

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 1122

INTRODUCER: Senators Simpson and Dean

SUBJECT: Florida Fire Prevention Code

DATE: March 17, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Pre-meeting
2.			GO	
3.			RC	
4.				
5.				
6.				

I. Summary:

SB 1122 provides for the following exemptions from the Florida Fire Prevention Code:

- certain dwellings within a local government with a population of fewer than 30,000 residents are exempt from any fire flow requirements,
- specified businesses are exempt from any 2-hour or longer fire-rated wall requirements, and
- designated agricultural operations are entirely exempt from the code.

This bill amends section 633.0215 of the Florida Statutes.

II. Present Situation:

Fire Safety and Building Provisions in Florida

The Division of State Fire Marshall, housed within the Department of Financial Services, is responsible for protecting Floridians from fire hazards pursuant to ch. 633, F.S. Section 633.0215(1), F.S., requires the State Fire Marshal to adopt by rule the latest editions of the National Fire Protection Association (NFPA) codes every three years. These NFPA codes serve as a base code for the Florida Fire Prevention Code (FFPC). Local governments enforce the FFPC as a minimum standard although they may adopt more stringent fire safety standards within their own jurisdictions subject to requirements provided in s. 633.025(4), F.S. The 2010 FFPC was adopted on December 31, 2011.

The Fire Safety Code operates in conjunction with the Florida Building Code (Building Code) adopted pursuant to ch. 553, F.S. The Building Code governs the design and construction of buildings and structures in the state and is developed and modified by the Florida Building

Commission (Commission).¹ The Commission maintains and updates the Building Code and its component codes for plumbing, electrical, mechanical, energy conservation, accessibility, structural, and fire systems in buildings. The Building Code, like the FFPC, is adopted every three years and utilizes international codes as a foundation for Florida's base code. Enforcement of the Building Code is also similar to the FFPC: local governments bear this responsibility and may adopt more stringent code requirements within their own jurisdictions subject to provisions.²

Conflicts between the FFPC and the Building Code are resolved through coordination and cooperation between the State Fire Marshall and the Commission in favor of requirements offering the greatest degree of life safety.³ If the State Fire Marshal and Commission are unable to agree on a resolution to a conflict, the issue goes to a mediator.

Fire Flow

Fire flow is water required for fire-fighting purposes which usually consists of a system of underground piping and fire hydrants. Fire flow is often installed when building lots are created, but when required, will always need to be in place prior to construction of a building or use of the property. Fire flow usually consists of fire hydrants properly located on a public water line, but could also be smaller public or private water supplies or systems.

The current 2010 edition of the FFPC, effective December 31, 2011, adopted the 2009 editions of NFPA 1 and 101.⁴ In the previous edition of the FFPC (2007), the fire flow table was in the annex of the NFPA 1 and listed as recommended. The 2009 edition of NFPA 1 moved the table to the "base code" (NFPA 1:18.4). The current code specifies requirements for fire flow in both residential and commercial buildings.⁵

Fire Rated Walls or Partitions in the FFPC

Chapter 6 of the FFPC outlines several occupancy classifications for buildings and structures. A business occupancy is defined as one used for the transaction of business other than mercantile; a mercantile occupancy is one used for the display and sale of merchandise. A separated occupancy is one in which two or more classifications exist separated by a fire-resistance rated assembly. These occupancy separations are categorized as 3-hour fire resistance-rated, 2-hour fire resistance-rated, or 1-hour fire resistance-rated. Fire resistance ratings are permitted to be reduced by 1 hour where the building is protected throughout by an approved automatic sprinkler system.⁶

¹ Pursuant to s. 553.74, F.S., the Commission is a 25-member technical body appointed by the Governor subject to confirmation by the Senate. The Department of Business and Professional Regulation (DBPR) provides the Commission with administrative, technical, and legal support.

² See ss. 553.73(1)-(4) and 553.80, F.S.

³ See ss. 553.72(5) and 553.73(1)(d), F.S.

⁴ Florida Department of Financial Services, *Analysis of SB 1122* (Mar. 14, 2013) available at <http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=1026&yr=2013> (last visited Mar. 17, 2013).

⁵ Reductions in the fire flow requirements are permissible through the installation of a fire sprinkler system.

⁶ In no case may the rating be reduced to less than 1 hour.

FFPC Classification of Agricultural Buildings

The FFPC does not use the specific term “agricultural operation.” Inspection of agricultural buildings and surrounding property are classified using occupancies defined in the FFPC. Generally, these classifications will be business, storage or industrial depending on the specific operation conducted within the structure or property; however, other occupancy sections may be applicable.

Exemptions in Chapter 633

Chapter 633 provides for the following current exemptions:

- A condominium, cooperative, or multifamily residential building that is less than four stories in height and has an exterior corridor providing a means of egress is exempt from installing a manual fire alarm system as required in s. 9.6 of the most recent edition of the Life Safety Code adopted in the Florida Fire Prevention Code.⁷
- Provisions of ch. 633, F.S., do not apply to owners of property who are building or improving farm outbuildings.⁸

III. Effect of Proposed Changes:

Section 1 amends s. 633.0215, F.S., to exempt one- or two-story residential dwellings of a local government from any minimum fire flow requirements in the FFPC. The local government must have a population of fewer than 30,000 to qualify. The section also exempts a business located in a one-, two-, or three-story building from any 2-hour or longer fire-rated wall requirement in the FFPC. Finally, an agricultural operation that employs fewer than 50 full-time employees and that is not used by the public for direct sales or as an educational outreach facility is exempt from the FFPC.

Section 2 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁷ Section 633.0215, F.S.

⁸ Section 633.557, F.S. Owners acting as their own contractors when building or improving farm buildings are exempt from the construction contracting provisions in s. 489.103(7)(a), F.S..

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

According to Department of Financial Services (DFS), the proposed changes could result in an increase in insurance rates for the private sector and may also result in the requirement for additional fire protection systems such as automatic fire sprinkler and fire alarm systems.⁹

C. Government Sector Impact:

DFS predicts an indeterminate fiscal impact to local governments based upon individual community density and the staffing and equipment needs of fire departments.¹⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

A DFS analysis of SB 1122 provides department positions on the various provisions of the bill.¹¹ These are provided below.

Fire Flow

According to the DFS, the exemption of the minimum water fire flow could significantly affect fire-fighting operations. DFS suggests that the changes to the fire flow requirements be addressed by the administrative rule making process¹² or by amending the bill's proposed language as follows:

Fire flow requirements shall be permitted to be decreased by the authority having jurisdiction (AHJ) for isolated buildings or a group of buildings in rural areas or small communities, as defined in the Florida Fire Prevention Code, where the development of full fire flow requirements is impractical, as determined by the AHJ.

Occupancy Separation

While the FFPC and the Building Code contain similar occupancy classification and separation language, the DFS acknowledges the codes differ on the separation requirements between a

⁹ Florida Department of Financial Services, *Analysis of SB 1122* (Mar. 14, 2013) available at <http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=1026&yr=2013> (last visited Mar. 17, 2013).

¹⁰ *Id.*

¹¹ *Id.*

¹² A hearing has been scheduled for March 27, 2013, to update the FFPC by adding a Florida specific amendment to NFPA 1, Section 18.4 – Fire Flow Requirements for Buildings. Notice available at https://www.flrules.org/Gateway/View_notice.asp?id=12707308 (last visited Mar. 17, 2013).

business and mercantile occupancy. The FFPC requires a two-hour fire rated wall or partition between these use groups. This is more restrictive than the Florida Building Code. Generally, the two codes agree on the other occupancy separation requirements.

According to DFS, SB 1122's proposed restriction of the fire official to enforce a two-hour fire separation could result in an entire building be evaluated using a higher degree of life safety. For example, a "shopping center" could be classified as an assembly occupancy if there is a restaurant that has the potential for 50 or more patrons and staff. This could result in additional requirements for the entire structure, such as automatic fire sprinkler and fire alarm systems. DFS suggests that the fire official use the language described in the Building Code to determine occupancy separation.

Agricultural Operations

DFS finds the term "agricultural operation" broad in scope and suggests its use could result in the exemption of "high hazard" occupancies from compliance with the FFPC including food processing plants. DFS suggests changing the language from agricultural operation to farming and ranching operations that employ fewer than 10 full-time equivalent employees.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.