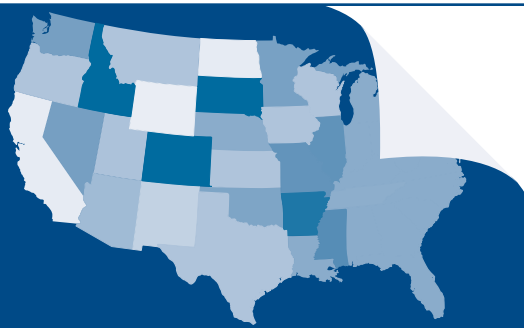


STATE POLICY UPDATE



**AMERICAN
SENIORS
HOUSING
ASSOCIATION**
Living Longer Better

November 15, 2016

CALIFORNIA

SB 939

LPC/CCRC Repayments

Monning

Signed into law 7/25

SB 939 will go into effect January 1, 2017 and affect contracts sign on or after that date. A summary of what is included in the new law is below:

- Defines “repayable contract” as: “a continuing care contract that includes a promise to repay all or a portion of an entrance fee that is conditioned upon re-occupancy or resale of the unit previously occupied by the resident. A repayable contract 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.” A provider may repay all or a portion of an entrance fee that is conditioned upon resale of the unit before the resale of the unit. The repayment of an entrance fee before the resale of the unit shall not cause any other entrance fee to be subject to the refund reserve requirements of Section 1792.6, provided that the provider does not promise, at the time of contracting or thereafter, to make this type of early repayment, represent that the provider intends to make this type of early repayment, or indicate that the provider has a practice of making this type of early repayment.”
- Prohibits monthly fee charges after the unit has been permanently vacated by the resident (unless part of an equity interest contract).
- Contracts shall state that a provider will make a good-faith effort to reoccupy or resale the unit for which there is a lump-sum repayment. Notice is required by 7/1/17 to all current residents with contracts applicable to lump-sum repayments.
- Requires the provider to state the average and longest time it has taken to resell a unit within the last 5 years,
- If a lump-sum repayment is not made within 180 days, 4% interest (compounded annually) shall apply to the balance until paid.
- If a lump-sum repayment is not made within 240 days, 6% interest (compounded annually) shall apply to the balance until paid.
- Projects that are currently “in the pipeline” are exempt until January 1, 2018.

AB 2231

RCFEs/Civil Penalties

Calderon

Signed into law 9/29

This legislation, among other things, increases the amount of civil penalties to be imposed for a licensing violation and would impose civil penalties for repeat violations. The legislation authorizes the State Department of Social Services to reduce the penalty of a cited repeat violation if it determines that it is not substantially similar to the original violation; deletes the provisions that authorize the Department to impose those civil penalties, and instead would require the imposition of civil penalties under those provisions; and requires the Department to make a good faith effort to work with the licensee to determine the cause of the deficiency, ways to prevent any repeat violations, and to adopt regulations setting forth the appeal procedures for deficiencies. *Signed by Governor on September 29; effective July 2017.*

SB 1065

Arbitration

Monning

Signed into law 9/25

This bill establishes an expedited appeal process by which a party, who has filed a claim pursuant to the Elder and Dependent Adult Civil Protection Act and has been granted a preference may challenge an order dismissing or denying a petition to compel arbitration. This bill would shorten the time in which specified actions in the appeal must occur,

but would authorize the parties or the court of appeal to extend or waive these time limitations. *Signed by Governor September 25.*

SB 648

RCFEs

Mendoza

Vetoed by Governor

This bill would have made additional requirements to the existing law, for a referral agency to obtain a license from the Department of Social Services in order to refer a person to a RCFE and would prohibit such facility from paying a commission or fee to a referral agency that is not licensed. Among other things, this bill would also prohibit a referral agency from holding any power of attorney or any other property of a person receiving referral services, or from disclosing any personal information of a person receiving services, unless authorized to do so. *Vetoed by Governor on September 30.*

MASSACHUSETTS

SB 2139

Assisted Living

Jehlen

Legislation Pending

This bill would provide for limited health services for residents of assisted living residences. Massachusetts law significantly restricts the services that assisted living nurses can provide, including injection, wound care, and catheterization. Currently, assisted living residents in need of such services must visit a doctor's office for many non-invasive procedures or utilize the services of a home care agency. This bill is supported by the Massachusetts Assisted Living Facilities Association, but opposed by some assisted living providers who do not believe nurses are equipped to provide non-invasive health services. *In Senate on August 2; Ought not to pass (under Joint Rule 10); Recommitted to the Committee on Elder Affairs. In House on October 2; Accompanied a study order. Legislation not expected to pass in this session.*

MICHIGAN

HB 5616

Assisted Living

Darany

Legislation Pending

This bill would amend the Public health code by creating a licensure category for "assisted living facilities." *Introduced on April 28 and referred to Committee on Regulatory Reform.*

SB 885

LPC/CCRCs

MacGregor

Passed House

This bill pertains to the eligibility and issuance of liquor licenses for life plan/continue care retirement communities. *Introduced on April 14 and referred to Committee on Regulatory Reform. Passed House on November 9 and returned to Senate.*

HR 354

Callton

Legislation Pending

A resolution to encourage the adoption of a frequent, functional, instrumentation-based, report-driven, and objective functional balance assessment program in senior living community risk management and resident safety programs to reduce the risk and episodes of falls in seniors. *Introduced and referred to Committee on Families, Children, and Seniors on November 9.*

NEW JERSEY

AB 1481

Resident Tax

McKeon

Legislation Pending

This bill would extend the property tax exemption now granted to honorably discharged veterans on the homes that they own, to residential units held by honorably discharged veterans in life plan/continuing care retirement communities. *Introduced on January 27 and referred to Assembly Military and Veterans' Affairs Committee.*

AB 1507

Emergency Generators

McKeon

Legislation Pending

This bill would require assisted living communities to be equipped with and employ a standby emergency power generator in the event of a power outage. *Introduced on January 27 and referred to Assembly Homeland Security and State Preparedness Committee.*

AB 1641

Assisted Living

Schaer

Passed Assembly

SB 876

Greenstein

These bills would require electric public utilities to provide priority power restoration to certain settings, including assisted living residences. *AB 1641 passed Assembly Committee on September 15 and referred to Senate Economic Growth Committee on September 26. SB 876 introduced in Senate on January 12; referred to Senate Economic Growth Committee.*

AB 1769	Emergency Generators	Burzichelli	Legislation Pending
This bill would require assisted living communities to install appropriate wiring for use of generator during power outage. <i>Introduced on January 27 and referred to Assembly Homeland Security and State Preparedness Committee.</i>			

AB 2211 SB 1469	Emergency Generators	Wimberly Ruiz	Legislation Pending
These bills would create a program for installing standby emergency power generators in new senior housing. <i>AB 2211 introduced on January 27 and referred to Assembly Homeland Security and State Preparedness Committee. SB 1469 introduced in Senate on February 16 and referred to Community and Urban Affairs Committee.</i>			

AB 2676 SB 1131	Family Notification	Spencer Rice	Passed Senate
These bills would provide for notification of next-of-kin in the event of the death of a senior residing in a senior housing community, and requires the manager or administrator to establish guidelines for such notification. <i>AB 2676 introduced on February 8 and referred to Assembly Human Services Committee. SB 1131 passed Senate on June 27; referred to Assembly Human Services Committee, 2nd reading.</i>			

AB 3489	Family Notification	Spencer	Legislation Pending
This bill would require seniors housing providers to establish and implement procedures for the collection of emergency contact information for prospective or current residents and will provide for notification of emergency contact within 24 hours in the event of resident's death. <i>Introduced on April 4 and referred to Assembly Human Services Committee; May 19, reported out of Assembly Committee.</i>			

SB 514 ACR 113	Resident Tax	Beck O'Scanlan	Legislation Pending
These bills would extend eligibility for veterans' property tax deduction and disabled veterans' property tax exemption to residents of life plan/continuing care retirement communities. <i>SB 514 introduced on January 27 and referred to Assembly Military and Veterans' Affairs Committee; ACR 113 introduced in Senate on January 12 and referred to Economic Growth Committee.</i>			

SB 182	LPC/CCRC Refunds	Bateman	Legislation Pending
This bill would limit the time that a life plan/continuing care retirement community may retain a refundable entrance fee after a resident vacates the community to no more than one year later. <i>Introduced on January 12 and referred to Senate Health, Human Services and Senior Citizens Committee.</i>			

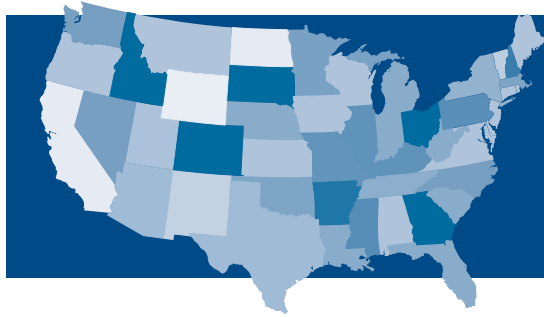
AB 4231	CCRCs/LPC	Kean	Legislation Pending
This bill would extend eligibility for veterans property tax deduction and veterans property tax exemption to residents of continuing care retirement communities. <i>Introduced and referred to Assembly Military and Veterans' Affairs Committee on October 7.</i>			

OHIO

SB 283	Assisted Living Penalties	Cafaro	Legislation Pending
This bill would authorize increased sanctions for residential care facilities for offenses that may or do cause harm to residents. For every day the offense is not corrected, the Department of Health shall prohibit the acceptance of new residents and impose a fine of no less than \$50 but no more than \$3,000 per resident. The legislation would also require random inspections at least once a year and would create a definition for memory care units within residential care facilities. <i>Introduced on February 23; referred to Finance Committee on April 12.</i>			

UTAH

SB 3004C	CCRCs/LPC	Henderson	Signed into law 7/17
This bill, among other things, modifies provisions regarding when a provider is required to return a continuing care entrance fee; requires a person that holds a possessory interest in a facility to be bound by the continuing care contracts			



related to the facility under certain circumstances; and provides that a person may not sell land on which a facility subject to a ground lease is located free and clear of the provider's interest in the lease. *Signed by Governor on July 17.*

VIRGINIA

The Virginia Board of Social Services met in mid-October to consider increasing staffing levels in dementia units at assisted living facilities. State rules currently require a minimum of two direct care staff members in a dementia unit regardless of the number of residents. News outlets have reposted that the state is considering requiring two direct care staff members for 20 or fewer residents and an additional staff member for every additional 10 residents.

Note: The status of the bills, as noted above, reflect to the best of our knowledge all pending or enacted legislation related to assisted living, Life Plan Communities (or CCRCs), and seniors housing throughout the U.S. These summaries are intended to provide an overview of the legislation and may not cover all relevant aspects. As ASHA pursues a heightened focus on state level activity, we would encourage you to notify us of any significant legislative or regulatory developments in states in which you own or operate. Please feel free to contact David Schless at dschless@seniorshousing.org or Krystalle Campo at kcampo@seniorshousing.org.

To access the digital version of this *State Policy Update* login to the "Members Area" of the ASHA website. For login credentials, contact Meghan at mbertoni@seniorshousing.org.