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# Careers & Competition Subcommittee

Tuesday, January 9, 2018  
1:00 PM – 4:00 PM  
Webster Hall (212 Knott)

## Meeting Packet

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Careers & Competition Subcommittee

**Start Date and Time:** Tuesday, January 09, 2018 01:00 pm  
**End Date and Time:** Tuesday, January 09, 2018 04:00 pm  
**Location:** Webster Hall (212 Knott)  
**Duration:** 3.00 hrs

**Consideration of the following bill(s):**

HB 315 Telephone Solicitation by Ausley  
HB 529 Florida Fire Prevention Code by Diaz, M.  
HB 539 Alarm Confirmation by Cortes, B.

Pursuant to rule 7.11, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Monday, January 8, 2018.

By request of Chair Beshears, all Careers & Competition Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, January 8, 2018.

**NOTICE FINALIZED on 01/05/2018 4:00PM by Rigas.Amanda**



# The Florida House of Representatives

## Commerce Committee

### Careers & Competition Subcommittee

**Richard Corcoran**  
Speaker

**Halsey Beshears**  
Chair

## AGENDA

**Tuesday, January 9, 2018**  
**Webster Hall (212 Knott)**  
**1:00 PM – 4:00 PM**

- I. Call to Order & Roll Call
- II. Welcoming Remarks
- III. HB 315 by *Rep. Ausley*  
Telephone Solicitation  
  
HB 529 by *Rep. Diaz, M.*  
Florida Fire Prevention Code  
  
HB 539 by *Rep. Cortes B.*  
Alarm Confirmation
- IV. Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 315 Telephone Solicitation

**SPONSOR(S):** Ausley

**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee		Willson MW	Anstead <i>Jo</i>
2) Commerce Committee			

### SUMMARY ANALYSIS

Residents who do not wish to receive telephonic sales calls may have their residential, mobile, or paging device telephone number included on Florida's "Do Not Call" list. Individuals or entities that wish to make unsolicited telephone calls must acquire the list from the Florida Department of Agriculture and Consumer Services, and unless an exception applies, may not initiate an outbound sales call to a number on the list.

Currently, "telephonic sales call" is defined as a telephone call or a text message.

The bill expands the definition of "telephonic sales calls" to include voicemail transmissions and technologies that deliver a voice message directly to a voicemail application, service or device.

The bill also prohibits a telephone solicitor from sending voicemail transmissions to a consumer who has previously communicated that he or she does not wish to be contacted.

The bill does not appear to have a significant fiscal impact on state or local government.

The bill has an effective date of July 1, 2018.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

The Florida Department of Agriculture and Consumer Services (FDACS) maintains the Florida Do Not Call Act, also known as the "Do Not Call" list, which prohibits unsolicited phone calls and text messages. Residents who do not wish to receive sales calls may have their residential, mobile, or paging device telephone number included on this list.<sup>1</sup>

Telephone solicitors<sup>2</sup> are prohibited from making telephonic sales calls to consumers who register for the "Do Not Call" program. A "telephonic sales call" is defined as a telephone call or text message to a consumer for the purpose of soliciting a sale or extension of credit for consumer goods or services, or obtaining information that may be used for such purposes. There are several exceptions to this prohibition, including calls made in response to an express request of the person called; in connection with an existing debt or contact; when a prior or existing business relationship exists; or by a newspaper publisher connection with his or her business.

In addition to those consumers registered for the "Do Not Call" program, a telephone solicitor may not call or text a consumer who previously communicated to the telephone solicitor that he or she does not wish to be contacted.

A telephone solicitor who violates the provisions of Florida's "Do Not Call" program are subject to a civil penalty<sup>3</sup> with a maximum fine of \$10,000 per violation, or an administrative fine<sup>4</sup> with a maximum of \$1,000 per violation, in addition to the consumer's attorney fees and costs.

##### **Effect of the Bill**

The bill expands the definition of "telephonic sales calls" to include voicemail transmissions and technologies that deliver a voice message directly to a voicemail application, service or device.

The bill also prohibits a telephone solicitor from sending voicemail transmissions to consumers who have previously communicated that they do not wish to be contacted.

#### B. SECTION DIRECTORY:

Section 1 Amends s. 501.059, F.S.; revising the definition of "telephonic sales call" to include voicemail transmissions, and prohibiting the transmission of certain voicemails to certain persons.

Section 2 Provides an effective date.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

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<sup>1</sup> See s. 501.059, F.S., FDACS, *Florida DO NOT CALL Program*, <https://www.fldnc.com/About.aspx>. (last visited 1/2/2018).

<sup>2</sup> Section 501.059(1)(f), F.S., defines "Telephone solicitor" as "a natural person, firm, organization, partnership, association, or corporation, or a subsidiary or affiliate thereof, doing business in this state, who makes or causes to be made a telephonic sales call, including, but not limited to, calls made by use of automated dialing or recorded message devices."

<sup>3</sup> s. 501.059(9)(a), F.S.

<sup>4</sup> s. 501.059(9)(b), F.S.

1. Revenues:

None

Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals and entities will be prohibited from sending unsolicited voicemail transmissions to persons who register for the "Do Not Call" program, and to those who have otherwise previously communicated to the telephone solicitor that they do not wish to be contacted. Individuals and entities that previously sent unsolicited voicemail transmissions and did not acquire Florida's Do Not Call list may need to acquire the list from the Department, at a maximum cost of \$400 per year for the statewide listing.

D. FISCAL COMMENTS:

None

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1                   A bill to be entitled  
 2           An act relating to telephone solicitation; amending s.  
 3           501.059, F.S.; revising the definition of the term  
 4           "telephonic sales call" to include voicemail  
 5           transmissions; prohibiting the transmission of  
 6           voicemails to specified persons who communicate to a  
 7           telephone solicitor that they would not like to  
 8           receive certain voicemail solicitations or requests  
 9           for donations; providing an effective date.

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

12  
 13           Section 1. Paragraph (g) of subsection (1) and subsection  
 14           (5) of section 501.059, Florida Statutes, are amended to read:  
 15           501.059 Telephone solicitation.-

16           (1) As used in this section, the term:

17           (g) "Telephonic sales call" means a telephone call, ~~or~~  
 18           text message, or voicemail transmission to a consumer for the  
 19           purpose of soliciting a sale of any consumer goods or services,  
 20           soliciting an extension of credit for consumer goods or  
 21           services, or obtaining information that will or may be used for  
 22           the direct solicitation of a sale of consumer goods or services  
 23           or an extension of credit for such purposes. The term includes  
 24           technologies that deliver a voice message directly to a  
 25           voicemail application, service, or device.



26 (5) A telephone solicitor or other person may not initiate  
 27 an outbound telephone call, ~~or~~ text message, or voicemail  
 28 transmission to a consumer or donor or potential donor who has  
 29 previously communicated to the telephone solicitor or other  
 30 person that he or she does not wish to receive an outbound  
 31 telephone call, ~~or~~ text message, or voicemail transmission:

32 (a) Made by or on behalf of the seller whose goods or  
 33 services are being offered; or

34 (b) Made on behalf of a charitable organization for which  
 35 a charitable contribution is being solicited.

36 Section 2. This act shall take effect July 1, 2018.

## CAREERS & COMPETITON SUBCOMMITTEE

HB 315 by Rep. Ausley  
Telephone Solicitation

### AMENDMENT SUMMARY January 9, 2018

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**Amendment 1 by Rep. Ausley (Lines 23-25):** Clarifies that a voicemail transmission is any technology that delivers a voice message directly to a voicemail application, service, or device.

**Amendment 2 by Rep. Ausley ( Between lines 35-36):**

- Requires individuals who make telephone sales calls to provide a telephone number that is capable of receiving phone calls, and which a telephone sales call recipient may use to dial the sales call initiator back; and
- Increases permitted penalties from up to \$1,000 for each administrative violation and up to \$10,000 for each civil violation to up to \$10,000 and \$10,000 or more, respectively.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Committee/Subcommittee hearing bill: Careers & Competition  
2 Subcommittee  
3 Representative Ausley offered the following:  
4

**Amendment (with directory and title amendments)**

6 Remove lines 23-25 and insert:  
7 or an extension of credit for such purposes.

8 (i) "Voicemail transmission" means technologies that  
9 deliver a voice message directly to a voicemail application,  
10 service, or device.

-----  
13 **D I R E C T O R Y A M E N D M E N T**

14 Remove lines 13-14 and insert:  
15 Section 1. Paragraph (g) of subsection (1) of section  
16 501.059, Florida Statutes, is amended, a new paragraph (i) is added



Amendment No. 1

17 to that subsection, and subsection (5) of that section is amended,  
18 to read:

19

20

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21

**T I T L E   A M E N D M E N T**

22

Remove line 5 and insert:

23

transmissions; defining the term "voicemail transmission";

24

prohibiting the transmission of



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Committee/Subcommittee hearing bill: Careers & Competition  
 2 Subcommittee

3 Representative Ausley offered the following:

4

5 **Amendment (with directory and title amendments)**

6 Between lines 35 and 36, insert:

7 (8)

8 (c) It shall be unlawful for any person who makes a  
 9 telephonic sales call or causes a telephonic sales call to be  
 10 made to fail to transmit or cause not to be transmitted the  
 11 telephone number and, when made available by the telephone  
 12 solicitor's carrier, the name of the telephone solicitor to any  
 13 caller identification service in use by a recipient of a  
 14 telephonic sales call. However, it shall not be a violation to  
 15 substitute, for the name and telephone number used in or billed  
 16 for making the call, the name of the seller on behalf of which a



Amendment No. 2

17 telephonic sales call is placed and the seller's customer  
18 service telephone number, which is answered during regular  
19 business hours. If a telephone number is made available through  
20 a caller identification service as a result of a telephone sales  
21 call, that telephone number must be capable of receiving phone  
22 calls and must connect the original call recipient, upon calling  
23 such number, to the telephone solicitor or to the seller on  
24 behalf of which a telephonic sales call was placed. For purposes  
25 of this section, the term "caller identification service" means  
26 a service that allows a telephone subscriber to have the  
27 telephone number and, where available, the name of the calling  
28 party transmitted contemporaneously with the telephone call and  
29 displayed on a device in or connected to the subscriber's  
30 telephone.

31 (9) (a) The department shall investigate any complaints  
32 received concerning violations of this section. If, after  
33 investigating a complaint, the department finds that there has  
34 been a violation of this section, the department or the  
35 Department of Legal Affairs may bring an action to impose a  
36 civil penalty and to seek other relief, including injunctive  
37 relief, as the court deems appropriate against the telephone  
38 solicitor. The civil penalty shall be in the Class IV ~~III~~  
39 category pursuant to s. 570.971 for each violation and shall be  
40 deposited in the General Inspection Trust Fund if the action or  
41 proceeding was brought by the department, or the Legal Affairs

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Amendment No. 2

42 Revolving Trust Fund if the action or proceeding was brought by  
 43 the Department of Legal Affairs. This civil penalty may be  
 44 recovered in any action brought under this part by the  
 45 department, or the department may terminate any investigation or  
 46 action upon agreement by the person to pay a stipulated civil  
 47 penalty. The department or the court may waive any civil penalty  
 48 if the person has previously made full restitution or  
 49 reimbursement or has paid actual damages to the consumers who  
 50 have been injured by the violation.

51 (b) The department may, as an alternative to the civil  
 52 penalties provided in paragraph (a), impose an administrative  
 53 fine in the Class III † category pursuant to s. 570.971 for each  
 54 act or omission that constitutes a violation of this section. An  
 55 administrative proceeding that could result in the entry of an  
 56 order imposing an administrative penalty must be conducted  
 57 pursuant to chapter 120.

58  
 59 -----  
 60  **D I R E C T O R Y A M E N D M E N T**

61 Remove lines 13-14 and insert:

62 Section 1. Paragraph (g) of subsection (1), subsection  
 63 (5), paragraph (c) of subsection (8), and subsection (9) of  
 64 section 501.059, Florida Statutes, are amended to read:



Amendment No. 2

**T I T L E   A M E N D M E N T**

67  
68       Remove line 9 and insert:  
69       for donations; requiring that if a telephone number is  
70       available through a caller identification system, that  
71       telephone number must be capable of receiving calls and  
72       must connect the original call recipient to the solicitor;  
73       revising penalties; providing an effective date.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 529 Florida Fire Prevention Code

**SPONSOR(S):** Diaz, Jr.

**TIED BILLS:** IDEN./SIM. BILLS: SB 746

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee		Brackett <i>DB</i>	Anstead <i>La</i>
2) Commerce Committee			

### SUMMARY ANALYSIS

Florida's fire prevention and control law, ch. 633, F.S., designates the state's Chief Financial Officer as the State Fire Marshal, and requires the State Fire Marshal to adopt the Florida Fire Prevention Code (Fire Code) by rule every three years. The Fire Code sets forth fire safety standards (including certain national codes) for property, and is enforced by local fire officials within each county, municipality, and special fire districts in the state. The State Fire Marshal may modify the national fire safety and life safety standards as needed to accommodate the specific needs of the state.

The Fire Code provides that a person may not place combustible waste and refuse in a building's means of egress, which includes a building's exit corridors.

Currently, there are various providers offering doorstep waste collection services to apartment complexes throughout the state. These residents place waste outside their front door, and the provider picks it up. An apartment complex resident's front door usually opens to a hallway, corridor, or walkway, which may be the building's exit access and therefore apart of the building's means of egress.

The bill provides that residents in apartment buildings may place combustible waste and refuse in an exit corridor if the following conditions are met:

- Waste containers may not exceed 13 gallons for apartment buildings with enclosed corridors and interior or exterior stairs;
- Waste containers may not exceed 27 gallons for apartment buildings with open air corridors and exterior stairs or balconies with exterior exit stairs;
- Waste is not in an exit corridor for a single period greater than 5 hours;
- Waste containers are not in an exit corridor for a single period greater than 12 hours;
- Waste containers do not reduce the exit corridor's width below the width required by the Fire Code; and
- The apartment's management staff have written policies and procedures to ensure compliance with the above conditions.

The bill also provides that local fire officials may approve alternative containers or storage arrangements that are equivalent in safety to the bill's requirements.

The exceptions provided for in the bill will expire on July 1, 2021.

The bill is not expected to have a significant fiscal impact on state or local government.

The bill provides for an effective date of July 1, 2018.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current 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 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 fire safety, 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 fire safety inspectors; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts fire safety inspections of state property; and operates the Florida State Fire College.

###### *Adoption and Interpretation of the Florida Fire Prevention Code*

The State Fire Marshal also adopts by rule the Florida Fire Prevention Code (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, at ch. 69A-60, F.A.C.

The State Fire Marshal adopts a new edition of the Fire Code every three years.<sup>2</sup> When adopting the Fire Code the Fire Marshal is required to adopt the most current version of the national fire and life safety standards set forth by the National Fire Protection Association (NFPA) including the:

- NFPA's Fire Code (1);
- Life Safety Code (101); and
- Guide on Alternative Approaches to Life Safety (101A).<sup>3</sup>

The State Fire Marshal may modify the national fire safety and life safety standards as needed to accommodate the specific needs of the state.<sup>4</sup>

The most recent Fire Code is the 6th edition, which is referred to as the 2017 Florida Fire Prevention Code. The 6th edition of the Fire Code took effect on January 1, 2018.

The State Marshal has authority to interpret the Code, and is the only authority that may issue a declaratory statement relating to the Fire Code.<sup>5</sup>

###### *Fire Safety Enforcement by Local Governments*

State law requires all municipalities, counties, and special districts with fire safety responsibilities to enforce the Fire Code as the minimum fire prevention code to operate uniformly among local governments and in conjunction with the Florida Building Code.<sup>6</sup> These local enforcing authorities may adopt more stringent fire

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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(2), F.S. Founded in 1896, the National Fire Protection Association delivers information and knowledge through more than 300 consensus codes and standards, research, training, education, outreach and advocacy; and by partnering with others who share an interest in furthering the mission. NFPA, *About NFPA*, <http://www.nfpa.org/about-nfpa> (last visited on Dec. 7, 2017).

<sup>4</sup> *Id.*

<sup>5</sup> s. 633.104(6), F.S.

<sup>6</sup> ss. 633.108 and 633.208, F.S.

safety standards, subject to certain requirements in s. 633.208, F.S., but may not enact fire safety ordinances that conflict with ch. 633, F.S., or any other state law.<sup>7</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>8</sup> Each county, municipality, and special district with fire safety enforcement responsibilities is also required to employ or contract with a fire safety inspector (certified by the State Fire Marshal) to conduct all fire safety inspections required by law.<sup>9</sup>

Section 633.208(5), F.S. states “With regard to existing buildings, the Legislature recognizes that it is not always practical to apply any or all of the provisions of the Fire Code and that physical limitations may require disproportionate effort or expense with little increase in fire or life safety.” Pursuant to s. 633.208(5), F.S., local fire officials shall apply the Fire 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 fashion reasonable alternatives that afford an equivalent degree of life safety and safety of property.

### *Florida Building Code*

The Florida Building Code (Building Code) is the statewide building code for all construction in the state. The Florida Building Commission (Commission), housed within the Department of Business and Professional Regulation (DBPR), implements the Building Code. The Commission reviews the International Code Council’s I-Codes and the National Electric Code every three years to determine if it needs to update the Building Code.<sup>10</sup>

### *Means of Egress*

A means of egress is a path available for a person to leave a building. A means of egress is made up of three parts, which includes the following:

- Exit access;
- Exit; and
- Exit discharge.<sup>11</sup>

The exit access is a path, such as a hallway or corridor, from any location in the building to an exit. The exit is usually a door leading outside, or in a multi-story building, an enclosed stairway. The exit discharge is a path from the exit to a space that is dedicated to public use such as a street or alley.<sup>12</sup>

The Fire Code provides that a building’s means of egress must be a certain width determined by the number of occupants in the building and the use of the building.<sup>13</sup> The Fire Code further provides that a building’s means of egress must be free of all obstructions or impediments in case of fire or other emergency.<sup>14</sup>

The Building Code also provides that a building’s means of egress must be a certain width determined by the number of occupants in the building.<sup>15</sup> The Building Code provides that the *required width* of a building’s means of egress must be free of all obstructions and impediments.<sup>16</sup>

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<sup>7</sup> ss. 633.208 and 633.214(4), F.S.

<sup>8</sup> s. 633.118, F.S.

<sup>9</sup> s. 633.216(1), F.S.

<sup>10</sup> s. 553.73(7)(a), F.S.

<sup>11</sup> Section 3.3.176 of the 6<sup>th</sup> edition of the Florida Fire Prevention Code (NFPA 1, Fire Code).

<sup>12</sup> International Code Council, *Accessible Means of Egress*, <https://www.iccsafe.org/safety/Documents/MeansofEgressBroch.pdf> (last visited Dec. 7, 2017).

<sup>13</sup> See Section 7.3.4 of the 6<sup>th</sup> edition of the Florida Fire Prevention Code (NFPA 101, Life Safety Code).

<sup>14</sup> Section 7.1.10.1 of the 6<sup>th</sup> edition of the Florida Fire Prevention Code (NFPA 101, Life Safety Code).

<sup>15</sup> Section 1005 of the 6<sup>th</sup> edition of the Florida Building Code (Building).

<sup>16</sup> Section 1018.1, 1020.3, and 1024.2 of the 6<sup>th</sup> edition of the Florida Building Code (Building).

However, the Building Code provides that maintenance of a building's means of egress must be in accordance with the Fire Code.<sup>17</sup> DBPR has interpreted this to mean that the Fire Code takes precedence when it comes to people placing objects, such as a trashcan, in a building's means of egress.<sup>18</sup>

### *Combustible Waste and Refuse*

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."<sup>19</sup>

The Fire Code defines 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."<sup>20</sup>

Combustible waste and refuse may be stored in an apartment building if the combustible waste and refuse is:

- Stored in a container less than 1.5 cubic yards (302 gallons);
- Stored in an enclosed area with a 1 hour fire resistance rating and an automatic sprinkler system;
- Removed from the building once a day unless the waste and refuse is stored in a noncombustible room; and
- Not stored in the building's exit(s).<sup>21</sup>

### *Private Doorstep Collection Providers.*

Currently, there are various providers offering doorstep waste collection services to apartment complexes throughout the state. The basic business model requires the residents of an apartment building to place their waste outside of their doorstep, in a specified container approved by the provider. The waste collection companies then come by and collect the waste at a specified time.<sup>22</sup>

An apartment complex resident's front door opens to a hallway, corridor, or walkway, which is usually the building's exit access and therefore part of the building's means of egress. According to DFS, apartments that contract with the doorstep waste collection providers are violating the Fire Code by allowing residents to place combustible waste and refuse in their buildings' means of egress.<sup>23</sup>

In recent declaratory statements, the State Fire Marshal determined that apartments may not allow residents to place waste containers outside their front doors regardless of the size of the container or if the waste is removed daily. The State Fire Marshal determined that the Fire Code prohibits apartment residents from placing any type of waste container outside their door because the residents are placing an obstruction in a building's means of egress and combustible waste in a building's exit.<sup>24</sup>

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<sup>17</sup> Section 1001.3 of the 6<sup>th</sup> edition of the Florida Building Code (Building).

<sup>18</sup> Email from Colton Madill, Deputy Legislative Affairs Director, Department of Business and Professional Regulation, Florida Building Code questions (Dec. 18, 2017).

<sup>19</sup> Section 3.3.63 of the 6<sup>th</sup> edition of the Florida Fire Prevention Code (NFPA 1, Fire Code).

<sup>20</sup> Section 3.3.62 of the 6<sup>th</sup> edition of the Florida Fire Prevention Code (NFPA 1, Fire Code).

<sup>21</sup> Section 10.19.4 and 19.2.1.4 of the 6<sup>th</sup> edition of the Florida Fire Prevention Code (NFPA 1, Fire Code).

<sup>22</sup> Department of Financial Services, Agency Analysis of 2018 House Bill 529, p. 1 (Nov. 29, 2017).

<sup>23</sup> *See Id.*

<sup>24</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).*

## **Effect of the Bill**

The bill provides that residents of apartment buildings may place combustible waste and refuse in exit corridors in apartment buildings if the following conditions are met:

- Waste containers may not exceed 13 gallons for apartment buildings with enclosed corridors and interior or exterior stairs;
- Waste containers may not exceed 27 gallons for apartment buildings with open air corridors and exterior stairs or balconies with exterior exit stairs;
- Waste is not placed in an exit corridor for a single period greater than 5 hours;
- Waste containers are not in an exit corridor for a single period greater than 12 hours;
- Waste containers do not reduce the exit corridor's width below the width required by the Fire Code; 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 authority having jurisdiction upon request.

The bill provides that the local fire marshal may approve alternative containers or storage arrangements that are equivalent to the bill's requirements.

Apartment complexes must comply with the bill's requirements by December 31, 2020.

### *Sunset provision*

The bill expires on July 1, 2021. The 7<sup>th</sup> edition of the Fire Code is expected to take effect in January 2021. The bill's expiration date allows waste collection companies time to work with the State Fire Marshal to add the language of the bill to the 7<sup>th</sup> edition of the Fire Code through the code adoption process.

## **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 633.202, F.S., providing that residents in apartments may place combustible waste and refuse in an apartment's exit corridors under certain conditions, providing for local fire officials to approve alternative containers, providing an expiration date.

**Section 2.** Provides an effective date of July 1, 2018.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

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

1. Revenues:

None.

2. Expenditures:

None.

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

1. Revenues:

Unknown.

2. Expenditures:

Unknown. According to DFS, the bill creates new apartment classifications that the Fire Code currently does not use. This may require local fire marshals to do additional inspections and classifications for apartment complexes that use doorstep waste collection providers.<sup>25</sup>

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will allow doorstep waste collection companies to continue operating in the state.<sup>26</sup>

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DFS prefers that any change made to the Fire Code be made through the code adoption process instead of being made in statute. According to DFS, the Fire code is an inclusive and flexible document that the Fire Marshal amends every three years to include technological advancements and emerging documents. According to DFS, this results in the Fire Code being able to accommodate changes more quickly than changes being made to statute. Additionally, the Fire Marshal can make amendments following situations involving fires that require a change in operating procedures or requirements.<sup>27</sup>

According to DFS, the bill creates new apartment classifications that the Fire Code does not use. This may require local fire marshals to do additional inspections and classifications for apartment complexes that use doorstep waste collection providers. DFS indicates that a more common apartment classification and one that the Fire Code does use is buildings that are protected by an automatic fire sprinkler system and those that are not.<sup>28</sup>

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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<sup>25</sup> Department of Financial Services, *supra*, note 19, at 3.

<sup>26</sup> *Id.*

<sup>27</sup> Email from Kimberly Renspie, Deputy Legislative Affairs Director, Florida Department of Financial Services, Response to questions on HB 529, (Dec. 12, 2017).

<sup>28</sup> *Id.*

1                                   A bill to be entitled  
 2           An act relating to the Florida Fire Prevention Code;  
 3           amending s. 633.202, F.S.; requiring that doorstep  
 4           refuse and recycling collection containers be allowed  
 5           in exit corridors of certain apartment occupancies  
 6           under certain circumstances; authorizing authorities  
 7           having jurisdiction to approve certain alternative  
 8           containers and storage arrangements; requiring such  
 9           authorities to allow apartment occupancies a phase-in  
 10          period until a specified date to comply; providing for  
 11          future repeal; providing an effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:

14  
 15           Section 1. Subsection (20) is added to section 633.202,  
 16 Florida Statutes, to read:

17           633.202 Florida Fire Prevention Code.—

18           (20) (a) In apartment occupancies with enclosed corridors  
 19 served by interior or exterior exit stairs, doorstep refuse and  
 20 recycling collection containers must be allowed in exit  
 21 corridors when all of the following conditions exist:

22           1. The maximum waste container size does not exceed 13  
 23 gallons.

24           2. Waste is not placed in the exit access corridors for  
 25 single periods exceeding 5 hours.



26        3. Waste containers do not occupy the exit access  
 27 corridors for single periods exceeding 12 hours.

28        4. Waste containers do not reduce the means of egress  
 29 width below that required under NFPA Life Safety Code 101:31, as  
 30 adopted under the Florida Fire Prevention Code.

31        5. Management staff have written policies and procedures  
 32 in place and enforce them to ensure compliance with this  
 33 subsection, and, upon request, provide a copy of such policies  
 34 and procedures to the authority having jurisdiction.

35        (b) In apartment occupancies with open-air corridors or  
 36 balconies served by exterior exit stairs, doorstep refuse and  
 37 recycling collection containers must be allowed in exit  
 38 corridors when all of the following conditions exist:

39        1. The maximum waste container size does not exceed 27  
 40 gallons.

41        2. Waste is not placed in the exit access corridors for  
 42 single periods exceeding 5 hours.

43        3. Waste containers do not occupy the exit access  
 44 corridors for single periods exceeding 12 hours.

45        4. Waste containers do not reduce the means of egress  
 46 width below that required under NFPA Life Safety Code 101:31, as  
 47 adopted under the Florida Fire Prevention Code.

48        5. Management staff have written policies and procedures  
 49 in place and enforce them to ensure compliance with this  
 50 subsection, and, upon request, provide a copy of such policies

51 and procedures to the authority having jurisdiction.

52 (c) The authority having jurisdiction may approve  
 53 alternative containers and storage arrangements that are  
 54 demonstrated to provide an equivalent level of safety to that  
 55 provided under paragraphs (a) and (b).

56 (d) The authority having jurisdiction shall allow  
 57 apartment occupancies a phase-in period until December 31, 2020,  
 58 to comply with this subsection.

59 (e) This subsection is repealed on July 1, 2021.

60 Section 2. This act shall take effect July 1, 2018.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

*iw*

BILL #: HB 539 Alarm Confirmation  
SPONSOR(S): Cortes  
TIED BILLS: IDEN./SIM. BILLS: SB 876

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee		Wright <i>w</i>	Anstead <i>le</i>
2) Commerce Committee			

SUMMARY ANALYSIS

Florida requires alarm systems to be installed and monitored by licensed alarm system contractors. Monitored intrusion or burglar alarms trigger a signal alerting the alarm monitoring company of an emergency. Prior to contacting a law enforcement agency for dispatch, the monitoring company must make verification calls to the premises to confirm that it is not a false alarm.

Currently, the alarm monitoring company is only permitted to communicate with the premises via telephone call to confirm the alarm.

The bill expands the modes of confirming an alarm signal to include:

- sending a text message, or
- communicating through other electronic means.

The bill requires that the first attempt by monitoring personnel to confirm an alarm signal be made to a person at the premises generating the signal instead of to a telephone number associated with the premises.

The bill also allows the second attempt to confirm an alarm signal be made to the premises owner, occupant, or his or her authorized designee.

The bill does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2018.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Alarm Systems and Alarm System Contractors

An “alarm system” is defined as “any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency.”<sup>1</sup> It must be installed by a licensed alarm system contractor, subject to regulation and discipline by the Electrical Contractors’ Licensing Board under the Florida Department of Business and Professional Regulation.<sup>2</sup>

If an alarm system has central monitoring, the central monitoring station,<sup>3</sup> or other type of alarm monitoring company, must be qualified by licensed alarm system contractors.<sup>4</sup>

##### Alarm Verification

A “false alarm” is a false intrusion or burglar alarm signal stemming from causes not connected with an intrusion or burglary, such as user error (e.g. inputting incorrect alarm keypad codes), faulty equipment, poor installation, and bad weather. Between 94 and 98 percent of alarm calls are false. Each false alarm requires approximately 20 minutes of two police officers’ time.<sup>5</sup>

Florida, like most jurisdictions across the country, requires an alarm monitoring company to make a first verification call to the premises with an activated alarm system before contacting a law enforcement agency to ensure the alarm signal is not false, which reduces false alarm calls to law enforcement agencies by 75 percent.<sup>6</sup> If the owner is not successfully contacted by the CMS during the initial call, Florida requires a second call by the CMS to another phone number associated with the premises, which further reduces false alarm calls to law enforcement agencies by 40 percent.<sup>7</sup>

Florida does not require verification calling if the alarm signal has been generated by an alarm system with audio or visual sensors, which allow independent verification, or if a federal firearms licensee uses the premises for storage of firearms or ammunition.

##### Effect of the Bill

The bill expands the modes of confirming an alarm signal. The alarm monitoring company will be able to utilize the following forms of communication:

- sending a text message,
- communicating through other electronic means, or
- placing a telephone call (current law).

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<sup>1</sup> s. 489.505(1), F.S.

<sup>2</sup> s. 489.505(2), F.S.

<sup>3</sup> Generally, a CMS is a facility that receives signals from alarm systems and at which personnel are in constant attendance. Central Station Alarm Association, ALARM CONFIRMATION, VERIFICATION, AND NOTIFICATION PROCEDURES 4 (2016).

<sup>4</sup> *Supra*, note 2.

<sup>5</sup> Rana Thompson, FALSE BURGLAR ALARMS 7, 9, 11 (2nd ed. 2011).

<sup>6</sup> Security Industry Alarm Coalition, *Consumer Guide to ECV*, <http://siacinc.org/docs/Executive%20Overview.pdf> (last visited March 14, 2017).

<sup>7</sup> It is estimated by the Florida Alarm Association (FAA) that Florida has seen a 40 percent reduction in false alarm calls since passing the second verification call requirement. Most alarm companies use automated dialing technology to make verification calls, which takes seconds to make. Caitlin Doornbos, *After break-in, gun shop owner seeks alarm law change*, Orlando Sentinel, August 26, 2016, available at <http://www.orlandosentinel.com/news/breaking-news/os-gun-shop-alarm-911-20160819-story.html>.

The bill requires that the first attempt by monitoring personnel to confirm an alarm signal be made to a person at the premises generating the signal instead of to a telephone number associated with the premises.

The bill allows the second alarm signal confirmation attempt to be made to the premises owner, occupant, or his or her authorized designee.

The bill also changes the terminology for authenticating an alarm signal from "verification" to "confirmation" and makes conforming changes.

The bill has an effective date of July 1, 2018.

**B. SECTION DIRECTORY:**

Section 1 Amends s. 489.529, F.S., to expand means of confirming an alarm signal.

Section 2 Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

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

1. Revenues:

None.

2. Expenditures:

None.

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill contains inconsistent language with regard to central monitoring and alarm monitoring.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to alarm confirmation; amending s.  
 3           489.529, F.S.; revising requirements for alarm  
 4           confirmation to include additional methods by which an  
 5           alarm monitoring company may confirm a residential or  
 6           commercial intrusion/burglary alarm signal and to  
 7           require that two attempts be made to confirm an alarm  
 8           signal; providing an effective date.

9  
 10   Be It Enacted by the Legislature of the State of Florida:

11  
 12           Section 1. Section 489.529, Florida Statutes, is amended  
 13           to read:

14           489.529 Alarm confirmation ~~verification calls~~ required.—  
 15           All residential or commercial intrusion/burglary alarms that  
 16           have central monitoring must have alarm monitoring personnel  
 17           attempt to confirm the alarm signal by ~~have a central monitoring~~  
 18           ~~verification call, text message, or other electronic means made~~  
 19           ~~to a telephone number associated with a person at the premises~~  
 20           generating the alarm signal, before alarm monitor personnel  
 21           contact a law enforcement agency for alarm dispatch. The central  
 22           monitoring station must attempt to confirm ~~employ call-~~  
 23           ~~verification methods for the premises generating~~ the alarm  
 24           signal a second time via communication with the premise owner,  
 25           occupant, or his or her authorized designee if the first attempt



26 to confirm call is unsuccessful ~~not answered~~. However, alarm  
 27 signal confirmation ~~verification calling~~ is not required if:

28 (1) The intrusion/burglary alarm has a properly operating  
 29 visual or auditory sensor that enables the alarm monitoring  
 30 personnel to verify the alarm signal; or

31 (2) The intrusion/burglary alarm is installed on a  
 32 premises that is used for the storage of firearms or ammunition  
 33 by a person who holds a valid federal firearms license as a  
 34 manufacturer, importer, or dealer of firearms or ammunition,  
 35 provided the customer notifies the alarm monitoring company that  
 36 he or she holds such license and would like to bypass the two-  
 37 attempt ~~two-call~~ verification protocol. Upon initiation of a new  
 38 alarm monitoring service contract, the alarm monitoring company  
 39 shall make reasonable efforts to inform a customer who holds a  
 40 valid federal firearms license as a manufacturer, importer, or  
 41 dealer of firearms or ammunition of his or her right to opt out  
 42 of the two-attempt ~~two-call~~ verification protocol.

43 Section 2. This act shall take effect July 1, 2018.

## CAREERS & COMPETITION SUBCOMMITTEE

### HB 539 by Rep. Cortes, B. Alarm Confirmation

#### AMENDMENT SUMMARY January 9, 2018

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**Amendment 1 by Rep. Cortes, B. (Strike-all):** The amendment:

- makes the phrase “alarm monitoring company” consistent in the bill; and
- clarifies that the alarm monitoring company confirms the alarm with the owner, occupant, or his or her authorized designee of the premises.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Careers & Competition  
 2 Subcommittee

3 Representative Cortes, B. offered the following:

4 **Amendment 1**

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 489.529, Florida Statutes, is amended  
 7 to read:

8 489.529 Alarm confirmation ~~verification~~ calls required.-

9 All residential or commercial intrusion/burglary alarms that  
 10 have central monitoring ~~must~~ are required to have the alarm  
 11 monitoring company attempt to confirm the alarm signal by have a  
 12 central monitoring verification call, text message, or other  
 13 electronic means made to the owner, occupant, or his or her  
 14 authorized designee a telephone number associated with the  
 15 premises generating the alarm signal, before alarm monitor  
 16 personnel contact a law enforcement agency for alarm dispatch.



Amendment No. 1

17 The alarm monitoring company ~~central monitoring station~~ must  
18 attempt to confirm ~~employ call verification methods for the~~  
19 ~~premises generating~~ the alarm signal a second time via  
20 communication with the premises owner, occupant, or his or her  
21 authorized designee if the first attempt to confirm ~~call~~ is  
22 unsuccessful ~~not answered~~. However, alarm signal confirmation  
23 ~~verification calling~~ is not required if:

24 (1) The intrusion/burglary alarm has a properly operating  
25 visual or auditory sensor that enables the alarm monitoring  
26 personnel to verify the alarm signal; or

27 (2) The intrusion/burglary alarm is installed on a  
28 premises that is used for the storage of firearms or ammunition  
29 by a person who holds a valid federal firearms license as a  
30 manufacturer, importer, or dealer of firearms or ammunition,  
31 provided the customer notifies the alarm monitoring company that  
32 he or she holds such license and would like to bypass the two-  
33 attempt confirmation ~~two-call verification~~ protocol. Upon  
34 initiation of a new alarm monitoring service contract, the alarm  
35 monitoring company shall make reasonable efforts to inform a  
36 customer who holds a valid federal firearms license as a  
37 manufacturer, importer, or dealer of firearms or ammunition of  
38 his or her right to opt out of the two-attempt confirmation ~~two-~~  
39 ~~call verification~~ protocol.

40 Section 2. This act shall take effect July 1, 2018.