(2) THE PROVIDER IS UNWILLING OR UNABLE TO PREPARE A FINANCIAL PLAN;

(3) THE FINANCIAL PLAN IS INADEQUATE TO CORRECT THE CURRENT OR IMPENDING FINANCIAL CONDITION THAT NECESSITATED THE FINANCIAL PLAN; OR

(4) THE PROVIDER FAILS TO IMPLEMENT THE FINANCIAL PLAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 70B, § 17A(e), (f), and (g).

In subsection (a)(2) of this section, the reference to "receipt" of notification is added for clarity.

In subsection (a)(4) of this section, the reference to "deny[ing]" an extension is added as implicit in the authority to grant an extension and for consistency with § 10–466(c)(2) of this subtitle.

In subsections (b)(1) and (2)(ii), (c)(1), and (e)(4) of this section, the references to the "financial" plan are added for consistency and clarity. Similarly, in subsection (c)(2) of this section, the reference to the "financial plan" is substituted for the former reference to the "5–year plan".

Defined terms: "Committee" § 10–463
"Department" § 10–101
"Financial difficulty" § 10–401
"Provider" § 10–401
"Secretary" § 10–101
"Subscriber" § 10–401

10–469. DETERMINATION OF RISK OF FINANCIAL FAILURE.

THE DEPARTMENT MAY DETERMINE THAT THERE EXISTS A SIGNIFICANT RISK OF THE FINANCIAL FAILURE OF A PROVIDER BASED ON ONE OR MORE OF THE FOLLOWING FINDINGS OR CIRCUMSTANCES:

(1) THE PROVIDER HAS FAILED TO MEET LOAN COVENANTS THAT GIVE A LENDER OR A BOND TRUSTEE THE OPTION TO EXERCISE REMEDIES ON ITS COLLATERAL;

(2) AN ACTUARIAL REPORT HAS BEEN PROVIDED TO THE DEPARTMENT REFLECTING SIGNIFICANT UNDERFUNDING OF FUTURE LIABILITIES THAT ARE UNLIKELY TO BE READILY ADDRESSED;

(3) THERE IS A SIGNIFICANT SHORTFALL BY THE PROVIDER IN MAINTAINING REQUIRED RESERVES FOR A SIGNIFICANT PERIOD OF TIME;

(4) A SIGNIFICANT BALLOON PAYMENT OR FUTURE LOAN PAYMENT WILL BECOME DUE WITHIN THE NEXT 12 MONTHS AND THE PROVIDER IS UNABLE TO DEMONSTRATE THAT IT WILL OBTAIN A MODIFICATION FROM ITS LENDER, HAVE THE RESOURCES TO MAKE THE PAYMENT, OR HAVE THE ABILITY TO REFINANCE;