

By Senator Garcia

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1 A bill to be entitled
2 An act relating to post-hurricane relief for residents
3 of health care facilities; creating s. 366.042, F.S.;
4 requiring the Florida Public Service Commission to
5 ensure that public utilities effectively prioritize
6 the restoration of services to certain health care
7 facilities in the event of emergencies; amending s.
8 400.19, F.S.; requiring the Agency for Health Care
9 Administration to conduct an annual inspection of each
10 licensed nursing home facility to ensure that the
11 facility is in possession of the required emergency
12 power source and fuel; amending s. 400.23, F.S.;
13 requiring the agency, in consultation with the
14 Department of Health and the Department of Elderly
15 Affairs, to adopt and enforce rules requiring each
16 facility to have an emergency power source and a
17 supply of fuel which meet certain criteria; amending
18 s. 429.34, F.S.; requiring the agency to conduct an
19 annual inspection of each licensed assisted living
20 facility to ensure that the facility is in possession
21 of the required emergency power source and fuel;
22 amending s. 429.41, F.S.; requiring the Department of
23 Elderly Affairs, in consultation with the agency, the
24 Department of Children and Families, and the
25 Department of Health, to adopt and enforce rules
26 requiring each facility to have an emergency power
27 source and a supply of fuel which meet certain
28 criteria; providing an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Section 366.042, Florida Statutes, is created to
33 read:

34 366.042 Power restoration priority.—The commission shall
35 ensure that public utilities have effectively prioritized, in
36 the event of an emergency, the restoration of services to
37 critical medical facilities with at least 50 residents,
38 including nursing homes licensed under part II of chapter 400
39 and assisted living facilities licensed under part I of chapter
40 429.

41 Section 2. Subsection (5) is added to section 400.19,
42 Florida Statutes, to read:

43 400.19 Right of entry and inspection.—

44 (5) Each May, before the start of hurricane season, the
45 agency shall conduct an announced inspection of each facility to
46 ensure that the facility has an operational emergency power
47 source and fuel as required in s. 400.23(2) (d) and by rule.

48 Section 3. Paragraph (d) of subsection (2) of section
49 400.23, Florida Statutes, is amended to read:

50 400.23 Rules; evaluation and deficiencies; licensure
51 status.—

52 (2) Pursuant to the intention of the Legislature, the
53 agency, in consultation with the Department of Health and the
54 Department of Elderly Affairs, shall adopt and enforce rules to
55 implement this part and part II of chapter 408, which shall
56 include reasonable and fair criteria in relation to:

57 (d) The equipment essential to the health and welfare of
58 ~~the~~ residents, including an operational emergency power source

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59 and a supply of fuel sufficient to sustain the emergency power
60 source for at least 4 days during a power outage. A facility may
61 contract with a company that is able to timely supply an
62 emergency power source or supply of fuel when requested by the
63 facility, or may store an emergency power source or supply of
64 fuel on site. The emergency power source must provide enough
65 energy to:

- 66 1. Consistently maintain an ambient air temperature of 81°
67 F. or less within one or more areas of the facility having
68 enough space to safely hold all of the facility's residents; and
69 2. Allow for the refrigeration and standard preparation of
70 food and beverages that are served by the facility to its
71 residents and for the storage of ice.

72 Section 4. Section 429.34, Florida Statutes, is amended to
73 read:

74 429.34 Right of entry and inspection.—

75 (1) In addition to the requirements of s. 408.811, a duly
76 designated officer or employee of the department, the Department
77 of Children and Families, the Medicaid Fraud Control Unit of the
78 Office of the Attorney General, the state or local fire marshal,
79 or a representative of the State Long-Term Care Ombudsman
80 Program or a member of the state or local long-term care
81 ombudsman council has the right to enter unannounced upon and
82 into the premises of any facility licensed under this part in
83 order to determine the state of compliance with this part, part
84 II of chapter 408, and applicable rules. Data collected by the
85 State Long-Term Care Ombudsman Program, local long-term care
86 ombudsman councils, or the state or local advocacy councils may
87 be used by the agency in investigations involving violations of

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88 regulatory standards. A person specified in this section who
89 knows or has reasonable cause to suspect that a vulnerable adult
90 has been or is being abused, neglected, or exploited shall
91 immediately report such knowledge or suspicion to the central
92 abuse hotline pursuant to chapter 415.

93 (2) The agency shall inspect each licensed assisted living
94 facility at least once every 24 months to determine compliance
95 with this chapter and related rules. If an assisted living
96 facility is cited for a class I violation or three or more class
97 II violations arising from separate surveys within a 60-day
98 period or due to unrelated circumstances during the same survey,
99 the agency must conduct an additional licensure inspection
100 within 6 months.

101 (3) Each May, before the start of hurricane season, the
102 agency shall conduct an announced inspection of each licensed
103 assisted living facility to ensure that the facility has an
104 operational emergency power source and fuel as required in s.
105 429.41(1)(a)4. and by rule.

106 Section 5. Paragraph (a) of subsection (1) of section
107 429.41, Florida Statutes, is amended to read:

108 429.41 Rules establishing standards.—

109 (1) It is the intent of the Legislature that rules
110 published and enforced pursuant to this section shall include
111 criteria by which a reasonable and consistent quality of
112 resident care and quality of life may be ensured and the results
113 of such resident care may be demonstrated. Such rules shall also
114 ensure a safe and sanitary environment that is residential and
115 noninstitutional in design or nature. It is further intended
116 that reasonable efforts be made to accommodate the needs and

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117 preferences of residents to enhance the quality of life in a
118 facility. Uniform firesafety standards for assisted living
119 facilities shall be established by the State Fire Marshal
120 pursuant to s. 633.206. The agency, in consultation with the
121 department, may adopt rules to administer the requirements of
122 part II of chapter 408. In order to provide safe and sanitary
123 facilities and the highest quality of resident care
124 accommodating the needs and preferences of residents, the
125 department, in consultation with the agency, the Department of
126 Children and Families, and the Department of Health, shall adopt
127 rules, policies, and procedures to administer this part, which
128 must include reasonable and fair minimum standards in relation
129 to:

130 (a) The requirements for and maintenance of facilities, not
131 in conflict with chapter 553, relating to plumbing, heating,
132 cooling, lighting, ventilation, living space, and other housing
133 conditions, which will ensure the health, safety, and comfort of
134 residents suitable to the size of the structure.

135 1. Firesafety evacuation capability determination.—An
136 evacuation capability evaluation for initial licensure shall be
137 conducted within 6 months after the date of licensure.

138 2. Firesafety requirements.—

139 a. The National Fire Protection Association, Life Safety
140 Code, NFPA 101 and 101A, current editions, shall be used in
141 determining the uniform firesafety code adopted by the State
142 Fire Marshal for assisted living facilities, pursuant to s.
143 633.206.

144 b. A local government or a utility may charge fees only in
145 an amount not to exceed the actual expenses incurred by the

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146 local government or the utility relating to the installation and
147 maintenance of an automatic fire sprinkler system in a licensed
148 assisted living facility structure.

149 c. All licensed facilities must have an annual fire
150 inspection conducted by the local fire marshal or authority
151 having jurisdiction.

152 d. An assisted living facility that is issued a building
153 permit or certificate of occupancy before July 1, 2016, may at
154 its option and after notifying the authority having
155 jurisdiction, remain under the provisions of the 1994 and 1995
156 editions of the National Fire Protection Association, Life
157 Safety Code, NFPA 101, and NFPA 101A. The facility opting to
158 remain under such provisions may make repairs, modernizations,
159 renovations, or additions to, or rehabilitate, the facility in
160 compliance with NFPA 101, 1994 edition, and may utilize the
161 alternative approaches to life safety in compliance with NFPA
162 101A, 1995 edition. However, a facility for which a building
163 permit or certificate of occupancy is issued before July 1,
164 2016, that undergoes Level III building alteration or
165 rehabilitation, as defined in the Florida Building Code, or
166 seeks to utilize features not authorized under the 1994 or 1995
167 editions of the Life Safety Code must thereafter comply with all
168 aspects of the uniform firesafety standards established under s.
169 633.206, and the Florida Fire Prevention Code, in effect for
170 assisted living facilities as adopted by the State Fire Marshal.

171 3. Resident elopement requirements.—Facilities are required
172 to conduct a minimum of two resident elopement prevention and
173 response drills per year. All administrators and direct care
174 staff must participate in the drills which shall include a

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175 review of procedures to address resident elopement. Facilities
176 must document the implementation of the drills and ensure that
177 the drills are conducted in a manner consistent with the
178 facility's resident elopement policies and procedures.

179 4. Emergency power sources for use during power outages.-

180 Facilities are required to possess an operational emergency
181 power source and a supply of fuel sufficient to sustain the
182 emergency power source for at least 4 days during a power
183 outage. A facility may contract with a company that is able to
184 timely supply an emergency power source or supply of fuel when
185 requested by the facility, or may store an emergency power
186 source or supply of fuel on site. The emergency power source
187 must provide enough energy to:

188 a. Consistently maintain an ambient air temperature of 81°
189 F. or less within one or more areas of the facility having
190 enough space to safely hold all of the facility's residents; and

191 b. Allow for the refrigeration and standard preparation of
192 food and beverages that are served by the facility to its
193 residents and for the storage of ice.

194 Section 6. This act shall take effect July 1, 2018.