

Bill No. CS for CS for SB 2228

Amendment No. ____

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Campbell moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 On page 33, between lines 9 and 10,

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16 insert:

17 Section 14. Paragraph (a) of subsection (2) of section
18 400.23, Florida Statutes, 1998 Supplement, is amended to read:

19 400.23 Rules; criteria; Nursing Home Advisory
20 Committee; evaluation and rating system; fee for review of
21 plans.--

22 (2) Pursuant to the intention of the Legislature, the
23 agency, in consultation with the Department of Health and
24 Rehabilitative Services and the Department of Elderly Affairs,
25 shall adopt and enforce rules to implement this part, which
26 shall include reasonable and fair criteria in relation to:

27 (a) The location and construction of the facility;
28 including fire and life safety, plumbing, heating, cooling,
29 lighting, ventilation, and other housing conditions which will
30 ensure the health, safety, and comfort of residents, including
31 an adequate call system. The agency shall establish standards

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1 for facilities and equipment to increase the extent to which
2 new facilities and a new wing or floor added to an existing
3 facility after July 1, 1999, are structurally capable of
4 serving as shelters only for residents, staff, and families of
5 residents and staff, and equipped to be self-supporting during
6 and immediately following disasters. The Agency for Health
7 Care Administration shall work with facilities licensed under
8 this part and report to the Governor and Legislature by April
9 1, 1999, its recommendations for cost-effective renovation
10 standards to be applied to existing facilities. In making such
11 rules, the agency shall be guided by criteria recommended by
12 nationally recognized reputable professional groups and
13 associations with knowledge of such subject matters. The
14 agency shall update or revise such criteria as the need
15 arises. All nursing homes must comply with those lifesafety
16 code requirements and building code standards applicable at
17 the time of approval of their construction plans. The agency
18 may require alterations to a building if it determines that an
19 existing condition constitutes a distinct hazard to life,
20 health, or safety. The agency shall adopt fair and reasonable
21 rules setting forth conditions under which existing facilities
22 undergoing additions, alterations, conversions, renovations,
23 or repairs shall be required to comply with the most recent
24 updated or revised standards.

25 Section 15. Paragraph (a) of subsection (1) of section
26 400.441, Florida Statutes, 1998 Supplement, is amended to
27 read:

28 400.441 Rules establishing standards.--

29 (1) It is the intent of the Legislature that rules
30 published and enforced pursuant to this section shall include
31 criteria by which a reasonable and consistent quality of

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1 resident care and quality of life may be ensured and the
2 results of such resident care may be demonstrated. Such rules
3 shall also ensure a safe and sanitary environment that is
4 residential and noninstitutional in design or nature. It is
5 further intended that reasonable efforts be made to
6 accommodate the needs and preferences of residents to enhance
7 the quality of life in a facility. In order to provide safe
8 and sanitary facilities and the highest quality of resident
9 care accommodating the needs and preferences of residents, the
10 department, in consultation with the agency, the Department of
11 Children and Family Services, and the Department of Health,
12 shall adopt rules, policies, and procedures to administer this
13 part, which must include reasonable and fair minimum standards
14 in relation to:

15 (a) The requirements for and maintenance of
16 facilities, not in conflict with the provisions of chapter
17 553, relating to plumbing, heating, cooling, lighting,
18 ventilation, living space, and other housing conditions, which
19 will ensure the health, safety, and comfort of residents and
20 protection from fire hazard, including adequate provisions for
21 fire alarm and other fire protection suitable to the size of
22 the structure. Uniform firesafety standards shall be
23 established and enforced by the State Fire Marshal in
24 cooperation with the agency, the department, and the
25 Department of Health.

26 1. Evacuation capability determination.--

27 a. The provisions of the National Fire Protection
28 Association, NFPA 101A, Chapter 5, 1995 edition, shall be used
29 for determining the ability of the residents, with or without
30 staff assistance, to relocate from or within a licensed
31 facility to a point of safety as provided in the fire codes

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1 adopted herein. An evacuation capability evaluation for
2 initial licensure shall be conducted within 6 months after the
3 date of licensure. For existing licensed facilities that are
4 not equipped with an automatic fire sprinkler system, the
5 administrator shall evaluate the evacuation capability of
6 residents at least annually. The evacuation capability
7 evaluation for each facility not equipped with an automatic
8 fire sprinkler system shall be validated, without liability,
9 by the State Fire Marshal, by the local fire marshal, or by
10 the local authority having jurisdiction over firesafety,
11 before the license renewal date. If the State Fire Marshal,
12 local fire marshal, or local authority having jurisdiction
13 over firesafety has reason to believe that the evacuation
14 capability of a facility as reported by the administrator may
15 have changed, it may, with assistance from the facility
16 administrator, reevaluate the evacuation capability through
17 timed exiting drills. Translation of timed fire exiting drills
18 to evacuation capability may be determined:

19 (I) Three minutes or less: prompt.

20 (II) More than 3 minutes, but not more than 13
21 minutes: slow.

22 (III) More than 13 minutes: impractical.

23 b. The Office of the State Fire Marshal shall provide
24 or cause the provision of training and education on the proper
25 application of Chapter 5, NFPA 101A, 1995 edition, to its
26 employees, to staff of the Agency for Health Care
27 Administration who are responsible for regulating facilities
28 under this part, and to local governmental inspectors. The
29 Office of the State Fire Marshal shall provide or cause the
30 provision of this training within its existing budget, but may
31 charge a fee for this training to offset its costs. The

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1 initial training must be delivered within 6 months after July
2 1, 1995, and as needed thereafter.

3 c. The Office of the State Fire Marshal, in
4 cooperation with provider associations, shall provide or cause
5 the provision of a training program designed to inform
6 facility operators on how to properly review bid documents
7 relating to the installation of automatic fire sprinklers.
8 The Office of the State Fire Marshal shall provide or cause
9 the provision of this training within its existing budget, but
10 may charge a fee for this training to offset its costs. The
11 initial training must be delivered within 6 months after July
12 1, 1995, and as needed thereafter.

13 d. The administrator of a licensed facility shall sign
14 an affidavit verifying the number of residents occupying the
15 facility at the time of the evacuation capability evaluation.

16 2. Firesafety requirements.--

17 a. Except for the special applications provided
18 herein, effective January 1, 1996, the provisions of the
19 National Fire Protection Association, Life Safety Code, NFPA
20 101, 1994 edition, Chapter 22 for new facilities and Chapter
21 23 for existing facilities shall be the uniform fire code
22 applied by the State Fire Marshal for assisted living
23 facilities, pursuant to s. 633.022.

24 b. Any new facility, regardless of size, that applies
25 for a license on or after January 1, 1996, must be equipped
26 with an automatic fire sprinkler system. The exceptions as
27 provided in section 22-2.3.5.1, NFPA 101, 1994 edition, as
28 adopted herein, apply to any new facility housing eight or
29 fewer residents. On July 1, 1995, local governmental entities
30 responsible for the issuance of permits for construction shall
31 inform, without liability, any facility whose permit for

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1 construction is obtained prior to January 1, 1996, of this
2 automatic fire sprinkler requirement. As used in this part,
3 the term "a new facility" does not mean an existing facility
4 that has undergone change of ownership.

5 c. Notwithstanding any provision of s. 633.022 or of
6 the National Fire Protection Association, NFPA 101A, Chapter
7 5, 1995 edition, to the contrary, any existing facility
8 housing eight or fewer residents is not required to install an
9 automatic fire sprinkler system, nor to comply with any other
10 requirement in Chapter 23 of NFPA 101, 1994 edition, that
11 exceeds the firesafety requirements of NFPA 101, 1988 edition,
12 that applies to this size facility, unless the facility has
13 been classified as impractical to evacuate. Any existing
14 facility housing eight or fewer residents that is classified
15 as impractical to evacuate must install an automatic fire
16 sprinkler system within the timeframes granted in this
17 section.

18 d. Any existing facility that is required to install
19 an automatic fire sprinkler system under this paragraph need
20 not meet other firesafety requirements of Chapter 23, NFPA
21 101, 1994 edition, which exceed the provisions of NFPA 101,
22 1988 edition. The mandate contained in this paragraph which
23 requires certain facilities to install an automatic fire
24 sprinkler system supersedes any other requirement.

25 e. This paragraph does not supersede the exceptions
26 granted in NFPA 101, 1988 edition or 1994 edition.

27 f. This paragraph does not exempt facilities from
28 other firesafety provisions adopted under s. 633.022 and local
29 building code requirements in effect before July 1, 1995.

30 g. A local government may charge fees only in an
31 amount not to exceed the actual expenses incurred by local

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1 government relating to the installation and maintenance of an
2 automatic fire sprinkler system in an existing and properly
3 licensed assisted living facility structure as of January 1,
4 1996.

5 h. If a licensed facility undergoes major
6 reconstruction or addition to an existing building on or after
7 January 1, 1996, the entire building must be equipped with an
8 automatic fire sprinkler system. Major reconstruction of a
9 building means repair or restoration that costs in excess of
10 50 percent of the value of the building as reported on the tax
11 rolls, excluding land, before reconstruction. Multiple
12 reconstruction projects within a 5-year period the total costs
13 of which exceed 50 percent of the initial value of the
14 building at the time the first reconstruction project was
15 permitted are to be considered as major reconstruction.
16 Application for a permit for an automatic fire sprinkler
17 system is required upon application for a permit for a
18 reconstruction project that creates costs that go over the
19 50-percent threshold.

20 i. Any facility licensed before January 1, 1996, that
21 is required to install an automatic fire sprinkler system
22 shall ensure that the installation is completed within the
23 following timeframes based upon evacuation capability of the
24 facility as determined under subparagraph 1.:

25 (I) Impractical evacuation capability, 24 months.

26 (II) Slow evacuation capability, 48 months.

27 (III) Prompt evacuation capability, 60 months.

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29 The beginning date from which the deadline for the automatic
30 fire sprinkler installation requirement must be calculated is
31 upon receipt of written notice from the local fire official

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1 that an automatic fire sprinkler system must be installed. The
2 local fire official shall send a copy of the document
3 indicating the requirement of a fire sprinkler system to the
4 Agency for Health Care Administration.

5 j. It is recognized that the installation of an
6 automatic fire sprinkler system may create financial hardship
7 for some facilities. The appropriate local fire official
8 shall, without liability, grant two 1-year extensions to the
9 timeframes for installation established herein, if an
10 automatic fire sprinkler installation cost estimate and proof
11 of denial from two financial institutions for a construction
12 loan to install the automatic fire sprinkler system are
13 submitted. However, for any facility with a class I or class
14 II, or a history of uncorrected class III, firesafety
15 deficiencies, an extension must not be granted. The local
16 fire official shall send a copy of the document granting the
17 time extension to the Agency for Health Care Administration.

18 k. A facility owner whose facility is required to be
19 equipped with an automatic fire sprinkler system under Chapter
20 23, NFPA 101, 1994 edition, as adopted herein, must disclose
21 to any potential buyer of the facility that an installation of
22 an automatic fire sprinkler requirement exists. The sale of
23 the facility does not alter the timeframe for the installation
24 of the automatic fire sprinkler system.

25 l. Existing facilities required to install an
26 automatic fire sprinkler system as a result of
27 construction-type restrictions in Chapter 23, NFPA 101, 1994
28 edition, as adopted herein, or evacuation capability
29 requirements shall be notified by the local fire official in
30 writing of the automatic fire sprinkler requirement, as well
31 as the appropriate date for final compliance as provided in

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1 this subparagraph. The local fire official shall send a copy
2 of the document to the Agency for Health Care Administration.

3 m. Except in cases of life-threatening fire hazards,
4 if an existing facility experiences a change in the evacuation
5 capability, or if the local authority having jurisdiction
6 identifies a construction-type restriction, such that an
7 automatic fire sprinkler system is required, it shall be
8 afforded time for installation as provided in this
9 subparagraph.

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11 Facilities that are fully sprinkled and in compliance with
12 other firesafety standards are not required to conduct more
13 than one of the required fire drills between the hours of 11
14 p.m. and 7 a.m., per year. In lieu of the remaining drills,
15 staff responsible for residents during such hours may be
16 required to participate in a mock drill that includes a review
17 of evacuation procedures. Such standards must be included or
18 referenced in the rules adopted by the State Fire Marshal.
19 Pursuant to s. 633.022(1)(b), the State Fire Marshal is the
20 final administrative authority for firesafety standards
21 established and enforced pursuant to this section. All
22 licensed facilities must have an annual fire inspection
23 conducted by the local fire marshal or authority having
24 jurisdiction.

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26 (Redesignate subsequent sections.)

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29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 On page 3, line 22, after the semicolon

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1 insert:

2 amending ss. 400.23, 400.441, F.S.; requiring
3 that rules adopted by the Agency for Health
4 Care Administration and the Department of
5 Elderly Affairs include provisions governing
6 the cooling of facilities; providing an
7 effective date.

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