

LEGISLATIVE ACTION

Senate Comm: RCS 04/21/2021 House

The Committee on Rules (Brodeur) recommended the following: Senate Amendment (with title amendment) Delete lines 460 - 930 and insert: (b) The commission may issue errata to the code pursuant to the rule adoption procedures in chapter 120 to list demonstrated errors in provisions contained within the Florida Building Code. The determination of such errors and the issuance of errata to the code must be approved by a 75 percent supermajority vote of the commission. For purposes of this paragraph, "errata to the

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code" means a list of errors in current and previous editions of

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12	the Florida Building Code.
13	Section 4. Subsection (7) of section 553.77, Florida
14	Statutes, is amended to read:
15	553.77 Specific powers of the commission
16	(7) Building officials shall recognize and enforce variance
17	orders issued by the Department of Health <u>under s. 514.0115(9)</u>
18	pursuant to s. 514.0115(8), including any conditions attached to
19	the granting of the variance.
20	Section 5. Paragraph (d) is added to subsection (1) of
21	section 553.79, Florida Statutes, and subsection (23) is added
22	to that section, to read:
23	553.79 Permits; applications; issuance; inspections
24	(1)
25	(d) A local government may not require a contract between a
26	builder and an owner for the issuance of a building permit or as
27	a requirement for the submission of a building permit
28	application.
29	(23) Notwithstanding any law, regulation or ordinance, a
30	local government may not prohibit or otherwise restrict the
31	ability of a property owner to obtain a building permit to
32	demolish and replace any single-family residential dwelling
33	located in a coastal high hazard area, moderate flood zone, or
34	special flood hazard area according to the Federal Emergency
35	Management Agency's Flood Insurance Rate Map if the lowest floor
36	elevation of the dwelling is at or below the property's base
37	flood elevation plus one foot pursuant to Florida Building Code
38	or pursuant to local ordinance, whichever is higher, and all
39	other Florida Building Code requirements are met. Demolition
40	permits issued under this section may only be reviewed

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administratively for compliance with the Florida Building Code 41 42 and other applicable construction regulations, and are not 43 subject to any additional land development regulation or zoning 44 approval that requires a public hearing before the issuance of 45 the permit. Local governments may not impose additional 46 regulatory requirements on the replacement single-family 47 residential dwelling which would not otherwise be applicable to 48 a similarly situated vacant parcel and may not penalize the 49 owner for such demolition. Section 6. Present subsections (10) through (19) of section 50 51 553.791, Florida Statutes, are redesignated as subsections (11) 52 through (20), respectively, a new subsection (10) and subsection 53 (21) are added to that section, and subsection (1), paragraph 54 (b) of subsection (2), subsections (3), (4), and (6), paragraphs 55 (b) and (d) of subsection (7), subsections (8) and (9), and 56 present subsections (10), (11), (12), (14), and (15) are 57 amended, to read: 553.791 Alternative plans review and inspection.-58 59 (1) As used in this section, the term: 60 (a) "Applicable codes" means the Florida Building Code and any local technical amendments to the Florida Building Code but 61 62 does not include the applicable minimum fire prevention and

63 firesafety codes adopted pursuant to chapter 633.

(b) "Audit" means the process to confirm that the building code inspection services have been performed by the private provider, including ensuring that the required affidavit for the plan review has been properly completed and <u>submitted with</u> affixed to the permit documents and that the minimum mandatory inspections required under the building code have been performed

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70 and properly recorded. The local building official may not 71 replicate the plan review or inspection being performed by the 72 private provider, unless expressly authorized by this section.

(c) "Building" means any construction, erection, alteration, demolition, or improvement of, or addition to, any 75 structure or site work for which permitting by a local 76 enforcement agency is required.

(d) "Building code inspection services" means those services described in s. 468.603(5) and (8) involving the review of building plans as well as those services involving the review of site plans and site work engineering plans or their functional equivalent, to determine compliance with applicable codes and those inspections required by law, conducted either in person or virtually, of each phase of construction for which permitting by a local enforcement agency is required to determine compliance with applicable codes.

(e) "Deliver" or "delivery" means any method of delivery used in conventional business or commercial practice, including delivery by electronic transmissions.

(f) "Duly authorized representative" means an agent of the private provider identified in the permit application who reviews plans or performs inspections as provided by this section and who is licensed as an engineer under chapter 471 or as an architect under chapter 481 or who holds a standard certificate under part XII of chapter 468.

95 (g) "Electronically posted" means providing notices of 96 decisions, results, or records, including inspection records, 97 through the use of a website or other form of electronic communication used to transmit or display information. 98

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(h) "Electronic signature" means any letters, characters, or symbols manifested by electronic or similar means which are executed or adopted by a party with an intent to authenticate a writing or record.

(i) "Electronic transmission" or "submitted electronically" means any form or process of communication not directly involving the physical transfer of paper or another tangible medium which is suitable for the retention, retrieval, and reproduction of information by the recipient and is retrievable in paper form by the receipt through an automated process. All notices provided for in this section may be transmitted electronically and shall have the same legal effect as if physically posted or mailed.

112 (j) (f) "Immediate threat to public safety and welfare" 113 means a building code violation that, if allowed to persist, 114 constitutes an immediate hazard that could result in death, 115 serious bodily injury, or significant property damage. This 116 paragraph does not limit the authority of the local building 117 official to issue a Notice of Corrective Action at any time 118 during the construction of a building project or any portion of 119 such project if the official determines that a condition of the 120 building or portion thereof may constitute a hazard when the 121 building is put into use following completion as long as the 122 condition cited is shown to be in violation of the building code 123 or approved plans.

124 <u>(k) (g)</u> "Local building official" means the individual 125 within the governing jurisdiction responsible for direct 126 regulatory administration or supervision of plans review, 127 enforcement, and inspection of any construction, erection,

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128 alteration, demolition, or substantial improvement of, or 129 addition to, any structure for which permitting is required to 130 indicate compliance with applicable codes and includes any duly 131 authorized designee of such person.

132 (1) (h) "Permit application" means a properly completed and 133 submitted application for the requested building or construction 134 permit, including:

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1. The plans reviewed by the private provider.

136 2. The affidavit from the private provider required under 137 subsection (6).

3. Any applicable fees.

4. Any documents required by the local building official to determine that the fee owner has secured all other government approvals required by law.

(m) (i) "Plans" means building plans, site engineering plans, or site plans, or their functional equivalent, submitted by a fee owner or fee owner's contractor to a private provider or duly authorized representative for review.

 $(n) \left(\frac{1}{2}\right)$ "Private provider" means a person licensed as a 147 building code administrator under part XII of chapter 468, as an 148 engineer under chapter 471, or as an architect under chapter 481. For purposes of performing inspections under this section 149 for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term "private 151 provider" also includes a person who holds a standard 153 certificate under part XII of chapter 468.

154 (o) "Qualified private provider" means a private provider 155 who has previously performed plans review and inspection 156 services in the local jurisdiction and has registered with the

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local enforcing agency by providing the local building official 157 with the private provider's name, firm, address, telephone 158 number, and e-mail address; his or her professional license or 159 160 certification number, qualification statements, or resumes; and, 161 if required by the local building official, a certificate of 162 insurance demonstrating that professional liability insurance 163 coverage is in place for the private provider's firm, the 164 private provider, and any duly authorized representative in the amounts required by this section. This information must be 165 166 submitted on an annual basis to the local jurisdiction in order 167 to maintain qualifying status. If at any time any of the 168 information submitted to the local jurisdiction changes, the 169 private provider must contact the local jurisdiction and update 170 the information within 10 business days after the change. The 171 local jurisdiction is required to keep a registry of active 172 qualified private providers. (p) (k) "Request for certificate of occupancy or certificate 173 174 of completion" means a properly completed and executed 175 application for: 176 1. A certificate of occupancy or certificate of completion. 177 2. A certificate of compliance from the private provider 178 required under subsection (12) (11). 179 3. Any applicable fees. 4. Any documents required by the local building official to 180 determine that the fee owner has secured all other government 181 182 approvals required by law. 183 (q) "Single-trade inspection" means any inspection focused

184 <u>on a single construction trade, such as plumbing, mechanical, or</u> 185 electrical. The term includes, but is not limited to,

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186 <u>inspections of door or window replacements; fences and block</u> 187 <u>walls more than 6 feet high from the top of the wall to the</u> 188 <u>bottom of the footing; stucco or plastering; reroofing with no</u> 189 <u>structural alteration; HVAC replacements; ductwork or fan</u> 190 <u>replacements; alteration or installation of wiring, lighting,</u> 191 <u>and service panels; water heater changeouts; sink replacements;</u> 192 and repiping.

193 <u>(r)(1)</u> "Site work" means the portion of a construction 194 project that is not part of the building structure, including, 195 but not limited to, grading, excavation, landscape irrigation, 196 and installation of driveways.

(s) (m) "Stop-work order" means the issuance of any written statement, written directive, or written order which states the reason for the order and the conditions under which the cited work will be permitted to resume.

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202 (b) If an owner or contractor retains a private provider 203 for purposes of plans review or building inspection services, 204 the local jurisdiction must reduce the permit fee by the amount 205 of cost savings realized by the local enforcement agency for not 206 having to perform such services. Such reduction may be 207 calculated on a flat fee or percentage basis, or any other 208 reasonable means by which a local enforcement agency assesses 209 the cost for its plans review or inspection services It is the 210 intent of the Legislature that owners and contractors pay 211 reduced fees related to building permitting requirements when hiring a private provider for plans review and building 212 213 inspections. A local jurisdiction must calculate the cost 214 savings to the local enforcement agency, based on a fee owner or

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215 contractor hiring a private provider to perform plans reviews 216 and building inspections in lieu of the local building official, 217 and reduce the permit fees accordingly. The local jurisdiction 218 may not charge fees for building inspections if the fee owner or 219 contractor hires a private provider to perform such services; 220 however, the local jurisdiction may charge a reasonable 221 administrative fee.

222 (3) A private provider and any duly authorized 223 representative may only perform building code inspection 224 services that are within the disciplines covered by that 225 person's licensure or certification under chapter 468, chapter 226 471, or chapter 481, including single-trade inspections. A 227 private provider may not provide building code inspection 228 services pursuant to this section upon any building designed or 229 constructed by the private provider or the private provider's 230 firm.

231 (4) A fee owner or the fee owner's contractor using a 232 private provider to provide building code inspection services 233 shall notify the local building official in writing at the time of permit application, or by 2 p.m. local time, 2 business days 235 before the first scheduled inspection by the local building official or building code enforcement agency that for a private provider has been contracted to perform the performing required inspections of construction under this section, including single-trade inspections, on a form to be adopted by the commission. This notice shall include the following information:

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(a) The services to be performed by the private provider.

(b) The name, firm, address, telephone number, and e-mail address facsimile number of each private provider who is 243

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244 performing or will perform such services, his or her 245 professional license or certification number, qualification statements or resumes, and, if required by the local building 246 247 official, a certificate of insurance demonstrating that 248 professional liability insurance coverage is in place for the 249 private provider's firm, the private provider, and any duly 250 authorized representative in the amounts required by this 251 section. 2.52 253 However, the notice is not required to include such information 254 for private providers who are qualified private providers within 255 the local jurisdiction and have renewed such designation 256 pursuant to this section. 257 (c) An acknowledgment from the fee owner in substantially 258 the following form: 259 260 I have elected to use one or more private providers to 261 provide building code plans review and/or inspection 262 services on the building or structure that is the 263 subject of the enclosed permit application, as 264 authorized by s. 553.791, Florida Statutes. I 265 understand that the local building official may not 266 review the plans submitted or perform the required 2.67 building inspections to determine compliance with the 268 applicable codes, except to the extent specified in 269 said law. Instead, plans review and/or required 270 building inspections will be performed by licensed or certified personnel identified in the application. The 271 272 law requires minimum insurance requirements for such

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273 personnel, but I understand that I may require more 274 insurance to protect my interests. By executing this 275 form, I acknowledge that I have made inquiry regarding 276 the competence of the licensed or certified personnel 277 and the level of their insurance and am satisfied that 278 my interests are adequately protected. I agree to 279 indemnify, defend, and hold harmless the local 280 government, the local building official, and their 2.81 building code enforcement personnel from any and all 282 claims arising from my use of these licensed or certified personnel to perform building code 283 284 inspection services with respect to the building or 285 structure that is the subject of the enclosed permit 286 application.

288 If the fee owner or the fee owner's contractor makes any changes 289 to the listed private providers or the services to be provided 290 by those private providers, the fee owner or the fee owner's 291 contractor shall, within 1 business day after any change or 292 within 2 business days before the next scheduled inspection, 293 update the notice to reflect such changes. A change of a duly 294 authorized representative named in the permit application does 295 not require a revision of the permit, and the building code 296 enforcement agency shall not charge a fee for making the change. 297 In addition, the fee owner or the fee owner's contractor shall 298 post at the project site, before the commencement of 299 construction and updated within 1 business day after any change, 300 on a form to be adopted by the commission, the name, firm, 301 address, telephone number, and facsimile number of each private

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302 provider who is performing or will perform building code 303 inspection services, the type of service being performed, and 304 similar information for the primary contact of the private 305 provider on the project. 306 (6) A private provider performing plans review under this 307 section shall review the plans to determine compliance with the applicable codes. Upon determining that the plans reviewed 308 309 comply with the applicable codes, the private provider shall 310 prepare an affidavit or affidavits on a form reasonably 311 acceptable to the commission certifying, under oath, that the 312 following is true and correct to the best of the private 313 provider's knowledge and belief: 314 (a) The plans were reviewed by the affiant, who is duly 315 authorized to perform plans review pursuant to this section and 316 holds the appropriate license or certificate. 317 (b) The plans comply with the applicable codes. 318 319 Such affidavit may bear a written or electronic signature and 320 may be submitted electronically to the local building official. 321 (7)322 (b) If the local building official provides a written 323 notice of plan deficiencies to the permit applicant within the 324 prescribed 20-day period, the 20-day period shall be tolled 325 pending resolution of the matter. To resolve the plan 326 deficiencies, the permit applicant may elect to dispute the 327 deficiencies pursuant to subsection (14) (13) or to submit 328 revisions to correct the deficiencies.

329 (d) If the local building official provides a second330 written notice of plan deficiencies to the permit applicant

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331 within the prescribed time period, the permit applicant may 332 elect to dispute the deficiencies pursuant to subsection (14) 333 (13) or to submit additional revisions to correct the deficiencies. For all revisions submitted after the first 334 335 revision, the local building official has an additional 5 336 business days from the date of resubmittal to issue the 337 requested permit or to provide a written notice to the permit 338 applicant stating which of the previously identified plan 339 features remain in noncompliance with the applicable codes, with 340 specific reference to the relevant code chapters and sections.

341 (8) A private provider performing required inspections 342 under this section shall inspect each phase of construction as 343 required by the applicable codes. Such inspection may be 344 performed in-person or virtually. The private provider may have 345 shall be permitted to send a duly authorized representative to 346 the building site to perform the required inspections, provided 347 all required reports are prepared by and bear the written or 348 electronic signature of the private provider or the private 349 provider's duly authorized representative. The duly authorized 350 representative must be an employee of the private provider 351 entitled to receive reemployment assistance benefits under 352 chapter 443. The contractor's contractual or legal obligations 353 are not relieved by any action of the private provider.

(9) A private provider performing required inspections under this section shall provide notice to the local building official of the date and approximate time of any such inspection no later than the prior business day by 2 p.m. local time or by any later time permitted by the local building official in that jurisdiction. The local building official may not prohibit the

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360 private provider from performing any inspection outside the 361 local building official's normal operating hours, including 362 after hours, weekends, or holidays. The local building official 363 may visit the building site as often as necessary to verify that 364 the private provider is performing all required inspections. A 365 deficiency notice must be posted at the job site by the private 366 provider, the duly authorized representative of the private 367 provider, or the building department whenever a noncomplying item related to the building code or the permitted documents is 368 369 found. Such notice may be physically posted at the job site or 370 electronically posted. After corrections are made, the item must 371 be reinspected by the private provider or representative before 372 being concealed. Reinspection or reaudit fees shall not be 373 charged by the local jurisdiction as a result of the local 374 jurisdiction's audit inspection occurring before the performance 375 of the private provider's inspection or for any other 376 administrative matter not involving the detection of a violation 377 of the building code or a permit requirement.

(10) If equipment replacements and repairs must be performed in an emergency situation, subject to the emergency 379 permitting provisions of the Florida Building Code, a private 381 provider may perform emergency inspection services without first notifying the local building official pursuant to subsection (9). A private provider must conduct the inspection within 3 business days after being contacted to conduct an emergency inspection and must submit the inspection report to the local building official within 1 day after the inspection is 387 completed.

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(11) (10) Upon completing the required inspections at each

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389 applicable phase of construction, the private provider shall 390 record such inspections on a form acceptable to the local 391 building official. The form must bear the written or electronic 392 signature of be signed by the provider or the provider's duly 393 authorized representative. These inspection records shall 394 reflect those inspections required by the applicable codes of 395 each phase of construction for which permitting by a local 396 enforcement agency is required. The private provider, upon completion of the required inspection before leaving the project 397 398 site, shall post each completed inspection record, indicating 399 pass or fail, at the site and provide the record to the local building official within 2 business days. Such inspection record 400 401 may be electronically posted by the private provider or the 402 private provider may post such inspection record physically at 403 the project site. The private provider may electronically 404 transmit the record to the local building official. The local 405 building official may waive the requirement to provide a record 406 of each inspection within 2 business days if the record is 407 electronically posted or posted at the project site and all such 408 inspection records are submitted with the certificate of 409 compliance. Unless the records have been electronically posted, 410 records of all required and completed inspections shall be 411 maintained at the building site at all times and made available 412 for review by the local building official. The private provider 413 shall report to the local enforcement agency any condition that 414 poses an immediate threat to public safety and welfare.

415 <u>(12)(11)</u> Upon completion of all required inspections, the 416 private provider shall prepare a certificate of compliance, on a 417 form acceptable to the local building official, summarizing the

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418 inspections performed and including a written representation, 419 under oath, that the stated inspections have been performed and 420 that, to the best of the private provider's knowledge and 421 belief, the building construction inspected complies with the 422 approved plans and applicable codes. The statement required of 423 the private provider shall be substantially in the following 424 form and shall be signed and sealed by a private provider as 425 established in subsection (1) or may be electronically 42.6 transmitted to the local building official:

> To the best of my knowledge and belief, the building components and site improvements outlined herein and inspected under my authority have been completed in conformance with the approved plans and the applicable codes.

434 (13) (12) No more than 2 business days after receipt of a request for a certificate of occupancy or certificate of 435 436 completion and the applicant's presentation of a certificate of 437 compliance and approval of all other government approvals 438 required by law, the local building official shall issue the 439 certificate of occupancy or certificate of completion or provide 440 a notice to the applicant identifying the specific deficiencies, 441 as well as the specific code chapters and sections. If the local 442 building official does not provide notice of the deficiencies 443 within the prescribed 2-day period, the request for a 444 certificate of occupancy or certificate of completion shall be 445 deemed granted and the certificate of occupancy or certificate of completion shall be issued by the local building official on 446

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447 the next business day. To resolve any identified deficiencies, 448 the applicant may elect to dispute the deficiencies pursuant to 449 subsection (14) (13) or to submit a corrected request for a 450 certificate of occupancy or certificate of completion.

451 <u>(15) (14)</u> For the purposes of this section, any notice to be 452 provided by the local building official shall be deemed to be 453 provided to the person or entity when successfully transmitted 454 to the <u>e-mail address</u> facsimile number listed for that person or 455 entity in the permit application or revised permit application, 456 or, if no <u>e-mail address</u> facsimile number is stated, when 457 actually received by that person or entity.

<u>(16)(a)(15)(a)</u> A local enforcement agency, local building official, or local government may not adopt or enforce any laws, rules, procedures, policies, qualifications, or standards more stringent than those prescribed by this section.

(b) A local enforcement agency, local building official, or
local government may establish, for private providers and duly
authorized representatives working within that jurisdiction, a
system of registration to verify compliance with the licensure
requirements of paragraph (1) (n) (1) (j) and the insurance
requirements of subsection (17). Such registration must be
distinct from the registry of qualified private providers (16).

(c) This section does not limit the authority of the local building official to issue a stop-work order for a building project or any portion of the project, as provided by law, if the official determines that a condition on the building site constitutes an immediate threat to public safety and welfare.

474 (21) Notwithstanding any other law, a county, a
475 municipality, a school district, or an independent special

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476	district may elect to use a private provider to provide building
477	code inspection services for a public works project, an
478	improvement, a building, or any other structure that is owned by
479	the county, municipality, school district, or independent
480	special district.
481	Section 7. Paragraph (a) of subsection (8) and subsection
482	(14) of section 553.842, Florida Statutes, are amended to read:
483	553.842 Product evaluation and approval
484	(8) The commission may adopt rules to approve the following
485	types of entities that produce information on which product
486	approvals are based. All of the following entities, including
487	engineers and architects, must comply with a nationally
488	recognized standard demonstrating independence or no conflict of
489	interest:
490	(a) Evaluation entities approved <u>under</u> pursuant to this
491	paragraph or that meet the criteria for approval adopted by the
492	commission by rule. The commission shall specifically approve
493	the National Evaluation Service, the International Association
494	of Plumbing and Mechanical Officials Evaluation Service, the
495	International Code Council Evaluation Services, Underwriters
496	Laboratories, LLC, Intertek Testing Services NA, Inc., and the
497	Miami-Dade County Building Code Compliance Office Product
498	Control Division. Architects and engineers licensed in this
499	state are also approved to conduct product evaluations as
500	provided in subsection (5).
$5 \cap 1$	(14) The commission shall by rule establish criteria for

501 (14) The commission shall by rule establish criteria for
502 revocation of product approvals as well as <u>suspension</u> revocation
503 of approvals of product evaluation entities, including those
504 <u>approved pursuant to paragraph (8)(a)</u>, and <u>suspension or</u>

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505	revocation of approvals of testing laboratories, quality
506	assurance entities, certification agencies, and validation
507	entities. Suspension and revocation is governed by s. 120.60 and
508	the uniform rules of procedure.
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511	And the title is amended as follows:
512	Delete lines 47 - 81
513	and insert:
514	of a building permit; prohibiting local governments
515	from taking certain actions relating to building
516	permits to demolish and replace single-family
517	residential dwellings located in certain flood zones;
518	providing requirements for such permits; amending s.
519	553.791, F.S.; revising and defining terms; providing
520	requirements for qualified private providers;
521	requiring local jurisdictions to reduce permit fees
522	under certain circumstances; deleting legislative
523	intent; specifying that contractors using private
524	providers to provide building code inspections
525	services must notify local building officials in
526	writing; revising notice requirements; deleting a
527	provision requiring fee owners or fee owners'
528	contractors to post certain information at a project
529	site before commencing construction; authorizing
530	certain affidavits to be signed with electronic
531	signatures and be submitted to local building
532	officials electronically; authorizing certain
533	inspections to be performed in-person or virtually;

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534 authorizing certain reports to be signed with 535 electronic signatures; authorizing certain notices to 536 be electronically posted; authorizing private 537 providers to perform certain replacements and repairs 538 without first notifying local building officials under 539 certain circumstances; authorizing certain forms to be 540 signed with electronic signatures; authorizing certain 541 inspection records to be electronically posted and 542 electronically submitted to local building officials; 543 authorizing certificates of compliance to be 544 electronically transmitted to local building 545 officials; specifying that a certain registry must be 546 distinct from the registry of gualified private 547 providers; conforming provisions to changes made by 548 the act; authorizing a county, a municipality, a 549 school district, or an independent special district to 550 use a private provider to provide building code 551 inspection services for certain purposes; amending s. 552 553.842, F.S.; requiring evaluation entities that meet 553 certain criteria to comply with certain standards; 554 revising rulemaking requirements relating to 555 suspensions and revocations by the commission; 556 specifying that suspensions are governed by specified 557 provisions;