

MAINE STATE LEGISLATURE

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L.D. 1401

2 DATE: June 15, 1995

(Filing No. S- 271)

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6 **HUMAN RESOURCES**

8 Reported by: Senator PENDEXTER of Cumberland for the Committe.

10 Reproduced and distributed under the direction of the Secretary
12 of the Senate.

14 **STATE OF MAINE**
SENATE
117TH LEGISLATURE
FIRST REGULAR SESSION

18 **COMMITTEE AMENDMENT " A" to S.P. 519, L.D. 1401, Bill, "An**
20 **Act Relating to the Establishment of a Continuum of Quality and**
22 **Affordable Long-term Care and Service Alternatives"**

24 Amend the bill by striking out everything after the title
26 and before the statement of fact and inserting in its place the
following:

28 **'Emergency preamble. Whereas, Acts of the Legislature do not**
30 **become effective until 90 days after adjournment unless enacted**
32 **as emergencies; and**

34 **Whereas, the development of housing and services for elderly**
36 **and disabled adults is proceeding at a fast pace and requires**
38 **standards and consumer protections; and**

40 **Whereas, the development of housing and services for elderly**
42 **and disabled adults requires a revised and stable regulatory**
44 **scheme for developers; and**

46 **Whereas, emergency legislation is necessary to address these**
48 **situations as quickly as possible; and**

Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

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Sec. 1. 22 MRSA §2053, sub-§2-C is enacted to read:

2-C. Congregate housing facility. "Congregate housing facility" means "congregate housing" as defined in section 5152, that has been certified pursuant to section 5154 and has a legally binding contractual arrangement for the provision of health care services with a licensed home health care provider as defined in section 303.

Sec. 2. 22 MRSA §2053, sub-§5, as amended by PL 1993, c. 390, §7, is further amended to read:

5. Participating health care facility. "Participating health care facility" means a health care or congregate housing facility that, pursuant to this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of existing indebtedness as provided in and permitted by this chapter.

Sec. 3. 22 MRSA §5155 is enacted to read:

§5155. Fire safety inspection

1. Inspection required. Certification may not be issued by the department under this chapter to a provider until the department has received from the State Fire Marshal a written statement indicating that the congregate housing facility has complied with applicable fire safety provisions specified in this section. Each facility after receiving its initial inspection and approval from the State Fire Marshal's Office must be reinspected every 2 years in connection with the recertification of the congregate housing facility under the provisions of this chapter.

2. Fees. The department shall establish a fee schedule and pay reasonable fees to the State Fire Marshal for each inspection.

3. Fire safety standards. The applicability of the particular chapter of the National Fire Protection Association Life Safety Code 101, 1994 edition, is determined based upon the following facility sizes:

A. A small facility is a facility occupied by not more than 6 residents.

B. A medium facility is a facility occupied by more than 6 but fewer than 17 residents.

C. A large facility is a facility occupied by more than 17 residents.

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2 **4. Small facility.** A small facility must meet the rooming
4 and lodging requirements of Chapter 20 of the National Fire
6 Protection Association Life Safety Code 101, 1994 edition, except
 that the facility is not required to have sprinkler systems
 pursuant to Title 25, section 2452.

8 **5. Medium facility.** A medium facility must meet the
10 residential board and care requirements of Chapter 22 of the
12 National Fire Protection Association Life Safety Code 101, 1994
 edition.

14 **6. Large facility.** A large facility must meet the
16 requirements of Chapter 12 (Health Care) for Limited Care
18 Facilities of the National Fire Protection Association Life
20 Safety Code 101, 1994 edition except that buildings that are 2
22 stories or less may qualify as a type V (III) under that
 chapter. An existing large facility must meet the requirements
 of Chapter 22 concerning residential board and care for a large
 facility of the National Fire Protection Association Life Safety
 Code 101, 1994 edition or must be evaluated under the fire safety
 evaluation system for residential boarding care facilities.

24 **7. Repeal.** This section is repealed October 1, 1996.

26 **Sec. 4. Assisted Living Task Force.** The Assisted Living Task
28 Force, referred to in this section as the "task force," is
30 established to study state laws and regulations and alternatives
 for the development of services and housing for elderly and
 disabled adults.

32 **1. Membership.** The task force consists of 16 members
34 appointed as follows:

36 A. The State Fire Marshal, or the designee of the State
 Fire Marshal;

38 B. The Commissioner of Human Services, or a designee of the
40 commissioner;

42 C. A member of the State Board of Nursing, appointed by the
 board;

44 D. One operator of a residential care facility and one
46 operator of a congregate housing facility, each appointed by
48 the President of the Senate. One operator of a residential
 care facility and one operator of a congregate housing
 facility, each appointed by the Speaker of the House of
 Representatives;

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COMMITTEE AMENDMENT "A" to S.P. 519, L.D. 1401

2 E. One provider of home health care services not owned or
operated by a congregate housing or residential care
4 facility, nominated by the Home Care Alliance of Maine and
appointed by the President of the Senate. One provider of
6 home health care services that is owned by the owner of a
congregate housing or residential care facility, appointed
by the Speaker of the House of Representatives;

8 F. Two persons who are presently residents of congregate
10 housing or residential care facilities or representatives of
those individuals, appointed by the Governor;

12 G. Two persons from statewide organizations representing
14 the general interests of elder residents of the State,
appointed by the Governor;

16 H. One person representing the long-term care ombudsman
18 program, appointed by the Governor;

20 I. One member of the Senate serving on the Joint Standing
Committee on Human Resources, appointed by the President of
22 the Senate; and

24 J. One member of the House of Representatives serving on
the Joint Standing Committee on Human Resources, appointed
26 by the Speaker of the House of Representatives.

28 **2. Appointments.** All appointments must be made no later
than 30 days following the effective date of this Act. The
30 appointing authorities shall notify the Executive Director of the
Legislative Council upon making their appointments. When the
32 appointment of all members is complete, the chair of the
Legislative Council shall call and convene the first meeting of
34 the task force no later than August 1, 1995. The task force
shall select a chair from among its members.

36 **3. Duties.** The task force shall perform the following
38 tasks:

40 A. Review and evaluate state law and regulations governing
the provision of housing and supportive services for adults
42 in settings outside of nursing facilities, including
congregate housing, assisted living and residential care
44 facilities. Attention must be given to emerging models for
delivering housing and supportive services to older and
46 disabled adults. The task force shall consider the goals of
consumer choice and independence, cost-effectiveness,
48 flexibility, protection of consumer rights and personal and
community safety;

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- 2 B. Review and evaluate the development of the provision of
supportive housing and services for adults nationwide;
- 4 C. Review and incorporate in its recommendations proposed
6 laws and regulations that range from less restrictive to
8 more restrictive as necessary to provide adequate
10 information and to protect the public, the residents of the
12 housing and the recipients of the services. The proposed
laws and regulations must recognize the differences among
consumers, housing situations and services provided and
distinguish among them in the level of regulation required;
- 14 D. Prior to making its recommendations the task force shall
16 consult with consumers, advocates for consumers, providers
and other interested parties, including the Maine State
Housing Authority and the Maine Health and Higher
Educational Facilities Authority;
- 18 E. Review and evaluate the existing rules of practice of
20 the State Board of Nursing and the home health care rules
22 currently in effect as adopted by the Department of Human
Services for the purpose of providing flexibility, cost
24 effectiveness and consumer protection. The task force shall
make recommendations for revisions to these rules; and
- 26 F. Review and evaluate the 1994 edition of the National
28 Fire Protection Association Life Safety Code 101 and make
recommendations concerning the applicability of certain
30 provisions to the different types of housing facilities.
- 32 **4. Meetings.** The task force may meet as often as necessary
but shall meet at least once per month.
- 34 **5. Staff assistance.** The task force may request staffing
and clerical assistance from the Legislative Council.
- 36 **6. Volunteerism.** The task force members serve on a
38 volunteer basis and are not entitled to reimbursement or pay of
any type.
- 40 **7. Report.** The task force shall submit its report with any
42 accompanying legislation to the Second Regular Session of the
117th Legislature by February 15, 1996.
- 44 **Emergency clause.** In view of the emergency cited in the
46 preamble, this Act takes effect when approved.'
- 48 Further amend the bill by inserting at the end before the
statement of fact the following:
- 50

FISCAL NOTE

The additional costs to provide staff assistance and to print the report of the Assisted Living Task Force can be absorbed by the Legislature utilizing existing budgeted resources.

The minor additional costs to participate on the commission can be absorbed within the existing budgeted resources of the member state departments and agencies.'

STATEMENT OF FACT

This amendment replaces the entire bill. It adds an emergency preamble and emergency clause. It enables congregate projects for the elderly to be financed by the Maine Health and Higher Educational Facilities Authority. It requires congregate housing to meet appropriate provisions of the 1994 Life Safety Code of the National Fire Protection Association as verified by the Office of the State Fire Marshal Office. The amendment also contains the particular chapters of the Life Safety Code applicable to different types and sizes of congregate housing facilities.

It creates the Assisted Living Task Force to study state law and regulations concerning the services and facilities designated as congregate housing, assisted living and residential care. It requires the task force to report back to the Joint Standing Committee on Human Resources, with necessary legislation, by February 15, 1996.

It also adds a fiscal note.