

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 425
Finance

(Senator Bates, *et al.*)

**Continuing Care Agreements - Termination - Notice and Contractual Entrance
Fee Refunds**

This bill requires a continuing care provider to pay *any* contractual entrance fee refund within 30 days after the subscriber's death or the effective date of termination of a continuing care agreement. The bill also specifies that a continuing care agreement must allow a subscriber to terminate the agreement by giving a written termination notice to the provider *at least 30 days before the effective date of termination.*

Fiscal Summary

State Effect: The bill is not anticipated to materially impact State operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill repeals the requirement that, if the refunding of a contractual entrance fee is conditioned on the reoccupancy or recontracting of the subscriber's unit, each continuing care agreement must state that the provider agrees to make reasonable efforts to satisfy the condition.

Current Law: "Entrance fee" means money or other consideration paid initially or in installments as part of a continuing care agreement that assures a subscriber continuing care for life or for a period longer than one year, and is at least three times the weighted average of the monthly fees charged for independent living and assisted living units.

Generally, a continuing care agreement must allow a subscriber to terminate the agreement by giving a written notice to the provider.

If a continuing care agreement is terminated by the subscriber's election or death *within the first 90 days of occupancy*, the provider must pay any contractual entrance fee refund within 30 days after the earlier of (1) the recontracting of the subscriber's unit or (2) the later of the 90th day after receiving the written termination notice or the date of death *or* the day the independent living units at the facility have operated at 95% of capacity for the previous six months.

If a continuing care agreement is terminated by the subscriber's election or death *after the first 90 days of occupancy*, the provider must pay any contractual entrance fee refund within 60 days after the subscriber's death or the effective date of termination. This provision applies if, on the date of death or at any time between receiving the termination notice and the effective date of termination, (1) the subscriber resides in a unit at a higher level of care than the initial level of care upon entering the facility *and* (2) the last unit in which the subscriber resided at the initial level of care is occupied by or reserved for another subscriber who has paid an entrance fee. Statute is silent as to when a provider must pay any contractual entrance fee refund when a subscriber remains in a unit at the same level of care throughout the contract.

Background: The Maryland Department of Aging advises that there are 38 continuing care retirement communities (CCRCs) in Maryland. CCRCs, both operating and under construction, contain approximately 16,000 continuing care units, including approximately 12,000 independent living units, 2,000 assisted living units, and 2,000 nursing care units.

Additional Information

Prior Introductions: None.

Cross File: HB 344 (Delegate Jones, *et al.*) - Health and Government Operations.

Information Source(s): Maryland Department of Aging; Department of Legislative Services

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md/jc

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