

SENATE BILL 746

By Massey

AN ACT to amend Tennessee Code Annotated, Title 68,
Chapter 11, relative to assisted-care living
facilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 11, Part 2, is amended by adding the following language as a new section:

68-11-276.

(a) An assisted-care living facility shall enter into a contract with each resident, executed at the time of admission or prior thereto, between the licensee and the resident or his or her designee or legal representative. Each party to the contract shall be provided with a duplicate original thereof and the licensee shall keep on file in the facility all such contracts. The licensee may not destroy or otherwise dispose of any such contract until five (5) years after its expiration.

(b) Each contract must contain express provisions specifically setting forth the services and accommodations to be provided by the facility; the rates or charges; provision for at least thirty (30) days' advance written notice of a rate increase; the rights, duties, and obligations of each resident, and other matters deemed appropriate by both parties. Whenever money is deposited or advanced by a resident in a contract as security for the performance of the contract agreement or as advance rent for other than the next immediate rental period, the following will apply:

(1) Such funds shall be deposited in a banking institution in this state that is located, if possible, in the same community in which the facility is located; shall be kept separate from the funds and property of

the facility; may not be represented as part of the assets of the facility on financial statements; and shall be used, or otherwise expended, only for the account of the resident; and

(2) The licensee shall, within thirty (30) days of receipt of advance rent or security deposit, notify the resident or residents in writing of the manner in which the licensee is holding the advance rent or security deposit and state the name and address of the depository where the moneys are being held. The licensee shall notify residents of the facility's policy on advance deposits.

(c) The contract shall include a refund policy to be implemented at the time of a resident's transfer, discharge, or death. The refund policy shall provide that the resident or responsible party is entitled to a prorated refund based on the daily rate for any unused portion of payment beyond the termination date after all charges, including the cost of damages to the residential unit resulting from circumstances other than normal use, have been paid to the licensee. For the purpose of this subsection, the termination date shall be the date the unit is vacated by the resident and cleared of all personal belongings. If the amount of belongings does not preclude renting the unit, the facility may clear the unit and charge the resident or his or her estate for moving and storing the items at a rate equal to the actual cost to the facility, not to exceed twenty percent (20%) of the regular rate for the unit; provided, that fourteen (14) days' advance written notification is given. If the resident's possessions are not claimed within forty-five (45) days after notification, the facility may dispose of them. The contract shall also specify any other conditions under which claims will be made against the refund due the resident. Except in the case of death or a discharge due to medical reasons, any refund shall be computed in accordance with the notice of relocation requirements specified in the contract. However, a resident may not be required to provide the licensee with more than thirty (30) days' notice of

termination. If, after a contract is terminated, the facility intends to make a claim against a refund due the resident, the facility shall notify the resident or responsible party in writing of the claim and shall provide said party with a reasonable time period of not less than fourteen (14) calendar days to respond. The facility shall provide a refund to the resident or responsible party within forty-five (45) days after the transfer, discharge, or death of the resident. The board may impose a penalty upon a facility that fails to comply with the refund provisions of this subsection.

(d) If an assisted-care living facility agrees to reserve a bed for a resident who is admitted to a medical facility, including, but not limited to a nursing home, health care facility, or psychiatric facility, the resident or the resident's responsible party shall notify the facility of any change in status that would prevent the resident from returning to the facility. Until such notice is received, the agreed-upon daily rate may be charged by the licensee.

(e) The contract shall state the purpose of any advance payment and refund policy for such payment, including any advance payment for housing, meals, or personal services.

(f) The contract shall state whether or not the assisted-care living facility is affiliated with any religious organization and, if so, which organization and its general responsibilities to the facility.

(g) Neither the contract nor any provision thereof relieves any requirement or obligation imposed upon it by this part or rules adopted pursuant thereto.

(h) Notwithstanding the provisions of this section, assisted-care living facilities which consist of sixty (60) or more apartments may require refund

policies and termination notices pursuant to lease agreements; provided, that the lease is terminated automatically without financial penalty in the event of a resident's death or relocation due to psychiatric hospitalization or for medical reasons which necessitate services or care beyond which the facility is licensed to provide. The termination date in such instances shall be the date the unit is fully vacated. For purposes of this section, the term "apartment" means a room or set of rooms with a kitchen or kitchenette and lavatory located within one (1) or more buildings containing other similar or like residential units.

(i) An assisted-care living facility which provides special care for persons who have Alzheimer's disease or other related disorders must disclose in any advertisements or in a separate document the services that distinguish such care as being suitable for patients with the specified disease or disorder. The assisted-care living facility must give a copy of all such advertisements or documents outlining services to each person who requests such information and must maintain a copy of all such advertisements and documents in its records. The board may request and review such advertisements and documents as part of the facility's licensee renewal process.

SECTION 2. This act shall take effect January 1, 2014, the public welfare requiring it.