

Regular Session, 2011

HOUSE BILL NO. 132

BY REPRESENTATIVE CHANDLER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FIRE PROTECT/FIRE MARSHAL: Provides relative to the authority of the state fire marshal

1 AN ACT

2 To amend and reenact R.S. 40:1730.23(A) and 1730.39(B) and (C) and to enact R.S.
3 40:1730.39(D) and (E), relative to the office of state fire marshal; to provide for an
4 exception to the enforcement of building codes by municipalities and parishes; to
5 provide for the administration and enforcement authority of the office of state fire
6 marshal; to define enforcement; to authorize the state fire marshal to grant
7 alternatives upon appeal; to define fire protection systems; to authorize the state fire
8 marshal to issue orders for violations; to provide for the enforcement of the
9 Louisiana Industrialized Building Act; to provide for an effective date; and to
10 provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 40:1730.23(A) and 1730.39(B) and (C) are hereby amended and
13 reenacted and R.S. 40:1730.39(D) and (E) are hereby enacted to read as follows:

14 §1730.23. Enforcement of building codes by municipalities and parishes

15 A. Notwithstanding any other law to the contrary relating to the authority of
16 local governments to enforce construction codes, all municipalities and parishes in
17 this state shall enforce only the construction codes provided for in this Part, except
18 as provided in R.S. 40:1730.39(B). All municipalities and parishes shall use building
19 code enforcement officers or certified third-party providers contracted by the
20 municipality, parish, or regional planning commission to act in the capacity of a
21 building code enforcement officer to enforce the provisions of this Part.

1 Enforcement procedures by building code enforcement officers or third-party
 2 providers acting in the capacity of a building code enforcement officer shall include
 3 examination or review of plans, drawings, or specifications; the conducting of
 4 inspections; and the issuance, denial, or revocation of permits. A building code
 5 enforcement officer, third-party provider, or third-party provider contracted by a
 6 jurisdiction as provided for in R.S. 40:1730.24(A) shall not conduct plan review or
 7 inspections on a commercial or residential structure if such officer or provider owns
 8 any interest in the legal entity that constructed such commercial or residential
 9 structure or receives any compensation from the legal entity other than the fees that
 10 are charged for plan review or inspections. Nothing in this Subsection shall be
 11 construed to prevent a commercial or residential contractor or homeowner from
 12 using a third-party provider as provided for in R.S. 40:1730.24(B). Nothing in this
 13 Subsection shall be construed to prevent a commercial contractor or commercial
 14 owner from using the office of state fire marshal as a third-party provider as
 15 provided for in R.S. 40:1730.24(B) on commercial structures in any parish within the
 16 state with a population of less than forty thousand and whose boundaries lie
 17 completely north of the one hundred ten mile per hour wind line, as shown in the
 18 American Society of Civil Engineers (ASCE-7) basic wind speeds map published in
 19 the latest edition of the International Building Code.

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21 §1730.39. Powers of state fire marshal

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23 ~~B.(1) Nothing in this Part shall be construed so as to prevent the state fire~~
 24 ~~marshal from enforcing the fire protection, life safety, handicapped accessibility, and~~
 25 ~~high rise laws of this state, the enforcement of which are his statutory and regulatory~~
 26 ~~responsibility. The state fire marshal shall have exclusive authority for the~~
 27 ~~administration and enforcement of all laws, including any code adopted pursuant to~~
 28 ~~this Part, as those laws relate to life safety, flame spread and smoke development,~~
 29 ~~fire protection, fire protection systems, handicapped accessibility, and high rises,~~

1 excluding laws related to one- and two-family dwellings. Enforcement, as used in
2 this Subsection, shall include but not be limited to plan review and inspections. In
3 cases of practical difficulty or unreasonable economic hardship, the state fire marshal
4 may, upon appeal, allow alternative arrangements provided an equivalent level of life
5 safety and property protection is achieved to the satisfaction of the state fire marshal.

6 (2) Except as provided in R.S. 40:1730.29, the power of the state fire
7 marshal to administer and enforce these laws shall not be limited by this Part in any
8 manner. This Part shall not be construed as a limitation on any other power of the
9 state fire marshal that is established under any other section of law.

10 (3)(a) For purposes of this Section, "fire protection systems" shall mean
11 approved devices or equipment and systems, or a combination of systems, used to
12 detect a fire, activate an alarm, extinguish or control a fire, or control or manage
13 smoke and the products of a fire, or any combination thereof.

14 (b) For the purposes of this Section, "high rise" shall mean high rise
15 buildings as provided in R.S. 40:1641 et seq.

16 (4) For purposes of this Section, if any part of the state uniform construction
17 code duplicates, contradicts, or more strictly regulates an area under the jurisdiction
18 of the office of state fire marshal, the state fire marshal shall have exclusive authority
19 for the administration and enforcement of such laws. In cases of practical difficulty
20 or unreasonable economic hardship, the state fire marshal may, upon appeal, allow
21 alternative arrangements provided an equivalent level of life safety and property
22 protection is achieved to the satisfaction of the state fire marshal.

23 C. The state fire marshal shall have the authority to issue any order for
24 violation of the laws administered and enforced under this Section in the same
25 manner and in accordance with the provisions of R.S. 40:1561 et seq.

26 D. Nothing in this Part shall be construed so as to prevent the state fire
27 marshal from enforcing the Commercial Building Energy Conservation Code as
28 provided in R.S. 40:1730.41 et seq.

1 E. Nothing in this Part shall be construed so as to prevent the state fire
 2 marshal from enforcing the Louisiana Industrialized Building Act as provided in R.S.
 3 40:1730.51 et seq.

4 Section 2. This Act shall become effective upon signature by the governor or, if not
 5 signed by the governor, upon expiration of the time for bills to become law without signature
 6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 8 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Chandler

HB No. 132

Abstract: Establishes the authority of the office of state fire marshal to enforce all laws relating to life safety, flame spread and smoke development, fire protection, fire protection systems, handicapped accessibility, and high rises, excluding laws related to one- and two-family dwellings.

Present law provides that, notwithstanding any other law to the contrary relating to the authority of local governments to enforce construction codes, all municipalities and parishes in this state shall enforce only the construction codes provided for in present law.

Proposed law retains present law but provides an exclusion for those laws reserved for enforcement by the office of state fire marshal by proposed law.

Present law provides that nothing in present law shall be construed so as to prevent the state fire marshal from enforcing the fire protection, life safety, handicapped accessibility, and high rise laws of this state, the enforcement of which are his statutory and regulatory responsibility.

Proposed law provides that the state fire marshal shall have exclusive authority for the administration and enforcement of all laws, including any code adopted pursuant to proposed law, as those laws relate to life safety, flame spread and smoke development, fire protection, fire protection systems, handicapped accessibility, and high rises, excluding laws related to one- and two-family dwellings.

Proposed law provides that enforcement, as used in proposed law, shall include but not be limited to plan review and inspections.

Proposed law authorizes, in cases of practical difficulty or unreasonable economic hardship, the state fire marshal, upon appeal, to allow alternative arrangements provided an equivalent level of life safety and property protection is achieved to the satisfaction of the state fire marshal.

Proposed law provides that, except as provided in proposed law regarding construction or improvement of certain types of industrial facilities, the power of the state fire marshal to

administer and enforce these laws shall not be limited by proposed law in any manner. Proposed law shall not be construed as a limitation on any other power of the state fire marshal that is established under any other section of law.

Proposed law provides that, for purposes of proposed law, "fire protection systems" shall mean approved devices or equipment and systems, or a combination of systems, used to detect a fire, activate an alarm, extinguish or control a fire, or control or manage smoke and the products of a fire, or any combination thereof.

Proposed law provides that, for purposes of proposed law, "high rise" shall mean a high rise building as provided in proposed law regarding fire protection sprinkler system requirements in existing high rise buildings.

Proposed law provides that, for purposes of proposed law, if any part of the state uniform construction code duplicates, contradicts, or more strictly regulates an area under the jurisdiction of the office of state fire marshal, the state fire marshal shall have exclusive authority for the administration and enforcement of such laws.

Present law provides that nothing in present law shall be construed so as to prevent the state fire marshal from enforcing the Commercial Building Energy Conservation Code.

Proposed law retains present law.

Proposed law provides that nothing in proposed law shall be construed so as to prevent the state fire marshal from enforcing the La. Industrialized Building Act.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 40:1730.23(A) and 1730.39(B) and (C); Adds R.S. 40:1730.39(D) and (E))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Commerce to the original bill.

1. Made technical corrections.
2. Deleted the provision exempting Chapter 9- Fire Protection Systems and Chapter 10-Means of Egress of the International Building Code from the state uniform construction code.
3. Changed the authority of the fire marshal to allow alternative arrangements, upon appeal in cases of practical difficulty or unreasonable economic hardship, from the authority to accept alternatives provided a minimum acceptable level of life safety is achieved to the authority to accept alternatives provided an equivalent level of life safety and property protection is achieved.
4. Added an exception to the fire marshal's exclusive authority for construction or improvement of certain types of industrial facilities.
5. Defined "high rise" as a high rise building as provided in proposed law regarding fire protection sprinkler system requirements in existing high rise buildings.
6. Specified that, in instances where the state uniform construction code duplicates, contradicts, or more strictly regulates an area under the jurisdiction of the office of state fire marshal, the authority of the state fire marshal to administer and enforce those laws is exclusive.