



# Florida Division of State Fire Marshal

The Florida Fire Marshals and Inspectors Association,  
"Organization" (§633.026)

## **Informal Interpretation Request**

**Date:** 6/6/23

**NFPA Document Number:** NFPA 101

**Paragraph Reference:** F.S. 429.435

***Explain how the Petitioner's substantial interests are being affected by the LFO's interpretation of the NFPA citation above:***

As the LFO and petitioner, I believe that the "Legacy facility" information found in the referenced section of FAC applies to buildings that were permitted or obtained a Certificate of Occupancy on or before July 1, 2016, as documented in Florida Statute 429.435(d). As stated, a facility opting to remain under such Legacy provisions may make repairs, modernizations, renovations, or additions to, or rehabilitate, the facility in compliance with NFPA 101, 1994 Edition. The facilities "Legacy" status pertain to the buildings which were permitted or occupied on or before July 1, 2016 and not the business and their ability to construct new buildings under the older codes.

***Enter the Petitioner's question concerning an interpretation of the FFPC:***

An owner of a licensed Assisted Living Facility is contending that since the business has chosen to be "Legacy" facility with their existing buildings, which were permitted prior to July 1, 2016, they can continue to operate their facility and build new buildings under the 1994 Edition of NFPA 101 and 1995 Edition of NFPA 101A. Our position as the local AHJ is that they may utilize the Legacy status for their previously occupied buildings but, any new construction shall be permitted and reviewed under the current Florida Fire Prevention Code. ***May an Assisted Living Facility owner, with a previously licensed ALF prior to July 1, 2016, and classified as a Legacy facility permit and build a new building utilizing the 1994 Edition of NFPA 101?***

Answer: No

The definition listed in 69A-40.007 says "Legacy facility" means any ALF that has elected to comply with the option afforded in Section 429.41(1)(a)2.d., FS is below.

### **F.S. 429.435**

(d) An assisted living facility that ***was issued a building permit or certificate of occupancy before July 1, 2016***, at its option and after notifying the authority having jurisdiction, may remain under the provisions of the 1994 and 1995 editions of the National Fire Protection Association, Life Safety Code, NFPA 101 and 101A. A facility opting to

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Rulings herein expressed are not the formal position of the Florida State Fire Marshal's Office

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remain under such provisions may make repairs, modernizations, renovations, or additions to, or rehabilitate, the facility in compliance with NFPA 101, 1994 edition, and may utilize the alternative approaches to life safety in compliance with NFPA 101A, 1995 edition. However, a facility for which a building permit or certificate of occupancy was issued before July 1, 2016, which undergoes Level III building alteration or rehabilitation, as defined in the Florida Building Code, or which seeks to utilize features not authorized under the 1994 or 1995 editions of the Life Safety Code, shall thereafter comply with all aspects of the uniform fire safety standards established under s. 633.206 and the Florida Fire Prevention Code in effect for assisted living facilities as adopted by the State Fire Marshal.

Florida Statute refers to the facility, not the business entity. The "facility" can opt to be considered a legacy facility, not the corporation in part or whole. The statute does not say a legacy facility extends to new buildings. Any new building will be issued a permit and/or CO after July 1, 2016, so they cannot choose to have the new building as a legacy facility. In addition, the statute does say if an existing facility undergoes a level III alteration or rehabilitation it has to comply with new facility requirements.

**Region 1** - Delegate: **Byron Bennett**, Fire Chief North Bay Fire Control District  
Alternate: **William (Michael) Hall**, Fire Chief, Marianna Fire Rescue

**Region 2** – **Jason R. Greis** Division Chief of Fire Prevention/Fire Marshal Tallahassee Fire

**Region 3** - Delegate: **James Groff**, Jacksonville Fire Rescue.  
Alternate:

**Region 4** - Delegate: **Cheryl Edwards**, Lakeland Fire Rescue  
Alternate: **Karl Thompson**

**Region 5** - Delegate: **Anthony Apfelbeck**, Altamonte Springs Building and Fire Safety Department  
Alternate: **Christina Diaz**, Seminole County Fl.

**Region 6** - Delegate: **Robert Salvaggio**, Cape Corral Fire Rescue  
Alternate: **Janet Washburn**,

**Region 7** - Delegate: **(Kenneth) Sean Brown**, Broward Sheriff Fire Rescue & Emergency Services Department

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## Committee Region Map



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