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Bill 280

**An Act to amend the Residential Tenancies Act, 2006 and
the Retirement Homes Act, 2010 respecting tenancies in care homes**

Ms J. Bell

Private Member's Bill

1st Reading April 19, 2021

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill amends Part IX of the *Residential Tenancies Act, 2006* in relation to care services and meals in care homes. Charges for care services and meals must be consistent with information provided by landlords to new and existing tenants in information packages required under section 140 of the Act. Section 140 of the Act is amended to require specified information to be included in the information packages, and to require that the landlord comply with other duties respecting information packages, such a requirement to ensure that they are revised as needed and that copies are made available to others.

Section 141.1 is added to the Act to permit landlords and tenants of a care home to enter into agreements for the provision of additional care services or meals. A tenant may, in accordance with the section, require a landlord to reduce or stop the provision of any such care services or meals after the agreement has been entered into.

Section 149.1 is added to the Act to place restrictions on increases to charges for providing care services and meals, both in terms of frequency and amount. Regulations made under the Act may provide for a process permitting a landlord to increase a charge despite the restrictions, but only within prescribed limits.

Consequential amendments are made to other provisions of the Act.

The Bill also amends section 49 of the *Retirement Homes Act, 2010* to require a licensee of a retirement home that is ceasing operation to communicate to residents that they continue to have the rights of a tenant under the *Residential Tenancies Act, 2006*, and that notice that the retirement home will cease to operate does not constitute a notice of termination under that Act.

**An Act to amend the Residential Tenancies Act, 2006 and
the Retirement Homes Act, 2010 respecting tenancies in care homes**

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1 Subsection 6 (1) of the *Residential Tenancies Act, 2006* is amended by striking out “119 to 134, 136, 140 and 149 to 167” in the portion before clause (a) and substituting “119 to 134 and 136, subsection 139 (2.1) and sections 140, 141.1 and 149 to 167”.

2 Subsection 7 (1) of the Act is amended by striking out “subsection 100 (2) and sections 101, 102, 104, 111 to 115, 117, 120, 121, 122, 126 to 133, 140, 143, 149, 150, 151, 159, 165” in the portion before paragraph 1 and substituting “subsection 100 (2), sections 101, 102, 104, 111 to 115, 117, 120, 121, 122 and 126 to 133, subsection 139 (2.1) and sections 140, 141.1, 143, 149, 149.1, 150, 151, 159, 165”.

3 (1) Section 139 of the Act is amended by adding the following subsection:

Same

(2.1) The charges for care services and meals shall be separately itemized in the agreement and shall be consistent with those specified in the most current version of the information package required under section 140.

(2) Subsection 139 (3) of the Act is amended by striking out “subsection (1) or (2)” and substituting “this section”.

4 (1) Subsection 140 (1) of the Act is repealed and the following substituted:

Information to tenant

(1) Before entering into a tenancy agreement with a new tenant in a care home, the landlord shall give to the new tenant an information package containing the following information:

1. A list of the different types of accommodation provided and the alternative packages of care services and meals available as part of the total charge.
2. The charges for the different types of accommodation and for the alternative packages of care services and meals.
3. A list and fee schedule of additional services and meals available from the landlord.
4. Any other information that may be prescribed.

(2) Section 140 of the Act is amended by adding the following subsection:

Duties re information package

(3) The landlord shall ensure that,

- (a) the information package accurately reflects charges for care services and meals, and does not result in material differences in those charges as between different tenants of the care home;
- (b) the information package is revised as needed to reflect increases in charges, to the extent increases are permitted under section 149.1, and to make any other necessary changes;
- (c) any material revisions to the information package are provided to any person who received the original package and who is still a tenant;
- (d) the information package and any material revisions to it are made available to family members of a tenant and persons of importance to the tenant, with the tenant’s consent; and
- (e) the most current version of the information package is made available in the care home, in an easily accessible location.

5 The Act is amended by adding the following section:

Agreement for additional care services or meals

141.1 (1) At any time after entering into a tenancy agreement relating to a tenancy in a care home, the landlord and tenant may enter into a written agreement that the landlord provide to the tenant specified care services or meals in addition to those agreed to in the tenancy agreement.

Charges

- (2) The charges for the additional care services or meals shall be specified in the agreement, and shall be,
- (a) separately itemized; and
 - (b) consistent with those specified in the most current version of the information package required under section 140.

Application of requirements re tenancy agreements

- (3) Subsection 140 (1) and section 141 apply, with necessary modifications, with respect to the agreement.

Deemed to be part of tenancy agreement

- (4) An agreement entered into under this section is deemed to form part of the tenancy agreement.

Coerced agreement void

- (5) An agreement under this section is void if it has been entered into as a result of coercion or as a result of a false, incomplete or misleading representation by the landlord or an agent of the landlord.

Reducing or stopping provision of added services, meals

- (6) The tenant may require the landlord to reduce or stop the provision of any care service or meal specified by the tenant that was added by an agreement under this section, by giving at least 10 days' notice to the landlord.

Effect of notice

- (7) If the tenant gives notice under subsection (6) to reduce the provision of a care service or meal, the tenant has no obligation to pay for the reduced portion of the care service or meal after the date the landlord is required to stop providing it.

Same

- (8) If the tenant gives notice under subsection (6) to stop the provision of a care service or meal, the tenant has no obligation to pay for the care service or meal after the date the landlord is required to stop providing it.

6 Subsection 146 (2) of the Act is repealed.**7 The Act is amended by adding the following section:****Restrictions on increases in charges****Restriction on frequency**

- 149.1** (1) A landlord may not increase a charge for providing a care service or meals to tenants of a rental unit in a care home unless at least 12 months have elapsed since the day of the last increase in the charge by the landlord.

Restriction on amount

- (2) A landlord may not increase a charge for providing a care service or meals to tenants of a rental unit in a care home in a calendar year by more than the percentage determined under paragraph 1 of subsection 120 (2) for that year.

Exceptions

- (3) Despite subsections (1) and (2), a landlord may, in accordance with the regulations, increase a charge for providing a care service or meals at a time or to an extent that would otherwise not be permitted under one or both of those subsections, as provided by the regulations.

Same

- (4) Regulations made for the purposes of subsection (3),
- (a) shall not provide for or permit charges for care services or meals that exceed the cost of providing the care services or meals;
 - (b) shall not provide for or permit an increase in charges that exceeds 3 per cent a year over a three year period; and
 - (c) shall require that the landlord prove, in the manner specified by the regulations, that an increase in a charge is justifiable in the circumstances.

Effect of non-compliance

- (5) An increase in a charge for a care service or meals is void if it does not comply with subsections (1) and (2) or with the regulations made for the purposes of subsection (3), as the case may be.

8 Section 150 of the Act is amended by adding the following subsection:

Agreements under s. 141.1

(4) Despite subsections (1), (2) and (3), the parties to an agreement entered into under section 141.1 may in writing agree to a shorter notice period, or that notice need not be given under this section, with respect to the charges for any or all of the care services or meals provided under the agreement.

9 Subsection 151 (1) of the Act is amended by striking out “sections 140 and 150” at the end and substituting “sections 139, 140, 149.1 and 150, including any regulations made for the purposes of subsection 149.1 (3) as applicable, or the care services or meals are provided under an agreement made under section 141.1”.

10 Clause 234 (p) of the Act is amended by striking out “section 150” at the end and substituting “section 149.1 or 150, or of any regulations made for the purposes of subsection 149.1 (3)”.

11 (1) Paragraph 56 of subsection 241 (1) of the Act is amended by striking out “prescribing the information” at the beginning and substituting “prescribing additional information”.

(2) Subsection 241 (1) of the Act is amended by adding the following paragraph:

57.1 for the purposes of subsection 149.1 (3), but subject to subsection 149.1 (4), governing increases in charges for care services and meals at a time or to an extent that would otherwise not be permitted under one or both of subsections 149.1 (1) and (2);

Retirement Homes Act, 2010

12 Section 49 of the *Retirement Homes Act, 2010* is amended by adding the following subsection:

Notice of tenant rights

(1.1) The notice referred to in clause (1) (b) shall contain a statement confirming that the resident continues to have the rights of a tenant under the *Residential Tenancies Act, 2006* and that the notice being given does not constitute a notice of termination under that Act.

Commencement

13 This Act comes into force on the first anniversary of the day it receives Royal Assent or an earlier day to be named by proclamation of the Lieutenant Governor.

Short title

14 The short title of this Act is the *Protecting Seniors’ Rights in Care Homes Act, 2021*.