

(4) If construction financing is required, verification that application for construction financing has taken place. When requested by a construction lender, the Department may issue a letter stating that all requirements of paragraphs (1) and (3) of this subsection have been met and on closing of the construction loan the INITIAL certificate of registration shall be issued.

(b) (1) [A] AN INITIAL certificate of registration shall be issued by the Department when it determines that:

(i) The provider has been issued a preliminary certificate of registration;

(ii) The documents required have been filed;

(iii) The form and substance of all advertising and other promotional materials filed are not deceptive, misleading, or likely to mislead;

(iv) For a project other than a conversion, at least 65 percent of the independent living units have been contracted for with a minimum 10 percent of the entrance fee paid as a deposit for each contracted unit;

(v) For a conversion project, that at least 80% of the accommodations in the project that are not licensed as assisted living or comprehensive care beds are occupied or reserved in accordance with:

1. Leases;

2. Continuing care agreements executed with subscribers who have provided a deposit that:

A. Is equal to at least 10% of the total entrance fee; and

B. Has been deposited by the provider pursuant to a proper escrow agreement; or

3. Other appropriate contractual arrangements.

(vi) If construction financing is required, that closing on the construction financing has taken place; and

(vii) There is a commitment for permanent long-term financing.

(2) The initial certificate of registration may be issued for a period of up to 18 months at the discretion of the Department.

(c) A deposit held in escrow may not be used until [a] AN INITIAL certificate of registration has been issued, construction is completed, the provider has been issued a certificate of occupancy, or the equivalent, by the appropriate local jurisdiction, and the provider has been issued appropriate licenses or certificates by the Department of Health and Mental Hygiene or by the Department.

(d) If [a] AN INITIAL certificate of registration is not issued within 24 months of the issuance of a preliminary certificate of registration or longer time as is allowed