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A bill to be entitled
An act relating to nursing home contracts; amending s.
400.424, F.S.; requiring each nursing home facility to use
a standard contract approved by the Department of Elderly
Affairs for use at that facility; providing an effective
date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 400.424, Florida Statutes, is amended
to read:

400.424 Contracts.--

(1) The presence of each resident in a facility shall be
covered by a contract, 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 5 years after its expiration.

(2) 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 30 days' written notice of a rate increase; the rights,
duties, and obligations of the residents, other than those
specified in s. 400.428; and other matters that the parties deem
appropriate. Each nursing home facility must use a standard
contract approved for use at that facility by the department.

Whenever money is deposited or advanced by a resident in a
contract as security for performance of the contract agreement

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31 or as advance rent for other than the next immediate rental
 32 period:

33 (a) Such funds shall be deposited in a banking institution
 34 in this state that is located, if possible, in the same
 35 community in which the facility is located; shall be kept
 36 separate from the funds and property of the facility; may not be
 37 represented as part of the assets of the facility on financial
 38 statements; and shall be used, or otherwise expended, only for
 39 the account of the resident.

40 (b) The licensee shall, within 30 days of receipt of
 41 advance rent or a security deposit, notify the resident or
 42 residents in writing of the manner in which the licensee is
 43 holding the advance rent or security deposit and state the name
 44 and address of the depository where the moneys are being held.
 45 The licensee shall notify residents of the facility's policy on
 46 advance deposits.

47 (3)(a) The contract shall include a refund policy to be
 48 implemented at the time of a resident's transfer, discharge, or
 49 death. The refund policy shall provide that the resident or
 50 responsible party is entitled to a prorated refund based on the
 51 daily rate for any unused portion of payment beyond the
 52 termination date after all charges, including the cost of
 53 damages to the residential unit resulting from circumstances
 54 other than normal use, have been paid to the licensee. For the
 55 purpose of this paragraph, the termination date shall be the
 56 date the unit is vacated by the resident and cleared of all
 57 personal belongings. If the amount of belongings does not
 58 preclude renting the unit, the facility may clear the unit and
 59 charge the resident or his or her estate for moving and storing
 60 the items at a rate equal to the actual cost to the facility,

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61 not to exceed 20 percent of the regular rate for the unit,
62 provided that 14 days' advance written notification is given. If
63 the resident's possessions are not claimed within 45 days after
64 notification, the facility may dispose of them. The contract
65 shall also specify any other conditions under which claims will
66 be made against the refund due the resident. Except in the case
67 of death or a discharge due to medical reasons, the refunds
68 shall be computed in accordance with the notice of relocation
69 requirements specified in the contract. However, a resident may
70 not be required to provide the licensee with more than 30 days'
71 notice of termination. If after a contract is terminated, the
72 facility intends to make a claim against a refund due the
73 resident, the facility shall notify the resident or responsible
74 party in writing of the claim and shall provide said party with
75 a reasonable time period of no less than 14 calendar days to
76 respond. The facility shall provide a refund to the resident or
77 responsible party within 45 days after the transfer, discharge,
78 or death of the resident. The agency shall impose a fine upon a
79 facility that fails to comply with the refund provisions of the
80 paragraph, which fine shall be equal to three times the amount
81 due to the resident. One-half of the fine shall be remitted to
82 the resident or his or her estate, and the other half to the
83 Health Care Trust Fund to be used for the purpose specified in
84 s. 400.418.

85 (b) If a licensee agrees to reserve a bed for a resident
86 who is admitted to a medical facility, including, but not
87 limited to, a nursing home, health care facility, or psychiatric
88 facility, the resident or his or her responsible party shall
89 notify the licensee of any change in status that would prevent
90 the resident from returning to the facility. Until such notice

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91 is received, the agreed-upon daily rate may be charged by the
92 licensee.

93 (c) The purpose of any advance payment and a refund policy
94 for such payment, including any advance payment for housing,
95 meals, or personal services, shall be covered in the contract.

96 (4) The contract shall state whether or not the facility
97 is affiliated with any religious organization and, if so, which
98 organization and its general responsibility to the facility.

99 (5) Neither the contract nor any provision thereof
100 relieves any licensee of any requirement or obligation imposed
101 upon it by this part or rules adopted under this part.

102 (6) In lieu of the provisions of this section, facilities
103 certified under chapter 651 shall comply with the requirements
104 of s. 651.055.

105 (7) Notwithstanding the provisions of this section,
106 facilities which consist of 60 or more apartments may require
107 refund policies and termination notices in accordance with the
108 provisions of part II of chapter 83, provided that the lease is
109 terminated automatically without financial penalty in the event
110 of a resident's death or relocation due to psychiatric
111 hospitalization or to medical reasons which necessitate services
112 or care beyond which the facility is licensed to provide. The
113 date of termination in such instances shall be the date the unit
114 is fully vacated. A lease may be substituted for the contract if
115 it meets the disclosure requirements of this section. For the
116 purpose of this section, the term "apartment" means a room or
117 set of rooms with a kitchen or kitchenette and lavatory located
118 within one or more buildings containing other similar or like
119 residential units.

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120 (8) The department may by rule clarify terms, establish
121 procedures, clarify refund policies and contract provisions, and
122 specify documentation as necessary to administer this section.

123 Section 2. This act shall take effect January 1, 2005.