisted living community, as such term is defined in Code Section  
18 31-7-12.2; or

19 (iv) A personal care home, as such term is defined in Code Section 31-7-12;

20 (B) Food; and

21 (C) Nursing care provided in a facility or in another setting designated by the  
22 agreement for continuing care to an individual not related by consanguinity or affinity  
23 to the provider furnishing such care upon payment of an entrance fee including skilled  
24 or intermediate nursing services and, at the discretion of the continuing care provider,  
25 personal care services including, without limitation, assisted living care services  
26 designated by the continuing care agreement, including such services being provided

27 pursuant to a contract to ensure the availability of such services to an individual not  
 28 related by consanguinity or affinity to the provider furnishing such care upon payment  
 29 of an entrance fee.

30 Such term shall not include continuing care at home.

31 (2) 'Continuing care agreement' means a contract or agreement to provide continuing  
 32 care, ~~continuing care at home~~, or limited continuing care. ~~Agreements to provide~~  
 33 ~~continuing care or limited continuing care~~ Continuing care agreements include  
 34 agreements to provide care for any duration, including agreements that are terminable by  
 35 either party.

36 (2.1) 'Continuing care at home' means the furnishing of services pursuant to a continuing  
 37 care agreement at a location other than at a facility and which includes the obligation to  
 38 provide nursing care, assisted living care, or personal care home services. A continuing  
 39 care at home agreement may, but is not required to, include an obligation to provide food.

40 (3) 'Entrance fee' means an initial or deferred payment of a sum of money or property  
 41 made as full or partial payment to assure the resident continuing care, limited continuing  
 42 care, or continuing care upon the purchase of a resident owned living unit; provided,  
 43 however, that any such initial or deferred payment which is greater than or equal to 12  
 44 times the monthly care fee shall be presumed to be an entrance fee so long as such  
 45 payment is intended to be a full or partial payment to assure the resident lodging in a  
 46 residential unit. An accommodation fee, admission fee, or other fee of similar form and  
 47 application greater than or equal to 12 times the monthly care fee shall be considered to  
 48 be an entrance fee. Such term shall not include any portion of the purchase or sale of a  
 49 resident owned living unit.

50 (4) 'Facility' means a place which is owned or operated by a provider and provides  
 51 continuing care or limited continuing care. Such term includes a facility which contains  
 52 resident owned living units.

53 (5) 'Licensed' means that the provider has obtained a certificate of authority from the  
 54 department.

55 (6) 'Limited continuing care' means furnishing pursuant to a continuing care agreement:

56 (A) Lodging that is not:

57 (i) In a skilled nursing facility, as such term is defined in paragraph (34) of Code  
 58 Section 31-6-2;

59 (ii) An intermediate care facility, as such term is defined in paragraph (22) of Code  
 60 Section 31-6-2;

61 (iii) An assisted living community, as such term is defined in Code Section  
 62 31-7-12.2; or

63 (iv) A personal care home, as such term is defined in Code Section 31-7-12;

64 (B) Food; and

65 (C) Personal services, whether such personal services are provided in a facility such  
66 as a personal care home or an assisted living community or in another setting  
67 designated by the continuing care agreement, to an individual not related by  
68 consanguinity or affinity to the provider furnishing such care upon payment of an  
69 entrance fee.

70 Such term shall not include continuing care at home.

71 (7) 'Monthly care fee' means the fee charged to a resident for continuing care or limited  
72 continuing care on a monthly or periodic basis. Monthly care fees may be increased by  
73 the provider to provide care to the resident as outlined in the continuing care agreement.  
74 Periodic fee payments or other prepayments shall not be monthly care fees.

75 (8) 'Nursing care' means services which are provided to residents of skilled nursing  
76 facilities or intermediate care facilities.

77 (9) 'Personal services' means, but is not limited to, such services as individual assistance  
78 with eating, bathing, grooming, dressing, ambulation, and housekeeping; supervision of  
79 self-administered medication; arrangement for or provision of social and leisure services;  
80 arrangement for appropriate medical, dental, nursing, or mental health services; and other  
81 similar services which the department may define. Personal services may be provided  
82 at a facility or at a home on or off site of a facility. Personal services shall not be  
83 construed to mean the provision of medical, nursing, dental, or mental health services.  
84 Personal services provided, if any, shall be designated in the continuing care agreement.

85 (10) 'Provider' means the owner or operator, whether a natural person, partnership, or  
86 other unincorporated association, however organized, trust, or corporation, of an  
87 institution, building, residence, or other place, whether operated for profit or not, which  
88 owner or operator undertakes to provide continuing care, ~~or~~ limited continuing care, or  
89 continuing care at home for a fixed or variable fee, or for any other remuneration of any  
90 type for the period of care, payable in a lump sum or lump sum and monthly maintenance  
91 charges or in installments.

92 (11) 'Resident' means a purchaser of or a nominee of or a subscriber to a continuing care  
93 agreement. Such an agreement may permit a resident to live at a home on or off site of  
94 a facility but shall not be construed to give the resident a part ownership of the facility  
95 in which the resident is to reside unless expressly provided for in the agreement.

96 (12) 'Resident owned living unit' means a residence or apartment, the purchase or sale  
97 of which is not included in an entrance fee, which is a component part of a facility and  
98 in which the resident has an individual real property ownership interest.

99 (13) 'Residential unit' means a residence or apartment in which a resident lives that is not  
100 a skilled nursing facility as defined in paragraph (34) of Code Section 31-6-2, an

101 intermediate care facility as defined in paragraph (22) of Code Section 31-6-2, an assisted  
 102 living community as defined in Code Section 31-7-12.2, or a personal care home as  
 103 defined in Code Section 31-7-12."

104 **SECTION 2.**

105 Said chapter is further amended in Code Section 33-45-3, relating to certificate of authority  
 106 required for operation of continuing care facilities, by adding two new subsections to read  
 107 as follows:

108 "(c) Nothing in this chapter shall be construed so as to allow private home care services  
 109 to be provided by any person or entity other than a licensed private home care provider.

110 (d) A provider of continuing care at home may contract with a licensed home health  
 111 agency to provide home health services to a resident. In order to provide home health  
 112 services directly, a provider of continuing care at home shall obtain a certificate of need for  
 113 a home health agency, as such term is defined in paragraph (20) of Code Section 31-6-2,  
 114 pursuant to the same criteria and rules as are applicable to freestanding home health  
 115 agencies that are not components of continuing care retirement communities."

116 **SECTION 3.**

117 Said chapter is further amended by revising Code Section 33-45-7.1, relating to provider  
 118 authorized to offer continuing care when resident purchases resident owned living unit, as  
 119 follows:

120 "33-45-7.1.

121 A provider which has obtained a certificate of authority pursuant to Code Section 33-45-5  
 122 and the written approval of the commissioner is authorized to offer, as a part of the  
 123 continuing care agreement, continuing care at home or continuing care in which the  
 124 resident purchases a resident owned living unit, subject to the provisions of Chapters 6 and  
 125 7 of Title 31 and rules and regulations promulgated by the Department of Community  
 126 Health pursuant to such chapters relating to certificate of need and licensure requirements."

127 **SECTION 4.**

128 All laws and parts of laws in conflict with this Act are repealed.