

By the Committee on Banking and Insurance; and Senator Webster

311-2317-04

1 A bill to be entitled
2 An act relating to uniform firesafety standards
3 in nursing homes; amending s. 633.022, F.S.;
4 requiring that each nursing home licensed under
5 part II of ch. 400, F.S., be protected by an
6 approved, supervised automatic sprinkler
7 system; providing schedules for the
8 installation of the automatic sprinkler system
9 in hazardous and nonhazardous areas of a
10 nursing home; authorizing the Department of
11 Financial Services to grant extensions for
12 specified periods for installing a sprinkler
13 system in nonhazardous areas of a nursing home;
14 prohibiting extensions for installing a
15 sprinkler system in hazardous areas of a
16 nursing home; authorizing the department to
17 adopt rules; directing the department to
18 enforce the sprinkler system standards;
19 providing that nursing homes that violate the
20 act are subject to administrative sanctions;
21 creating s. 633.024, F.S.; providing
22 legislative intent relating to fire safety in
23 nursing homes; creating s. 633.0245, F.S.;
24 creating the State Fire Marshal Nursing Home
25 Protection Loan Guarantee Program to fund the
26 installation of fire protection systems in
27 nursing homes without these systems;
28 authorizing the State Fire Marshal to enter
29 into investment agreements with the Department
30 of Financial Services to fund a loan guarantee
31 program; authorizing the State Fire Marshal to

1 enter into agreements with financial
2 institutions desiring to participate in the
3 loan guarantee program; requiring the State
4 Fire Marshal to issue requests for proposals to
5 select participating financial institutions;
6 providing for an application form to be used by
7 nursing homes intending to seek a loan to
8 install a fire protection system; providing the
9 contents of the loan guarantee application
10 form; requiring the State Fire Marshal to
11 approve or disapprove applications from nursing
12 homes; requiring the State Fire Marshal to
13 notify each applicant of its decision to
14 approve or disapprove the application;
15 requiring the State Fire Marshal to send
16 approved applications to designated lenders;
17 requiring each nursing home approved for a loan
18 to execute certain specified documents;
19 requiring that all applications for program
20 funds be filed by a specified date; defining
21 the term "eligible nursing home"; authorizing
22 the State Fire Marshal to adopt rules;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

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

29 633.022 Uniform firesafety standards.--The Legislature
30 hereby determines that to protect the public health, safety,
31 and welfare it is necessary to provide for firesafety

1 standards governing the construction and utilization of
2 certain buildings and structures. The Legislature further
3 determines that certain buildings or structures, due to their
4 specialized use or to the special characteristics of the
5 person utilizing or occupying these buildings or structures,
6 should be subject to firesafety standards reflecting these
7 special needs as may be appropriate.

8 (4)(a) Notwithstanding any law to the contrary, a
9 nursing home licensed under part II of chapter 400 must be
10 protected by an approved, supervised automatic sprinkler
11 system in accordance with section 9 of National Fire
12 Protection Association (NFPA) Pamphlet 101, Life Safety Code,
13 current edition, according to the following schedule:

14 1. Each hazardous area, as defined by section
15 19.3.2.1.5 of National Fire Protection Association (NFPA)
16 Pamphlet 101, Life Safety Code, current edition, of a nursing
17 home must be protected by an approved, supervised automatic
18 sprinkler system by December 31, 2007; and

19 2. The entire area of a nursing home must be protected
20 by an approved, supervised automatic sprinkler system by
21 December 31, 2009.

22 (b) The department may grant two 1-year extensions for
23 compliance with subparagraph (a)2., if the department
24 determines that the nursing home has been prevented from
25 complying with subparagraph (a)2. for reasons beyond the
26 nursing home's control. An extension may not be granted for
27 complying with the time limits in subparagraph (a)1.

28 (c) The department may adopt rules to administer and
29 enforce this section. The department shall enforce this
30 subsection and any nursing home in violation of this
31 subsection may be subject to administrative sanctions.

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

3 633.024 Legislative intent.--

4 (1) The Legislature finds that it is essential to
5 ensure effective fire protection for the safety and welfare of
6 the nursing home residents in this state who, because of their
7 inability to protect themselves, are most vulnerable to
8 catastrophic injury or death in the event of a fire. The
9 Legislature finds that this purpose is served by requiring the
10 installation of appropriate fire protection systems in all
11 nursing home facilities in this state that do not currently
12 have a fire protection system in operation for the protection
13 of residents. The Legislature finds that the high cost of
14 retrofitting appropriate fire protection systems at a nursing
15 home facility not originally designed with a fire protection
16 system has discouraged the owners and operators of the
17 facility from doing so. The Legislature therefore finds that
18 action by the state to provide a limited state guarantee of
19 loans covering these costs will expedite the immediate
20 installation of fire protection systems at each facility that
21 lacks the system, and thereby ensure effective protection for
22 those nursing home residents who are now most vulnerable to
23 the catastrophic effects of fire.

24 (2) Because the Insurance Regulatory Trust Fund is
25 funded by the proceeds of fire insurance premiums written in
26 this state, the Legislature finds that it is in the public
27 interest for funds held in the Insurance Regulatory Trust Fund
28 to be used to fund the limited loan guarantee program that
29 mobilizes private funding for the retrofitting of fire
30 protection systems at unprotected nursing homes located in
31 this state.

1 Section 3. Section 633.0245, Florida Statutes, is
2 created to read:

3 633.0245 State Fire Marshal Nursing Home Fire
4 Protection Loan Guarantee Program.--

5 (1) The State Fire Marshal, with the assistance of the
6 Division of Treasury of the Department of Financial Services,
7 may enter into an investment agreement concerning the
8 investment of certain funds held in the Insurance Regulatory
9 Trust Fund for the purpose of establishing a limited loan
10 guarantee program to be known as the State Fire Marshal
11 Nursing Home Fire Protection Loan Guarantee Program. The
12 investment shall be limited as follows:

13 (a) Not more than \$4 million of the balance in the
14 Insurance Regulatory Trust Fund in any fiscal year may be at
15 risk at any time for the purpose of the limited loan
16 guarantee.

17 (b) The funds at risk at any time may not be used to
18 guarantee any limited loan guarantee agreement for a period
19 longer than 10 years.

20 (c) A limited loan guarantee agreement based on
21 invested funds may not be entered into after December 1, 2005.

22 (2) The State Fire Marshal may enter into limited loan
23 guarantee agreements with one or more financial institutions
24 qualified as public depositories in this state. The agreements
25 shall provide a limited guarantee by the state covering no
26 more than 50 percent of the principal sum loaned by the
27 financial institution to an eligible nursing home, as defined
28 in this section, for the sole purpose of the initial
29 installation at the nursing home of a fire protection system,
30 as defined in s. 633.021(8), approved by the State Fire

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1 Marshal as being in compliance with s. 633.022 and rules
2 adopted thereunder.

3 (3) The State Fire Marshal shall solicit requests for
4 proposals from qualified financial institutions willing to
5 fund loans to eligible nursing homes for the installation of
6 fire protection systems approved by the State Fire Marshal.
7 Each request for proposal must specify the terms and
8 conditions under which the responding institution is prepared
9 to make loans under the program, including, but not limited
10 to, applicable interest rates, repayment terms, credit
11 policies, loan fees, and proposed security interests to be
12 executed by the borrower. After evaluation of all requests for
13 proposals, the State Fire Marshal shall select one or more
14 responding institutions as designated lenders under the
15 program.

16 (4) The State Fire Marshal shall adopt by rule an
17 application form for participation in the State Fire Marshal
18 Nursing Home Fire Protection Loan Guarantee Program to be
19 submitted by each eligible nursing home intending to install a
20 fire protection system funded by a loan from a designated
21 lender. This section does not require an eligible nursing home
22 to do business with a designated lender. At minimum, each
23 applicant shall provide:

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

25 (b) The name and address of the owner of the nursing
26 home. If the owner is a partnership, the name and address of
27 the general partner.

28 (c) The lessees of the nursing home, if any.

29 (d) A complete description of the structure where the
30 fire protection system is to be installed, including age,
31 physical dimensions, overall square footage, a real extent of

1 proposed coverage areas, and other relevant information
2 concerning the premises.

3 (e) The bed capacity, including beds eligible for
4 Medicare or Medicaid reimbursement.

5 (f) A statement regarding availability to the
6 applicant of third-party reimbursement for installation of a
7 fire protection system.

8 (g) The location of the closest water mains and fire
9 hydrants, if any.

10 (h) A complete sealed drawing showing the fire
11 protection system to be installed.

12 (i) The cost documentation, with a separate breakdown
13 of cost for labor and materials.

14 (j) A verification of the application by the
15 applicant.

16 (5) The State Fire Marshal shall evaluate each
17 application submitted under this section to determine whether
18 the proposed fire protection system is feasible for
19 installation as proposed and complies with all applicable
20 provisions of the fire safety code. An application may not be
21 approved without the approval of the State Fire Marshal under
22 this subsection. If the State Fire Marshal determines that the
23 proposed fire protection system is feasible and is in
24 compliance with applicable fire safety codes, the application
25 shall be approved for submission to one or more lenders for
26 funding. If the application is insufficient, the State Fire
27 Marshal shall notify the applicant in writing and identify the
28 areas of deficiency which must be corrected in order for the
29 application to be approved.

30 (6) As soon as practicable after approval, each
31 approved application shall be submitted by the State Fire

1 Marshal to one or more designated lenders for funding. Upon
2 request of a designated lender, an approved applicant shall
3 provide the lender with documentation of its credit history
4 and financial status. If, after review of the applicant's
5 documentation, a lender refuses to fund the application, it
6 shall promptly notify the applicant and the State Fire Marshal
7 in writing of the reason for its action. If the lender agrees
8 to fund the application, the lender shall notify the applicant
9 and the State Fire Marshal and schedule a closing date for the
10 loan.

11 (7) At the loan closing, the applicant shall execute
12 the appropriate documents necessary to provide the lender and
13 the State Fire Marshal with a security interest in the
14 property where the fire protection system is to be installed.
15 The State Fire Marshal shall execute a limited loan guarantee
16 in favor of the lender guaranteeing no more than 50 percent of
17 the face value of the loan.

18 (8) A designated lender covered by a limited state
19 guarantee for a loan under this section is not entitled to
20 file a claim for loss under the guarantee unless all
21 reasonable remedies available and customary for lending
22 institutions for resolving problems of loan repayments are
23 exhausted. If the lender has received collateral security in
24 connection with the loan, the lender must first exhaust all
25 available remedies against the collateral security.

26 (9) The State Fire Marshal may not accept an
27 application for participation in the State Fire Marshal
28 Nursing Home Fire Protection Loan Guarantee Program after June
29 30, 2005.

30 (10) For purposes of this section, the term "eligible
31 nursing home" means a nursing home facility providing nursing

1 services as defined in chapter 464, licensed under part II of
2 chapter 400, and certified by the Agency for Health Care
3 Administration as lacking an installed fire protection system
4 as defined in s. 633.021(8).

5 (11) The State Fire Marshal may adopt rules to
6 administer this section.

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

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9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 Senate Bill 2466

12 Establishes the "State Fire Marshall Nursing Home Fire
13 Protection Loan Guarantee Program" to assist nursing homes
14 that need to be retrofitted with a sprinkler system to comply
15 with the provisions of this bill. The program is funded from
16 the Insurance Regulatory Trust Fund and no more than \$4
17 million of the balance in the Trust Fund in any fiscal year
18 may be at risk for the purpose of the loan guarantee.

19 Provides that the State Fire Marshal must enter into a limited
20 loan guarantee agreement with a financial institution
21 qualified as a public depository to provide a limited
22 guarantee by the State covering up to 50 percent of the
23 principal sum loaned by the financial institution to an
24 eligible nursing home for the sole purpose of installing a
25 fire protection system approved by the State Fire Marshall.

26 State funds held in the Insurance Regulatory Trust Fund would
27 be drawn on only in the event the nursing home, whose half of
28 the loan was covered by a state guarantee, defaulted on the
29 loan. Provides that the lending institution must exhaust
30 ordinary remedies and collateral before making a claim against
31 the state guarantee.

The loan guarantee is limited to a 10-year period and must be
entered into by December 1, 2005.