

SENATE, No. 3225

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED NOVEMBER 5, 2015

Sponsored by:

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Senator DIANE B. ALLEN

District 7 (Burlington)

Co-Sponsored by:

Senator A.R.Bucco

SYNOPSIS

Limits time continuing care retirement communities may retain refundable entrance fee after resident vacates facility to no more than one year.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/8/2015)

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

3

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

6

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

9 7. a. A resident may, upon 60-days' written notice, cancel the
10 continuing care agreement for any reason.

11 b. Upon cancellation of the continuing care agreement by either
12 the resident or the facility, the resident shall have the right to
13 receive a refund of the amount of any entrance fee as provided in
14 the continuing care agreement. The amount of the entrance fee
15 shall be set forth in a clear and conspicuous manner in the
16 continuing care agreement.

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

26 d. In a continuing care agreement that provides for a refundable
27 entrance fee, when a resident permanently vacates the facility, or, in
28 the case of two residents occupying the same residence, when both
29 vacate at the same time, the facility shall provide to the resident or
30 residents or the legal representative of the resident's estate,
31 whichever is applicable, a refund of the refundable entrance fee
32 amount without interest, as set forth in the agreement. Any unpaid
33 fees or charges incurred by the resident including unpaid monthly
34 service fees, as well as the amount of any charitable assistance that
35 the facility has provided to the resident, may also be deducted from
36 the remaining balance of the refund of the entrance fee. Any
37 balance to the resident shall be payable within either 60 days from
38 the date the residence is resold and the entrance fee from the new
39 resident has been received or one year from the date the residence
40 was permanently vacated, whichever date is sooner.

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

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

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 2. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill would limit the time that a continuing care retirement
7 community may retain a refundable entrance fee after a resident
8 vacates the facility to no more than one year later. Under current
9 law, a continuing care retirement community may retain an entrance
10 fee after a resident vacates the facility for as long as it takes for the
11 unit to be reoccupied by another resident. Absent a maximum
12 refunding period, there is little incentive for the facility managers to
13 aggressively market any particular vacant unit. In some instances, a
14 facility has retained the fee for several years after the unit has been
15 vacated, unreasonably delaying the return of the fee. Further, if the
16 resident has died, an estate may be forced to pay distribution taxes
17 on money representing the fee refund, years before the estate and
18 beneficiaries receive that fee refund. This bill would limit the
19 amount of time an entrance fee may be retained to ensure that the
20 money is returned within a reasonable timeframe.