

CHAMBER ACTION

1 The Committee on Insurance recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

24 | limitations; requiring the State Fire Marshal to solicit
 25 | requests for proposals; providing for application
 26 | requirements and procedures; providing for review and
 27 | approval by the State Fire Marshal; providing application
 28 | requirements and procedures for program loans by public
 29 | depositories; providing deadlines and limitations;
 30 | limiting certain claims for loss under certain
 31 | circumstances; providing a definition; authorizing the
 32 | State Fire Marshal to adopt rules; providing an effective
 33 | date.

34 |
 35 | Be It Enacted by the Legislature of the State of Florida:

36 |
 37 | Section 1. Subsection (4) is added to section 633.022,
 38 | Florida Statutes, to read:

39 | 633.022 Uniform firesafety standards.--The Legislature
 40 | hereby determines that to protect the public health, safety, and
 41 | welfare it is necessary to provide for firesafety standards
 42 | governing the construction and utilization of certain buildings
 43 | and structures. The Legislature further determines that certain
 44 | buildings or structures, due to their specialized use or to the
 45 | special characteristics of the person utilizing or occupying
 46 | these buildings or structures, should be subject to firesafety
 47 | standards reflecting these special needs as may be appropriate.

48 | (4)(a) Notwithstanding any provision of law to the
 49 | contrary, each nursing home licensed under part II of chapter
 50 | 400 shall be protected by an approved, supervised automatic
 51 | sprinkler system in accordance with section 9 of National Fire

52 Protection Association, Inc., Life Safety Code, in accordance
 53 with the following schedule:

54 1. Each hazardous area of each nursing home shall be
 55 protected by an approved, supervised automatic sprinkler system
 56 by no later than December 31, 2007.

57 2. Each entire nursing home shall be protected by an
 58 approved, supervised automatic sprinkler system by no later than
 59 December 31, 2009.

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

64 (c) The division is authorized to adopt any rule necessary
 65 for the implementation and enforcement of this subsection. The
 66 division shall enforce this subsection in accordance with the
 67 provisions of this chapter, and any nursing home licensed under
 68 part II of chapter 400 that is in violation of this subsection
 69 may be subject to administrative sanctions by the division
 70 pursuant to this chapter.

71 (d) Adjustments shall be made to the provider Medicaid
 72 rate to allow reimbursement over a 5-year period for Medicaid's
 73 portion of the costs incurred to meet the requirements of this
 74 subsection. Funding for this adjustment shall come from existing
 75 nursing home appropriations.

76 Section 2. Section 633.024, Florida Statutes, is created
 77 to read:

78 633.024 Legislative findings and intent; ensuring
 79 effective fire protection of vulnerable nursing home residents

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80 essential; retrofit of existing nursing homes expedited by
81 limited state loan guarantee; funding through Insurance
82 Regulatory Trust Fund.--

83 (1) It is the intent of the Legislature to promote the
84 essential public purpose of ensuring effective fire protection
85 for the safety and welfare of nursing home residents of this
86 state who, because of their inability to protect themselves, are
87 most vulnerable to catastrophic injury or death in the event of
88 a fire. The Legislature finds that this purpose is served by
89 requiring the installation of appropriate fire protection
90 systems in all nursing home facilities in this state that do not
91 currently have fire protection systems in operation for the
92 protection of their residents. The Legislature finds that the
93 high capital cost of retrofitting appropriate fire protection
94 systems at nursing home facilities not originally designed with
95 fire protection systems has discouraged the owners and operators
96 of such facilities from doing so. The Legislature therefore
97 finds that state action to provide a limited state guarantee of
98 loans covering these capital costs will expedite the immediate
99 installation of fire protection systems at facilities that lack
100 such systems and thereby ensure effective protection for those
101 nursing home populations that are now most vulnerable to the
102 catastrophic effects of fire.

103 (2) Because the Insurance Regulatory Trust Fund is funded
104 by the proceeds of fire insurance premiums written in this
105 state, the Legislature finds that it is in the public interest
106 for moneys held in the Insurance Regulatory Trust Fund to be
107 used to fund the limited loan guarantee program that mobilizes

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108 private funding for the retrofitting of fire protection systems
 109 at unprotected nursing homes located in this state.

110 Section 3. Section 633.0245, Florida Statutes, is created
 111 to read:

112 633.0245 State Fire Marshal Nursing Home Fire Protection
 113 Loan Guarantee Program.--

114 (1) The State Fire Marshal, with the assistance of the
 115 Division of Treasury of the Department of Financial Services,
 116 may enter into an investment agreement concerning the investment
 117 of certain funds held in the Insurance Regulatory Trust Fund for
 118 the purpose of establishing a limited loan guarantee program to
 119 be known as the State Fire Marshal Nursing Home Fire Protection
 120 Loan Guarantee Program. The investment must be limited as
 121 follows:

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

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

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

130 (2) The State Fire Marshal may enter into limited loan
 131 guarantee agreements with one or more financial institutions
 132 qualified as public depositories in this state. Such agreements
 133 shall provide a limited guarantee by the State of Florida
 134 covering no more than 50 percent of the principal sum loaned by
 135 such financial institution to an eligible nursing home, as

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136 defined in subsection (10), for the sole purpose of the initial
 137 installation at such nursing home of a fire protection system,
 138 as defined in s. 633.021(8), approved by the State Fire Marshal
 139 as being in compliance with the provisions of s. 633.022 and
 140 rules adopted under such section.

141 (3) The State Fire Marshal shall solicit requests for
 142 proposals from qualified financial institutions willing to fund
 143 loans to eligible nursing homes for the installation of fire
 144 protection systems approved by the State Fire Marshal under the
 145 State Fire Marshal Nursing Home Fire Protection Loan Guarantee
 146 Program. Each request for proposal shall specify the terms and
 147 conditions under which the responding institution is prepared to
 148 make loans under the program, including, but not limited to,
 149 applicable interest rates, repayment terms, credit policies,
 150 loan fees, and proposed security interests to be executed by the
 151 borrower. After evaluation of all requests for proposals, the
 152 State Fire Marshal shall select one or more responding
 153 institutions as designated lenders under the program.

154 (4) The State Fire Marshal shall prescribe by rule an
 155 application form for participation in the State Fire Marshal
 156 Nursing Home Fire Protection Loan Guarantee Program to be
 157 submitted by each eligible nursing home that desires to install
 158 a fire protection system funded by a loan from a designated
 159 lender under the program. Nothing in this section shall be
 160 deemed to require an eligible nursing home to do business with a
 161 designated lender. At a minimum, the application shall require
 162 each applicant to provide the following information:

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

164 (b) The name and address of the owner of the nursing home
 165 or, if the owner is a partnership, the name and address of the
 166 general partner.

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

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

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

175 (f) A statement regarding the availability to the
 176 applicant of third-party reimbursement for installation of the
 177 fire protection system.

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

180 (h) Complete sealed drawings showing the fire protection
 181 system to be installed.

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

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

185 (5) The State Fire Marshal shall evaluate each application
 186 submitted under this section to determine whether the proposed
 187 fire protection system is feasible for installation as proposed
 188 and complies with all applicable firesafety code provisions. An
 189 application may not be approved without a positive determination
 190 by the State Fire Marshal under this subsection. If the State
 191 Fire Marshal is able to determine that the proposed fire

192 protection system is feasible and complies with applicable
 193 firesafety codes, the application shall be approved for
 194 submission to one or more lenders for funding. If the
 195 application is insufficient, the State Fire Marshal shall notify
 196 the applicant in writing and identify areas of deficiency that
 197 must be corrected in order for the application to be approved.

198 (6) As soon as practicable after approval, each approved
 199 application shall be submitted by the State Fire Marshal to one
 200 or more designated lenders for funding. Upon request of a
 201 designated lender, an approved applicant shall provide the
 202 lender with documentation of its credit history and financial
 203 status. If, after review of the applicant's documentation, a
 204 lender refuses to fund the application, the lender shall
 205 promptly notify the applicant and the State Fire Marshal in
 206 writing of any reasons for its action. If the lender agrees to
 207 fund the application, the lender shall notify the applicant and
 208 the State Fire Marshal and schedule a closing date for the loan.

209 (7) At closing, the applicant shall execute appropriate
 210 documents necessary to provide the lender and the State Fire
 211 Marshal with a security interest in the property where the fire
 212 protection system is to be installed. The State Fire Marshal
 213 shall then execute a limited loan guarantee in favor of the
 214 lender guaranteeing no more than 50 percent of the face value of
 215 the loan.

216 (8) A designated lender covered by a limited state
 217 guarantee for a loan under this section is not entitled to file
 218 a claim for loss pursuant to the guarantee unless all reasonable
 219 and normal remedies available and customary for lending

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220 institutions for resolving problems of loan repayments are
 221 exhausted. If the lender has received collateral security in
 222 connection with the loan, the lender must first exhaust all
 223 available remedies against the collateral security.

224 (9) No application for participation in the State Fire
 225 Marshal Nursing Home Fire Protection Loan Guarantee Program may
 226 be accepted by the State Fire Marshal after June 30, 2005.

227 (10) For purposes of this section, "eligible nursing home"
 228 means a nursing home facility providing nursing services as
 229 defined in chapter 464 licensed under part II of chapter 400
 230 that is certified by the Agency for Health Care Administration
 231 to lack an installed fire protection system as defined in s.
 232 633.021(8).

233 (11) The State Fire Marshal may adopt any rules necessary
 234 to implement the provisions of this section.

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