

Introduced by Senator MonningFebruary 26, 2015

An act to amend Section 1788.4 of the Health and Safety Code, relating to continuing care contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 475, as introduced, Monning. Continuing care contracts: cancellation: payments.

Existing law requires a continuing care retirement facility, as defined, to possess a certificate of authority issued by the State Department of Social Services before it can enter into a continuing care contract, as defined. Existing law requires that a continuing care contract be in writing and contain specified information. Existing law states a continuing care contract may be canceled without cause by written notice from either party within 90 days of the resident's initial occupancy.

Existing law requires the provider to pay, during the cancellation period, all refunds owed to a resident within 14 days after a resident makes possession of the living unit available to the provider. Existing law requires the provider to pay a lump-sum payment that is conditioned upon resale of a unit to the resident within 14 days after resale of the unit.

This bill would require the continuing care retirement facility to pay the full lump-sum payment that is conditioned upon resale of a unit to the resident within 14 days after resale of the unit, and in any event no later than 90 days after the resident has vacated the unit. The bill would require any payments not paid to the resident within the 90-day period to accrue interest at a specified rate until the full lump-sum payment is

made. The bill would require the facility to make the lump-sum payment to the resident's estate if the resident is deceased.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1788.4 of the Health and Safety Code is
2 amended to read:

3 1788.4. (a) During the cancellation period, the provider shall
4 pay all refunds owed to a resident within 14 calendar days after a
5 resident makes possession of the living unit available to the
6 provider.

7 (b) After the cancellation period, any refunds due to a resident
8 under a continuing care contract shall be paid within 14 calendar
9 days after a resident makes possession of the living unit available
10 to the provider or 90 calendar days after death or receipt of notice
11 of termination, whichever is later.

12 (c) In nonequity projects, if the continuing care contract is
13 canceled by either party during the cancellation period or
14 terminated by the provider after the cancellation period, the resident
15 shall be refunded the difference between the total amount of
16 entrance, monthly, and optional fees paid and the amount used for
17 care of the resident.

18 (d) If a resident has paid additional amounts for upgrades,
19 special features, or modifications to the living unit and the provider
20 terminates the resident's continuing care contract, the provider
21 shall amortize those additional amounts at the same rate as the
22 entrance fee and shall refund the unamortized balance to the
23 resident.

24 (e) (1) A lump-sum payment to a resident after termination of
25 a continuing care contract that is conditioned upon resale of a unit
26 shall not be considered to be a refund and may not be characterized
27 or advertised as a refund. ~~The lump-sum~~ *full lump-sum* payment
28 shall be paid to the resident within 14 calendar days after resale
29 of the unit, *but in no event later than 90 days after the formerly*
30 *occupied unit has been vacated.*

31 (2) *Any payments that are not paid to the resident within the*
32 *90-day period pursuant to paragraph (1) will accrue interest at a*
33 *rate calculated pursuant to paragraph (3). Interest shall continue*

1 *to accrue until the date the full lump-sum payment is paid to the*
2 *resident.*

3 *(3) Interest rates and calculations pursuant to paragraph (2)*
4 *are identical to interest rates and calculations set forth in Section*
5 *685.010 of the Code of Civil Procedure.*

6 *(f) After the death of a resident, a lump-sum payment that is*
7 *conditioned upon resale of a unit shall be subject to subdivision*
8 *(e) and the payment and interest, if any, shall be payable to the*
9 *resident's estate.*

10 *(g) Once the unit has been vacated and made available to the*
11 *provider, the provider shall not make any further charges to the*
12 *resident or his or her estate or charges against the lump-sum*
13 *payment that is due to the resident for purposes of continued*
14 *monthly payments to the provider or for maintenance or*
15 *housekeeping on the vacated unit.*