



FROM MARCH 8, 2001

LONG TERM HEALTH CARE

The Senate Health, Aging and Long-Term Care Committee discussed Nursing Home Reform today. The focus of the discussion was SB 1202 by Sen. Ginny Brown-Waite (R-Brooksville). The Chairman, Sen. Burt Saunders (R-Naples) made it clear to the committee that they would not vote on the bill until next week's meeting. This was fortunate, because the committee had a difficult time deciding on what exactly they wished to consider in the bill.

The bill, as presented to the committee contains the following key provision:

- The bill increases the required staff at nursing homes and increases inspections of the homes and their staffing patterns by ombudsmen;
- The bill encourages cases to go to arbitration rather than directly to the courts by requiring advance agreements that the defendants would pay economic damages found and reasonable attorneys' fees;
- The bill eliminates punitive damages in arbitration and, in court cases where the plaintiff refuses arbitration, limits non-economic damages to \$350,000 per claimant;
- The bill requires that the claimant prove by a preponderance of the evidence that the nursing home breached its duty to the resident by failing to provide a standard of care that a reasonably prudent nursing home would have provided.

After some discussion, Chairman Saunders requested that Sen. Brown-Waite draft an amendment for next week's committee hearing that would remove all the provisions of the bill related to tort or lawsuit reform. It was the Chairman's opinion that the committee was best suited and charged with the mission of addressing "quality of care" issues and that the tort provisions would best be served by consideration in the Senate Judiciary Committee. Sen. Brown-Waite agreed.

As the committee members observed today, and AIF concurs, this bill has a long way to go. It is a work in progress. As we have indicated several times before, quality of care reforms for nursing homes will be of little value if there is no substantive tort or lawsuit reform adopted concurrently. We look forward to the debate in the Senate Judiciary Committee.

Movers Regulation Act

SB 340 by Sen. Walter "Skip" Campbell (D-Tamarac) was "temporarily passed" today. "Temporarily passed" is legislative-speak meaning that the committee did not consider the bill for a vote and it may not resurface again for the committee's consideration.

The bill, entitled, The Movers Regulation Act, was drafted in response to consistently fraudulent or deceptive practices by movers in the South Florida area. In county offices in Miami-Dade, Broward, and Palm Beach alone, over 367 complaints were filed regarding local movers last year. The conduct by these few movers appears to be predictably predatory, affecting mainly elder citizens. Movers are adding on costs above and beyond their original agreement with the client. Often, these add-ons are pressed upon the client while the mover has the client's furniture in storage or in a vehicle with subtle threats that the final delivery will not be made unless the additional costs are satisfied.

There is no single body of law that regulates the moving industry, thus the Act's title. However, under the Florida Unfair and Deceptive Trade Practices Act, there are provisions available that would appear to allow legal redress for these fraudulent activities. In addition, the Florida RICO (Racketeer Influenced and Corrupt Organization) Act provides some legal avenues for addressing consistent and repetitive commissions of crime.

The bill's companion, HB 237 by Rep. John "Jack" Seiler (D-Ft. Lauderdale) faced even rougher sledding in the House Agriculture and Consumer Affairs Committee where it was defeated in a committee vote. However, a motion was made to reconsider the vote and to leave the bill pending. The motion passed. This is a "Robert's Rules of Parliamentary Procedure" maneuver that allows the bill sponsor to make one last attempt at finding a consensus among the committee members on compromise language that might save the bill. Once a bill is "killed" in committee, provisions in the bill cannot resurface somewhere else on another bill. It is dead. Legislators are loath to kill a bill outright unless there simply is no alternative.

While AIF has no formal position on this bill, philosophically, we are uncomfortable with any additional layer of law being created for the expressed purpose of regulating a segment of the business community, unless it is absolutely necessary.

Stay tuned to our daily brief and to our web site at www.fbnet.com as the legislature makes some very important decisions on the state's economy. These decisions will have a major impact on the business community and AIF will be reporting to you everything that happens.

This report was prepared by Curt Leonard, Manager – Governmental Affairs at Associated Industries of Florida (AIF). Please send your comments or suggestions to us at aif@aif.com or call the Governmental Affairs department at (850)224-7173.

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