

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1374

By: Paxton

AS INTRODUCED

An Act relating to the State Fire Marshal; amending 74 O.S. 2021, Section 317, which relates to the examination of certain buildings and premises; expanding and clarifying jurisdiction; updating agency name; amending 74 O.S. 2021, Section 324.11, which relates to building permits; removing and replacing certain building classifications; amending 74 O.S. 2021, Section 324.19, which relates to violations; expanding the list of entities who care subject to the jurisdiction of the State Fire Marshal; establishing procedure for hearings; providing for district court review; requiring fines to be deposited into the State Fire Marshal Revolving Fund; amending 74 O.S. 2021, Section 324.20b, which relates to the State Fire Marshal Revolving Fund; removing fund cap; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 74 O.S. 2021, Section 317, is amended to read as follows:

Section 317. The State Fire Marshal, any assistants to the State Fire Marshal, the chief of the fire department of all the cities and towns where a fire department is established, the mayor of the cities and towns where no fire department exists, the chief of a fire protection district created pursuant to Sections 901.1 et

1 seq. of Title 19 of the Oklahoma Statutes and the sheriff of all  
2 counties, upon the complaint of any person having an interest in any  
3 building or property adjacent, and without any complaint, shall have  
4 the right at all reasonable hours for the purpose of an examination  
5 to enter into and upon all buildings and premises within their  
6 jurisdiction. The State Fire Marshal shall, at least once each  
7 year, make a fire inspection of all correctional facilities under  
8 the jurisdiction and control of any state agency, county, city ~~or~~,  
9 town, or public trust. The correctional facilities shall include,  
10 but not be limited to, institutions within the Department of  
11 Corrections as defined by Section 502 of Title 57 of the Oklahoma  
12 Statutes, juvenile institutions under the jurisdiction and control  
13 of the ~~Department~~ Office of ~~Institutions, Social and Rehabilitative~~  
14 ~~Services~~ Juvenile Affairs, as listed in Section 2-7-606 of Title 10A  
15 of the Oklahoma Statutes, and jails. The State Fire Marshal shall  
16 issue a report containing findings of the inspection as to each  
17 facility under the jurisdiction and control of a state agency, to  
18 the director of the agency. As to any other correctional facility,  
19 the State Fire Marshal shall issue the report to the person  
20 immediately responsible for the administration of the facility  
21 inspected. Whenever any of the officers shall find any building or  
22 other structure which for the want of proper repair, or by reason of  
23 age and dilapidated condition, or for any cause is especially liable  
24 to fire, and which is so situated as to endanger other buildings or

1 property, or so occupied that a fire would endanger persons and  
2 property therein, the officers shall order the building or buildings  
3 to be repaired, torn down, demolished, materials removed and all  
4 dangerous conditions remedied. Whenever the officers determine that  
5 a threat to life is imminent, the officers are permitted to order  
6 the evacuation of the occupants of the building or buildings. If  
7 the officer finds in a building or upon any premises any combustible  
8 or explosive material, rubbish, rags, waste, oils, gasoline or  
9 inflammable conditions of any kind, dangerous to the safety of  
10 buildings or property, the officer shall order the materials removed  
11 or conditions remedied. The order shall be made against the owner,  
12 lessee, agent or occupant of the buildings or premises and,  
13 thereupon, the order shall be complied with by the owner, lessee,  
14 agent or occupant, and within the time fixed in the order. If the  
15 owner, lessee, agent or occupant deems itself aggrieved by an order  
16 of any of the officers, and desires a hearing, that person may  
17 complain or appeal in writing to the State Fire Marshal within ten  
18 (10) days from the service of the order, and the State Fire Marshal  
19 shall at once investigate the complaint, and shall fix a time in the  
20 county where the property is located, when and where the complaint  
21 will be heard by the State Fire Marshal. The State Fire Marshal may  
22 affirm, modify, revoke or vacate the order at the hearing, and  
23 unless the order is revoked or vacated by the State Fire Marshal, it  
24 shall remain in force and be complied with by the owner, lessee,

1 agent or occupant within the time fixed in the order, or within the  
2 time as may be fixed by the State Fire Marshal at the hearing. If a  
3 person is aggrieved by the final order of the State Fire Marshal as  
4 made at the hearing, that person may, within ten (10) days  
5 thereafter, appeal to the district court of the county in which the  
6 property is situated, notifying the State Fire Marshal in writing of  
7 the appeal within three (3) days thereafter, which notice shall be  
8 delivered personally to the State Fire Marshal or by registered mail  
9 to the office of the State Fire Marshal at Oklahoma City, Oklahoma.  
10 The party appealing shall, within three (3) days thereafter, file  
11 with the clerk of the district court in which the appeal is made, a  
12 bond in an amount to be fixed by the court but in no case less than  
13 One Hundred Dollars (\$100.00), with at least sufficient sureties to  
14 be approved by the court, conditioned to pay all costs on the appeal  
15 in case the appellant failed to sustain the same or the appeal be  
16 dismissed for any cause. The district court shall hear and  
17 determine the appeal de novo, in the same manner as other issues of  
18 law and fact are heard and tried in the courts, and the State Fire  
19 Marshal shall be plaintiff in the action. The district court shall  
20 hear and determine the appeal at the next regular term of district  
21 court in the county where the order was issued, and may sustain,  
22 modify or annul the order of the State Fire Marshal, and the  
23 decision of the district court shall be final. The State Fire  
24 Marshal shall execute the final order of the district court, and if

1 the order is adverse to the appellant, the State Fire Marshal is  
2 empowered to cause the building or premises to be repaired, torn  
3 down, demolished, materials removed and all dangerous conditions  
4 remedied, as the case may be, at the expense of the appellant. If  
5 the appellant fails, refuses or neglects to comply with the order,  
6 or pay the expense incurred by the State Fire Marshal in executing  
7 the same within thirty (30) days thereafter, the expense shall be  
8 certified by the State Fire Marshal to the county assessor of the  
9 county in which the property is situated and the county assessor  
10 shall enter the expense on the tax list of the county as a special  
11 charge against the real estate on which the building is or was  
12 situated, and the same shall be collected as other taxes and, when  
13 collected, shall be paid to the county treasurer and credited to the  
14 general fund of the county in which the property is located. Any  
15 person being the owner, occupant, lessee or agent of buildings or  
16 premises, who willfully fails, neglects or refuses to comply with  
17 any order of any officer named in this section shall be guilty of a  
18 misdemeanor and shall be fined not more than Fifty Dollars (\$50.00)  
19 nor less than Ten Dollars (\$10.00) for each day's neglect.

20 SECTION 2. AMENDATORY 74 O.S. 2021, Section 324.11, is  
21 amended to read as follows:

22 Section 324.11. A. No person, firm, corporation, partnership,  
23 organization, city, town, school district, county or other  
24 subdivision of government shall commence the construction or major  
25

1 alteration of any buildings or structures ~~to be used as schools,~~  
2 ~~hospitals, churches, asylums, theaters, meeting halls, hotels,~~  
3 ~~motels, apartment houses, rooming houses, rest homes, nursing homes,~~  
4 ~~day nurseries, convalescent homes, orphanages, auditoriums, assisted~~  
5 ~~living facilities, dormitories, factories, stadiums, or warehouses,~~  
6 classified in the state-adopted building codes as Assembly (Groups  
7 A1 through A5), Business (Group B), Educational (Group E), Factory  
8 (Groups F1 and F2), High Hazard (Groups H1 through H5),  
9 Institutional (Groups I1 through I4), Mercantile (Group M),  
10 Residential (Groups R1 through R4), or Storage (Groups S1 and S2)  
11 including all defined occupancies within these groups, or install  
12 original equipment for the operation or maintenance thereof without  
13 obtaining a permit. ~~Said~~ The permit, for which a charge may be made  
14 in conformity with the local ordinance, except as limited herein as  
15 to governmental agencies, shall be obtained from the city, town or  
16 county in whose jurisdiction the construction or alteration is  
17 planned.

18 B. All such construction or alteration so planned shall conform  
19 to the applicable provisions of the building code, as last adopted  
20 by the Oklahoma Uniform Building Code Commission.

21 C. Application for such building permit shall be made to, and  
22 such building permit shall be issued by, any city, town or county in  
23 whose jurisdiction the construction or alteration is planned. The  
24 city, town or county may require the submission of plans and

1 specifications covering the proposed construction or alteration and  
2 may refuse to issue such permit unless the work so planned is in  
3 accordance with the applicable provisions of the city, town or  
4 county's building code. In all geographical areas wherein no such  
5 permit is required by local authorities such permit must be obtained  
6 from the State Fire Marshal, who may require the submission of plans  
7 and specifications covering the proposed construction or alteration,  
8 and shall refuse to issue such permit unless the work so planned is  
9 in accordance with the applicable provisions of the building code,  
10 as last adopted by the Oklahoma Uniform Building Code Commission;  
11 provided, that the foregoing provisions of this sentence shall not  
12 apply to locations in any geographical area that are owned or  
13 operated by a state beneficiary public trust or have been purchased  
14 or leased from a state beneficiary public trust.

15 D. Nothing in ~~this act~~ Section 324.1 et seq. of this title  
16 shall be construed as repealing any ordinance of any city, town, or  
17 any order of any county requiring the submission to the local  
18 authorities of plans and specifications and the obtaining of  
19 permits, but the power or authority of any such city, town or county  
20 to levy or assess any charge for such permit or to make and enforce  
21 requirements prerequisite to the issuance of such permit, other than  
22 requiring compliance with such building code, shall, as to  
23 governmental agencies, be limited as hereinafter set forth.  
24

1 E. No city, town or county requested to issue any such permit  
2 to any city, town, school district, county or other subdivision of  
3 government shall charge, assess or collect any fee or other charge  
4 for such permit except the regular and customary inspection fees  
5 fixed by ordinance for inspection of the work to be done under such  
6 permit, and no other charge, fee or other conditions of any kind  
7 under the authority of this title shall be made a condition of or  
8 prerequisite to the obtaining of such permit by any such  
9 governmental agency.

10 F. No bids may be let for the construction or major alteration  
11 of any correctional facility as defined by Section 317 of this title  
12 until plans and specifications for such construction or alteration  
13 have been submitted to the State Fire Marshal for approval. The  
14 State Fire Marshal shall approve ~~said~~ the plans and specifications  
15 if the work so planned conforms with the applicable provisions of  
16 the building code, as last adopted by the Oklahoma Uniform Building  
17 Code Commission.

18 G. 1. Notwithstanding anything to the contrary in the fire  
19 code and/or building code, as last adopted by the Oklahoma Uniform  
20 Building Code Commission, all facilities to be licensed as assisted  
21 living facilities, or additions to existing assisted living  
22 facilities, constructed after November 1, 2008, shall be constructed  
23 with the guidelines of the I-II building occupancies if at any time  
24 in their operation they house residents who are not capable of



1 responding to emergency situations without physical assistance from  
2 staff of the facility or are not capable of self preservation.

3 2. Assisted living facilities licensed prior to July 1, 2008,  
4 may house residents who are not capable of responding to emergency  
5 situations without physical assistance from the staff or are not  
6 capable of self preservation under the following conditions: As  
7 part of the annual licensure renewal process, the facility shall  
8 disclose if any residents who reside in the facility are not capable  
9 of responding to emergency situations without physical assistance  
10 from staff or are not capable of self preservation, and the facility  
11 shall be required to install fire sprinkler protection and an alarm  
12 system within the facility in accordance with the building  
13 guidelines set forth in the building code for I-II facilities.

14 3. Assisted living facilities licensed to house six or fewer  
15 residents prior to July 1, 2008, shall be permitted to install 13D  
16 or 13R fire sprinkler protection in lieu of meeting I-II sprinkler  
17 requirements, with approval of the municipal fire marshal or  
18 compliance with local codes.

19 4. For purposes of this subsection:

20 a. the term "assisted living center" shall include an  
21 assisted living center licensed as such by the State  
22 Department of Health and the assisted living center  
23 component of a continuum care facility licensed by the  
24 State Department of Health, and

b. the terms "fire code" and "building code" shall be deemed to include:

(1) any and all appendices, commentary, amendments and supplements to, and replacements or restatements of the Codes, and

(2) any and all other laws, ordinances, regulations, codes or standards pertaining to assisted living center construction, occupancy and maintenance for the protection of lives and property from fire.

SECTION 3. AMENDATORY 74 O.S. 2021, Section 324.19, is amended to read as follows:

Section 324.19. Any person, firm ~~or~~, corporation, partnership, organization, city, town, school district, county or other subdivision of government who fails to comply with the provisions of Section 1 of this act 324.11 of this title or any lawful order of the State Fire Marshal shall be subject to payment of a fine of not more than One Thousand Dollars (\$1,000.00) for each day's failure to comply; ~~with this act.~~ provided, that any person or entity described above who is fined shall have the right to a hearing. The hearing request may be submitted in writing to the State Fire Marshal within ten (10) business days of the fine notice and shall be heard by the State Fire Marshal. After the hearing the State Fire Marshal shall issue a proposed order containing proposed findings of fact which

1 shall be presented to the State Fire Marshal Commission at the next  
2 scheduled meeting at least ten (10) business days after the issuance  
3 of the proposed order. The State Fire Marshal Commission may adopt,  
4 modify or deny, in whole or in part, the proposal from the State  
5 Fire Marshal, and the Commission shall issue a final order  
6 containing findings of fact and give notice to the parties involved  
7 as soon as practical after issuance. Any party aggrieved by the  
8 final order of the State Fire Marshal Commission may appeal to the  
9 district court of the county in which the party seeking review  
10 resides or where the property interest affects is situated in  
11 accordance with Section 318 of Title 75 of the Oklahoma Statutes.  
12 The process supersedes any hearing or appeal section in the state-  
13 adopted building and fire codes. Fine collections shall be  
14 deposited in the State Fire Marshal Revolving Fund created in  
15 Section 324.20b of this title.

16 SECTION 4. AMENDATORY 74 O.S. 2021, Section 324.20b, is  
17 amended to read as follows:

18 Section 324.20b. There is hereby created in the State Treasury  
19 a revolving fund for the State Fire Marshal to be designated the  
20 "State Fire Marshal Revolving Fund". The fund shall be a continuing  
21 fund, not subject to fiscal year limitations, and shall consist of  
22 monies received from the sale of surplus property, fees and receipts  
23 collected pursuant to the Oklahoma Open Records Act, fines,  
24 forfeitures, fees, charges, receipts, donations, gifts, bequests,

1 contributions, devises, interagency reimbursements, federal funds  
2 unless otherwise provided by federal law or regulation, or any other  
3 source. ~~The fund shall consist of no more than Five Hundred Fifty~~  
4 ~~Thousand Dollars (\$550,000.00).~~ All monies accruing to the credit  
5 of the fund are hereby appropriated and may be budgeted and expended  
6 by the State Fire Marshal for authorized purposes. Expenditures  
7 from the fund shall be made upon warrants issued by the State  
8 Treasurer against claims filed as prescribed by law with the  
9 Director of the Office of Management and Enterprise Services for  
10 approval and payment.

11 SECTION 5. This act shall become effective November 1, 2022.

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