



Designated Resident Representative

Florida Statutes 651.085

On July 1, 2023, Florida law incorporated several changes to the role of the designated resident representative.

The designated resident representative means a resident who has been elected by the residents' council to represent residents on matters related to changes in fees or services as specified in s. 651.085 (2) and (3).

The provisions of the law encompass the following:

651.085(2) - A residents' council formed pursuant to s. 651.081, members of which are elected by the residents; shall nominate and elect a designated resident representative to represent them before the governing body of the provider on matters specified in subsection (3). The initial designated resident representative elected under this section shall be elected to serve at least 12 months. The designated resident representative does not have to be a current member of the residents' council; however, such an individual must be a resident (contract holder) as defined in 651.011(26).

651.085(3) – The designated resident representative shall be notified by a representative of the provider at least 14 days in advance of any meeting of the full governing body at which the annual budget and proposed changes or increases in resident fees or services are on the agenda or will be discussed. The designed resident representative shall be invited to attend and participate in that portion of the meeting designated for the discussion of such changes. Designated resident representatives shall perform their duties in good faith. For providers that own or operate more

than one facility in the state, each facility must have its own designated resident representative.

Frequently Asked Questions:

- **QUESTION:** Who is the Provider?
- **ANSWER:** Under Florida law, one entity/organization holds the Certificate of Authority to operate a continuing care retirement community in this state. The COA entity is generally listed on the public Annual Report filed with the Office of Insurance Regulation. Additionally, in the majority of resident (life care/continuing care agreements), the owner of the community is listed at the beginning of the resident agreement by name.

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- **QUESTION:** If our CCRC has residents as voting members on the provider board, is our Resident Council required to nominate and elect a designated resident representative?

ANSWER: Yes. Under the law, all Resident Councils are to nominate and elect a Designated Resident Representative.

A resident(s) who serves on a provider board, is a fiduciary of the provider organization. They just happen to be a resident. As a board member on the provider board, they are to act in the best interests of the provider organization.

A Designated Resident Representative has one role and that is to represent the interests of the residents before the governing board of the provider at meetings where the annual budget and proposed changes or increases in resident fees are on the agenda.

QUESTION: Is a renter in our CCRC eligible to serve as a designated resident representative?

ANSWER: No. Under Florida law, only residents that have signed a life care or continuing care agreement/contract can participate in Resident Council elections, and thus the designated resident representative needs to be a contract holder.

Best Practices for Consideration:

- 1) Review your current Resident Council/Association bylaws to determine if it provides a clear process for nomination and election of the designated resident representative.
 - a. Whether it's part of the bylaws or part of Council policy, it's recommended to outline the criteria (skill sets/experience) of a candidate for consideration to serve in the designated resident representative role.
 - b. It's recommended that bylaws include language whereby the Council has the ability to appoint an alternate designated resident representative, should the elected individual not be able to fulfill their duties for the remainder of their elected term.
 - c. There should be clear language on the term of office and/or term limits for an individual serving in that role. It may be prudent to have the term coincide with the fiscal year of the community/facility. Further, the process may want to address that a designated resident representative shall serve until a successor is nominated and elected.
 - d. There should be a process by which the Resident Council formally informs a representative of the provider when a new designated resident representative takes office, and that adequate information be provided on how to contact the designated resident representative (name, address, phone, email)

For more information on this topic please contact FLICRA at 850/906-9314 or on the web at www.flicra.com