



## State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS

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*Governor*

LT. GOVERNOR SHEILA Y. OLIVER  
*Commissioner*

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### BUREAU OF HOMEOWNER PROTECTION

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#### MEMORANDUM

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**TO:** CCRC Facilities and Providers

**FROM:** Continuing Care Retirement Communities Section

**SUBJECT:** Guidelines on A2747- Legislation concerning the return of continuing care retirement community refundable entrance fees and providing for disposition of certain personal property.

**DATE:** October 1, 2018

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The Bureau of Homeowner Protection has prepared the following guidelines for the implementation of the newly approved Bill A2747 concerning the return of continuing care retirement community refundable entrance fees and the disposition of certain personal property. A copy of the bill is attached.

This legislation goes into effect November 15, 2018. As such, all providers are required to amend all contracts with refundable entrance fees to comply with the new law. Providers are to submit amendments to the disclosure statement in the form of amended contracts.

In an effort to ensure that each contract is reviewed and certified in a timely manner, the Department will require the following:

- Each contract is to be submitted as a separate amendment and accompanied by a separate amendment fee of \$50.00.
- The amendment must contain a color-printed redlined and "clean" copy of the contract. Blacklined copies will not be accepted.



- All amendments should be received by the Department prior to the end of business on **October 22nd, 2018** in order to provide the DCA sufficient time to review and certify the amended contracts prior to November 15<sup>th</sup>, 2018. Amendments will be reviewed in the order in which they are received.

Note that existing contracts with refundable entrance fees cannot be utilized after this date.

**All refundable continuing care agreements must be revised and reconciled with the following:**

**Vacating Unit:**

Upon giving 60-days' written notice of the intent to vacate, a resident may cancel the continuing care agreement for any reason. The resident must also give written notice to the Provider that all personal property has been removed and the unit is vacated.

If the resident has provided notice that the unit is vacated but has not removed all personal property, then following the twenty-first day after the date the provider has received such notice, the provider may restore the unit to its original condition and remove any personal property that may remain in the unit.

**Refund Procedure:**

If the continuing care agreement provides for a refund of the entrance fee, the provider shall assign the vacant unit a sequential refund number. This sequential number is to be issued to all those refunds due only on refundable contracts signed on or after November 15, 2018.

The sequential refund number is to be issued to the unit once the unit has been restored but no later than 60 days from the vacancy date. Residency agreements may provide for an earlier entry onto the sequential refund list. Within 60 days following the issuance of the sequential refund number, the Provider is to send to the resident or to the resident's estate a detailed accounting of any outstanding fees due to the provider and an estimation of the anticipated refund amount due to the resident.

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. These unpaid fees do not effect entry onto the sequential refund list. Any balance to the resident shall be payable based upon the order of the sequential number assigned to the unit and the availability of funds from the proceeds of the reoccupancy of all vacated units with refundable entrance fees and contracts executed on or after November 15, 2018. The resident has the right to receive a refund in the amount as provided in a clear and conspicuous manner in the continuing care agreement.

**Payment of Refunds:**

Refund payments are to be made to vacating residents based on their assigned sequential refund number. This payment is to be made based on the availability of funds from the proceeds of the reoccupancy of all vacated units for which a continuing care contract has been entered into on or after November 15, 2018. The refund payment is due to the resident or resident's estate no later than 14 days following the conclusion of the rescission period of the resold unit.

The balance of the refund is to be paid as funds becomes available which may necessitate installment payments to those persons or estates in the sequential refund list. The provider is not to hold the refund payment until the full refund is available but rather is to make the partial refund payments to the next person or estate on the list.

**Contracts Executed Prior to November 15, 2018:**

Contracts executed prior to the effective date of November 15, 2018 are subject to the refund provisions per the terms found in the respective contracts and are to be considered separate and apart from the pool of refunds to be issued based on a sequential basis.

The provider may choose to offer current residents the ability to amend their existing contract at their discretion.

**Alternate Refund Methods:**

Any petitions or applications for an alternate methodology for issuing refunds will be reviewed on a case-by-case basis and will not be certified or 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 the refundable entrance fees.

If you have any questions, please contact the CCRC Division at (609) 984-7574.

Sincerely,



Keith Jones, Acting Bureau Chief  
Continuing Care Retirement Community Section  
Bureau of Homeowner Protection