

HOUSE BILL 344

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8lr1016
CF 8lr2319

By: **Delegates Jones, Barron, Brooks, Fennell, Gaines, Haynes, Healey, Hill, Holmes, C. Howard, Jackson, Jalisi, Kipke, Knotts, Korman, Lierman, A. Miller, Sample–Hughes, Stein, Sydnor, Turner, West, and P. Young**

Introduced and read first time: January 22, 2018

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Continuing Care Agreements – Termination – Notice and Contractual Entrance**
3 **Fee Refunds**

4 FOR the purpose of repealing a requirement that certain continuing care agreements
5 contain a certain statement relating to contractual entrance fee refunds; requiring
6 that a certain notice to terminate a certain continuing care agreement be given to
7 the provider at least a certain number of days before the effective date of termination;
8 altering the period of time within which certain continuing care providers are
9 required to pay certain contractual entrance fee refunds; and generally relating to
10 continuing care retirement community entrance fee refunds.

11 BY repealing and reenacting, without amendments,
12 Article – Human Services
13 Section 10–401(k) and 10–444(b)(7)
14 Annotated Code of Maryland
15 (2007 Volume and 2017 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Human Services
18 Section 10–444(b)(28) and (30) and 10–449
19 Annotated Code of Maryland
20 (2007 Volume and 2017 Supplement)

21 BY repealing
22 Article – Human Services
23 Section 10–444(b)(29)
24 Annotated Code of Maryland
25 (2007 Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Human Services**

4 10–401.

5 (k) (1) “Entrance fee” means a sum of money or other consideration paid
6 initially or in deferred payments, that:

7 (i) assures a subscriber continuing care for the life of the subscriber
8 or for a period exceeding 1 year; and

9 (ii) is at least three times the weighted average of the monthly cost
10 of the periodic fees charged for independent living and assisted living units.

11 (2) “Entrance fee” includes a fee of similar form and application, regardless
12 of title.

13 (3) “Entrance fee” does not include a surcharge.

14 10–444.

15 (b) In a form acceptable to the Department, each continuing care agreement shall:

16 (7) provide in clear and understandable language, in boldface type, and in
17 the largest type used in the body of the agreement:

18 (i) the terms governing the refund of any portion of the entrance fee
19 if the provider discharges the subscriber or the subscriber cancels the agreement; and

20 (ii) whether monthly fees, if charged, will be subject to periodic
21 increases;

22 (28) if the provider offers a continuing care agreement that promises a
23 contractual entrance fee refund after occupancy, state whether the portion of the entrance
24 fee to be refunded is held in trust or escrow for the subscriber after occupancy, and if so
25 held, state where and how the funds are held; **AND**

26 [(29) if the payment of a contractual entrance fee refund after occupancy is
27 conditioned on the reoccupancy or recontracting of the subscriber’s unit, state that the
28 provider agrees to make reasonable efforts to satisfy the condition; and]

29 [(30)] **(29)** contain the following statement in boldface type and in the
30 largest type used in the agreement: “A preliminary certificate of registration or certificate
31 of registration is not an endorsement or guarantee of this facility by the State of Maryland.
32 The Maryland Department of Aging urges you to consult with an attorney and a suitable

1 financial advisor before signing any documents.”.

2 10-449.

3 (a) A continuing care agreement shall allow a subscriber to terminate the
4 agreement by giving a written termination notice to the provider **AT LEAST 30 DAYS**
5 **BEFORE THE EFFECTIVE DATE OF TERMINATION.**

6 (b) If a continuing care agreement is terminated by the subscriber’s election or
7 death [within the first 90 days of occupancy, the provider shall pay any contractual
8 entrance fee refund within 30 days after the earlier to occur of:

9 (1) the recontracting of the subscriber’s unit by:

10 (i) another subscriber for whom an entrance fee has been paid; or

11 (ii) another party who is not a subscriber; or

12 (2) the later to occur of:

13 (i) the 90th day after the date the written termination notice is
14 given or the date of death; or

15 (ii) the day the independent living units at the facility have operated
16 at 95% of capacity for the previous 6 months.

17 (c) If a continuing care agreement is terminated by the subscriber’s election or
18 death after the first 90 days of occupancy], the provider shall pay any contractual entrance
19 fee refund within [60] **30** days after the subscriber’s death or the effective date of
20 termination[, if on the date of death or at any time between the date the written
21 termination notice is given and the effective date of termination:

22 (1) the subscriber resides in a unit at a higher level of care than the level
23 of care in which the subscriber resided on initially entering the facility; and

24 (2) the last unit in which the subscriber resided at the initial level of care
25 on entering the facility has been occupied by or reserved for another subscriber who has
26 paid an entrance fee].

27 [(d)] (C) This section does not prohibit a provider from requiring that a
28 subscriber’s unit be vacated before any contractual entrance fee refund is paid as a result
29 of the subscriber’s election to terminate a continuing care agreement.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2018.