A bill to be entitled
An act relating to post-hurricane relief for residents
of health care facilities; creating s. 366.042, F.S.;
requiring the Florida Public Service Commission to
ensure that public utilities effectively prioritize
the restoration of services to certain health care
facilities in the event of emergencies; amending s.
400.19, F.S.; requiring the Agency for Health Care
Administration to conduct an annual inspection of each
licensed nursing home facility to ensure that the
facility is in possession of the required emergency
power source and fuel; amending s. 400.23, F.S.;
requiring the agency, in consultation with the
Department of Health and the Department of Elderly
Affairs, to adopt and enforce rules requiring each
facility to have an emergency power source and a
supply of fuel which meet certain criteria; amending
s. 429.34, F.S.; requiring the agency to conduct an
annual inspection of each licensed assisted living
facility to ensure that the facility is in possession
of the required emergency power source and fuel;
amending s. 429.41, F.S.; requiring the Department of
Elderly Affairs, in consultation with the agency, the
Department of Children and Families, and the
Department of Health, to adopt and enforce rules
requiring each facility to have an emergency power
source and a supply of fuel which meet certain
criteria; providing an effective date.
Be It Enacted by the Legislature of the State of Florida:

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

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

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

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

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

400.23 Rules; evaluation and deficiencies; licensure status.—
(2) Pursuant to the intention of the Legislature, the agency, in consultation with the Department of Health and the Department of Elderly Affairs, shall adopt and enforce rules to implement this part and part II of chapter 408, which shall include reasonable and fair criteria in relation to:
(d) The equipment essential to the health and welfare of the residents, including an operational emergency power source

CODING: Words stricken are deletions; words underlined are additions.
and a supply of fuel sufficient to sustain the emergency power
source for at least 4 days during a power outage. A facility may
contract with a company that is able to timely supply an
emergency power source or supply of fuel when requested by the
facility, or may store an emergency power source or supply of
fuel on site. The emergency power source must provide enough
energy to:

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

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

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

CODING: Words stricken are deletions; words underlined are additions.
regulatory standards. A person specified in this section who knows or has reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected, or exploited shall immediately report such knowledge or suspicion to the central abuse hotline pursuant to chapter 415.

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

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

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

429.41 Rules establishing standards.—

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

CODING: Words stricken are deletions; words underlined are additions.
preferences of residents to enhance the quality of life in a facility. Uniform firesafety standards for assisted living facilities shall be established by the State Fire Marshal pursuant to s. 633.206. The agency, in consultation with the department, may adopt rules to administer the requirements of part II of chapter 408. In order to provide safe and sanitary facilities and the highest quality of resident care accommodating the needs and preferences of residents, the department, in consultation with the agency, the Department of Children and Families, and the Department of Health, shall adopt rules, policies, and procedures to administer this part, which must include reasonable and fair minimum standards in relation to:

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

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

  2. Firesafety requirements.—


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

Page 5 of 7

CODING: Words stricken are deletions; words underlined are additions.
local government or the utility relating to the installation and
maintenance of an automatic fire sprinkler system in a licensed
assisted living facility structure.

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

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

3. Resident elopement requirements.—Facilities are required
to conduct a minimum of two resident elopement prevention and
response drills per year. All administrators and direct care
staff must participate in the drills which shall include a
review of procedures to address resident elopement. Facilities must document the implementation of the drills and ensure that the drills are conducted in a manner consistent with the facility’s resident elopement policies and procedures.

4. Emergency power sources for use during power outages.—
Facilities are required to possess an operational emergency power source and a supply of fuel sufficient to sustain the emergency power source for at least 4 days during a power outage. A facility may contract with a company that is able to timely supply an emergency power source or supply of fuel when requested by the facility, or may store an emergency power source or supply of fuel on site. The emergency power source must provide enough energy to:

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

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

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