
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 9, 1998

Revised: _____

Subject: Building Codes

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
2.	<u> </u>	<u> </u>	<u>RI</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>WM</u>	<u> </u>
4.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

This bill makes a variety of changes to the regulation of building code administrators, plans examiners, and inspectors, including:

- Adding categories of licensure;
- Setting forth the actual duties of building code administrators, plans examiners and inspectors;
- Increasing the examination fee for non-governmental employees from \$50 to \$150 per examination and eliminating the initial certification and biennial certification renewal fees paid all persons;
- Allowing local governments to retain 25 percent of surcharge fees and the Board to retain 25 percent to fund the development and implementation of continuing education and other training programs for building code administrators, plans examiners, and inspectors;
- Allowing certified engineers and architects to perform building inspections and plan reviews for local governments and state agencies without becoming certified as building inspectors or plan reviewers by the Board of Building Code Administrators and Inspectors;

In addition, this bill addresses various aspects of the discipline of licensees under the Department of Business and Professional Regulation (DBPR), to include:

- Requiring DBPR, when investigating complaints against any licensee it regulates, to make the complaint and the “entire investigative file” available to the licensee;

- Clarifying what constitutes “knowingly violating” a building code, which is grounds for disciplinary action against contractors by DBPR; and
- Clarifying that DBPR may not initiate *or continue to investigate* a complaint against registered contractor until after the local board has investigated and disciplined the contractor.

This bill substantially amends sections 455.225, 468.603, 468.604, 468.605, 468.609, 468.617, 468.627, 468.631, 489.129, 489.131; and creates sections 468.604, 471.045, and 481.222, Florida Statutes.

II. Present Situation:

Building code administrators, inspectors, and plans examiners are regulated by the Florida Building Code Administrators and Inspectors Board, created under DBPR, pursuant to part XII of chapter 468, F.S. The regulation provides for the mandatory certification of municipal and county building code administrators, inspectors, and plan reviewers. The law provides for various categories and levels of certificates for these positions. The category of certificate relates to the subject area specialty, such as electrical or mechanical, while the level of certificate relates to the person’s experience and technical proficiency.

Three levels of certificates can be obtained by Building Code Administrators, Inspectors and Plan Examiners: Standard, Limited, and Provisional. To obtain a *Standard Certificate*, an individual must pass an exam approved by the board. Individuals who were employed on July 1, 1993, as building code administrators, plans examiners, or inspectors, but are not eligible for standard certification, may be issued a *Limited Certificate*. The limited certificate is valid only as an authorization for the building code administrator, plans examiner, or inspector to continue in the position held, and to continue performing all functions assigned to that position on July 1, 1993. A *Provisional Certificate* may be issued to a newly employed or newly promoted building code administrator, plans examiner, or inspector who lacks the qualifications for a standard license. To obtain a provisional license, an individual must be employed by an agency of government. Provisional licenses are issued only to applicants who can demonstrate the ability to meet licensure requirements by the expiration date of the provisional license. Provisional licenses are valid for 2 years and are not renewable.

To take the exam for the Standard Certificate, the applicant must be:

- At least 18 years old;
- Of good moral character; and
- Demonstrate 5 years combined experience in the field of construction or inspection corresponding to category sought; or
- Demonstrate a combination of postsecondary education and experience which totals 4 years, with at least 1 year of such experience in construction or building inspection.

Applicants for the Building Code Administrator exam must have 10 years combined experience as an architect, engineer, building inspector, contractor, or construction superintendent, with at least 5 years of such experience in supervisory positions.

The regulation is funded by licensure fees and a nominal surcharge on every building permit. Local jurisdictions may retain up to 10 percent of this surcharge, and the remaining surcharge is used to fund the provisions of the building administrators and inspection program.

Chapter 93-166, Laws of Florida created s. 468.607, F.S., to specify that no person may be employed by the state or local governments as a building administrator, plans examiner, or inspector after October 1, 1993, unless properly certified pursuant to part XII of chapter 468, F.S.

Section 455.225, F.S., provides that disciplinary proceedings for each professional board under the jurisdiction of DBPR are to be within the jurisdiction of DBPR. The department is required to investigate any filed complaint that is in writing, signed by the complainant, and legally sufficient. DBPR must provide the subject of the complaint or the subject's attorney, a copy of the complaint or document that prompted the investigation when an investigation is undertaken.

Section 489.129, F.S., outlines the actions the Construction Industry Licensing Board (CILB) may take when disciplining its licensees. In addition, it specifies what acts are punishable by the board, to include "knowingly violating" a building code.

Paragraph (f) of s. 489.131(7), F.S., authorizes DBPR to investigate any complaint against a contractor which is made with the department. However, when a registered contractor has been disciplined by the appropriate local government, DBPR is prohibited from initiating prosecution against the contractor for that action, unless the secretary of DBPR has initiated summary procedures to suspend or restrict the license pursuant to s. 120.60(6), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 455.225, F.S. to require DBPR, when investigating complaints against licensees, to make the complaint and the "entire investigative file" available to the licensee.

Section 2 amends 468.603(6), F.S., to create a third electrical inspector certification category for building inspectors who conduct both residential and commercial electrical inspections. Currently, there are two categories of electrical inspectors: residential and commercial.

Section 3 creates s. 468.604, F.S., to establish specific statutory responsibilities for building code administrators, plans examiners and inspectors. Generally, it is the responsibility of building code administrator or official to supervise or perform the permitting and review of construction plans and the inspection of each phase of construction to ensure compliance with all applicable codes. It is the responsibility of building code inspectors to conduct inspections of permitted constructions projects to ensure compliance with applicable codes. Inspectors must be licensed in the appropriate category. Finally, it is the responsibility of plans examiners to conduct review of

construction plans to assure compliance with all applicable codes. Plans examiners must be licensed in the appropriate plans examiner category.

Section 4 amends subsection (2) of section 468.605, F.S., to replace the “city manager” member of the Florida Building Code Administrators and Inspectors Board with a “building inspector” member who may or may not have managerial authority. In addition, the existing building inspector member is no longer required to be a person without managerial authority.

Section 5 amends s. 468.609, F.S., to make a variety of changes to the criteria for taking the Standard Certification exam. Changes affecting inspectors and plans examiners include:

- Providing that the experience requirement may be in construction or related field inspection or plans review;
- Providing that the post-secondary education requirement must be in the field of construction or related field, and that the 1 year of work experience may be in plans review;
- Providing that an applicant who holds a standard certificate in one category may qualify to take the exam for certification in another category after taking at least 200 hours of training in the certification category sought.

Changes affecting building code administrators include:

- Clarifying and expanding the categories of professional experience, to include plans examiner, required to qualify an applicant to take the exam; and
- Allowing relevant education to substitute for 5 years of required experience.

This section is also amended to specify that a plans examiner is a recognized licensure category, subject to examination requirements. In addition, a noncertified newly hired or promoted inspector or plans examiner is authorized to perform their respective duties under supervision for 90 days if their application for a provisional license has been submitted.

Section 6 amends s. 468.617, F.S., to allow local government to contract with qualified persons to do plans review, and to prohibit persons contracting with local governments from inspecting or examining plans on projects in which they designed or permitted. In addition, the option for contractors to pay inspection or review fees directly to the contract inspector or plans examiner is deleted from this section.

Section 7 amends s. 468.627, F.S., to increase the maximum examination fee, from \$50 to \$150, for administrators, examiners, or inspectors. Subsections (4) and (5), which provide for the initial certification and biennial certification renewal fee, are deleted. Subsection (6) is renumbered as subsection (4) and amended to provide that employees of local governments with responsibilities for inspection, regulation, and enforcement of the codes will not pay initial certification and biennial certification renewal fees. This change appears to be unnecessary, as this section proposes to remove the authorization for these fees.

Section 8 amends s. 468.631, F.S., to require that funds collected from the building permit surcharge be remitted to DBPR “each quarter” rather than “each third month.” Local governments are allowed to keep 25 percent, rather than 10 percent of surcharges collected to improve the quality of building code enforcement. In addition, the board is required to use 25 percent of all surcharge funds to fund the development and implementation of continuing education and other training programs as determined by board rule. Building administrators, inspectors, and plan reviewers are prohibited from paying for any continuing education courses or training programs developed using these funds.

Sections 9 creates s. 471.045, F.S., to allow certified engineers to perform building inspections and plan reviews for local governments and state agencies without becoming certified as building inspectors or plan reviewers by the Board of Building Code Administrators and Inspectors pursuant to part XIII of chapter 468, F.S.

Section 10 creates s. 481.222, F.S., to allow licensed architects to perform building inspections and plan reviews for local governments and state agencies without becoming certified as building inspectors or plan reviewers by the Board of Building Code Administrators and Inspectors pursuant to part XIII of chapter 468, F.S.

Section 11 amends s. 489.129, F.S., to clarify what constitutes “knowingly violating” a building code, which is grounds for disciplinary action against licensees by DBPR.

Section 12 amends s. 489.131, F.S., to clarify that DBPR may not initiate *or continue to investigate* a complaint against a registered contractor *until* the local board has investigated and disciplined the contractor, unless the secretary of DBPR has initiated summary procedures to suspend or restrict the license pursuant to s. 120.60(6), F.S. In addition, if the local enforcement body finds no license violation has occurred, that determination is binding on DBPR and the CILB.

Section 13 provides that the act shall take effect October 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Non-governmental applicants for building code administrator, plans examiner, or inspector certification examinations will have to pay an additional \$100. Fees for initial certification and biennial certification renewals are eliminated.

C. Government Sector Impact:

Local governments will be able to retain approximately \$300,000 annually from the building permit surcharge they are currently collecting and remitting to DBPR. According to DBPR, these funds will allow local governments to finance training programs for their employees.

The board will receive approximately \$500,000 annually from the building permit surcharge to fund the development and implementation of training and continuing education courses for building code administrators, inspectors, and plans reviewers.

DBPR will be required to provide the “entire investigative file” of an investigation to the licensee under investigation. This could result in a significant workload increase to the department.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.