

By Representative Cantens

1 A bill to be entitled
2 An act relating to plans review and inspection
3 of commercial buildings; amending ss. 471.015
4 and 481.213, F.S.; requiring the Board of
5 Professional Engineers and the Board of
6 Architecture and Interior Design to establish
7 by rule qualifications for certifying
8 professional engineers and licensed architects,
9 respectively, as commercial building
10 inspectors; requiring the boards to also
11 establish minimum qualifications for authorized
12 representatives of commercial building
13 inspectors; amending ss. 471.045 and 481.222,
14 F.S.; allowing professional engineers and
15 licensed architects certified as commercial
16 building inspectors to perform certain building
17 code inspection services; providing for the
18 conduct and applicability of complaint and
19 disciplinary provisions; prohibiting plans
20 review or building code inspection on certain
21 projects; creating s. 553.791, F.S.; providing
22 requirements for plans review and inspection of
23 commercial buildings by commercial building
24 inspectors; providing definitions; providing
25 for inspection records and certificates of
26 compliance; providing for resolution of
27 disagreements; providing requirements for local
28 enforcement agencies; providing for initiation
29 of disciplinary proceedings; requiring certain
30 minimum liability coverage; providing an
31 effective date.

1 Be It Enacted by the Legislature of the State of Florida:

2

3 Section 1. Subsection (8) is added to section 471.015,
4 Florida Statutes, to read:

5 471.015 Licensure.--

6 (8) The board shall, by rule, establish qualifications
7 for certification of professional engineers as commercial
8 building inspectors, as defined in s. 553.791, and shall
9 compile a list of persons who are certified. A professional
10 engineer is not required to meet standards for commercial
11 building inspector certification other than those established
12 by the board, and the fee owner of a commercial building may
13 not be prohibited from using the services of any person
14 certified by the board as a commercial building inspector.
15 The board shall develop minimum qualifications for the
16 authorized representative of a commercial building inspector
17 who performs inspections on behalf of the commercial building
18 inspector pursuant to s. 553.791.

19 Section 2. Section 471.045, Florida Statutes, is
20 amended to read:

21 471.045 Professional engineers performing building
22 code inspector duties.--

23 (1) Notwithstanding any other provision of law, a
24 person who is currently licensed under this chapter to
25 practice as a professional engineer may provide building code
26 inspection services described in s. 468.603(6) and (7) to a
27 local government or state agency upon its request, without
28 being certified by the Florida Building Code Administrators
29 and Inspectors Board under part XII of chapter 468. When
30 performing these building code inspection services, the
31 professional engineer is subject to the disciplinary

1 guidelines of this chapter and s. 468.621(1)~~(c)-(i)-(e)-(h)~~.
2 Any complaint processing, investigation, and discipline that
3 arise out of a professional engineer's performing building
4 code inspection services shall be conducted by the Board of
5 Professional Engineers rather than the Florida Building Code
6 Administrators and Inspectors Board. A professional engineer
7 may not perform plans review as an employee of a local
8 government upon any job designed by ~~that~~ the professional
9 engineer, any member of ~~or~~ the professional engineer's firm,
10 or any firm with which the professional engineer has any
11 financial interest ~~company designed~~.

12 (2) Pursuant to s. 553.791, and notwithstanding any
13 other provision of law, a professional engineer who is
14 certified by the board as a commercial building inspector may
15 provide those building code inspection services described in
16 s. 468.603(6) and (7) to the fee owner of a commercial
17 building, without being certified by the Florida Building Code
18 Administrators and Inspectors Board under part XII of chapter
19 468. When performing these building code inspection services,
20 the professional engineer is subject to the disciplinary
21 guidelines of this chapter and s. 468.621(1)(c)-(i). Any
22 complaint processing, investigation, and discipline that arise
23 out of a professional engineer's performance of building code
24 inspection services shall be conducted by the Board of
25 Professional Engineers rather than the Florida Building Code
26 Administrators and Inspectors Board. A professional engineer
27 may not perform building code inspection services, including
28 plans review, upon any building or structure designed by the
29 professional engineer, any member of the professional
30 engineer's firm, or any firm with which the professional
31 engineer has any financial interest.

1 Section 3. Subsection (8) is added to section 481.213,
2 Florida Statutes, to read:

3 481.213 Licensure.--

4 (8) For persons whose licensure requires satisfaction
5 of the requirements of ss. 481.209(1) and 481.211, the board
6 shall, by rule, establish qualifications for certification of
7 such persons as commercial building inspectors, as defined in
8 s. 553.791, and shall compile a list of persons who are
9 certified. An architect is not required to meet standards for
10 commercial building inspector certification other than those
11 established by the board, and the fee owner of a commercial
12 building may not be prohibited from using the services of any
13 person certified by the board as a commercial building
14 inspector. The board shall develop minimum qualifications for
15 the authorized representative of a commercial building
16 inspector who performs inspections on behalf of the commercial
17 building inspector pursuant to s. 553.791.

18 Section 4. Section 481.222, Florida Statutes, is
19 amended to read:

20 481.222 Architects performing building code inspection
21 services.--

22 (1) Notwithstanding any other provision of law, a
23 person who is currently licensed to practice as an architect
24 under this part may provide building code inspection services
25 described in s. 468.603(6) and (7) to a local government or
26 state agency upon its request, without being certified by the
27 Florida Building Code Administrators and Inspectors Board
28 under part XII of chapter 468. With respect to the
29 performance of such building code inspection services, the
30 architect is subject to the disciplinary guidelines of this
31 part and s. 468.621(1)(c)-~~(i)(c)~~-~~(h)~~. Any complaint

1 processing, investigation, and discipline that arise out of an
2 architect's performance of building code inspection services
3 shall be conducted by the Board of Architecture and Interior
4 Design rather than the Florida Building Code Administrators
5 and Inspectors Board. An architect may not perform plans
6 review as an employee of a local government upon any job
7 designed by that the architect, any member of or the
8 architect's firm, or any firm with which the architect has any
9 financial interest company designed.

10 (2) Pursuant to s. 553.791, and notwithstanding any
11 other provision of law, an architect who is certified by the
12 board as a commercial building inspector may provide those
13 building code inspection services described in s. 468.603(6)
14 and (7) to the fee owner of a commercial building, without
15 being certified by the Florida Building Code Administrators
16 and Inspectors Board under part XII of chapter 468. When
17 performing these building code inspection services, the
18 architect is subject to the disciplinary guidelines of this
19 chapter and s. 468.621(1)(c)-(i). Any complaint processing,
20 investigation, and discipline that arise out of an architect's
21 performance of building code inspection services shall be
22 conducted by the Board of Architecture and Interior Design
23 rather than the Florida Building Code Administrators and
24 Inspectors Board. An architect may not perform building code
25 inspection services under this subsection, including plans
26 review, upon any building or structure designed by the
27 architect, any member of the architect's firm, or any firm
28 with which the architect has any financial interest.

29 Section 5. Section 553.791, Florida Statutes, is
30 created to read:

31

1 553.791 Plans review and inspection of commercial
2 buildings.--

3 (1) As used in this section, the term:

4 (a) "Applicable codes" means the building, plumbing,
5 mechanical, electrical, gas, energy, and accessibility codes
6 adopted pursuant to this chapter, but does not include the
7 applicable minimum fire prevention and firesafety codes
8 adopted pursuant to chapter 633.

9 (b) "Building code inspection services" means those
10 services described in s. 468.603(6) and (7) involving plans
11 review and building inspection to determine the compliance
12 with applicable codes of any construction, erection, repair,
13 alteration, demolition, or improvement of or addition to a
14 commercial building for which permitting by a local
15 enforcement agency is required.

16 (c) "Commercial building" means any building or
17 structure intended for commercial or industrial use, or any
18 building or structure intended for multifamily residential use
19 and having more than three dwelling units, and any accessory
20 use structures in connection therewith.

21 (d) "Commercial building inspector" means an architect
22 licensed under chapter 481 or engineer licensed under chapter
23 471 who is certified to provide building code inspection
24 services on commercial buildings.

25 (2) Notwithstanding any other provision of law, the
26 fee owner of a commercial building may contract with a
27 commercial building inspector to provide building code
28 inspection services with regard to such building and may make
29 payment directly to the commercial building inspector for the
30 provision of these services. All such services shall be the
31 subject of a written contract between the commercial building

1 inspector, or the inspector's firm, and the fee owner. A
2 commercial building inspector may not provide building code
3 inspection services pursuant to this section upon any building
4 or structure designed by the commercial building inspector,
5 any member of the commercial building inspector's firm, or any
6 firm with which the commercial building inspector has any
7 financial interest.

8 (3) A commercial building inspector performing plans
9 review under this section shall review construction plans to
10 determine compliance with the applicable codes. Upon
11 determining that the plans reviewed comply with the applicable
12 codes, the commercial building inspector shall prepare a
13 certificate of compliance on a form promulgated by the
14 commission certifying, under oath, that the plans have been
15 reviewed and that to the best of the commercial building
16 inspector's knowledge and belief the plans comply with the
17 applicable codes. The commercial building inspector shall
18 submit both the plans reviewed and the certificate of
19 compliance to the local enforcement agency for review.

20 (4) Upon receipt of the plans reviewed and the
21 certificate of compliance from the commercial building
22 inspector, along with the applicable building permit fee and
23 any other applicable government approvals, the local
24 enforcement agency shall issue a building permit or other
25 appropriate permit within a reasonable period of time, but in
26 no event later than 2 business days after receipt, unless the
27 local enforcement agency refuses such issuance pursuant to
28 subsection (10).

29 (5) A commercial building inspector performing
30 building inspections under this section shall inspect to
31 determine the compliance with applicable codes of each phase

1 of construction for which permitting by a local enforcement
2 agency is required and shall perform the minimum mandatory
3 inspections required by any building code adopted pursuant to
4 s. 553.73. The commercial building inspector shall be
5 permitted to send a duly authorized representative to the
6 construction site to perform the necessary inspections,
7 provided all required reports and certifications are prepared
8 by and bear the signature and seal of the commercial building
9 inspector. The contractor's contractual or statutory
10 obligations are not relieved by any action of the commercial
11 building inspector.

12 (6) The commercial building inspector shall give
13 written notice to the local enforcement agency of the date and
14 time of any inspection required by the applicable codes at
15 least 1 full business day prior to the scheduled inspection.
16 The local enforcement agency may visit the commercial building
17 site as often as necessary to verify that the commercial
18 building inspector is performing all inspections in a timely
19 and professional manner.

20 (7) Upon completing building inspections at each
21 applicable phase of construction, the commercial building
22 inspector shall record such inspections on a form promulgated
23 by the commission. Such inspection records shall reflect all
24 inspections performed by the commercial building inspector,
25 including the minimum mandatory inspections required by any
26 building code adopted pursuant to s. 553.73. In addition to
27 the inspection records, the commercial building inspector
28 shall prepare a certificate of compliance on a form
29 promulgated by the commission, summarizing the inspections
30 performed, and including a written representation, under oath,
31 that the stated inspections have been performed and that to

1 the best of the commercial building inspector's knowledge and
2 belief the building construction inspected meets the
3 requirements of the applicable codes. Upon completion of the
4 construction, the commercial building inspector shall submit
5 both the inspection records and the certificate of compliance
6 to the local enforcement agency for review.

7 (8) Upon receipt of the inspection records and the
8 certificate of compliance from the commercial building
9 inspector, along with any other applicable government
10 approvals, the local enforcement agency shall issue a
11 certificate of occupancy for the building within a reasonable
12 period of time, but in no event later than 2 business days
13 after receipt, unless the local enforcement agency refuses
14 such issuance pursuant to subsection (10).

15 (9) In the event of a disagreement with the local
16 enforcement agency regarding plans review or building
17 construction compliance with applicable codes, it shall be the
18 commercial building inspector's responsibility to meet with
19 the local enforcement agency and make a reasonable effort to
20 attempt an informal resolution of the disagreement.

21 (10) If the local enforcement agency determines that
22 the building construction or plans do not comply with the
23 applicable codes, it may refuse to issue a building permit or
24 certificate of occupancy, as appropriate; or, if it further
25 determines that such noncompliance poses an immediate threat
26 to public safety and welfare, it may issue a stop-work order,
27 subject to the following:

28 (a) In the case of plans review, the local enforcement
29 agency must notify the commercial building inspector of its
30 determination that the plans do not comply with applicable
31

1 codes within 2 business days after receipt of the plans
2 reviewed and the certificate of compliance.

3 (b) In the case of building construction that the
4 local enforcement agency observes and determines does not
5 comply with applicable codes, the local enforcement agency
6 must notify the commercial building inspector of its
7 determination within 2 business days after observing the
8 allegedly noncompliant construction.

9 (c) In the case of final inspection and issuance of a
10 certificate of occupancy, the local enforcement agency must
11 notify the commercial building inspector of its determination
12 that the building construction does not comply with applicable
13 codes within 2 business days after receipt of the inspection
14 records and the certificate of compliance.

15 (d) The local enforcement agency must meet with the
16 commercial building inspector within 2 business days after
17 issuing a stop-work order or a notice refusing the issuance of
18 a building permit or certificate of occupancy, as appropriate,
19 to attempt an informal resolution of the conflict.

20 (e) If the local enforcement agency and building
21 inspector are unable to informally resolve the conflict, then
22 the matter must be immediately referred to the local
23 enforcement agency's board of rules and appeals, which must
24 consider the matter at its next scheduled meeting, or sooner
25 as may be required by the local enforcement agency. If the
26 conflict involves a stop-work order, the fee owner may proceed
27 with construction during the pendency of any appeal to the
28 board of rules and appeals, subject to the provisions of
29 paragraph (f).

30 (f) Any construction performed by a fee owner during
31 the appeal of a stop-work order as outlined in paragraph (e)

1 shall be undertaken at the owner's risk, with the knowledge
2 that the local board of rules and appeals may order the
3 demolition of such work if it agrees with the local
4 enforcement agency that the plans or construction do not
5 comply with the applicable codes.

6 (g) The local enforcement agency's failure to follow
7 any of the procedures described in paragraphs (a)-(f) shall
8 result in automatic issuance of the building permit or
9 certificate of occupancy sought, as appropriate.

10 (h) Notwithstanding any provision of this subsection
11 to the contrary, any decisions regarding the issuance of a
12 building permit or certificate of occupancy may be reviewed by
13 the local enforcement agency's board of rules and appeals.
14 Any decision by the local enforcement agency's board of rules
15 and appeals may be immediately appealed to the commission,
16 which must consider the matter at its next scheduled meeting.

17 (11) If the local enforcement agency determines that
18 sufficient cause exists, the local enforcement agency may
19 initiate disciplinary review proceedings against a commercial
20 building inspector by filing a complaint with the Board of
21 Professional Engineers or the Board of Architecture and
22 Interior Design, as appropriate.

23 (12) No local enforcement agency or local government
24 may adopt or enforce any laws, rules, procedures, or standards
25 which are more stringent than those prescribed by this
26 section.

27 (13) A commercial building inspector may perform
28 building code inspection services under this section only if
29 the commercial building inspector maintains independent
30 insurance for professional and comprehensive general liability
31 with minimum policy limits of \$1 million per occurrence

1 relating to all services performed as a commercial building
2 inspector, and including tail coverage for a minimum of 5
3 years subsequent to the performance of building code
4 inspection services.

5 Section 6. This act shall take effect October 1, 2001.

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8 HOUSE SUMMARY

9
10 Requires the Board of Professional Engineers and the
11 Board of Architecture and Interior Design to establish by
12 rule qualifications for certifying professional engineers
13 and licensed architects, respectively, as commercial
14 building inspectors. Requires the boards to also
15 establish minimum qualifications for authorized
16 representatives of commercial building inspectors who
17 perform inspections on behalf of those inspectors.
18 Allows professional engineers and licensed architects
19 certified as commercial building inspectors to perform
20 building code inspection services on commercial
21 buildings. Provides for the conduct and applicability of
22 complaint and disciplinary provisions with respect to
23 such services. Prohibits plans review or building code
24 inspection on certain projects. Provides requirements
25 for plans review and inspection of commercial buildings
26 by commercial building inspectors. Provides for
27 inspection records and certificates of compliance,
28 resolution of disagreements, requirements for local
29 enforcement agencies, and initiation of disciplinary
30 proceedings. Requires certain minimum liability
31 coverage. See bill for details.