

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1025 Firesafety for Agricultural Buildings  
**SPONSOR(S):** Insurance & Banking Subcommittee; Raburn and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1148

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	13 Y, 0 N, As CS	Gonzalez	Cooper
2) Government Operations Appropriations Subcommittee			
3) Regulatory Affairs Committee			

### SUMMARY ANALYSIS

The Florida Fire Prevention Code (FFPC) contains all firesafety laws and rules that pertain to public and private buildings the enforcement of such laws and rules. It is adopted by rule by the State Fire Marshal.

Under current law, a structure located on property classified as agricultural is exempt from the FFPC if the occupancy is limited by the property owner to no more than 35 persons. Tents up to 30 feet by 30 feet are also exempt. The local fire officials are required to fashion reasonable alternatives that afford an equivalent degree of lifesafety and safety of property if it is not practical to apply any or all of the provisions of the FFPC.

A nonresidential farm building is any building 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, farm office, storage building, or poultry house. Nonresidential farm buildings are currently exempt from the Florida Building Code and any county or municipal code or fee, but are not exempt from the FFPC.

This bill exempts agricultural pole barns, which are nonresidential farm buildings in which 90 percent or more of the perimeter walls are permanently open, from the FFPC without restrictions. It also exempts certain other nonresidential farm buildings from the FFPC if the building is used by the owner for assembly, business, or mercantile occupancy, no more than 20 times per year, and each occupancy lasts no longer than 72 hours and has no more than 150 persons in attendance. The building must also provide 7 or 15 square feet per person in attendance, depending on the concentration of tables and chairs, it must provide at least two exits of specified dimensions, and the storage of combustible or flammable liquids during an occupancy is not permitted.

The bill revises the exemption of tents from the FFPC from up to 30 feet by 30 feet to up to 900 square feet. The bill also allows local fire officials to consider the Fire Safety Evaluation System as an acceptable source in identifying reasonable alternatives to current standards under s. 633.208, F.S.

The bill has minimal to no fiscal impact on state government.

The bill should have a minimal negative fiscal impact to local governments associated with the collection of fines for violations of the FFPC. However, this impact may be offset by a minimal positive fiscal impact on local government associated with decreased costs for inspections of certain nonresidential farm buildings covered by the bill.

The bill should have a minimal positive fiscal impact on the private sector associated with decreased fines for violations of the FFPC by certain nonresidential farm buildings covered by the bill.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

The Chief Financial Officer is designated as the “State Fire Marshal.” The State Fire Marshal 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>

The Florida Fire Prevention Code (FFPC) 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. It is adopted by rule, pursuant to ch. 120, F.S., by the State Fire Marshal. The State Fire Marshal adopts a new edition of the FFPC every third year.<sup>2</sup>

Under current law, a structure located on property that is classified as agricultural, which is part of a farming or ranching operation, is exempt from the FFPC, including the national codes and Life Safety Code, if the occupancy is limited by the property owner to no more than 35 persons and is not used by the public for direct sales or as an educational outreach facility. Current law also exempts tents up to 30 feet by 30 feet from the FFPC, including the national codes.<sup>3</sup>

Nonresidential farm building is defined under s. 604.50, F.S., as any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm for the purposes of the Florida Building Code<sup>4</sup>, or that is classified as agricultural land for assessment purposes<sup>5</sup>, 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.

Under Florida law, nonresidential farm buildings are exempt from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations.<sup>6</sup> They are not currently exempt from the FFPC.

Additionally, since the legislature recognizes that it is not always practical to apply any or all of the provisions of the FFPC, 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 lifesafety and safety of property. The local fire officials are also required to fashion reasonable alternatives that afford an equivalent degree of lifesafety and safety of property.<sup>7</sup>

##### Effect of Bill

The bill exempts agricultural pole barns, which are nonresidential farm buildings in which 90 percent or more of the perimeter walls are permanently open, from the FFPC without restrictions. It also revises the description of structures currently exempt from the FFPC in which the occupancy is limited by the property owner to no more than 35 persons, to nonresidential farm buildings. The current exemption of agricultural structures is expanded to include the use for direct sales.

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

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

<sup>3</sup> s. 633.202(16), F.S.

<sup>4</sup> s. 533.73(10)(c), F.S.

<sup>5</sup> s. 193.461, F.S.

<sup>6</sup> s. 604.50(1), F.S.

<sup>7</sup> s. 633.208, F.S.

This bill also exempts certain other nonresidential farm buildings from the FFPC if the building is used by the owner for assembly, business, or mercantile occupancy, no more than 20 times per year. Business occupancy is defined by the FFPC as an occupancy used for account and record keeping, or the transaction of business other than mercantile. Mercantile occupancy is defined as an occupancy used for the display and sale of merchandise.

Additionally, under the new exemption created by the bill, the property owner must notify the local fire official of each occupancy at least 7 days before, each occupancy may last no longer than 72 consecutive hours and may have no more than 150 persons in attendance at one time. The building must also provide 7 or 15 square feet per person in attendance, depending on the concentration of tables and chairs, it must provide at least two exits of specified dimensions, and the storage of combustible or flammable liquids during an occupancy is not permitted.

The bill revises the exemption of tents from the FFPC from up to 30 feet by 30 feet to up to 900 square feet. The bill also allows local fire officials to consider the Fire Safety Evaluation System as an acceptable source in identifying reasonable alternatives to current standards under s. 633.208, F.S.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 633.202, F.S., relating to exemptions from the Florida Fire Prevention Code.

**Section 2:** Amends s. 633.208, F.S., relating to the minimum fire safety standards and alternatives to the firesafety code.

**Section 3:** Provides an effective date of July 1, 2015.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

Uncertain. The Department of Agriculture and Consumers Services believes that participation in the workgroup and rulemaking process will have minimal to no fiscal impact on the department as they anticipate using current staff and resources

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

Uncertain. Minimal negative fiscal impact on local governments, equal to positive impact on private sector, associated with decreased collection of fines for violations of the FFPC due to exemption of certain nonresidential farm buildings covered by the bill.

##### 2. Expenditures:

Uncertain. Minimal positive fiscal impact on local governments associated with decreased cost of inspections of nonresidential farming buildings covered by the bill.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Uncertain. Minimal positive fiscal impact on the private sector associated with decreased fines for violations of the FFPC due to exemption of certain nonresidential farm buildings covered by the bill.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 18, 2015, the Insurance & Banking Subcommittee adopted one amendment and reported the bill favorable as a committee substitute. The amendment made the following changes:

- Removed the current limitation on direct sales for exemptions of agricultural structures.
- Required the property owner to notify the local fire official of each occupancy at least 7 days before the occupancy.
- Clarified that the nonresidential farm building may not be used for lodging purposes.
- Clarified that the only secondary uses exempt from the Florida Fire Prevention Code under the bill are assembly, business, and mercantile occupancy.
- Clarified that each occupancy may last no longer than 72 consecutive hours.
- Clarified that each occupancy may have no more than 150 persons in attendance at one time.
- Provided that the exempt nonresidential farm building must have at least two exits of a certain size.
- Provided that the exempt nonresidential farm building must provide at least 7 square feet per person in attendance if the building is unconcentrated with chairs and tables and 15 square feet per person if the building is concentrated with chairs and tables.
- Provided that the storage of combustible or flammable liquids in the nonresidential farm building is not permitted during an event.
- Removed language requiring the State Fire Marshal to convene a workgroup, conduct a study, and initiate rulemaking.

The staff analysis is drafted to reflect the committee substitute as passed by the Insurance & Banking Subcommittee.