

# **AFSA-FL Legislative & Regulatory Update 2016 Session Final Report**

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TO: AFSA-FL Board of Directors

The 2016 Legislative Session adjourned on time, Friday, March 11<sup>th</sup> at 6:46 PM. During the Session, a number of firesafety bills of interest were considered and passed. In addition, as we maintained a high level of vigilance, we identified several high-priority threats and dealt with them appropriately.

Overall, AFSA-FL markedly raised its profile this Session through leadership and coordination with allies among the fire and lifesafety associations, and frankly just a higher level of visible activity, including our work with our partners in the construction coalition, and contacts with general media reporters.

## **LEGISLATION**

### **PASSED - HB 535 Building Codes**

This omnibus building code bill died last year after being weighted down with multiple contentious issues. The bill passed this year, still with multiple contentious issues. Provisions of specific interest include the following items:

- Allows the use of NFPA 101A fire safety evaluation systems for existing buildings.
- Allows the use of “the home environment provisions in the most current edition of the codes” for existing assisted living facilities, at the option of the facility (also similarly addressed in HB 965, detailed further below).
- Allows fire pump technicians to work on those systems under contract to a licensed fire protection contractor, without having to be licensed as a fire protection contractor themselves.
- Funds a process for interim, informal interpretations of the Fire Code.
- Allows for combined appeals boards to address issues under the building and fire codes, and authorize alternatives or modifications, but not waiver of the fire code.
- Limits the 10-year battery requirement for smoke alarms to new installations and replacements of battery-powered smoke alarms as a result of a level I alteration.
- Reduces fire separation distance and zero lot line building code provisions.

Also included in the bill is a provision (Section 37) that increases the occupancy load threshold to require sprinklers in restaurants, cafeterias, dining facilities, and commercial kitchens to 200, from the current building code threshold of 100.

Currently, the fire code sets the threshold at 300. In the case of a conflict between the building and fire codes, the statutes require the use of the code that offers the greatest degree of lifesafety, and so the building code threshold of 100 commonly controls.

Midway through the Session, Sen. Wilton Simpson (R-Trilby), Chairman of the Senate Community Affairs Committee and the likely Senate President for the 2020-2022 term, amended the bill to set fire code standard as the threshold.

Since this increase in the threshold would adversely affect lifesafety and fire protection contactors, we worked with our allies – including the fire chiefs, and fire marshals and inspectors – to oppose this change. As Sen. Simpson is a very powerful member of the Senate and other Senators would defer to him on this issue, we concentrated on working the issue in the House. While AFSA-FL members would surely have preferred no change, nevertheless there was undoubtedly going to be a change, and we were able to obtain the “compromise” outcome of a 200-person occupancy load threshold. Rep. Jose “Pepe” Diaz (R-Miami), Chairman of the House Regulatory Affairs Committee, was instrumental in making that happen.

Finally, the homebuilders originally amended the bill to change the code adoption cycle to six years, from three. The State Fire Marshal (SFM) and others opposed this proposed change as it would prevent the timely adoption of the new standards and technologies. Ultimately that change was removed from the bill prior to its passage.

Governor Scott signed this bill on March 25, 2016, and it takes effect July 1, 2016, unless otherwise indicated in the bill. The official final text is available at this link: <http://laws.flrules.org/2016/129>.

## **DEFEATED – Hi-Rise Retrofit Exemption Amendment**

As embodied in section 718.112(2)(l), Florida Statutes, current law requires existing high-rise buildings to retrofit and install fire sprinklers by 12/31/19, as below:

*By December 31, 2016, a residential condominium association that is not in compliance with the requirements for a fire sprinkler system and has not voted to forego retrofitting of such a system must initiate an application for a building permit for the required installation with the local government having jurisdiction demonstrating that the association will become compliant by December 31, 2019.*

The American Resort Developers Association (ARDA) is the trade association for timeshare developers and operators, whose members include Disney, Marriott, Wyndham, and Orange Lake (Holiday Inn), and independents like Westgate. They are a powerful group that regularly ranks in the top five for making campaign contributions.

Two days before the end of Session, ARDA had Sen. Travis Hutson (R-Palm Coast) file an amendment to HB 1187, a bill relating to the Department of Business & Professional Regulation (DBPR), to exempt timeshares from the hi-rise retrofit requirement:

721.24 Firesafety.—

(7) Notwithstanding s. 718.112(2)(l), timeshare condominiums shall be governed by this section.

The amendment can be viewed at this link: [HB 1187 Sprinkler Retrofit Amendment](#).

This is tricky language. The hi-rise retrofit requirement is in Chapter 718, the condo law, while Chapter 721, the timeshare law, does not have that requirement. Legally, many – but not all – timeshares are also classified as condominiums. So, those timeshare developments classified as condominiums currently fall under the retrofit requirement. The “notwithstanding” in the amendment would have defeated that delineation.

Again working with our partners in the fire and lifesafety associations and the SFM’s office, we rapidly responded to this threat. Our activities included directly lobbying Sen. Hutson, the sponsors of HB 1187, and DBPR. We also assisted the fire chiefs and marshals with activating their grassroots, and I used my contacts in public affairs to create media interest in the story, which resulted in some coverage and a reporter’s inquiry to Sen. Hutson’s office.

After a barrage of activity, Sen. Hutson finally withdrew the amendment.

This marked a huge victory for AFSA-FL and our allies, not just because we defeated the amendment, but because we were able to set an example from a position of strength. Still, ARDA has vowed to return with this issue next year.

### **PASSED - SB 908 Department of Financial Services Reorganization**

As part of a larger reorganization effort, Chief Financial Officer Jeff Atwater (R) sought legislation to provide the CFO with greater managerial flexibility, and move away from a statutorily organized Department of Financial Services. Specifically, this included reorganization of the department’s law enforcement functions, for the purpose of operational and cost efficiencies. As this legislation was being developed, the SFM’s office repeatedly assured interested parties that this reorganization will not detrimentally affect their focus on, or ability to investigate, fire-related incidents.

The bill transfers investigatory, enforcement and associated rulemaking functions to the new Division of Investigative and Forensic Services, which includes the Bureau of Fire and Arson Investigations. The bill further allows the Chief Financial Officer, rather than the Division of Accounting & Auditing, to conduct certain investigations and refer potential statute violations to appropriate enforcement agencies.

Governor Scott signed this bill on March 30, 2016, and it takes effect July 1, 2016. The official final text is available at this link: <http://laws.flrules.org/2016/165>.

## **PASSED - HB 965 Firesafety & Assisted Living Facilities (ALFs)**

A result of discussions between ALFs, firesafety interests, building officials, contractors, and the SFM, this bill requires new ALFs or those undergoing Level III alteration to comply with the most current editions of NFPA 101 and 101A. An ALF that received a building permit or certificate of occupancy prior to July 1, 2016, may notify the AHJ that it opts to remain under the currently allowed 1994 edition standards.

Governor Scott signed this bill on March 24, 2016, and it takes effect on July 1, 2016. The official final text is available at this link: <http://laws.flrules.org/2016/92>.

## **PASSED - HB 59 Agritourism**

Current law prohibits a local government from adopting ordinances, regulations, policies, or rules that limit agritourism, with an unspoken eye on fire codes. The bill, which received very strong support by legislators, further prohibits a local government from enforcing any previously adopted restriction. On a positive note, the bill does clarify that the limitation applies only to a local ordinance, regulation, rule or policy, and therefore not any state-adopted code.

Governor Scott signed this bill on March 8, 2016, and it takes effect July 1, 2016. The official final text is available at this link: <http://laws.flrules.org/2016/14>

## **PASSED - HB 431 Firesafety & Agritourism**

Also receiving very strong support from legislators throughout the process, this bill exempts certain agricultural buildings including pole barns from the fire code under limited circumstances (the “wedding in a barn” scenario).

Substantial discussions between the SFM and the fire services established three classes of buildings and the resulting treatment. Specifically:

- Class 1 – nonresidential farm buildings used for agritourism 12 times a year or less, up to 100 persons. These buildings are subject to an annual inspection by the AHJ, but not subject to the fire code. They are subject to rules adopted by the SFM.
- Class 2 – nonresidential farm building used for agritourism, up to 300 persons. The same treatment as for Class 1 buildings, except the SFM rules are more stringent.
- Class 3 – buildings used for housing or otherwise accommodating members of the general public, but also used for agritourism, are subject to the annual inspection, fire code, and SFM rules.

Governor Scott signed this bill on March 24, 2016, and it takes effect on July 1, 2016. The official final text is available at this link: <http://laws.flrules.org/2016/83>.

## **NO ACTION - WORKERS COMPENSATION**

The legislature did not take up changes to the workers' compensation system this Session. The legislature and business community continue to monitor several pending Supreme Court cases that could quickly turn the market's relative health negative depending on the Court's ruling.

## **OTHER / OUTREACH**

Following up on guidance from the AFSA-FL Board to find opportunities for outreach and coalition building, I realized the "Florida Insurance Market Summit" was a perfect opportunity. I helped create this conference a decade ago, and it is now one of the premiere conferences for insurance executives from around the country with over 600 registrants.

I created and obtained a slot on the opening day, March 23<sup>rd</sup>, of this 3-day conference for a 30-minute panel segment entitled, "Fire: New Challenges for an Old Peril". Participating on this panel were Division Director Julius Halas, Ron Cox, AFSA-FL, John Gioseffi, FFEDA, and Jon Pasqualone, FFMIA. Panel participants also attended the opening reception that evening and had an opportunity to meet conference attendees, and "wave the flag" for the firesafety industry.