AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 407

Introduced by Assembly Member Beall
(Coauthors: Assembly Members Portantino, Price, and Torlakson)
(Coauthor: Senator DeSaulnier)

February 23, 2009

An act to amend Sections 1771 and 1788 of, and to add Article 9 (commencing with Section 1793.80) to Chapter 10 of Division 2 of, the Health and Safety Code, relating to continuing care retirement communities.

LEGISLATIVE COUNSEL'S DIGEST

AB 407, as amended, Beall. Continuing care contracts: retirement communities: closure.

Existing law contains provisions relating to supervision of continuing care contracts, including requirements governing continuing care communities and contracts. Existing law requires the State Department of Social Services to regulate activity relating to continuing care contracts, and requires that continuing care retirement communities maintain an environment that enhances residents' independence and self-determination and in that regard imposes various requirements on a care provider. Existing law defines various terms for purposes of those contracts and requirements, and imposes specified civil and criminal penalties for violations of those provisions.

This bill would define the ~~terms "closure" and "temporary closure,"~~ *term "permanent closure"* for purposes of those provisions, to mean prescribed events that will cause the relocation of residents ~~for prescribed periods of time~~.

This bill would impose various requirements on a provider with respect to the *permanent* closure of a continuing care retirement community facility, or a portion thereof, as specified, including providing 120 days' written notice to the department, and affected residents or designated representatives of these residents of the intended date of closure of a facility. The bill would require a provider, no less than 90 days prior to the *permanent* closure of a continuing care retirement community facility, or a portion thereof, to provide the department, *affected residents and their representatives, and the local long-term care ombudsman program,* with a written closure and relocation plan for the facility, containing specified information. ~~The bill would provide that the plan shall be deemed accepted by the department 30 days after the provider submits the plan to department.~~ The bill would require the department to monitor the implementation of the closure and relocation plan, as necessary, to ensure full compliance by the provider, and would prohibit a provider from taking any action to relocate a resident or to close the facility, until the plan has been prepared and submitted to the department by the provider and provided to the affected residents of the facility, the affected residents' designated representatives, and the local long-term care ombudsman program. The bill would also require the provider, in the case of a permanent closure, to offer the resident the choice of replacement housing, monetary compensation equal to the remaining value of the contract, or an alternative arrangement mutually agreed upon by the provider and the resident. Because this bill would change the definition of a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

SECTION 1. Section 1771 of the Health and Safety Code is amended to read:

1771. Unless the context otherwise requires, the definitions in this section govern the interpretation of this chapter.

(a) (1) “Affiliate” means any person, corporation, limited liability company, business trust, trust, partnership, unincorporated association, or other legal entity that directly or indirectly controls, is controlled by, or is under common control with, a provider or applicant.

(2) “Affinity group” means a grouping of entities sharing a common interest, philosophy, or connection (e.g., military officers, religion).

(3) “Annual report” means the report each provider is required to file annually with the department, as described in Section 1790.

(4) “Applicant” means any entity, or combination of entities, that submits and has pending an application to the department for a permit to accept deposits and a certificate of authority.

(5) “Assisted living services” includes, but is not limited to, assistance with personal activities of daily living, including dressing, feeding, toileting, bathing, grooming, mobility, and associated tasks, to help provide for and maintain physical and psychosocial comfort.

(6) “Assisted living unit” means the living area or unit within a continuing care retirement community that is specifically designed to provide ongoing assisted living services.

(7) “Audited financial statement” means financial statements prepared in accordance with generally accepted accounting principles including the opinion of an independent certified public accountant, and notes to the financial statements considered customary or necessary to provide full disclosure and complete information regarding the provider’s financial statements, financial condition, and operation.

(b) (reserved)

(c) (1) “Cancel” means to destroy the force and effect of an agreement or continuing care contract.

(2) “Cancellation period” means the 90-day period, beginning when the resident physically moves into the continuing care retirement community, during which the resident may cancel the continuing care contract, as provided in Section 1788.2.

(3) “Care” means nursing, medical, or other health-related services, protection or supervision, assistance with the personal activities of daily living, or any combination of those services.

(4) “Cash equivalent” means certificates of deposit and United States Treasury securities with a maturity of five years or less.

(5) "Certificate" or "certificate of authority" means the certificate issued by the department, properly executed and bearing the State Seal, authorizing a specified provider to enter into one or more continuing care contracts at a single specified continuing care retirement community.

~~(6) "Closure" means any of the following that will result in the relocation of residents, except in the case of a natural disaster or other act of God that is out of the provider's control:~~

~~(A) The voluntary or involuntary termination, including, but not limited to, forfeiture under Section 1793.7, of a provider's certificate of authority or license.~~

~~(B) Permanent closure of one or more residential living units, assisted living units, skilled nursing units, wings, floors, or buildings due to change of use or major repairs or renovations that result in the relocation of one or more residents without the possibility of return to the same units, wings, floors, or buildings.~~

~~(7)~~

(6) "Condition" means a restriction, specific action, or other requirement imposed by the department for the initial or continuing validity of a permit to accept deposits, a provisional certificate of authority, or a certificate of authority. A condition may limit the circumstances under which the provider may enter into any new deposit agreement or contract, or may be imposed as a condition precedent to the issuance of a permit to accept deposits, a provisional certificate of authority, or a certificate of authority.

~~(8)~~

(7) "Consideration" means some right, interest, profit, or benefit paid, transferred, promised, or provided by one party to another as an inducement to contract. Consideration includes some forbearance, detriment, loss, or responsibility, that is given, suffered, or undertaken by a party as an inducement to another party to contract.

~~(9)~~

(8) "Continuing care contract" means a contract that includes a continuing care promise made, in exchange for an entrance fee, the payment of periodic charges, or both types of payments. A continuing care contract may consist of one agreement or a series of agreements and other writings incorporated by reference.

~~(10)~~

(9) "Continuing care advisory committee" means an advisory panel appointed pursuant to Section 1777.

~~(11)~~

(10) "Continuing care promise" means a promise, expressed or implied, by a provider to provide one or more elements of care to an elderly resident for the duration of his or her life or for a term in excess of one year. Any such promise or representation, whether part of a continuing care contract, other agreement, or series of agreements, or contained in any advertisement, brochure, or other material, either written or oral, is a continuing care promise.

~~(12)~~

(11) "Continuing care retirement community" means a facility located within the State of California where services promised in a continuing care contract are provided. A distinct phase of development approved by the department may be considered to be the continuing care retirement community when a project is being developed in successive distinct phases over a period of time. When the services are provided in residents' own homes, the homes into which the provider takes those services are considered part of the continuing care retirement community.

~~(13)~~

(12) "Control" means directing or causing the direction of the financial management or the policies of another entity, including an operator of a continuing care retirement community, whether by means of the controlling entity's ownership interest, contract, or any other involvement. A parent entity or sole member of an entity controls a subsidiary entity provider for a continuing care retirement community if its officers, directors, or agents directly participate in the management of the subsidiary entity or in the initiation or approval of policies that affect the continuing care retirement community's operations, including, but not limited to, approving budgets or the administrator for a continuing care retirement community.

(d) (1) "Department" means the State Department of Social Services.

(2) "Deposit" means any transfer of consideration, including a promise to transfer money or property, made by a depositor to any entity that promises or proposes to promise to provide continuing care, but is not authorized to enter into a continuing care contract with the potential depositor.

(3) "Deposit agreement" means any agreement made between any entity accepting a deposit and a depositor. Deposit agreements for deposits received by an applicant prior to the department's release of funds from the deposit escrow account shall be subject to the requirements described in Section 1780.4.

(4) "Depository" means a bank or institution that is a member of the Federal Deposit Insurance Corporation or a comparable deposit insurance program.

(5) "Depositor" means any prospective resident who pays a deposit. Where any portion of the consideration transferred to an applicant as a deposit or to a provider as consideration for a continuing care contract is transferred by a person other than the prospective resident or a resident, that third-party transferor shall have the same cancellation or refund rights as the prospective resident or resident for whose benefit the consideration was transferred.

(6) "Director" means the Director of Social Services.

(e) (1) "Elderly" means an individual who is 60 years of age or older.

(2) "Entity" means an individual, partnership, corporation, limited liability company, and any other form for doing business. Entity includes a person, sole proprietorship, estate, trust, association, and joint venture.

(3) "Entrance fee" means the sum of any initial, amortized, or deferred transfer of consideration made or promised to be made by, or on behalf of, a person entering into a continuing care contract for the purpose of ensuring care or related services pursuant to that continuing care contract or as full or partial payment for the promise to provide care for the term of the continuing care contract. Entrance fee includes the purchase price of a condominium, cooperative, or other interest sold in connection with a promise of continuing care. An initial, amortized, or deferred transfer of consideration that is greater in value than 12 times the monthly care fee shall be presumed to be an entrance fee.

(4) "Equity" means the value of real property in excess of the aggregate amount of all liabilities secured by the property.

(5) "Equity interest" means an interest held by a resident in a continuing care retirement community that consists of either an ownership interest in any part of the continuing care retirement

community property or a transferable membership that entitles the holder to reside at the continuing care retirement community.

(6) "Equity project" means a continuing care retirement community where residents receive an equity interest in the continuing care retirement community property.

(7) "Equity securities" shall refer generally to large and midcapitalization corporate stocks that are publicly traded and readily liquidated for cash, and shall include shares in mutual funds that hold portfolios consisting predominantly of these stocks and other qualifying assets, as defined by Section 1792.2. Equity securities shall also include other similar securities that are specifically approved by the department.

(8) "Escrow agent" means a bank or institution, including, but not limited to, a title insurance company, approved by the department to hold and render accountings for deposits of cash or cash equivalents.

(f) "Facility" means any place or accommodation where a provider provides or will provide a resident with care or related services, whether or not the place or accommodation is constructed, owned, leased, rented, or otherwise contracted for by the provider.

(g) (reserved)

(h) (reserved)

(i) (1) "Inactive certificate of authority" means a certificate that has been terminated under Section 1793.8.

(2) "Investment securities" means any of the following:

(A) Direct obligations of the United States, including obligations issued or held in book-entry form on the books of the United States Department of the Treasury or obligations the timely payment of the principal of, and the interest on, which are fully guaranteed by the United States.

(B) Obligations, debentures, notes, or other evidences of indebtedness issued or guaranteed by any of the following:

(i) The Federal Home Loan Bank System.

(ii) The Export-Import Bank of the United States.

(iii) The Federal Financing Bank.

(iv) The Government National Mortgage Association.

(v) The Farmer's Home Administration.

(vi) The Federal Home Loan Mortgage Corporation of the Federal Housing Administration.

(vii) Any agency, department, or other instrumentality of the United States if the obligations are rated in one of the two highest rating categories of each rating agency rating those obligations.

(C) Bonds of the State of California or of any county, city and county, or city in this state, if rated in one of the two highest rating categories of each rating agency rating those bonds.

(D) Commercial paper of finance companies and banking institutions rated in one of the two highest categories of each rating agency rating those instruments.

(E) Repurchase agreements fully secured by collateral security described in subparagraph (A) or (B), as evidenced by an opinion of counsel, if the collateral is held by the provider or a third party during the term of the repurchase agreement, pursuant to the terms of the agreement, subject to liens or claims of third parties, and has a market value, which is determined at least every 14 days, at least equal to the amount so invested.

(F) Long-term investment agreements, which have maturity dates in excess of one year, with financial institutions, including, but not limited to, banks and insurance companies or their affiliates, if the financial institution's paying ability for debt obligations or long-term claims or the paying ability of a related guarantor of the financial institution for these obligations or claims, is rated in one of the two highest rating categories of each rating agency rating those instruments, or if the short-term investment agreements are with the financial institution or the related guarantor of the financial institution, the long-term or short-term debt obligations, whichever is applicable, of which are rated in one of the two highest long-term or short-term rating categories, of each rating agency rating the bonds of the financial institution or the related guarantor, provided that if the rating falls below the two highest rating categories, the investment agreement shall allow the provider the option to replace the financial institution or the related guarantor of the financial institution or shall provide for the investment securities to be fully collateralized by investments described in subparagraph (A), and, provided further, if so collateralized, that the provider has a perfected first security lien on the collateral, as evidenced by an opinion of counsel and the collateral is held by the provider.

(G) Banker's acceptances or certificates of deposit of, or time deposits in, any savings and loan association that meets any of the following criteria:

(i) The debt obligations of the savings and loan association, or in the case of a principal bank, of the bank holding company, are rated in one of the two highest rating categories of each rating agency rating those instruments.

(ii) The certificates of deposit or time deposits are fully insured by the Federal Deposit Insurance Corporation.

(iii) The certificates of deposit or time deposits are secured at all times, in the manner and to the extent provided by law, by collateral security described in subparagraph (A) or (B) with a market value, valued at least quarterly, of no less than the original amount of moneys so invested.

(H) Taxable money market government portfolios restricted to obligations issued or guaranteed as to payment of principal and interest by the full faith and credit of the United States.

(I) Obligations the interest on which is excluded from gross income for federal income tax purposes and money market mutual funds whose portfolios are restricted to these obligations, if the obligations or mutual funds are rated in one of the two highest rating categories by each rating agency rating those obligations.

(J) Bonds that are not issued by the United States or any federal agency, but that are listed on a national exchange and that are rated at least "A" by Moody's Investors Service, or the equivalent rating by Standard and Poor's Corporation or Fitch Investors Service.

(K) Bonds not listed on a national exchange that are traded on an over-the-counter basis, and that are rated at least "Aa" by Moody's Investors Service or "AA" by Standard and Poor's Corporation or Fitch Investors Service.

(j) (reserved)

(k) (reserved)

(*l*) "Life care contract" means a continuing care contract that includes a promise, expressed or implied, by a provider to provide or pay for routine services at all levels of care, including acute care and the services of physicians and surgeons, to the extent not covered by other public or private insurance benefits, to a resident for the duration of his or her life. Care shall be provided under a life care contract in a continuing care retirement community having a comprehensive continuum of care, including a skilled nursing facility, under the ownership and supervision of the provider on or adjacent to the premises. No change may be made in the monthly fee based on level of care. A life care contract shall also include

provisions to subsidize residents who become financially unable to pay their monthly care fees.

(m) (1) "Monthly care fee" means the fee charged to a resident in a continuing care contract on a monthly or other periodic basis for current accommodations and services including care, board, or lodging. Periodic entrance fee payments or other prepayments shall not be monthly care fees.

(2) "Monthly fee contract" means a continuing care contract that requires residents to pay monthly care fees.

(n) "Nonambulatory person" means a person who is unable to leave a building unassisted under emergency conditions in the manner described by Section 13131.

(o) (reserved)

(p) (1) "Per capita cost" means a continuing care retirement community's operating expenses, excluding depreciation, divided by the average number of residents.

(2) "Periodic charges" means fees paid by a resident on a periodic basis.

(3) "Permanent closure" means any of the following that will result in the relocation of residents, except in the case of a natural disaster or other act of God that is out of the provider's control:

(A) The voluntary of involuntary termination, including, but not limited to, forfeiture under Section 1793.7, of a provider's certificate of authority or license.

(B) Permanent closure of one or more residential living units, assisted living units, skilled nursing units, wings, floors, or buildings due to change of use or major repairs or renovations that result in the relocation of one of more residents without the possibility of return to the same units, wings, floors, or buildings.

~~(3)~~

(4) "Permit to accept deposits" means a written authorization by the department permitting an applicant to enter into deposit agreements regarding a single specified continuing care retirement community.

~~(4)~~

(5) "Prepaid contract" means a continuing care contract in which the monthly care fee, if any, may not be adjusted to cover the actual cost of care and services.

~~(5)~~

(6) "Preferred access" means that residents who have previously occupied a residential living unit have a right over other persons to any assisted living or skilled nursing beds that are available at the community.

~~(6)~~

(7) "Processing fee" means a payment to cover administrative costs of processing the application of a depositor or prospective resident.

~~(7)~~

(8) "Promise to provide one or more elements of care" means any expressed or implied representation that one or more elements of care will be provided or will be available, such as by preferred access.

~~(8)~~

(9) "Proposes" means a representation that an applicant or provider will or intends to make a future promise to provide care, including a promise that is subject to a condition, such as the construction of a continuing care retirement community or the acquisition of a certificate of authority.

~~(9)~~

(10) "Provider" means an entity that provides continuing care, makes a continuing care promise, or proposes to promise to provide continuing care. "Provider" also includes any entity that controls an entity that provides continuing care, makes a continuing care promise, or proposes to promise to provide continuing care. The department shall determine whether an entity controls another entity for purposes of this article. No homeowner's association, cooperative, or condominium association may be a provider.

~~(10)~~

(11) "Provisional certificate of authority" means the certificate issued by the department, properly executed and bearing the State Seal, under Section 1786. A provisional certificate of authority shall be limited to the specific continuing care retirement community and number of units identified in the applicant's application.

(q) (reserved)

(r) (1) "Refund reserve" means the reserve a provider is required to maintain, as provided in Section 1792.6.

(2) "Refundable contract" means a continuing care contract that includes a promise, expressed or implied, by the provider to pay

an entrance fee refund or to repurchase the transferor's unit, membership, stock, or other interest in the continuing care retirement community when the promise to refund some or all of the initial entrance fee extends beyond the resident's sixth year of residency. Providers that enter into refundable contracts shall be subject to the refund reserve requirements of Section 1792.6. A continuing care contract that includes a promise to repay all or a portion of an entrance fee that is conditioned upon reoccupancy or resale of the unit previously occupied by the resident shall not be considered a refundable contract for purposes of the refund reserve requirements of Section 1792.6, provided that this conditional promise of repayment is not referred to by the applicant or provider as a "refund."

(3) "Resale fee" means a levy by the provider against the proceeds from the sale of a transferor's equity interest.

(4) "Reservation fee" refers to consideration collected by an entity that has made a continuing care promise or is proposing to make this promise and has complied with Section 1771.4.

(5) "Resident" means a person who enters into a continuing care contract with a provider, or who is designated in a continuing care contract to be a person being provided or to be provided services, including care, board, or lodging.

(6) "Residential care facility for the elderly" means a housing arrangement as defined by Section 1569.2.

(7) "Residential living unit" means a living unit in a continuing care retirement community that is not used exclusively for assisted living services or nursing services.

(s) (reserved)

~~(t) (1) "Temporary Closure" means the relocation of one or more residents, except in the case of a natural disaster or other act of God that is out of the provider's control, from one or more residential living units, assisted living units, skilled nursing units, wings, floors, or buildings due to change of use or major repairs or renovations for a period of at least nine months, but not to exceed 18 months, unless there is written agreement between the affected resident and the provider, as described in subdivision (f) of Section 1793.82, in which case the time period shall not exceed the period provided by the extension in the written agreement.~~

~~(2)~~

(t) (1) "Termination" means the ending of a continuing care contract as provided for in the terms of the continuing care contract.

~~(3)~~

(2) "Transfer trauma" means death, depression, or regressive behavior, that is caused by the abrupt and involuntary transfer of an elderly resident from one home to another and results from a loss of familiar physical environment, loss of well-known neighbors, attendants, nurses and medical personnel, the stress of an abrupt break in the small routines of daily life, or the loss of visits from friends and relatives who may be unable to reach the new facility.

~~(4)~~

(3) "Transferor" means a person who transfers, or promises to transfer, consideration in exchange for care and related services under a continuing care contract or proposed continuing care contract, for the benefit of another. A transferor shall have the same rights to cancel and obtain a refund as the depositor under the deposit agreement or the resident under a continuing care contract.

SEC. 2. Section 1788 of the Health and Safety Code is amended to read:

1788. (a) A continuing care contract shall contain all of the following:

(1) The legal name and address of each provider.

(2) The name and address of the continuing care retirement community.

(3) The resident's name and the identity of the unit the resident will occupy.

(4) If there is a transferor other than the resident, the transferor shall be a party to the contract and the transferor's name and address shall be specified.

(5) If the provider has used the name of any charitable or religious or nonprofit organization in its title before January 1, 1979, and continues to use that name, and that organization is not responsible for the financial and contractual obligations of the provider or the obligations specified in the continuing care contract, the provider shall include in every continuing care contract a conspicuous statement that clearly informs the resident that the organization is not financially responsible.

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

(7) The duration of the continuing care contract.

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

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

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

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

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

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

(F) Assisted living services.

(G) Assistance with taking medications.

(H) Central storing and distribution of medications.

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

(9) An itemization of the services that are included in the monthly fee and the services that are available at an extra charge. The provider shall attach a current fee schedule to the continuing care contract.

(10) The procedures and conditions under which a resident may be voluntarily and involuntarily transferred from a designated living unit. The transfer procedures, at a minimum, shall include provisions addressing all of the following circumstances under which a transfer may be authorized:

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

(i) The resident is nonambulatory. The definition of "nonambulatory," as provided in Section 13131, shall either be

stated in full in the continuing care contract or be cited. If Section 13131 is cited, a copy of the statute shall be made available to the resident, either as an attachment to the continuing care contract or by specifying that it will be provided upon request. If a nonambulatory resident occupies a room that has a fire clearance for nonambulatory residence, transfer shall not be necessary.

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

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

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

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

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

(ii) Prior to sending a formal notification of transfer, the provider shall conduct a care conference with the resident and the resident's responsible person, and upon the resident's or responsible person's request, family members, and the resident's health care professionals, to explain the reasons for transfer.

(iii) Notify the resident and the resident's responsible person the reasons for the transfer in writing.

(iv) Notwithstanding any other provision of this subparagraph, if the resident does not have impairment of cognitive abilities, the

resident may request that his or her responsible person not be involved in the transfer process.

(v) The notice of transfer shall be made at least 30 days before the transfer is expected to occur, except when the health or safety of the resident or other residents is in danger, or the transfer is required by the resident's urgent medical needs. Under those circumstances, the written notice shall be made as soon as practicable before the transfer.

(vi) The written notice shall contain the reasons for the transfer, the effective date, the designated level of care or location to which the resident will be transferred, a statement of the resident's right to a review of the transfer decision at a care conference, as provided for in subparagraph (C), and for disputed transfer decisions, the right to review by the Continuing Care Contracts Branch of the State Department of Social Services, as provided for in subparagraph (D). The notice shall also contain the name, address, and telephone number of the department's Continuing Care Contracts Branch.

(vii) The continuing care retirement community shall provide sufficient preparation and orientation to the resident to ensure a safe and orderly transfer and to minimize trauma.

(C) The resident has the right to review the transfer decision at a subsequent care conference that shall include the resident, the resident's responsible person, and upon the resident's or responsible person's request, family members, the resident's physician or other appropriate health care professional, and members of the provider's interdisciplinary team. The local ombudsperson may also be included in the care conference, upon the request of the resident, the resident's responsible person, or the provider.

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

(E) The decision of the department's Continuing Care Contracts Branch shall be in writing and shall determine whether the provider failed to comply with the transfer process pursuant to subparagraphs (A) to (C), inclusive. Pending the decision of the Continuing Care Contracts Branch, the provider shall specify any additional care the provider believes is necessary in order for the

resident to remain in his or her unit. The resident may be required to pay for the extra care, as provided in the contract.

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

(11) Provisions describing any changes in the resident's monthly fee and any changes in the entrance fee refund payable to the resident that will occur if the resident transfers from any unit.

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

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

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

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

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

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

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

(C) The failure to comply with paragraph (16) shall not affect the validity of title to real property transferred pursuant to this chapter.

(17) The amount of the entrance fee.

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

(19) The amount of any processing fee.

(20) The amount of any monthly care fee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(26) Notice that the living units are part of a continuing care retirement community that is licensed as a residential care facility for the elderly and, as a result, any duly authorized agent of the department may, upon proper identification and upon stating the purpose of his or her visit, enter and inspect the entire premises at any time, without advance notice.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"NOTICE" (date)

This is a continuing care contract as defined by paragraph (8) of subdivision (c), or subdivision (*l*) of Section 1771 of the California Health and Safety Code. This continuing care contract form has been approved by the State Department of Social Services as required by subdivision (b) of Section 1787 of the California Health and Safety Code. The basis for this approval was a determination that (provider name) has submitted a contract that complies with the minimum statutory requirements applicable to continuing care contracts. The department does not approve or disapprove any of the financial or health care coverage provisions in this contract. Approval by the department is NOT a guaranty of performance or an endorsement of any continuing care contract provisions. Prospective transferors and residents are strongly encouraged to carefully consider the benefits and risks of this continuing care contract and to seek financial and legal advice before signing.

(35) The provider may not attempt to absolve itself in the continuing care contract from liability for its negligence by any statement to that effect, and shall include the following statement in the contract: "Nothing in this continuing care contract limits either the provider's obligation to provide adequate care and supervision for the resident or any liability on the part of the provider which may result from the provider's failure to provide this care and supervision."

(36) Provisions describing how the provider will proceed in the event of a closure, including an explanation of how the provider will comply with Sections 1793.80, 1793.81, 1793.82, 1793.83, and 1793.84.

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

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

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

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

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

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

(c) Continuing care contracts may include provisions that do any of the following:

(1) Subsidize a resident who becomes financially unable to pay for his or her monthly care fees at some future date. If a continuing care contract provides for subsidizing a resident, it may also provide for any of the following:

(A) The resident shall apply for any public assistance or other aid for which he or she is eligible and that the provider may apply for assistance on behalf of the resident.

(B) The provider's decision shall be final and conclusive regarding any adjustments to be made or any action to be taken regarding any charitable consideration extended to any of its residents.

(C) The provider is entitled to payment for the actual costs of care out of any property acquired by the resident subsequent to any adjustment extended to the resident under paragraph (1), or from any other property of the resident that the resident failed to disclose.

(D) The provider may pay the monthly premium of the resident's health insurance coverage under Medicare to ensure that those payments will be made.

(E) The provider may receive an assignment from the resident of the right to apply for and to receive the benefits, for and on behalf of the resident.

(F) The provider is not responsible for the costs of furnishing the resident with any services, supplies, and medication, when reimbursement is reasonably available from any governmental agency, or any private insurance.

(G) Any refund due to the resident at the termination of the continuing care contract may be offset by any prior subsidy to the resident by the provider.

(2) Limit responsibility for costs associated with the treatment or medication of an ailment or illness existing prior to the date of admission. In these cases, the medical or surgical exceptions, as disclosed by the medical entrance examination, shall be listed in the continuing care contract or in a medical report attached to and made a part of the continuing care contract.

(3) Identify legal remedies that may be available to the provider if the resident makes any material misrepresentation or omission pertaining to the resident's assets or health.

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

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

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

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

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

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

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

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

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

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

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

(e) A copy of the current audited financial statement of the provider shall be attached to every continuing care contract. For a provider whose current audited financial statement does not accurately reflect the financial ability of the provider to fulfill the continuing care contract obligations, the financial statement attached to the continuing care contract shall include all of the following:

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

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

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

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

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

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

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

"NOTICE OF CANCELLATION" (date)

Your first date of occupancy under this contract is: _____

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

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

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

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

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

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

to _____
(Name of provider)
at _____
(Address of provider's place of business)
not later than midnight of _____ (date).
I hereby cancel this
transaction _____

(Resident or
Transferor's signature)"

SEC. 3. Article 9 (commencing with Section 1793.80) is added to Chapter 10 of Division 2 of the Health and Safety Code, to read:

Article 9. Continuing Care Retirement Community Closures

1793.80. (a) Notwithstanding any other provisions of law, a provider regulated under this chapter shall, no less than 120 days prior to the intended date of *the permanent* closure of a continuing care retirement community facility, as defined in paragraph ~~(6) of subdivision (c)~~ *(3) of subdivision (p)* of Section 1771, ~~or the intended date of temporary closure of a continuing care retirement community facility, as defined in paragraph (1) of subdivision (t) of Section 1771,~~ provide written notice to the department and to the affected residents ~~or~~ *and their* designated representatives ~~of the affected residents~~. The notice shall contain the following statement ~~to the resident of his or her~~ *of residents'* rights under this article, in no less than 12-point type:

"This facility is planned for *permanent* closure on or after [state date of ~~closure~~]. ~~State law governs the process of closure of a Continuing Care Retirement Community (California Health and Safety Code Section 1793.80 et seq.). A resident has certain rights and the provider has certain responsibilities under state law, including, but not limited to, the following:~~ *[closure] that will require you to vacate your living unit. Residents of continuing care retirement communities in California have certain rights and continuing care community providers have certain responsibilities when a continuing care community closes. Those rights include, but are not limited to, the following:*

1. Prior to closing, the provider ~~must submit a closure~~ *shall provide a permanent closure* plan to the Continuing Care Contracts Branch of the State Department of Social Services~~,~~ which describes the options available to residents for relocating to another *part of the facility, or another* facility or the compensation to be provided to residents.

2. No action can be taken to relocate any resident or to close the facility until the *permanent closure and* relocation plan has been prepared and ~~submitted to the department and provided to the affected residents of the facility, the affected residents' designated representatives, and the local long-term care ombudsman program."~~ *provided to the department, the affected residents of the facility and their designated representatives, and to the local long-term care ombudsman program.*"

(b) Upon service of the closure notice when closure is planned for all units in a facility, the provider is prohibited from accepting new residents or entering into new continuing care contracts at the facility being closed.

1793.81. No less than 90 days prior to the *permanent* closure of the continuing care retirement community facility, as defined in paragraph ~~(6)~~ *(3)* of subdivision ~~(c)~~ *(p)* of Section 1771, the provider shall ~~submit~~ *provide* to the ~~department~~ *department, the affected residents of the facility and their designated representatives, and to the local long-term care ombudsman program,* a written closure and relocation plan~~,. and provide copies to the affected residents of the facility, the affected residents' designated representatives, and the local long-term care ombudsman program. The plan shall be deemed accepted by the department 30 days after the provider submits the plan to the department.~~ The plan shall contain all of the following information:

(a) The number of affected residents at each level of care in the continuing care retirement community facility.

(b) Assessment of unique service and care needs, if applicable, for all of the following:

(1) Affected residents in skilled nursing and special care.

(2) Affected residents in assisted living units.

(3) Affected residents in the residential living units who require assistance with three or more activities of daily living, and other residents upon request.

(c) An explanation on how comparable care, if applicable, and comparable replacement housing will be provided.

(d) A detailed description of the services the provider will provide to residents to assist them in relocating, including, but not

limited to, reasonable costs of moving, storage, if applicable, and transportation that shall be arranged by the provider in consultation with the resident and his or her designated representative, and paid for directly by the provider.

(e) The names and addresses of other continuing care retirement communities operated by the provider and whether there are openings available to the residents.

(f) The names and addresses of other continuing care retirement communities within 30 miles of the closing continuing care retirement community facility that provide comparable replacement housing and care, if applicable, to those offered at the facility that is scheduled for closure, and whether the facilities have immediate openings available to residents of the closing facility.

(g) A description of how the facility will comply with the requirements of Section ~~1793.83~~ *1793.82*. The plan shall describe or identify the replacement facility or facilities and the procedure by which a resident can select a replacement facility. In no case shall the plan for replacement housing require a resident to pay more than he or she is presently paying for comparable housing and care, other than normal rate increases. Any proposed monetary compensation shall be fair and reasonable and shall represent the estimated cost to the resident of securing comparable replacement housing and care under terms similar to the contract between resident and provider.

(h) A statement regarding the availability of a licensed medical or geriatric professional to advise the resident, the resident's representative, and the provider regarding the transfer of the resident. Upon request by the resident or the resident's representative, the provider shall make available the services of a licensed medical or geriatric professional to advise the resident, the resident's representative, and the provider regarding the transfer of the resident. The provider may place a reasonable limit on the cost of the services of the medical or geriatric professional.

~~1793.82. (a) No less than 90 days prior to the proposed temporary closure of the continuing care retirement community, as defined in paragraph (1) of subdivision (t) of Section 1771, the provider shall submit to the department a written temporary closure and relocation plan and provide copies to the affected residents of the facility, the affected residents' designated representatives, and the local long-term care ombudsman program. The plan shall be~~

~~deemed accepted by the department 30 days after the provider submits the plan to the department.~~

~~The plan shall contain all of the following information:~~

~~(1) The estimated reopening date of the facility or the portion of the facility that will be temporarily closed.~~

~~(2) The number of affected residents at each level of care in the continuing care retirement community facility.~~

~~(3) Assessment of unique service and care needs, if applicable, for all of the following:~~

~~(A) Affected residents in skilled nursing and special care.~~

~~(B) Affected residents in assisted living units.~~

~~(C) Affected residents in the residential living units who require assistance with three or more activities of daily living, and other residents upon request.~~

~~(4) Whether comparable replacement housing and care in the same facility are available.~~

~~(5) The names and addresses of other continuing care retirement communities operated by the provider and whether there are openings available to the residents.~~

~~(6) The names and addresses of other continuing care retirement communities within 30 miles of the closing continuing care retirement community facility that provide comparable replacement housing and care, if applicable, to those offered at the facility that is scheduled for temporary closure, and whether the facilities have immediate openings available to residents of the closing facility.~~

~~(7) Procedures for returning to the facility when it reopens including:~~

~~(A) The provider shall provide at least 60 days notice of the reopening of the facility, and subsequent notices 30 days and 7 days prior to reopening.~~

~~(B) The provider shall set forth specific procedures for the resident to follow regarding selection of a new unit, relocation to the unit, and any timeframes for making choices.~~

~~(C) The resident shall have the right to occupy a unit comparable in services, size, features, and amenities to the unit vacated, without payment of any further entrance or accommodation fee. The provider is not required to guarantee any specific unit. Assignment of units shall be based upon the length of occupancy of returning residents.~~

~~(8) A statement regarding the availability of a licensed medical or geriatric professional to advise the resident, the resident's representative, and the provider regarding the transfer of the resident. Upon request by the resident or the resident's representative, the provider shall make available the services of a licensed medical or geriatric professional to advise the resident, the resident's representative, and the provider regarding the transfer of the resident. The provider may place a reasonable limit on the cost of the services of the medical or geriatric professional.~~

~~(b) If accommodations are not available at a continuing care retirement community operated by the provider or another continuing care retirement community within 30 miles, the licensee shall be required to provide a unit in a facility that most closely approximates the services, size, features, and amenities provided in the unit being vacated.~~

~~(c) The provider shall be required to arrange and pay for all moving costs to the new facility and moving costs to the reconstructed facility, if the resident returns.~~

~~(d) The resident shall only be required to pay to the provider the monthly fee required in the resident's contract, subject to any adjustments set forth in the contract, or the monthly fee in the new facility, whichever is less. The provider shall be required to make payment to the facility at which the resident is relocated.~~

~~(e) If the relocation of a resident of a continuing care retirement community that is temporarily closed exceeds 18 months, the resident will have all options allowed by Section 1793.83, unless there is written agreement between the affected resident and the provider, as described in subdivision (f).~~

~~(f) If a provider determines that the period of temporary closure of a facility, as defined in paragraph (1) of subdivision (t) of Section 1771, will exceed the timeframe provided in the plan, as described in subdivision (a), the provider may extend the period of temporary closure by six months for an affected resident if that resident has agreed to the extension in writing. The written agreement shall state that by signing, the resident waives all rights to relocation options offered in Section 1793.83 for the period of the extension. Nothing in this subdivision shall prohibit a provider from obtaining more than one written agreement from an affected resident for an extension of six months of the previously determined period of temporary closure of the facility.~~

~~1793.83.~~

1793.82. (a) In the case of a permanent closure, the provider shall offer the resident the choice of the following four options, the terms of which shall not be less than the terms of the continuing care contract entered into between the resident and the provider as if that contract had been fully performed:

(1) Relocation to another continuing care facility owned or operated by the provider, if available.

(2) Relocation to a continuing care facility that is not owned by the provider.

(3) Monetary compensation equal to the value of the remainder of the contract as if the contract had been fully performed.

(4) An alternative arrangement that is mutually agreed upon by the provider and the resident or his or her representative.

(b) Replacement housing offered pursuant to paragraph (1) or (2) of subdivision (a) shall be housing that is, overall, comparable in cost, size, services, features, and amenities to the unit being vacated. If the resident chooses either of the replacement housing options in paragraph (1) or (2) of subdivision (a), the provider shall provide the reasonable costs of moving, storage, if applicable, and transportation.

(c) Notwithstanding subdivision (a), for a resident under a life care contract, the provider shall secure replacement housing and care at a comparable facility for the resident at no additional cost to the resident. The replacement housing and care shall comply with subdivision (*l*) of Section 1771 and subdivision (b) of Section 1788.

(d) The provider may provide relocation pursuant to paragraph (2) of subdivision (a) on a month-to-month basis, provided that the terms are otherwise consistent with subdivision (a). After 120 days, a resident selecting a facility not owned by the provider may not seek monetary compensation pursuant to paragraph (3) of subdivision (a).

~~1793.84. (a) Except in cases of temporary facility~~

1793.83. (a) When there is a permanent closure, as defined in paragraph ~~(1) of subdivision (t)~~ *(3) of subdivision (p)* of Section 1771, within 30 days of submitting the relocation plan to the department, the provider shall fund a reserve, set up a trust fund, or secure a performance bond to ensure the fulfillment of ~~obligations for all costs~~ *the obligations and commitments* associated

with the relocation *plan*. The amount of the reserve trust fund or performance bond shall be equal to or greater than the estimated costs of relocating residents and the costs associated with the relocation options pursuant to Section 1793.81 and subdivision (a) of Section 1793.82.

(b) The reserve, trust fund, or performance bond shall be funded with qualifying assets enumerated in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1792.2 and shall not be subject to any liens, judgments, garnishments, or creditor's claims.

~~1793.85.~~

1793.84. (a) The provider shall submit monthly progress reports to the department detailing the progress and problems associated with the *permanent* closure as defined in ~~either paragraph (6) of subdivision (c) or paragraph (1) of subdivision (t) of Section 1771, whichever is applicable~~, *paragraph (3) of subdivision (p)* until all affected residents are relocated and all required payments to, or on behalf of, affected residents are made.

(b) The department shall monitor the implementation of the closure as defined in either paragraph (6) of subdivision (c) or paragraph (1) of subdivision (t), of Section 1771, whichever is applicable, and relocation plan as necessary to ensure full compliance by the provider. If the department determines that a provider is closing a facility in violation of this article or is doing so in a manner that endangers the health or safety of residents, it shall exercise its powers under Article 7 (commencing with Section 1793.5).

(c) No action shall be taken by the provider to relocate any resident or to close the facility until the relocation plan required by Section 1793.81 ~~or Section 1793.82~~ has been prepared and ~~submitted to the department and provided to the affected residents of the facility, the affected residents' designated representatives, and the local long-term care ombudsman program.~~ *provided to the department, the affected residents of the facility and their designated representatives, and to the local long-term ombudsman program.*

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty

for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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