

## Senate Bill 165

By: Senators Polak of the 42<sup>nd</sup>, Johnson of the 1<sup>st</sup>, Fort of the 39<sup>th</sup>, Price of the 56<sup>th</sup>, Tate of the 38<sup>th</sup> and others

## A BILL TO BE ENTITLED

## AN ACT

1 To define and provide for a new category of facilities to be designated as "assisted living  
2 facilities" and to include "assisted living facilities - Level I" and "assisted living facilities -  
3 Level II" within such category; to amend Code Section 10-1-393 of the Official Code of  
4 Georgia Annotated, relating to unfair or deceptive practices, so as to change certain  
5 provisions relating to providing personal care services; to amend Code Section 25-2-13 of  
6 the Official Code of Georgia Annotated, relating to buildings presenting special hazards, so  
7 as to change the listing of buildings and the applicability of certain provisions thereto; to  
8 amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to change  
9 certain terms and definitions; to provide for admissions, examinations, inspections,  
10 employees, licensing, and staffing; to provide for fees and penalties; to provide for licensing  
11 of different levels of assisted living facilities; to retain certain liability for personal care  
12 homes; to amend Code Section 37-4-21 of the Official Code of Georgia Annotated, relating  
13 to respite care for mentally retarded persons, so as to revise certain terms; to amend Code  
14 Section 48-13-9 of the Official Code of Georgia Annotated, relating to general provisions  
15 governing business and occupation taxes, so as to change a reference; to change various  
16 statutory references to "personal care homes" so that they refer to "assisted living facilities";  
17 to amend Code Section 49-4-142 of the Official Code of Georgia Annotated, relating to the  
18 Department of Community Health functions regarding medical assistance, so as to direct the  
19 application for federal waivers to authorize Medicaid or to otherwise provide Medicaid for  
20 eligible persons receiving care in an assisted living facility in certain pilot projects; to  
21 provide for related matters; to provide effective dates; to repeal conflicting laws; and for  
22 other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:



1 but before January 1, 2002, and any structure constructed as or converted to an assisted  
 2 living facility as defined in Code Section 31-7-12 on or after January 1, 2002, shall be  
 3 deemed to be a proposed building pursuant to subsection (d) of Code Section 25-2-14  
 4 and that structure may be required to be furnished with a sprinkler system meeting the  
 5 standards established by the Commissioner if ~~he~~ the Commissioner deems this  
 6 necessary for proper fire safety."

### 7 SECTION 3.

8 Code Section 31-6-2 of the Official Code of Georgia Annotated, relating to definitions  
 9 regarding state health planning, is amended by adding following paragraph (1) thereof a new  
 10 paragraph (1.1) to read as follows:

11 "(1.1) 'Assisted living facility' shall have the same meaning as provided in paragraph (5)  
 12 of subsection (a) of Code Section 31-7-12 for 'assisted living facility - Level II' for the  
 13 purposes of this chapter only."

### 14 SECTION 4.

15 Said Code section is further amended by striking paragraph (8) thereof and inserting in its  
 16 place the following:

17 "(8) 'Health care facility' means hospitals; other special care units, including but not  
 18 limited to podiatric facilities; skilled nursing facilities; intermediate care facilities;  
 19 ~~personal care homes~~ assisted living facilities; ambulatory surgical or obstetrical facilities;  
 20 health maintenance organizations; home health agencies; diagnostic, treatment, or  
 21 rehabilitation centers, but only to the extent that subparagraph (G) or (H), or both  
 22 subparagraphs (G) and (H), of paragraph (14) of this Code section are applicable thereto;  
 23 and facilities which are devoted to the provision of treatment and rehabilitative care for  
 24 periods continuing for 24 hours or longer for persons who have traumatic brain injury,  
 25 as defined in Code Section 37-3-1."

### 26 SECTION 5.

27 Said Code section is further amended by striking paragraph (18) and inserting in its place the  
 28 following:

29 ~~"(18) 'Personal care home' means a residential facility having at least 25 beds and~~  
 30 ~~providing, for compensation, protective care and oversight of ambulatory, nonrelated~~  
 31 ~~persons who need a monitored environment but who do not have injuries or disabilities~~  
 32 ~~which require chronic or convalescent care, including medical, nursing, or intermediate~~  
 33 ~~care. Personal care homes include those facilities which monitor daily residents'~~  
 34 ~~functioning and location, have the capability for crisis intervention, and provide~~

1 supervision in areas of nutrition, medication, and provision of transient medical care.

2 Such term does not include:

3 ~~(A) Old age residences which are devoted to independent living units with kitchen~~  
 4 ~~facilities in which residents have the option of preparing and serving some or all of their~~  
 5 ~~own meals; or~~

6 ~~(B) Boarding facilities which do not provide personal care Reserved.~~"

## 7 SECTION 6.

8 Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to the regulation  
 9 of health care facilities, is amended by striking subparagraph (B) of paragraph (1) of Code  
 10 Section 31-7-1, relating to definitions, and inserting in its place the following:

11 "(B) Any building, facility, or place in which are provided two or more beds and other  
 12 facilities and services that are used for persons received for examination, diagnosis,  
 13 treatment, surgery, maternity care, nursing care, ~~or personal care~~ services, or assistance  
 14 with activities of daily living or instrumental activities of daily living as defined in Code  
 15 Section 31-7-12 for periods continuing for 24 hours or longer and which is classified by  
 16 the department, as provided for in this chapter, as either a hospital, nursing home, or  
 17 ~~personal care home~~ assisted living facility;"

## 18 SECTION 7.

19 Said chapter is further amended by striking Code Section 31-7-12, relating to licensing of  
 20 personal care homes, and inserting in its place the following:

21 "31-7-12.

22 (a) As used in this Code section, the term:

23 ~~(1) 'Personal care home' means any dwelling, whether operated for profit or not, which~~  
 24 ~~undertakes through its ownership or management to provide or arrange for the provision~~  
 25 ~~of housing, food service, and one or more personal services for two or more adults who~~  
 26 ~~are not related to the owner or administrator by blood or marriage.~~

27 (1) 'Activities of daily living' means, but is not limited to, eating, bathing, grooming,  
 28 dressings, toileting, transfer, ambulation, and self administered medications.

29 (2) 'Ambulatory resident' means a resident who has the ability to move from place to  
 30 place by walking, either unaided or aided by prosthesis, brace, cane, crutches, walker or  
 31 hand rails, or by propelling a wheelchair.

32 (3) 'Assisted living facility' means any assisted living facility - Level I or assisted living  
 33 facility - Level II but shall not mean a respite care facility or any facility receiving funds  
 34 pursuant to a contract or subcontract with a regional mental health, mental retardation,  
 35 and substance abuse board and operating exclusively for consumers with mental illness,

1 mental retardation, or substance abuse problems which is exempt from licensure under  
2 Code Section 31-7-3. Such facility shall be required under its contract with the regional  
3 mental health, mental retardation, and substance abuse board to receive routine  
4 monitoring and service oversight.

5 (4) 'Assisted living facility - Level I' means any dwelling, whether operated for profit or  
6 not, which undertakes through its ownership or management to provide or arrange for the  
7 provision of housing and 24 hour watchful oversight, services for persons with  
8 disabilities, and assistance with activities of daily living and instrumental activities of  
9 daily living for two or more ambulatory residents who are not related by blood or  
10 marriage to the owner or administrator of the home. An assisted living facility - Level I  
11 may not provide services for bedridden or bed-bound persons. It is the intent of the  
12 General Assembly that the category 'assisted living facility - Level I' replace the former  
13 'personal care home' category and that the department consider this intent when  
14 promulgating appropriate rules and regulations.

15 (5) 'Assisted living facility - Level II' means any dwelling, whether operated for profit  
16 or not, which undertakes through its ownership or management to provide or arrange for  
17 the provision of housing, health care oversight, including monitoring of vital signs and  
18 bodily functions, limited nursing services of less than 24 hours duration, 24 hour watchful  
19 oversight, 24 hour awake staff, and assistance with activities of daily living and  
20 instrumental activities of daily living for two or more adults who are not related by blood  
21 or marriage to the owner or administrator of the home.

22 (6) 'Instrumental activities of daily living' includes, but is not limited to, preparing meals,  
23 shopping, managing money, using the telephone, light housework, and transportation.

24 (7) 'Limited nursing services' means acts that may be performed by licensed practical  
25 nurses under Article 2 of Chapter 26 of Title 43, relating to practical nurses, and may be  
26 administered on a less than 24 hour continuous basis in an assisted living facility -  
27 Level II for those residents who have been screened, assessed, and educated about their  
28 long-term care options as appropriate for Level II care in accordance with the  
29 department's rules and regulations.

30 (8) 'Personal services' includes, but is not limited to, individual assistance with or  
31 supervision of self-administered medication and essential activities of daily living such  
32 as eating, bathing, grooming, dressing, and toileting.

33 (9) 'Watchful oversight' means, but is not limited to, a daily awareness by the  
34 management of an assisted living facility resident's functioning, his or her whereabouts,  
35 the making and reminding that resident of medical appointments, the ability and readiness  
36 to intervene if a crisis arises for that resident, supervision in areas of nutrition and  
37 medications, and actual provision of supportive medical services.

1 (b) All ~~personal care homes~~ assisted living facilities shall be licensed as provided for in  
2 Code Section 31-7-3, ~~except that, in lieu of licensure, the department may require persons~~  
3 ~~who operate personal care homes with two or three beds for nonfamily adults to comply~~  
4 ~~with registration requirements delineated by the department. Such registration requirements~~  
5 ~~within this category shall authorize the department to promulgate pursuant to Chapter 13~~  
6 ~~of Title 50, the 'Georgia Administrative Procedure Act,' reasonable standards to protect the~~  
7 ~~health, safety, and welfare of the occupants of such personal care homes.~~

8 (b.1) Each prospective resident of an assisted living facility shall be examined by a  
9 physician not employed by the facility prior to admission to that facility. The physician  
10 shall complete a medical examination report on a form approved by the department and  
11 submit such form to the facility. The report shall contain a certificate that such resident is  
12 appropriate to the level of care provided by the facility before such facility may admit such  
13 prospective resident. In addition, and in accordance with department rules and regulations,  
14 each resident shall be screened, assessed, and educated about his or her long-term care  
15 options and appropriateness for Level II care. No facility may admit any person who is not  
16 properly certified pursuant to this subsection. Within ten business days of admission to a  
17 facility, each resident shall provide the facility with the name, address, and phone number  
18 of his or her physician of record, if any. Each resident shall undergo an annual  
19 examination by a physician not employed by the facility for the purpose of being recertified  
20 as appropriate to the level of care provided by the facility. Nothing in this subsection shall  
21 preclude a resident's physician from recommending that a resident be moved to another  
22 level of care based on such physician's ongoing assessment of the resident's needs.

23 (c) The department shall periodically inspect assisted living facilities in accordance with  
24 established rules and regulations. Upon the designation by the department and with the  
25 consent of county boards of health, such boards may act as agents to the department in  
26 performing inspections and other authorized functions regarding ~~personal care homes~~ such  
27 facilities licensed under this ~~chapter~~ Code section. ~~With approval of the department,~~  
28 ~~county boards of health may establish inspection fees to defray part of the costs of~~  
29 ~~inspections performed for the department.~~

30 (d) The state ombudsman or community ombudsman, on that ombudsman's initiative or  
31 in response to complaints made by or on behalf of residents of a registered or licensed  
32 ~~personal care home~~ assisted living facility, may conduct investigations in matters within  
33 the ombudsman's powers and duties.

34 (e) The department shall promulgate procedures to govern the waiver, variance, and  
35 exemption process related to ~~personal care homes~~ assisted living facilities pursuant to  
36 Chapter 2 of this title. Such procedures shall include published, measurable criteria for the

1 decision process, shall take into account the need for protection of public and individual  
2 health, care, and safety, and shall afford an opportunity for public input into the process.

3 (f) The fees for licenses of assisted living facilities shall be paid when a license is initially  
4 granted and annually thereafter to be determined according to the number of beds available  
5 for persons who will be provided assistance with some or all activities of daily living or  
6 instrumental activities of daily living in such facilities as follows:

7	<u>6 beds or less . . . . .</u>	<u>\$ 250.00</u>
8	<u>7-15 beds . . . . .</u>	<u>500.00</u>
9	<u>16 beds or more . . . . .</u>	<u>750.00</u>

10 Such fees shall apply only to licenses granted at any time on or after July 1, 2002, and to  
11 annual renewals of licenses. Any facility operating on or after July 1, 2002, without  
12 obtaining the license required shall be required to pay the license fee applicable to that  
13 facility as well as a penalty equal to the amount of such fee.

14 (g) An assisted living facility may be licensed at more than one level if it offers services  
15 at more than one level.

16 (h) Each employee of an assisted living facility shall receive a minimum amount of  
17 training and continuing education hours annually as determined by the department.

18 (i) An assisted living facility - Level II shall be staffed with either a registered professional  
19 nurse or a licensed practical nurse. Such registered professional nurse or licensed practical  
20 nurse shall be on site for a minimum of 12 hours per day. The facility shall also employ  
21 additional nurses in numbers sufficient to meet the limited nursing needs of all residents.  
22 If one or more licensed practical nurses are so employed, such licensed practical nurse or  
23 nurses shall be under the supervision of a registered professional nurse who shall be  
24 employed by the facility either directly or as a consultant. Such registered professional  
25 nurse must be available on call to the facility at all times so that in the event nursing  
26 services are needed in the facility and a licensed practical nurse is not on duty, the facility  
27 may contact such registered professional nurse for assistance."

28 **SECTION 8.**

29 Said chapter is further amended by striking Code Section 31-7-12.1, relating to unlicensed  
30 personal care homes, and inserting in its place the following:

31 "31-7-12.1.

32 (a) A facility shall be deemed to be an '~~unlicensed personal care home~~ assisted living  
33 facility' if it is unlicensed and not exempt from licensure and:

34 (1) The facility is providing personal services and is operating as a ~~personal care home~~  
35 an assisted living facility as those terms are defined in Code Section 31-7-12;

1 (2) The facility is held out as or represented as providing personal services and operating  
 2 as ~~a personal care home~~ an assisted living facility as those terms are defined in Code  
 3 Section 31-7-12; or

4 (3) The facility represents itself as a licensed ~~personal care home~~ assisted living facility.

5 ~~(b) Personal care homes in existence on July 1, 1994, which obtain licenses from the~~  
 6 ~~department no later than October 1, 1994, shall not be subject to the penalties set out in this~~  
 7 ~~Code section.~~

8 ~~(c) Except as provided in subsection (b) of this Code section, any Any unlicensed personal~~  
 9 ~~care home assisted living facility shall be assessed by the department, after opportunity for~~  
 10 ~~hearing in accordance with the provisions of Chapter 13 of Title 50, the 'Georgia~~  
 11 ~~Administrative Procedure Act,' a civil penalty in the amount of \$100.00 per bed per day for~~  
 12 ~~each day of violation of subsection (b) of Code Section 31-7-12. The department shall~~  
 13 ~~send a notice by certified mail or statutory overnight delivery stating that licensure is~~  
 14 ~~required and including a period for obtaining licensure with an expiration date. Such notice~~  
 15 ~~shall be deemed to be constructively received on the date of the first attempt to deliver such~~  
 16 ~~notice by the United States Postal Service. For unlicensed personal care homes which were~~  
 17 ~~not in existence on July 1, 1994, the civil penalty provided by this subsection shall be~~  
 18 ~~calculated as beginning on the expiration date of the notice. For unlicensed personal care~~  
 19 ~~homes which were in existence on July 1, 1994, the civil penalty provided by this~~  
 20 ~~subsection shall be calculated as beginning on the expiration date of the notice or on~~  
 21 ~~October 1, 1994, whichever is later. The department shall take no action to collect such~~  
 22 ~~civil penalty until after opportunity for a hearing.~~

23 ~~(d)~~(c) The civil penalty authorized by subsection ~~(c)~~ (b) of this Code section shall be  
 24 doubled if:

25 (1) The operator of an unlicensed ~~personal care home~~ assisted living facility refuses to  
 26 seek licensure; or

27 (2) The operator seeks licensure, the licensure application is denied, and the operator  
 28 continues to operate the unlicensed ~~personal care home~~ assisted living facility.

29 ~~(e)~~(d) The operator of ~~a personal care home~~ an assisted living facility who is assessed a  
 30 civil penalty in accordance with this Code section may have review of such civil penalty  
 31 by appeal to the superior court in the county in which the action arose or to the Superior  
 32 Court of Fulton County in accordance with the provisions of Code Section 31-5-3."

### 33 SECTION 9.

34 Said chapter is further amended by striking paragraph (1) of subsection (a) of Code Section  
 35 31-7-111, relating to findings regarding certain authorities for certain facilities for the  
 36 elderly, and inserting in its place the following:

1 "(1) There exists in this state a seriously inadequate supply of and a critical need for  
 2 facilities which can furnish the comprehensive services required by elderly persons in a  
 3 single location, including, without limitation, residential care and the types of services  
 4 provided in skilled nursing homes, intermediate care homes, and ~~personal care homes~~  
 5 ~~(hereinafter~~ assisted living facilities referred to as 'residential care facilities for the  
 6 elderly');".

#### 7 **SECTION 10.**

8 Said chapter is further amended by striking paragraphs (1), (4), (5), (6), (10), and (11) of  
 9 Code Section 31-7-250, relating to definitions regarding records checks for personal care  
 10 home employees, and inserting in their respective places the following:

11 "(1) 'Assisted living facility' means a home required to be licensed under Code Section  
 12 31-7-12.

13 (1.1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of  
 14 whether an appeal of the conviction has been sought."

15 "(4) 'Director' means the chief administrative or executive officer or manager of a an  
 16 assisted living facility.

17 (5) 'Employee' means any person, other than a director, employed by a personal care  
 18 home an assisted living facility to perform at any facilities of the personal care home  
 19 assisted living facility any duties which involve personal contact between that person and  
 20 any paying resident of the personal care home assisted living facility.

21 (6) 'Facility' means real property of a personal care home an assisted living facility where  
 22 residents reside."

23 "(10) 'License' means the permit or document issued by the department to authorize the  
 24 personal care home assisted living facility to which it is issued to operate a facility under  
 25 this chapter.

26 (11) 'Personal care home' or 'home' means a home required to be licensed or permitted  
 27 under Code Section 31-7-12 Reserved."

#### 28 **SECTION 11.**

29 Said chapter is further amended by striking Code Section 31-7-256, relating to the expiration  
 30 of personal care home licenses, and inserting in its place the following:

31 "31-7-256.

32 ~~All licenses issued to facilities prior to July 1, 1985, shall expire December 31, 1985.~~  
 33 ~~Upon the expiration of any license issued prior to July 1, 1985, the personal care home to~~  
 34 ~~which such license was issued shall be required to obtain a separate license for each of the~~  
 35 ~~personal care home's existing facilities and shall have a separate director for each such~~

1 ~~facility. An existing facility whose license so expires may only be issued a temporary~~  
 2 ~~license until that facility qualifies for a regular license, unless that facility submits~~  
 3 ~~evidence, satisfactory to the department, that within the immediately preceding 12 months~~  
 4 ~~the director received a satisfactory fingerprint records check determination and each~~  
 5 ~~employee received a satisfactory preliminary records check determination, in which event~~  
 6 ~~that facility may be issued a regular license without first having to obtain a temporary~~  
 7 ~~license. A temporary or regular license may only be issued if the facility otherwise~~  
 8 ~~qualifies for a license pursuant to Article 1 of this chapter. Any new facility in this state~~  
 9 ~~first owned or operated on or after July 1, 1985, by a personal care home already licensed~~  
 10 ~~in this state shall be required to have a new license issued pursuant to Code Sections~~  
 11 ~~31-7-251 through 31-7-255. Any facility licensed in this state as a personal care home~~  
 12 ~~prior to January 1, 2002, shall be deemed to have been licensed as an assisted living facility~~  
 13 ~~- Level I. Any sale of a facility deemed to be licensed pursuant to this Code section shall~~  
 14 ~~require such facility to apply for and receive a new license. Any new facility in this state~~  
 15 ~~first owned or operated on or after that date by a personal care home deemed to have been~~  
 16 ~~licensed as an assisted living facility as provided in this Code section shall be required to~~  
 17 ~~have a new license issued pursuant to Code Sections 31-7-251 and 31-7-255. Nothing in~~  
 18 ~~this Code section shall relieve from any civil or criminal liability or penalty any personal~~  
 19 ~~care home for operating without the required license before this Code section becomes~~  
 20 ~~effective on January 1, 2002.~~"

21 **SECTION 12.**

22 Said chapter is further amended by striking Code Section 31-7-257, relating to temporary  
 23 licenses for personal care homes, and inserting in its place the following:

24 "31-7-257.

25 ~~After a temporary license is issued to an existing facility pursuant to Code Section~~  
 26 ~~31-7-256, the personal care home to whom the license was issued shall furnish to the~~  
 27 ~~department a fingerprint records check application for the director and a preliminary~~  
 28 ~~records check application for each employee of each of the personal care home's facilities~~  
 29 ~~for which a temporary license was issued. After receiving those applications, the~~  
 30 ~~department shall proceed to have made records check determinations based upon such~~  
 31 ~~applications and may only issue a regular license to any such facility under the conditions~~  
 32 ~~and procedures provided in Code Sections 31-7-252 through 31-7-255 Reserved.~~"

**SECTION 13.**

Code Section 31-8-51 of the Official Code of Georgia Annotated, relating to long-term care ombudsman definitions, is amended by striking paragraph (2) thereof and inserting in its place the following:

"(2) 'Long-term care facility' means any skilled nursing home, intermediate care home, or ~~personal care home~~ assisted living facility now or hereafter subject to regulation and licensure by the department, or any regulated facility receiving funds pursuant to a contract or subcontract with a regional mental health, mental retardation, and substance abuse board."

**SECTION 14.**

Code Section 31-8-81 of the Official Code of Georgia Annotated, relating to definitions regarding abuse of residents of long-term care facilities, is amended by striking paragraph (3) thereof and inserting in its place the following:

"(3) 'Long-term care facility' or 'facility' means any skilled nursing home, intermediate care home, or ~~personal care home~~ assisted living facility now or hereafter subject to regulation and licensure by the department, or any regulated facility receiving funds pursuant to a contract or subcontract with a regional mental health, mental retardation, and substance abuse board."

**SECTION 15.**

Said chapter is further amended by striking Code Section 31-8-132, relating to definitions regarding remedies for personal care home residents, and inserting in its place the following:

"31-8-132.

As used in this article, the term:

(1) 'Administrator' means the manager designated by the governing body of a ~~personal care home~~ an assisted living facility as responsible for the day-to-day management, administration, and supervision of the ~~personal care home~~ assisted living facility, who may also serve as on-site manager and responsible staff person except during periods of his or her own absence.

(1.1) 'Assisted living facility' means a facility required to be licensed under Code Section 31-7-12.

(2) 'Community ombudsman' means a person certified as a community ombudsman pursuant to Code Section 31-8-52.

(3) 'Governing body' means the board of trustees, the partnership, the corporation, the association, or the person or group of persons who maintain and control a ~~personal care~~

1 ~~home~~ an assisted living facility and who are legally responsible for the operation of the  
2 ~~home~~ facility.

3 (4) 'Legal surrogate' means a duly appointed person who is authorized to act, within the  
4 scope of the authority granted under the legal surrogate's appointment, on behalf of a  
5 resident who is adjudicated or certified incapacitated. No member of the governing body,  
6 administration, or staff of a ~~personal care home~~ an assisted living facility or any affiliated  
7 ~~personal care home~~ assisted living facility or their family members may serve as the legal  
8 surrogate for a resident unless that resident is a family member.

9 (5) '~~Personal care home~~' or '~~home~~' means a facility as defined in Code Section 31-7-12  
10 Reserved.

11 (6) 'Representative' means a person who voluntarily, with the resident's written  
12 authorization, may act upon the resident's direction with regard to matters concerning the  
13 health and welfare of the resident, including being able to access personal records  
14 contained in the resident's file and receive information and notices pertaining to the  
15 resident's overall care and condition. No member of the governing body, administration,  
16 or staff of a ~~personal care home~~ an assisted living facility or any affiliated ~~personal care~~  
17 ~~home~~ assisted living facility or their family members may serve as the representative for  
18 a resident.

19 (7) 'Resident' means a person who resides in a ~~personal care home~~ an assisted living  
20 facility.

21 (8) 'State ombudsman' means the state ombudsman established under Code Section  
22 31-8-52."

## 23 **SECTION 16.**

24 Code Section 37-4-21 of the Official Code of Georgia Annotated, relating to respite care for  
25 mentally retarded persons, is amended by striking subsection (c) thereof and inserting in its  
26 place the following:

27 "(c) An admission for respite care shall be for no longer than two weeks, provided that a  
28 person may be admitted for additional periods of respite care; provided, further, that there  
29 shall be no more than two admissions for respite care within any six-month period, counted  
30 from the first day of such an admission. Any such admission which exceeds limits provided  
31 in this Code section must be in accordance with the procedure in Code Section 37-4-20 or  
32 37-4-40. This Code section shall not apply when the person sought to be admitted is living  
33 in a nursing home or ~~personal care home~~ assisted living facility, as defined in ~~paragraph~~  
34 ~~(2)~~ of Code Section Sections 43-27-1 and 31-7-12, respectively."

**SECTION 17.**

Article 1 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions governing business and occupation taxes, is amended by striking paragraph (14) of subsection (b) of Code Section 48-13-9, relating to businesses which are and which are not subject to regulatory fees, and inserting in its place the following:

"(14) Nursing homes and ~~personal care homes~~ assisted living facilities;"

**SECTION 18.**

The following Code sections of the Official Code of Georgia Annotated are amended by striking the terms "a personal care home," "Personal care home," "personal care home," "Personal care homes," and "personal care homes," wherever they occur and inserting in their respective places the terms "an assisted living facility," "Assisted living facility," "assisted living facility," "Assisted living facilities," and "assisted living facilities":

- (1) Code Section 16-5-23, relating to simple battery;
- (2) Code Section 16-5-23.1, relating to battery;
- (3) Code Section 16-6-5.1, relating to sexual assault of persons in custody;
- (4) Code Section 26-4-5, relating to pharmacy definitions;
- (5) Code Section 31-7-3, relating to the requirement for permits to operate institutions;
- (6) Code Section 31-7-112, relating to definitions regarding authorities for facilities for the elderly;
- (7) Code Section 31-7-258, relating to changes in personal care home directors;
- (8) Code Section 31-7-259, relating to employment at personal care homes with temporary licenses;
- (9) Code Section 31-7-300, relating to definitions governing private home care provider laws;
- (10) Code Section 31-7-305, relating to exempt services;
- (11) Code Section 31-7-307, relating to certificates of need;
- (12) Code Section 31-8-52, relating to the establishment of the long-term care ombudsman;
- (13) Code Section 31-8-130, relating to the creation of the "Remedies for Residents of Personal Care Homes Act";
- (14) Code Section 31-8-131, relating to legislative findings and intent;
- (15) Code Section 31-8-134, relating to grievance procedures;
- (16) Code Section 31-8-135, relating to hearings and transfer of residents;
- (17) Code Section 31-8-136, relating to actions for damages;
- (18) Code Section 31-8-137, relating to temporary restraining orders;
- (19) Code Section 31-8-138, relating to failure to validly license as a defense;

- 1 (20) Code Section 31-8-139, relating to mandamus;  
 2 (21) Code Section 31-8-181, relating to exempt individuals and hospitals;  
 3 (22) Code Section 38-4-2, relating to powers of veterans' home administrators; and  
 4 (23) Code Section 50-33-2, relating to year 2000 readiness definitions.

5 **SECTION 19.**

6 Code Section 49-4-142 of the Official Code of Georgia Annotated, relating to the  
 7 Department of Community Health functions regarding medical assistance, is amended by  
 8 adding at the end thereof new subsections (d) and (e) to read as follows:

9 "(d) The actions authorized by subsection (e) of this Code section shall be undertaken by  
 10 the Department of Community Health on a pilot program basis. Such pilot program shall  
 11 begin with two sites, one rural and one urban, and the locations of such pilot sites shall be  
 12 determined by the department. The results of such pilot program and any decision to  
 13 continue or extend such pilot program shall be considered in light of the evaluation of the  
 14 department as to the feasibility of such continuation, extension, or both.

15 (e) The Department of Community Health shall apply to the appropriate federal agency  
 16 for the necessary waivers to authorize Medicaid payments or otherwise provide Medicaid  
 17 funds for those persons certified as eligible to receive Medicaid who are receiving care or  
 18 services in a licensed assisted living facility - Level II on a pilot program basis as provided  
 19 in subsection (d) of the Code section. This subsection shall include persons who are  
 20 otherwise eligible to receive Medicaid payments as residents of facilities but who do not  
 21 require the level of care provided by that facility as determined by the agency responsible  
 22 for making such determination. Budget neutrality or cost savings as required by federal  
 23 law for waivers shall be achieved by the subsequent reduction of Medicaid certified beds  
 24 in inpatient facilities other than hospitals as defined in Chapter 7 of Title 31. The funding  
 25 for assisted living facilities - Level II will be derived from those funds budgeted for  
 26 inpatient facilities other than hospitals as defined in Chapter 7 of Title 31. No federal block  
 27 grant legislation shall affect any programs operated under a federal waiver."

28 **SECTION 20.**

29 This Act shall become effective only for the purposes of promulgating rules and regulations  
 30 thereunder upon its approval by the Governor or upon its becoming law without such  
 31 approval. This Act shall become effective for all other purposes on January 1, 2002.

32 **SECTION 21.**

33 All laws and parts of laws in conflict with this Act are repealed.