

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 Fiscal Policy

BILL: CS/CS/SB 1164

INTRODUCER: Children, Families, and Elder Affairs Committee; Banking and Insurance Committee;
and Senator Legg

SUBJECT: Firesafety

DATE: February 26, 2016

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|-----------------|-----------|--------------------|
| 1. | <u>Matiyow</u> | <u>Knudson</u> | <u>BI</u> | <u>Fav/CS</u> |
| 2. | <u>Hendon</u> | <u>Hendon</u> | <u>CF</u> | <u>Fav/CS</u> |
| 3. | <u>Pace</u> | <u>Hrdlicka</u> | <u>FP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1164 amends s. 429.41, F.S., relating to the uniform firesafety standards for assisted living facilities. The bill repeals reference to the utilization of fire code requirements that are more than 20 years old and allows for the utilization of the most current addition of the Life Safety Code adopted by the State Fire Marshal.

This bill has no fiscal impact on state funds.

II. Present Situation:

Assisted Living Facilities

An assisted living facility (ALF) is a residential facility that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.¹ A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.² Activities of daily living are functions and tasks for self-care, including ambulation, bathing, dressing,

¹ Section 429.02(5), F.S.

² Section 429.02(17), F.S.

eating, grooming, toileting, and other similar tasks.³ An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission into the facility.⁴

An ALF must have a license issued by the Agency for Health Care Administration (AHCA) under part I of ch. 429, F.S., and part II of ch. 408, F.S. Currently, there are approximately 3,080 licensed ALFs in Florida.⁵

Firesafety

The Department of Elderly Affairs (DOEA), in consultation with the AHCA, the Department of Children and Families, and the Department of Health (DOH), is required to adopt rules to ensure the safety of residents living within an ALF, including fire safety standards. The State Fire Marshal establishes and enforces uniform fire safety standards, in cooperation with the AHCA, the DOEA, and the DOH.⁶

Current law requires the State Fire Marshall to adopt the National Fire Protection Association (NFPA)⁷ Life Safety Code, NFPA 101, 1994 edition, as the uniform fire code for ALFs.⁸

The Office of the State Fire Marshal is also responsible for providing training and education on the proper application of Chapter 5, NFPA 101A, 1995 edition, to AHCA employees who are responsible for regulating ALFs, and local government inspectors.⁹

All licensed facilities must have an annual fire inspection conducted by the local fire marshal or authority having jurisdiction and must be in compliance with the appropriate fire code at the time of inspection.

The current requirement to adopt the NFPA Life Safety Code, NFPA 101, 1994 edition, prohibits an ALF from utilizing more recent editions of the NFPA code that have been developed and adopted since 1994.

Automatic Fire Sprinkler Systems

Currently, a local government is prohibited from charging fees in excess of the actual expenses incurred in the installation and maintenance of an automatic fire sprinkler system in an existing and licensed ALF.¹⁰

³ Section 429.02(1), F.S.

⁴ See Rule 58A-5.0182, F.A.C.

⁵ Agency for Health Care Administration, *Florida Health Finder Search, facility/provider type: Assisted Living Facility*, (search conducted Feb. 8, 2016), available at: <http://www.floridahealthfinder.gov/facilitylocator/FacilitySearch.aspx> (last visited Feb 8, 2016).

⁶ Section 429.41(1), F.S.

⁷ The NFPA 101, or the Life Safety Code, is the most widely used source of strategies to protect people and minimize the effects of fire and related hazards. See NFPA, *NFPA 101: Life Safety Code*, (2015) available at: <http://www.nfpa.org/codes-and-standards/document-information-pages?mode=code&code=101> (last visited Feb. 8, 2016).

⁸ Section 429.41(1)(a)2., F.S.

⁹ Section 429.41(1)(a)1.b., F.S.

¹⁰ Section 429.41(1)(a)2.g., F.S.

III. Effect of Proposed Changes:

The bill amends s. 429.41, F.S., to repeal fire safety requirements related to previous editions of the NFPA Life Safety Code, including NFPA 101, *1994 edition*. Instead, the bill authorizes the State Fire Marshal to use the *most current edition* of the NFPA Life Safety Code, 101 *and 101A*, in determining the uniform safety fire code adopted for ALFs.

According to the NFPA, the NFPA 101A, “Guide on Alternative Approaches to Life Safety” provides alternative approaches to life safety and is to be used in conjunction with the NFPA 101, Life Safety Code, not as a substitute.¹¹

The bill exempts ALFs licensed before July 1, 2016, from any requirement in the uniform firesafety code established and adopted by the State Fire Marshal for ALFs which exceeds the firesafety requirements of NFPA 101, 1994 edition, Chapter 23, Existing Residential Board and Care Occupancies. However, a facility that undergoes building renovation must thereafter be in compliance with the uniform firesafety code in effect for ALFs.

The bill removes the requirement that the Office of the State Fire Marshall provide specified training and education to AHCA employees and local government inspectors.

Automatic Fire Sprinkler Systems

The bill prohibits a local government *or a utility* from charging fees in excess of the actual expenses incurred in the installation and maintenance of an automatic fire sprinkler system in an existing ALF.

The bill is effective on July 1, 2016.

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:

None.

¹¹ See NFPA, *NFPA 101A: Guide on Alternative Approaches to Life Safety*, (2016) available at: <http://www.nfpa.org/codes-and-standards/document-information-pages?mode=code&code=101A> (last visited Feb. 8, 2016).

B. Private Sector Impact:

ALF communities will be able to add improvements and other amenities that are allowed under the current Life Safety Code.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 429.41 of the Florida Statutes.

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

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

CS/CS by Children, Families, and Elder Affairs Committee on February 4, 2016:

Clarifies that ALFs must meet the new firesafety codes when an ALF undergoes building rehabilitation.

CS by Banking and Insurance on January 26, 2016:

Technical amendment restating lines 27-28 that the State Fire Marshal shall “establish” not “adopt” fire safety standards for ALF communities.

B. Amendments:

None.