

HB 965

2016

1                   A bill to be entitled  
2           An act relating to firesafety; amending s. 429.41,  
3           F.S.; requiring the State Fire Marshal to adopt  
4           uniform firesafety standards for assisted living  
5           facilities; revising provisions relating to the  
6           minimum standards that must be adopted by the  
7           Department of Elderly Affairs for firesafety in  
8           assisted living facilities; providing an effective  
9           date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13           Section 1. Subsection (1) of section 429.41, Florida  
14 Statutes, are amended to read:

15           429.41 Rules establishing standards.—

16           (1) It is the intent of the Legislature that rules  
17 published and enforced pursuant to this section shall include  
18 criteria by which a reasonable and consistent quality of  
19 resident care and quality of life may be ensured and the results  
20 of such resident care may be demonstrated. Such rules shall also  
21 ensure a safe and sanitary environment that is residential and  
22 noninstitutional in design or nature. It is further intended  
23 that reasonable efforts be made to accommodate the needs and  
24 preferences of residents to enhance the quality of life in a  
25 facility. The State Fire Marshal shall adopt uniform firesafety  
26 standards for assisted living facilities as specified in s.

27 633.206. The agency, in consultation with the department, may  
 28 adopt rules to administer the requirements of part II of chapter  
 29 408. In order to provide safe and sanitary facilities and the  
 30 highest quality of resident care accommodating the needs and  
 31 preferences of residents, the department, in consultation with  
 32 the agency, the Department of Children and Families, and the  
 33 Department of Health, shall adopt rules, policies, and  
 34 procedures to administer this part, which must include  
 35 reasonable and fair minimum standards in relation to:

36 (a) The requirements for and maintenance of facilities,  
 37 not in conflict with chapter 553, relating to plumbing, heating,  
 38 cooling, lighting, ventilation, living space, and other housing  
 39 conditions, which will ensure the health, safety, and comfort of  
 40 residents and ~~protection from fire hazard, including adequate~~  
 41 ~~provisions for fire alarm and other fire protection~~ suitable to  
 42 the size of the structure. ~~Uniform firesafety standards shall be~~  
 43 ~~established and enforced by the State Fire Marshal in~~  
 44 ~~cooperation with the agency, the department, and the Department~~  
 45 ~~of Health.~~

46 1. Firesafety evacuation capability determination.-

47 a. ~~The National Fire Protection Association, NFPA 101A,~~  
 48 ~~Chapter 5, 1995 edition, shall be used for determining the~~  
 49 ~~ability of the residents, with or without staff assistance, to~~  
 50 ~~relocate from or within a licensed facility to a point of safety~~  
 51 ~~as provided in the fire codes adopted herein.~~ An evacuation  
 52 capability evaluation for initial licensure shall be conducted

53 | within 6 months after the date of licensure. ~~For existing~~  
54 | ~~licensed facilities that are not equipped with an automatic fire~~  
55 | ~~sprinkler system, the administrator shall evaluate the~~  
56 | ~~evacuation capability of residents at least annually. The~~  
57 | ~~evacuation capability evaluation for each facility not equipped~~  
58 | ~~with an automatic fire sprinkler system shall be validated,~~  
59 | ~~without liability, by the State Fire Marshal, by the local fire~~  
60 | ~~marshal, or by the local authority having jurisdiction over~~  
61 | ~~firesafety, before the license renewal date. If the State Fire~~  
62 | ~~Marshal, local fire marshal, or local authority having~~  
63 | ~~jurisdiction over firesafety has reason to believe that the~~  
64 | ~~evacuation capability of a facility as reported by the~~  
65 | ~~administrator may have changed, it may, with assistance from the~~  
66 | ~~facility administrator, reevaluate the evacuation capability~~  
67 | ~~through timed exiting drills. Translation of timed fire exiting~~  
68 | ~~drills to evacuation capability may be determined:~~  
69 |     ~~(I) Three minutes or less: prompt.~~  
70 |     ~~(II) More than 3 minutes, but not more than 13 minutes:~~  
71 | ~~slow.~~  
72 |     ~~(III) More than 13 minutes: impractical.~~  
73 |     ~~b. The Office of the State Fire Marshal shall provide or~~  
74 | ~~cause the provision of training and education on the proper~~  
75 | ~~application of Chapter 5, NFPA 101A, 1995 edition, to its~~  
76 | ~~employees, to staff of the Agency for Health Care Administration~~  
77 | ~~who are responsible for regulating facilities under this part,~~  
78 | ~~and to local governmental inspectors. The Office of the State~~

79 ~~Fire Marshal shall provide or cause the provision of this~~  
 80 ~~training within its existing budget, but may charge a fee for~~  
 81 ~~this training to offset its costs. The initial training must be~~  
 82 ~~delivered within 6 months after July 1, 1995, and as needed~~  
 83 ~~thereafter.~~

84 e. ~~The Office of the State Fire Marshal, in cooperation~~  
 85 ~~with provider associations, shall provide or cause the provision~~  
 86 ~~of a training program designed to inform facility operators on~~  
 87 ~~how to properly review bid documents relating to the~~  
 88 ~~installation of automatic fire sprinklers. The Office of the~~  
 89 ~~State Fire Marshal shall provide or cause the provision of this~~  
 90 ~~training within its existing budget, but may charge a fee for~~  
 91 ~~this training to offset its costs. The initial training must be~~  
 92 ~~delivered within 6 months after July 1, 1995, and as needed~~  
 93 ~~thereafter.~~

94 d. ~~The administrator of a licensed facility shall sign an~~  
 95 ~~affidavit verifying the number of residents occupying the~~  
 96 ~~facility at the time of the evacuation capability evaluation.~~

97 2. Firesafety requirements.-

98 a. ~~Except for the special applications provided herein,~~  
 99 ~~effective January 1, 1996, The National Fire Protection~~  
 100 ~~Association, Life Safety Code, NFPA 101 and 101A, current~~  
 101 ~~editions 1994 edition, Chapter 22 for new facilities and Chapter~~  
 102 ~~23 for existing facilities shall be used in determining the~~  
 103 ~~uniform firesafety fire code adopted ~~applied~~ by the State Fire~~  
 104 ~~Marshal for assisted living facilities, pursuant to s. 633.206.~~

105 ~~b. Any new facility, regardless of size, that applies for~~  
106 ~~a license on or after January 1, 1996, must be equipped with an~~  
107 ~~automatic fire sprinkler system. The exceptions as provided in~~  
108 ~~s. 22-2.3.5.1, NFPA 101, 1994 edition, as adopted herein, apply~~  
109 ~~to any new facility housing eight or fewer residents. On July 1,~~  
110 ~~1995, local governmental entities responsible for the issuance~~  
111 ~~of permits for construction shall inform, without liability, any~~  
112 ~~facility whose permit for construction is obtained before~~  
113 ~~January 1, 1996, of this automatic fire sprinkler requirement.~~  
114 ~~As used in this part, the term "a new facility" does not mean an~~  
115 ~~existing facility that has undergone change of ownership.~~

116 ~~e. Notwithstanding any provision of s. 633.206 or of the~~  
117 ~~National Fire Protection Association, NFPA 101A, Chapter 5, 1995~~  
118 ~~edition, to the contrary, any existing facility housing eight or~~  
119 ~~fewer residents is not required to install an automatic fire~~  
120 ~~sprinkler system, nor to comply with any other requirement in~~  
121 ~~Chapter 23, NFPA 101, 1994 edition, that exceeds the firesafety~~  
122 ~~requirements of NFPA 101, 1988 edition, that applies to this~~  
123 ~~size facility, unless the facility has been classified as~~  
124 ~~impractical to evacuate. Any existing facility housing eight or~~  
125 ~~fewer residents that is classified as impractical to evacuate~~  
126 ~~must install an automatic fire sprinkler system within the~~  
127 ~~timeframes granted in this section.~~

128 ~~d. Any existing facility that is required to install an~~  
129 ~~automatic fire sprinkler system under this paragraph need not~~  
130 ~~meet other firesafety requirements of Chapter 23, NFPA 101, 1994~~

131 ~~edition, which exceed the provisions of NFPA 101, 1988 edition.~~  
132 ~~The mandate contained in this paragraph which requires certain~~  
133 ~~facilities to install an automatic fire sprinkler system~~  
134 ~~supersedes any other requirement.~~

135 ~~e. This paragraph does not supersede the exceptions~~  
136 ~~granted in NFPA 101, 1988 edition or 1994 edition.~~

137 ~~f. This paragraph does not exempt facilities from other~~  
138 ~~firesafety provisions adopted under s. 633.206 and local~~  
139 ~~building code requirements in effect before July 1, 1995.~~

140 ~~b.g.~~ A local government or a utility may charge fees only  
141 in an amount not to exceed the actual expenses incurred by the  
142 local government or the utility relating to the installation and  
143 maintenance of an automatic fire sprinkler system in an existing  
144 and properly licensed assisted living facility structure ~~as of~~  
145 ~~January 1, 1996.~~

146 ~~h. If a licensed facility undergoes major reconstruction~~  
147 ~~or addition to an existing building on or after January 1, 1996,~~  
148 ~~the entire building must be equipped with an automatic fire~~  
149 ~~sprinkler system. Major reconstruction of a building means~~  
150 ~~repair or restoration that costs in excess of 50 percent of the~~  
151 ~~value of the building as reported on the tax rolls, excluding~~  
152 ~~land, before reconstruction. Multiple reconstruction projects~~  
153 ~~within a 5-year period the total costs of which exceed 50~~  
154 ~~percent of the initial value of the building when the first~~  
155 ~~reconstruction project was permitted are to be considered as~~  
156 ~~major reconstruction. Application for a permit for an automatic~~

157 ~~fire sprinkler system is required upon application for a permit~~  
158 ~~for a reconstruction project that creates costs that go over the~~  
159 ~~50-percent threshold.~~

160 ~~i. Any facility licensed before January 1, 1996, that is~~  
161 ~~required to install an automatic fire sprinkler system shall~~  
162 ~~ensure that the installation is completed within the following~~  
163 ~~timeframes based upon evacuation capability of the facility as~~  
164 ~~determined under subparagraph 1.:~~

165 ~~(I) Impractical evacuation capability, 24 months.~~

166 ~~(II) Slow evacuation capability, 48 months.~~

167 ~~(III) Prompt evacuation capability, 60 months.~~

168  
169 ~~The beginning date from which the deadline for the automatic~~  
170 ~~fire sprinkler installation requirement must be calculated is~~  
171 ~~upon receipt of written notice from the local fire official that~~  
172 ~~an automatic fire sprinkler system must be installed. The local~~  
173 ~~fire official shall send a copy of the document indicating the~~  
174 ~~requirement of a fire sprinkler system to the Agency for Health~~  
175 ~~Care Administration.~~

176 ~~j. It is recognized that the installation of an automatic~~  
177 ~~fire sprinkler system may create financial hardship for some~~  
178 ~~facilities. The appropriate local fire official shall, without~~  
179 ~~liability, grant two 1-year extensions to the timeframes for~~  
180 ~~installation established herein, if an automatic fire sprinkler~~  
181 ~~installation cost estimate and proof of denial from two~~  
182 ~~financial institutions for a construction loan to install the~~

183 ~~automatic fire sprinkler system are submitted. However, for any~~  
 184 ~~facility with a class I or class II, or a history of uncorrected~~  
 185 ~~class III, firesafety deficiencies, an extension must not be~~  
 186 ~~granted. The local fire official shall send a copy of the~~  
 187 ~~document granting the time extension to the Agency for Health~~  
 188 ~~Care Administration.~~

189 ~~k. A facility owner whose facility is required to be~~  
 190 ~~equipped with an automatic fire sprinkler system under Chapter~~  
 191 ~~23, NFPA 101, 1994 edition, as adopted herein, must disclose to~~  
 192 ~~any potential buyer of the facility that an installation of an~~  
 193 ~~automatic fire sprinkler requirement exists. The sale of the~~  
 194 ~~facility does not alter the timeframe for the installation of~~  
 195 ~~the automatic fire sprinkler system.~~

196 ~~l. Existing facilities required to install an automatic~~  
 197 ~~fire sprinkler system as a result of construction type~~  
 198 ~~restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted~~  
 199 ~~herein, or evacuation capability requirements shall be notified~~  
 200 ~~by the local fire official in writing of the automatic fire~~  
 201 ~~sprinkler requirement, as well as the appropriate date for final~~  
 202 ~~compliance as provided in this subparagraph. The local fire~~  
 203 ~~official shall send a copy of the document to the Agency for~~  
 204 ~~Health Care Administration.~~

205 ~~m. Except in cases of life-threatening fire hazards, if an~~  
 206 ~~existing facility experiences a change in the evacuation~~  
 207 ~~capability, or if the local authority having jurisdiction~~  
 208 ~~identifies a construction type restriction, such that an~~

209 ~~automatic fire sprinkler system is required, it shall be given~~  
210 ~~time for installation as provided in this subparagraph.~~

211  
212 ~~Facilities that are fully sprinkled and in compliance with other~~  
213 ~~firesafety standards are not required to conduct more than one~~  
214 ~~of the required fire drills between the hours of 11 p.m. and 7~~  
215 ~~a.m., per year. In lieu of the remaining drills, staff~~  
216 ~~responsible for residents during such hours may be required to~~  
217 ~~participate in a mock drill that includes a review of evacuation~~  
218 ~~procedures. Such standards must be included or referenced in the~~  
219 ~~rules adopted by the State Fire Marshal. Pursuant to s.~~  
220 ~~633.206(1)(b), the State Fire Marshal is the final~~  
221 ~~administrative authority for firesafety standards established~~  
222 ~~and enforced pursuant to this section.~~

223 c. All licensed facilities must have an annual fire  
224 inspection conducted by the local fire marshal or authority  
225 having jurisdiction.

226 3. Resident elopement requirements.—Facilities are  
227 required to conduct a minimum of two resident elopement  
228 prevention and response drills per year. All administrators and  
229 direct care staff must participate in the drills which shall  
230 include a review of procedures to address resident elopement.  
231 Facilities must document the implementation of the drills and  
232 ensure that the drills are conducted in a manner consistent with  
233 the facility's resident elopement policies and procedures.

234 (b) The preparation and annual update of a comprehensive

235 emergency management plan. Such standards must be included in  
236 the rules adopted by the department after consultation with the  
237 Division of Emergency Management. At a minimum, the rules must  
238 provide for plan components that address emergency evacuation  
239 transportation; adequate sheltering arrangements; postdisaster  
240 activities, including provision of emergency power, food, and  
241 water; postdisaster transportation; supplies; staffing;  
242 emergency equipment; individual identification of residents and  
243 transfer of records; communication with families; and responses  
244 to family inquiries. The comprehensive emergency management plan  
245 is subject to review and approval by the local emergency  
246 management agency. During its review, the local emergency  
247 management agency shall ensure that the following agencies, at a  
248 minimum, are given the opportunity to review the plan: the  
249 Department of Elderly Affairs, the Department of Health, the  
250 Agency for Health Care Administration, and the Division of  
251 Emergency Management. Also, appropriate volunteer organizations  
252 must be given the opportunity to review the plan. The local  
253 emergency management agency shall complete its review within 60  
254 days and either approve the plan or advise the facility of  
255 necessary revisions.

256 (c) The number, training, and qualifications of all  
257 personnel having responsibility for the care of residents. The  
258 rules must require adequate staff to provide for the safety of  
259 all residents. Facilities licensed for 17 or more residents are  
260 required to maintain an alert staff for 24 hours per day.

261 (d) All sanitary conditions within the facility and its  
262 surroundings which will ensure the health and comfort of  
263 residents. The rules must clearly delineate the responsibilities  
264 of the agency's licensure and survey staff, the county health  
265 departments, and the local authority having jurisdiction over  
266 firesafety and ensure that inspections are not duplicative. The  
267 agency may collect fees for food service inspections conducted  
268 by the county health departments and transfer such fees to the  
269 Department of Health.

270 (e) License application and license renewal, transfer of  
271 ownership, proper management of resident funds and personal  
272 property, surety bonds, resident contracts, refund policies,  
273 financial ability to operate, and facility and staff records.

274 (f) Inspections, complaint investigations, moratoriums,  
275 classification of deficiencies, levying and enforcement of  
276 penalties, and use of income from fees and fines.

277 (g) The enforcement of the resident bill of rights  
278 specified in s. 429.28.

279 (h) The care and maintenance of residents, which must  
280 include, but is not limited to:

- 281 1. The supervision of residents;
- 282 2. The provision of personal services;
- 283 3. The provision of, or arrangement for, social and  
284 leisure activities;
- 285 4. The arrangement for appointments and transportation to  
286 appropriate medical, dental, nursing, or mental health services,

287 as needed by residents;

288 5. The management of medication;

289 6. The nutritional needs of residents;

290 7. Resident records; and

291 8. Internal risk management and quality assurance.

292 (i) Facilities holding a limited nursing, extended  
293 congregate care, or limited mental health license.

294 (j) The establishment of specific criteria to define  
295 appropriateness of resident admission and continued residency in  
296 a facility holding a standard, limited nursing, extended  
297 congregate care, and limited mental health license.

298 (k) The use of physical or chemical restraints. The use of  
299 physical restraints is limited to half-bed rails as prescribed  
300 and documented by the resident's physician with the consent of  
301 the resident or, if applicable, the resident's representative or  
302 designee or the resident's surrogate, guardian, or attorney in  
303 fact. The use of chemical restraints is limited to prescribed  
304 dosages of medications authorized by the resident's physician  
305 and must be consistent with the resident's diagnosis. Residents  
306 who are receiving medications that can serve as chemical  
307 restraints must be evaluated by their physician at least  
308 annually to assess:

309 1. The continued need for the medication.

310 2. The level of the medication in the resident's blood.

311 3. The need for adjustments in the prescription.

312 (l) The establishment of specific policies and procedures

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313 on resident elopement. Facilities shall conduct a minimum of two  
314 resident elopement drills each year. All administrators and  
315 direct care staff shall participate in the drills. Facilities  
316 shall document the drills.

317 Section 2. This act shall take effect July 1, 2016.