

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: PCS/SB 1148 (135278)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government) and Senator Stargel

SUBJECT: Firesafety

DATE: April 15, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	<b>Favorable</b>
2.	Betta	DeLoach	AGG	<b>Recommend: Fav/CS</b>
3.	Betta	Kynoch	AP	<b>Pre-meeting</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/SB 1148 makes the following changes with regards to the regulation by the Fire Prevention Code of agriculture property:

- Defines “Agricultural pole barn” and exempts such barns from the Florida Fire Prevention Code, National Codes, and the Life Safety Code.
- Defines a “nonresidential farm building” and specifies certain uses allowing such buildings to be exempt for the Florida Fire Prevention Code, National Codes, and the Life Safety Code.
- Requires the State Fire Marshal to conduct a study on the use of nonresidential farm buildings for certain assemblies as defined in the fire code.
- Requires the State Fire Marshal to convene a working group of various stakeholders to assist with the study.
- Authorizes a local fire official to consider the Fire Safety Evaluation System found in the National Fire Protection Association (NFPA) 101A Life Safety Code when identifying alternatives to a firesafety code with regards to existing buildings.

There is no fiscal impact to state funds.

The bill provides an effective date of July 1, 2015.

## **II. Present Situation:**

### **Division of the State Fire Marshal (State Fire Marshal)**

State law on fire prevention and control is provided in ch. 633, F.S. Section 633.104, F.S., designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal.<sup>1</sup> Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts firesafety inspections of state property; develops firesafety standards; provides facilities for the analysis of fire debris; and operates the Florida State Fire College. Additionally, the State Fire Marshal adopts by rule the Florida Fire Prevention Code, which contains or references all firesafety laws and rules regarding public and private buildings.<sup>2</sup>

The Division of the State Fire Marshal (Division) consists of the following four bureaus: the Bureau of Fire and Arson Investigations, the Bureau of Fire Standards and Training, the Bureau of Forensic Fire and Explosive Analysis, and Bureau of Fire Prevention. The Florida State Fire College, part of the Bureau of Fire Standards and Training, trains over 6,000 students per year. The Inspections Section, under the Bureau of Fire Prevention, annually inspects more than 14,000 state-owned buildings and facilities. Over 1.8 million fire and emergency reports are collected every year. These reports are entered into a database to form the basis for the State Fire Marshal's annual report.<sup>3</sup>

### **National Fire Protection Association (NFPA) 101 Life Safety Code**

The National Fire Protection Association (NFPA) publishes the NFPA 101 Life Safety Code. The Life Safety Code is used to protect the public by developing standards on building construction, protection, and occupancy features that minimize the effects of fire and related hazards. The Life Safety Code covers life safety in both new and existing structures.<sup>4</sup> Under current law, the State Fire Marshal must adopt the Life Safety Code.<sup>5</sup> The current Florida Fire Prevention Code and the Life Safety Code incorporates the NFPA 101 Life Safety Code as adopted by the State Fire Marshal.<sup>6</sup>

### **NFPA Occupancy Definitions<sup>7</sup>**

The NFPA provides the following definitions relating to occupancy:

- “Assembly Occupancy” is defined as an occupancy used for a gathering of 50 or more persons for deliberation, worship, entertainment, eating, drinking, amusement, awaiting transportation, or similar uses; or used as a special amusement building, regardless of occupant load.

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<sup>1</sup> The head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of State Fire Marshal is located within the DFS.

<sup>2</sup> s. 633.202(1), F.S.

<sup>3</sup> State Fire Marshal website: <http://www.myfloridacfo.com/sfm/> (Last visited March 14, 2015).

<sup>4</sup> <http://www.nfpa.org/aboutthecodes> (Last visited March 14, 2015).

<sup>5</sup> s. 633.202(2), F.S.

<sup>6</sup> s. 633.104(1), F.S.

<sup>7</sup> <http://codesonline.nfpa.org/a/c.ref/ID020101110939/chapter> (Last visited March 14, 2015).

- “Mercantile Occupancy” is defined as an occupancy used for the display and sale of merchandise.
- “Business Occupancy” is defined as an occupancy used for the transaction of business other than mercantile.

### **Nonresidential Farm Buildings**

Section 604.50, F.S., defines a nonresidential farm building as any temporary or permanent building or support structure located on a farm or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation, and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house. This definition does not provide any exemptions from the Florida Fire Prevention Code.

### **III. Effect of Proposed Changes:**

The bill defines an “Agricultural pole barn” as a nonresidential farm building in which 90 percent or more of the perimeter walls are permanently open and allow free ingress and egress. Furthermore, the section states such pole barns are exempt for the Florida Fire Prevention Code, National Codes and the Life Safety Code.

The bill defines a nonresidential farm building for purposes of the Florida Fire Prevention Code as having the same meaning as provided in s. 604.50, F.S. The bill allows two scenarios for when such buildings can be exempt from the Florida Fire Prevention Code, National Codes and the Life Safety Code:

- If occupancy is limited by the property owner to no more than 35 persons and the building is not used by the public for direct sales or as an educational outreach facility, or
- The building is used by the owner for assembly, business, or mercantile occupancies, as defined in the Florida Fire Prevention Code, is not used for lodging purposes, each event has no more than 100 persons occupying the building at one time, there are at least two openings, a minimum of 36 inches wide and 80 inches high, the building provides at least seven square feet per person in attendance if the building is not concentrated with tables, chairs, or other obstacles and 15 square feet per person if the building is concentrated with tables, chairs or other obstacles, and no combustible or flammable liquids are stored inside the building during the event.

By exempting a nonresidential farm building from the Florida Fire Prevention Code, National Codes, and the Life Safety Code, the formula used for determining safe occupancy size of a building will not apply.

The bill requires the State Fire Marshal to conduct a study on the secondary use of nonresidential farm buildings as assembly occupancies with more than 100 individuals in attendance. The State Fire Marshal is directed to convene a workgroup on or before September 1, 2015, to assist with the study. The workgroup must include a representative of the Florida Agritourism Association, the Florida Farm Bureau, the Department of Agriculture and Consumer Services, the Florida Fire Chiefs Association, the Florida Professional Firefighters Association, the Florida Fire Marshals

and Inspectors Association, and the Florida Volunteer Firefighters Association. The workgroup may include other interested parties.

If the study determines that an assembly occupancy requires life safety or fire prevention standards different from those currently specified in the Florida Fire Prevention Code, the State Fire Marshal must adopt alternative standards by rule and such rulemaking must begin on or before December 1, 2015.

The bill makes a technical change regarding the configuration of a tent. No longer must a tent be up to 30 feet by 30 feet but rather the change in the bill limits tents to no more than a total of 900 square feet in order to be exempt from the Florida Fire Prevention Code and National Codes.

Lastly, when establishing minimum firesafety standards for existing buildings, the bill allows a local fire official to consider the Fire Safety Evaluation System found in NFPA 101A, Guide on Alternative Solutions to Life Safety, that has been adopted by the State Fire Marshal, as an acceptable source for the identification of low-cost, reasonable alternatives.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

According to the DFS, PCS/SB 1148 may reduce the number and amount of permit review fees imposed by local governments. Local Governments currently have the authority to inspect and review structures for the types of events exempted from the Florida Fire Prevention Code in this bill.

**B. Private Sector Impact:**

Pole barns and nonresidential farm buildings used in specific circumstances are exempt from the Florida Fire Prevention Code, National Codes, and the Life Safety Code. Exemptions from such codes could be a cost savings to such owners.

**C. Government Sector Impact:**

The State Fire Marshal is directed to conduct a study and convene a workgroup to review exemptions for nonresidential farm buildings when used for certain assembly occupancies. According to the DFS, existing resources are sufficient to conduct the study and fulfill the workgroup responsibilities included in the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 633.202 and 633.208.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**Recommended CS by Appropriations Subcommittee on General Government on April 2, 2015:**

The committee substitute amends the requirements necessary for an exemption to fire safety codes when an agricultural pole barn is used for assembly, business, or mercantile occupancies. These changes are:

- The building must not be used for lodging purposes;
- Each event has no more than 100 occupying the building at one time;
- There are at least two openings with a minimum of 36 inches wide and 80 inches high;
- There are at least seven square feet per person in attendance if the building is not concentrated with tables, chairs, or other obstacles, and 15 square feet per person if the building is concentrated with tables, chairs or other obstacles; and
- There is no storage of combustible or flammable liquids inside the building during the event.

**B. Amendments:**

None.