

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1148

SPONSOR: Committee on Comprehensive Planning, Local & Military Affairs and Senator Clary

SUBJECT: Florida Building Code

DATE: March 31, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
2.	<u>Martin</u>	<u>Guthrie</u>	<u>RI</u>	<u>Favorable</u>
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill clarifies, updates, and corrects inconsistencies in ch. 98-287, L.O.F., which reconstituted the Florida Board of Building Codes and Standards as the Florida Building Commission and authorized the Commission to adopt a State of Florida Unified Building Code.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 161.56, 468.607, 468.609, 468.617, 471.017, 489.115, 489.513, 497.255, 553.06, 553.19, 553.141, 553.503, 553.506, 553.512, 553.73, 553.74, 553.77, 553.781, 553.80, 553.841, 553.842, 633.01, 633.0215, 633.025, and sections 62 and 68 of chapter 98-287, L.O.F.

II. Present Situation:

On July 31, 1996, the Governor issued an Executive Order establishing the Governor's Building Codes Study Commission. 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." One of the Commission's charges 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. Chapter 98-287, L.O.F., implemented many of the Commission's recommendations, to include the development of a statewide unified building code. Generally, chapter 98-297, L.O.F., provides that:

- The Board of Building Codes and Standards is reconstituted as the Florida Building Commission;

- The newly created Florida Building Commission to submit to the Legislature, before the 2000 regular session, for review and approval or rejection, the Florida Building Code as adopted by the Commission;
- The Commission is required to prepare a list of recommendations of revision to the Florida Statutes necessitated by the adoption of the Florida Building Code, if the code is approved by the Legislature;
- The Department of Insurance is required to adopt the Florida Fire Prevention Code and the Life Safety Code;
- Upon initial adoption, the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code are deemed adopted by all local jurisdictions; with some restrictions, local governments may adopt more stringent requirements to the codes;
- Beginning in 2001, local governments shall assume expanded responsibilities for permitting, plans review and inspection of facilities that are currently reviewed by state agencies;
- The Florida Building Commission will create and administer a statewide product evaluation system;
- There will be a building code training program developed which will become part of current continuing education requirements for occupations related to construction and construction regulation;
- There will be disciplinary consequences related to material code violations for state-certified and registered contractors;
- 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 statewide basis;
- There will be new continuing education requirements for registered engineers and registered landscape architects;
- The powers of the Department of Insurance and the Office of the State Fire Marshal are conformed with the reconstituted powers of the Florida Building Commission; and
- 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 act also repeals some of the current statutes applicable to building codes effective January 1, 2001. The effective date of repeal of the relevant sections of chapter 553, F.S., is subject to Legislative approval of the statewide unified building code as developed by the Florida Building Commission.

III. Effect of Proposed Changes:

Section 1 amends section 161.56(1), F.S., 1998 Supplement, to make a technical correction to the current law.

Section 2 amends, effective January 1, 2001, s. 161.56(1), F.S., 1998 Supplement, to make a technical correction to the current law.

Section 3 amends s. 468.607, F.S., to provide that educational facilities inspectors and plans examiners, conducting activities authorized pursuant to s. 235.26, F.S., are deemed certified to continue inspections for the local government until their Uniform Building Code Inspector

certification expires, after which time they must possess the proper valid certificate, pursuant to this Part of chapter 468, F.S.

Section 4 amends s. 468.609(2) and (3), F.S., 1998 Supplement, to clarify that a person seeking to sit for the examinations for inspector, plans examiner or building code administrator must meet all the listed criteria, but must comply with the CEU requirements related to the Florida Building Code only after the Building Code Training Program has been established. A literal reading of the current statute prevents any candidate from qualifying to take these exams between the effective date of Chapter 98-287, L.O.F., and the year 2001.

Section 5 amends s. 468.617, F.S., 1998 Supplement, to specify that community colleges, state universities and educational boards are deemed entities which may contract for inspections.

Section 6 amends s. 489.115, F.S., 1998 Supplement, to change a reference from the Florida Board of Building Codes and Standards to the Florida Building Commission.

Section 7 amends s. 497.255, F.S., 1998 Supplement, to change references from the Florida Board of Building Codes and Standards to the Florida Building Commission.

Section 8 amends s. 553.06(1), F.S., 1998 Supplement, to change a reference from the Florida Board of Building Codes and Standards to the Florida Building Commission.

Section 9 amends section 62 of chapter 98-287, L.O.F., to specify that the Florida Building Commission will not be required to submit the new Florida Building Code, as adopted by rule, to the Legislature for ratification if the rule adopting the code is challenged. Consequently, if the Commission adopts, by rule, the new Florida Building Code, and that rule is challenged before the 2000 Legislative Session begins, and the challenge or challenges are resolved after the end of the Session, the new rule will become effective upon resolution of the challenge or challenges. Thus, the Legislature would not have the opportunity to review and approve or reject the Florida Building Code before it became effective.

In addition, all existing local technical amendments to any building code are repealed on January 1, 2001, or upon the resolution of an administrative challenge to the rule adopting the Florida Building Code.

Section 10 amends, effective January 1, 2001, s. 553.73(4), (5), and (7), F.S., 1998 Supplement, to change a reference from the Florida Board of Building Codes and Standards to the Florida Building Commission; to prohibit persons who participate in the passage of a local building code amendment from sitting on the countywide compliance review board; to provide that no change by an institute or standards organization to any standard or criterion adopted by reference in the Florida Building Code shall become effective statewide until adopted by the commission; to clarify that the edition of the Florida Building Code in effect on the date of an application of any permit governs the permitted work, with limited exceptions; and to remove a qualifying factor to allow annual adopting of technical amendments to the Florida Building Code.

Section 11 amends s. 553.74(3) and (4), F.S., 1998 Supplement, to change references from the Florida Board of Building Codes and Standards to the Florida Building Commission.

Section 12 amends, effective January 1, 2001, s. 553.77 (1)(d),(e) and (l), F.S., 1998 Supplement, as amended by section 46 of chapter 98-287, L.O.F., to add a state agency as a party which may request a declaratory statement by the Florida Building Commission. Paragraph (p) is created to provide that the Florida Building Commission will provide technical assistance and issue advisory opinions concerning both the technical and administrative provisions of the Florida Building Code upon the written request of a private party or local enforcement agency. This section is also amended to make a technical correction to the current law.

Section 13 amends s. 553.77(2), F.S., 1998 Supplement, to add state agency as a party which may request that the commission provide for testing of materials and take other action, and creates paragraph (d) to provide that the Florida Building Commission will provide technical assistance and issue advisory opinions concerning both the technical and administrative provisions of the Florida Building Code upon the written request of a private party, a state agency or local enforcement agency.

Section 14 amends s. 553.141(4), F.S., to change references from the Florida Board of Building Codes and Standards to the Florida Building Commission.

Section 15 amends s. 553.503, F.S., to change references from the Florida Board of Building Codes and Standards to the Florida Building Commission.

Section 16 amends s. 553.506, F.S., to change references from the Florida Board of Building Codes and Standards to the Florida Building Commission.

Section 17 amends s. 553.512, F.S., to change references from the Florida Board of Building Codes and Standards to the Florida Building Commission.

Section 18 amends s. 553.781(2)(b), F.S., 1998 Supplement, to specify that the Department of Business and Professional Regulation in addition to the licensing board conduct disciplinary investigations and take disciplinary actions when the licensee, certificate holder, or registrant disputes locally determined violations, and the local government reports the dispute to the department.

Section 19 amends, effective January 1, 2001, s. 553.80(1), F.S., 1998 Supplement, as amended by section 51 of chapter 98-287, L.O.F., to delete the delegation authority of agencies. This provision is inconsistent with provisions enacted by section 49 of chapter 98-287, L.O.F.

Section 20 amends s. 553.842, F.S., 1998 Supplement, to clarify terminology for the product evaluation and approval process; to “grandfather” product approvals granted under the current building codes, and to provide an expiration for such actions; and to specify nationally recognized independent evaluation authorities that may evaluate and approve products for use statewide.

Section 21 amends, effective January 1, 2001, s. 633.01(6), F.S., 1998 Supplement, as amended by chapters 98-200 and 98-287, L.O.F., to specify that only the State Fire Marshall, rather than the Department of Insurance, may issue declaratory statements pertaining to the State Fire Prevention Code and the Life Safety Code.

Section 22 amends, effective January 1, 2001, s. 633.0215, F.S., 1998 Supplement, as amended by section 59 of chapter 98-287, L.O.F., to make numerous reference changes inserting the State Fire Marshal in lieu of the Department of Insurance; to specify that any local amendments to the Florida Fire Prevention Code must strengthen the requirements of the code; and to specify that the State Fire Marshall is authorized to adopt rules to implement this and related sections of the statutes.

Section 23 amends s. 633.025, F.S., 1998 Supplement, as amended by section 59 of chapter 98-287, L.O.F., to make numerous reference changes inserting the State Fire Marshal in lieu of the Department of Insurance, and to clarify requirements for the use of electric (hard-wired) smoke detectors in residences.

Section 24 directs the Florida Building Commission to conduct research regarding private sector assistance with the plans review and inspection functions of local government building departments, with staff of the Legislative Council on Intergovernmental Relations (LCIR) providing technical assistance.

Section 25 amends section 68 of chapter 98-287, L.O.F., to provide that the current State Building Code is repealed January 1, 2001, or upon the resolution of an administrative challenge to the rule adopting the new Florida Building Code.

Section 26 repeals s. 471.017, F.S., 1998 Supplement, which requires, as a conditional of license renewal and commencing in 2002, that engineers designing buildings, structures, and facilities covered by the FBC must submit proof that they participated in continuing education courses, or pass an equivalency test, relating to building code core curriculum or training programs. In addition, this section repeals s. 489.513(7), F.S., which specifies that the Department of Business and Professional Regulation and the Construction Industries Licensing Board are not responsible for providing discipline to locally registered contractors tracked by the department's automated information system. This system will, when developed, track code violation and disciplinary information on registered contractors, as provided by local jurisdictions.

Section 27 amends s. 553.841, F.S., 1998 Supplement, to add the State Fire Marshal as an entity with which the Florida Building Commission must coordinate in developing the building code training program.

Section 28 amends s. 553.19, F.S. 1998 Supplement, to replace a reference to the Department of Health with the Agency for Health Care Administration.

Section 29 provides that bill takes effect upon becoming law, except as otherwise provided in the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.