

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

BILL: SB 688

INTRODUCER: Senator Richter

SUBJECT: Assisted Living Facilities

DATE: April 1, 2011

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Walsh	CF	<b>Favorable</b>
2.	_____	_____	HR	_____
3.	_____	_____	CA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill repeals the provision of law authorizing the Department of Elder Affairs to conduct field visits and audits of assisted living facilities (ALFs) in order to collection information regarding the actual cost of providing room, board, and personal care to residents. The law providing that local governments or organizations may contribute to the cost of care of residents in local ALFs is also repealed.

This bill repeals section 429.54, Florida Statutes.

**II. Present Situation:<sup>1</sup>**

An Assisted Living Facility (ALF) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.<sup>2</sup> A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.<sup>3</sup> Activities of daily living include: ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks. An ALF may be operated

<sup>1</sup> Information contained the Present Situation of this bill analysis is from an interim report by the Committee on Health Regulation of the Florida Senate. See Comm. on Health Reg., The Florida Senate, *Assisted Living Facility Licensure Review* (Interim Report 2010-118) (Oct. 2009), available at [http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim\\_reports/pdf/2010-118hr.pdf](http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-118hr.pdf) (last visited Feb. 24, 2011).

<sup>2</sup> Section 429.02(5), F.S.

<sup>3</sup> Section 429.02(16), F.S.

for profit or not-for-profit, and can range from small houses resembling private homes to larger developments with hundreds of residential beds.

Assisted living facilities are currently licensed by the Agency for Health Care Administration (AHCA) pursuant to part I of ch. 429, F.S., relating to assisted care communities and part II of ch.408, F.S., relating to the general licensing provisions for health care facilities. Assisted living facilities are also subject to regulation under Rule 58A-5 of the Florida Administrative Code. These rules are adopted by the Department of Elder Affairs (DOEA) in consultation with AHCA, the Department of Children and Family Services (DCF), and the Department of Health (DOH).<sup>4</sup> An ALF must also comply with Uniform Fire Safety Standards for ALFs and standards enforced by DOH concerning food hygiene; physical plant sanitation; biomedical waste; and well, pool, or septic systems.<sup>5</sup>

An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission to the facility. Generally, the care and services include at a minimum:

- Supervising and monitoring the resident;
- Contacting appropriate persons upon a significant change in the resident or if the resident is discharged or moves out;
- Providing and coordinating activities;
- Arranging for health care; and
- Providing and adhering to the Resident Bill of Rights.

Local governments or organizations may help subsidize the cost of providing care to residents in ALFs. Implementation of a local subsidy requires authorization of DOEA and may not result in a reduction of the state supplement.<sup>6</sup> In order to help ascertain the actual cost of providing room, board, and personal care to residents in ALFs, s. 429.54(1), F.S., authorizes DOEA to conduct field visits audits of facilities as necessary. If randomly selected, the owner of the facility must submit a report, audit, and other accountings of cost as requested by DOEA.

As of December 2009, there were 2,830 ALFs licensed with a standard license by AHCA, for a total of 80,539 beds.<sup>7</sup> In addition to a standard license, an ALF may have specialty licenses that authorize an ALF to provide limited nursing services (LNS), limited mental health services (LMH), and extended congregate care services (ECC). An applicant or licensee must pay a fee for each license application, the amount of which is established by rule.<sup>8</sup> The biennial fee for a facility is \$300 per license, plus an additional fee of \$50 per resident; however, the total fee may not exceed \$10,000.<sup>9</sup> Facilities that have ECC and LNS licenses must also pay additional fees.<sup>10</sup>

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<sup>4</sup> Section 429.41(1), F.S.

<sup>5</sup> See rules 64E-12, 64E-11, and 64E-16, F.A.C.

<sup>6</sup> Section 429.54(2), F.S.

<sup>7</sup> Comm. on Children, Families, and Elder Affairs, The Florida Senate, *Bill Analysis and Fiscal Impact Statement SB 1816* (Mar. 17, 2010), available at <http://archive.flsenate.gov/data/session/2010/Senate/bills/analysis/pdf/2010s1816.cf.pdf> (last visited Feb. 24, 2011).

<sup>8</sup> Section 428.07(4), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

**III. Effect of Proposed Changes:**

Section 429.54, F.S., relating to the collection of information and local subsidies for assisted living facilities (ALF), provides that the Department of Elder Affairs (department or DOEA) may conduct field visits and audits of ALFs in order to collection information regarding the actual cost of providing room, board, and personal care to residents. Additionally, the law provides that local governments or organizations may contribute to the cost of care of residents in local ALFs by subsidizing the rate of state-authorized payment to such facilities.

This bill repeals s. 429.54, F.S.

This effective date of the bill is July 1, 2011.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill repeals s. 429.54, F.S., which authorizes local governments or organizations to contribute to the cost of care of assisted living facility residents upon approval of the Department of Elder Affairs (DOEA). By repealing this section of law, assisted living facilities may no longer receive subsidies from local government or organizations. However, according to DOEA, they are unaware of any local governments or organizations currently subsidizing the cost of care for residents.<sup>11</sup>

**C. Government Sector Impact:**

None.

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<sup>11</sup> E-mail from Kevin Reilly, Director of Legislative Affairs, Dep't of Elder Affairs, to professional staff of the Senate Committee on Children, Families, and Elder Affairs (Feb. 23, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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