

# SENATE, No. 1411

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

**Sponsored by:**

**Senator CHRISTOPHER "KIP" BATEMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**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: 2/23/2018)**

S1411 BATEMAN, TURNER

2

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

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

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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

**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 beneficiary for the entrance fee refund at any time.  
2 (cf: P.L.2013, c.167, s.7)

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4 2. This act shall take effect immediately.

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STATEMENT

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