

By the Committees on Health, Aging, and Long-Term Care;
Banking and Insurance; and Senator Webster

317-2521-04

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 requiring adjustments to certain provider
22 Medicaid rates for reimbursement for Medicaid's
23 portion of costs to meet certain requirements;
24 requiring funding for such adjustments to come
25 from existing nursing home appropriations;
26 creating s. 633.024, F.S.; providing
27 legislative intent relating to fire safety in
28 nursing homes; creating s. 633.0245, F.S.;
29 creating the State Fire Marshal Nursing Home
30 Protection Loan Guarantee Program to fund the
31 installation of fire protection systems in

1 nursing homes without these systems;
2 authorizing the State Fire Marshal to enter
3 into investment agreements with the Department
4 of Financial Services to fund a loan guarantee
5 program; authorizing the State Fire Marshal to
6 enter into agreements with financial
7 institutions desiring to participate in the
8 loan guarantee program; requiring the State
9 Fire Marshal to issue requests for proposals to
10 select participating financial institutions;
11 providing for an application form to be used by
12 nursing homes intending to seek a loan to
13 install a fire protection system; providing the
14 contents of the loan guarantee application
15 form; requiring the State Fire Marshal to
16 approve or disapprove applications from nursing
17 homes; requiring the State Fire Marshal to
18 notify each applicant of its decision to
19 approve or disapprove the application;
20 requiring the State Fire Marshal to send
21 approved applications to designated lenders;
22 requiring each nursing home approved for a loan
23 to execute certain specified documents;
24 requiring that all applications for program
25 funds be filed by a specified date; defining
26 the term "eligible nursing home"; authorizing
27 the State Fire Marshal to adopt rules;
28 providing an effective date.

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30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Subsection (4) is added to section 633.022,
2 Florida Statutes, to read:

3 633.022 Uniform firesafety standards.--The Legislature
4 hereby determines that to protect the public health, safety,
5 and welfare it is necessary to provide for firesafety
6 standards governing the construction and utilization of
7 certain buildings and structures. The Legislature further
8 determines that certain buildings or structures, due to their
9 specialized use or to the special characteristics of the
10 person utilizing or occupying these buildings or structures,
11 should be subject to firesafety standards reflecting these
12 special needs as may be appropriate.

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

19 1. Each hazardous area, as defined by section
20 19.3.2.1.5 of National Fire Protection Association (NFPA)
21 Pamphlet 101, Life Safety Code, current edition, of a nursing
22 home must be protected by an approved, supervised automatic
23 sprinkler system by December 31, 2007; and

24 2. The entire area of a nursing home must be protected
25 by an approved, supervised automatic sprinkler system by
26 December 31, 2009.

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

3 (c) Adjustments shall be made to the provider Medicaid
4 rate to allow reimbursement over a 5-year period for
5 Medicaid's portion of the costs incurred to meet the
6 requirements of this subsection. Funding for this adjustment
7 shall come from existing nursing home appropriations.

8 (d) The department may adopt rules to administer and
9 enforce this section. The department shall enforce this
10 subsection and any nursing home in violation of this
11 subsection may be subject to administrative sanctions.

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

14 633.024 Legislative intent.--

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

1 lacks the system, and thereby ensure effective protection for
2 those nursing home residents who are now most vulnerable to
3 the catastrophic effects of fire.

4 (2) Because the Insurance Regulatory Trust Fund is
5 funded by the proceeds of fire insurance premiums written in
6 this state, the Legislature finds that it is in the public
7 interest for funds held in the Insurance Regulatory Trust Fund
8 to be used to fund the limited loan guarantee program that
9 mobilizes private funding for the retrofitting of fire
10 protection systems at unprotected nursing homes located in
11 this state.

12 Section 3. Section 633.0245, Florida Statutes, is
13 created to read:

14 633.0245 State Fire Marshal Nursing Home Fire
15 Protection Loan Guarantee Program.--

16 (1) The State Fire Marshal, with the assistance of the
17 Division of Treasury of the Department of Financial Services,
18 may enter into an investment agreement concerning the
19 investment of certain funds held in the Insurance Regulatory
20 Trust Fund for the purpose of establishing a limited loan
21 guarantee program to be known as the State Fire Marshal
22 Nursing Home Fire Protection Loan Guarantee Program. The
23 investment shall be limited as follows:

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

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

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

3 (2) The State Fire Marshal may enter into limited loan
4 guarantee agreements with one or more financial institutions
5 qualified as public depositories in this state. The agreements
6 shall provide a limited guarantee by the state covering no
7 more than 50 percent of the principal sum loaned by the
8 financial institution to an eligible nursing home, as defined
9 in this section, for the sole purpose of the initial
10 installation at the nursing home of a fire protection system,
11 as defined in s. 633.021(8), approved by the State Fire
12 Marshal as being in compliance with s. 633.022 and rules
13 adopted thereunder.

14 (3) The State Fire Marshal shall solicit requests for
15 proposals from qualified financial institutions willing to
16 fund loans to eligible nursing homes for the installation of
17 fire protection systems approved by the State Fire Marshal.
18 Each request for proposal must specify the terms and
19 conditions under which the responding institution is prepared
20 to make loans under the program, including, but not limited
21 to, applicable interest rates, repayment terms, credit
22 policies, loan fees, and proposed security interests to be
23 executed by the borrower. After evaluation of all requests for
24 proposals, the State Fire Marshal shall select one or more
25 responding institutions as designated lenders under the
26 program.

27 (4) The State Fire Marshal shall adopt by rule an
28 application form for participation in the State Fire Marshal
29 Nursing Home Fire Protection Loan Guarantee Program to be
30 submitted by each eligible nursing home intending to install a
31 fire protection system funded by a loan from a designated

1 lender. This section does not require an eligible nursing home
2 to do business with a designated lender. At minimum, each
3 applicant shall provide:
4 (a) The name and address of the eligible nursing home.
5 (b) The name and address of the owner of the nursing
6 home. If the owner is a partnership, the name and address of
7 the general partner.
8 (c) The lessees of the nursing home, if any.
9 (d) A complete description of the structure where the
10 fire protection system is to be installed, including age,
11 physical dimensions, overall square footage, a real extent of
12 proposed coverage areas, and other relevant information
13 concerning the premises.
14 (e) The bed capacity, including beds eligible for
15 Medicare or Medicaid reimbursement.
16 (f) A statement regarding availability to the
17 applicant of third-party reimbursement for installation of a
18 fire protection system.
19 (g) The location of the closest water mains and fire
20 hydrants, if any.
21 (h) A complete sealed drawing showing the fire
22 protection system to be installed.
23 (i) The cost documentation, with a separate breakdown
24 of cost for labor and materials.
25 (j) A verification of the application by the
26 applicant.
27 (5) The State Fire Marshal shall evaluate each
28 application submitted under this section to determine whether
29 the proposed fire protection system is feasible for
30 installation as proposed and complies with all applicable
31 provisions of the fire safety code. An application may not be

1 approved without the approval of the State Fire Marshal under
2 this subsection. If the State Fire Marshal determines that the
3 proposed fire protection system is feasible and is in
4 compliance with applicable fire safety codes, the application
5 shall be approved for submission to one or more lenders for
6 funding. If the application is insufficient, the State Fire
7 Marshal shall notify the applicant in writing and identify the
8 areas of deficiency which must be corrected in order for the
9 application to be approved.

10 (6) As soon as practicable after approval, each
11 approved application shall be submitted by the State Fire
12 Marshal to one or more designated lenders for funding. Upon
13 request of a designated lender, an approved applicant shall
14 provide the lender with documentation of its credit history
15 and financial status. If, after review of the applicant's
16 documentation, a lender refuses to fund the application, it
17 shall promptly notify the applicant and the State Fire Marshal
18 in writing of the reason for its action. If the lender agrees
19 to fund the application, the lender shall notify the applicant
20 and the State Fire Marshal and schedule a closing date for the
21 loan.

22 (7) At the loan closing, the applicant shall execute
23 the appropriate documents necessary to provide the lender and
24 the State Fire Marshal with a security interest in the
25 property where the fire protection system is to be installed.
26 The State Fire Marshal shall execute a limited loan guarantee
27 in favor of the lender guaranteeing no more than 50 percent of
28 the face value of the loan.

29 (8) A designated lender covered by a limited state
30 guarantee for a loan under this section is not entitled to
31 file a claim for loss under the guarantee unless all

1 reasonable remedies available and customary for lending
2 institutions for resolving problems of loan repayments are
3 exhausted. If the lender has received collateral security in
4 connection with the loan, the lender must first exhaust all
5 available remedies against the collateral security.

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

10 (10) For purposes of this section, the term "eligible
11 nursing home" means a nursing home facility providing nursing
12 services as defined in chapter 464, licensed under part II of
13 chapter 400, and certified by the Agency for Health Care
14 Administration as lacking an installed fire protection system
15 as defined in s. 633.021(8).

16 (11) The State Fire Marshal may adopt rules to
17 administer this section.

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

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20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
21 COMMITTEE SUBSTITUTE FOR
22 CS/SB 2466

23 The Committee Substitute for CS/SB 2466 authorizes adjustments
24 to the Medicaid nursing home reimbursement rate paid to
25 providers to allow reimbursement over a 5-year period to cover
26 the portion of the cost of installing automatic sprinkler
27 systems that will be paid by Medicaid. The reimbursement must
28 come from existing nursing home appropriations.
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