

1 A bill to be entitled

2 An act relating to nursing home firesafety; amending s.
3 633.022, F.S.; requiring nursing homes to be protected by
4 certain automatic sprinkler systems; providing a schedule;
5 authorizing the Division of State Fire Marshal to grant
6 certain time extensions; authorizing the division to adopt
7 certain rules; providing for administrative sanctions
8 under certain circumstances; requiring adjustments to
9 certain provider Medicaid rates for reimbursement for
10 Medicaid's portion of costs to meet certain requirements;
11 requiring funding for such adjustments to come from
12 existing nursing home appropriations; creating s. 633.024,
13 F.S.; providing legislative findings and intent; creating
14 s. 633.0245, F.S.; authorizing the State Fire Marshal to
15 enter into an investment agreement with public
16 depositories to establish the State Fire Marshal Nursing
17 Home Fire Protection Loan Guarantee Program as a limited
18 loan guarantee program to retrofit nursing homes with fire
19 protection systems; providing investment and agreement
20 limitations; requiring the State Fire Marshal to solicit
21 requests for proposals; providing for application
22 requirements and procedures; providing for review and
23 approval by the State Fire Marshal; providing application
24 requirements and procedures for program loans by public
25 depositories; providing deadlines and limitations;
26 limiting certain claims for loss under certain
27 circumstances; providing a definition; authorizing the

28 State Fire Marshal to adopt rules; providing an effective
 29 date.

30
 31 Be It Enacted by the Legislature of the State of Florida:

32
 33 Section 1. Subsection (4) is added to section 633.022,
 34 Florida Statutes, to read:

35 633.022 Uniform firesafety standards.--The Legislature
 36 hereby determines that to protect the public health, safety, and
 37 welfare it is necessary to provide for firesafety standards
 38 governing the construction and utilization of certain buildings
 39 and structures. The Legislature further determines that certain
 40 buildings or structures, due to their specialized use or to the
 41 special characteristics of the person utilizing or occupying
 42 these buildings or structures, should be subject to firesafety
 43 standards reflecting these special needs as may be appropriate.

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

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

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

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

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

67 (d) Adjustments shall be made to the provider Medicaid
 68 rate to allow reimbursement over a 5-year period for Medicaid's
 69 portion of the costs incurred to meet the requirements of this
 70 subsection. Funding for this adjustment shall come from existing
 71 nursing home appropriations.

72 Section 2. Section 633.024, Florida Statutes, is created
 73 to read:

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

79 (1) It is the intent of the Legislature to promote the
 80 essential public purpose of ensuring effective fire protection
 81 for the safety and welfare of nursing home residents of this
 82 state who, because of their inability to protect themselves, are
 83 most vulnerable to catastrophic injury or death in the event of

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

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

106 Section 3. Section 633.0245, Florida Statutes, is created
 107 to read:

108 633.0245 State Fire Marshal Nursing Home Fire Protection
 109 Loan Guarantee Program.--

110 (1) The State Fire Marshal, with the assistance of the
 111 Division of Treasury of the Department of Financial Services,

112 may enter into an investment agreement concerning the investment
113 of certain funds held in the Insurance Regulatory Trust Fund for
114 the purpose of establishing a limited loan guarantee program to
115 be known as the State Fire Marshal Nursing Home Fire Protection
116 Loan Guarantee Program. The investment must be limited as
117 follows:

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

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

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

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

137 (3) The State Fire Marshal shall solicit requests for
138 proposals from qualified financial institutions willing to fund
139 loans to eligible nursing homes for the installation of fire

140 protection systems approved by the State Fire Marshal under the
 141 State Fire Marshal Nursing Home Fire Protection Loan Guarantee
 142 Program. Each request for proposal shall specify the terms and
 143 conditions under which the responding institution is prepared to
 144 make loans under the program, including, but not limited to,
 145 applicable interest rates, repayment terms, credit policies,
 146 loan fees, and proposed security interests to be executed by the
 147 borrower. After evaluation of all requests for proposals, the
 148 State Fire Marshal shall select one or more responding
 149 institutions as designated lenders under the program.

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

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

160 (b) The name and address of the owner of the nursing home
 161 or, if the owner is a partnership, the name and address of the
 162 general partner.

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

164 (d) A complete description of the structure or structures
 165 where the fire protection system is to be installed, including
 166 age, physical dimensions, overall square footage, a real extent

167 of proposed coverage areas, and other relevant information
168 concerning the premises.

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

171 (f) A statement regarding the availability to the
172 applicant of third-party reimbursement for installation of the
173 fire protection system.

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

176 (h) Complete sealed drawings showing the fire protection
177 system to be installed.

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

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

181 (5) The State Fire Marshal shall evaluate each application
182 submitted under this section to determine whether the proposed
183 fire protection system is feasible for installation as proposed
184 and complies with all applicable firesafety code provisions. An
185 application may not be approved without a positive determination
186 by the State Fire Marshal under this subsection. If the State
187 Fire Marshal is able to determine that the proposed fire
188 protection system is feasible and complies with applicable
189 firesafety codes, the application shall be approved for
190 submission to one or more lenders for funding. If the
191 application is insufficient, the State Fire Marshal shall notify
192 the applicant in writing and identify areas of deficiency that
193 must be corrected in order for the application to be approved.

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

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

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

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

223 (10) For purposes of this section, "eligible nursing home"
 224 means a nursing home facility providing nursing services as
 225 defined in chapter 464 licensed under part II of chapter 400
 226 that is certified by the Agency for Health Care Administration
 227 to lack an installed fire protection system as defined in s.
 228 633.021(8).

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

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