

§ 58-64A-315. Remedies available in cases of unlawful contracting.

(a) If the Commissioner determines that a provider is or has been violating the provisions of this Article, the Commissioner may, after notice and opportunity for hearing, order the provider to cease entering into binding reservation agreements, continuing care contracts, and continuing care at home contracts and make a rescission offer to any resident or depositor who entered into a binding reservation agreement, continuing care contract, or continuing care at home contract while the provider was violating the provisions of this Article in accordance with the provisions of this section.

(b) After the Commissioner issues an order pursuant to subsection (a) of this section, every binding reservation agreement, continuing care contract, or continuing care at home contract entered into in violation of this Article may be rescinded at the election of the resident or depositor without penalty.

(c) No resident or depositor shall have the benefit of this section who, within 30 days of receipt, has refused or failed to accept an offer made in writing by the provider to rescind the binding reservation agreement, continuing care contract, or continuing care at home contract in question and to refund the full amount paid by the resident or depositor with interest at the rate established monthly by the Commissioner of Banks pursuant to G.S. 24-1.1(c) on the full amount paid for the binding reservation agreement, continuing care contract, or continuing care at home contract for the period from the date of payment by the depositor or resident to the date of repayment, less the cost of care, services, and housing provided, if applicable, and the amount of any costs specifically incurred by the provider at the request of the resident or depositor and set forth in writing, signed by both parties to the binding reservation agreement, continuing care contract, or continuing care at home contract. (2025-58, s. 2.)