

**Introduced by Senator Monning**

February 26, 2015

---

---

An act to amend ~~Section~~ *Sections 1788 and 1788.4* of the Health and Safety Code, relating to continuing care contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 475, as amended, 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.~~ *unit. The bill would require the continuing care retirement facility, for contracts*

*signed after January 1, 2016, to pay at least 20% of the full lump-sum payment to the resident within 90 days after a formerly occupied unit has been vacated. The bill would require any ~~payments~~ payment balance not paid to the resident within ~~the 90-day period~~ 90 days to accrue interest at a ~~specified rate~~ rate not lower than 2% plus the United States prime lending rate until the full lump-sum payment is made. The bill would require any payment balance not paid to the resident within 180 days to accrue interest at a rate not lower than 5% plus the United States prime lending 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.*

*The bill would make corresponding changes to require a continuing care contract to contain a statement that a provider is prohibited from charging the resident or his or her descendants a monthly fee once a unit has been permanently vacated by the resident. The bill would also require a continuing care contract that provides for a refund or repayment of a lump sum of all or part of the entrance fee to include a statement that the provider will make a good faith effort to reoccupy or resell a unit for which a lump-sum payment is conditioned upon resale of the unit.*

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 of the Health and Safety Code is  
2     amended to read:  
3     1788. (a) A continuing care contract shall contain all of the  
4     following:  
5     (1) The legal name and address of each provider.  
6     (2) The name and address of the continuing care retirement  
7     community.  
8     (3) The resident's name and the identity of the unit the resident  
9     will occupy.  
10    (4) If there is a transferor other than the resident, the transferor  
11    shall be a party to the contract and the transferor's name and  
12    address shall be specified.  
13    (5) If the provider has used the name of any charitable or  
14    religious or nonprofit organization in its title before January 1,  
15    1979, and continues to use that name, and that organization is not

1 responsible for the financial and contractual obligations of the  
2 provider or the obligations specified in the continuing care contract,  
3 the provider shall include in every continuing care contract a  
4 conspicuous statement that clearly informs the resident that the  
5 organization is not financially responsible.

6 (6) The date the continuing care contract is signed by the  
7 resident and, where applicable, any other transferor.

8 (7) The duration of the continuing care contract.

9 (8) A list of the services that will be made available to the  
10 resident as required to provide the appropriate level of care. The  
11 list of services shall include the services required as a condition  
12 for licensure as a residential care facility for the elderly, including  
13 all of the following:

14 (A) Regular observation of the resident's health status to ensure  
15 that his or her dietary needs, social needs, and needs for special  
16 services are satisfied.

17 (B) Safe and healthful living accommodations, including  
18 housekeeping services and utilities.

19 (C) Maintenance of house rules for the protection of residents.

20 (D) A planned activities program, which includes social and  
21 recreational activities appropriate to the interests and capabilities  
22 of the resident.

23 (E) Three balanced, nutritious meals and snacks made available  
24 daily, including special diets prescribed by a physician as a medical  
25 necessity.

26 (F) Assisted living services.

27 (G) Assistance with taking medications.

28 (H) Central storing and distribution of medications.

29 (I) Arrangements to meet health needs, including arranging  
30 transportation.

31 (9) An itemization of the services that are included in the  
32 monthly fee and the services that are available at an extra charge.  
33 The provider shall attach a current fee schedule to the continuing  
34 care contract. *The schedule shall state that a provider is prohibited*  
35 *from charging the resident or his or her descendants a monthly*  
36 *fee once a unit has been permanently vacated by the resident.*

37 (10) The procedures and conditions under which a resident may  
38 be voluntarily and involuntarily transferred from a designated  
39 living unit. The transfer procedures, at a minimum, shall include

1 provisions addressing all of the following circumstances under  
2 which a transfer may be authorized:

3 (A) A continuing care retirement community may transfer a  
4 resident under the following conditions, taking into account the  
5 appropriateness and necessity of the transfer and the goal of  
6 promoting resident independence:

7 (i) The resident is nonambulatory. The definition of  
8 “nonambulatory,” as provided in Section 13131, shall either be  
9 stated in full in the continuing care contract or be cited. If Section  
10 13131 is cited, a copy of the statute shall be made available to the  
11 resident, either as an attachment to the continuing care contract or  
12 by specifying that it will be provided upon request. If a  
13 nonambulatory resident occupies a room that has a fire clearance  
14 for nonambulatory residents, transfer shall not be necessary.

15 (ii) The resident develops a physical or mental condition that  
16 endangers the health, safety, or well-being of the resident or another  
17 person.

18 (iii) The resident’s condition or needs require the resident’s  
19 transfer to an assisted living care unit or skilled nursing facility,  
20 because the level of care required by the resident exceeds that  
21 which may be lawfully provided in the living unit.

22 (iv) The resident’s condition or needs require the resident’s  
23 transfer to a nursing facility, hospital, or other facility, and the  
24 provider has no facilities available to provide that level of care.

25 (B) Before the continuing care retirement community transfers  
26 a resident under any of the conditions set forth in subparagraph  
27 (A), the community shall satisfy all of the following requirements:

28 (i) Involve the resident and the resident’s responsible person,  
29 as defined in paragraph (6) of subdivision (r) of Section 87101 of  
30 Title 22 of the California Code of Regulations, and upon the  
31 resident’s or responsible person’s request, family members, or the  
32 resident’s physician or other appropriate health professional, in  
33 the assessment process that forms the basis for the level of care  
34 transfer decision by the provider. The provider shall offer an  
35 explanation of the assessment process. If an assessment tool or  
36 tools, including scoring and evaluating criteria, are used in the  
37 determination of the appropriateness of the transfer, the provider  
38 shall make copies of the completed assessment available upon the  
39 request of the resident or the resident’s responsible person.

- 1 (ii) Prior to sending a formal notification of transfer, the provider  
2 shall conduct a care conference with the resident and the resident's  
3 responsible person, and upon the resident's or responsible person's  
4 request, family members, and the resident's health care  
5 professionals, to explain the reasons for transfer.
- 6 (iii) Notify the resident and the resident's responsible person  
7 of the reasons for the transfer in writing.
- 8 (iv) Notwithstanding any other provision of this subparagraph,  
9 if the resident does not have impairment of cognitive abilities, the  
10 resident may request that his or her responsible person not be  
11 involved in the transfer process.
- 12 (v) The notice of transfer shall be made at least 30 days before  
13 the transfer is expected to occur, except when the health or safety  
14 of the resident or other residents is in danger, or the transfer is  
15 required by the resident's urgent medical needs. Under those  
16 circumstances, the written notice shall be made as soon as  
17 practicable before the transfer.
- 18 (vi) The written notice shall contain the reasons for the transfer,  
19 the effective date, the designated level of care or location to which  
20 the resident will be transferred, a statement of the resident's right  
21 to a review of the transfer decision at a care conference, as provided  
22 for in subparagraph (C), and for disputed transfer decisions, the  
23 right to review by the Continuing Care Contracts Branch of the  
24 State Department of Social Services, as provided for in  
25 subparagraph (D). The notice shall also contain the name, address,  
26 and telephone number of the department's Continuing Care  
27 Contracts Branch.
- 28 (vii) The continuing care retirement community shall provide  
29 sufficient preparation and orientation to the resident to ensure a  
30 safe and orderly transfer and to minimize trauma.
- 31 (C) The resident has the right to review the transfer decision at  
32 a subsequent care conference that shall include the resident, the  
33 resident's responsible person, and upon the resident's or  
34 responsible person's request, family members, the resident's  
35 physician or other appropriate health care professional, and  
36 members of the provider's interdisciplinary team. The local  
37 ombudsperson may also be included in the care conference, upon  
38 the request of the resident, the resident's responsible person, or  
39 the provider.

1 (D) For disputed transfer decisions, the resident or the resident's  
2 responsible person has the right to a prompt and timely review of  
3 the transfer process by the Continuing Care Contracts Branch of  
4 the State Department of Social Services.

5 (E) The decision of the department's Continuing Care Contracts  
6 Branch shall be in writing and shall determine whether the provider  
7 failed to comply with the transfer process pursuant to  
8 subparagraphs (A) to (C), inclusive. Pending the decision of the  
9 Continuing Care Contracts Branch, the provider shall specify any  
10 additional care the provider believes is necessary in order for the  
11 resident to remain in his or her unit. The resident may be required  
12 to pay for the extra care, as provided in the contract.

13 (F) Transfer of a second resident when a shared accommodation  
14 arrangement is terminated.

15 (11) Provisions describing any changes in the resident's monthly  
16 fee and any changes in the entrance fee refund payable to the  
17 resident that will occur if the resident transfers from any unit,  
18 including, but not limited to, terminating his or her contract after  
19 18 months of residential temporary relocation, as defined in  
20 paragraph (8) of subdivision (r) of Section 1771, *and that a*  
21 *provider is prohibited from charging the resident or his or her*  
22 *descendants a monthly fee once a unit has been permanently*  
23 *vacated by the resident.*

24 (12) The provider's continuing obligations, if any, in the event  
25 a resident is transferred from the continuing care retirement  
26 community to another facility.

27 (13) The provider's obligations, if any, to resume care upon the  
28 resident's return after a transfer from the continuing care retirement  
29 community.

30 (14) The provider's obligations to provide services to the  
31 resident while the resident is absent from the continuing care  
32 retirement community.

33 (15) The conditions under which the resident must permanently  
34 release his or her living unit.

35 (16) If real or personal properties are transferred in lieu of cash,  
36 a statement specifying each item's value at the time of transfer,  
37 and how the value was ascertained.

38 (A) An itemized receipt that includes the information described  
39 above is acceptable if incorporated as a part of the continuing care  
40 contract.

1 (B) When real property is or will be transferred, the continuing  
2 care contract shall include a statement that the deed or other  
3 instrument of conveyance shall specify that the real property is  
4 conveyed pursuant to a continuing care contract and may be subject  
5 to rescission by the transferor within 90 days from the date that  
6 the resident first occupies the residential unit.

7 (C) The failure to comply with this paragraph shall not affect  
8 the validity of title to real property transferred pursuant to this  
9 chapter.

10 (17) The amount of the entrance fee.

11 (18) In the event two parties have jointly paid the entrance fee  
12 or other payment that allows them to occupy the unit, the  
13 continuing care contract shall describe how any refund of entrance  
14 fees is allocated.

15 (19) The amount of any processing fee.

16 (20) The amount of any monthly care fee.

17 (21) For continuing care contracts that require a monthly care  
18 fee or other periodic payment, the continuing care contract shall  
19 include the following:

20 (A) A statement that the occupancy and use of the  
21 accommodations by the resident is contingent upon the regular  
22 payment of the fee.

23 (B) The regular rate of payment agreed upon (per day, week,  
24 or month).

25 (C) A provision specifying whether payment will be made in  
26 advance or after services have been provided.

27 (D) A provision specifying the provider will adjust monthly  
28 care fees for the resident's support, maintenance, board, or lodging,  
29 when a resident requires medical attention while away from the  
30 continuing care retirement community.

31 (E) A provision specifying whether a credit or allowance will  
32 be given to a resident who is absent from the continuing care  
33 retirement community or from meals. This provision shall also  
34 state, when applicable, that the credit may be permitted at the  
35 discretion or by special permission of the provider.

36 (F) A statement of billing practices, procedures, and timelines.  
37 A provider shall allow a minimum of 14 days between the date a  
38 bill is sent and the date payment is due. A charge for a late payment  
39 may only be assessed if the amount and any condition for the  
40 penalty is stated on the bill.

1 (G) A statement that the provider is prohibited from charging  
2 the resident or his or her descendants a monthly fee once a unit  
3 has been permanently vacated by the resident.

4 (22) All continuing care contracts that include monthly care  
5 fees shall address changes in monthly care fees by including either  
6 of the following provisions:

7 (A) For prepaid continuing care contracts, which include  
8 monthly care fees, one of the following methods:

9 (i) Fees shall not be subject to change during the lifetime of the  
10 agreement.

11 (ii) Fees shall not be increased by more than a specified number  
12 of dollars in any one year and not more than a specified number  
13 of dollars during the lifetime of the agreement.

14 (iii) Fees shall not be increased in excess of a specified  
15 percentage over the preceding year and not more than a specified  
16 percentage during the lifetime of the agreement.

17 (B) For monthly fee continuing care contracts, except prepaid  
18 contracts, changes in monthly care fees shall be based on projected  
19 costs, prior year per capita costs, and economic indicators.

20 (23) A provision requiring that the provider give written notice  
21 to the resident at least 30 days in advance of any change in the  
22 resident's monthly care fees or in the price or scope of any  
23 component of care or other services.

24 (24) A provision indicating whether the resident's rights under  
25 the continuing care contract include any proprietary interests in  
26 the assets of the provider or in the continuing care retirement  
27 community, or both. Any statement in a contract concerning an  
28 ownership interest shall appear in a large-sized font or print.

29 (25) If the continuing care retirement community property is  
30 encumbered by a security interest that is senior to any claims the  
31 residents may have to enforce continuing care contracts, a provision  
32 shall advise the residents that any claims they may have under the  
33 continuing care contract are subordinate to the rights of the secured  
34 lender. For equity projects, the continuing care contract shall  
35 specify the type and extent of the equity interest and whether any  
36 entity holds a security interest.

37 (26) Notice that the living units are part of a continuing care  
38 retirement community that is licensed as a residential care facility  
39 for the elderly and, as a result, any duly authorized agent of the  
40 department may, upon proper identification and upon stating the

1 purpose of his or her visit, enter and inspect the entire premises at  
2 any time, without advance notice.

3 (27) A conspicuous statement, in at least 10-point boldface type  
4 in immediate proximity to the space reserved for the signatures of  
5 the resident and, if applicable, the transferor, that provides as  
6 follows: “You, the resident or transferor, may cancel the transaction  
7 without cause at any time within 90 days from the date you first  
8 occupy your living unit. See the attached notice of cancellation  
9 form for an explanation of this right.”

10 (28) Notice that during the cancellation period, the continuing  
11 care contract may be canceled upon 30 days’ written notice by the  
12 provider without cause, or that the provider waives this right.

13 (29) The terms and conditions under which the continuing care  
14 contract may be terminated after the cancellation period by either  
15 party, including any health or financial conditions.

16 (30) A statement that, after the cancellation period, a provider  
17 may unilaterally terminate the continuing care contract only if the  
18 provider has good and sufficient cause.

19 (A) Any continuing care contract containing a clause that  
20 provides for a continuing care contract to be terminated for “just  
21 cause,” “good cause,” or other similar provision, shall also include  
22 a provision that none of the following activities by the resident,  
23 or on behalf of the resident, constitutes “just cause,” “good cause,”  
24 or otherwise activates the termination provision:

25 (i) Filing or lodging a formal complaint with the department or  
26 other appropriate authority.

27 (ii) Participation in an organization or affiliation of residents,  
28 or other similar lawful activity.

29 (B) The provision required by this paragraph shall also state  
30 that the provider shall not discriminate or retaliate in any manner  
31 against any resident of a continuing care retirement community  
32 for contacting the department, or any other state, county, or city  
33 agency, or any elected or appointed government official to file a  
34 complaint or for any other reason, or for participation in a residents’  
35 organization or association.

36 (C) Nothing in this paragraph diminishes the provider’s ability  
37 to terminate the continuing care contract for good and sufficient  
38 cause.

1 (31) A statement that at least 90 days’ written notice to the  
2 resident is required for a unilateral termination of the continuing  
3 care contract by the provider.

4 (32) A statement concerning the length of notice that a resident  
5 is required to give the provider to voluntarily terminate the  
6 continuing care contract after the cancellation period.

7 (33) The policy or terms for refunding *or repaying a lump sum*  
8 *of any portion of the entrance fee, in the event of cancellation,*  
9 *termination, or death. Every continuing care contract that provides*  
10 *for a refund or repaying a lump sum of all or a part of the entrance*  
11 *fee shall also do all of the following:*

12 (A) Specify the amount, if any, the resident has paid or will pay  
13 for upgrades, special features, or modifications to the resident’s  
14 unit.

15 (B) State that if the continuing care contract is canceled or  
16 terminated by the provider, the provider shall do both of the  
17 following:

18 (i) Amortize the specified amount at the same rate as the  
19 resident’s entrance fee.

20 (ii) Refund the unamortized balance to the resident at the same  
21 time the provider pays the resident’s entrance fee refund.

22 (C) State that the resident has a right to terminate his or her  
23 contract after 18 months of residential temporary relocation, as  
24 defined in paragraph (8) of subdivision (r) of Section 1771.  
25 Provisions for refunds due to cancellation pursuant to this  
26 subparagraph shall be set forth in the contract.

27 (D) *State the provider shall make a good faith effort to reoccupy*  
28 *or resell a unit for which a lump-sum payment is conditioned upon*  
29 *resale of the unit. No later than July 1, 2016, a provider shall*  
30 *provide notice to all current residents with contracts applicable*  
31 *to this subparagraph regarding the statement required by this*  
32 *subparagraph as a clarification of the resident’s existing contract.*

33 (34) The following notice at the bottom of the signatory page:

34  
35 “NOTICE” (date)  
36

37 “This is a continuing care contract as defined by paragraph (8)  
38 of subdivision (c), or subdivision (l) of Section 1771 of the  
39 California Health and Safety Code. This continuing care contract  
40 form has been approved by the State Department of Social Services

1 as required by subdivision (b) of Section 1787 of the California  
2 Health and Safety Code. The basis for this approval was a  
3 determination that (provider name) has submitted a contract that  
4 complies with the minimum statutory requirements applicable to  
5 continuing care contracts. The department does not approve or  
6 disapprove any of the financial or health care coverage provisions  
7 in this contract. Approval by the department is NOT a guaranty  
8 of performance or an endorsement of any continuing care contract  
9 provisions. Prospective transferors and residents are strongly  
10 encouraged to carefully consider the benefits and risks of this  
11 continuing care contract and to seek financial and legal advice  
12 before signing.”

13 (35) The provider may not attempt to absolve itself in the  
14 continuing care contract from liability for its negligence by any  
15 statement to that effect, and shall include the following statement  
16 in the contract: “Nothing in this continuing care contract limits  
17 either the provider’s obligation to provide adequate care and  
18 supervision for the resident or any liability on the part of the  
19 provider which may result from the provider’s failure to provide  
20 this care and supervision.”

21 (36) Provisions describing how the provider will proceed in the  
22 event of a closure, including an explanation of how the provider  
23 will comply with Sections 1793.80, 1793.81, 1793.82, and 1793.83.

24 (b) A life care contract shall also provide that:

25 (1) All levels of care, including acute care and physicians’ and  
26 surgeons’ services, will be provided to a resident.

27 (2) Care will be provided for the duration of the resident’s life  
28 unless the life care contract is canceled or terminated by the  
29 provider during the cancellation period or after the cancellation  
30 period for good cause.

31 (3) A comprehensive continuum of care will be provided to the  
32 resident, including skilled nursing, in a facility under the ownership  
33 and supervision of the provider on, or adjacent to, the continuing  
34 care retirement community premises.

35 (4) Monthly care fees will not be changed based on the resident’s  
36 level of care or service.

37 (5) A resident who becomes financially unable to pay his or her  
38 monthly care fees shall be subsidized provided the resident’s  
39 financial need does not arise from action by the resident to divest  
40 the resident of his or her assets.

- 1 (c) Continuing care contracts may include provisions that do  
2 any of the following:
- 3 (1) Subsidize a resident who becomes financially unable to pay  
4 for his or her monthly care fees at some future date. If a continuing  
5 care contract provides for subsidizing a resident, it may also  
6 provide for any of the following:
- 7 (A) The resident shall apply for any public assistance or other  
8 aid for which he or she is eligible and that the provider may apply  
9 for assistance on behalf of the resident.
- 10 (B) The provider's decision shall be final and conclusive  
11 regarding any adjustments to be made or any action to be taken  
12 regarding any charitable consideration extended to any of its  
13 residents.
- 14 (C) The provider is entitled to payment for the actual costs of  
15 care out of any property acquired by the resident subsequent to  
16 any adjustment extended to the resident under this paragraph, or  
17 from any other property of the resident that the resident failed to  
18 disclose.
- 19 (D) The provider may pay the monthly premium of the resident's  
20 health insurance coverage under Medicare to ensure that those  
21 payments will be made.
- 22 (E) The provider may receive an assignment from the resident  
23 of the right to apply for and to receive the benefits, for and on  
24 behalf of the resident.
- 25 (F) The provider is not responsible for the costs of furnishing  
26 the resident with any services, supplies, and medication, when  
27 reimbursement is reasonably available from any governmental  
28 agency, or any private insurance.
- 29 (G) Any refund due to the resident at the termination of the  
30 continuing care contract may be offset by any prior subsidy to the  
31 resident by the provider.
- 32 (2) Limit responsibility for costs associated with the treatment  
33 or medication of an ailment or illness existing prior to the date of  
34 admission. In these cases, the medical or surgical exceptions, as  
35 disclosed by the medical entrance examination, shall be listed in  
36 the continuing care contract or in a medical report attached to and  
37 made a part of the continuing care contract.
- 38 (3) Identify legal remedies that may be available to the provider  
39 if the resident makes any material misrepresentation or omission  
40 pertaining to the resident's assets or health.

1 (4) Restrict transfer or assignments of the resident's rights and  
2 privileges under a continuing care contract due to the personal  
3 nature of the continuing care contract.

4 (5) Protect the provider's ability to waive a resident's breach  
5 of the terms or provisions of the continuing care contract in specific  
6 instances without relinquishing its right to insist upon full  
7 compliance by the resident with all terms or provisions in the  
8 contract.

9 (6) Provide that the resident shall reimburse the provider for  
10 any uninsured loss or damage to the resident's unit, beyond normal  
11 wear and tear, resulting from the resident's carelessness or  
12 negligence.

13 (7) Provide that the resident agrees to observe the off-limit areas  
14 of the continuing care retirement community designated by the  
15 provider for safety reasons. The provider may not include any  
16 provision in a continuing care contract that absolves the provider  
17 from liability for its negligence.

18 (8) Provide for the subrogation to the provider of the resident's  
19 rights in the case of injury to a resident caused by the acts or  
20 omissions of a third party, or for the assignment of the resident's  
21 recovery or benefits in this case to the provider, to the extent of  
22 the value of the goods and services furnished by the provider to  
23 or on behalf of the resident as a result of the injury.

24 (9) Provide for a lien on any judgment, settlement, or recovery  
25 for any additional expense incurred by the provider in caring for  
26 the resident as a result of injury.

27 (10) Require the resident's cooperation and assistance in the  
28 diligent prosecution of any claim or action against any third party.

29 (11) Provide for the appointment of a conservator or guardian  
30 by a court with jurisdiction in the event a resident becomes unable  
31 to handle his or her personal or financial affairs.

32 (12) Allow a provider, whose property is tax exempt, to charge  
33 the resident, on a pro rata basis, property taxes, or in-lieu taxes,  
34 that the provider is required to pay.

35 (13) Make any other provision approved by the department.

36 (d) A copy of the resident's rights as described in Section 1771.7  
37 shall be attached to every continuing care contract.

38 (e) A copy of the current audited financial statement of the  
39 provider shall be attached to every continuing care contract. For  
40 a provider whose current audited financial statement does not

1 accurately reflect the financial ability of the provider to fulfill the  
2 continuing care contract obligations, the financial statement  
3 attached to the continuing care contract shall include all of the  
4 following:

5 (1) A disclosure that the reserve requirement has not yet been  
6 determined or met, and that entrance fees will not be held in  
7 escrow.

8 (2) A disclosure that the ability to provide the services promised  
9 in the continuing care contract will depend on successful  
10 compliance with the approved financial plan.

11 (3) A copy of the approved financial plan for meeting the reserve  
12 requirements.

13 (4) Any other supplemental statements or attachments necessary  
14 to accurately represent the provider’s financial ability to fulfill its  
15 continuing care contract obligations.

16 (f) A schedule of the average monthly care fees charged to  
17 residents for each type of residential living unit for each of the five  
18 years preceding execution of the continuing care contract shall be  
19 attached to every continuing care contract. The provider shall  
20 update this schedule annually at the end of each fiscal year. If the  
21 continuing care retirement community has not been in existence  
22 for five years, the information shall be provided for each of the  
23 years the continuing care retirement community has been in  
24 existence.

25 (g) If any continuing care contract provides for a health  
26 insurance policy for the benefit of the resident, the provider shall  
27 attach to the continuing care contract a binder complying with  
28 Sections 382 and 382.5 of the Insurance Code.

29 (h) The provider shall attach to every continuing care contract  
30 a completed form in duplicate, captioned “Notice of Cancellation.”  
31 The notice shall be easily detachable, and shall contain, in at least  
32 10-point boldface type, the following statement:

33  
34 “NOTICE OF CANCELLATION” (date)  
35 Your first date of occupancy under this contract  
36 is: \_\_\_\_\_  
37

38 “You may cancel this transaction, without any penalty within  
39 90 calendar days from the above date.

1 If you cancel, any property transferred, any payments made by  
2 you under the contract, and any negotiable instrument executed  
3 by you will be returned within 14 calendar days after making  
4 possession of the living unit available to the provider. Any security  
5 interest arising out of the transaction will be canceled.

6 If you cancel, you are obligated to pay a reasonable processing  
7 fee to cover costs and to pay for the reasonable value of the services  
8 received by you from the provider up to the date you canceled or  
9 made available to the provider the possession of any living unit  
10 delivered to you under this contract, whichever is later.

11 If you cancel, you must return possession of any living unit  
12 delivered to you under this contract to the provider in substantially  
13 the same condition as when you took possession.

14 Possession of the living unit must be made available to the  
15 provider within 20 calendar days of your notice of cancellation.  
16 If you fail to make the possession of any living unit available to  
17 the provider, then you remain liable for performance of all  
18 obligations under the contract.

19 To cancel this transaction, mail or deliver a signed and dated  
20 copy of this cancellation notice, or any other written notice, or  
21 send a telegram

22  
23 to \_\_\_\_\_  
24 (Name of provider)  
25 at \_\_\_\_\_  
26 (Address of provider's place of business)  
27 not later than midnight of \_\_\_\_\_ (date).  
28 I hereby cancel this  
29 transaction \_\_\_\_\_  
30 (Resident's or  
31 Transferor's signature)"  
32

33 **SECTION 1.**

34 *SEC. 2.* Section 1788.4 of the Health and Safety Code is  
35 amended to read:

36 1788.4. (a) During the cancellation period, the provider shall  
37 pay all refunds owed to a resident within 14 calendar days after a  
38 resident makes possession of the living unit available to the  
39 provider.

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

6 (c) In nonequity projects, if the continuing care contract is  
7 canceled by either party during the cancellation period or  
8 terminated by the provider after the cancellation period, the resident  
9 shall be refunded the difference between the total amount of  
10 entrance, monthly, and optional fees paid and the amount used for  
11 care of the resident.

12 (d) If a resident has paid additional amounts for upgrades,  
13 special features, or modifications to the living unit and the provider  
14 terminates the resident's continuing care contract, the provider  
15 shall amortize those additional amounts at the same rate as the  
16 entrance fee and shall refund the unamortized balance to the  
17 resident.

18 (e) (1) A lump-sum payment to a resident after termination of  
19 a continuing care contract that is conditioned upon resale of a unit  
20 shall not be considered to be a refund and may not be characterized  
21 or advertised as a refund. The full lump-sum payment shall be paid  
22 to the resident within 14 calendar days after resale of the unit, but  
23 ~~in no event later than 90 days after the formerly occupied unit has~~  
24 ~~been vacated.~~ *unit. Contracts signed after January 1, 2016, shall*  
25 *require that no later than 90 days after a formerly occupied unit*  
26 *has been vacated, at least 20 percent of the full lump-sum payment*  
27 *be paid to the resident.*

28 (2) ~~Any payments that are not payment balance that has not~~  
29 ~~been paid to the resident within the 90-day period pursuant to~~  
30 ~~paragraph (1) 90 days will accrue interest at a rate calculated~~  
31 ~~pursuant to paragraph (3). Any payment balance that has not been~~  
32 ~~paid to the resident within 180 days will accrue interest at a rate~~  
33 ~~calculated pursuant to paragraph (4).~~ *Interest shall continue to*  
34 *accrue until the date the full lump-sum payment is paid to the*  
35 *resident. This paragraph shall apply to existing and prospective*  
36 *continuing care contracts.*

37 (3) ~~Interest rates and calculations pursuant to paragraph (2) are~~  
38 ~~identical to interest rates and calculations set forth in Section~~  
39 ~~685.010 of the Code of Civil Procedure.~~

1 (3) Any payments that are not paid to the resident within the  
2 90-day period pursuant to paragraph (2) will accrue interest at a  
3 rate no lower than 2 percent plus the United States prime lending  
4 rate.

5 (4) Any payments that are not paid to the resident within the  
6 180-day period pursuant to paragraph (2) will accrue interest at  
7 a rate no lower than 5 percent plus the United States prime lending  
8 rate.

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

13 (g) Once the unit has been vacated and made available to the  
14 provider, the provider shall not make any further charges to the  
15 resident or his or her estate or charges against the lump-sum  
16 payment that is due to the resident for purposes of continued  
17 monthly payments to the provider or for maintenance or  
18 housekeeping on the vacated unit. *This subdivision shall apply to*  
19 *existing and prospective continuing care contracts.*