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**DATE:** February 5, 2002

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

**BILL #:** CS/HB 863  
**RELATING TO:** Assisted Living Services  
**SPONSOR(S):** Committee on Elder & Long Term Care and Representative Joyner

**TIED BILL(S):**

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

- (1) ELDER & LONG TERM CARE YEAS 9 NAYS 0
- (2) HEALTH & HUMAN SERVICES APPROPRIATIONS
- (3) COUNCIL FOR HEALTHY COMMUNITIES
- (4)
- (5)

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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 provides legislative findings related to the availability of affordable assisted living services. The bill directs the Shimberg Center (Center) at the University of Florida to contract with the Institute on Urban Policy and Commerce (Institute) at Florida Agricultural and Mechanical University (FAMU) to study the adequacy and availability of affordable assisted living services in at least one urban core community. Further, the Institute and the Center shall work together to develop a public private partnership to facilitate the development and operation of an affordable assisted living facility in an urban core area. The director of the Institute is to appoint an advisory board. The Institute shall provide staff support to the advisory group and may reimburse travel expenses in accordance with s. 112.061, F.S.

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.<sup>1</sup>

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).

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<sup>1</sup> 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](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%
<b>Total</b>	<b>2391</b>	<b>100.0%</b>	<b>79,896</b>	<b>100.0%</b>	<b>495</b>		<b>466</b>		<b>369</b>	

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.<sup>2</sup>

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

<sup>2</sup> 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](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:

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

*October – December 2001 data*

<b>SFY 1999-2000</b>	<b>Medicaid Long-Term Care Clients, Age 60+</b>		
	<b>White</b>	<b>African American</b>	<b>Other</b>
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 Diversion ++</i>	<i>46.97</i>	<i>24.03</i>	<i>29.00</i>
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
<b>Florida Population</b>	<b>77.99</b>	<b>14.61</b>	<b>7.40</b>

*++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 affordable assisted-living facilities in urban distressed communities.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Legislative findings related to the needs of frail elders, the suitability of the assisted living model of care for meeting the needs of frail elders, and barriers to the development of affordable assisted living to serve low-income and moderate-income frail elders particularly in urban African-American communities.

**Section 2.** This section directs the Shimberg Center at the University of Florida (UF) to contract with the Institute to study the adequacy and availability of affordable assisted-living services to minority persons in at least one urban core community in Miami-Dade, Pinellas, Orange, Hillsborough, Duval and Leon. The Institute shall submit its report to the Legislature no later than December 22, 2003.

The Center, the Institute, the Agency for Health Care Administration (AHCA), and the Department of Elder Affairs (DOEA) shall work together with a community designated pursuant to 99-251, L.O.F., to develop a public-private partnership to develop an affordable assisted living facility (ALF) in an urban core area. This section provides principles to be used in the design of the ALF.

The director of the Institute is to appoint an advisory group to assist and guide the study. The group shall have its first meeting no later than October 1, 2002 and shall meet at least three times before submitting the required study.

**Section 3.** HB 863 appropriates \$150,000 from the Housing Finance Corporation Trust Fund to the Institute to support the study.

**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 \$150,000 dollars from the Florida Housing Finance Corporation Trust Fund to the Institute.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

The bill appropriate \$150,000 from the Housing Finance Corporation Trust Fund to the Institute to support the required study.

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

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Elder & Long Term Care reported a Committee Substitute favorably after the 2/4/02 meeting. The Committee Substitute is substantially different in the following ways:

1. Provides legislative findings related to the availability of affordable assisted living services in urban core communities.
2. Directs the Shimberg Center at the University of Florida to contract with the Institute on Urban Policy and Commerce at Florida Agricultural and Mechanical University to study the availability of affordable assisted living services in urban core communities.
3. Removes the provisions related to pilot projects and the funding of those projects.
4. Directs the Center and the Institute to work with AHCA and DOEA to develop a public-private partnership to develop and operate an affordable assisted living facility in an urban core area.
5. Provides that the Institute director appoint an advisory panel.
6. Removes the provision granting rule-making authority to the Institute.

VII. SIGNATURES:

COMMITTEE ON ELDER & LONG TERM CARE:

Prepared by:

Staff Director:

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Melanie Meyer

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Tom Batchelor, Ph.D.