

By the Committee on Comprehensive Planning, Local and Military Affairs; and Senators Constantine and Clary

316-1489C-01

1 A bill to be entitled
2 An act relating to the Florida Building Code;
3 amending s. 373.323, F.S.; authorizing water
4 well contractors to install, repair, or modify
5 specified equipment in accordance with the
6 code; amending s. 489.509, F.S.; transferring
7 specified licensing fees from the Department of
8 Education to the Department of Community
9 Affairs; amending s. 553.415, F.S.; authorizing
10 districts to charge inspection fees;
11 authorizing approved inspection entities to
12 conduct inspections of factory-built school
13 buildings while they are under construction;
14 delaying the deadline for inspecting
15 factory-built buildings currently in use;
16 amending ss. 553.505, 553.507, F.S.; conforming
17 cross-references; amending s. 553.73, F.S.;
18 providing for the uniform implementation of
19 parts of the residential swimming pool safety
20 act; defining the term "specific needs" for
21 purposes of selection from available codes;
22 providing a process for the approval of
23 technical amendments to the code; authorizing
24 the Florida Building Commission to adopt rules
25 governing the status of construction projects
26 on the date the Florida Building Code takes
27 effect; exempting specified buildings from the
28 wind-impact-resistance standards of the Florida
29 Building Code; amending s. 553.77, F.S.;
30 requiring the commission to issue specified
31 declaratory statements; providing for hearings;

1 providing for rules for plan review of
2 prototype buildings; authorizing the commission
3 to produce a commentary to accompany the
4 Florida Building Code; amending s. 553.79,
5 F.S.; requiring the code to establish standards
6 for preliminary construction; amending s.
7 553.841, F.S.; providing guidelines and funding
8 for the Building Code Training Program;
9 amending s. 553.842, F.S.; providing methods
10 for local and statewide approval of products,
11 methods, and systems of construction; providing
12 rulemaking authority; amending s. 553.895,
13 F.S.; exempting specified spaces within
14 telecommunications buildings under specified
15 circumstances; directing the commission to
16 research some issues and provide reports to the
17 Legislature; providing an effective date for
18 the Florida Building Code; requiring that the
19 Florida Building Commission appoint members to
20 the commission's Education Technical Advisory
21 Committee; specifying duties of the advisory
22 committee; providing for the carryforward of
23 funds collected for research projects;
24 providing an effective date.

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

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28 Section 1. Effective July 1, 2001, subsection (10) is
29 added to section 373.323, Florida Statutes, to read:

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1 373.323 Licensure of water well contractors;
2 application, qualifications, and examinations; equipment
3 identification.--

4 (10) Water well contractors licensed under this
5 section may install, repair, and modify pumps and tanks in
6 accordance with the Florida Building Code chapter 29; Section
7 612--Wells pumps and tanks used for private potable water
8 systems. In addition, licensed water well contractors may
9 install pumps, tanks, and water conditioning equipment for all
10 water well systems.

11 Section 2. Subsection (3) of section 489.509, Florida
12 Statutes, is amended to read:

13 489.509 Fees.--

14 (3) Four dollars of each fee under subsection (1) paid
15 to the department at the time of application or renewal shall
16 be transferred at the end of each licensing period to the
17 Department of Community Affairs ~~Education~~ to fund projects
18 relating to the building construction industry or continuing
19 education programs offered to persons engaged in the building
20 construction industry in Florida. The board shall, at the time
21 the funds are transferred, advise the Department of Community
22 Affairs ~~Education~~ on the most needed areas of research or
23 continuing education based on significant changes in the
24 industry's practices or on the most common types of consumer
25 complaints or on problems costing the state or local
26 governmental entities substantial waste. The board's advice is
27 not binding on the Department of Community Affairs ~~Education~~.
28 ~~The Department of Education must allocate 50 percent of the~~
29 ~~funds to a graduate program in building construction in a~~
30 ~~Florida university and 50 percent of the funds to all~~
31 ~~accredited private and state universities and community~~

1 ~~colleges within the state offering approved courses in~~
2 ~~building construction, with each university or college~~
3 ~~receiving a pro rata share of such funds based upon the number~~
4 ~~of full-time building construction students enrolled at the~~
5 ~~institution.~~The Department of Community Affairs Education
6 shall ensure the distribution of research reports and the
7 availability of continuing education programs to all segments
8 of the building construction industry to which they relate.
9 The Department of Community Affairs Education shall report to
10 the board in October of each year, summarizing the allocation
11 of the funds by institution and summarizing the new projects
12 funded and the status of previously funded projects. ~~The~~
13 ~~Commissioner of Education is directed to appoint one~~
14 ~~electrical contractor and one certified alarm system~~
15 ~~contractor to the Building Construction Industry Advisory~~
16 ~~Committee.~~

17 Section 3. Subsections (9) and (13) of section
18 553.415, Florida Statutes, are amended to read:

19 553.415 Factory-built school buildings.--

20 (9) The school district or community college district
21 for which any factory-built school building is constructed or
22 altered shall provide for periodic inspection of the proposed
23 factory-built school building during each phase of
24 construction or alteration. The inspector shall act under the
25 direction of the governing board for employment purposes. A
26 school district or community college district may charge the
27 manufacturer of such buildings for services at reasonable
28 rates comparable to those charged for similar services by
29 approved inspection agencies. These periodic inspections of
30 factory-built school buildings may also be conducted by an
31 approved inspection agency certified pursuant to s. 553.36(2).

1 (13) As of July 1, 2001, all ~~existing and~~ newly
2 constructed factory-built school buildings shall bear a label
3 pursuant to subsection (12). As of January 1, 2002, existing
4 factory-built school buildings, and manufactured buildings
5 used as classrooms, not bearing such label shall not be used
6 as classrooms pursuant to s. 235.061.

7 Section 4. Effective July 1, 2001, section 553.505,
8 Florida Statutes, is amended to read:

9 553.505 Exceptions to applicability of the Americans
10 with Disabilities Act.--Notwithstanding the Americans with
11 Disabilities Act of 1990, private clubs are governed by ss.
12 553.501-553.513. Parking spaces, parking lots, and other
13 parking facilities are governed by s. 553.5041 ~~s. 316.1955,~~
14 when that section provides increased accessibility.

15 Section 5. Effective July 1, 2001, section 553.507,
16 Florida Statutes, is amended to read:

17 553.507 Exemptions.--Sections 553.501-553.513 ~~and s.~~
18 ~~316.1955(4)~~ do not apply to any of the following:

19 (1) Buildings, structures, or facilities that were
20 either under construction or under contract for construction
21 on October 1, 1997.

22 (2) Buildings, structures, or facilities that were in
23 existence on October 1, 1997, unless:

24 (a) The building, structure, or facility is being
25 converted from residential to nonresidential or mixed use, as
26 defined by local law;

27 (b) The proposed alteration or renovation of the
28 building, structure, or facility will affect usability or
29 accessibility to a degree that invokes the requirements of s.
30 303(a) of the Americans with Disabilities Act of 1990; or
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1 (c) The original construction or any former alteration
2 or renovation of the building, structure, or facility was
3 carried out in violation of applicable permitting law.

4 Section 6. Subsections (2) and (3), paragraph (b) of
5 subsection (4) and subsections (5), (6), and (7) of section
6 553.73, Florida Statutes, as amended by section 40 of chapter
7 98-287, Laws of Florida, as amended by section 61 of chapter
8 98-419, Laws of Florida, as amended by sections 73, 74, and 75
9 of chapter 2000-141, Laws of Florida, and section 62 of
10 chapter 2000-154, Laws of Florida, are amended, and present
11 subsections (8), (9), and (10) of that section are
12 redesignated as subsections (9), (10), and (11), respectively,
13 to read:

14 553.73 State Minimum Building Codes.--

15 (2) The Florida Building Code shall contain provisions
16 or requirements for public and private buildings, structures,
17 and facilities relative to structural, mechanical, electrical,
18 plumbing, energy, and gas systems, existing buildings,
19 historical buildings, manufactured buildings, elevators,
20 coastal construction, lodging facilities, food sales and food
21 service facilities, health care facilities, including assisted
22 living facilities, adult day care facilities, and facilities
23 for the control of radiation hazards, public or private
24 educational facilities, swimming pools, and correctional
25 facilities and enforcement of and compliance with such
26 provisions or requirements. Further, the Florida Building Code
27 must provide for uniform implementation of ss. 515.25, 515.27,
28 and 515.29 by including standards and criteria for residential
29 swimming pool barriers, pool covers, latching devices, door
30 and window exit alarms, and other equipment required therein,
31 which are consistent with the intent of s. 515.23. Technical

1 provisions to be contained within the Florida Building Code
2 are restricted to requirements related to the types of
3 materials used and construction methods and standards employed
4 in order to meet criteria specified in the Florida Building
5 Code. Provisions relating to the personnel, supervision or
6 training of personnel, or any other professional qualification
7 requirements relating to contractors or their workforce may
8 not be included within the Florida Building Code, and
9 subsections (4), (5), and (6) are not to be construed to allow
10 the inclusion of such provisions within the Florida Building
11 Code by amendment. This restriction applies to both initial
12 development and amendment of the Florida Building Code.

13 (3) The commission shall select from available
14 national or international model building codes, or other
15 available building codes and standards currently recognized by
16 the laws of this state, to form the foundation for the Florida
17 Building Code. The commission may modify the selected model
18 codes and standards as needed to accommodate the specific
19 needs of this state. For the purposes of this part, the term,
20 "specific needs" means needs identified as a unique physical
21 characteristic that relate to Florida's geography, climatic
22 condition, soil, topography, or other conditions that are
23 measurably different from other areas of the nation and when
24 the commission determines the model code does not adequately
25 provide a standard of safety or protection for the state.
26 Standards or criteria referenced by the selected model codes
27 shall be similarly incorporated by reference. If a referenced
28 standard or criterion requires amplification or modification
29 to be appropriate for use in this state, only the
30 amplification or modification shall be specifically set forth
31 in the Florida Building Code. The Florida Building Commission

1 may approve technical amendments to the code after the
2 amendments have been subject to the following conditions:

3 (a) The proposed amendment has been published on the
4 commission's website for a minimum of 45 days and all the
5 associated documentation has been made available to any
6 interested party before any consideration by any Technical
7 Advisory Committee;

8 (b) In order for a Technical Advisory Committee to
9 make a favorable recommendation to the commission the proposal
10 must receive a three-fourths vote of the members present at
11 the Technical Advisory Committee meeting and at least half of
12 the regular members must be present in order to conduct a
13 meeting;

14 (c) After Technical Advisory Committee consideration
15 and a recommendation for approval of any proposed amendment
16 the proposal must be published on the commission's website for
17 not less than 45 days before any consideration by the
18 commission; and

19 (d) Any proposal may be modified by the commission
20 based on public testimony and evidence from a public hearing
21 held in accordance with chapter 120.

22
23 The commission shall incorporate within sections of the
24 Florida Building Code provisions which address regional and
25 local concerns and variations. The commission shall make every
26 effort to minimize conflicts between the Florida Building
27 Code, the Florida Fire Prevention Code, and the Life Safety
28 Code.

29 (4)

30 (b) Local governments may, subject to the limitations
31 of this section, adopt amendments to the technical provisions

1 of the Florida Building Code which apply solely within the
2 jurisdiction of such government and which provide for more
3 stringent requirements than those specified in the Florida
4 Building Code, not more than once every 6 months, provided:
5 1. The local governing body determines, following a
6 public hearing which has been advertised in a newspaper of
7 general circulation at least 10 days before the hearing, that
8 there is a need to strengthen the requirements of the Florida
9 Building Code. The determination must be based upon a review
10 of local conditions by the local governing body, which review
11 demonstrates that local conditions justify more stringent
12 requirements than those specified in the Florida Building Code
13 for the protection of life and property.
14 2. Such additional requirements are not discriminatory
15 against materials, products, or construction techniques of
16 demonstrated capabilities.
17 3. Such additional requirements may not introduce a
18 new subject not addressed in the Florida Building Code.
19 4. The enforcing agency shall make readily available,
20 in a usable format, all amendments adopted pursuant to this
21 section.
22 5. Any amendment to the Florida Building Code shall be
23 transmitted within 30 days by the adopting local government to
24 the commission. The commission shall maintain copies of all
25 such amendments in a format that is usable and obtainable by
26 the public.
27 6. Any amendment to the Florida Building Code adopted
28 by a local government pursuant to this paragraph shall be
29 effective only until the adoption by the commission of the new
30 edition of the Florida Building Code every third year. At
31 such time, the commission shall review such amendment for

1 consistency with the criteria in paragraph (6)(a) and adopt
2 such amendment as part of the Florida Building Code or rescind
3 the amendment. The commission shall immediately notify the
4 respective local government of the rescission of any
5 amendment. After receiving such notice, the respective local
6 government may readopt the rescinded amendment pursuant to the
7 provisions of this paragraph.

8 7. Each county and municipality desiring to make local
9 technical amendments to the Florida Building Code shall by
10 interlocal agreement establish a countywide compliance review
11 board to review any amendment to the Florida Building Code,
12 adopted by a local government within the county pursuant to
13 this paragraph, that is challenged by any substantially
14 affected party for purposes of determining the amendment's
15 compliance with this paragraph. If the compliance review board
16 determines such amendment is not in compliance with this
17 paragraph, the compliance review board shall notify such local
18 government of the noncompliance and that the amendment is
19 invalid and unenforceable until the local government corrects
20 the amendment to bring it into compliance. The local
21 government may appeal the decision of the compliance review
22 board to the commission, which shall conduct a hearing under
23 chapter 120 and the uniform rules of procedure. If the
24 compliance review board determines such amendment to be in
25 compliance with this paragraph, any substantially affected
26 party may appeal such determination to the commission, which
27 shall conduct a hearing under chapter 120 and the uniform
28 rules of procedure. Actions of the commission are subject to
29 judicial review pursuant to s. 120.68. The compliance review
30 board shall determine whether its decisions apply to a
31 respective local jurisdiction or apply countywide.

1 8. An amendment adopted under this paragraph shall
2 include a fiscal impact statement which documents the costs
3 and benefits of the proposed amendment. Criteria for the
4 fiscal impact statement shall include the impact to local
5 government relative to enforcement, the impact to property and
6 building owners, as well as to industry, relative to the cost
7 of compliance. The fiscal impact statement may not be used as
8 a basis for challenging the amendment for compliance.

9 9. In addition to subparagraphs 7. and 8., the
10 commission may review any amendments adopted pursuant to this
11 subsection and make nonbinding recommendations related to
12 compliance of such amendments with this subsection.

13 (5) ~~The commission, by rule adopted pursuant to ss.~~
14 ~~120.536(1) and 120.54, shall update the Florida Building Code~~
15 ~~every 3 years.~~The initial adoption of, and any subsequent
16 update or amendment to, the Florida Building Code by the
17 commission is deemed adopted for use statewide without
18 adoptions by local government. The commission may adopt by
19 rule, pursuant to ss. 120.536(1) and 120.54, provisions
20 governing the status of construction projects in plan review
21 on the date the Florida Building Code takes effect. The rule
22 shall govern the extent to which projects may be permitted
23 under the statewide minimum building codes after the Florida
24 Building Code takes effect.

25 (6) The commission, by rule adopted pursuant to ss.
26 120.536(1) and 120.54, shall update the Florida Building Code
27 every 3 years.When updating the Florida Building Code, the
28 commission shall consider changes made by the adopting entity
29 of any selected model code for any model code incorporated
30 into the Florida Building Code, and may subsequently adopt the
31 new edition or successor of the model code or any part of such

1 code, no sooner than 6 months after such model code has been
2 adopted by the adopting organization,which may then be
3 modified for this state as provided in this section, and shall
4 further consider the commission's own interpretations,
5 declaratory statements, appellate decisions, and approved
6 statewide and local technical amendments. A change made by an
7 institute or standards organization to any standard or
8 criterion that is adopted by reference in the Florida Building
9 Code does not become effective statewide until it has been
10 adopted by the commission. Furthermore,the edition of the
11 Florida Building Code which is in effect on the date of
12 application for ~~of~~ any permit authorized by the code governs
13 the permitted work for the life of the permit and any
14 extension granted to the permit. Any amendment to the Florida
15 Building Code which is adopted upon a finding by the
16 commission that the amendment is necessary to protect the
17 public from immediate threat of harm takes effect immediately.

18 (7)(6)(a) The commission may approve technical
19 amendments to the Florida Building Code once each year for
20 statewide or regional application upon a finding that the
21 amendment:

- 22 1. Has a reasonable and substantial connection with
23 the health, safety, and welfare of the general public.
- 24 2. Strengthens or improves the Florida Building Code,
25 or in the case of innovation or new technology, will provide
26 equivalent or better products or methods or systems of
27 construction.
- 28 3. Does not discriminate against materials, products,
29 methods, or systems of construction of demonstrated
30 capabilities.

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1 4. Does not degrade the effectiveness of the Florida
2 Building Code.

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4 Furthermore, the Florida Building Commission may approve
5 technical amendments to the code once each year to incorporate
6 into the Florida Building Code its own interpretations of the
7 code which are embodied in its opinions and declaratory
8 statements. Amendments approved under this paragraph shall be
9 adopted by rule pursuant to ss. 120.536(1) and 120.54, after
10 the amendments have been subjected to the provisions of
11 subsection (3).

12 (b) A proposed amendment shall include a fiscal impact
13 statement which documents the costs and benefits of the
14 proposed amendment. Criteria for the fiscal impact statement
15 shall be established by rule by the commission and shall
16 include the impact to local government relative to
17 enforcement, the impact to property and building owners, as
18 well as to industry, relative to the cost of compliance.

19 (c) The commission may not approve any proposed
20 amendment that does not accurately and completely address all
21 requirements for amendment which are set forth in this
22 section.

23 ~~(8)(7)~~ The following buildings, structures, and
24 facilities are exempt from the Florida Building Code as
25 provided by law, and any further exemptions shall be as
26 determined by the Legislature and provided by law:

27 (a) Buildings and structures specifically regulated
28 and preempted by the Federal Government.

29 (b) Railroads and ancillary facilities associated with
30 the railroad.

31 (c) Nonresidential farm buildings on farms.

1 (d) Temporary buildings or sheds used exclusively for
2 construction purposes.

3 (e) Mobile homes used as temporary offices, except
4 that the provisions of part V relating to accessibility by
5 persons with disabilities shall apply to such mobile homes.

6 (f) Those structures or facilities of electric
7 utilities, as defined in s. 366.02, which are directly
8 involved in the generation, transmission, or distribution of
9 electricity.

10 (g) Temporary sets, assemblies, or structures used in
11 commercial motion picture or television production, or any
12 sound-recording equipment used in such production, on or off
13 the premises.

14 (h) Storage sheds that are manufactured and assembled
15 offsite, that are not designed for human habitation, and that
16 have a floor area of 720 square feet or less are exempt only
17 from the mandatory wind-impact-resistance standards of the
18 code.

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20 With the exception of paragraphs (a), (b), (c), and (f), in
21 order to preserve the health, safety, and welfare of the
22 public, the Florida Building Commission may, by rule adopted
23 pursuant to chapter 120, provide for exceptions to the broad
24 categories of buildings exempted in this section, including
25 exceptions for application of specific sections of the code or
26 standards adopted therein. The Department of Agriculture and
27 Consumer Services shall have exclusive authority to adopt by
28 rule, pursuant to chapter 120, exceptions to nonresidential
29 farm buildings exempted in paragraph (c) when reasonably
30 necessary to preserve public health, safety, and welfare. The
31 exceptions must be based upon specific criteria, such as

1 under-roof floor area, aggregate electrical service capacity,
2 HVAC system capacity, or other building requirements. Further,
3 the commission may recommend to the Legislature additional
4 categories of buildings, structures, or facilities which
5 should be exempted from the Florida Building Code, to be
6 provided by law.

7 Section 7. Paragraphs (e) and (h) of subsection (1)
8 and subsections (2) and (6) of section 553.77, Florida
9 Statutes, as amended by section 46 of chapter 98-287, Laws of
10 Florida, as amended by section 78 of chapter 2000-141, Laws of
11 Florida, as amended by section 79 of chapter 2000-141, Laws of
12 Florida, are amended, and subsection (7) is added to that
13 section, to read:

14 553.77 Specific powers of the commission.--

15 (1) The commission shall:

16 (e) When requested in writing by any substantially
17 affected person, state agency, or a local enforcing agency,
18 shall issue declaratory statements pursuant to s. 120.565
19 relating to this part and ss. 515.25, 515.27, 515.29, and
20 515.37. Actions of the commission are subject to judicial
21 review pursuant to s. 120.68.

22 (h) Hear appeals of the decisions of local boards of
23 appeal regarding interpretation decisions of local building
24 officials, or if no local board exists, hear appeals of
25 decisions of the building officials regarding interpretations
26 of the code. For such appeals:

27 1. Local decisions declaring structures to be unsafe
28 and subject to repair or demolition shall not be appealable to
29 the commission if the local governing body finds there is an
30 immediate danger to the health and safety of its citizens.

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1 2. All appeals shall be heard in the county of the
2 jurisdiction defending the appeal.

3 3. Hearings shall be conducted pursuant to chapter 120
4 and the uniform rules of procedure, and decisions Actions of
5 the commission are subject to judicial review pursuant to s.
6 120.68.

7 ~~(2) With respect to the qualification program for~~
8 ~~special inspectors of threshold buildings as required by s.~~
9 ~~553.79(5)(c), the commission may prescribe initial and annual~~
10 ~~renewal fees for certification, by rule, in accordance with~~
11 ~~chapter 120.~~

12 (6) The commission may provide by rule for plans
13 review and approval of prototype buildings owned by public and
14 private entities to be replicated throughout the state. The
15 rule must allow for review and approval of plans for prototype
16 buildings to be performed by a public or private entity with
17 oversight by the commission. The department may charge
18 reasonable fees to cover the administrative costs of the
19 program.Such approved plans or prototype buildings shall be
20 exempt from further review required by s. 553.79(2), except
21 changes to the prototype design, site plans, and other
22 site-related items. As provided in s. 553.73, prototype
23 buildings are exempt from, or any locally adopted local
24 amendment to any part of the Florida Building Code.
25 Construction or erection of such prototype buildings is
26 subject to local permitting and inspections pursuant to this
27 part.

28 (7) The commission may produce and distribute a
29 commentary document to accompany the Florida Building Code.
30 The commentary must be limited in effect to providing
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1 technical assistance and must not have the effect of binding
2 interpretations of the code document itself.

3 Section 8. Subsections (2) and (6) of section 553.79,
4 Florida Statutes, as amended by section 49 of chapter 98-287,
5 Laws of Florida, as amended by sections 83 and 84 of chapter
6 2000-141, Laws of Florida, are amended to read:

7 553.79 Permits; applications; issuance; inspections.--

8 (2) Except as provided in subsection (6), an ~~No~~
9 enforcing agency may not issue any permit for construction,
10 erection, alteration, modification, repair, or demolition of
11 any building or structure until the local building code
12 administrator or inspector has reviewed the plans and
13 specifications required by the Florida Building Code, or local
14 amendment thereto,for such proposal and found the plans to be
15 in compliance with the Florida Building Code. In addition, an
16 enforcing agency may not issue any permit for construction,
17 erection, alteration, modification, repair, or demolition of
18 any building until the appropriate firesafety inspector
19 certified pursuant to s. 633.081 has reviewed the plans and
20 specifications required by the Florida Building Code, or local
21 amendment thereto,for such proposal and found that the plans
22 comply with the Florida Fire Prevention Code and the Life
23 Safety Code. Any building or structure which is not subject to
24 a firesafety code shall not be required to have its plans
25 reviewed by the firesafety inspector. Any building or
26 structure that is exempt from the local building permit
27 process may not be required to have its plans reviewed by the
28 local building code administrator. Industrial construction on
29 sites where design, construction, and firesafety are
30 supervised by appropriate design and inspection professionals
31 and which contain adequate in-house fire departments and

1 rescue squads is exempt, subject to local government option,
2 from review of plans and inspections, providing owners certify
3 that applicable codes and standards have been met and supply
4 appropriate approved drawings to local building and firesafety
5 inspectors. The enforcing agency shall issue a permit to
6 construct, erect, alter, modify, repair, or demolish any
7 building or structure when the plans and specifications for
8 such proposal comply with the provisions of the Florida
9 Building Code and the Florida Fire Prevention Code and the
10 Life Safety Code as determined by the local authority in
11 accordance with this chapter and chapter 633.

12 (6) A permit may not be issued for any building
13 construction, erection, alteration, modification, repair, or
14 addition unless the applicant for such permit complies with
15 the requirements for plan review established by the Florida
16 Building Commission within the Florida Building Code. However,
17 the code shall set standards and criteria to authorize
18 preliminary construction before completion of all building
19 plans review, including, but not limited to, special permits
20 for the foundation only, and such standards shall take effect
21 concurrent with the first effective date of the Florida
22 Building Code.

23 Section 9. Effective July 1, 2001, subsection (12) is
24 added to section 553.841, Florida Statutes, to read:

25 553.841 Building code training program; participant
26 competency requirements.--

27 (12) The Florida Building Commission and the
28 Department of Community Affairs, or its designee, shall
29 contract annually, to the extent that resources are provided,
30 with the Building Officials Association of Florida to deliver
31 training developed through the Building Code Training Program.

1 The training shall be delivered through the Building
2 Official's Association of Florida in conjunction with a
3 private partnership composed of the various construction trade
4 associations. At a minimum there must be provided for this
5 program at least 15 percent of the funds, not to exceed
6 \$500,000, as provided in s. 215.559(2)(a) which are dedicated
7 to those structures that fall under the requirements of
8 chapter 553.

9 Section 10. Effective July 1, 2001, section 553.842,
10 Florida Statutes, is amended to read:

11 553.842 Product evaluation and approval.--

12 (1) The commission shall adopt rules under ss.
13 120.536(1) and 120.54 ~~make recommendations to the President of~~
14 ~~the Senate and the Speaker of the House of Representatives~~
15 ~~prior to the 2001 Regular Session~~ to develop and implement a
16 product evaluation and approval system to operate in
17 coordination with the Florida Building Code. The product
18 evaluation and approval system shall provide:

19 (a) Appropriate promotion of innovation and new
20 technologies.

21 (b) Processing submittals of products from
22 manufacturers in a timely manner.

23 (c) Independent, third-party qualified and accredited
24 testing and laboratory facilities, product evaluation
25 entities, quality assurance agencies, certification agencies,
26 and validation entities.

27 (d) An easily accessible product acceptance list to
28 entities subject to the Florida Building Code.

29 (e) Development of stringent but reasonable testing
30 criteria based upon existing consensus standards, when
31 available, for products.

1 (f) Long-term approvals, where feasible. State and
2 local approvals will be valid until the requirements of the
3 code on which the approval is based change, the product
4 changes, or the approval is revoked.

5 (g) Criteria for recall or revocation of a product
6 approval.

7 (h) Cost-effectiveness.

8 (2) The product evaluation and approval system shall
9 rely on regional, national, and international consensus
10 standards, whenever adopted by the Florida Building Code, for
11 demonstrating compliance with code standards. Other standards
12 which meet or exceed established state requirements shall also
13 be considered.

14 (3) Products or methods or systems of construction
15 that require approval under s. 553.77 ~~required to be approved~~
16 and that are certified by an approved product evaluation
17 entity as complying with the standards specified by the code
18 shall be permitted to be used statewide, without further
19 evaluation or approval.

20 (4) By October 1, 2003, products or methods or systems
21 of construction requiring approval under s. 553.77 must be
22 approved by one of the methods established in subsections (5)
23 and (6) before their use in construction in this state.

24 Products may be approved either by the commission for
25 statewide use, or by a local building department for use in
26 that department's jurisdiction only. Notwithstanding a local
27 government's authority to amend the Florida Building Code as
28 provided in this act, statewide approval shall preclude local
29 jurisdictions from requiring further testing, evaluation, or
30 submission of other evidence as a condition of using the

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1 product so long as the product is being used consistent with
2 the conditions of its approval.

3 (5) ~~Statewide and~~ Local approval of products or
4 methods or systems of construction ~~may shall~~ be achieved by
5 the local building official through building plans review and
6 inspection to determine that the product, method, or system of
7 construction complies with the prescriptive standards
8 established in the code. This method of approval does not
9 apply to the following categories of products: structural
10 components as established by the commission by rule, panel
11 walls, exterior doors, roofing, skylights, windows, and
12 shutters. Alternatively, local approval may be achieved by one
13 of the methods established in subsection (6).

14 (6) Statewide or local approval of products, methods,
15 or systems of construction may be achieved by one of the
16 following methods. One of these methods must be used by local
17 officials or the commission to approve the following
18 categories of products: panel walls, exterior doors, roofing,
19 skylights, windows, shutters, and structural components.

20 (a) Products for which the code establishes
21 performance measures shall be approved by submittal and
22 validation of one of the following reports indicating that the
23 product or method or system of construction was evaluated to
24 be in compliance with the Florida Building Code and that the
25 product or method or system of construction is, for the
26 purpose intended, at least equivalent to that required by the
27 Florida Building Code:

28 1. A certification mark or listing of an approved
29 certification agency;

30 2. A test report from an approved testing laboratory;

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1 3. A product evaluation report based upon testing or
2 rational analysis, or a combination thereof from an approved
3 product evaluation entity; or

4 4. A product evaluation report based upon testing or
5 rational analysis, or a combination thereof, developed and
6 signed and sealed by a professional engineer or architect,
7 licensed in this state, who has no conflict of interest, as
8 established by the commission by rule.

9 (b) Products, methods, or systems of construction for
10 which there are no specific standards established in the code
11 may be approved by submittal and validation of one of the
12 following:

13 1. A product evaluation report based upon testing or
14 rational analysis, or a combination thereof, from an approved
15 product evaluation entity indicating that the product or
16 method or system of construction was evaluated to be in
17 compliance with the intent of the Florida Building Code and
18 that the product or method or system of construction is, for
19 the purpose intended, at least equivalent to that required by
20 the Florida Building Code; or

21 2. A product evaluation report based upon testing or
22 rational analysis, or a combination thereof, developed and
23 signed and sealed by a professional engineer or architect,
24 licensed in this state, who has no conflict of interest, as
25 established by the commission by rule, who certifies that the
26 product or method or system of construction is, for the
27 purpose intended, at least equivalent to that required by the
28 Florida Building Code.

29 (7) The commission shall ensure that product
30 manufacturers operate quality-assurance programs for all
31

1 approved products. The commission shall adopt by rule criteria
2 for operation of the quality-assurance programs.

3 (8) For local approvals, validation shall be performed
4 by the local building official. The commission shall adopt by
5 rule criteria constituting complete validation by the local
6 official. For state approvals, validation shall be performed
7 by validation entities approved by the commission. The
8 commission shall adopt by rule criteria for approval of
9 validation entities, which shall be third-party entities
10 independent of the product's manufacturer and which shall
11 certify to the commission the product's compliance with the
12 code.

13 (9) The commission shall adopt rules to approve the
14 following types of entities that produce information on which
15 product approvals are based:

16 (a) Evaluation entities that meet the criteria for
17 approval adopted by the commission by rule. The commission
18 shall specifically approve the National Evaluation Service,
19 the International Conference of Building Officials Evaluation
20 Services, the Building Officials and Code Administrators
21 International Evaluation Services, the Southern Building Code
22 Congress International Evaluation Services, and the Miami-Dade
23 County Product Control Division.

24 (b) Testing laboratories accredited by national
25 organizations such as A2LA and National Voluntary Laboratory
26 Accreditation Program, accredited by evaluation entities
27 approved under paragraph (a), and laboratories that comply
28 with other guidelines for testing laboratories selected by the
29 commission and adopted by rule.

30 (c) Quality-assurance entities approved by evaluation
31 entities approved under paragraph (a) and by certification

1 agencies approved under paragraph (d) and other
2 quality-assurance entities that comply with guidelines
3 selected by the commission and adopted by rule.

4 (d) Certification agencies accredited by nationally
5 recognized accreditors and other certification agencies that
6 comply with guidelines selected by the commission and adopted
7 by rule.

8 (e) Validation entities that comply with accreditation
9 standards established by the commission by rule.+

10 ~~(a) Submittal and validation of a product evaluation~~
11 ~~report from an approved product evaluation entity indicating~~
12 ~~the product or method or system of construction was tested to~~
13 ~~be in compliance with the Florida Building Code or with the~~
14 ~~intent of the Florida Building Code and the product or method~~
15 ~~or system of construction is, for the purpose intended, at~~
16 ~~least equivalent of that required by the Florida Building~~
17 ~~Code; or~~

18 ~~(b) Submittal and validation of a product evaluation~~
19 ~~report or rational analysis which is signed and sealed by a~~
20 ~~professional engineer or architect, licensed in this state,~~
21 ~~who has no conflict of interest, as determined by national~~
22 ~~guidelines, who certifies that the product or method or system~~
23 ~~of construction is, for the purpose intended, at least~~
24 ~~equivalent of that required by the Florida Building Code. Any~~
25 ~~product approved under this procedure shall be required to be~~
26 ~~manufactured under a quality assurance program, certified by~~
27 ~~an approved product evaluation entity.~~

28 (10)(6) A building official may deny the local
29 application of a product or method or system of construction
30 which has received statewide approval, based upon a written
31 report signed by the official that concludes the product

1 application is inconsistent with the statewide approval and
2 that states the reasons the application is inconsistent. Such
3 denial is subject to the provisions of s. 553.77 governing
4 appeal of the building official's interpretation of the code.

5 (11)(7) Products, other than manufactured buildings,
6 which are custom fabricated or assembled shall not require
7 separate approval under this section provided the component
8 parts have been approved for the fabricated or assembled
9 product's use and the components meet the standards and
10 requirements of the Florida Building Code which applies to the
11 product's intended use.

12 (12)(8) A building official may appeal the required
13 approval for local use of a product or method or system of
14 construction to the commission. The commission shall conduct a
15 hearing under chapter 120 and the uniform rules of procedure
16 and shall establish expedited procedures to handle such
17 appeals in an expedited manner.

18 (13)(9) The decisions of local building officials
19 shall be appealable to the local board of appeals, if such
20 board exists, and then to the commission, which shall conduct
21 a hearing under chapter 120 and the uniform rules of
22 procedure. Decisions of the commission regarding statewide
23 product approvals and appeals of local product approval shall
24 be subject to judicial review pursuant to s. 120.68.

25 (14)(10) The commission shall maintain a list of the
26 state-approved approved products, and product evaluation
27 entities, testing laboratories, quality-assurance agencies,
28 certification agencies, and validation entities and make such
29 lists list available in the most cost-effective manner. The
30 commission shall establish reasonable timeframes associated
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1 with the product approval process and availability of the
2 lists list.

3 (15) The commission shall by rule establish criteria
4 for revocation of product approvals as well as approvals of
5 product evaluation entities, testing laboratories,
6 quality-assurance entities, certification agencies, and
7 validation entities. Revocation is governed by s. 120.60 and
8 the uniform rules of procedure.

9 (16) The commission shall establish a schedule for
10 adoption of the rules required in this section to ensure that
11 the product manufacturing industry has sufficient time to
12 revise products to meet the requirements for approval and
13 submit them for testing or evaluation before the system taking
14 effect on October 1, 2003, and to ensure that the availability
15 of statewide approval is not delayed.

16 ~~(11) The commission may establish reasonable and~~
17 ~~appropriate fees for the review of rational analyses and~~
18 ~~certification of manufactured buildings submitted pursuant to~~
19 ~~this section and may enter into any contracts the commission~~
20 ~~deems necessary in order to implement this section.~~

21 ~~(12) Products certified or approved for statewide or~~
22 ~~local use by an approved product evaluation entity prior to~~
23 ~~the effective date of this act shall be deemed to be approved~~
24 ~~for use in this state pursuant to this section and to comply~~
25 ~~with this section.~~

26
27 ~~For purposes of this section, an approved product evaluation~~
28 ~~entity is an entity that has been accredited by a nationally~~
29 ~~recognized independent evaluation authority or entity~~
30 ~~otherwise approved by the commission.~~

31

1 Section 11. Effective July 1, 2001, subsection (2) of
2 section 553.895, Florida Statutes, is amended to read:

3 553.895 Firesafety.--

4 (2) Except for single-family and two-family dwellings,
5 any building which is of three stories or more and for which
6 the construction contract is let after January 1, 1994,
7 regardless of occupancy classification and including any
8 building which is subject to s. 509.215, shall be equipped
9 with an automatic sprinkler system installed in compliance
10 with the provisions of chapter 633 and the rules and codes
11 adopted pursuant thereto. A stand-alone parking garage
12 constructed with noncombustible materials, the design of which
13 is such that all levels of the garage are uniformly open to
14 the atmosphere on all sides with percentages of openings as
15 prescribed in the applicable building code, and which parking
16 garage is separated from other structures by at least 20 feet,
17 is exempt from the requirements of this subsection.

18 Telecommunications spaces located within telecommunications
19 buildings, if the spaces are equipped to meet an equivalent
20 fire-prevention standard approved by both the Florida Building
21 Commission and the State Fire Marshal, are exempt from the
22 requirements of this subsection.

23 Section 12. The Florida Building Commission shall
24 research the issue of adopting a rehabilitation code for the
25 state and shall report to the Legislature before the 2002
26 Regular Session regarding the feasibility of adopting such a
27 code. The commission shall review the rehabilitation codes
28 adopted by other states as part of its research.

29 Section 13. The Florida Building Commission shall
30 research the issue of requiring all primary elevators in
31 buildings with more than five levels to operate with a

1 universal key, thereby allowing access and operation by
2 emergency personnel. The commission must report its
3 recommendations to the Legislature before the 2002 Regular
4 Session.

5 Section 14. Notwithstanding the effective date of any
6 section of chapter 2000-141, Laws of Florida, the effective
7 date of the Florida Building Code is October 1, 2001.

8 Section 15. Funds that are available under sections
9 489.109(3) and 489.509(3), Florida Statutes, shall be
10 allocated and expended by the Florida Building Commission as
11 provided in this section.

12 (1) The Florida Building Commission shall appoint
13 those members of the Building Construction Industry Advisory
14 Committee on October 1, 2001, as established by Rule
15 6A-10.029, Florida Administrative Code, to the Education
16 Technical Advisory Committee of the Florida Building
17 Commission to complete their terms of office. Members of the
18 Florida Building Commission shall also be appointed to the
19 Education Technical Advisory Committee. The members of the
20 committee shall broadly represent the building construction
21 industry and must consist of no fewer than 10 persons. The
22 chairperson of the Florida Building Commission shall annually
23 designate the chairperson of the committee. The terms of the
24 committee members shall be 2 years each and members may be
25 reappointed at the discretion of the Florida Building
26 Commission.

27 (2) The Educational Technical Advisory Committee
28 shall:

29 (a) Advise the commission on any policies or
30 procedures needed to administer sections 489.109(3) and
31 489.509(3), Florida Statutes.

1 (b) Advise the commission on administering section
2 553.841, Florida Statutes.

3 (c) Advise the commission on areas of priority for
4 which funds should be expended for research and continuing
5 education.

6 (d) Review all proposed research and continuing
7 education projects and recommend to the commission those
8 projects that should be funded and the amount of funds to be
9 provided for each project.

10 (3) Each biennium, upon receipt of funds by the
11 Department of Community Affairs from the Construction Industry
12 Licensing Board and the Electrical Contractors' Licensing
13 Board provided under sections 489.109(3) and 489.509(3),
14 Florida Statutes, the commission shall determine the amount of
15 funds available for research projects from the proceeds of
16 contractor licensing fees and identify, solicit, and accept
17 funds from other sources for research and continuing education
18 projects.

19 (4) If funds collected for research projects in any
20 year do not require the use of all available funds, the unused
21 funds shall be carried forward and allocated for use during
22 the following fiscal year.

23 Section 16. Except as otherwise provided in this act,
24 this act shall take effect October 1, 2001.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SBs 336 & 190

This CS implements the recommendations of the Florida Building Commission providing for a state product approval system, the applicability of the Florida Building Code to storage sheds, plan review of prototype buildings, license fees to fund research and education relating to the construction industry, construction permits, Code Commentary on the Florida Building Code, exemptions from fire safety provisions, the effective date of the code, and other issues relating to the Florida Building Code.

The bill also contains provisions relating to water well contractors, inspection of factory-built school buildings, construction of swimming pools, technical amendments to the Florida Building Code, the Building Code Training Program, development of a rehabilitation code, a study of the necessity for universal elevator keys for emergency personnel, and appointments to the Education Technical Advisory Committee of the Florida Building Commission.