

By Senator Webster

9-1338A-05

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

1 limitations; limiting certain claims for loss
2 under certain circumstances; providing a
3 definition; authorizing the State Fire Marshal
4 to adopt rules; providing an effective date.
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6 Be It Enacted by the Legislature of the State of Florida:
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8 Section 1. Subsection (4) is added to section 633.022,
9 Florida Statutes, to read:

10 633.022 Uniform firesafety standards.--The Legislature
11 hereby determines that to protect the public health, safety,
12 and welfare it is necessary to provide for firesafety
13 standards governing the construction and utilization of
14 certain buildings and structures. The Legislature further
15 determines that certain buildings or structures, due to their
16 specialized use or to the special characteristics of the
17 person utilizing or occupying these buildings or structures,
18 should be subject to firesafety standards reflecting these
19 special needs as may be appropriate.

20 (4)(a) Notwithstanding any provision of law to the
21 contrary, each nursing home licensed under part II of chapter
22 400 shall be protected by an approved, supervised automatic
23 sprinkler system in accordance with section 9 of National Fire
24 Protection Association, Inc., Life Safety Code, in accordance
25 with the following schedule:

26 1. Each hazardous area of each nursing home shall be
27 protected by an approved, supervised automatic sprinkler
28 system by no later than December 31, 2008.

29 2. Each entire nursing home shall be protected by an
30 approved, supervised automatic sprinkler system by no later
31 than December 31, 2010.

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

5 **(c) The division may adopt any rule necessary for the**
6 **administration and enforcement of this subsection. The**
7 **division shall enforce this subsection in accordance with the**
8 **provisions of this chapter, and any nursing home licensed**
9 **under part II of chapter 400 which is in violation of this**
10 **subsection is subject to administrative sanctions by the**
11 **division pursuant to this chapter.**

12 **(d) Adjustments shall be made to the provider Medicaid**
13 **rate to allow reimbursement over a 5-year period for Medicaid**
14 **s portion of the costs incurred to meet the requirements of**
15 **this subsection. Funding for this adjustment shall come from**
16 **existing nursing home appropriations.**

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

19 **633.024 Legislative findings and intent; ensuring**
20 **effective fire protection of vulnerable nursing home residents**
21 **essential; retrofit of existing nursing homes expedited by**
22 **limited state loan guarantee; funding through Insurance**
23 **Regulatory Trust Fund.--**

24 **(1) It is the intent of the Legislature to promote the**
25 **essential public purpose of ensuring effective fire protection**
26 **for the safety and welfare of nursing home residents of this**
27 **state who, because of their inability to protect themselves,**
28 **are most vulnerable to catastrophic injury or death in the**
29 **event of a fire. The Legislature finds that this purpose is**
30 **served by requiring the installation of appropriate fire**
31 **protection systems in all nursing home facilities in this**

1 state which do not currently have fire protection systems in
2 operation for the protection of their residents. The
3 Legislature finds that the high capital cost of retrofitting
4 appropriate fire protection systems at nursing home facilities
5 not originally designed with fire protection systems has
6 discouraged the owners and operators of such facilities from
7 doing so. The Legislature therefore finds that state action to
8 provide a limited state guarantee of loans covering these
9 capital costs will expedite the immediate installation of fire
10 protection systems at facilities that lack such systems and
11 thereby ensure effective protection for those nursing home
12 populations that are now most vulnerable to the catastrophic
13 effects of fire.

14 (2) Because the Insurance Regulatory Trust Fund is
15 funded by the proceeds of fire insurance premiums written in
16 this state, the Legislature finds that it is in the public
17 interest for moneys held in the Insurance Regulatory Trust
18 Fund to be used to fund the limited loan guarantee program
19 that mobilizes private funding for the retrofitting of fire
20 protection systems at unprotected nursing homes located in
21 this state.

22 Section 3. Section 633.0245, Florida Statutes, is
23 created to read:

24 633.0245 State Fire Marshal Nursing Home Fire
25 Protection Loan Guarantee Program.--

26 (1) The State Fire Marshal, with the assistance of the
27 Division of Treasury of the Department of Financial Services,
28 may enter into an investment agreement concerning the
29 investment of certain funds held in the Insurance Regulatory
30 Trust Fund for the purpose of establishing a limited loan
31 guarantee program to be known as the State Fire Marshal

1 Nursing Home Fire Protection Loan Guarantee Program. The
2 investment must be limited as follows:

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

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

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

11 (2) The State Fire Marshal may enter into limited loan
12 guarantee agreements with one or more financial institutions
13 qualified as public depositories in this state. Such
14 agreements shall provide a limited guarantee by the State of
15 Florida covering no more than 50 percent of the principal sum
16 loaned by such financial institution to an eligible nursing
17 home, as defined in subsection (10), for the sole purpose of
18 the initial installation at such nursing home of a fire
19 protection system, as defined in s. 633.021(8), approved by
20 the State Fire Marshal as being in compliance with the
21 provisions of s. 633.022 and rules adopted under such section.

22 (3) The State Fire Marshal shall solicit requests for
23 proposals from qualified financial institutions willing to
24 fund loans to eligible nursing homes for the installation of
25 fire protection systems approved by the State Fire Marshal
26 under the State Fire Marshal Nursing Home Fire Protection Loan
27 Guarantee Program. Each request for proposal shall specify the
28 terms and conditions under which the responding institution is
29 prepared to make loans under the program, including, but not
30 limited to, applicable interest rates, repayment terms, credit
31 policies, loan fees, and proposed security interests to be

1 executed by the borrower. After evaluation of all requests for
2 proposals, the State Fire Marshal shall select one or more
3 responding institutions as designated lenders under the
4 program.

5 (4) The State Fire Marshal shall prescribe by rule an
6 application form for participation in the State Fire Marshal
7 Nursing Home Fire Protection Loan Guarantee Program to be
8 submitted by each eligible nursing home that desires to
9 install a fire protection system funded by a loan from a
10 designated lender under the program. This section does not
11 require an eligible nursing home to do business with a
12 designated lender. At a minimum, the application shall require
13 each applicant to provide the following information:

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

15 (b) The name and address of the owner of the nursing
16 home or, if the owner is a partnership, the name and address
17 of the general partner.

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

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

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

26 (f) A statement regarding the availability to the
27 applicant of third-party reimbursement for installation of the
28 fire protection system.

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

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1 (h) Complete sealed drawings showing the fire
2 protection system to be installed.

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

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

6 (5) The State Fire Marshal shall evaluate each
7 application submitted under this section to determine whether
8 the proposed fire protection system is feasible for
9 installation as proposed and complies with all applicable
10 firesafety code provisions. An application may not be approved
11 without a positive determination by the State Fire Marshal
12 under this subsection. If the State Fire Marshal is able to
13 determine that the proposed fire protection system is feasible
14 and complies with applicable firesafety codes, the application
15 shall be approved for submission to one or more lenders for
16 funding. If the application is insufficient, the State Fire
17 Marshal shall notify the applicant in writing and identify
18 areas of deficiency that must be corrected in order for the
19 application to be approved.

20 (6) As soon as practicable after approval, each
21 approved application shall be submitted by the State Fire
22 Marshal to one or more designated lenders for funding. Upon
23 request of a designated lender, an approved applicant shall
24 provide the lender with documentation of its credit history
25 and financial status. If, after review of the applicant's
26 documentation, a lender refuses to fund the application, the
27 lender shall promptly notify the applicant and the State Fire
28 Marshal in writing of any reasons for its action. If the
29 lender agrees to fund the application, the lender shall notify
30 the applicant and the State Fire Marshal and schedule a
31 closing date for the loan.

1 (7) At closing, the applicant shall execute
2 appropriate documents necessary to provide the lender and the
3 State Fire Marshal with a security interest in the property
4 where the fire protection system is to be installed. The State
5 Fire Marshal shall then execute a limited loan guarantee in
6 favor of the lender guaranteeing no more than 50 percent of
7 the face value of the loan.

8 (8) A designated lender covered by a limited state
9 guarantee for a loan under this section is not entitled to
10 file a claim for loss pursuant to the guarantee unless all
11 reasonable and normal remedies available and customary for
12 lending institutions for resolving problems of loan repayments
13 are exhausted. If the lender has received collateral security
14 in connection with the loan, the lender must first exhaust all
15 available remedies against the collateral security.

16 (9) An application for participation in the State Fire
17 Marshal Nursing Home Fire Protection Loan Guarantee Program
18 may not be accepted by the State Fire Marshal after June 30,
19 2006.

20 (10) For purposes of this section, the term "eligible
21 nursing home" means a nursing home facility providing nursing
22 services as defined in chapter 464 licensed under part II of
23 chapter 400 which is certified by the Agency for Health Care
24 Administration to lack an installed fire protection system as
25 defined in s. 633.021(8).

26 (11) The State Fire Marshal may adopt rules to
27 administer this section.

28 Section 4. This act shall take effect July 1, 2005.
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SENATE SUMMARY

Requires that all nursing homes be protected by an approved, supervised automatic sprinkler system. Requires the installation of sprinkler systems in hazardous areas by December 31, 2008, and in nonhazardous areas by December 31, 2010. Authorizes the Division of State Fire Marshal Services to grant two 1-year extensions for installing sprinkler systems in nonhazardous areas of a nursing home. Creates the State Fire Marshal Nursing Home Fire Protection Loan Guarantee Program to retrofit nursing homes with fire protection systems. (See bill for details.)