

**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 Rules

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BILL: SB 904

INTRODUCER: Senator Diaz

SUBJECT: Doorstep Refuse and Recycling Collection Containers

DATE: April 2, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<b>Favorable</b>
2.	<u>Rogers</u>	<u>Rogers</u>	<u>EN</u>	<b>Favorable</b>
3.	<u>Hackett</u>	<u>Phelps</u>	<u>RC</u>	<b>Favorable</b>

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## I. Summary:

SB 904 saves from repeal the statutory provisions regulating doorstep refuse and recycling collection containers in apartment corridors. Retaining these provisions preserves statutory differences with Florida Fire Prevention Code regulations, specifically in terms of allowable container sizes and the ability of the local fire authorities to approve alternative containers and storage arrangements for doorstep refuse and recycling collection.

The bill takes effect July 1, 2021.

## II. Present Situation:

### Florida Fire Prevention Code

The State Fire Marshal, by rule,<sup>1</sup> adopts the Florida Fire Prevention Code (Florida Fire Code), which contains all fire safety 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 fire safety laws and rules. The State Fire Marshal adopts a new edition of the Florida Fire Code every three years.<sup>2</sup> The 7<sup>th</sup> edition of the Florida Fire Code took effect on December 31, 2020.<sup>3</sup>

The Florida Fire Code is the minimum fire prevention code deemed adopted by each municipality, county, and special district with firesafety responsibilities, and applies to every building and structure throughout the state with few exceptions.<sup>4</sup> Municipalities, counties, and

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<sup>1</sup> Chapter 69A-60, F.A.C.

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

<sup>3</sup> Florida Fire Prevention Code (7<sup>th</sup> ed.), effective Dec. 31, 2020 available at <https://www.myfloridacfo.com/division/sfm/bfp/floridafirepreventioncodepage.htm> (last visited March 17, 2021).

<sup>4</sup> Section 633.208, F.S., and 69A-60.002(1), F.A.C.

special districts with firesafety responsibilities may supplement the Florida Fire Code with more stringent standards adopted in accordance with s. 633.208, F.S.<sup>5</sup>

### **Doorstep Refuse and Recycling – Statutory Provisions**

Prior to 2018, the State Fire Marshal determined that apartments were prohibited from allowing residents to place waste containers outside their front doors regardless of the size of the container or if the waste was removed daily. The State Fire Marshal determined that the Florida Fire Code prohibited apartment residents from placing any type of waste container outside their door because of the obstruction to means of egress.<sup>6</sup>

In 2018, the Legislature enacted s. 633.202(20), F.S.,<sup>7</sup> to provide that residents of apartment buildings may place combustible waste and refuse<sup>8</sup> in exit access corridors in apartment buildings if the following conditions are met:

- Doorstep refuse and recycling collection containers do not exceed 13 gallons for apartment buildings with enclosed corridors and interior or exterior stairs;
- Doorstep refuse and recycling collection containers do not exceed 27 gallons for apartment buildings with open air corridors and exterior stairs or balconies with exterior exit stairs;
- Waste, which is in a doorstep refuse and recycling collection container, is not placed in an exit access corridor for a single period greater than five hours;
- Doorstep refuse and recycling collection containers are not in an exit access<sup>9</sup> corridor for a single period greater than 12 hours for apartment buildings with enclosed corridors and interior or exterior stairs;
- Doorstep refuse and recycling collection containers do not reduce the exit access corridor's width below the width required by the Fire Code;
- Doorstep refuse and recycling collection containers are able to stand upright on their own and may not leak fluids when standing upright; and
- The apartment's management staff have written policies and procedures to ensure compliance with the above conditions. Management staff must enforce the policies and must provide a copy of the policies to the authority having jurisdiction upon request.<sup>10</sup>

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<sup>5</sup> Section 633.208(3), F.S., and 69A-60.002(2), F.A.C.

<sup>6</sup> See *In the matter of: William Harrison, Fire Marshal Clermont Fire Department*, Case No.: 188696-16-DS (Fla. DFS) (June 21, 2016); *In the matter of: Steve Strong, Fire Marshal Clearwater Fire & Rescue*, Case No.: 196979-16-DS (Fla. DFS) (Dec. 23, 2016).

<sup>7</sup> Chapter 2018-152, Laws of Fla.

<sup>8</sup> The Fire Code defines combustible waste as any "combustible or loose waste material that is generated by an establishment or process and, if salvageable, is retained for scrap or reprocessing on the premises where generated or transported to a plant for processing," and combustible refuse as "a combustible or loose rubbish, litter, or waste materials generated by an occupancy that are refused, rejected, or considered worthless and are disposed of by incineration on the premises where generated or periodically transported from the premises." Sections 3.3.63 and 3.3.64, Florida Fire Prevention Code (7<sup>th</sup> Ed.).

<sup>9</sup> Defined as "that portion of a means of egress that leads to an exit," Florida Fire Prevention Code (7<sup>th</sup> ed.) s. 3.3.106.

<sup>10</sup> Section 633.202(20), F.S.

Additionally, the local authority having jurisdiction<sup>11</sup> may approve alternative containers and storage arrangements that are demonstrated to provide the same level of safety.<sup>12</sup>

Apartment occupancies were allowed a phase-in period to comply with the provisions in s. 633.202(20), F.S., by December 31, 2020.<sup>13</sup>

Section 633.202(20), F.S., is set to expire on July 1, 2021.<sup>14</sup>

### **Doorstep Refuse and Recycling – Florida Fire Code Provisions**

The 7<sup>th</sup> edition of the Florida Fire Code, effective December 31, 2020, contained amendments that substantially conform to the substance of s. 633.202(20), F.S., relating to doorstep refuse and recycling regulations. However, the new Florida Fire Code provisions differ from the statutory provisions in that a doorstep refuse and recycling container in a corridor may not exceed *15 gallons*<sup>15</sup> and such containers may not be placed in an exit corridor for more than *15 hours*.<sup>16</sup> Additionally, the Florida Fire Code does not contain provisions allowing local authorities to approve alternative containers and storage arrangements as Florida Statutes allow.

Further, the Florida Fire Code provides technical guidance for the maximum rate of heat release for refuse containers and lids, with stricter guidelines for those placed in areas not protected by fire sprinklers.<sup>17</sup> The Florida Fire Code regulations govern to the extent they do not directly conflict with statutory provisions.<sup>18</sup>

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

The bill amends s. 633.202(20), F.S., to remove the current July 1, 2021, expiration of provisions that allow doorstep refuse and recycling collection containers in apartment corridors under certain circumstances. This preserves statutory differences from the Florida Fire Code regulations, specifically the difference in allowed container size and allowing the local fire authorities to approve alternative containers and storage arrangements.

The bill takes effect July 1, 2021.

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<sup>11</sup> The “authority having jurisdiction” is typically the designated head fire and rescue officer of the county, municipality, or special district with fire safety responsibilities over an area. The Fire Code defines this term as “an organization, office, or individual responsible for enforcing the requirements of a code or standard, or for approving equipment, materials, an installation, or a procedure,” Florida Fire Prevention Code (7<sup>th</sup> ed.) s. 3.2.2 (2020).

<sup>12</sup> Section 633.202(20)(c), F.S.

<sup>13</sup> Section 633.202(20)(d), F.S.

<sup>14</sup> Section 633.202(20)(e), F.S.

<sup>15</sup> Florida Fire Prevention Code (7<sup>th</sup> ed.) s. 10.18.4.1(1) (2020).

<sup>16</sup> Florida Fire Prevention Code (7<sup>th</sup> ed.) s. 10.18.4.1(3) (2020).

<sup>17</sup> Florida Fire Prevention Code (7<sup>th</sup> ed.) s. 10.18.4.1.1 (2020).

<sup>18</sup> The Florida Fire Code is adopted by the Department of Financial Services by rule (s. 633.202(1), F.S.); rulemaking authority is limited to interpreting the specific powers and duties conferred by the enabling statute (s. 120.536, F.S.). The Fire Marshal’s duty and rulemaking authority is granted specifically to enforce the laws and provisions of ch. 633, F.S. (s. 633.104, F.S.). Therefore, to the extent the Fire Code and ch. 633, F.S. directly conflict, the Fire Marshal’s duty is to enforce ch. 633, F.S.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 633.202 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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