

Bill No. CS for SB 1064

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Mitchell moved the following amendment to amendment (054848):

Senate Amendment

On page 13, line 26, through
page 17, line 17, delete those lines

and insert:

Section 10. Section 468.619, Florida Statutes, is created to read:

468.619 Building code enforcement officials' bill of rights.--

(1) It is the finding of the Legislature that building code enforcement officials are employed by local jurisdictions to exercise police powers of the state in the course of their duties and are in that way similar to law enforcement personnel, correctional officers, and firefighters. It is the further finding of the Legislature that building code enforcement officials are thereby sufficiently distinguishable from other professionals regulated by the department so that their circumstances merit additional specific protections in

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1 the course of disciplinary investigations and proceedings
2 against their licenses.

3 (2) All enforcement officials licensed under this part
4 shall have the rights and privileges specified in this
5 section. Such rights are not exclusive to other rights, and an
6 enforcement official does not forfeit any rights otherwise
7 held under federal, state, or local law. In any instance of a
8 conflict between a provision of this section and a provision
9 of chapter 455, the provision of this section shall supersede
10 the provision of chapter 455.

11 (3) Whenever an enforcement official is subjected to
12 an investigative interview for possible disciplinary action by
13 the department, such interview shall be conducted pursuant to
14 the requirements of this subsection.

15 (a) The interview shall take place at a reasonable
16 hour. If the interview is taken in person, it shall take place
17 not more than 30 miles from where the licensee works, or at
18 any other mutually agreeable location or time.

19 (b) An enforcement official may not be subjected to an
20 interview without first receiving written notice of sufficient
21 details of the complaint in order to be reasonably apprised of
22 the nature of the investigation and of the substance of the
23 allegations made. The enforcement official shall be informed
24 prior to the interview whether the complaint originated from
25 the department or from a consumer.

26 (c) At his or her request, an enforcement official
27 under investigation shall have the right to be represented by
28 counsel or by any other representative of his or her choice,
29 who shall be present at such time as the enforcement official
30 wishes during the interview.

31 (d) During the interview, the enforcement official may

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1 not be subjected to offensive language. No promise may be made
2 or reward offered to the enforcement official as an inducement
3 to answer any question.

4 (e) If requested by the enforcement official, the
5 interview of an enforcement official, including notation of
6 all recess periods, must be recorded on audio tape, or
7 otherwise preserved in such a manner as to allow a transcript
8 to be prepared, and there shall be no unrecorded questions or
9 statements. Upon the request of the enforcement official, a
10 copy of any such recording of the interview must be made
11 available to the enforcement official no later than 72 hours
12 following the interview, excluding holidays and weekends. The
13 expense of the recording and transcript shall be borne by the
14 enforcement official.

15 (f) If the testimony is transcribed, the transcript
16 must be furnished to the enforcement official for examination,
17 and shall be read to or by the enforcement official, unless
18 waived by all parties involved. Any changes in form or
19 substance that the enforcement official wants to make shall be
20 listed in writing, with a statement of the reasons for making
21 the changes. The changes shall be attached to the transcript.
22 Any transcript of an interview with an enforcement official
23 which is to be used in any proceeding against the enforcement
24 official shall be sworn or affirmed to and acknowledged by the
25 enforcement official.

26 (4) The investigation of a complaint against an
27 enforcement official is subject to the time restrictions set
28 forth in this subsection, and failure to comply with any time
29 restriction set forth in this subsection shall result in
30 dismissal of the complaint against the enforcement official.
31 An investigation of a complaint against an enforcement

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1 official that was dismissed for failure to comply with a time
2 restriction set forth in this subsection may not be reopened.
3 However, in any instance of an additional complaint being
4 initiated, information or investigation related to the
5 dismissed complaint may be used.

6 (a) The department must inform the enforcement
7 official of any legally sufficient complaint received,
8 including the substance of the allegation, within 10 days
9 after receipt of the complaint by the department.

10 (b) The enforcement official shall be given thirty
11 (30) days to respond to any legally sufficient complaint.

12 (c) No longer than 180 days from the date of the
13 receipt of the complaint, the department shall submit the
14 investigation, whether complete or not, to the probable cause
15 panel for review. In the event the investigation is not
16 complete, the probable cause panel shall review and instruct
17 the department to complete the investigation within a time
18 certain and, in no event, greater than ninety (90) days or
19 dismiss the complaint with prejudice.

20 (5) The enforcement official shall be considered an
21 agent of the governmental entity employing him or her and as
22 such shall be defended by that entity in any action brought by
23 the department or the board, provided the enforcement official
24 is working within the scope of his or her employment.

25 (6) An enforcement official shall not be subject to
26 disciplinary action in regard to his or her certification for
27 exercising his or her rights under this section.

28 (7) If any action taken against the enforcement
29 official by the department or the board is found to be without
30 merit by a court of competent jurisdiction, or if judgment in
31 such an action is awarded to the enforcement official, the

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1 department or the board, or the assignee of the department or
2 board, shall reimburse the enforcement official or his or her
3 employer, as appropriate, for reasonable legal costs and
4 reasonable attorney's fees incurred. The amount awarded shall
5 not exceed the limit provided in s. 120.595.

6 (8) An enforcement official may bring civil suit
7 against any person, group of persons, or organization or
8 corporation, or the head of such organization or corporation,
9 for damages, either pecuniary or otherwise, suffered pursuant
10 to the performance of the enforcement official's duties or for
11 abridgement of the enforcement official's civil rights arising
12 out of the enforcement official's performance of official
13 duties.

14 (9) Notwithstanding any other provision in law, while
15 under investigation the enforcement official shall not be
16 denied any and all the rights and privileges of a licensee in
17 good standing.

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