

**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.)

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Prepared By: The Professional Staff of the Health Regulation Committee

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BILL: SB 688

INTRODUCER: Senator Richter

SUBJECT: Assisted Living Facilities

DATE: April 11, 2011

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

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

**I. Summary:**

This bill repeals the provision of law authorizing the Department of Elder Affairs (DOEA) to conduct field visits and audits of assisted living facilities (ALFs) in order to collect information requested by the Legislature 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providing that local governments or organizations may contribute to the cost of care of residents in local ALFs is also repealed.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

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<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 April 8, 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 living facilities and part II of ch. 408, F.S., relating to the general licensing provisions for health care facilities. ALFs are also subject to regulation under Rule 58A-5 of the Florida Administrative Code. These rules are adopted by the 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 the resident in order to monitor the resident's diet; being aware of the general health, safety, and physical and emotional well-being of the resident; and recording significant changes, illnesses, incidents, and other changes which resulted in the provision of additional services;
- Contacting appropriate persons upon a significant change in the resident or if the resident is discharged or moves out;
- Providing and coordinating social and leisure activities in keeping with each resident's needs, abilities, and interests;
- Arranging for health care by assisting in making appointments, reminding residents about scheduled appointments, and providing or arranging for transportation as needed; and
- Providing to the resident a copy of, 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 the 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 the DOEA to conduct field visits and 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 the DOEA.

There are currently 2,932 licensed ALFs in Florida.<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 (LMH) services,<sup>8</sup> and extended congregate care (ECC) services.

The biennial licensure fees for the ALF standard license and specialty licenses are found in s. 429.07(4), F.S. This section refers to the general health care licensure provisions in part II of

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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> Senate professional staff of the Health Regulation Committee received this information via email on March 25, 2011. A copy of the email is on file with the committee.

<sup>8</sup> An ALF that serves three or more mental health residents must obtain a limited mental health specialty license. A mental health resident is an individual who receives social security disability income (SSDI) due to a mental disorder or supplemental security income (SSI) due to a mental disorder, and receives OSS.

ch. 408, F.S. Section 408.805, F.S., provides for licensure fees to be adjusted annually by not more than the change in the Consumer Price Index (CPI) based on the 12 months immediately preceding the increase. The following chart reflects the licensure fees contained in s. 429.07(4), F.S., and the adjusted licensure fees based on the CPI that are currently in effect.<sup>9</sup>

Fee Description	Per s. 429.07(4), F.S.	CPI adjusted (current fee)
Standard ALF Application Fee	\$300	\$366
Standard ALF Per-Bed Fee (non-OSS)	\$50	\$61
Total Licensure fee for Standard ALF	\$10,000	\$13,443
ECC Application Fee	\$400	\$515
ECC Per-Bed Fee (licensed capacity)	\$10	\$10
LNS Application Fee	\$250	\$304
LNS Per-Bed Fee (licensed capacity)	\$10	\$10

### III. Effect of Proposed Changes:

This bill repeals the DOEA's authority to collect information as requested by the Legislature about the ALFs actual costs associated with providing room, board, and personal care to residents by conducting field visits and audits of the ALFs. Further, this bill repeals the requirement that owners of randomly sampled ALFs must cooperate with the DOEA and submit the reports, audits, and accountings of cost that the DOEA requires by rule.

Additionally, the bill repeals the authority of local governments or organizations to contribute to the cost of care of residents in local ALFs by subsidizing the rate of state-authorized payment to such facilities.

The bill provides an effective date of July 1, 2011.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

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

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

#### C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

<sup>9</sup> Found on the AHCA website at:

[http://ahca.myflorida.com/MCHQ/LONG\\_TERM\\_CARE/Assisted\\_living/alf/ALF\\_fee\\_increase.pdf](http://ahca.myflorida.com/MCHQ/LONG_TERM_CARE/Assisted_living/alf/ALF_fee_increase.pdf), (Last visited on March 25, 2011).

**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 ALF residents upon approval of the DOEA. By repealing this section of law, ALFs may no longer receive subsidies from local governments or organizations. However, according to the DOEA, they are unaware of any local governments or organizations currently subsidizing the cost of care for residents.<sup>10</sup>

**C. Government Sector Impact:**

None.

**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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<sup>10</sup> E-mail from Kevin Reilly, Director of Legislative Affairs, Dep't of Elder Affairs, to professional staff of the Senate Committee on Health Regulation (April 8, 2011) (on file with the Senate Committee on Health Regulation).