

Bill No. HB 4439, 1st Eng.

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Clary moved the following amendment to amendment		
12	(902392):		
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14	Senate Amendment (with title amendment)		
15	On page 106, between lines 9 and 10		
16			
17	insert:		
18	Section 59. Effective January 1, 2001, section 553.73,		
19	Florida Statutes, as amended by CS/CS/HB 4181, 1998 Regular		
20	Session, is amended to read:		
21	553.73 State Minimum Building Codes.--		
22	(3) The <u>commission board</u> may, by rule adopted in		
23	accordance with the requirements of <u>ss. 120.536(1) and 120.54</u>		
24	chapter 120 , designate all or a part of an updated or revised		
25	version of a model code listed in subsection (2) as a State		
26	Minimum Building Code.		
27	(9) Except within coastal building zones as defined in		
28	s. 161.54, specification standards developed by nationally		
29	recognized code promulgation organizations to determine		
30	compliance with s. <u>1606</u> 1205 and the engineering design		
31	criteria of s. <u>1606</u> 1205 of the Standard Building Code shall		

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1 not apply to one or two family dwellings which are two stories
2 or less in height unless approved by the commission ~~Board of~~
3 ~~Building Codes and Standards~~ for use or unless expressly made
4 subject to said standards and criteria by local ordinance
5 adopted in accordance with the provisions of subsection (4).

6 Section 60. Effective January 1, 2001, section 553.73,
7 Florida Statutes, as amended by this act, is amended to read:

8 553.73 Florida State Minimum Building Code Codes.--
9 (1)(a) The commission shall adopt, by rule pursuant to
10 ss. 120.536(1) and 120.54, the Florida Building Code which
11 shall contain or incorporate by reference all laws and rules
12 which pertain to and govern the design, construction,
13 erection, alteration, modification, repair, and demolition of
14 public and private buildings, structures, and facilities and
15 enforcement of such laws and rules, except as otherwise
16 provided in this section. ~~By October 1, 1984, local~~
17 ~~governments and state agencies with building construction~~
18 ~~regulation responsibilities shall adopt a building code which~~
19 ~~shall cover all types of construction. Such code shall~~
20 ~~include the provisions of parts I-V, VII, and VIII, relating~~
21 ~~to plumbing, electrical requirements, glass, manufactured~~
22 ~~buildings, accessibility by handicapped persons, and thermal~~
23 ~~efficiency, and shall be in addition to the requirements set~~
24 ~~forth in chapter 527, which pertains to liquefied petroleum~~
25 ~~gas.~~

26 (b) The technical portions of the Florida
27 Accessibility Code for Building Construction shall be
28 contained in its entirety in the Florida Building Code. The
29 civil rights portions and the technical portions of the
30 accessibility laws of this state shall remain as currently
31 provided by law. Any revision or amendments to the Florida

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1 Accessibility Code for Building Construction pursuant to part
2 V shall be considered adopted by the commission as part of the
3 Florida Building Code. Neither the commission nor any local
4 government shall revise or amend any standard of the Florida
5 Accessibility Code for Building Construction except as
6 provided for in part V.

7 (c) The Florida Fire Prevention Code and the Life
8 Safety Code shall be referenced in the Florida Building Code,
9 but shall be adopted, modified, revised, or amended,
10 interpreted, and maintained by the Department of Insurance by
11 rule adopted pursuant to ss. 120.536(1) and 120.54. Nothing in
12 the Florida Building Code shall affect the statutory powers,
13 duties, and responsibilities of any fire official or the
14 Department of Insurance.

15 (d) Conflicting requirements between the Florida
16 Building Code and the Florida Fire Prevention Code and Life
17 Safety Code of the state established pursuant to s. 633.022
18 and s. 633.025 shall be resolved by agreement between the
19 commission and the State Fire Marshal in favor of the
20 requirement that offers the greatest degree of life safety or
21 alternatives that would provide an equivalent degree of life
22 safety and an equivalent method of construction. If the
23 commission and State Fire Marshal are unable to agree on a
24 resolution, the question shall be referred to a mediator,
25 mutually agreeable to both parties, to resolve the conflict in
26 favor of the provision that offers the greatest life safety,
27 or alternatives that would provide an equivalent degree of
28 life safety and an equivalent method of construction.

29 (e) ~~(b)~~ Subject to the provisions of this act, in the
30 event that a special act of the Legislature, passed prior or
31 subsequent to January 1, 1978, places responsibility for

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1 enforcement, interpretation, and building construction
 2 regulation of the Florida Building Code shall be vested in a
 3 specified local board or agency, and the words "local
 4 government" and "local governing body" as used in this part
 5 shall be construed to refer exclusively to such local board or
 6 agency.

7 (2) The Florida Building Code shall contain provisions
 8 or requirements for public and private buildings, structures,
 9 and facilities relative to structural, mechanical, electrical,
 10 plumbing, energy, and gas systems, existing buildings,
 11 historical buildings, manufactured buildings, elevators,
 12 coastal construction, lodging facilities, food sales and food
 13 service facilities, health care facilities, public or private
 14 educational facilities, swimming pools, and correctional
 15 facilities and enforcement of and compliance with such
 16 provisions or requirements. ~~There is created the State Minimum~~
 17 ~~Building Codes which shall consist of the following nationally~~
 18 ~~recognized model codes:~~

19 ~~(a) Standard Building Codes, 1988 edition, pertaining~~
 20 ~~to building, plumbing, mechanical, and gas, and excluding fire~~
 21 ~~prevention;~~

22 ~~(b) EPCOT Code, 1982 edition;~~

23 ~~(c) One and Two Family Dwelling Code, 1986 edition;~~

24 ~~and~~

25 ~~(d) The South Florida Building Code, 1988 edition.~~

26
 27 ~~Each local government and state agency with building~~
 28 ~~construction regulation responsibilities shall adopt one of~~
 29 ~~the State Minimum Building Codes as its building code, which~~
 30 ~~shall govern the construction, erection, alteration, repair,~~
 31 ~~or demolition of any building for which the local government~~

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1 ~~or state agency has building construction regulation~~
2 ~~responsibility. If the One and Two Family Dwelling Code is~~
3 ~~adopted for residential construction, then one of the other~~
4 ~~recognized model codes must be adopted for the regulation of~~
5 ~~other residential and nonresidential structures. Provisions to~~
6 be contained within the Florida ~~any State Minimum~~ Building
7 Code are restricted to requirements related to the types of
8 materials used and construction methods and standards employed
9 in order to meet criteria specified in the Florida Building
10 Code minimum building codes. Provisions relating to the
11 personnel, supervision or training of personnel, or any other
12 professional qualification requirements relating to
13 contractors or their workforce may not be included within the
14 Florida ~~a State Minimum~~ Building Code, and subsection (4) is
15 not to be construed to allow the inclusion of such provisions
16 within the Florida ~~any State Minimum~~ Building Code by
17 amendment. This restriction applies to both initial
18 development and amendment of the Florida Building Code.

19 (3) The commission shall select from available
20 national or international model building codes, or other
21 available building codes and standards currently recognized by
22 the laws of this state, to form the foundation for the Florida
23 Building Code. The commission may modify the selected model
24 codes and standards as needed to accommodate the specific
25 needs of this state. Standards or criteria referenced by the
26 selected model codes shall be similarly incorporated by
27 reference. If a referenced standard or criterion requires
28 amplification or modification to be appropriate for use in
29 this state, only the amplification or modification shall be
30 specifically set forth in the Florida Building Code. The
31 commission shall incorporate within sections of the Florida

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1 Building Code provisions which address regional and local
2 concerns and variations. The commission shall make every
3 effort to minimize conflicts between the Florida Building
4 Code, the Florida Fire Prevention Code, and the Life Safety
5 Code.~~The commission may, by rule adopted in accordance with~~
6 ~~the requirements of ss. 120.536(1) and 120.54, designate all~~
7 ~~or a part of an updated or revised version of a model code~~
8 ~~listed in subsection (2) as a State Minimum Building Code.~~

9 (4)(a) Local governments shall comply with applicable
10 standards for issuance of mandatory certificates of occupancy,
11 minimum types of inspections, and procedures for plans review
12 and inspections as established by the board by rule. Any
13 amendments to standards established by the Florida Building
14 Code pursuant to this paragraph shall be more stringent than
15 such standards and shall be transmitted to the commission
16 within 30 days after enactment. The local government shall
17 make such amendments available to the general public in a
18 usable format. The Department of Insurance is responsible for
19 establishing the standards and procedures required in this
20 paragraph for governmental entities with respect to applying
21 the Florida Fire Prevention and the Life Safety Code.

22 (b) ~~Local governments and state agencies with building~~
23 ~~construction regulation responsibilities may, subject to the~~
24 ~~limitations of this section, adopt amendments to the technical~~
25 ~~provisions of the Florida Building Code which apply solely~~
26 ~~within the jurisdiction of such government and which provide~~
27 ~~for more stringent requirements than those specified in the~~
28 ~~Florida State Minimum Building Code, not more than once every~~
29 ~~6 months, Codes provided:~~

30 1.(a) The local governing body determines, following a
31 public hearing which has been advertised in a newspaper of

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1 general circulation at least 10 days before the hearing, that
2 there is a need to strengthen the requirements of the Florida
3 ~~State Minimum Building Code Codes~~ adopted by such governing
4 body. The determination must be based upon a review of local
5 conditions by the local governing body, which review
6 demonstrates that local conditions justify more stringent
7 requirements than those specified in the Florida State Minimum
8 Building Code Codes for the protection of life and property.

9 2.(b) Such additional requirements are not
10 discriminatory against materials, products, or construction
11 techniques of demonstrated capabilities.

12 3.(c) Such additional requirements may not introduce a
13 new subject not addressed in the Florida State Minimum
14 Building Code Codes.

15 4. The enforcing agency shall make readily available,
16 in a usable format, all amendments adopted pursuant to this
17 section.

18 5. Any amendment to the Florida Building Code shall be
19 transmitted within 30 days by the adopting local government to
20 the commission. The commission shall maintain copies of all
21 such amendments in a format that is usable and obtainable by
22 the public.

23 6. Any amendment to the Florida Building Code adopted
24 by a local government pursuant to this paragraph shall be
25 effective only until the adoption by the commission of the new
26 edition of the Florida Building Code every third year. At
27 such time, the commission shall adopt such amendment as part
28 of the Florida Building Code or rescind the amendment. The
29 commission shall immediately notify the respective local
30 government of the rescission of any amendment. After receiving
31 such notice, the respective local government may readopt the

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1 rescinded amendment pursuant to the provisions of this
2 paragraph.

3 7. Each county and municipality desiring to make local
4 technical amendments to the Florida Building Code shall by
5 interlocal agreement establish a countywide compliance review
6 board to review any amendment to the Florida Building Code,
7 adopted by a local government within the county pursuant to
8 this paragraph, that is challenged by any substantially
9 affected party for purposes of determining the amendment's
10 compliance with this paragraph. If the compliance review
11 board determines such amendment is not in compliance with this
12 paragraph, the compliance review board shall notify such local
13 government of the noncompliance and that the amendment is
14 invalid and unenforceable until the local government corrects
15 the amendment to bring it into compliance. The local
16 government may appeal the decision of the compliance review
17 board to the commission. If the compliance review board
18 determines such amendment to be in compliance with this
19 paragraph, any substantially affected party may appeal such
20 determination to the commission. Actions of the commission are
21 subject to judicial review pursuant to s. 120.68. The
22 compliance review board shall determine whether its decisions
23 apply to a respective local jurisdiction or apply countywide.

24 8. An amendment adopted under this paragraph shall
25 include a fiscal impact statement which documents the costs
26 and benefits of the proposed amendment. Criteria for the
27 fiscal impact statement shall include the impact to local
28 government relative to enforcement, the impact to property and
29 building owners, as well as to industry, relative to the cost
30 of compliance. The fiscal impact statement may not be used as
31 a basis for challenging the amendment for compliance.

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1 9. In addition to subparagraphs 7. and 8., the
2 commission may review any amendments adopted pursuant to this
3 subsection and make nonbinding recommendations related to
4 compliance of such amendments with this subsection.

5 (c) Any amendment adopted by a local enforcing agency
6 pursuant to this subsection shall not apply to state or school
7 district owned buildings, manufactured buildings approved by
8 the commission, or prototype buildings approved pursuant to s.
9 553.77(6). The respective responsible entities shall consider
10 the physical performance parameters substantiating such
11 amendments when designing, specifying, and constructing such
12 exempt buildings.

13 ~~(d) Paragraphs (a), (b), and (c) apply to the~~
14 ~~enforcing agency's adoption of more stringent requirements~~
15 ~~than those specified in the State Minimum Building Codes and~~
16 ~~to the adoption of building construction-related codes that~~
17 ~~have the effect of amending building construction standards~~
18 ~~contained in the State Minimum Building Codes. Upon request,~~
19 ~~the enforcing agency shall provide a person making application~~
20 ~~for a building permit, or any state agency or board with~~
21 ~~construction-related regulation responsibilities, a listing of~~
22 ~~all such requirements and codes.~~

23 (5) The commission, by rule adopted pursuant to ss.
24 120.536(1) and 120.54, shall update the Florida Building Code
25 every 3 years. Once initially adopted and subsequently
26 updated by the board, the Florida Building Code shall be
27 deemed adopted for use statewide without adoptions by local
28 government. When updating the Florida Building Code, the
29 commission shall consider changes made by the adopting entity
30 of any selected model code for any model code incorporated
31 into the Florida Building Code by the commission, the

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1 commission's own interpretations, declaratory statements,
2 appellate decisions, and approved statewide and local
3 technical amendments.

4 ~~(6)(5) It shall be the responsibility of each~~
5 ~~municipality and county in the state and of each state agency~~
6 ~~with statutory authority to regulate building construction to~~
7 ~~enforce the provisions of the Florida ~~specific model code of~~~~
8 ~~the State Minimum Building Code Codes adopted by that~~
9 ~~municipality, county, or agency, in accordance with the~~
10 ~~provisions of s. 553.80. If such responsibility has been~~
11 ~~delegated to another unit of government pursuant to s.~~
12 ~~553.79(9), the specific model code adopted by the delegate~~
13 ~~shall apply and be enforced.~~

14 ~~(7)(a)(6) The commission may approve technical~~
15 ~~amendments to the Florida Building Code once each year for~~
16 ~~statewide application upon a finding that delaying the~~
17 ~~application of the amendment would be contrary to the health,~~
18 ~~safety, and welfare of the public or the amendment provides an~~
19 ~~economic advantage to the consumer and that the amendment:~~

20 ~~1. Has a reasonable and substantial connection with~~
21 ~~the health, safety, and welfare of the general public.~~

22 ~~2. Strengthens or improves the Florida Building Code,~~
23 ~~or in the case of innovation or new technology, will provide~~
24 ~~equivalent or better products or methods or systems of~~
25 ~~construction.~~

26 ~~3. Does not discriminate against materials, products,~~
27 ~~methods, or systems of construction of demonstrated~~
28 ~~capabilities.~~

29 ~~4. Does not degrade the effectiveness of the Florida~~
30 ~~Building Code.~~

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1 Amendments approved under this paragraph shall be adopted by
2 rule pursuant to ss. 120.536(1) and 120.54.

3 (b) A proposed amendment shall include a fiscal impact
4 statement which documents the costs and benefits of the
5 proposed amendment. Criteria for the fiscal impact statement
6 shall be established by rule by the commission and shall
7 include the impact to local government relative to
8 enforcement, the impact to property and building owners, as
9 well as to industry, relative to the cost of compliance.~~The~~
10 ~~specific model code of the State Minimum Building Codes~~
11 ~~adopted by a municipality, county, or state agency shall~~
12 ~~regulate every type of building or structure, wherever it~~
13 ~~might be situated in the code enforcement jurisdiction;~~
14 ~~however, such regulations shall not apply to nonresidential~~
15 ~~farm buildings on farms; to temporary buildings or sheds used~~
16 ~~exclusively for construction purposes; to mobile homes used as~~
17 ~~temporary offices, except that the provisions of part V~~
18 ~~relating to accessibility by handicapped persons shall apply~~
19 ~~to such mobile homes used as temporary offices; or to any~~
20 ~~construction exempted under s. 553.80(3) by an enforcement~~
21 ~~district or local enforcement agency. The codes may be divided~~
22 ~~into a number of segments, as determined by the municipality,~~
23 ~~county, or state agency. These segments may be identified as~~
24 ~~building, mechanical, electrical, plumbing, or fire prevention~~
25 ~~codes or by other titles as are deemed proper. However, the~~
26 ~~State Minimum Building Codes shall not contain a housing code;~~
27 ~~nor shall the state interpose in the area of local housing~~
28 ~~codes, except upon request originating from an enforcement~~
29 ~~district or local enforcement agency.~~

30 (8) The following buildings, structures, and
31 facilities may be exempted from the Florida Building Code as

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1 provided by law and any further exemptions shall be as
 2 determined by the Legislature and provided by law:
 3 (a) Buildings and structures specifically regulated
 4 and preempted by the Federal Government.
 5 (b) Railroads and ancillary facilities associated with
 6 the railroad.
 7 (c) Nonresidential farm buildings on farms.
 8 (d) Temporary buildings or sheds used exclusively for
 9 construction purposes.
 10 (e) Mobile homes used as temporary offices, except
 11 that the provisions of part V relating to accessibility by
 12 persons with disabilities shall apply to such mobile homes.
 13 (f) Those structures or facilities of electric
 14 utilities, as defined in s. 366.02, which are directly
 15 involved in the generation, transmission, or distribution of
 16 electricity.
 17 (9)(7)(a) In the event of a conflict between the
 18 Florida ~~applicable minimum~~ Building Code and the Florida Fire
 19 Prevention Code and the Life Safety ~~applicable minimum~~
 20 firesafety Code, the conflict ~~it~~ shall be resolved by
 21 agreement between the local building code enforcement official
 22 and the local fire code enforcement official in favor of the
 23 requirement of the code which offers the greatest degree of
 24 lifesafety or alternatives which would provide an equivalent
 25 degree of lifesafety and an equivalent method of construction.
 26 (b) Any decision made by the local fire official and
 27 the local building official may be appealed to a local
 28 administrative board designated by the municipality, county,
 29 or special district having firesafety responsibilities. If
 30 the decision of the local fire official and the local building
 31 official is to apply the provisions of either the Florida

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1 ~~applicable minimum~~ Building Code or the Florida Fire
2 Prevention Code and the Life Safety ~~applicable minimum~~
3 ~~firesafety~~ Code, the board may not alter the decision unless
4 the board determines that the application of such code is not
5 reasonable. If the decision of the local fire official and
6 the local building official is to adopt an alternative to the
7 codes, the local administrative board shall give due regard to
8 the decision rendered by the local officials and may modify
9 that decision if the administrative board adopts a better
10 alternative, taking into consideration all relevant
11 circumstances. In any case in which the local administrative
12 board adopts alternatives to the decision rendered by the
13 local fire official and the local building official, such
14 alternatives shall provide an equivalent degree of lifesafety
15 and an equivalent method of construction as the decision
16 rendered by the local officials.

17 (c) ~~If in the event that~~ the local building official
18 and the local fire official are unable to agree on a
19 resolution of the conflict between the Florida Building Code
20 and the Florida Fire Prevention Code and the Life Safety Code,
21 the local administrative board shall resolve the conflict in
22 favor of the code which offers the greatest degree of
23 lifesafety or alternatives which would provide an equivalent
24 degree of lifesafety and an equivalent method of construction.

25 (d) The local administrative board shall, to the
26 greatest extent possible, be composed of members with
27 expertise in building construction and firesafety standards.

28 (e) All decisions of the local building official and
29 local fire official and all decisions of the administrative
30 board shall be in writing and shall be binding upon all
31 persons but shall not limit the authority of the State Fire

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1 Marshal or the Florida Building Commission pursuant to
2 paragraph(1)(d) and ss. 663.01, and ~~s.~~633.161. Decisions of
3 general application shall be indexed by building and fire code
4 sections and shall be available for inspection during normal
5 business hours.

6 (10)(8) Except within coastal building zones as
7 defined in s. 161.54, specification standards developed by
8 nationally recognized code promulgation organizations to
9 determine compliance with ~~s. 1606~~ and the engineering design
10 criteria of ~~s. 1606~~ of the Florida Standard Building Code for
11 wind load design shall not apply to one or two family
12 dwellings which are two stories or less in height unless
13 approved by the board of ~~Building Codes and Standards~~ for use
14 or unless expressly made subject to said standards and
15 criteria by local ordinance adopted in accordance with the
16 provisions of subsection (4).

17 (11) The Florida Building Code does not apply to, and
18 no code enforcement action shall be brought with respect to,
19 zoning requirements, land use requirements, and owner
20 specifications or programmatic requirements which do not
21 pertain to and govern the design, construction, erection,
22 alteration, modification, repair, or demolition of public or
23 private buildings, structures, or facilities or to
24 programmatic requirements that do not pertain to enforcement
25 of the Florida Building Code. Additionally, a local code
26 enforcement agency may not administer or enforce the Florida
27 Building Code to prevent the siting of any publicly owned
28 facility, including, but not limited to, correctional
29 facilities, juvenile justice facilities, or state
30 universities, community colleges, or public education
31 facilities, as provided by law.

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1 (12) In addition to the requirements of ss. 553.79 and
2 553.80, facilities subject to the provisions of chapter 395
3 and part II of chapter 400 shall have facility plans reviewed
4 and construction surveyed by the state agency authorized to do
5 so under the requirements of chapter 395 and part II of
6 chapter 400 and the certification requirements of the Federal
7 Government.

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9 (Redesignate subsequent sections.)

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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

On page 114, line 12, after the semicolon,

insert:

amending 553.73, F.S.; adding an exception from
the Florida Building Code;