

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 2100

INTRODUCER: Community Affairs Committee and Senator Bennett

SUBJECT: Florida Building Code

DATE: March 24, 2009

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Molloy	Yeatman	CA	Fav/CS
2.			RI	
3.			BI	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The CS/SB 2100 (the bill) revises requirements relating to existing elevators in condominiums and provides for a uniform lock box as an alternative method to address regional emergency elevator access. Effective July 1, 2010, the bill revises provisions for home inspection services, including licensing requirements and fee increases, and provides that licensed home inspectors can qualify as wind certification entities for hurricane mitigation inspections under the My Safe Florida Home Program in the Department of Financial Services.¹ Shutter requirements for homes in a “wind-borne debris region” are repealed.

The bill authorizes the Florida Building Commission (commission) to adopt amendments to the Florida Building Code out of cycle for specified purposes. The bill revises requirements relating to product evaluation and approval, and revises the list of entities approved to conduct product evaluations. The bill deletes a provision requiring the commission to complete the rulemaking process by July 1, 2009, to adopt by rule the criteria used to approve evaluation entities that use the commission’s product evaluation process. A provision adding the International Association

¹ Section 215.5586, F.S.

of Plumbing and Mechanical Officials Evaluation Services as an approved product evaluation entity is also deleted, and the bill repeals outdated requirements for a core curriculum course.

This bill substantially amends the following sections of the Florida Statutes: 215.5586, 399.02, 399.15, 468.8311, 468.8312, 468.8319, 468.832, 468.8324, 471.0195, 489.115, 489.1455, 489.517, 627.351, 553.37, 553.375, 553.73, 553.74, 553.76, 553.775, 553.79, 553.841, 553.842, 553.80, and 553.885.

This bill repeals the following sections of the Florida Statutes: 468.627(6), 481.215, 481.313, and 718.113(6), and creates one undesignated section of law.

II. Present Situation:

Elevator Safety— The “Elevator Safety Act” in chapter 399, F.S., provides the minimum standards for elevator personnel and provides that elevator personnel performing work covered by the Florida Building Code must possess documented training and experience or both, and be familiar with the operation and safety functions of the components and equipment. The Department of Business and Professional Regulation is empowered to carry out all of the provisions of the chapter relating to the inspection and regulation of elevators and to enforce the provisions of the Florida Building Code. These departmental responsibilities fall to the Division of Hotels and Restaurants.

Each elevator must comply with the edition of the Florida Building Code in effect at the time of receipt of application for the construction permit of the elevator. Each alteration to or relocation of an elevator must comply with the edition of the Florida Building Code in effect at the time of receipt of the application for the construction permit to alter or relocate the elevator. Each time an elevator is reclassified, the elevator must be in compliance with the provisions of the code in effect at the time of receipt of the application for the construction permit for the change in classification.

Regional Emergency Elevator Access— In 2004, the Legislature enacted 2004-12, Laws of Florida, to provide for regional emergency elevator access in response to recommendations from the Florida Building Commission which was directed to identify and research issues related to the universal key concept for primary elevators.² Section 339.15, F.S., provides that for each building in the state which is six or more stories in height on which construction was to begin after June 30, 2004, all of the keys for elevators that allow public access, including service and freight elevators, must be keyed so as to allow all elevators within each of the seven state emergency response regions to operate in a fire-emergency with one master elevator key. Each existing building in the state was required to comply by July 1, 2007. Master elevator keys could only be provided to the elevator owners, the owner’s agents, elevator contractors, state-certified inspectors, state agency representatives, and the fire department. The Division of State Fire Marshal enforces these requirements.

Home Inspectors— In 2007, the Legislature enacted Chapter 2007-235, Laws of Florida, to provide, in part, for the licensure and regulation of private home inspectors effective July 1,

² Section 33 of chapter 2001-186, Laws of Florida.

2010. The Department of Business and Professional Regulation was authorized to adopt rules to establish fees to be paid for applications, examination, reexamination, licensing and renewals, and administrative services. The initial application and examination fee may not exceed \$125 plus the actual per applicant cost to the department to purchase an examination. The application fee is non-refundable. The initial license fee and the biennial renewal fee may not exceed \$200. Licensing and continuing education requirements are provided, as are certificates of authorizations for corporations offering home inspection services to the public. After July 1, 2010, a person who performs home inspection services must be licensed by the department.

Florida Building Commission— The commission is established in ch. 553, F.S., and charged with adopting and maintaining the Florida Building Code as a single, unified state building code, and with enforcing requirements that provide effective and reasonable protection for the public safety, health and welfare. The commission consists of 24 members appointed by the governor to represent the various disciplines governed by the requirements of the building code, as well as local governments and code enforcement officials, the insurance industry, and the Department of Financial Services, and one member appointed by the governor to serve as chair of the commission.

Powers of the Florida Building Commission— Pursuant to subsection (1)(f) of s. 553.77, F.S., the commission is provided with the authority to determine the types of products which may be approved for statewide use. The commission must provide for the evaluation and approval of such products, materials, devices, and method of construction for such statewide use, and may prescribe by rule a schedule of reasonable fees to provide for the evaluation and approval of products, materials, devices, and methods of construction. Evaluation and approval must be done by action of the commission or delegated under the provisions of s. 553.842, F.S.

Product Evaluation and Approval— Section 553.842, F.S., provides the commission with the authority to adopt rules to develop a product evaluation and approval system that applies statewide to operate in coordination with the Florida Building Code. Rules relating to product approval are contained in chapter 9B-72, Florida Administrative Code.

The commission is authorized to enter into contracts to provide for administration of the product evaluation and approval system, and the system must rely on national and international consensus standards, whenever such standards are adopted into the Florida Building Code, to demonstrate compliance with code standards. Other standards which meet or exceed state requirements must also be considered.³ Methodology for statewide approval of products, methods, or systems of construction are provided.

The commission is required to maintain a list of the state-approved products, product evaluation entities, testing laboratories, quality assurance agencies, certification agencies, and validation entities. In addition, the commission is authorized to adopt a rule that identifies standards that are equivalent to or more stringent than those specifically adopted by the Florida Building Code, thereby allowing the use in this state of the products that comply with the equivalent standard.

³ Equivalence of standards for product approval are standards for products which meet or exceed the standards referenced in the Florida Building Code, and which are certified as equivalent for purposes of determining code compliance. (Chapter 9B-72.180, F.A.C.)

In 2008, the Legislature enacted chapter 2008-191, Laws of Florida, relating to building code standards. The commission was directed to review the list of product evaluation entities and recommend additions to the list, or report on the evaluation criteria used to approve the evaluation entities. Any rulemaking to adopt such criteria into rule is to be completed by July 1, 2009.

The legislation further provided that the International Association of Plumbing and Mechanical Officials Evaluation Services was approved as an evaluation entity until October 1, 2009. If the association was not permanently approved by the commission as an evaluation entity by that date, products approved on the basis of an association evaluation had to be substituted by an alternative, approved entity by December 31, 2009. Effective January 1, 2010, any product approval issued by the commission based on an association evaluation is void.

Citizens Shutter Requirements for Residential Property in the Wind Borne Debris Region (WBDR-- Section 657.351 (6)(a), F.S., requires that all residential structures located in the WBDR and with coverage amounts of \$750,000 or greater, meet the opening protection requirements of the Florida Building Code to be eligible for a Citizens policy. The wind-borne debris protection region is any area where the basic design wind speed is 120 mph or greater and any area within one mile of the coast where the wind speed is less than 120 mph but greater than 110 mph.

Condominiums— Section 718.113(6), F.S., provides that any “condominium building greater than three stories in height, at least every five years, and within five years if not available for inspection on Oct. 1, 2008, the board shall have the condominium building inspected to provide a report under seal of an architect or engineer authorized to practice in this state attesting to required maintenance, useful life, and replacement costs of the common elements. However, if approved by a majority of the voting interests present at a properly called meeting of the association, an association may waive this requirement. Such meeting and approval must occur prior to the end of the five-year period and is effective only for that five-year period.”

Carbon Monoxide Alarms— Section 553.885, F.S., requires that certain buildings for which a building permit is issued for new construction on or after July 1, 2008 and having a fossil-fuel-burning heater or appliance, a fireplace or an attached garage shall have an approved operational carbon monoxide alarm installed within 10 feet of each room used for sleeping purposes.

III. Effect of Proposed Changes:

Section 1. Amends subsection (6) of s. 339.02, F.S., to provide that the Division of Hotels and Restaurants may not impose updates to the Florida Building Code requiring modifications of heat sensors and electronic controls on existing elevators in condominiums, as amended into the Safety Code for Existing Elevators and Escalators, ANSI/ASME A17.1 and A17.3, until such time as the elevator is replaced. Provides that the exception does not apply to any building for which a building permit was issued after July 1, 2008.

Section 2. Creates a new subsection (7) in s. 339.15, F.S., to create an alternative method of providing regional emergency elevator access by allowing the installation of a uniform lock box to hold all elevators' keys. The fire department will have the key to the uniform lock box.

Section 3. Amends s. 468.8311, F.S., effective July 1, 2010, to revise the definition of “home inspection services” to include the inspection of windows, doors, walls, floors, and ceilings.

Section 4. Amends s. 468.8312, F.S., effective July 1, 2010, to provide the following fee increases:

The maximum fee for an initial application and examination is raised from \$125 to \$250.

The maximum fee for an initial home inspector license is raised from \$200 to \$400.

The maximum biennial fee for renewal of a license is raised from \$200 to \$400.

The maximum fee for licensure by endorsement is raised from \$200 to \$400.

The maximum fee for application for inactive status is raised from \$200 to \$400.

The maximum fee for providers of continuing education remains unchanged at a maximum of \$500.

Section 5. Amends s. 468.8319, F.S., effective July 1, 2010, to provide that no person may perform home inspections without meeting the requirements of part XV of chapter 468, F.S., relating to home inspections.

Section 6. Amends s. 468.832, F.S., effective July 1, 2010, to correct a cross-reference.

Section 7. Amends s. 468.8324, F.S., to provide additional requirements which must be met by persons performing home inspection services in order to qualify for a license prior to the new licensing requirements taking effect July 1, 2010.

Section 8. Amends s. 215.5586, F.S., effective July 1, 2010, to provide that a licensed home inspector is an entity qualified for selection as a wind certification entity by the Department of Financial Services to provide hurricane mitigation inspections under the My Safe Florida Home Program.

Section 9. Amends s. 627.351, F.S., to repeal requirements that homes located in the “wind-borne debris region,” and having an insured value of \$750,000 or more, have opening protections as required under the Florida Building Code in order to be eligible for coverage by Citizens Property Insurance Corporation.

Section 10. Repeals subsection (6) of s. 718.113, F.S., relating to 5-year inspections of the common elements in condominiums.

Section 11. Amends s. 553.37, F.S., to authorize the Department of Community Affairs to identify, by rule as opposed to within the Florida Building Code, appropriate circumstances in which to apply more permissive inspection criteria for manufactured buildings, so long as the inspection criteria applicable to manufactured buildings are consistent with the requirements of code, and account for the repetitive nature of the manufacturing activity, the observed violations of the code, or deviations from rules.

Authorizes the Department of Community Affairs to provide by rule for manufacturers to pay fees to the administrator directly, including charges incurred for plans review and inspection services, via the Building Code Information System, and for the administration to disburse funds

as necessary. The department is authorized to enter into contracts for the performance of administrative duties relating to the inspection and certification of manufactured buildings.

Reinstates local jurisdiction for one-of-a-kind manufactured buildings which was inadvertently deleted in 2008.

Section 12. Amends s. 553.375, F.S., to provide that manufactured buildings certified by the Department of Community Affairs to restrict recertification due to relocation to those circumstances where the building is being relocated to a site with a higher design wind speed.

Section 13. Amends s. 553.73, F.S., to allow the Florida Building Commission to approve amendments to the code during the “glitch cycle” to address equivalence of standards and amendments necessary to accommodate the specific needs of state agencies when agency rules must be updated to reflect federal requirements relating to design criteria for public educational facilities and state licensed facilities. Provides an exemption to Florida Building Code requirements for temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.

Provides that the code may not require that an existing air conditioning system installed on a roof be raised 18 inches up from the surface on which they are installed until such time as the system is replaced. Provides that another agency or local government with the authority to enforce the Florida Building Code may not require otherwise.

Section 14. Amends s. 553.74, F.S., to allow members of the Florida Building Commission’s technical advisory groups, or other advisor committees or workgroups, to appear before the commission in a professional capacity without creating a conflict of interest so long as such member is not part of a discussion or takes part in any activity on any matter in which the member has a direct financial interest.

Section 15. Amends s. 553.76, F.S., to authorize the Florida Building Commission to adopt rules related to its consensus-based decision making process to provide for super majority voting requirements.

Section 16. Amends s. 553.775, F.S., to authorize the Florida Building Commission to adopt by rule and impose a fee for nonbinding interpretations of the code. The fee may not exceed \$250.

Section 17. Amends s. 553.79, F.S., to provide that inspection services performed by a state agency must be delegated to a local government or an alternative service provider unless such inspections are conducted under a federal delegation of responsibility or are required to be conducted by the agency under the Florida Building Code.

Section 18. Amends s. 553.841, F.S., to eliminate outdated requirements for the core curriculum course that is a prerequisite to the advanced module coursework for each profession as developed by the department to administer the Florida Building Code Compliance and Mitigation Program.

Section 19. Amends s. 553.842, F.S., to provide that the rules of the Florida Building Commission relating to product evaluation and approval may provide for the payment of fees

directly to the commission's contract administrator, and the contract administrator shall remit the appropriate portion of the fee to the Department of Community Affairs.

Provides that an application for state approval of a product must be approved by the Department of Community Affairs after commission staff or a designee verifies within 10 days after receipt of the application, that the application and related documentation are complete. Once the product is approved, it must be immediately added to the list of state-approved products. Departmental approvals must be reviewed and ratified by the commission's program oversight committee except for a showing of good cause.

Adds the International Association of Plumbing and Mechanical Officials Evaluation Services to the list of product evaluation entities, and removes the International Conference of Building Officials Evaluation Services, the Building Officials and Code Administrators International Evaluation Services, and the Southern Building Code Congress International Evaluation Services as evaluation entities. Outdated review and reporting requirements relating to the list of approved entities are deleted.

Section 20. Amends s. 553.885, F.S., to clarify that requirements for carbon monoxide alarms are applied to buildings constructed after July 1, 2008, and apply to buildings with other features, fixtures, or elements that emit carbon monoxide as a byproduct of combustion. Alarms must be installed within 10 feet of each room used for sleeping purposes or at such other location as required under the Florida Building Code. Alarm requirements are met by the installation of a battery powered carbon monoxide alarm or a battery powered combination carbon monoxide and smoke alarm.

Sections 21. thru 28. Amend or repeal various sections of statute relating to the repeal of the core curriculum course requirements in section 18 of the bill.

Section 29. Reenacts subsection (1) of s. 553.80, F.S., to incorporate amendments made to s. 553.79, F.S.

Section 30. Directs the Florida Building Commission to adjust the Florida Building Code for consistency with the revisions to s. 339.02, F.S.

Section 31. Provides that except as otherwise provided, the act shall take effect July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Members of the building industry will benefit from the product approval revisions.

C. Government Sector Impact:

The fiscal impact of this bill on state and local government is indeterminate at this time, but is expected to be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 24, 2009:

The committee substitute revises every provision of the original bill and adds provisions relating to:

- Elevator safety.
- Opening protection requirements for homes in a “wind-borne debris region.”
- 5-year inspections of the common elements of a condominium.
- Amendments to the Florida Building Code.
- Revisions to home inspection services.
- Product evaluation and approval, and product evaluation and approval entities.
- Manufacture buildings.
- The repeal core curriculum course requirements.
- Carbon monoxide alarms.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
