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| BILL ANALYSIS |

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| C.S.H.B. 3595 |
| By: Barry |
| Human Services |
| Committee Report (Substituted) |

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| **BACKGROUND AND PURPOSE** The bill author has informed the committee that far too often, assisted living facilities are impacted by natural disasters causing power outages, which can leave facility residents in unsafe conditions and their loved ones without a direct line of communication regarding their family member's safety or health status. C.S.H.B. 3595 seeks to address this issue by requiring assisted living facilities to create an emergency preparedness and contingency plan for power outages and requiring the Health and Human Services Commission to establish construction and licensure standards for such facilities, including standards for backup power systems.  |
| **CRIMINAL JUSTICE IMPACT**It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision. |
| **RULEMAKING AUTHORITY** It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill. |
| **ANALYSIS** C.S.H.B. 3595 amends the Health and Safety Code to require an assisted living facility, not later than January 1, 2026, to adopt and implement an emergency preparedness and contingency operations plan that requires the facility to provide the following in the event of a power outage:* for each assisted living facility resident other than a bedfast resident, a climate-controlled area of refuge with at least 15 square feet per resident;
* for each bedfast resident, a climate-controlled room; and
* notice to the Health and Human Services Commission (HHSC) of an unplanned interruption or loss for more than 12 hours of electric utility service.

The plan must require the facility to maintain a temperature between 68 and 82 degrees Fahrenheit for each area of refuge designated for facility residents and each climate-controlled room for bedfast residents. The bill defines the following terms:* "area of refuge" as a climate-controlled area in an assisted living facility that is designated for use during a power outage, or other emergency that does not require the evacuation of the entire facility, to provide safety, care, and other resources to residents; and
* "bedfast resident" as an assisted living facility resident who is unable to transfer out of bed, turn and position themselves in bed, and be transported by another person during an emergency.

C.S.H.B. 3595 requires the executive commissioner of HHSC to adopt rules to enforce the bill's provisions and requires HHSC to establish construction and licensure standards for assisted living facilities, including standards for the following:* backup power systems, such as the integration of multiple backup power sources or the use of a generator connection box to connect a building of the facility to a backup power source; and
* the evacuation of facility residents to an area of refuge or climate-controlled room, as applicable, in emergencies.

C.S.H.B. 3595 requires an assisted living facility to take the following actions: * submit the emergency preparedness and contingency operations plan to HHSC in the form and manner prescribed by HHSC;
* include in the plan the facility's policies and information on the following:
	+ building equipment, if any, including the location of and type of on-site generator equipment or backup power source; and
	+ facility residents, including bedfast residents and residents who are dependent on electrically powered equipment; and
* provide a summary of the facility's emergency preparedness and contingency operations plan on request to a facility resident or a resident's family member.

The bill authorizes HHSC to assess a penalty against an assisted living facility found in violation of the bill's provisions in accordance with the enforcement provisions of the Assisted Living Facility Licensing Act.C.S.H.B. 3595 establishes that an assisted living facility is not required to comply with the construction and licensure standards established by HHSC under the bill's provisions before the later of one of the following dates:* the first date that the facility is issued a new or renewal license under the Assisted Living Facility Licensing Act on or after September 1, 2026; or
* January 1, 2027.
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| **EFFECTIVE DATE** September 1, 2025. |
| **COMPARISON OF INTRODUCED AND SUBSTITUTE**While C.S.H.B. 3595 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.Both the introduced and the substitute require an assisted living facility to adopt and implement an emergency preparedness and contingency operations plan that requires the facility to provide an area of refuge for facility residents in the event of a power outage. However the substitute does the following with respect to the plan content, whereas the introduced did not:* specifies that the requirement for the facility to provide a climate-controlled area of refuge with at least 15 square feet per resident for each facility resident applies to residents who are not bedfast; and
* includes the requirement for the facility to provide a climate-controlled room for each bedfast resident.

Accordingly, the substitute also includes provisions absent from the introduced that define "bedfast resident" and require the facility to maintain a temperature between 68 and 82 degrees Fahrenheit for each climate-controlled room for bedfast residents.Whereas the introduced defined "area of refuge" as a climate-controlled area in an assisted living facility that is designated for use when sheltering in place during a power outage or other emergency to provide safety, care, and other resources to residents, the substitute defines that term instead as a climate-controlled area in an assisted living facility that is designated for use during a power outage, or other emergency that does not require the evacuation of the entire facility, to provide safety, care, and other resources to residents. Both the introduced and the substitute require HHSC to establish construction and licensure standards for assisted living facilities, but the versions differ as follows:* the introduced specified that the standards are for facilities constructed after September 1, 2026, whereas the substitute applies the standards to all facilities but establishes that a facility is not required to comply with the standards before the later of January 1, 2027, or the first date that the facility is issued a new or renewal license on or after September 1, 2026;
* the introduced provided for standards for the integration of backup power systems or a connection point for a backup power system, whereas the substitute provides for standards for backup power systems, such as the integration of multiple backup power sources or the use of a generator connection box to connect a building of the facility to a backup power source; and
* the introduced provided for standards for the evacuation of facility residents in emergencies to other buildings on the same premises which have a back up power system or a connection point for a portable back up power system, whereas the substitute provides for standards for the evacuation of facility residents to an area of refuge or climate-controlled room, as applicable, in emergencies.

With respect to the requirement for an assisted living facility to include in the emergency preparedness and contingency operations plan the facility's policies and information on assisted living facility residents, the introduced specifically required the inclusion of policies and information on residents who are medically dependent on electrically powered equipment, whereas the substitute requires the inclusion of policies and information on residents who are dependent on electrically powered medical equipment. The substitute also requires the inclusion of policies and information on bedfast residents, whereas the introduced did not.The substitute omits a requirement from the introduced for an assisted living facility to post signs in conspicuous locations within the facility that include information regarding the location of the area of refuge on the premises of the facility and directions to that location, the contact information of the facility's designated emergency contact, and emergency procedures for employees and residents of the facility. Whereas the introduced required a summary of an emergency preparedness and contingency operations plan that addresses sheltering in place to be made available to residents and their families, the substitute requires an assisted living facility, on request, to provide a summary of the plan to a facility resident or a resident's family member. The substitute includes an authorization absent from the introduced for HHSC to assess a penalty against an assisted living facility found in violation of the bill's provisions.The substitute omits the provision from the introduced which established that an assisted living facility is not subject to assessment of a penalty for a violation of the bill's provisions until on or after January 1, 2027.  |
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