

Bill No. SB 966  
Amendment No. \_\_\_\_

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Forman moved the following amendment:		
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13	<b>Senate Amendment (with title amendment)</b>		
14	On page 2, between lines 5 and 6,		
15			
16	insert:		
17	Section 2. Subsection (2) of section 125.69, Florida		
18	Statutes, 1998 Supplement, is amended to read:		
19	125.69 Penalties; enforcement by code inspectors.--		
20	(2) The board of county commissioners of each county		
21	may designate its agents or employees as code inspectors whose		
22	duty it is to assure code compliance. Any person designated		
23	as a code inspector may issue citations for violations of		
24	county codes and ordinances, respectively, or subsequent		
25	amendments thereto, when such code inspector has actual		
26	knowledge that a violation has been committed.		
27	(a) Prior to issuing a citation, a code inspector		
28	shall provide notice to the violator that the violator has		
29	committed a violation of a code or ordinance and shall		
30	establish a reasonable time period within which the violator		
31	must correct the violation. Such time period shall be no more		

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1 than 30 days. If, upon personal investigation, a code  
2 inspector finds that the violator has not corrected the  
3 violation within the time period, a code inspector may issue a  
4 citation to the violator. A code inspector does not have to  
5 provide the violator with a reasonable time period to correct  
6 the violation prior to issuing a citation and may immediately  
7 issue a citation if the code inspector has reason to believe  
8 that the violation presents a serious threat to the public  
9 health, safety, or welfare, or if the violation is irreparable  
10 or irreversible.

11 (b) A citation issued by a code inspector shall state  
12 the date and time of issuance, name and address of the person  
13 in violation, date of the violation, section of the codes or  
14 ordinances, or subsequent amendments thereto, violated, name  
15 of the code inspector, and date and time when the violator  
16 shall appear in county court.

17 (c) If a repeat violation is found subsequent to the  
18 issuance of a citation, the code inspector is not required to  
19 give the violator a reasonable time to correct the violation  
20 and may immediately issue a citation. For purposes of this  
21 subsection, the term "repeat violation" means a violation of a  
22 provision of a code or ordinance by a person who has  
23 previously been found to have violated the same provision  
24 within 5 years prior to the violation at the same property or  
25 contiguous property.

26 (d) If the owner of property which is subject to an  
27 enforcement proceeding before county court transfers ownership  
28 of such property between the time the initial citation or  
29 citations are issued and the date the violator has been  
30 summoned to appear in county court, such owner shall:

31 1. Disclose in writing the existence and the nature of

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1 the proceeding to the prospective transferee.

2 2. Deliver to the prospective transferee a copy of the  
3 pleadings, notices, and other materials relating to the county  
4 court proceeding received by the transferor.

5 3. Disclose in writing to the prospective transferee  
6 that the new owner will be responsible for compliance with the  
7 applicable code and with orders issued in the county court  
8 proceeding.

9 4. File a notice with the code enforcement official of  
10 the transfer of the property, with the identity and address of  
11 the new owner and copies of the disclosures made to the new  
12 owner, within 5 days after the date of the transfer.

13  
14 A failure to make the disclosure described in subparagraphs  
15 1., 2., and 3. before the transfer creates a rebuttable  
16 presumption of fraud. If the property is transferred before  
17 the date the violator has been summoned to appear in county  
18 court, the proceeding shall not be dismissed but the new owner  
19 will be substituted as the party of record and thereafter  
20 provided a reasonable period of time to correct the violation  
21 before the continuation of proceedings in county court.

22 (e) If the code inspector has reason to believe a  
23 violation or the condition causing the violation presents a  
24 serious threat to the public health, safety, and welfare or if  
25 the violation is irreparable or irreversible in nature, or if  
26 after attempts under this section to bring a repeat violation  
27 into compliance with a provision of a code or ordinance prove  
28 unsuccessful, the local governing body may make all reasonable  
29 repairs which are required to bring the property into  
30 compliance and charge the owner with the reasonable cost of  
31 the repairs along with the fine imposed pursuant to this

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1 section. Making such repairs does not create a continuing  
2 obligation on the part of the local governing body to make  
3 further repairs or to maintain the property and does not  
4 create any liability against the local governing body for any  
5 damages to the property if such repairs were completed in good  
6 faith.

7 (f)~~(e)~~ Nothing in this subsection shall be construed  
8 to authorize any person designated as a code inspector to  
9 perform any function or duties of a law enforcement officer  
10 other than as specified in this subsection. A code inspector  
11 shall not make physical arrests or take any person into  
12 custody and shall be exempt from requirements relating to the  
13 Special Risk Class of the Florida Retirement System, bonding,  
14 and the Criminal Justice Standards and Training Commission, as  
15 defined and provided by general law.

16 (g)~~(d)~~ The provisions of this subsection shall not  
17 apply to the enforcement pursuant to ss. 553.79 and 553.80 of  
18 building codes adopted pursuant to s. 553.73 as they apply to  
19 construction, provided that a building permit is either not  
20 required or has been issued by the county. For the purposes  
21 of this paragraph, "building codes" means only those codes  
22 adopted pursuant to s. 553.73.

23 (h)~~(e)~~ The provisions of this subsection may be used  
24 by a county in lieu of the provisions of part II of chapter  
25 162.

26 (i)~~(f)~~ The provisions of this subsection are  
27 additional or supplemental means of enforcing county codes and  
28 ordinances. Except as provided in paragraph(h)~~(e)~~, nothing in  
29 this subsection shall prohibit a county from enforcing its  
30 codes or ordinances by any other means.

31 Section 3. Subsection (2) of section 162.03, Florida

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1 Statutes, is amended to read:

2           162.03 Applicability.--

3           (2) A charter county, a noncharter county, or a  
4 municipality may, by ordinance, adopt an alternate code  
5 enforcement system which gives code enforcement boards or  
6 special masters designated by the local governing body, or  
7 both, the authority to hold hearings and assess fines against  
8 violators of the respective county or municipal codes and  
9 ordinances. A special master shall have the same status as an  
10 enforcement board under this chapter. References in this  
11 chapter to an enforcement board, except in s. 162.05, shall  
12 include a special master if the context permits.

13           Section 4. Subsection (5) of section 162.04, Florida  
14 Statutes, is amended to read:

15           162.04 Definitions.--As used in ss. 162.01-162.13, the  
16 term:

17           (5) "Repeat violation" means a violation of a  
18 provision of a code or ordinance by a person who ~~whom the code~~  
19 ~~enforcement board~~ has been previously found to have violated  
20 the same provision within 5 years prior to the violation at  
21 the same property or contiguous property.

22           Section 5. Subsection (5) is added to section 162.06,  
23 Florida Statutes, to read:

24           162.06 Enforcement procedure.--

25           (5) If the owner of property which is subject to an  
26 enforcement proceeding before an enforcement board, special  
27 master, or court transfers ownership of such property between  
28 the time the initial pleading was served and the time of the  
29 hearing, such owner shall:

30           (a) Disclose in writing the existence and the nature  
31 of the proceeding to the prospective transferee.

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1           (b) Deliver to the prospective transferee a copy of  
2 the pleadings, notices, and other materials relating to the  
3 code enforcement proceeding received by the transferor.

4           (c) Disclose in writing to the prospective transferee  
5 that the new owner will be responsible for compliance with the  
6 applicable code and with orders issued in the code enforcement  
7 proceeding.

8           (d) File a notice with the code enforcement official  
9 of the transfer of the property, with the identity and address  
10 of the new owner and copies of the disclosures made to the new  
11 owner, within 5 days after the date of the transfer.

12  
13 A failure to make the disclosures described in paragraphs (a),  
14 (b), and (c) before the transfer creates a rebuttable  
15 presumption of fraud. If the property is transferred before  
16 the hearing, the proceeding shall not be dismissed, but the  
17 new owner shall be provided a reasonable period of time to  
18 correct the violation before the hearing is held.

19           Section 6. Subsections (1) and (3) of section 162.09,  
20 Florida Statutes, are amended to read:

21           162.09 Administrative fines; costs of repair; liens.--

22           (1) An enforcement board, upon notification by the  
23 code inspector that an order of the enforcement board has not  
24 been complied with by the set time or, upon finding that a  
25 repeat violation has been committed, may order the violator to  
26 pay a fine in an amount specified in this section for each day  
27 the violation continues past the date set by the enforcement  
28 board for compliance or, in the case of a repeat violation,  
29 for each day the repeat violation continues, beginning with  
30 the date the repeat violation is found to have occurred by the  
31 code inspector. In addition, if the violation is a violation

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1 described in s. 162.06(4), the enforcement board shall notify  
2 the local governing body, which may make all reasonable  
3 repairs which are required to bring the property into  
4 compliance and charge the violator with the reasonable cost of  
5 the repairs along with the fine imposed pursuant to this  
6 section. Making such repairs does not create a continuing  
7 obligation on the part of the local governing body to make  
8 further repairs or to maintain the property and does not  
9 create any liability against the local governing body for any  
10 damages to the property if such repairs were completed in good  
11 faith. If a finding of a violation or a repeat violation has  
12 been made as provided in this part, a hearing shall not be  
13 necessary for issuance of the order imposing the fine. If,  
14 after due notice and hearing, a code enforcement board finds a  
15 violation to be irreparable or irreversible in nature, it may  
16 order the violator to pay a fine as specified in paragraph  
17 (2)(a).

18 (3) A certified copy of an order imposing a fine, or a  
19 fine plus repair costs, may be recorded in the public records  
20 and thereafter shall constitute a lien against the land on  
21 which the violation exists and upon any other real or personal  
22 property owned by the violator. Upon petition to the circuit  
23 court, such order shall be enforceable ~~may be enforced~~ in the  
24 same manner as a court judgment by the sheriffs of this state,  
25 including execution and levy against the personal property of  
26 the violator, but such order shall not be deemed to be a court  
27 judgment except for enforcement purposes. A fine imposed  
28 pursuant to this part shall continue to accrue until the  
29 violator comes into compliance or until judgment is rendered  
30 in a suit to foreclose on a lien filed pursuant to this  
31 section, whichever occurs first. A lien arising from a fine

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1 imposed pursuant to this section runs in favor of the local  
2 governing body, and the local governing body may execute a  
3 satisfaction or release of lien entered pursuant to this  
4 section. After 3 months from the filing of any such lien which  
5 remains unpaid, the enforcement board may authorize the local  
6 governing body attorney to foreclose on the lien. No lien  
7 created pursuant to the provisions of this part may be  
8 foreclosed on real property which is a homestead under s. 4,  
9 Art. X of the State Constitution.

10 Section 7. Subsection (1) and paragraph (b) of  
11 subsection (2) of section 162.12, Florida Statutes, are  
12 amended to read:

13 162.12 Notices.--

14 (1) All notices required by this part shall be  
15 provided to the alleged violator by:

16 (a) Certified mail, return receipt requested, provided  
17 if such notice is sent under this paragraph to the owner of  
18 the property in question at the address listed in the tax  
19 collector's office for tax notices, and at any other address  
20 provided to the local government by such owner, it shall be  
21 presumed that the notice was received by the owner,  
22 notwithstanding that the certified mail envelope may be  
23 returned by the post office as unclaimed or refused; by

24 (b) Hand delivery by the sheriff or other law  
25 enforcement officer, code inspector, or other person  
26 designated by the local governing body; ~~or by~~

27 (c) Leaving the notice at the violator's usual place  
28 of residence with any person residing therein who is above 15  
29 years of age and informing such person of the contents of the  
30 notice; or

31 (d) In the case of commercial premises, leaving the



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1 notice with the manager or other person in charge.

2 (2) In addition to providing notice as set forth in  
3 subsection (1), at the option of the code enforcement board,  
4 notice may also be served by publication or posting, as  
5 follows:

6 (b)1. In lieu of publication as described in paragraph  
7 (a), such notice may be posted ~~for~~ at least 10 days prior to  
8 the hearing, or prior to the expiration of any deadline  
9 contained in the notice, in at least two locations, one of  
10 which shall be the property upon which the violation is  
11 alleged to exist and the other of which shall be, in the case  
12 of municipalities, at the primary municipal government office,  
13 and in the case of counties, at the front door of the  
14 courthouse in said county.

15 2. Proof of posting shall be by affidavit of the  
16 person posting the notice, which affidavit shall include a  
17 copy of the notice posted and the date and places of its  
18 posting.

19  
20 Evidence that an attempt has been made to hand deliver or mail  
21 notice as provided in subsection (1), together with proof of  
22 publication or posting as provided in subsection (2), shall be  
23 sufficient to show that the notice requirements of this part  
24 have been met, without regard to whether or not the alleged  
25 violator actually received such notice.

26 Section 8. Subsection (2) of section 162.23, Florida  
27 Statutes, is amended to read:

28 162.23 Notice to appear.--

29 (2) Prior to issuing a notice to appear, a code  
30 enforcement officer shall provide written notice to the person  
31 that the person has committed a violation of a code or



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1 prior to transfer of such property; creating a  
2 presumption of fraud under certain  
3 circumstances; authorizing local governing  
4 bodies to make certain repairs under certain  
5 circumstances; providing for absence of  
6 liability for such repairs under certain  
7 circumstances; amending s. 162.03, F.S.;  
8 specifying the status of special masters;  
9 amending s. 162.04, F.S.; revising a  
10 definition; amending s. 162.06, F.S.; requiring  
11 owners of property subject to enforcement  
12 proceedings to provide disclosure and notice to  
13 prospective transferors under certain  
14 circumstances; providing a rebuttable  
15 presumption; providing for continuation of  
16 enforcement proceedings under certain  
17 circumstances; providing procedures; amending  
18 s. 162.09, F.S.; specifying that certain  
19 actions taken by a local government do not  
20 create continuing obligations or liabilities  
21 under certain circumstances; clarifying  
22 enforcement of orders imposing certain fines or  
23 costs; amending s. 162.12, F.S.; revising  
24 prescribed methods for providing certain  
25 notices; clarifying the time period for posting  
26 certain notices; amending s. 162.23, F.S.;  
27 providing an additional exception to  
28 requirements to provide reasonable time to  
29 correct violations under certain circumstances;

30  
31