

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 6, 1998 Revised: \_\_\_\_\_

Subject: Adult Family Care Homes

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	Crosby	Whiddon	CF	Favorable/CS
2.	_____	_____	WM	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

The Committee Substitute for Senate Bill 1872 amends chapter 400, part VII, F.S., relating to adult family care homes (AFCH). The committee substitute clarifies that an adult family care home provides housing and personal care for disabled adults and frail elders who choose to live in a private home with an individual or family who live therein and provides that Department of Elderly Affairs' rules regulating the AFCH will be as minimal and flexible as possible. The terms "frail elder," "appropriate placement," "relief person," and "resident" are defined; the term "personal services" is extended to include personal care, and the definition is expanded to include assistance with the self-administration of medication. The definition of "adult family care home" is significantly amended to provide that a provider caring for one or two residents need not be licensed and deletes the provision that an unlicensed home cannot hold itself out to the public as a place that provides personal care. The definition of the term "relative" is amended to add grandparents and great-grandparents. Providers must meet the requirements of level 1 background screening as provided in s. 435.03, F.S. This committee substitute allows a hospice resident to remain in an AFCH even though he or she requires 24-hour nursing supervision if continued residency is acceptable to the resident and to the provider. This act shall take effect October 1, 1998.

The Committee Substitute for Senate Bill 1872 substantially amends the following sections of the Florida Statutes: 400.616, 400.617, 400.618, 400.619, 400.6196, 400.621, 400.6211, 400.622, 400.625, 400.6255, 400.628, 400.629, 400.6194, and 419.001.

**II. Present Situation:**

Section 400.618, F.S., defines the term "adult family care home" (AFCH) to mean a full-time, family-type living arrangement in a private home. An AFCH provides room, board, and one or

more personal services for no more than five aged persons or disabled adults. If a home has three or fewer residents who do not receive optional state supplementation and advertises, it is required to be licensed. Currently there are 374 licensed AFCHs in the state.

The following are not adult family care homes for purposes of licensure:

- ▶ An establishment providing personal care services to three or fewer adults with none receiving optional state supplementation (OSS),
- ▶ An establishment that provides personal care to three or fewer adults but does not hold itself out to the public as a place that regularly provides such services,
- ▶ An establishment in which personal care is provided only to relatives,
- ▶ An establishment that is licensed as an assisted living facility (ALF).

Section 400.621, F.S., allows the department, in consultation with the Department of Children and Family Services (DCF) and the Agency for Health Care Administration (the agency) to establish, by rule, the minimum standards and licensing procedures for AFCHs. The agency is responsible for licensure and enforcement of compliance with regulations. The Department of Health has inspection responsibilities that are carried out by the local county health departments.

Current law requires that the AFCH applicant, all adult household members, and all staff be checked through the abuse registry and the Florida Department of Law Enforcement. However, there is no specific requirement that these persons meet level 1 background screening standards.

Section 400.618, F.S., defines “aged persons” as those 60 years of age or older who require one or more personal services but not 24-hour nursing supervision. A “disabled adult” is defined as a state resident between 18 and 59 years of age who has one or more permanent physical or mental limitations that restrict the person’s ability to perform the normal activities of daily living.

The legislative intent expressed at s. 400.617, F.S., states that AFCH regulations be sufficiently flexible to allow residents to *age-in-place*, if resources are available to meet their needs. Personal services are defined at s. 400.618, F.S., as individual assistance with or supervision of activities of daily living, supervision of self-administered medication, and other similar services; AFCHs provide such services. Current law also provides that a person who would not be an appropriate resident in any assisted living facility, under s. 400.426, F.S., would not be appropriate in an AFCH. The statute allows the department, by rule, to establish standards for the adequate supervision of AFCH residents.

Legislative intent specifies that the purpose of the AFCH statute is to provide for the health, safety, and welfare of residents in an AFCH. The agency reports that regulations governing AFCHs are considerably less restrictive than those governing assisted living facilities though both

facilities serve residents who need some assistance and personal care to manage their activities of daily living.

### III. Effect of Proposed Changes:

Section 1 provides that this part of chapter 400, F.S., may be cited as the “Adult Family-Care Home Act.”

Section 2 amends s. 400.617, F.S., relating to legislative intent, to change the phrase “aged persons” to “frail elders.” It revises the description of an Adult Family Care Home (AFCH) to add that an AFCH provides housing and personal care for disabled adults and frail elders who choose to live with a family in a private home. This section provides that the rules established by the Department of Elderly Affairs (DOEA) which relate to adult family care homes will be as minimal and flexible as possible.

Section 3 amends s. 400.618, F.S., relating to definitions, to provide that people who care for one or two persons in their own home need not have the home licensed as an AFCH. It also deletes the requirement that a home holding itself out to the public as an establishment which provides such services must be licensed. A definition for “frail elder” is added. A definition of “appropriate placement” is provided and allows the resident to be considered appropriately placed if the AFCH or the resident can arrange sufficient services so that the resident’s needs are met. The definition of “personal services” is amended to include the self-administration of medication. The definition of the term “relative” is amended to add grandparents and great-grandparents. Definitions of “resident” and “relief person” are added.

Section 4 amends s. 400.619, F.S., relating to licensure, to require that the provider of an AFCH must apply for a license at least 90 days prior to operating the home. The provider must sign the AFCH application under oath. The agency is directed to conduct a level 1 background screening, pursuant to s. 435.03, F.S., on the provider applicant and the designated relief person in addition to those specified in current law. Failure to timely file for a license renewal would subject the applicant to a late fee equal to fifty per cent of the license fee. The section makes technical and conforming changes and deletes the list of causes for which AHCA could deny or revoke a license.

Section 5 creates a new section relating to the denial or revocation of a license, to move the above mentioned provisions (previously listed at 400.619, F.S.), and adds two new provisions to read:

- ▶ The failure to correct cited fire code violations that threaten the health, safety, or welfare of the residents [*this requirement is also essentially provided at 400.621(2), F.S.* ].
- ▶ The failure to submit a completed initial license application or to renew the license as required.

Section 6 makes technical and conforming changes.

Section 7 amends s. 400.621, F.S., relating to rules and standards, to provide that a resident who is enrolled as a hospice patient may be retained in an AFCH if continued residency is agreeable to the resident and to the provider.

Sections 8 through 11 are amended for the purpose of making technical and conforming changes.

Section 12 amends s. 400.628, F.S., relating to the resident bill of rights, to provide that the AFCH provider shall ensure that residents and their legal representatives are aware of the rights, obligations, and prohibitions set forth in this part. Technical and conforming changes are made in this section as well.

Section 13 and 14 are amended to make technical and conforming changes.

Section 15 provides an effective date of October 1, 1998.

**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:

Private homes that currently have three residents will be required to obtain a license at the cost of \$100 per year. Private homes that accept up to two residents who do not receive optional state supplementation will not be subject to licensure.

**C. Government Sector Impact:**

The Agency for Health Care Administration has previously indicated that the inspection workload associated with any increase in homes to be licensed will be minimal and will be absorbed by existing revenues.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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