

House Engrossed

assisted living; refunds; escrow accounts

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2505

AN ACT

AMENDING SECTIONS 20-1804 AND 20-1812, ARIZONA REVISED STATUTES; RELATING
TO LIFE CARE CONTRACTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-1804, Arizona Revised Statutes, is amended to
3 read:

4 20-1804. Entrance fee escrow

5 A. As a condition for the issuance of a permit pursuant to section
6 20-1803, the director shall require that the provider establish an escrow
7 account with a licensed agent which provides that all of any entrance fee
8 received by the provider ~~prior to~~ BEFORE the date the resident is
9 ~~permitted~~ ALLOWED to occupy his or her living unit in the facility or the
10 date the contract holder is to begin receiving services in his or her
11 private residence be placed in escrow with a bank, trust company or other
12 escrow agent approved by the director, subject to the condition that such
13 funds may be released only as follows:

14 1. If the entrance fee applies to a contract holder who will be
15 receiving services in his or her private residence, the entrance fee shall
16 be released to the provider at such time as the life care contract
17 commences.

18 2. If the entrance fee applies to a living unit ~~which~~ THAT has been
19 previously occupied in the facility, the entrance fee shall be released to
20 the provider at such time as the living unit becomes available for
21 occupancy by the new resident.

22 3. If the entrance fee applies to a living unit ~~which~~ THAT has not
23 previously been occupied by any resident, the entrance fee, or that
24 portion of the entrance fee not to be held in escrow pursuant to section
25 20-1806, shall be released to the provider at such time as the director is
26 satisfied that all of the following conditions exist:

27 (a) Construction or purchase of the facility has been substantially
28 completed and an occupancy permit covering the living unit has been issued
29 by the local government having authority to issue such permits.

30 (b) A commitment has been received by the provider for any
31 permanent mortgage loan or other long-term financing described in the
32 statement of anticipated source and application of funds submitted by the
33 provider as part of its permit application, and any conditions of the
34 commitment ~~prior to~~ BEFORE disbursement of funds thereunder have been
35 substantially satisfied.

36 (c) Aggregate entrance fees received or receivable by the provider
37 pursuant to binding life care contracts, plus the anticipated proceeds of
38 any first mortgage loan or other long-term financing commitment are equal
39 to not less than ninety ~~per cent~~ PERCENT of the aggregate cost of
40 constructing or purchasing, equipping and furnishing the facility plus not
41 less than ninety ~~per cent~~ PERCENT of the funds estimated in the statement
42 of anticipated source and application of funds submitted by the provider
43 as part of its permit application, to be necessary to fund start-up losses
44 and assure full performance of the obligations of the provider pursuant to
45 life care contracts.

1 B. If the funds in an escrow account required to be established
2 under subsection A OF THIS SECTION are not released within such time as
3 provided by rules and regulations issued by the director, ~~then~~ such funds
4 shall be returned by the escrow agent to the persons who had made payment
5 to the provider.

6 C. An entrance fee held in escrow may be returned by the escrow
7 agent to the person or persons who had made payment to the provider at any
8 time ~~upon~~ ON receipt by the escrow agent of notice from the provider that
9 such person is entitled to a refund of the entrance fee.

10 D. THE ENTRANCE FEE, MINUS DEDUCTIONS FOR EXPENSES OR OTHER FEES
11 PURSUANT TO THE LIFE CARE CONTRACT, SHALL BE RETURNED TO THE CONTRACT
12 HOLDER WHEN THE RESIDENT'S OCCUPANCY TERMINATES WITH THE FACILITY AND THE
13 RESIDENT'S FORMER LIVING UNIT IS INHABITED BY A NEW RESIDENT OR WITHIN ONE
14 YEAR, WHICHEVER IS SHORTER.

15 ~~D. E. Nothing in~~ This section ~~shall be interpreted as requiring~~
16 DOES NOT REQUIRE the escrow of any nonrefundable application fee,
17 designated as such in the permit application required by section 20-1802,
18 received by the provider from a prospective resident or contract holder.

19 Sec. 2. Section 20-1812, Arizona Revised Statutes, is amended to
20 read:

21 20-1812. Disclosure statement; contents; refunds

22 A. At the time of or before the execution of a life care contract
23 and the transfer of any money or other property to a provider pursuant
24 thereto, the provider shall deliver to the person with whom the life care
25 contract is entered into:

26 1. A disclosure statement that contains a copy of the provider's
27 certified financial statements and feasibility study prepared according to
28 section 20-1802 and any other information required by the director. The
29 cover of the disclosure statement shall contain the following statement in
30 bold-faced print: "A permit for this life care facility has been issued
31 by the Arizona department of insurance and financial institutions. This
32 permit does not constitute approval, recommendation or endorsement of the
33 life care facility by the department, nor does it evidence the accuracy or
34 completeness of the information in this statement."

35 2. IF THE LIFE CARE CONTRACT OFFERS A REFUND, A SEPARATE DISCLOSURE
36 DOCUMENT THAT INDICATES:

37 (a) WHETHER AN ENTRANCE FEE WILL BE CHARGED AND WHEN THE PERSON
38 MUST PAY THE ENTRANCE FEE.

39 (b) WHETHER ANY PART OF THE ENTRANCE FEE, OR ANY OTHER AMOUNT, PAID
40 AT ANY TIME BY THE CONTRACT HOLDER OR RESIDENT WILL BE REFUNDED TO THE
41 PERSON OR THE PERSON'S HEIRS.

42 (c) IF A REFUND WILL BE PAID TO THE PERSON OR THE PERSON'S HEIRS,
43 THE AMOUNT OR AMOUNTS TO BE PAID AND THE TIME FOR PAYMENT OF THE AMOUNTS.

1 (d) THE SPECIFIC CONDITIONS OR LIMITS, IF ANY, ON THE PAYMENT OF
2 ANY REFUND, INCLUDING A REQUIREMENT FOR REOCCUPANCY OF A VACATED UNIT, OR
3 ANY OTHER LIMIT OR CONDITION.

4 B. THE DISCLOSURE LANGUAGE PRESCRIBED IN SUBSECTION A, PARAGRAPH 2
5 OF THIS SECTION SHALL BE IN AT LEAST TEN-POINT BOLDFACE TYPE, SHALL BE
6 SIGNED BY THE CONTRACT HOLDER AND THE CONTRACT HOLDER'S PARTNER OR SPOUSE,
7 IF ANY, AND SHALL BE WITNESSED BY AT LEAST TWO INDEPENDENT PERSONS. THE
8 PURCHASER MUST SEPARATELY INITIAL EACH DISCLOSURE PRESCRIBED BY SUBSECTION
9 A, PARAGRAPH 2 OF THIS SECTION AND VERIFY THAT THE PERSON HAS READ AND
10 UNDERSTANDS THE INFORMATION PRESENTED IN EACH DISCLOSURE. THE PROVIDER
11 SHALL GIVE AN INITIALED COPY OF THE SEPARATE DISCLOSURE STATEMENT TO THE
12 CONTRACT HOLDER AT THE TIME OF SIGNING, AND THE PROVIDER SHALL KEEP A
13 SIGNED COPY OF THE INITIALED DISCLOSURE STATEMENT. THE DIRECTOR MAY
14 RECOMMEND OR REQUIRE THAT THE SEPARATE DISCLOSURES BE IN A SPECIFIED FORM.
15 THE FORM MUST CONTAIN THE INFORMATION REQUIRED BY THIS SECTION.

16 Sec. 3. Applicability

17 Section 20-1812, Arizona Revised Statutes, as amended by this act,
18 applies to new and existing life care contracts.