

By Senator Clary

7-674A-01

1                                   A bill to be entitled  
2           An act relating to plans review and inspection  
3           of commercial buildings; amending ss. 471.015,  
4           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, 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; creating s. 553.791,  
20          F.S.; providing requirements for plans review  
21          and inspection of commercial buildings by  
22          commercial building inspectors; providing  
23          definitions; providing for inspection records  
24          and certificates of compliance; providing for  
25          resolution of disagreements; providing  
26          requirements for local enforcement agencies;  
27          providing for initiation of disciplinary  
28          proceedings; requiring certain minimum  
29          liability coverage; providing an effective  
30          date.  
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1 Be It Enacted by the Legislature of the State of Florida:

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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)~~(c)-(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 that the professional engineer or the  
9 professional engineer's firm ~~company~~ designed.

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

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

30 481.213 Licensure.--  
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1           (8) For persons whose licensure requires satisfaction  
2 of the requirements of ss. 481.209(1) and 481.211, the board  
3 shall, by rule, establish qualifications for certification of  
4 such persons as commercial building inspectors, as defined in  
5 s. 553.791, and shall compile a list of persons who are  
6 certified. An architect is not required to meet standards for  
7 commercial building inspector certification other than those  
8 established by the board, and the fee owner of a commercial  
9 building may not be prohibited from using the services of any  
10 person certified by the board as a commercial building  
11 inspector. The board shall develop minimum qualifications for  
12 the authorized representative of a commercial building  
13 inspector who performs inspections on behalf of the commercial  
14 building inspector pursuant to s. 553.791.

15           Section 4. Section 481.222, Florida Statutes, is  
16 amended to read:

17           481.222 Architects performing building code inspection  
18 services.--

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

1 Design rather than the Florida Building Code Administrators  
2 and Inspectors Board. An architect may not perform plans  
3 review as an employee of a local government upon any job that  
4 the architect or the architect's ~~firm~~ ~~company~~ designed.

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

23 Section 5. Section 553.791, Florida Statutes, is  
24 created to read:

25 553.791 Plans review and inspection of commercial  
26 buildings.--

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

28 (a) "Applicable codes" means the building, plumbing,  
29 mechanical, electrical, gas, energy, and accessibility codes  
30 adopted pursuant to this chapter, but does not include the

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1 applicable minimum fire prevention and firesafety codes  
2 adopted pursuant to chapter 633.

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

10 (c) "Commercial building" means any building or  
11 structure intended for commercial or industrial use, or any  
12 building or structure intended for multifamily residential use  
13 and having more than three dwelling units, and any accessory  
14 use structures in connection therewith.

15 (d) "Commercial building inspector" means an architect  
16 licensed under chapter 481 or engineer licensed under chapter  
17 471 who is certified to provide building code inspection  
18 services on commercial buildings.

19 (2) Notwithstanding any other provision of law, the  
20 fee owner of a commercial building may contract with a  
21 commercial building inspector to provide building code  
22 inspection services with regard to such building and may make  
23 payment directly to the commercial building inspector for the  
24 provision of these services. All such services shall be the  
25 subject of a written contract between the commercial building  
26 inspector, or the inspector's firm, and the fee owner. A  
27 commercial building inspector may not provide building code  
28 inspection services pursuant to this section upon any building  
29 or structure designed by the commercial building inspector or  
30 the inspector's firm.

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

13           (4) Upon receipt of the plans reviewed and the  
14 certificate of compliance from the commercial building  
15 inspector, along with the applicable building permit fee and  
16 any other applicable government approvals, the local  
17 enforcement agency shall issue a building permit or other  
18 appropriate permit within a reasonable period of time, but in  
19 no event later than 10 business days after receipt, unless the  
20 local enforcement agency refuses such issuance pursuant to  
21 subsection (10).

22           (5) A commercial building inspector performing  
23 building inspections under this section shall inspect to  
24 determine the compliance with applicable codes of each phase  
25 of construction for which permitting by a local enforcement  
26 agency is required and shall perform the minimum mandatory  
27 inspections required by any building code adopted pursuant to  
28 s. 553.73. The commercial building inspector shall be  
29 permitted to send a duly authorized representative to the  
30 construction site to perform the necessary inspections,  
31 provided all required reports and certifications are prepared

1 by and bear the signature and seal of the commercial building  
2 inspector. The contractor's contractual or statutory  
3 obligations are not relieved by any action of the commercial  
4 building inspector.

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

13 (7) Upon completing building inspections at each  
14 applicable phase of construction, the commercial building  
15 inspector shall record such inspections on a form promulgated  
16 by the commission. Such inspection records shall reflect all  
17 inspections performed by the commercial building inspector,  
18 including the minimum mandatory inspections required by any  
19 building code adopted pursuant to s. 553.73. In addition to  
20 the inspection records, the commercial building inspector  
21 shall prepare a certificate of compliance on a form  
22 promulgated by the commission, summarizing the inspections  
23 performed, and including a written representation, under oath,  
24 that the stated inspections have been performed and that to  
25 the best of the commercial building inspector's knowledge and  
26 belief the building construction inspected meets the  
27 requirements of the applicable codes. Upon completion of the  
28 construction, the commercial building inspector shall submit  
29 both the inspection records and the certificate of compliance  
30 to the local enforcement agency for review.

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

9           (9) In the event of a disagreement with the local  
10 enforcement agency regarding plans review or building  
11 construction compliance with applicable codes, it shall be the  
12 commercial building inspector's responsibility to meet with  
13 the local enforcement agency and make a reasonable effort to  
14 attempt an informal resolution of the disagreement.

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

22           (a) In the case of plans review, the local enforcement  
23 agency must notify the commercial building inspector of its  
24 determination that the plans do not comply with applicable  
25 codes within 10 business days after receipt of the plans  
26 reviewed and the certificate of compliance.

27           (b) In the case of building construction that the  
28 local enforcement agency observes and determines does not  
29 comply with applicable codes, the local enforcement agency  
30 must notify the commercial building inspector of its  
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1 determination within 2 business days after observing the  
2 allegedly noncompliant construction.

3 (c) In the case of final inspection and issuance of a  
4 certificate of occupancy, the local enforcement agency must  
5 notify the commercial building inspector of its determination  
6 that the building construction does not comply with applicable  
7 codes within 2 business days after receipt of the inspection  
8 records and the certificate of compliance.

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

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

24 (f) Any construction performed by a fee owner during  
25 the appeal of a stop-work order as outlined in paragraph (e)  
26 shall be undertaken at the owner's risk, with the knowledge  
27 that the local board of rules and appeals may order the  
28 demolition of such work if it agrees with the local  
29 enforcement agency that the plans or construction do not  
30 comply with the applicable codes.

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

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

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

18           (12) No local enforcement agency or local government  
19 may adopt or enforce any laws, rules, procedures, or standards  
20 which are more stringent than those prescribed by this  
21 section.

22           (13) A commercial building inspector may perform  
23 building code inspection services under this section only if  
24 the commercial building inspector maintains independent  
25 insurance for professional and comprehensive general liability  
26 with minimum policy limits of \$1 million per occurrence  
27 relating to all services performed as a commercial building  
28 inspector, and including tail coverage for a minimum of 5  
29 years subsequent to the performance of building code  
30 inspection services.

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

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LEGISLATIVE SUMMARY

Requires the Board of Professional Engineers and the Board of Architecture and Interior Design to establish by rule qualifications for certifying professional engineers and licensed architects, respectively, as commercial building inspectors. Requires the boards to also establish minimum qualifications for authorized representatives of commercial building inspectors who perform inspections on behalf of those inspectors. Allows professional engineers and licensed architects certified as commercial building inspectors to perform building code inspection services on commercial buildings. Provides for the conduct and applicability of complaint and disciplinary provisions with respect to such services. Provides requirements for plans review and inspection of commercial buildings by commercial building inspectors. Provides for inspection records and certificates of compliance, resolution of disagreements, requirements for local enforcement agencies, and initiation of disciplinary proceedings. Requires certain minimum liability coverage. (See bill for details.)