

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/CS/SB 1344

SPONSOR: Regulated Industries Committee, Health, Aging, and Long-Term Care Committee and Senator Constantine

SUBJECT: Hospice Facilities

DATE: March 3, 2004 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CP</u>	<u>Favorable</u>
2.	<u>Parham</u>	<u>Wilson</u>	<u>HC</u>	<u>Fav/CS</u>
3.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

This bill includes hospice residential and inpatient facilities and hospice units in the Florida Building Code and requires hospice residential or inpatient facilities or units to comply with the provisions of ch. 553, F.S. The bill deletes requirements that the Department of Elder Affairs (DOEA) adopt physical plant standards for these facilities. The bill defines the term “hospice” as a corporation not for profit and exempt from federal taxation. This bill also requires the Agency for Health Care Administration to provide technical assistance to the Florida Building Commission in updating the construction standards of the Florida Building Code relative to hospice facilities.

The bill amends sections 400.605 and 553.73, Florida Statutes.

The bill creates section 400.6055, Florida Statutes.

## II. Present Situation:

### The Florida Building Code

Section 553.73, F.S., is the statute that contains the Florida Building Code. The Florida Building Code was authorized by the 1998 Florida Legislature to be the sole document incorporating all building standards adopted by all enforcement agencies and state agencies that license different types of facilities. The Florida Building Code was developed and is updated and maintained by a state commission that works towards consistency of standards throughout the state and full accessibility to information on the standards. The law allows for differences in the standards in different locales based on compelling differences in physical conditions. However, the law

establishes procedures for administration of the Florida Building Code at all levels that will constrain unwarranted differences and ensure the availability of information on local differences to all parties throughout the state.

The law established the Florida Building Commission as the body which is responsible for the development of the Florida Building Code and the other elements of the system which support its implementation. The Commission has 23 members representing engineers, architects, contractors, building owners and insurers, state and local governments, and persons with disabilities.

The Florida Building Code is updated every three years by the Florida Building Commission. The Florida Building Commission may amend the code once each year to incorporate interpretations and update standards upon a finding that delaying the application of the amendment would be contrary to the health, safety, and welfare of the public or the amendment provides an economic advantage to the consumer.

Subsection (2) of s. 553.73, F.S., requires the Florida Building Code (code) to contain provisions or requirements for:

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.

In addition, the code must include standards and criteria for residential swimming pool barriers, pool covers, latching devices, and door and window exit alarms.

The Florida Building Code does not specifically include hospice inpatient facilities or units, although it could reasonably be argued that hospice inpatient facilities or units are health care facilities.

### **Hospice**

Hospices are regulated under part VI of chapter 400, F.S. Hospices provide a continuum of palliative and supportive care for the terminally ill patient and his or her family. The care may be provided in the patient's home; in a hospice residential unit or other residential setting such as an assisted living facility, adult family care home, or nursing home; or in a freestanding hospice inpatient facility or other inpatient facility such as a hospital or nursing home.

Hospice services are provided to terminally ill patients who are no longer pursuing curative medical treatment. The following core services must be directly provided by the hospice care team: nursing services, social work services, pastoral or counseling services, dietary counseling, and bereavement counseling services. Physician services may be provided by the hospice directly or through contract. Hospices must also provide or arrange for additional services

needed to meet the palliative and support needs of the patient and family, including services such as physical therapy, massage therapy, home health aide services, and provision of medical supplies and durable medical equipment.

Hospices are licensed by the Agency for Health Care Administration and are also subject to certificate-of-need regulation, as a health care facility, under chapter 408, F.S. Under s. 400.605, F.S., the Department of Elder Affairs (DOEA), in consultation with the Agency for Health Care Administration, must by rule establish minimum standards and procedures for hospices, which include physical plant standards for hospice residential and inpatient facilities and units. DOEA administrative rule 58A-2.025 details the physical plant standards for a *hospice inpatient facility* and *unit*. Currently, DOEA administrative rule 58A-2.0236 specifies that *hospice residential units* shall comply with the Florida Building Code, as described in Chapter 3 of Section 311.2 (R4) as adopted by the Florida Building Commission and incorporated by reference in subsection 9B-3.047(1), F.A.C., dated December 16, 2001, by the Department of Community Affairs.

### III. Effect of Proposed Changes:

**Section 1.** The bill amends s. 553.73(2), F.S., to specifically require the Florida Building Code to contain provisions or requirements for hospice residential and inpatient facilities and units. This is consistent with s. 553.72 (1), F.S., which establishes a Statewide Minimum Building Code for all public or private buildings, structures, or facilities in the state.

**Section 2.** The bill amends s. 400.605(1), F.S., to delete a provision requiring the Department of Elder Affairs to adopt a rule relating to construction standards for hospice residential and inpatient facilities and units.

**Section 3.** The amends s. 400.601, F.S., to define the term “hospice” to mean a corporation not for profit and exempt from federal taxation under s. 501(c)(3) of the Internal Revenue Code, which exempts from federal taxation entities operated exclusively for charitable or religious purposes.

**Section 4.** The bill creates s. 400.6055, F.S., to require a hospice residential or inpatient facility or unit to comply with the provisions of ch. 553, F.S., which pertain to building construction standards, including plumbing, electrical, glass, manufactured buildings, accessibility by physically handicapped persons, and the state minimum building codes.

This section also requires the Agency for Health Care Administration to provide technical assistance to the Florida Building Commission in updating the construction standards of the Florida Building Code relative to hospice facilities.

**Section 5.** The bill would take effect July 1, 2004.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Florida Building Commission will be required to amend the Florida Building Code to include standards for hospice residential facilities and inpatient facilities.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.