

Amendment No. 02 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

11 Representative(s) Pruitt and J. Miller offered the following:

**Amendment (with title amendment)**

On page 12, between lines 27 and 28

insert: Section 7. 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 the course of disciplinary investigations and proceedings against their licenses.

(2) All enforcement officials licensed under this part

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

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

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

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

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

28 (d) During the interview, the enforcement official may  
29 not be subjected to offensive language. No promise may be made  
30 or reward offered to the enforcement official as an inducement  
31 to answer any question.

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

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

23       (4) The investigation of a complaint against an  
24 enforcement official is subject to the time restrictions set  
25 forth in this subsection, and failure to comply with any time  
26 restriction set forth in this subsection shall result in  
27 dismissal of the complaint against the enforcement official.  
28 An investigation of a complaint against an enforcement  
29 official that was dismissed for failure to comply with a time  
30 restriction set forth in this subsection may not be reopened.  
31 However, in any instance of an additional complaint being

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1 initiated, information or investigation related to the  
2 dismissed complaint may be used.

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

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

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

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

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

25 (7) If any action taken against the enforcement  
26 official by the department or the board is found to be without  
27 merit by a court of competent jurisdiction, or if judgment in  
28 such an action is awarded to the enforcement official, the  
29 department or the board, or the assignee of the department or  
30 board, shall reimburse the enforcement official or his or her  
31 employer, as appropriate, for reasonable legal costs and

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1 reasonable attorney's fees incurred. The amount awarded shall  
2 not exceed the limit provided in s. 120.595.

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

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

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

18 And the title is amended as follows:

19 On page 1, line 12, after the word "terminology;"

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21 and insert in lieu thereof:

22 creating s. 468.619, F.S.; establishing special  
23 disciplinary procedures for building code  
24 enforcement officials;

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