

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 189  
**SPONSOR(S):** McInvale  
**TIED BILLS:**

Hospice Facilities

**IDEN./SIM. BILLS:** SB 112

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Elder &amp; Long-Term Care Committee</u>	<u>6 Y, 0 N</u>	<u>Walsh</u>	<u>Liem</u>
2) <u>Local Government Council</u>	<u>7 Y, 0 N</u>	<u>Smith</u>	<u>Hamby</u>
3) <u>Health Care Appropriations Committee</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
4) <u>Health &amp; Families Council</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
5) <u>  </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

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### SUMMARY ANALYSIS

House Bill 189 adds "hospice residential and inpatient facilities and units" to the provisions and requirements that the Florida Building Code must address.

This bill removes the requirement that the Department of Elderly Affairs (DOEA), in consultation with the Agency for Health Care Administration (AHCA), establish minimum standards and procedures for "the physical plant standards for hospice residential and inpatient facilities."

This bill creates a new subsection which provides that the construction and renovation of hospice residential or inpatient facilities or units must comply with the building construction standards, the Florida Building Code, and the other applicable provisions of chapter 553, Florida Statutes. The bill requires the AHCA to provide technical assistance to the Florida Building Commission in updating the construction standards of the Florida Building Code relative to hospice facilities.

This bill does not appear to have a fiscal impact on state or local governments.

This bill takes effect July 1, 2005.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide limited government** - This bill adds “hospice residential and inpatient facilities and units” to the provisions and requirements that the Florida Building Code must contain. It also requires the Agency for Health Care Agency to provide technical assistance to the Florida Building Commission in updating, pursuant to Chapter 120, F.S., the construction standards of the Florida Building Code relative to hospice facilities. The bill removes the requirement that the Department of Elderly Affairs in consultation with the Agency for Health Care Administration, implement rules addressing the “physical plant standards for hospice residential and inpatient facilities.”

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

Pursuant to s. 400.605, F.S., DOEA is required, in consultation with the AHCA to adopt rules establishing minimum standards and procedures for hospice facilities. One of the administrative rules that DOEA and AHCA are required to promulgate pursuant to this section is a rule that sets the minimum physical plant standards for hospice residential and inpatient facilities and units. Rules 58A-2.0236 and 58A-2.025, F.A.C., implement these minimum standards.

Part IV of Chapter 553, F.S., sets forth the requirements for the Florida Building Code. The intent of the Legislature in providing for the Florida Building Code was to create a “mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of a single, unified state building code.”<sup>1</sup>

The Florida Building Commission is required to adopt the Florida Building Code:

which shall contain or incorporate by reference all laws and rules which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and enforcement of such laws and rules, except as otherwise provided in this section.<sup>2</sup>

Certain provisions or requirements must be part of the Florida Building Code:

public and private buildings, structures, and facilities relative to structural, mechanical, electrical, plumbing, energy, and gas systems, existing buildings, historical buildings, manufactured buildings, elevators, coastal construction, lodging facilities, food sales and food service facilities, **health care facilities, including assisted living facilities, adult day care facilities**, and facilities for the control of radiation hazards, public or private educational facilities, swimming pools, and correctional facilities and enforcement of and compliance with such provisions or requirements.<sup>3</sup> [Emphasis supplied.]

##### Effect of Proposed Changes

House Bill 189 adds “hospice residential and inpatient facilities and units” to the provisions and requirements that the Florida Building Code must contain. This change clarifies that hospice residential

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<sup>1</sup> See Fla. Stat. §553.72(1).

<sup>2</sup> See Fla. Stat. §553.73(1).

<sup>3</sup> See Fla. Stat. §553.73(2).

facilities and inpatient facilities or units should be considered another type of “health care facility” to be included within the Code.

The bill removes the requirement that DOEA, in consultation with AHCA, implement rules addressing “the physical plant standards for hospice residential and inpatient facilities” and creates a new subsection which provides that the construction and the renovation of hospice residential or inpatient facilities or units must comply with the provisions of Chapter 553, Florida Statutes.

The bill requires AHCA to provide technical assistance to the Florida Building Commission in updating the construction standards of the Florida Building Code relative to hospice facilities.

**C. SECTION DIRECTORY:**

Section 1: Amends s. 553.73(2), F.S.; sets forth provisions or requirements related to residential and inpatient hospice facilities to the Florida Building Code.

Section 2: Amends s. 400.605(1); deletes subparagraph (i) to remove the requirement that DOEA establish physical plant standards for hospices.

Section 3: Creates s. 400.6051, F.S.; requires that construction and renovation of hospice residential or inpatient facilities or units comply with Chapter 553, F.S., the Florida Building Code.

Section 4: Provides an effective date of July 1, 2005.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

There are no known or expected fiscal impacts on state government revenues.

2. Expenditures:

There may be an impact on state government expenditures related to the promulgation and adoption by the Florida Building Commission of standards relating to “hospice residential facilities and inpatient facilities and units.” However, since DOEA and AHCA will experience a reduction in workload corresponding to the rescinding of rulemaking authority in this area, the overall fiscal impact is unknown.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

There are no known or expected fiscal impacts on local government revenues.

2. Expenditures:

There are no known or expected fiscal impacts on local government expenditures.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

It is unclear whether the standards to be adopted in the Florida Building Code relative to hospice facilities will be more or less stringent than those currently in place in administrative rule. Accordingly, a direct economic impact on private sector hospice renovation and construction is expected, but the nature and degree of that impact is unknown.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

By requiring the Florida Building Code to contain provisions or requirements for "hospice residential facilities and inpatient facilities and units," the Florida Building Commission will be required to adopt such provisions pursuant to chapters 120 and 553, Florida Statutes.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

None.