

CHAMBER ACTION

1 The Committee on Future of Florida's Families recommends the
2 following:

3
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to nursing home firesafety; amending s.
8 633.022, F.S.; requiring nursing homes to be protected by
9 certain automatic sprinkler systems; providing a schedule;
10 authorizing the Division of State Fire Marshal to grant
11 certain time extensions; authorizing the division to adopt
12 certain rules; providing for administrative sanctions
13 under certain circumstances; creating s. 633.024, F.S.;
14 providing legislative findings and intent; creating s.
15 633.0245, F.S.; authorizing the State Fire Marshal to
16 enter into an investment agreement with public
17 depositories to establish the State Fire Marshal Nursing
18 Home Fire Protection Loan Guarantee Program as a limited
19 loan guarantee program to retrofit nursing homes with fire
20 protection systems; providing investment and agreement
21 limitations; requiring the State Fire Marshal to solicit
22 requests for proposals; providing for application
23 requirements and procedures; providing for review and

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24 approval by the State Fire Marshal; providing application
 25 requirements and procedures for program loans by public
 26 depositories; providing deadlines and limitations;
 27 limiting certain claims for loss under certain
 28 circumstances; providing a definition; authorizing the
 29 State Fire Marshal to adopt rules; providing an effective
 30 date.

31

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

33

34 Section 1. Subsection (4) is added to section 633.022,
 35 Florida Statutes, to read:

36 633.022 Uniform firesafety standards.--The Legislature
 37 hereby determines that to protect the public health, safety, and
 38 welfare it is necessary to provide for firesafety standards
 39 governing the construction and utilization of certain buildings
 40 and structures. The Legislature further determines that certain
 41 buildings or structures, due to their specialized use or to the
 42 special characteristics of the person utilizing or occupying
 43 these buildings or structures, should be subject to firesafety
 44 standards reflecting these special needs as may be appropriate.

45 (4)(a) Notwithstanding any provision of law to the
 46 contrary, each nursing home licensed under part II of chapter
 47 400 shall be protected by an approved, supervised automatic
 48 sprinkler system in accordance with section 9 of National Fire
 49 Protection Association, Inc., Life Safety Code, in accordance
 50 with the following schedule:

51 1. Each hazardous area of each nursing home shall be
 52 protected by an approved, supervised automatic sprinkler system
 53 by no later than December 31, 2007.

54 2. Each entire nursing home shall be protected by an
 55 approved, supervised automatic sprinkler system by no later than
 56 December 31, 2009.

57 (b) The division may grant up to two 1-year extensions of
 58 the time limits for compliance in subparagraph (a)2. if the
 59 division determines that the nursing home has been prevented
 60 from complying for reasons beyond its control.

61 (c) The division is authorized to adopt any rule necessary
 62 for the implementation and enforcement of this subsection. The
 63 division shall enforce this subsection in accordance with the
 64 provisions of this chapter, and any nursing home licensed under
 65 part II of chapter 400 that is in violation of this subsection
 66 may be subject to administrative sanctions by the division
 67 pursuant to this chapter.

68 Section 2. Section 633.024, Florida Statutes, is created
 69 to read:

70 633.024 Legislative findings and intent; ensuring
 71 effective fire protection of vulnerable nursing home residents
 72 essential; retrofit of existing nursing homes expedited by
 73 limited state loan guarantee; funding through Insurance
 74 Regulatory Trust Fund.--

75 (1) It is the intent of the Legislature to promote the
 76 essential public purpose of ensuring effective fire protection
 77 for the safety and welfare of nursing home residents of this
 78 state who, because of their inability to protect themselves, are

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79 | most vulnerable to catastrophic injury or death in the event of
 80 | a fire. The Legislature finds that this purpose is served by
 81 | requiring the installation of appropriate fire protection
 82 | systems in all nursing home facilities in this state that do not
 83 | currently have fire protection systems in operation for the
 84 | protection of their residents. The Legislature finds that the
 85 | high capital cost of retrofitting appropriate fire protection
 86 | systems at nursing home facilities not originally designed with
 87 | fire protection systems has discouraged the owners and operators
 88 | of such facilities from doing so. The Legislature therefore
 89 | finds that state action to provide a limited state guarantee of
 90 | loans covering these capital costs will expedite the immediate
 91 | installation of fire protection systems at facilities that lack
 92 | such systems and thereby ensure effective protection for those
 93 | nursing home populations that are now most vulnerable to the
 94 | catastrophic effects of fire.

95 | (2) Because the Insurance Regulatory Trust Fund is funded
 96 | by the proceeds of fire insurance premiums written in this
 97 | state, the Legislature finds that it is in the public interest
 98 | for moneys held in the Insurance Regulatory Trust Fund to be
 99 | used to fund the limited loan guarantee program that mobilizes
 100 | private funding for the retrofitting of fire protection systems
 101 | at unprotected nursing homes located in this state.

102 | Section 3. Section 633.0245, Florida Statutes, is created
 103 | to read:

104 | 633.0245 State Fire Marshal Nursing Home Fire Protection
 105 | Loan Guarantee Program.--

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106 (1) The State Fire Marshal, with the assistance of the
107 Division of Treasury of the Department of Financial Services,
108 may enter into an investment agreement concerning the investment
109 of certain funds held in the Insurance Regulatory Trust Fund for
110 the purpose of establishing a limited loan guarantee program to
111 be known as the State Fire Marshal Nursing Home Fire Protection
112 Loan Guarantee Program. The investment must be limited as
113 follows:

114 (a) Not more than \$4 million of the balance in the
115 Insurance Regulatory Trust Fund in any fiscal year may be at
116 risk at any time for the purpose of limited loan guarantees.

117 (b) Such funds at risk at any time may not be used to
118 guarantee any limited loan guarantee agreement for a period
119 longer than 10 years.

120 (c) No limited loan guarantee agreement based on invested
121 funds may be entered into after December 1, 2005.

122 (2) The State Fire Marshal may enter into limited loan
123 guarantee agreements with one or more financial institutions
124 qualified as public depositories in this state. Such agreements
125 shall provide a limited guarantee by the State of Florida
126 covering no more than 50 percent of the principal sum loaned by
127 such financial institution to an eligible nursing home, as
128 defined in subsection (10), for the sole purpose of the initial
129 installation at such nursing home of a fire protection system,
130 as defined in s. 633.021(8), approved by the State Fire Marshal
131 as being in compliance with the provisions of s. 633.022 and
132 rules adopted under such section.

133 (3) The State Fire Marshal shall solicit requests for
 134 proposals from qualified financial institutions willing to fund
 135 loans to eligible nursing homes for the installation of fire
 136 protection systems approved by the State Fire Marshal under the
 137 State Fire Marshal Nursing Home Fire Protection Loan Guarantee
 138 Program. Each request for proposal shall specify the terms and
 139 conditions under which the responding institution is prepared to
 140 make loans under the program, including, but not limited to,
 141 applicable interest rates, repayment terms, credit policies,
 142 loan fees, and proposed security interests to be executed by the
 143 borrower. After evaluation of all requests for proposals, the
 144 State Fire Marshal shall select one or more responding
 145 institutions as designated lenders under the program.

146 (4) The State Fire Marshal shall prescribe by rule an
 147 application form for participation in the State Fire Marshal
 148 Nursing Home Fire Protection Loan Guarantee Program to be
 149 submitted by each eligible nursing home that desires to install
 150 a fire protection system funded by a loan from a designated
 151 lender under the program. Nothing in this section shall be
 152 deemed to require an eligible nursing home to do business with a
 153 designated lender. At a minimum, the application shall require
 154 each applicant to provide the following information:

155 (a) The name and address of the eligible nursing home.

156 (b) The name and address of the owner of the nursing home
 157 or, if the owner is a partnership, the name and address of the
 158 general partner.

159 (c) The lessee of the nursing home premises, if any.

160 (d) A complete description of the structure or structures
 161 where the fire protection system is to be installed, including
 162 age, physical dimensions, overall square footage, a real extent
 163 of proposed coverage areas, and other relevant information
 164 concerning the premises.

165 (e) Bed capacity of the nursing home, including beds
 166 eligible for Medicare or Medicaid reimbursement.

167 (f) A statement regarding the availability to the
 168 applicant of third-party reimbursement for installation of the
 169 fire protection system.

170 (g) The location of closest water mains and fire hydrants,
 171 if any.

172 (h) Complete sealed drawings showing the fire protection
 173 system to be installed.

174 (i) Cost documentation, with a separate breakdown of cost
 175 for labor and materials.

176 (j) Verification of the application by the applicant.

177 (5) The State Fire Marshal shall evaluate each application
 178 submitted under this section to determine whether the proposed
 179 fire protection system is feasible for installation as proposed
 180 and complies with all applicable firesafety code provisions. An
 181 application may not be approved without a positive determination
 182 by the State Fire Marshal under this subsection. If the State
 183 Fire Marshal is able to determine that the proposed fire
 184 protection system is feasible and complies with applicable
 185 firesafety codes, the application shall be approved for
 186 submission to one or more lenders for funding. If the
 187 application is insufficient, the State Fire Marshal shall notify

188 the applicant in writing and identify areas of deficiency that
 189 must be corrected in order for the application to be approved.

190 (6) As soon as practicable after approval, each approved
 191 application shall be submitted by the State Fire Marshal to one
 192 or more designated lenders for funding. Upon request of a
 193 designated lender, an approved applicant shall provide the
 194 lender with documentation of its credit history and financial
 195 status. If, after review of the applicant's documentation, a
 196 lender refuses to fund the application, the lender shall
 197 promptly notify the applicant and the State Fire Marshal in
 198 writing of any reasons for its action. If the lender agrees to
 199 fund the application, the lender shall notify the applicant and
 200 the State Fire Marshal and schedule a closing date for the loan.

201 (7) At closing, the applicant shall execute appropriate
 202 documents necessary to provide the lender and the State Fire
 203 Marshal with a security interest in the property where the fire
 204 protection system is to be installed. The State Fire Marshal
 205 shall then execute a limited loan guarantee in favor of the
 206 lender guaranteeing no more than 50 percent of the face value of
 207 the loan.

208 (8) A designated lender covered by a limited state
 209 guarantee for a loan under this section is not entitled to file
 210 a claim for loss pursuant to the guarantee unless all reasonable
 211 and normal remedies available and customary for lending
 212 institutions for resolving problems of loan repayments are
 213 exhausted. If the lender has received collateral security in
 214 connection with the loan, the lender must first exhaust all
 215 available remedies against the collateral security.

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216 (9) No application for participation in the State Fire
217 Marshal Nursing Home Fire Protection Loan Guarantee Program may
218 be accepted by the State Fire Marshal after June 30, 2005.

219 (10) For purposes of this section, "eligible nursing home"
220 means a nursing home facility providing nursing services as
221 defined in chapter 464 licensed under part II of chapter 400
222 that is certified by the Agency for Health Care Administration
223 to lack an installed fire protection system as defined in s.
224 633.021(8).

225 (11) The State Fire Marshal may adopt any rules necessary
226 to implement the provisions of this section.

227 Section 4. This act shall take effect July 1, 2004.