

**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 Community Affairs

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BILL: SB 1000

INTRODUCER: Senator Campbell

SUBJECT: Firesafety Standards

DATE: March 21, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	<b>Pre-meeting</b>
2.			BI	
3.			RC	

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**I. Summary:**

SB 1000 authorizes certain buildings to have specified balcony guard openings. The bill provides that a building that was constructed and obtained a certificate of occupancy before 1965 may have balcony guard openings that allow passage of a sphere greater than 4 inches in diameter and less than 42 inches high if:

- The guard was approved as a part of the original building design;
- The guard is at least 40 inches high; and,
- The building is designated as a historic property or as a contributing property to a historic district, or is eligible for designation as a local historic property under the local preservation ordinance.

The bill provides that this section supersedes any other contrary provisions in the Florida Fire Prevention Code.

**II. Present Situation:**

**State Fire Prevention – State Fire Marshal**

Florida’s fire prevention and control law, ch. 633, F.S., designates the state’s Chief Financial Officer (CFO) as the State Fire Marshal. The State Fire Marshal, through the Division of State Fire Marshal within the Department of Financial Services (DFS), is charged with enforcing the provisions of ch. 633, F.S., and all other applicable laws relating to firesafety and has the responsibility to minimize the loss of life and property in this state due to fire.<sup>1</sup> Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel and firesafety inspectors; investigates the causes of fires; enforces arson laws; regulates the

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<sup>1</sup> Section 633.104, F.S.

installation of fire equipment; conducts firesafety inspections of state property; and operates the Florida State Fire College.

In addition to these duties, the State Fire Marshal adopts by rule the Florida Fire Prevention Code (FFPC), which contains all firesafety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules, at ch. 69A-60, F.A.C. The State Fire Marshal adopts a new edition of the FFPC every three years.<sup>2</sup> The FFPC includes national firesafety and life safety standards set forth by the National Fire Protection Association (NFPA),<sup>3</sup> including the NFPA's Fire Code (1), Life Safety Code (101) and Guide on Alternative Approaches to Life Safety (101A).

### **Firesafety Enforcement by Local Governments**

State law requires all municipalities, counties, and special districts with firesafety responsibilities to enforce the FFPC as the minimum fire prevention code to operate uniformly among local governments and in conjunction with the Florida Building Code.<sup>4</sup> These local enforcing authorities may adopt more stringent firesafety standards, subject to certain requirements in s. 633.208, F.S.,<sup>5</sup> but may not enact firesafety ordinances which conflict with ch. 633, F.S., or any other state law.<sup>6</sup>

The chiefs of local government fire service providers (or their designees) are authorized to enforce ch. 633, F.S., and rules within their respective jurisdictions as agents of those jurisdictions, not agents of the State Fire Marshal.<sup>7</sup> Each county, municipality, and special district with firesafety enforcement responsibilities is also required to employ or contract with a firesafety inspector (certified by the State Fire Marshal) to conduct all firesafety inspections required by law.<sup>8</sup>

The Legislature has recognized that it is not always practical to apply any or all of the provisions of the FFPC and physical limitations may require disproportionate effort or expense with little increase in fire or life safety. Under the minimum firesafety standards, the local fire officials shall apply the applicable firesafety code for existing buildings to the extent practical to ensure a reasonable degree of life safety and safety of property. The local fire officials are also required to

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<sup>2</sup> Section 633.202, F.S.

<sup>3</sup> Founded in 1895, the NFPA is a global, nonprofit organization devoted to eliminating death, injury, property and economic loss due to fire, electrical and related hazards. It has developed over 300 voluntary consensus codes and standards in the areas of fire, electrical, and building safety which are widely used by state and local officials. NATIONAL FIRE PROTECTION ASSOCIATION, *About NFPA*, at <http://www.nfpa.org/about-nfpa> (last viewed March 17, 2017). The NFPA states that the Guide on Alternative Approaches to Life Safety "is intended to be used in conjunction with the Life Safety Code (101), not as a substitute." NATIONAL FIRE PROTECTION ASSOCIATION, *NFPA 101A: Guide on Alternative Approaches to Life Safety*, at <http://www.nfpa.org/codes-and-standards/document-information-pages?mode=code&code=101a> (last viewed March 17, 2017).

<sup>4</sup> Sections 633.108 and 633.208, F.S.

<sup>5</sup> Section 633.208, F.S.; *see also* s. 633.102(21), F.S., for the definition of "minimum firesafety standard" and Rule 69A-60.002, F.A.C.

<sup>6</sup> Section 633.214(4), F.S. A list of local amendments to the FFPC is available at DIVISION OF STATE FIRE MARSHAL, *Local Amendments*: <http://www.myfloridacfo.com/division/sfm/BFP/LocalAmendments.htm> (last viewed March 17, 2017).

<sup>7</sup> Section 633.118, F.S.

<sup>8</sup> Section 633.216(1), F.S.

fashion reasonable alternatives that afford an equivalent degree of life safety and safety of property.<sup>9</sup>

### **Guard Requirements**

Buildings with balcony guards constructed under the presently adopted FFPC are required to have openings that are less than 4 inches around to avoid small children or animals from passing through them. Buildings that were constructed under a different code edition that did not have this requirement and do not have openings that meet this are not required to update their features unless they undergo significant renovations. At that point, they would be required to update to current code requirements.<sup>10</sup>

The FFPC provides the following requirements for guards:

- Guards in accordance with 7.2.2.4 shall be provided at the open sides of means of egress that exceed 30 in. (760 mm) above the floor or the finished ground level below.<sup>11</sup>
- The height of guards required in 7.1.8 shall be measured vertically to the top of the guard from the surface adjacent thereto.<sup>12</sup>
- Guards shall be not less than 42 in. (1065 mm) high, except as permitted by one of the following:<sup>13</sup>
  - Existing guards within dwelling units shall be permitted to be not less than 36 in. (915 mm) high.
  - The requirement of 7.2.2.4.5.2 shall not apply in assembly occupancies where otherwise provided in chs. 12 and 13.
  - Existing guards on existing stairs shall be permitted to be not less than 30 in. (760 mm) high.
- Open guards, other than approved existing open guards, shall have intermediate rails or an ornamental pattern such that a sphere 4 in. (100 mm) in diameter is not able to pass through any opening up to a height of 34 in. (865 mm), and the following also shall apply:<sup>14</sup>
  - The triangular openings formed by the riser, tread, and bottom element of a guardrail at the open side of a stair shall be of such size that a sphere 6 in. (150 mm) in diameter is not able to pass through the triangular opening.
  - In detention and correctional occupancies, in industrial occupancies, and in storage occupancies, the clear distance between intermediate rails, measured at right angles to the rails, shall not exceed 21 in. (535 mm).

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

The bill provides that a building that was constructed and obtained a certificate of occupancy before 1965 may have balcony guard openings that allow passage of a sphere greater than 4 inches in diameter and less than 42 inches high if:

<sup>9</sup> Section 633.208, F.S.

<sup>10</sup> Department of Financial Services, State Fire Marshal, *Senate Bill 1000 Analysis* (Feb. 23, 2017) (on file with the Senate Community Affairs Committee).

<sup>11</sup> FFPC 101:7.1.8, Guards (2012 Edition). Elements of the means of egress that might require protection with guards include stairs, landings, escalators, moving walks, balconies, corridors, passageways, floor or roof openings, ramps, aisles, porches, and mezzanines.<sup>11</sup>

<sup>12</sup> FFPC 101:7.2.2.4.5.1, Guard Details (2012 Edition).

<sup>13</sup> FFPC 101:7.2.2.4.5.2, Guard Details (2012 Edition)

<sup>14</sup> FFPC 101:7.2.2.4.5.3, Guard Details (2012 Edition).

- The guard was approved as a part of the original building design;
- The guard is at least 40 inches high; and,
- The building is designated as a historic property or as a contributing property to a historic district, or is eligible for designation as a local historic property under the local preservation ordinance.

The bill provides that this section supersedes any other contrary provisions in the Florida Fire Prevention Code.

#### **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.

##### **B. Private Sector Impact:**

The bill will provide relief to any private citizen or entity with a historic home who will not have expend funds to replace or repair any balcony guard openings that previously did not satisfy firesafety standards.

##### **C. Government Sector Impact:**

None.

#### **VI. Technical Deficiencies:**

None.

#### **VII. Related Issues:**

The bill allows for guard openings that allow passage of a sphere greater than 4 inches in diameter, but does not provide for a maximum measurement of distance between guards.

**VIII. Statutes Affected:**

This bill substantially amends section 633.208 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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