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DATE: January 25, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ELDER & LONG TERM CARE
ANALYSIS**

BILL #: HB 863
RELATING TO: Long Term Care
SPONSOR(S): Representative Joyner

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) ELDER & LONG TERM CARE
 - (2) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (3) COUNCIL FOR HEALTHY COMMUNITIES
 - (4)
 - (5)
-

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

HB 863 creates the Moses G. Miles Act and authorizes the Institute on Urban Policy & Commerce (Institute) at Florida Agricultural & Mechanical University to develop grant programs for pilot projects in assisted living facilities to provide non-institutional long-term care for elderly persons in urban distressed communities. The bill provides standards for eligibility to participate and provides for funding of pilot projects. It creates a review panel to evaluate proposed pilot projects and directs institute to provide program technical assistance support.

This bill is effective July 1, 2002.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. PRESENT SITUATION:

Assisted Living

Assisted living provides a homelike atmosphere and is designed to accommodate residents' changing care needs and preferences. Assisted living is the fastest growing type of senior housing in the United States, with an estimated 15-20% annual growth rate over the last few years. For frail older persons and adults with disabilities who need some assistance to live independently, or who no longer wish to remain at home, assisted living provides an option for meeting their personal and supportive care needs.¹

The philosophy of assisted living emphasizes personal dignity, autonomy, independence, and privacy. The objective of assisted living is to maintain or enhance the capabilities of frail older persons and persons with disabilities so that they can remain as independent as possible in a homelike environment. The combination of residential housing and personal care services, tailored to meet individual needs, helps promote the ability of residents to age in place.

Assisted Living in Florida

Assisted living facilities are regulated under chapter 400, Part III. The statutes provide for three distinct types of licensure: a limited nursing services (LNS), a limited mental health (LMH), and an extended congregate care (ECC) license. Each license permits persons of certain impairment levels to be admitted and allows a differing range of services to be provided. Extended congregate care provides the most flexibility and articulates the Legislature's commitment to allow elders to “age in place”. Persons in the care of hospice are permitted to remain in the ECC even after their nursing needs become more extensive if the facility and the resident agree.

As of February 2001, there were slightly less than 80,000 licensed ALF beds statewide. The largest ALFs have more than 600 beds (representing about 20 percent of total beds) and the smallest have 2 beds (about 6.5% of total beds).

¹ AARP Public Policy Institute: Assisted Living in the United States. Written by Jeremy Citro and Sharon Hermanson, Consumer Team, March 1999. http://research/aarp.org/il/fs62r_assistedhtml

Licensed ALF beds. AHCA February 2001.

Bed Capacity Group	# Facilities	% of Tot. Fac.	Tot. # of beds	% of Tot. Beds	# Fac. W/ ECC	% of Fac. In Group	# Fac. W/ LMH	% of Fac. In Group	# Fac. W/ LNS	% of Fac. In Group
2-6	887	37.1%	5,196	6.5%	121	13.6%	145	16.3%	137	15.4%
7-10	223	9.3%	1,927	2.4%	17	7.6%	37	16.6%	13	5.8%
11-25	497	20.8%	7,800	9.8%	73	14.7%	163	32.8%	38	7.6%
26-50	279	11.7%	10,572	13.2%	91	32.6%	74	26.5%	45	16.1%
51-75	180	7.5%	11,250	14.1%	81	45.0%	19	10.6%	63	35.0%
76-100	110	4.6%	9,848	12.2%	33	30.0%	16	14.5%	19	17.3%
101-150	145	6.1%	17,524	21.8%	52	35.9%	7	4.8%	42	29.0%
151+	70	2.9%	15,779	20.0%	27	38.6%	5	7.1%	12	17.1%
Total	2391	100.0%	79,896	100.0%	495		466		369	

Affordable Assisted Living

The term "affordable assisted living" typically refers to facilities that provide rental apartment housing combined with supportive services to elderly residents who have incomes at 80% or less of the area's median income. Generally, those seniors at the upper end of this range (50 to 80% of median income) have enough income to support themselves when healthy, but would spend down their assets quickly if forced by frailty to enter a nursing home. Those at the lower end of this range (under 50%) may already qualify for Medicaid, and may currently reside in subsidized housing or in a home that has been paid for. Should this group become frail, they would have few choices other than placement in a nursing home.²

According to the Florida Association of Homes for Aging, an assisted living facility costs an average of \$3,000 to \$4,000 per month per resident. Nationally, almost 90 percent of assisted living services are paid for with private funds. Supplemental Security Income (SSI) and other publicly financed programs cover the remaining 10 percent.

Despite "phenomenal growth" in the assisted living industry, "there continues to be a great need for affordable assisted living models," according to a recent publication from the American Association of Homes and Services for the Aging.

Attorney Jeffrey Sacks who participated in a New England forum on affordable housing: "Most people age 75 or older are living on limited incomes and are lucky if they can afford \$2,000 per month. The only way to build and operate affordable housing for the frail and elderly is to bring down the capital costs through creative financing, easier zoning regulations, and careful integration of health care, hospitality and real estate management."

Attorney Sacks commented further saying, "As it leaves its infancy, the industry faces many new challenges and legal liabilities. In order to remain competitive, developers and operators must design a new, more affordable model...."

Assisted Living Waiver

² Robert Wood Johnson Foundation: National Program Report: The Coming Home® Program: Affordable Assisted Living, 1999. http://www.rwjf.org/app/rw_grant_results_reports/rw_npr/cominghomee.htm

Medicaid and the Department of Elderly Affairs (DOEA) jointly operate a home and community-based services waiver program that is targeted to very frail elders who but for additional support services in an ALF would be moved to a Medicaid reimbursed nursing home bed. The waiver serves a group of people who can pay something towards the cost of ALF care, but who do not have sufficient resources to buy the “extra” care that they need as they “age in place.” According to the Department of Elder Affairs, the Medicaid Assisted Living Waiver served clients in the communities targeted in this bill as follows:

County	Number Served
Miami-Dade	375
Hillsborough	44
Orange	136
Duval	20
Leon	65
Pinellas	181

October – December 2001 data

SFY 1999-2000	Medicaid Long-Term Care Clients, Age 60+		
	White	African American	Other
Waiver Programs	59.22	21.23	19.55
Aged/Disabled	56.33	24.46	19.21
Assisted Living	73.64	4.90	21.46
Managed LTC	48.36	8.09	43.54
<i>Nursing Home</i>			
<i>Diversion</i> →++	46.97	24.03	29.00
Channeling*	51.34	7.35	41.31
ElderCare+	47.69	6.61	45.70
Nursing Home	74.15	15.01	10.84
All Medicaid LTC	68.26	15.33	16.41
All Medicaid	47.59	18.40	34.01
Florida Population	77.99	14.61	7.40

++Nursing Home Diversion operates in Orange & Palm Beach counties.

*Channeling operates only in Broward & Dade counties

+ElderCare operates only in Dade county

The Institute on Urban Policy and Commerce (Institute)

The Institute on Urban Policy and Commerce at Florida Agricultural and Mechanical University was commissioned by the Florida Legislature during the 1998 session and charged to “develop comprehensive urban strategies and partnerships to address critical social, economic, and physical issues through applied research and training. The Institute’s mission statement includes these goals:

- To build problem solving relationships between academia and policy-making leaders;
- To address the socioeconomic plight of disadvantaged urban residents;
- To serve as an advocate, to prevent civil unrest and social disorganization.

The Institute argues that urban core communities can play a vital role in “the state’s economic recovery and in the vibrancy of the state’s economic and political stability.” The challenge of delivering long term care services that are an alternative to institutional placement in these communities is difficult because of the traditional challenges of capital availability and aging building structures. According to some researchers these complexities are then coupled with the lack of expertise of many community or faith-based programs in navigating the housing, financing, Medicaid, Medicare, zoning, and social services bureaucracies.

C. EFFECT OF PROPOSED CHANGES:

The proposed changes are designed to encourage the creation of assisted-living facilities in five urban distressed communities throughout the state by not-for-profit and faith-based organizations. The Act seeks to stimulate economic activity in these communities and provide access to affordable assisted living services.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. This section provides that the act may be cited as the “Moses G. Miles Act.”

Section 2. This section assigns to the Institute on Urban Policy and Commerce at Florida Agricultural and Mechanical University the responsibility of developing a grant program that funds pilot projects in urban distressed communities from five of the following cities: Pensacola, Tallahassee, Jacksonville, Daytona Beach, Orlando, Tampa, St. Petersburg, West Palm Beach, Ft. Lauderdale, and Miami-Dade. The pilot projects are established to create assisted-living facilities that will be operated by not-for-profit or faith-based organizations.

The Institute is required to create a review panel to evaluate proposals and award funding for the five pilot projects. The review panel is appointed by the FAMU president and consists of seven members:

- (a.) One member who is affiliated with the Agency for Health Care Administration
- (b.) The Secretary of Health, or the Secretary’s designee
- (c.) The president of Enterprise Florida, Inc., or the president’s designee
- (d.) One member from a private–sector investment institution or organization
- (e.) One member who is affiliated with the Office of Tourism, Trade, and Economic Development
- (f.) One member from a professional trade organization that represents long-term care assisted-living facilities
- (g.) One member who is affiliated with Workforce Florida, Inc.

The director of the Institute serves without voting rights as the secretary to the panel. The Institute also provides technical assistance to organizations interested in the pilot projects and has the authority to adopt rules to effect the implementation of the Act.

Section 3. This section appropriates \$1.5 million in non-recurring funds from the General Revenue Fund to the Institute at FAMU. Additionally, it authorizes the Institute to allocate up to \$225,000 for each of the five pilot projects.

Section 4. This section sets the effective date for the Act at July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

No new revenues are identified.

2. Expenditures:

The bill appropriates \$1.5 million dollars (non-recurring) from the General Revenue Fund. The bill authorizes the Institute to allocate up to \$225,000 to each of five pilot projects.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill directs the Institute to assist community and faith-based groups interested in developing affordable assisted living in these targeted communities and allows grants of up to \$225,000 to each pilot area.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

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B. RULE-MAKING AUTHORITY:

The Institute is granted authority to adopt rules to implement the provisions of this bill.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON ELDER & LONG TERM CARE:

Prepared by:

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