

ASSEMBLY, No. 2747

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

SYNOPSIS

Limits time continuing care retirement communities may retain refundable entrance fee after resident vacates facility; provides for disposition of certain personal property.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT concerning the return of continuing care retirement
2 community refundable entrance fees and amending P.L.2013,
3 c.167.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. Section 7 of P.L.2013, c.167 (C.52:27D-360.7) is amended
9 to read as follows:

10 7. a. (1) A resident may, upon 60-days' written notice of the
11 intent to vacate, cancel the continuing care agreement for any
12 reason.

13 (2) Upon vacating the unit, a resident or resident's estate
14 cancelling a continuing care agreement also shall provide written
15 notice to the owner or manage of that facility that the unit is
16 vacated. The notice shall declare that all personal property of the
17 resident or estate thereof has been removed.

18 (3) After a unit is vacated, the facility may restore the unit to its
19 original condition. If any personal property of the prior resident
20 remains in the unit, the facility may continue to impose monthly
21 fees until the property is removed, and the facility may remove any
22 such property beginning on the twenty-first day following the date
23 upon which notice of vacancy was received.

24 (4) In the case of a continuing care agreement that provides for a
25 refundable entrance fee, the facility shall assign the vacated unit a
26 sequential number among all the available units with refundable
27 entrance fees once the unit is restored pursuant to paragraph (3) of
28 this subsection, but not later than 60 days following receipt of the
29 notice that the unit is vacated.

30 b. Upon cancellation of the continuing care agreement by either
31 the resident or the facility, the resident shall have the right to
32 receive a refund of the amount of any entrance fee as provided in
33 the continuing care agreement. The amount of the entrance fee
34 shall be set forth in a clear and conspicuous manner in the
35 continuing care agreement.

36 c. A resident shall be provided at least 60-days' written notice
37 from the facility if the resident's continuing care agreement is being
38 cancelled due to a violation of the facility's rules or regulations.
39 Notification may be waived if the facility can demonstrate just
40 cause for terminating the continuing care agreement in accordance
41 with N.J.A.C.5:19-6.5(c). The resident may challenge the facility's
42 notice of continuing care agreement cancellation by requesting a
43 hearing in the same manner as for a hearing in a contested case
44 pursuant to section 9 of P.L.1968, c.410 (C.52:14B-9).

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 d. In a continuing care agreement that provides for a refundable
2 entrance fee, when a resident permanently vacates the facility, or, in
3 the case of two residents occupying the same residence, when both
4 vacate at the same time, the facility shall provide to the resident or
5 residents or the legal representative of the resident's estate,
6 whichever is applicable, a refund of the refundable entrance fee
7 amount without interest, as set forth in the agreement. Any unpaid
8 fees or charges incurred by the resident including unpaid monthly
9 service fees, as well as the amount of any charitable assistance that
10 the facility has provided to the resident, may also be deducted from
11 the remaining balance of the refund of the entrance fee. Any
12 balance to the resident shall be payable **【within 60 days from the**
13 **date the residence is resold and the entrance fee from the new**
14 **resident has been received】** based upon the order of the sequential
15 number assigned to a unit pursuant to paragraph (4) of subsection a.
16 of this section and the availability of funds from the proceeds of the
17 resale of all vacated units with refundable entrance fees.

18 e. When an entrance fee deposit is refundable, it shall be paid
19 to either the resident, the resident's named beneficiary, or the legal
20 representative of the resident's estate, whichever is applicable. A
21 resident shall have the right to change, in writing, the named
22 beneficiary for the entrance fee refund at any time.

23 (cf: P.L.2013, c.167, s.7)

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25 2. This act shall take effect immediately.

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STATEMENT

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30 This bill limits the time that a continuing care retirement
31 community may retain a refundable entrance fee after a resident
32 vacates the facility and provides for disposition of personal property
33 left by a resident who has vacated the facility.

34 Under current law, a continuing care retirement community may
35 retain an entrance fee for as long as it takes for the unit to be
36 reoccupied by another resident. Absent a maximum refunding
37 period, there is little incentive for the facility managers to
38 aggressively market any particular vacant unit. In some instances, a
39 facility has retained the fee for several years after the unit has been
40 vacated, unreasonably delaying the return of the fee. Further, if the
41 resident has died, an estate may be forced to pay distribution taxes
42 on money representing the fee refund, years before the estate and
43 beneficiaries receive that fee refund.

44 This bill provides that upon a unit being vacated, the resident or
45 resident's estate is required to provide the facility with written
46 notice that: (1) the unit is vacated; and (2) all personal property has
47 been removed. After a unit is vacated, the bill authorizes the
48 facility restore the unit to its original condition.

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1 In the case of a continuing care agreement that provides for a
2 refundable entrance fee, the bill requires the facility to assign the
3 vacated unit a sequential number among all the available units with
4 refundable entrance fees once the unit is restored to original
5 condition, but not later than 60 days following receipt of the notice
6 that the unit is vacated.

7 Under the bill, a refundable fee owed to a resident or resident's
8 estate for a unit that has been so numbered will be payable based
9 upon the order of the sequential number assigned to the unit section
10 and the availability of funds from the proceeds of the resale of all
11 vacated units with refundable entrance fees.

12 Additionally, the bill provides that if any personal property of a
13 prior resident remains in a vacated unit, the facility may continue to
14 impose monthly fees until the property is removed, and the facility
15 may remove any personal property beginning on the twenty-first
16 day following the date upon which notice of vacancy was received.