

# SENATE BILL 425

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CF HB 344

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By: **Senators Bates, Eckardt, and Robinson**  
Introduced and read first time: January 25, 2018  
Assigned to: Finance

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## 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)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



**Article – Human Services**

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2 10–401.

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

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

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

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

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

12 10–444.

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

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

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

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

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

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

27 [(30) **(29)** contain the following statement in boldface type and in the  
28 largest type used in the agreement: “A preliminary certificate of registration or certificate  
29 of registration is not an endorsement or guarantee of this facility by the State of Maryland.  
30 The Maryland Department of Aging urges you to consult with an attorney and a suitable  
31 financial advisor before signing any documents.”.

1 10-449.

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

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

8 (1) the recontracting of the subscriber's unit by:

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

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

11 (2) the later to occur of:

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

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

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

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

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

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

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