

## CHAPTER 98

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

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

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

C.52:27D-360.7 Cancellation of agreement, returning of refundable entrance fee limited, disposition of personal property.

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

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

(3) After a unit is vacated, the facility may restore the unit to its original condition. The facility may remove any personal property of the prior resident that remains in the unit beginning on the twenty-first day following the date upon which notice of vacancy was received.

(4) In the case of a continuing care agreement that provides for a refundable entrance fee, the facility shall assign the vacated unit a sequential refund number among all the available units with refundable entrance fees once the unit is restored pursuant to paragraph (3) of this subsection, but not later than 60 days after the date that all the conditions for issuing a sequential refund number, as provided in the continuing care agreement, are fulfilled.

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

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

d. In a continuing care agreement that provides for a refundable entrance fee, when a resident permanently vacates the facility, or, in the case of two residents occupying the same residence, when both vacate at the same time, the facility shall provide to the resident or residents or the legal representative of the resident's estate, whichever is applicable, a refund of the refundable entrance fee amount without interest, as set forth in the agreement. Any unpaid fees or charges incurred by the resident including unpaid monthly service fees, as well as the amount of any charitable assistance that the facility has provided to the resident, may also be deducted from the remaining balance of the refund of the entrance fee. Any balance to the resident shall be payable based upon the order of the sequential refund number assigned to a unit pursuant to paragraph (4) of subsection a. of this section and the availability of funds from the proceeds of the resale of all vacated units with refundable entrance fees.

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

f. Notwithstanding the provisions of subsection d. of this section to the contrary, a facility may apply to the Commissioner of Community Affairs for approval to implement an alternative methodology for making refund payments of refundable entrance fees, which approval shall not be granted unless the facility can demonstrate that the use of the alternative methodology is resident-focused and provides for a more equitable and timely payment of refundable entrance fees.

2. This act shall take effect 90 days after the date of enactment, and shall apply to continuing care agreements entered into on or after that date.

Approved August 17, 2018.