

BILL ANALYSIS

Senate Research Center
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S.B. 1049
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Local and state authorities are entrusted by the public to inspect assisted living facilities for safety both during and after a new facility's construction. When the two entities' inspection requirements conflict, statute does not lay out a process for resolving the matter. S.B. 1049 provides clarity so disputes do not arise and encourages the Department of Aging and Disability Services (DADS) to use a more recent building code manual in order to minimize discrepancies in the first place. It also seeks to create a more uniform regulatory environment across the state.

The legislation requires DADS to make public technical memorandums, which provide interpretive guidance to inspectors, re-affirms that the Texas Department of Licensing and Regulation is the primary arbiter of accessibility standards, allows local fire marshals to grant waivers for violations of life safety or fire safety standards when the violation is due to a conflict between two building codes, requires DADS to begin using a more recent edition of the Life Safety Code of the National Fire Protection Association, and requires DADS to recognize a locally issued certificate of occupancy.

The Texas Assisted Living Association is strongly supportive of S.B. 1049 and has worked with DADS to refine the language.

As proposed, S.B. 1049 amends current law relating to safety requirements of assisted living facilities.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission (executive commissioner) is modified in SECTION 1 (Section 247.0264, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the executive commissioner in SECTION 4 (Section 247.0273, Health and Safety Code) and SECTION 6 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 247, Health and Safety Code, by adding Sections 247.0263 and 247.0264, as follows:

Sec. 247.0263. LIFE SAFETY CODE TECHNICAL MEMORANDUM. (a) Requires the Health and Human Services Commission (HHSC), at least twice each year, to issue a technical memorandum providing guidance on the interpretation of minimum life safety code standards prescribed under this chapter and by HHSC rule. Requires the technical memorandum to include guidance regarding any new standard proposed or adopted by the executive commissioner of HHSC (executive commissioner) under Section 247.026 (Standards) that is essential to the safety of the residents of an assisted living facility and not otherwise required by this chapter.

(b) Requires HHSC to solicit comments from interested parties and experts to determine any additional minimum standards that need to be addressed in a technical memorandum issued under this section.

(c) Requires HHSC to post the technical memorandum on HHSC's Internet website.

(d) Provides that a technical memorandum issued under this section is legally binding and requires the memorandum to be followed by a person conducting a life safety code survey under this chapter.

Sec. 247.0264. ACCESSIBILITY STANDARDS. Provides that accessibility standards of assisted living facilities are governed by the Texas Commission of Licensing and Regulation in accordance with Chapter 469 (Elimination of Architectural Barriers), Government Code. Prohibits the executive commissioner from adopting rules governing the accessibility standards of assisted living facilities.

SECTION 2. Amends the heading to Section 247.027, Health and Safety Code, to read as follows:

Sec. 247.027. INSPECTIONS; WAIVER.

SECTION 3. Amends Section 247.027, Health and Safety Code, by adding Subsection (c), to authorize a municipal fire marshal to grant a waiver for a violation of a life safety requirement or fire safety standard cited in HHSC's final official statement of violations after an inspection conducted under this section provided the waiver will not have any adverse effect on the safety of the residents of the assisted living facilities.

SECTION 4. Amends Subchapter B, Chapter 247, Health and Safety Code, by adding Section 247.0273, as follows:

Sec. 247.0273. LIFE SAFETY CODE. (a) Requires the executive commissioner, by rule, to specify an edition of the Life Safety Code of the National Fire Protection Association to be used in establishing the life safety requirements for an assisted living facility licensed under this chapter.

(b) Requires the rules adopted under Subsection (a) to specify an edition of the Life Safety Code of the National Fire Protection Association issued on or after January 1, 2012.

(c) Provides that this section expires September 1, 2021.

SECTION 5. Amends Subchapter D, Chapter 247, Health and Safety Code, by adding Section 247.071, as follows:

Sec. 247.071. LOCAL CERTIFICATE OF OCCUPANCY. Require HHSC to recognize a certificate of occupancy or other approval issued by a municipality or county indicating that a structure complies with all building, fire, and health requirements of the municipality or county, as applicable.

SECTION 6. Requires the executive commissioner, as soon as practicable after the effective date of this Act, to adopt the rules necessary to implement the changes in law made by this Act.

SECTION 7. Effective date: September 1, 2017.