*** § 4657. Initial disclosure statement.** Prior to the execution of a contract, or before the transfer of any money, other than a refundable priority reservation fee or non-refundable priority reservation agreement application fee, to an operator by or on behalf of a prospective resident, whichever occurs first, the operator shall deliver to the person with whom the contract is to be entered into, or the person's legal representative, the most recent annual statement as required by section forty-six hundred fifty-eight of this article, and an initial disclosure statement which contains the following:

1. The information contained in the contract, unless a copy of such contract is attached to and made a part of the initial disclosure statement, together with full disclosure of the use of any fees and charges in connection with the contract, including entrance fees;

2. The information required in paragraph h and subparagraphs (ii), (iii) and (iv) of paragraph i of subdivision two of section forty-six hundred fifty-five of this article;

3. The name and business address of the provider and a statement of whether the provider is an individual, partnership, corporation, or other legal entity;

4. The name and address of any person whose name is required to be provided pursuant to subdivisions two and three of this section and any professional service, firm, association, foundation, trust, partnership, corporation, or any other business or legal entity in which such person has, or which has in such person, a ten percent or greater interest and which it is presently intended will or may provide goods, leases, or services to the provider of a value of five hundred dollars or more, within any year, including a description of the goods, leases or services and the probable or anticipated cost thereof to the provider;

5. If the facility is to be operated by a manager:

a. the identities of any other facilities managed by said individual or entity and a copy of the agreement currently in effect or to be

entered into between the provider and the manager for the operation of the facility;

b. if the manager is incorporated or established and operated on a for-profit basis, the identity of all individuals or entities holding any ownership or beneficial interest in the manager, and fees or any other compensation anticipated to be paid by the provider to the manager for the operation of the facility; and

c. the method by which the manager was chosen to manage the facility and, if the manager was chosen because of a condition in a mortgage commitment to the provider, the identity of the mortgagee requiring the condition in the commitment;

6. A description of the proposed or existing facility, including the location, size and anticipated completion date, if not completed;

7. A statement as to whether the applicant was or is affiliated, or has a contractual relationship, with a religious, charitable, or other nonprofit organization, the extent of any such affiliation or contractual relationship, and the extent to which the nonprofit organization will be responsible for the financial and contractual obligations of the applicant;

8. If the facility is already in operation or if the applicant operates one or more similar facilities within or outside of this state, a statement of the changes in the scope of or the rates for care or services provided, including tables showing the frequency and average dollar amount of each increase in periodic rates at each such facility for the previous five years or such shorter period as the facility may have been operated by the provider;

9. If the applicant is the subsidiary corporation or the affiliate of another corporation, a statement identifying the parent corporation or the other affiliate corporation, the primary activities of such parent, or other affiliate corporation, the interest in the applicant held by such parent or other affiliate corporation, and the extent to which the

parent corporation will be responsible for the financial and contractual obligations of the subsidiary;

10. The most recent financial statement of the provider prepared in accordance with generally accepted accounting principles applied on a consistent basis and certified by an independent certified or public accountant, including a balance sheet as of the end of the provider's last fiscal year and income statements for the last two fiscal years, or such shorter period of time as the provider has been in operation;

11. If construction, lease, rental, or purchase of the facility has not yet been completed, a statement of the anticipated source and application of the funds to be used in such purchase, lease, rental, or construction, including but not limited to:

a. an estimate of the cost of purchasing, leasing, renting, constructing and equipping the facility, including, but not limited to, such related costs as financing expenses, legal expenses, land costs, occupancy development costs, and all other similar costs that the provider expects to incur or become obligated for prior to the commencement of occupancy;

b. an estimate of the total entrance fees to be received from residents upon completion of occupancy;

c. a description of any mortgage loan or the other long-term financing intended to be used for the financing of the facility, including the anticipated terms and costs of such financing;

d. an estimate of any funds which are anticipated to be necessary to fund start-up losses and to assure full performance of the obligations of the operator pursuant to fee-for-service continuing care contracts including, but not limited to, any reserves required pursuant to section forty-six hundred sixty-four of this article;

e. a projection of estimated income from fees and charges other than entrance fees, a description of individual rates anticipated to be

charged, and the assumptions used for calculating the estimated occupancy rate of the facility;

f. a projection of estimated operating expenses of the facility, including a description of the assumptions used in calculating the expenses and separate allowances, if any, the replacement of equipment and furnishings and any anticipated major structural repairs or additions;

g. identification of assets pledged as collateral for any purpose; and

h. an estimate of assets pledged as collateral for any purpose;

12. A statement indicating community residents who are enrolled in a health maintenance organization may have nursing facility benefits under both the health maintenance organization subscriber contract and the fee-for-service continuing care contract. Such statement shall also indicate that if the health maintenance organization and the community cannot reach an agreement on appropriate financial arrangements, then the resident may have to be admitted to a facility approved by the health maintenance organization in order to receive their Medicare benefit for nursing facility services under the health maintenance organization subscriber contract;

13. The initial disclosure statement and marketing materials of a community must clearly include a description of the services offered as part of its contract, and must clearly differentiate among the various types of contracts which it offers;

14. In accordance with regulations promulgated by the commissioner, the operator shall prepare a standard information sheet for each approved fee-for-service continuing care retirement community, which must be approved by the department, distributed with the community's marketing materials and attached to the initial disclosure statement prepared in accordance with this section. The standard information sheet shall be prepared in plain language and in twelve point type and shall include, but shall not be limited to the following information:

a. a brief description of the community, including its name and location and amenities and services available;

b. the name, address, and telephone number of the operator and a contact person employed by the operator;

c. the number and types of independent living units, adult care facility units and nursing home beds and whether such beds are on-site or off-site;

d. the types of contracts available;

e. a listing of all fees, charges, and refund options and the services covered by such fees and charges;

f. any insurance coverage required of residents; and

g. any other information which the council determines will assist a consumer in comparing the benefits and costs of different continuing care retirement communities and fee-for-service continuing care retirement communities; and

15. Any other information as may be required by regulations promulgated by the commissioner.

* NB There are 2 § 4657's