

STORAGE NAME: h4181s2.ted

DATE: April 15, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/CS/HB 4181

RELATING TO: Statewide Unified Building Code

SPONSOR(S): Committees on Transportation & Economic Development Appropriations and
Community Affairs and Representative Constantine

COMPANION BILL(S): SB 1190 (i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS YEAS 9 NAYS 0
 - (2) TRANSPORTATION & ECONOMIC DEV. APPROPRIATIONS YEAS 9 NAYS 0
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

CS/CS/HB 4181 authorizes the adoption and subsequent updates of a statewide unified building code to be called the Florida Building Code. In addition, the bill re-constitutes the Board of Building Codes and Standards as the Florida Building Commission.

Upon initial adoption, the Florida Building Code is deemed adopted by all local jurisdictions. Local governments may adopt more stringent requirements to the code subject to some restrictions. Beginning in 2001, local governments shall assume expanded responsibilities for permitting, plans review and inspection of facilities that are currently reviewed by state agencies.

A statewide product evaluation system shall be developed and administered by the Florida Building Commission. Furthermore, a building code training program shall be developed related to the Florida Building Code. This program will become part of current continuing education requirements for occupations related to construction and construction regulation.

The bill provides for disciplinary consequences related to material code violations for state-certified and registered contractors. In addition, the Department of Business and Professional Regulation is required to implement an automated information system which tracks disciplinary actions taken against construction-related occupations on a state-wide basis.

The bill creates continuing education requirements for registered engineers and registered landscape architects.

The bill conforms the powers of the Department of Insurance and the Office of the State Fire Marshal with the re-constituted powers of the Florida Building Commission. Similar processes for code adoption, update and promulgation of the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code are provided.

The bill repeals some of the current statutes applicable to building codes January 1, 2001. The effective date of repeal of the relevant sections of chapter 553, Florida Statutes, is subject to Legislative approval of the state-wide unified building code as developed by the Florida Building Commission.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Board of Building Codes and Standards

Sections 553.74 - 77, Florida Statutes, govern the creation and responsibilities of the State Board of Building Codes and Standards within the Department of Community Affairs (DCA). The Board's responsibilities include:

- continually studying the operation of the State Minimum Building Codes and other laws relating to the construction of buildings, including manufactured buildings;
- issuing advisory opinions upon request, relating to new technologies, techniques, and materials;
- issuing advisory opinions upon request, relating to the interpretation, enforcement, administration, or modification by local governments of the State Minimum Building Codes and the Florida Manufactured Building Act of 1979;
- making recommendations and providing assistance regarding rules relating to handicapped accessibility; and
- coordinating and cooperating with the Florida Fire Code Advisory Council for assistance and recommendations relating to fire safety code interpretations.

The Board may also provide for the testing of materials, devices, and methods of construction; appoint experts, consultants, technical advisors, and advisory committees for assistance and recommendations relating to the State Minimum Building Codes; and appoint an advisory committee to provide assistance and recommendations relating to plumbing code interpretations, if necessary.

The Board is also responsible, with some limitations, for issuing, upon request, binding opinions relating to a state agency's interpretation and enforcement of the specific model code adopted by the agency to regulate building construction.

Generally, the Board of Building Codes and Standards issues advisory opinions on new technologies, techniques and materials; issues advisory opinions on local government's administration, enforcement, interpretation and modification of the state minimum building codes; and issues binding opinions on certain state agencies, interpretation and enforcement of their adopted model code.

The Board is composed of 17 members appointed by the Governor and confirmed by the Senate. The Board includes an architect, a structural engineer, a mechanical contractor, an electrical contractor, a fire protection engineer, a general contractor, a plumbing contractor, a residential contractor, three representatives who are municipal government code enforcement officials, a state agency representative empowered by law to enforce building codes, a representative of the disabled community, a county code enforcement official, a representative of the manufactured buildings industry, a mechanical or electrical engineer and one roofing, sheet metal, or air conditioning contractor.

The law requires local jurisdictions and state agencies that have code enforcement authority to adopt the state minimum building codes and other codes.

Building Construction Standards

Chapter 553, Florida Statutes, provides the building construction standards for the state. These standards are incorporated in the Florida Plumbing Control Act; the Florida Electrical Code; the minimum standards for certain glass products; The Florida Manufactured Building Act of 1979; the Florida Americans With Disabilities Accessibility Implementation Act; the Trench Safety Act; the State Minimum Building Codes; the Florida Thermal Efficiency Code; the Florida Energy Conservation Standards Act; standards for radon-resistant buildings; and the Florida Building Energy-Efficiency Rating Act.

State Minimum Building Codes

Part VII of Chapter 553, Florida Statutes, provides the mechanism for the promulgation, adoption, and enforcement of state minimum building codes. Section 553.73, Florida Statutes, requires units of local government and state agencies that have code enforcement authority to adopt the State Minimum Building Codes as its building code. However, a local jurisdiction may adopt, under certain conditions, more stringent requirements than are imposed by the State Minimum Building Code. The State Minimum Building Code consists of four model codes:

- The Standard Building Code, 1988 edition, which is published by the Southern Building Code Congress International (SBCCI);
- The Council of American Building Officials (CABO) One and Two Family Dwelling Code (OTFDW), 1986 edition;
- The South Florida Building Code, 1988 edition, which has been adopted by Dade County and Broward County; and
- The EPCOT Building Code, 1982 edition, which was developed and adopted by the Reedy Creek Improvement District, the local governing entity which controls the property surrounding and including Walt Disney World in Orange and Osceola counties.

Dade and Broward counties use amended versions of the South Florida Building Code. The Standard Building Code has been adopted by the remaining 65 Florida counties and all cities in those counties.

In 1997, the Legislature amended s. 553.73(2), Florida Statutes, to specify that the only provisions that could be included in a building code are regulations relating to the types of materials that may be used or regulations that impose the use of specific construction methods or standards. Similarly, the law was amended to prohibit any state minimum building code from regulating personnel; supervision or training of personnel; and any other professional qualification requirements relating to contractors or their employees and workers. The prohibitions specified by this provision may not be included within a State Minimum Building Code or in any amendment to the code. Likewise, local

governments and state agencies that have responsibilities relating to construction regulation, are precluded from adopting rules, ordinances, or regulations governing any of the areas that are prohibited by the law.

Section 553.73(3), Florida Statutes, allows the Board to designate, by rule, all or part of an updated or revised version of a model code as a State Minimum Building Code.

Section 553.73(6), Florida Statutes, requires each municipality and county in the state and each state agency with statutory authority to regulate building construction to enforce the specific model code it adopts. However, subsection (7) specifies the types of buildings not regulated by the State Minimum Building Code. These buildings include nonresidential farm buildings; temporary buildings used exclusively for construction purposes; mobile homes used as temporary offices, with the exception, in part, of issues relating to handicapped accessibility.

When conflicts arise between the building code and the applicable minimum fire safety code, section 553.73(8), Florida Statutes, requires it be resolved by agreement between the local building code enforcement official and the local fire code enforcement official in favor of the requirement of the code which offers the greatest degree of life safety.

Section 553.79, Florida Statutes, requires the procurement of a permit for the construction, erection, alteration, repair or demolition of any building in the State of Florida. State or local building code enforcement agencies are permitted to charge fees associated with issuing a permit. All permits are subject to a plans review process of the enforcement agency responsible for issuing the permit. Inspections are required to be performed by the enforcing agency to ensure compliance with the approved plans.

Section 553.80, Florida Statutes, authorizes the applicable code enforcement agency to adopt, enforce and administer the State Minimum Building Code.

Building Officials Certification

Part XII of chapter 468, Florida Statutes, provides for the regulation of building code administrators and inspectors by the Board of Building Code Administrators and Inspectors within the Department of Business and Professional Regulation. The regulation provides for various types and levels of mandatory certification of municipal and county building code administrators and inspection personnel. The regulation is funded by license fees and one-half of 1% surcharge on every building permit (local governments retain up to 25% of the surcharge, the rest funds the building code personnel regulation, and any remainder is directed to the Construction Industries Recovery Fund under part I of ch. 489, Florida Statutes).

A building code administrator supervises building code activities, including plans review, enforcement, and inspection. A building code inspector inspects construction that requires permits to determine compliance with building codes. A plans examiner reviews plans submitted for building permits to determine compliance with construction codes.

There are three types of certificates for building code administrators, inspectors, or plans examiners: standard (allows an individual to work throughout the state), limited (allows an individual to continue to work only in the position held on July 1, 1993), and provisional (allows an individual to work for 1 to 3 years pending qualification for a

standard certificate). There are several categories of inspector and plans examiners certificates, relating to the scope of the activities the licensee may perform (e.g., building inspector, commercial or residential electrical inspector, mechanical inspector, building plans examiner, plumbing plans examiner, etc.). Part XII sets forth the requirements for licensure for the various types and categories of certificate holders, including credentials from specified private organizations or specified experience (or a combination of education and experience) and an examination.

Fire Prevention and Control

The Division of State Fire Marshal of the Department of Insurance is responsible for the areas of fire prevention, fire education, and fire investigation. Section 633.01, Florida Statutes, specifies that the powers and duties of the State Fire Marshal are vested in the head of the Department of Insurance. Furthermore, the section grants the State Fire Marshal broad powers of rulemaking authority to protect the health, safety and welfare of the public provided that consideration is given to generally accepted standards of firesafety.

Section 633.025, Florida Statutes, provides that the Department of Insurance shall establish uniform firesafety standards that apply to:

- state-owned and state-leased buildings;
- hospitals, nursing homes, assisted living facilities, correctional facilities, public schools, transient public lodging establishments, public food service establishments, elevators, migrant labor camps, mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care facilities, facilities for the developmentally disabled, motion picture and television special effects productions, and self-service gasoline stations.

Section 633.025, Florida Statutes, requires each municipality, county, and special district with fire safety responsibilities to adopt minimum fire safety standards to operate in conjunction with the state minimum building code adopted pursuant to section 553.73, Florida Statutes. Local governments may choose from one of the following fire safety codes:

- The Standard Fire Safety Code, 1985 or subsequent edition, as adopted by the Southern Building Code Congress International (SBCCI);
- The EPCOT Fire Prevention Code;
- The National Fire Protection Association (NFPA) Pamphlet 1, 1985 edition or subsequent edition; or
- The South Florida Fire Prevention Code.

Local governments may adopt more stringent requirements than are imposed by the State Minimum Fire Safety Code. In addition, local governments may establish alternative requirements to those requirements which are required under the minimum firesafety standards on a case-by-case basis, in order to meet special situations arising from historic, geographic, or unusual conditions, if the alternative requirements result in

a level of protection to life, safety, or property equal to or greater than the applicable minimum firesafety standards.

Section 633.085, Florida Statutes, provides that the State Fire Marshal inspect all state-owned and state-leased buildings on a recurring basis established by rule. Furthermore all plans for construction of any new, or renovation or alteration of any existing state-owned building are subject to the review and approval of the State Fire Marshal. The Department of Insurance insures the building they are responsible for inspecting.

Occupations Regulated by the Department of Professional Regulation

Section 468.621, Florida Statutes, outlines the grounds for which disciplinary actions can be taken against building administrators and inspectors. When a building administrator or inspector is found guilty of any of the violations, an order imposing one or more of the following penalties may occur:

- Denial of an application for certification;
- Permanent revocation;
- Suspension of a certificate;
- Imposition of an administrative fine not to exceed \$5,000 for each separate offense. Such fine must be rationally related to the gravity of the violation;
- Issuance of a reprimand;
- Placement of the certificateholder on probation for a period of time and subject to such conditions as the board may impose, including alteration of performance level;
- Satisfactory completion of continuing education; or
- Issuance of a citation.

Sections 471.033, 481.225, 481.325, Florida Statutes, outlines the grounds for which disciplinary action can be taken against registered engineers, registered architects and registered landscape architects. Furthermore, when a registered engineer, registered architect or registered landscape architect is found guilty of any of the violations, an order imposing one or more of the following penalties may occur:

- Denial of an application for licensure;
- Revocation or suspension of a license;
- Imposition of an administrative fine not to exceed \$1,000 for each count or separate offense;
- Issuance of a reprimand;
- Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify; or

- Restriction of the authorized scope of practice by the licensee.

Section 481.2251, Florida Statutes, outline the grounds for which disciplinary action can be taken against registered interior designers. Furthermore, when a registered interior designer is found guilty of any of the violations, an order imposing one or more of the following penalties may occur:

- Refusal to approve an application for licensure;
- Refusal to renew an existing license;
- Revocation or suspension of a license;
- Imposition of an administrative fine not to exceed \$1,000 for each violation or separate offense; or
- Issuance of a reprimand.

Section 489.129, Florida Statutes, outlines the grounds for which disciplinary action can be taken against any state-certified or registered contractor. When a state-certified or registered contractor is found guilty of any of the violations, an order imposing one or more of the following penalties may occur:

- The licensee is placed on probation;
- Issuance of a reprimand;
- Revocation, suspension, or denial of the issuance or renewal of the certificate, registration, or certificate of authority;
- Requirement of financial restitution to a consumer for financial harm directly related to a violation;
- Imposition of an administrative fine not to exceed \$5,000 per violation;
- Requirement of continuing education; or
- Assessment of costs associated with investigation and prosecution.

Continuing Education

Sections 468.609, 468.627, 471.017, 481.215, 481.313, 489.115, Florida Statutes, provide for continuing education requirements related to the following occupations:

- Building code administrators and inspectors.
- Registered engineers.
- Registered architects.
- Registered landscape architects.
- Contractors.

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Journeyman Reciprocity

Sections 489.1455, and 489.5335, Florida Statutes, provide for journeyman reciprocity for locally licensed plumbers, pipefitters, HVAC trades and electricians between local jurisdictions in the state.

Other Categories of Codes / Enforcement Entities

Pursuant to section 235.26, Florida Statutes, the Department of Education (DOE) is responsible for developing and enforcing the Uniform Building Code for Public Educational Facilities Construction, which is promulgated under rule 6A-2 FAC. The code is applicable to K-12 and community college facilities. The Standard Building Code, Standard Gas Code, Standard Plumbing Code, Standard Mechanical Code are the basis for this code. Typically, the school boards submit construction documents to DOE for review. Licensed Uniform Building Code Inspectors perform the review.

Pursuant to section 255.25, Florida Statutes, section 553.80, Florida Statutes, and a 1980 Attorney General Opinion, the Department of Management Services (DMS), Division of Building Construction, has permitting authority over the construction, renovation, and repair of all state-owned buildings. DMS uses the Standard Building Code in all counties except that the South Florida Building Code, Broward and Dade County Editions, are used in those counties, respectively. [See 9B-3 FAC]

Pursuant to section 255.30, Florida Statutes, DMS has delegated to the Department of Corrections (DOC), Design and Permitting Section and Bureau of Facilities Services, the responsibility for the development and administration of DOC construction projects, which include all new construction, repairs and renovations projects for prison facilities. DOC primarily uses the Standard Building Code and correctional facilities guidelines developed by the corrections industry. DMS and the State Fire Marshal review plans, inspect facilities, and issue certificates of occupancy.

Pursuant to section 509.032(2)(d), Florida Statutes, the Department of Business and Professional Regulation (DBPR), Division of Hotels and Restaurants, has the responsibility for approving public food service establishment facility plans. [See 61C-1, 61C-3, and 61-C-4 FAC] The codes used by DBPR are based on national standards, such as the U.S. Food and Drug Administration Food Code. The Division also has the responsibility, pursuant to section 399.05, Florida Statutes, for permitting and inspecting most elevators in operating throughout the state. [See 61C-5 FAC] DBPR has adopted the Safety Code For Elevators and Escalators ASME A17.1.

Pursuant to section 320.823, Florida Statutes, the Department of Highway Safety and Motor Vehicles (DHSMV), Bureau of Mobile Home and RV Construction, is responsible for administering and enforcing license requirements for manufacturers of mobile homes or recreational vehicles. [See 61C-1, 61C-3, and 61-C4 FAC] The department uses the Federal Manufactured Home Construction and Safety Standards (HUD Code). Section 320.824, Florida Statutes, authorizes DHSMV to adopt rules necessary to enforce the HUD code, including the authority to act as an agency for HUD in Florida, and to perform the State Administrative Agency (SAA) and In-plant Inspection Agency (IPIA) functions.

Pursuant to sections 395.0163 and 400.23(2)(a), Florida Statutes, the Agency for Health Care Administration (AHCA), Office of Plans and Construction, is responsible for reviewing and approving plans for the design and construction of all licensed and certified hospitals, nursing homes, and ambulatory surgical centers. [See 59A-3, 59A-4, and 59A-5 FAC]. AHCA uses a number of building and specialty codes. AHCA conducts on-site surveys of facilities for final approval of the physical plant.

Several State Departments have limited responsibilities in setting standards or inspecting facilities for specific areas. These departments include: The Department of Health, Office of Environmental Health Programs; The Department of Agriculture and Consumer Services, Division of Food Safety; the Department of Environmental Protection; the Public Service Commission; and the Department of Children and Families.

Governor's Building Codes Study Commission

On July 31, 1996, the Governor issued an Executive Order establishing the Governor's Building Codes Study Commission (BCSC). The Commission was charged to "evaluate the current effectiveness of, and through general consensus among the Commission members, recommend any necessary steps to reform the Florida building code system." The Commission was to "look at the overall inventory of building codes and standards controlling the quality of Florida's build environment, the administration of these codes and standards, and issues relating to code compliance."

The Commission issued a report and reported their findings to the Governor in December, 1997.

B. EFFECT OF PROPOSED CHANGES:

House Bill 4181 authorizes the adoption and subsequent updates of a statewide unified building code to be called the Florida Building Code. In addition, the bill re-constitutes the Board of Building Codes and Standards as the Florida Building Commission.

Upon initial adoption, the Florida Building Code is deemed adopted by all local jurisdictions. Local governments may adopt more stringent requirements to the code subject to some restrictions.

A statewide product evaluation system shall be developed and administered by the Florida Building Commission. Furthermore, a building code training program shall be developed related to the Florida Building Code. This program will become part of current continuing education requirements for occupations related to construction and construction regulation.

The bill provides for disciplinary consequences related to material code violations for state-certified and registered contractors. In addition, the Department of Business and Professional Regulation is required to implement an automated information system which tracks disciplinary actions taken against construction-related occupations on a state-wide basis.

The bill creates continuing education requirements for registered engineers and registered landscape architects.

The bill provides for journeyman reciprocity for state-certified plumbers, pipefitters, HVAC trades and electricians in local jurisdictions.

The bill conforms the powers of the Department of Insurance and the Office of the State Fire Marshal with the re-constituted powers of the Florida Building Commission. Similar

processes for code adoption, update and promulgation of the Florida Building Code and the Uniform Lifesafety Standards and the Minimum Firesafety Code are provided.

The bill repeals some of the current statutes applicable to building codes January 1, 2001. The effective date of repeal of the relevant sections of chapter 553, Florida Statutes, is subject to Legislative approval of the state-wide unified building code as developed by the Florida Building Commission.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes, the bill authorizes the Florida Building Commission, to adopt rules pursuant to sections 120.536(1) and 120.54, Florida Statutes, to implement the Florida Building Code and the provisions of chapter 553, Florida Statutes. Furthermore, the Commission is authorized to adopt and promote recommendations to ensure consistent, effective and efficient enforcement and compliance with the Florida Building Code.

New authority includes the authorization to make rules related to approval of construction products, materials and devices for statewide use. This streamlined system will replace local government approvals of products and systems and result in a \$750,000 to \$830,000 savings to local jurisdictions.

The Department of Business and Professional Regulation is authorized to develop continuing education programs for engineers and landscape architects. These are two professional disciplines related to construction activities that do not currently have an established continuing education program.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Building code powers of enforcement and administration for facilities currently permitted, reviewed and inspected by state agencies will shift to local governments in 2001. Local jurisdictions are authorized to charge permit fees related to these new activities.

Local governments must provide information related to disciplinary action involving material code violations for a statewide reporting system within 30 days of taking action against a licensee. The reporting system is an effort to better inform building officials and consumers throughout the State of Florida, about violators.

Local governments shall develop fiscal impact statements when adopting local technical amendments to the Florida Building Code.

Local governments, through inter-local agreement shall establish county-wide local compliance appeals boards to hear appeals of local technical amendments and binding interpretations.

Engineers and landscape architects are required to participate in continuing education programs. This will conform similar requirements imposed on other occupations related to construction.

- (3) any entitlement to a government service or benefit?

No.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

The code related inspections and plan review duties of the Department of Management Services, as well as code-related aspects of various state agencies' licensure requirements pertaining to certain private buildings/facilities will be re-assigned to cities and counties. Local jurisdictions will have the ability to collect permit fees to perform the services to provide the additional services.

- (2) what is the cost of such responsibility at the new level/agency?

It will cost local governments approximately \$10.6 to \$12.8 million to administer the transferred duties. However, they are authorized to collect permit fees to provide the transferred duties.

- (3) how is the new agency accountable to the people governed?

Decisions made by local building officials related to building code regulation and administration are appealable to the Florida Building Commission. In addition, local governments are required to publish all locally specific standards related to building code enforcement and have this information available for the public in a usable format.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

Yes.

The Florida Building Commission is authorized to charge fees to pay for the cost of approving construction products, materials, and devices for statewide use.

The Department of Business and Professional Regulation may need to increase fees to administer continuing education programs for engineers and landscape architects.

Attendees of code training courses will be required to pay for their courses in order for the program to be self-sufficient. The total cost to attendees will not increase overall because these courses count toward the current number of required continuing education hours as part of existing licensure programs.

Local governments currently have the authority to charge fees sufficient to cover the cost of building department functions, but they may need to increase fees to cover new duties established in this bill.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

Yes.

Local governments are authorized to charge re-inspection fees four times the initial inspection fee for second re-inspections. This is designed to act as an incentive for contractors to perform work correctly early in the inspection process. Furthermore, they are authorized to charge four times the permit fee for a third plans review.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes.

Construction product, material, and device manufacturers will pay for the cost of statewide product approval by the Florida Building Commission.

The construction industry, which will benefit from a more uniform statewide code and other aspects of this bill, **will pay all cost increases** incurred by local governments through the payment of permit and inspection fees.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 125.69, 161.54, 161.56, 162.21, 166.0415, 455.2286, 468.602, 468.609, 468.621, 468.627, 471.003, 471.017, 471.033, 481.215, 481.225, 481.2251, 481.313, 481.325, 489.103, 489.115, 489.117, 489.120, 489.127, 489.129, 489.131, 489.1455, 489.517, 489.531, 489.533, 489.5335, 489.537, 489.539, 500.549, 553.06, 553.18, 553.19, 553.71, 553.72, 553.73, 553.74, 553.75, 553.76, 553.77, 553.79, 553.80, 627.351, 633.01, 633.025, 633.085, 633.72, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

Many provisions of the Florida Statutes reference the State Minimum Building Codes pursuant to section 553.73, Florida Statutes.

Sections 1-5: Amends sections 125.96, 161.54(11), 161.56(1), 162.21, and 166.0415(5), Florida Statutes, to replace this reference with a reference to the Florida Building Code as created in this bill. These provisions are effective January 1, 2001.

Section 6: Creates section 455.2286, Florida Statutes, to require the Department of Business and Professional Regulations to implement, by January 1, 1999, an automated information system for all certified or registered engineers, architects, interior designers, landscape architects, construction contractors, electrical contractors, alarm system contractors, and septic tank contractors, to provide instant notification to local building departments and other interested parties regarding the status of certification or registration. The information system must include an indication of whether the certification or registration is active; any current failure to make restitution according to the terms of any final action by a licensing authority; any ongoing disciplinary cases that are subject to public disclosure, and whether there are any outstanding fines. The system may be internet-based.

Section 7: Amends section 468.602, Florida Statutes, to provide that the provisions of part XII of chapter 468 do not apply to persons acting as special inspectors for code enforcement jurisdictions while conducting special inspections not required as minimum inspections by the Florida Building Code.

Section 8: Amends section 468.609(2), Florida Statutes, to require applicants for building code administrators and inspectors licenses, must within 6 months of taking the examination, successfully complete the core curriculum and specialized or advanced

module course work approved by the Florida Building Commission, as part of the Building Code Training Program specified in section 553.841, Florida Statutes.

Section 9: Amends section 468.621(1), Florida Statutes, to provide that “failing to execute the duties and responsibilities for enforcing the Florida Building Code” constitute grounds for disciplinary actions against licensed building code administrators and inspectors, effective January 1, 2001.

Section 10: Amends section 468.627(7), Florida Statutes, to require certified building code administrator or inspectors to provide proof, each biennium since the issuance or renewal of the certificate, that they have completed the specialized or advanced course work approved by the Florida Building Commission for the appropriate licensing category sought. This course work is a part of the biennial 14 classroom hours of continuing education required under this subsection.

Section 468.627(8), Florida Statutes, is created to require each certified building code administrator or inspector to provide the Florida Building Code Administrators and Inspectors Board proof of completion of the core curriculum courses, or passing the equivalency test of the Building Code Training Program, within 2 years after commencement of the program.

Section 11: Creates subsections (3), of section 471.017, Florida Statutes, to specify additional requirements for the renewal of the engineer’s license. Proposed subsection (3) authorizes the Board of Professional Engineers (BPE) to require a specified number of hours in specialized or advanced courses, approved by the Florida Building Commission, on any portion of the FBC, relating to the licensee’s respective area of practice, for those licensees regularly engaged in a practice requiring affixing their seal, name, or digital signature to plans, specifications, drawings, or other documents relating to the design of buildings or building systems, effective January 1, 2001.

Section 12: Amends section 471.019, Florida Statutes, to provide for a requirement related to continuing education for registered engineers performing work related to buildings, structures and facilities. Provides that engineers must submit proof of completion of continuing education courses to the Board of Professional Engineers.

Section 13: Amends paragraph (c) of subsection (3) of section 471.033, Florida Statutes, to provide that the Board of Professional Engineers may fine registered engineers up to \$5,000 for matters pertaining to a material violation of the Florida Building Code, as reported by a local jurisdiction.

Section 14: Creates subsection (5) and (6) of section 481.215, Florida Statutes. Subsection (5) requires licensees to provide the Board of Architecture and Interior Design (BAID) proof of completion of the core curriculum courses, or passing the equivalency test, within 2 years after commencement of the program or after initial licensure, whichever is later. Hours spent taking core curriculum courses count toward the number required for license renewal, and licensees passing the equivalency test can receive full credit for the core curriculum course hours. Creates subsection (6) of section 481.215, Florida Statutes, to authorize BAID to require a specified number of hours in specialized or advanced courses, approved by the Florida Building Commission, on any portion of the FBC, relating to the licensee’s respective area of practice, effective January 1, 2001.

Section 15: Effective January 1, 2001, paragraph (c) of subsection (3) of section 481.225, Florida Statutes, is amended to provide that the Board of Architecture and Interior Design may fine registered architects up to \$5,000 for matters pertaining to a material code violation of the Florida Building Code, as reported by a local jurisdiction.

Section 16: Effective January 1, 2001, paragraph (d) of subsection (2) of section 481.2251, Florida Statutes, is amended to provide that the Board of Architecture and Interior Design may fine registered interior designers up to \$5,000 for matters pertaining to a material code violation of the Florida Building Code, as reported by a local jurisdiction.

Section 17: Creates subsection (3), (4), (5) and (6) of section 481.313, Florida Statutes, to specify additional requirements for the renewal of a landscape architect's license. Proposed subsection (3) requires that a license may not be renewed until proof is submitted that the licensee participated in continuing education (CE) courses to the extent required by the Board of Landscape Architects (BLA) during the 2 year period prior to application for renewal. Proposed subsection (4) requires the BLA to establish, by rule, criteria for the approval of CE courses and providers, and criteria for accepting alternative non-classroom CE's on an hour-for-hour basis. Proposed subsection (5) requires licensees to provide the BLA proof of completion of the core curriculum courses, or passing of the equivalency test, within 2 years after commencement of the program or after initial licensure, whichever is later. Hours spent taking core curriculum courses count toward the number required for license renewal, and licensees passing the equivalency test can receive full credit for the core curriculum course hours. Creates subsection (6) of section 481.313, Florida Statutes, to authorize the BLA to require a specified number of hours in specialized or advanced courses, approved the Florida Building Commission, on any portion of the FBC, relating to the licensee's respective area of practice, effective January 1, 2001.

Section 18: Effective January 1, 2001, paragraph (c) of subsection (3) of section 481.2251, Florida Statutes, is amended to provide that the Board of Architecture and Interior Design may fine registered landscape architects up to \$5,000 for matters pertaining to a material code violation of the Florida Building Code, as reported by a local jurisdiction.

Section 19: Creates subsection (17), 489.103, Florida Statutes, to exempt Habitat for Humanity International from being subject to provisions of chapter 489, Florida Statutes.

Section 20: Amends section 489.115(4)(b), Florida Statutes, to create subparagraph 3., to require each certificateholder or registrant to provide the Construction Industries Licensing Board (CILB) proof of completion of the core curriculum courses, or passing of the equivalency test, within 2 years after commencement of the program or after initial certification or registration, whichever is later. Hours spent taking core curriculum courses count toward the number required for license renewal, and licensees passing the equivalency test can receive full credit for the core curriculum course hours.

Section 21: Creates subparagraph 4., of paragraph (b) of subsection (4) of section 489.115, Florida Statutes, to authorize the CILB to require a specified number of hours in specialized or advanced courses, approved by the Florida Building Commission, on any portion of the FBC, relating to the contractor's respective discipline, effective January 1, 2001.

Section 22: Amends section 489.117(4)(c), Florida Statutes, to require local jurisdictions to provide licensure information on registered contractors and disciplinary information on state certified contractors to the CILB within 30 days after licensure or any disciplinary action.

Section 23: Amends section 489.127(1)(h), Florida Statutes. Paragraph (1)(h) deletes a reference to the state minimum building code and include a reference to building permits required pursuant to part VII of chapter 553, Florida Statutes.

Section 24: Amends section 489.131(3)(e), Florida Statutes, to conform, effective January 1, 2001.

Section 25: Amends section 489.1455(1), Florida Statutes, to expand requirements a plumbing/pipe fitting, mechanical, or HVAC journeyman must meet, to avoid taking an additional examination or paying an additional license fee; includes satisfactorily completing specialized and advanced module course work approved by the Florida Building Commission, as part of the Building Code Training Program specific to the discipline; and successfully passing a standardized certification examination and obtaining a certificate from the board pursuant to this part.

Section 26: Creates subsections (6) and (7), 489.513, Florida Statutes. Subsection (6) provides that local jurisdictions are responsible for providing licensure and code violation and disciplinary information to the Construction Industry Licensing Board (CILB) within 30 days after licensure or any disciplinary action. The CILB is required to maintain such information on the automated information system. Subsection (7) provides that DBPR and the CILB assume no responsibility for providing discipline pursuant to tracking registration of licensees.

Section 27: Amends subsection (3) and creates subsection (4), of section 489.517, Florida Statutes. Section (3)(b) requires each certificateholder or registrant to provide the Construction Industries Licensing Board (CILB) proof of completion of the core curriculum courses, or passing of the equivalency test, within 2 years after commencement of the program or after initial certification or registration, whichever is later. Hours spent taking core curriculum courses count toward the number required for license renewal, and licensees passing the equivalency test can receive full credit for the core curriculum course hours. Section (7) includes satisfactorily completing specialized and advanced module course work approved by the Florida Building Commission, as part of the Building Code Training Program specific to the discipline; and successfully passing a standardized certification examination and obtain a certificate from the board pursuant to this part.

Section 28: Amends paragraph (i) of subsection (1), 489.531, Florida Statutes, to conform.

Section 29: Repeals paragraph (i) of subsection (1) of section 489.533, Florida Statutes.

Section 30: Amends subsection (1) of section 489.5335, Florida Statutes, to expand requirements an electrical journeyman must meet, to avoid taking an additional examination or paying an additional license fee to include satisfactorily completing

specialized and advanced module course work approved by the Florida Building Commission, as part of the Building Code Training Program, specific to the discipline, and successfully passing a standardized certification examination and obtaining a certificate from the board pursuant to this part.

Section 31: Amends section 489.537(3)(d), Florida Statutes, to conform, effective January 1, 2001.

Section 32: Amends section 500.459(5)(d), Florida Statutes, relating to the State Plumbing Code, to conform, effective January 1, 2001.

Section 33: Amends section 553.06(1), Florida Statutes, to authorize the Board of Building Codes and Standards to adopt "all or parts of" updated or revised editions of the State Plumbing Code, rather than adopting the entire updated or revised versions.

Section 34: Amends section 553.18(2), Florida Statutes, relating to the minimum electrical standards, to conform, effective January 1, 2001.

Section 35: Amends section 553.19, Florida Statutes, to delete an obsolete reference in subsection (5) to the Department of Health and Rehabilitative Services, and amend this section to require the Florida Building Commission to update and maintain electrical standards consistent with the procedures established in section 553.73, Florida Statutes.

Section 36: Declares that effective January 1, 2001, part VII of chapter 553, Florida Statutes, be entitled the "Florida Building Code."

Section 37: Amends section 553.71(1) (3) and (5), Florida Statutes. Subsection (1) is amended to redefine "Board" as the Florida Building Commission rather than the Board of Building Codes and Standards. Subsection (3) is amended to change the phrase "enforcement agency" to "state enforcement agency" and expand the definition to specify that the state enforcement agency is the agency of the "state" government with the authority to make inspections of buildings and to enforce the codes which establish standards for design, erection, modification as well as establish standards for construction, alteration, repair or demolition of buildings. The definition is also expanded to clarify that the agency has jurisdiction over public or private buildings, structures or facilities. Subsection (5) is amended to clarify that local enforcement agencies have jurisdiction over public or private buildings, structures or facilities.

Section 38: Amends section 553.72, Florida Statutes, to expand the intent language of the Act. Provides a purpose of the Florida Building Codes Act as a mechanism for "the uniform adoption, updating, amendment, interpretation, and enforcement of a single state building code, to be called the Florida Building Code, which consists of a single set of documents that apply to the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities in this state and to the enforcement of such requirements....."

This section is further amended to provide application of the code and legislative intent. Specifically:

"The Florida Building Code shall be organized to provide consistency and simplicity of use. The code shall be applied, administered, and enforced uniformly and consistently

from jurisdiction to jurisdiction. The code shall provide for flexibility to be exercised in a manner that meets minimum requirements, is affordable, does not inhibit competition, and promotes innovation and new technology.”

Subsection (2) states it is the Legislature’s intent that local governments have the authority to inspect all buildings, structures and facilities within their jurisdiction, pursuant to chapters 125 and 166.

Subsection (3) states it is the Legislature’s intent that the Florida Building Code be “adopted, modified, updated, interpreted, and maintained by the Florida Building Commission and enforced by authorized state and local government enforcement agencies.” Currently, local governments adopt and maintain their own versions of the State Minimum Building Code.

Subsection (4) states it is the Legislature’s intent that the Florida Fire Prevention Code and Life Safety Code be “adopted, modified, updated, interpreted, and maintained by the Department of Insurance and included by reference as sections in the Florida Building Code.” (Currently, the fire prevention and life safety codes are not included in the state minimum building codes.)

Subsection (5) states it is the Legislature’s intent that there be no conflicting requirements between the Florida Fire Prevention Code and the Life Safety Code and other provisions of the Florida Building Code or conflicts in their enforcement or interpretation. Conflicts are resolved through cooperation between the State Fire Marshal and the Florida Building Commission.

Section 39: Amends section 553.73 (3) and (9), Florida Statutes, to change an inaccurate reference to a rule relating to coastal building zones.

Section 40: Effective January 1, 2001, significantly amends section 553.73, Florida Statutes, by replacing the State Minimum Building Code with the Florida Building Code. Paragraph (1)(a) provides that the Florida Building Commission, formerly known as the Board of Building Codes and Standards, is required to adopt the Florida Building Code (the Code), a comprehensive code that contains or incorporates by reference “all laws and rules which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and enforcement of such laws and rules, except as otherwise provided in this section.”

Paragraph (1)(b) provides the technical portions of the Florida Accessibility Code for Building Construction (FACBC) is to be contained in its entirety in the Code, while the civil rights and technical portions remain as currently provided by law. Revisions or amendments to the FACBC are considered adopted by the board as part of the Code. Neither the board or any local government may revise or amend any standard of the FACBC.

Paragraph (1)(c) provides that while the fire prevention and life safety codes are contained in the Code, they may only be adopted, modified, revised or amended, interpreted, and maintained by the Department of Insurance. This paragraph clarifies that nothing in the Code “shall affect the statutory powers, duties, and responsibilities of any fire official or the Department of Insurance.”

Paragraph (1)(b) is redesignated as (1)(e) and amended to specify that responsibility for enforcement, interpretation, and regulation of the Code is vested in a specified local board or agency.

Subsection (2) is amended to specify that the Code contain “provisions or requirements for public and private buildings, structures, and facilities relative to structural, mechanical, electrical, plumbing, energy, gas and radon systems, existing buildings, historical buildings, manufactured buildings, elevators, coastal construction, lodging facilities, food sales and food service facilities, health care facilities, educational facilities, swimming pools, and correctional facilities.” In addition, this section clarifies that Code provisions are restricted to requirements related to types of materials used and construction methods and standards employed in order to meet criteria specified in the Code.

Subsection (3) is amended to specify that the board must select from available national or international model codes, or other available building codes and standards currently recognized by the laws of this state, to “form the foundation” for the Code. The board may modify the selected codes or standards to accommodate the specific needs of the state. Standards and criteria in the selected model codes must be similarly incorporated by reference, and if the referenced standard or criterion requires amplification or modification to be appropriate for use in this state, only the amplification or modification will be specified in the Code. Finally, the Code must incorporate provisions that address regional and local concerns and variations.

Subsection (4) is amended to create paragraph (a), which requires local governments to comply with Code provisions establishing standards for issuance of certificates of occupancy, mandatory minimum number and types of inspections, and procedures for plans review and inspections. Paragraph (b) authorizes local governments to adopt technical amendments to the Code that provide for more stringent requirements than those specified in the Code. Paragraphs (4)(a)-(d) are renumbered as subparagraphs (4)(b) 1.- 4. and subparagraphs (4)(b)5.-8. are created to address the adoption and review of local amendments to the Code.

Subparagraph (4)(b)5. is created to specify that the board is authorized to review technical amendments to the Code adopted by local governments. Any amendments must be transmitted to the Florida Building Commission within 30 days. Subparagraph (4)(b)6. states that amendments adopted by local governments are effective “only until the adoption by the board of the new edition of the Florida Building Code every third year.” At that time, the board may either adopt the amendment as part of the Code or rescind the amendment, effective 90 days after the action. If the amendment is rescinded, the board must notify the local government. The local government may then readopt the rescinded amendment.

Subparagraph (4)(b)7. is created to require each county to establish a compliance review board to review locally adopted amendments to the Code that are challenged by “any substantially affected party” to determine whether the amendment is in compliance with section 553.72, Florida Statutes. If the compliance review board determines that the amendment is not in compliance with section 553.72(4)(b), Florida Statutes, the compliance review board must notify the local government of the noncompliance and that the amendment is invalid and unenforceable until the local government corrects the

amendment. This decision of the compliance review board may be appealed by the local government to the Florida Building Commission.

Subparagraph (4)(b)8. requires that local amendments include a fiscal impact statement which documents the costs and benefits of the proposed amendment. The statement shall include the impact to local government relative to enforcement and the impact to property and building owners, and industry, relative to the cost of compliance. The fiscal impact statement may not be used as a basis for challenging the amendment for compliance.

Subparagraph (4)(b)9. provides that the commission may review any amendments adopted pursuant to this subsection and make non-binding recommendations related to compliance of such amendments with this subsection.

Paragraph (4)(c) is created to provide that local technical amendments do not apply to state or district owned buildings, manufactured buildings approved by the commission or prototype buildings approved pursuant to section 553.77(6).

Subsection (5) is created to require the Florida Building Commission to update the Code every three years. Once initially adopted, the Code is adopted for use statewide without subsequent adoption by local governments. When updating the Code, the board must "consider changes made by the adopting entity of any selected model code for any model code incorporated into the Florida Building Code by the board, the board's own binding interpretations, and advisory opinions, appellate decisions, and approved statewide and local technical amendments."

Subsection (7) is created to address technical amendments to the Code. Paragraph (7)(a) authorizes the board to approve technical amendments to the Code once a year for statewide application upon a finding by a super majority vote that delaying the application of the amendment would be contrary to the health, safety, and welfare of the public or that the amendment provides an economic advantage to the consumer. Subparagraphs 1.-4. set the guidelines that statewide technical amendments must follow. Paragraph (7)(b) requires a fiscal impact statement to accompany a statewide technical amendment.

Subsection (8) is created to provide exemptions from the code.

Paragraph (9)(a) is previous subsection (7) and is amended to outline a process between the State Fire Marshal and the Florida Building Commission for conflict resolution between conflicting code provisions.

Subsection (10) is amended to conform.

Subsection (11) is created to provide that the Florida Building Code does not apply to zoning requirements or land use requirements. Local code officials may not administer the code to prevent the siting of certain facilities.

Subsection (12) is created to provide facilities, subject to the provisions of chapter 395 and part II of chapter 400, shall have facility plans reviewed and construction surveyed by the state agency authorized to do so and the certification requirements of the federal government.

Section 41: Amends section 553.74, Florida Statutes, to re-constitute the Board of Building Codes and Standards as the Florida Building Commission and alter the membership of the Board. The bill provides for the following: one member shall represent the Department of Insurance rather than a state agency, empowered by law to enforce building codes; one member who is a representative of a municipality or a charter county; one member of the building products manufacturing industry; one member who is a representative of the building owners and managers industry; one member who is a representative of the insurance industry; one member who is a representative of public education; and, a chairman, who shall serve at the pleasure of the Governor.

Section 42: Amends section 553.75, Florida Statutes, to conform.

Section 43: Amends section 553.76, Florida Statutes, to conform.

Section 44: Amends section 553.76, Florida Statutes, to add subsection (4) which allows the Building Commission to adopt rules pursuant to sections 120.536(1) and 120.54 to implement the provisions of the Florida Building Code.

Subsection (5) is added to provide that the Board adopt, in consultation with state and local governments, other boards, advisory councils, and commissions, guidelines to ensure compliance with the Florida Building Code. This section takes effect January 1, 2001.

Section 45: Amends section 553.77, Florida Statutes, to conform.

Section 46: Effective January 1, 2001, section 553.77, Florida Statutes is substantially amended.

Subsection (1)(b) is amended to expand the scope of subject matter that the Florida Building Code addresses. In addition, upon updating the code every three years, the board shall make recommendations to the Legislature relating to statutes that should be revised to ensure consistency between the statutes and the Florida Building Code.

Paragraphs (c) and (d) are amended to provide conforming language. Paragraph (e) is added to provide that the Board is empowered to issue declaratory statements pursuant to section 120.565, Florida Statutes. Those statements may be appealed pursuant to section 120.565, Florida Statutes. Paragraph (e) is re-numbered as paragraph (f) and conforming language is included. Paragraph (f) is re-numbered as (g) and is amended to provide that the administrative staff of the commission will attend meetings of the Florida Fire Code Advisory Council. Paragraph (h) is created to provide for an appeals process related to interpretations of local building officials.

Paragraph (i) is created to provide that the Board may determine the types of products requiring approval for local or statewide use and to provide for the evaluation of such products.

Paragraph (j) provides that experts and consultants may be appointed for assistance in recommendations related to the Florida Building Code.

Paragraph (k) provides that a mutual aid program be organized through the Department of Community Affairs to address rebuilding efforts after a natural disaster. Paragraph (l) requires that the Board maintain a list of interested parties for notice of rulemaking workshops and hearings.

Paragraph (m) provides for a coordinated effort to develop a consistent, single code, be undertaken. Paragraph (n) directs the Board to provide technical assistance to local building departments in order to implement policies that produce the most cost effective property insurance ratings. Paragraph (o) directs the Board to develop guidelines for local governments to use when pursuing privatization of building department functions.

Language relating to a plumbing contractor advisory committee is repealed.

Subsections (2) and (3) are re-numbered and subsection (3) is amended to change private party to any substantially affected party. References to the State Board of Education and the Department of Management Services are repealed. Language relating to code interpretations by the Board of Building Codes and Standards for state agencies is repealed. Subsection (4) is re-numbered.

Subsection (5) is created to direct the Board to develop a document which contains descriptions of the roles and responsibilities of occupations that interact with building codes.

Subsection (6) is created to provide that the commission may provide for plans review and approval of prototype buildings.

Section 47: Creates section 553.781, Florida Statutes related to Licensee Accountability. Subsection (1) provides intent language which outlines the purpose of the Licensee accountability section, effective, January 1, 2001.

Subsection (2)(a) provides that upon final determination by a local jurisdiction, based on clear and convincing evidence, that a licensee, certificateholder or registrant has committed a material violation of the Florida Building Code, such local jurisdiction shall impose a fine of no less than \$500 and no more than \$5,000 per material violation of the Florida Building Code.

Paragraph (b) provides if a licensee, certificateholder, or registrant disputes the violation within 30 days following notification by the local jurisdiction, the fine is abated and the local jurisdiction shall report the dispute to the appropriate professional licensing authority. Provides the commission may be an intervenor on material code violations reviewed by licensing authorities. Provides that any fine imposed, pursuant to a material code violation, by a professional licensing board shall be divided equally with the local government reporting the violation.

Subsection (3) provides that the Department of Professional Regulation (DBPR) shall establish a system for local governments to report violations and disciplinary actions taken against licensees. In addition, the usage of any collected fines is outlined.

Subsection (4) provides that local jurisdictions shall maintain records, accessible by the public, relating to material violations by licensees.

A material code violation is defined as a violation which may reasonably result in physical harm to a person or significant damage to a building or its' systems.

Section 48: Amends paragraphs (a) and (c) of subsection (5) and subsection (15), section 553.79, Florida Statutes, to provide that a fee simple title owner of a building, which does not meet the definition of a threshold building may designate such building as a threshold building, subject to more than the minimum number of inspections required by the Florida Building Code and to conform.

Section 49: Amends subsections (1), (2) (3), (4), (6), (9), (10), and (14) of section 553.79, Florida Statutes, effective January 1, 2001. Subsection (1) is amended to conform. Subsection (2) is amended to conform and provides that building plans approved pursuant to 553.77(6) and state-approved manufactured buildings are exempt from local codes enforcing agency plan reviews. Subsection (3) is amended to conform. Subsection (4) is amended to conform. Subsection (6) is amended to provide that construction documents shall be prepared by or under the direction of an engineer. Subsection (9) is amended to conform. Subsection (10) is amended to conform. Subsection (14) is amended to conform. In addition, subsection (17) is created to provide that beginning in 2001, state agencies responsible for the construction or regulation of public and private buildings shall be subject to enforcement of the code by local jurisdictions.

Section 50: Amends subsections (1) and of section 553.80, Florida Statutes. Subsection (1) provides use of fees are restricted to use in enforcement of the code. Subsection (2) provides that nothing in this subsection shall be construed to supersede provisions of county charters which preempt municipal authorities respective to building codes.

Section 51: Effective January 1, 2001, amends section 553.80, Florida Statutes. Subsection (1) is amended to conform. Subsection (2) is amended to conform and to provide that with respect to evaluation of design professionals' documents, if a local government rejects design documents three or more times, the local government shall impose, each time after the third such review a fee of four times the permit fee attributed to plans review. Furthermore, the subsection provides that local governments are granted the authority to charge a rate up to four times the fee of the first inspection, for re-inspections subsequent to the first re-inspection.

Subsection (5) is created to provide that state and regional agencies with special expertise in building code standards and licensing of contractors and design professionals shall provide support to local governments upon request. Subsection (6) is created to provide that state universities, state community colleges, and public school districts are subject to the enforcement of the Florida Building Code. Furthermore the subsection provides that state universities, state community colleges and public school districts are permitted to conduct plan review and construction inspections. Such entities shall employ inspectors and plans review personnel that are certified pursuant to part XII of chapter 468, Florida Statutes. In addition, if any such entity elects to use a local government for plans review and inspection, they shall be subject to local government permit fees.

Section 52: Creates section 553.841, Florida Statutes.

Subsection (1) recognizes the need for a Building Code Training Program.

Subsection (2) directs the Board to develop a core curriculum relating to the Florida Building Code.

Subsection (3) directs the Board to develop the program in consultation with various agencies.

Subsection (4) provides that the Board may enter into contracts with various providers.

Subsection (5) provides that the program shall be accessible and affordable.

Subsection (6) provides that the Board shall develop a core curriculum and a set of advanced module course work.

Subsection (7) provides the information to be contained in the core curriculum and identifies the license categories impacted.

Subsection (8) provides that the Board shall develop an equivalency test for the core curriculum, for each category of license.

Subsection (9) provides that the DBPR develop for use as continuing education units core module work, for superintendents, journeyman and residential designers, and shall develop standardized examinations for the voluntary certification of superintendents and journeyman. DBPR is responsible for administering the exam, issuing certifications and maintaining continuing education requirements.

Subsection (10) authorizes state boards and the State Fire Marshal to require specialized or advanced core modules as part of a continuing education program.

Section 53: Provides for directory language to the commission.

Subsection (1) directs the Board to develop a training program for entry level construction workers.

Subsection (2) directs the Board to develop a proposed method of implementing training programs authorized in subsection (1).

Subsection (3) directs the Board to present the implementation proposal to the Legislature in a report no later than January 31, 2000.

Section 54: Creates section 553.842, Florida Statutes.

Subsection (1) directs the Board to develop a product evaluation and approval process and provides guidelines for the framework of such system.

Subsection (2) provides that the product evaluation and approval system rely on regional, national and international consensus standards for demonstrating compliance with the Florida Building Code.

Subsection (3) provides that products, methods or systems of construction that have been approved and certified by an approved quality control agency be permitted to be used statewide, without further evaluation.

Subsection (4) statewide approval be incumbent on local jurisdictions, without additional approval.

Subsection (5) provides the manner in which approval of products or methods or systems of construction are achieved.

Subsection (6) authorizes a building official to deny a product that has statewide approval based on a written report that the product application is inconsistent with the statewide approval. The product application denial is applicable pursuant to section 553.77, Florida Statutes.

Subsection (7) provides that products which are custom fabricated or assembled shall not require separate approval provided the component parts have been approved for the fabricated or assembled product's use.

Subsection (8) provides that a building official may appeal the required approval of a product to the Board.

Subsection (9) provides decisions of local building officials are appealable to the local board of appeals, and then to the Board.

Subsection (10) directs the Board to maintain a list of the approved products.

Subsection (11) authorizes the Board to set reasonable fees and to enter into contracts.

Subsection (12) provides that products certified or approved for statewide or local use by an accepted testing facility prior to the effective date of this act, shall be deemed to be approved for use in this state.

Section 55: Amends section 553.905, Florida Statutes, to provide that HVAC units mounted in attics or garages shall not be required to have supplemental insulation beyond that installed by the manufacturer.

Section 56: Effective 2001, amends section 627.351, Florida Statutes, relating to windstorm insurance risks, to conform.

Section 57: Effective 2001, amends section 633.01, Florida Statutes, relating to the powers and duties of the State Fire Marshal, to conform. In addition the section is amended to add subsection (7) which authorizes the Department of Insurance(DOI) to provide declaratory statements.

Section 58: Creates section 633.0215, Florida Statutes, relating to the Florida Fire Prevention Code.

Subsection (1) provides that the Department of Insurance adopt the Florida Fire Prevention Code, which by reference contains all firesafety laws and rules relating to construction of buildings, structures and facilities.

Subsection (2) Provides for adoption of various fire prevention and life safety codes by reference.

Subsection (3) provides for local technical amendment to the Florida Fire Prevention Code by local government and for rules governing said technical amendments.

Subsection (4) provides the Department of Insurance update the Florida Fire Prevention Code every three years.

Subsection (5) provides that the Department of Insurance approve technical amendments to the Florida Fire Prevention Code upon finding a that a threat to life exists.

Subsection (6) provides that the Florida Fire Prevention Code does not apply to zoning requirements or land use requirements.

Section 59: Effective 2001, amends subsection (1), 633.025, Florida Statutes, to provide that the Florida Fire Prevention Code and the Life Safety Code adopted by the DOI be deemed adopted by local governments.

Subsection (2) is amended to conform.

Subsection (3) is amended to conform.

Subsection (4) is repealed.

Subsection (5) becomes the new subsection (4) and is amended to conform and to add paragraphs (a), (b), (c) and (d). Paragraph (a) provides that local government technical amendments to the minimum firesafety code be based upon a review of local conditions and be more stringent than the code or justify requirements that meet special situations. Paragraph (b) provides that such additional requirements not be discriminatory as to materials, products or construction techniques. Paragraph (c) provides that the local jurisdiction make all local technical amendments available to the public. Paragraph (d) provides that local governments making amendments to the code provide a means for any substantially affected party may challenge the validity of such amendments. The challenging party is entitled to a hearing on the challenge within 45 days. The burden of proof shall be on the challenging party.

Subsections (5), (6), (7) and (8) are amended to conform.

Subsection (9) provides that the Life Safety Code shall not apply to newly constructed on and two family dwelling units.

Section 60: Amends section 633.085, Florida Statutes, to provide that state-leased buildings will no longer be inspected by the Department of Insurance.

Section 61: Amends section 633.72, Florida Statutes, to provide that DOI and the Florida Building Commission cooperate and consult on matters of consistency between codes.

Section 62: Directs the Commission to submit to the Legislature, before the 2000 regular session, for review and approval or rejection, the Florida Building Code adopted by the Commission. In addition, they are directed to prepare a list of recommendations of revisions to the Florida Statutes necessitated by adoption of the Florida Building Code, if approved by the Legislature. Upon approval of the Florida Building Code by the Legislature, all existing local technical amendments adopted by local governments are repealed.

Section 63: Provides that it is the intent of the Legislature to establish performance-based criteria for existing educational facilities. Therefore, the State fire Marshal, the Florida Building Commission and the commissioner of Education shall appoint a select committee to consider the development of a Public School Facility Fire Safety Evaluation Performance Code.

Section 64: Directs the Department of Management Services to initiate a pilot project to evaluate the costs and benefits of installing an ozonation water treatment system.

Section 65: Repeals several sections of statutes to conform.

Section 66: Effective January 1, 1999, section 489.120, Florida Statutes, is repealed to conform.

Section 67: Effective January 1, 2001, paragraph (d) of subsection (1) of section 489.129, Florida Statutes is repealed.

Section 68: Except as otherwise provided, repeals numerous sections of statutes to conform.

Section 69: Provides for the appropriation of \$2,090,000 from the Department of Community Affairs Operating Trust for purposes of selection, development and adoption of the Florida Building Code. Provides that \$900,000 is appropriated from the Insurance commissioners Regulatory Trust Fund for training and education related to Implementation of the Florida Building Code.

Section 70: This shall take effect July 1 of the year in which enacted or upon becoming law, whichever occurs later.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Department of Community Affairs:

\$700,000 for non-recurring activities and another \$1,524,000 over the next 2 ½ years for development costs related to code development, product approval program, code training, and other administrative requirements prior to adoption of the statewide unified building code on January 1, 2001. This will be funded from existing trust fund monies. The Department needs authorization to spend the money in this manner.

Department of Business and Professional Regulation:

\$481,000 annually is needed for start-up of a statewide reporting and tracking system for local disciplinary actions against, and material code violations by, licensed contractors and construction design professionals.

\$380,000 for development of a continuing education and certification program for engineers and landscape architects.

2. Recurring Effects:

Subsequent to the two year start-up period, there is an annual savings to state government of over \$1 million.

Department of Community Affairs (Florida Building Commission):

After adoption of the code in 2001, an additional \$1,983,000 annually (above the current funding of \$700,000) is needed for code administration - including binding interpretations and appeals -product approval program administration, and code training administration.

Department of Business and Professional Regulation:

\$385,000 annually will be needed for implementation of a statewide reporting and tracking system for local disciplinary actions against, and material code violations, by licensed contractors and construction design professionals.

\$180,000 annually will be needed for new continuing education programs for landscape architects and construction superintendents and journeymen and a voluntary certification program for construction superintendents and journeymen.

Department of Management Services:

After the cost code is adopted, \$490,000 will not be needed by this agency to perform code-related plan review and inspection duties performed in-house. These duties are turned over to local government.

State agencies:

After the code is adopted in 2001, specified state agencies that perform code-related inspections as part of their licensure of certain private buildings and facilities could save about \$3.8 million as a result of these functions being performed by local government.

3. Long Run Effects Other Than Normal Growth:

After, the first three year code cycle, recurring costs for the Florida Building Commission should decrease approximately 10%.

4. Total Revenues and Expenditures:

Refer to Chart 3.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

There will be some initial costs related to participating in the statewide reporting and tracking system for material code violations and disciplinary actions. The Department of Business and Professional Regulation and the Florida Building Commission will assist local governments in hooking up to this system, including supplying computers to small jurisdictions that do not currently have any computers.

2. Recurring Effects:

Statewide, local governments will incur between \$10.6 million and \$12.8 million annually to assume code-related duties of state agency, community college, state university, and public school buildings, as well as private buildings inspected by state agencies for code related issues. Permit fees for these services are currently collected by state agencies. Local governments will recover all costs through permit fees.

Agencies, such as public schools, who currently employ inspection staff or contract with a local government provider, will save money annually by only paying permit fees associated with services they specifically need.

There is an approximate \$1.2 million to \$1.6 million annual savings to local governments statewide, by transferring responsibilities of product evaluation to the state, eliminating code adoption requirements, and reducing the number of local amendments.

There is an approximate \$67,000 - \$124,000 annual cost impact to local governments statewide, to comply with developing a fiscal impact statement for local technical amendments. The statement must demonstrate the financial reasonableness of any technical amendment to the code proposed by local jurisdictions. Local governments will recover all costs through permit fees.

There is approximately a \$1.75 million to \$3 million annual cost impact to local governments statewide, to participate in appeals of local building officials decisions to the Florida Building Commission. Local governments will recover all costs through permit fees.

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

The construction industry pays via permit fees for all of the new responsibilities assumed by local governments. Primarily this is a shift of dollars from the state to local governments.

2. Direct Private Sector Benefits:

The construction industry, a primary proponent of the bill, expects to realize significant cost savings statewide as a result of the effects of the bill. The streamlined approach to code enforcement allows construction professionals to operate under similar standards in all jurisdictions.

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

The overall fiscal impact of the bill is positive. Primarily the bill is good for economic stimulation in the state by streamlining enforcement related to building codes. A single regulating entity for product evaluation also streamlines processes and lowers costs for manufacturers of construction-related products.

Authorizing local governments to provide code administration duties, currently performed at the state level, provides for more effective and efficient service delivery and result in a \$1 million annual cost savings after the implementation phase.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill requires counties or municipalities to spend funds or take action requiring the expenditure of funds. However, counties and municipalities are authorized to charge permit fees related to newly acquired functions.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that local governments have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of state tax shared with local governments.

V. COMMENTS:

Numerous organizations are in support of the bill. Consensus was achieved through a series of meetings held by Representative Constantine.

Objections have been raised to the continuing education requirement for engineers by the Florida Engineering Society and the Florida Board of Engineers.

Insurance Commissioner Bill Nelson is in support of this bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The major differences between the committee substitute by the House Committee on Community Affairs and the committee substitute adopted by the Committee on Transportation and Economic Development are: :

- Material Code Violations are more narrowly defined.
- Each licensing authority hears and rules on all issues related to material code violations committed by their licensees.
- State Universities, Community Colleges and Public Schools may perform their own plan review and inspections. However their plans review and inspection personnel will be required to be licensed under chapter 468, which governs building code administrators, plans reviewers and inspectors. Furthermore, local government (cities and counties) will be the vested authority relating to the Florida Building Code with in their jurisdiction.
- There are numerous technical changes in order to comply with the Administrative Procedures Act.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

Lisa C. Cervenka

Joan Highsmith-Smith

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DATE: April 15, 1998

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AS REVISED BY THE COMMITTEE ON TRANSPORTATION & ECONOMIC
DEVELOPMENT APPROPRIATIONS:

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