



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

ACTS RETIREMENT-LIFE COMMUNITIES, INC.

D/B/A

INDIAN RIVER ESTATES

AS OF

December 31, 2013

FLORIDA COMPANY CODE 88126

**Report Issued:
December 1, 2014**

TABLE OF CONTENTS

Purpose and Scope	1
Company Operations.....	1
Amended By-Laws	1
Required Escrow Deposits or Waivers	1
Required Disclosures	2
Cancellations and Refunds.....	3
Examination Final Report Submission	3

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations unit, conducted a periodic market conduct examination of ACTS Retirement – Life Communities, Inc. d/b/a Indian River Estates (hereinafter “Indian River Estates”) pursuant to Section 651.105, Florida Statutes. The scope period of this examination was from January 1, 2009 through December 31, 2013. The on-site and desk examination procedures were completed on September 15, 2014.

The objective of the examination was to determine the extent of compliance with the provisions of Chapter 651, Florida Statutes and Chapter 690-193, Florida Administrative Code Rules. This market conduct examination did not encompass a financial compliance examination.

This Final Report is based upon information from the examiner’s draft report, additional research conducted by the Office, and additional information provided by Indian River Estates. This report is a report by exception, and the information within has been limited to identification of exceptions, errors or unusual problems noted during the examination.

COMPANY OPERATIONS

Indian River Estates is a Pennsylvania not-for-profit corporation. Indian River Estates is located in Vero Beach Florida and was granted a Certificate of Authority by the Office to offer continuing care contracts in this state on August 9, 1985. As of December 31, 2013, Indian River Estates reported: 637 Continuing Care Units that consisted of 567 Independent Living Units and 70 Assisted Living Units; 120 Skilled Nursing Units, that consisted of 100 Sheltered Beds and 20 Community Beds; and 35 Rental Units. As of the same date, Indian River Estates reported 682 individuals residing at the community.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Indian River Estates provided a list containing the 187 continuing care contracts executed during the scope period of the examination. A sample of 64 contract files was selected and tested for compliance with Sections 651.055(2) and 651.033(3)(c), Florida Statutes.

Finding:

Section 651.055(2), Florida Statutes, provides that during the seven-day rescission period of the contract, the resident’s funds must be held in escrow unless otherwise requested by the resident, pursuant to Section 651.033(3)(c), Florida Statutes. Section 651.033(3)(c), Florida Statutes, further provides that, at the request of an individual resident of a facility, the provider may hold the check for the seven-day period and shall not deposit it during this time period.

REQUIRED ESCROW DEPOSITS OR WAIVERS (Continued)

In two instances, Indian River Estates received resident's funds during the seven day rescission period of the continuing care contract and failed to deposit the funds in the escrow account or obtain authorization from the resident to hold and not deposit the check for the contract's rescission period, as required by Section 651.055(2), Florida Statutes.

Recommendation: The Office recommends Indian River Estates establish adequate procedures and controls to ensure that resident funds are managed in accordance with Section 651.055(2), Florida Statutes.

REQUIRED DISCLOSURES

Indian River Estates provided a list containing the 187 continuing care contracts executed during the scope period of the examination. A sample consisting of 64 contract files was selected and tested for compliance with Section 651.091(3), Florida Statutes.

Finding:

Section 651.091(3), Florida Statutes, provides in pertinent part, that before entering into a contract to furnish continuing care, the provider undertaking to furnish the care, or the agent of the provider, shall make full disclosure, and provide copies of the disclosure documents to the prospective resident or to his or her legal representative.

Effective July 1, 2010, Section 651.091(3)(h), Florida Statutes, requires the provider to include, as a required disclosure document, a copy of Section 651.071, Florida Statutes. Of the 64 contracts in the sample, 48 contracts were executed on or after July 1, 2010. All 48 transactions were reviewed to determine compliance with disclosure requirements of Section 651.091(3)(h), Florida Statutes.

In 13 instances, Indian River Estates failed to provide as a required disclosure to the prospective resident or their legal representative, a copy of Section 651.071, Florida Statutes, entitled "Contracts as preferred claims on liquidation or receivership" as required by Section 651.091(3)(h), Florida Statutes.

Recommendation: The Office recommends Indian River Estates establish adequate procedures and controls to ensure all required disclosures are timely provided to prospective residents or their legal representatives.

CANCELLATIONS AND REFUNDS

Indian River Estates provided a list containing the 354 continuing care contracts canceled during the scope period. A sample consisting of 70 contract files was examined to verify the amount of the refund due, if any, and whether refunds were properly issued in accordance with Section 651.055(1)(g)(2), Florida Statutes.

Findings:

In two instances, Indian River Estates failed to timely issue a refund within 120 days after receipt of a resident's notice of cancellation, in violation of Section 651.055(1)(g)(2), Florida Statutes. Specifically, refunds were issued 137 and 150 days after the delivery of the notice of cancellation to Indian River Estates.

Recommendation: The Office recommends Indian River Estates establish adequate procedure and controls to ensure applicable refunds are issued in accordance to Section 651.055(1)(g)(2), Florida Statutes.

EXAMINATION FINAL REPORT SUBMISSION

The Office hereby issues this Final Report based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by Indian River Estates.