

By Representative Bucher

1                                   A bill to be entitled  
2           An act relating to Palm Beach County; amending  
3           chapter 90-445, Laws of Florida, as amended;  
4           providing for the uniform implementation,  
5           interpretation, and enforcement of building  
6           code requirements pursuant to the Florida  
7           Building Code; providing and amending  
8           definitions; providing for enforcement;  
9           providing for repeal of conflicting laws;  
10          providing for interpretation of codes and  
11          revision; deleting provisions relating to  
12          appointments; providing for authority for  
13          building code amendments; providing for  
14          amending provisions for product and system  
15          evaluation, including application fees and  
16          revocation and renewal of product and system  
17          compliance; providing severability; providing  
18          an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22           Section 1. Chapter 90-445, Laws of Florida, is amended  
23 to read:

24           Section 1. Purpose.--As provided in section 553.80(1),  
25 Florida Statutes, each local government and each legally  
26 constituted enforcement district with statutory authority  
27 shall regulate building construction and, where authorized in  
28 the state agency's enabling legislation, each state agency  
29 shall enforce the Florida Building Code, as revised or amended  
30 by the state or applicable local government, required on all  
31 public or private buildings, structures, and facilities unless

1 such responsibility has been delegated to another unit of  
2 government pursuant to section 553.79(9), Florida Statutes.  
3 The purpose of this act is to provide for a system to advise  
4 the Palm Beach County Board of County Commissioners and local  
5 governments regarding the uniform implementation,  
6 interpretation, and enforcement of the Florida Building Code.  
7 ~~Authority.--The board of county commissioners shall have the~~  
8 ~~power to adopt, for all municipalities and unincorporated~~  
9 ~~areas of Palm Beach County, more recent editions and revisions~~  
10 ~~of the Standard Building, Gas, Mechanical, and Plumbing Codes,~~  
11 ~~as promulgated by the Southern Building Code Congress~~  
12 ~~International, in addition to the National Electrical Code, as~~  
13 ~~promulgated by the National Fire Protection Association.~~  
14 ~~These codes shall be adopted by ordinance, based on the advice~~  
15 ~~of the Building Code Advisory Board of Palm Beach County.~~

16 Section 2. Definitions.--As used in this act:

17 (1) "Amendment" means modified requirements to the  
18 Florida Building Code ~~model building codes~~ which are adopted  
19 by ordinance by any unit of local government pursuant to  
20 section 553.73, Florida Statutes.

21 (2) "Board" means the Building Code Advisory Board of  
22 Palm Beach County, unless otherwise specified.

23 (3) "Building official" means an individual charged  
24 with the administration and enforcement of the Florida  
25 Building Code ~~several codes adopted pursuant to section 1,~~ who  
26 is a full-time employee of a municipality or the county, in  
27 the respective election district in which the jurisdiction is  
28 situated.

29 (4) "Design professional" means an architect or  
30 engineer so registered in the State of Florida.

31

1           (5) "Florida Building Code" means the code adopted by  
2 the Florida Building Commission pursuant to section  
3 553.73(1)(a), Florida Statutes~~"Model codes" means the~~  
4 ~~Standard Building, Gas, Mechanical, and Plumbing Codes~~  
5 ~~published by the Southern Building Code Congress International~~  
6 ~~and the National Electrical Code published by the National~~  
7 ~~Fire Protection Association.~~

8           (6) "Revisions" means any modifications to the Florida  
9 Building Code ~~model codes~~ as published by the Florida Building  
10 Commission ~~applicable code-promulgating organization.~~

11           ~~(7) "Service system" means an electrical, gas,~~  
12 ~~mechanical, plumbing, or other system which provides service~~  
13 ~~to a building, structure, or facility and is regulated by the~~  
14 ~~model codes and any amendments or revisions thereto.~~

15           ~~(7)(8)~~ "Unit of local government" means any one of the  
16 municipal governing bodies in Palm Beach County or the Board  
17 of County Commissioners of Palm Beach County.

18           Section 3. Enforcement.--Enforcement of the Florida  
19 Building Code ~~model codes~~ adopted pursuant to section ~~1~~, and  
20 any amendments or revisions thereto, shall be the  
21 responsibility of each unit of local government. A unit of  
22 local government may provide these services through an  
23 interlocal agreement with the county or local government, as  
24 provided by section 553.79(9), Florida Statutes ~~law~~.

25           ~~Section 4. Code enforcement personnel~~  
26 ~~qualifications.--For the purposes of permit review and~~  
27 ~~inspection, qualified plans examiners and inspectors, whose~~  
28 ~~competency shall be determined by each unit of local~~  
29 ~~government, shall be employed and charged with the~~  
30 ~~responsibility of enforcing this act.~~

31

1           ~~Section 5. Violations.--No building, structure, or~~  
2 ~~service system shall be erected or installed within Palm Beach~~  
3 ~~County in violation of the requirements of the model codes~~  
4 ~~adopted pursuant to section 1 or any amendments or revisions~~  
5 ~~thereto, except that state buildings are exempt from~~  
6 ~~compliance with such model codes.~~

7           Section 4.6. Repeal of laws in conflict.--Any laws,  
8 ordinances, or resolutions now in existence in the  
9 unincorporated areas of Palm Beach County or in any  
10 municipality in Palm Beach County in conflict with this act  
11 are hereby repealed.

12           ~~Section 7. Enactment of lower standards.--No unit of~~  
13 ~~local government shall enact any law lowering the standards of~~  
14 ~~the model codes adopted pursuant to section 1. However, each~~  
15 ~~unit of local government may adopt ordinances providing~~  
16 ~~amendments to modify or improve the model codes, provided such~~  
17 ~~amendments are in compliance with s. 553.73, Florida Statutes.~~

18           ~~Section 8. Code available.--Each unit of local~~  
19 ~~government shall have available for public inspection in its~~  
20 ~~principal office three copies of the model codes, together~~  
21 ~~with any amendments or revisions thereto. Amendments must be~~  
22 ~~printed or otherwise suitably duplicated, and copies shall be~~  
23 ~~available for sale at reasonable cost to the public.~~

24           Section 5.9. Interpretations.--In the event of a  
25 dispute in the interpretation of the provisions of the Florida  
26 Building Code ~~model codes~~, or any amendments or revisions  
27 thereto, a building official, ~~plans examiner, inspector,~~  
28 builder, contractor, owner, architect, or engineer may ask for  
29 an opinion from the board's Code Interpretation Committee. The  
30 Code Interpretation Committee shall be comprised of each of  
31 the building official members of the board. ~~The request for~~

1 ~~interpretation must come by agreement of~~ Both parties to the  
2 dispute must agree to seeking the advisory interpretation from  
3 the board. Said procedure ~~opinion~~ may be conducted by  
4 telephone or other electronic means. A simple majority of the  
5 committee shall sustain an interpretation. Each building  
6 official member of the committee shall maintain a written  
7 record of the date and parties to the dispute. The  
8 interpretation shall not be binding upon the parties to the  
9 dispute.

10 Section ~~6.10.~~ Appointments.--

11 (1) The Board of County Commissioners of Palm Beach  
12 County shall appoint the Building Code Advisory Board of Palm  
13 Beach County and supply it with a meeting place, office  
14 supplies including stationery, legal counsel, technical staff,  
15 mechanical recording of its meetings, written transcripts of  
16 the minutes of its meetings, secretarial service, and storage  
17 space for its records. The board shall have 16 members,  
18 composed of 7 building officials, 1 from each commission  
19 election district, appointed from nominees submitted by the  
20 Building Official's Association of Palm Beach County; 7  
21 members appointed from nominees submitted by the Construction  
22 Industry Management Council of Palm Beach County; 1 member who  
23 shall be a registered architect appointed from nominees  
24 submitted by the Palm Beach Chapter of the American Institute  
25 of Architects; and 1 member who shall be a professional  
26 engineer appointed from nominees submitted by the Palm Beach  
27 Chapter of the Florida Engineering Society. ~~By January 1,~~  
28 ~~1991, the Board of County Commissioners of Palm Beach County~~  
29 ~~shall appoint the four new members, two for 1-year terms and~~  
30 ~~two for 3-year terms. Thereafter, All~~ appointments shall be  
31 for a term of 3 years, and each member shall serve until his

1 or her successor is appointed. If a vacancy should occur  
2 before a term has expired, the Board of County Commissioners  
3 shall appoint a new member within 60 days to complete the  
4 unexpired term.

5 (2) Members shall be required to attend all regular  
6 and special meetings of the board. The chair ~~chairman~~ of the  
7 board shall notify the Board of County Commissioners when a  
8 member accumulates three consecutive absences from the regular  
9 meetings or when a member fails to attend 50 percent of all  
10 meetings of the board during any 12-month period. On such  
11 notification, the member shall be removed by the Board of  
12 County Commissioners, and the Board of County Commissioners  
13 shall appoint a new member within 60 days to complete the  
14 unexpired term. The board shall hold meetings open to the  
15 public at least once in every calendar quarter, adopt rules  
16 and procedures ~~procedure~~, and elect a chair ~~chairman~~ and vice  
17 chair ~~chairman~~. A quorum of the board shall be 10 members,  
18 with a concurring vote of 9 members required to approve any  
19 action.

20 Section 7. Authority.--~~The purpose of the advisory~~  
21 board is authorized to:

22 (1) Advise units of local governments regarding+  
23 ~~(a) Future editions of the model codes and subsequent~~  
24 ~~recommendation to the board of county commissioners concerning~~  
25 ~~countywide adoption.~~

26 ~~(b) Recommendations on the~~ adoption of administrative  
27 or technical amendments to the Florida Building Code ~~model~~  
28 ~~codes~~ based on local conditions.

29 (2)(c) Advise local governments how construction code  
30 enforcement can be improved and standardized.

31

1           (3)(d) Advise local governments how to prevent the  
2 recurrence of disputes.

3           (4)(e) Advise local governments on evaluation of new  
4 and innovative materials, products, systems, or methods of  
5 construction for compliance with the Florida Building Code  
6 ~~model codes adopted pursuant to section 1~~, and any amendments  
7 or revisions thereto.

8           (5) Act as the countywide compliance review board,  
9 pursuant to section 553.73(4)(b)7., Florida Statutes,  
10 notwithstanding the requirements contained therein to  
11 establish such review board by interlocal agreement.

12           Section ~~8.11~~. Product and system evaluation.--

13           (1) The board shall have the authority to evaluate  
14 ~~ADMINISTRATION.--Palm Beach County and each unit of local~~  
15 ~~government within Palm Beach County shall have the option to~~  
16 ~~direct inquiries concerning new or existing products or~~  
17 ~~systems to the board. The board shall act as a clearing house~~  
18 ~~for new or different products or systems, by evaluating them~~  
19 ~~based on the current model codes and any amendments or~~  
20 ~~revisions, being recommended for adoption by the board. The~~  
21 ~~board is authorized to~~ may issue evaluation and compliance  
22 reports for products and systems found to be in compliance, as  
23 provided by policies established by the board. Recommendations  
24 of the board concerning new products or systems shall be  
25 advisory in nature.

26           (2) STANDARDS.--The evaluation of new and innovative  
27 materials, products, systems, or methods of construction shall  
28 be based on the Florida Building Code ~~model codes adopted~~  
29 ~~pursuant to section 1~~, and any amendments or revisions  
30 thereto. The types of construction, materials, systems, or  
31 methods of design referred to in the Florida Building Code

1 ~~model codes~~, and any amendments or revisions thereto, shall be  
2 considered standards of performance, quality, and strength.  
3 New or different types of construction, materials, or methods  
4 of design shall be at least equal to these standards for the  
5 corresponding use intended. For the purposes of determining  
6 compliance, the product's quality, strength, effectiveness,  
7 fire resistance, durability, safety, and control of  
8 installation shall be guides for consideration.

9           (3) The board is authorized to establish policies and  
10 procedures necessary to conduct evaluation efforts, such as,  
11 but not limited to, applications, fees, renewals, and  
12 revocations. ~~APPLICATION PROCEDURE.--~~

13           ~~(a) Applications for evaluation and compliance~~  
14 ~~determination shall be made in accordance with the policy and~~  
15 ~~procedures established by the board. If the application is~~  
16 ~~for a type of structure or system, the application shall be~~  
17 ~~accompanied by plans prepared by a design professional,~~  
18 ~~together with supporting engineering calculations supporting~~  
19 ~~the design. Applications for components, materials, or~~  
20 ~~devices shall be accompanied by drawings, tests, and~~  
21 ~~calculations, prepared by an engineer registered in the State~~  
22 ~~of Florida, or other proof supporting the design.~~

23           ~~(b)~~ The board may employ the use of consultants to  
24 examine applications. A ~~The~~ consultant shall be a design  
25 professional with specific qualifications in the particular  
26 ~~that~~ area of product or system analysis for which he or she is  
27 employed.

28           ~~(c)~~ The board may establish policies and procedures  
29 for ~~the~~ processing and review of requests for evaluation and  
30 compliance, including programs designed to monitor  
31 manufacturing, fabrication, or performance. The board or its



1 designee may require calculations, tests, or opinions from  
2 design professionals, nationally recognized testing  
3 laboratories, or approved quality and assurance programs.

4 ~~(d) The data shall be analyzed and evaluated for~~  
5 ~~meeting the applicable performance standards. After receiving~~  
6 ~~an evaluation report, the board shall issue a written~~  
7 ~~recommendation on the appropriateness of the product or system~~  
8 ~~for use in Palm Beach County. All decisions or reports shall~~  
9 ~~be forwarded to:~~

- 10 1. ~~The product control file.~~
- 11 2. ~~The applicant.~~
- 12 3. ~~The local building departments.~~

13

14 ~~The written recommendations of the board shall be advisory~~  
15 ~~only. It is the responsibility of each applicant, contractor,~~  
16 ~~or owner to submit individual permit applications for~~  
17 ~~construction or installation to the appropriate unit of local~~  
18 ~~government for specific approval or rejection.~~

19 ~~(4) FEES.--A \$500 minimum initial application fee~~  
20 ~~shall be paid by the applicant at the time of filing. In~~  
21 ~~addition, the applicant shall be responsible for any cost the~~  
22 ~~board may incur. Resubmissions after unfavorable~~  
23 ~~recommendations shall not require an additional initial filing~~  
24 ~~fee unless final action had been taken by the board. However,~~  
25 ~~the applicant shall be required to pay any additional cost~~  
26 ~~incurred by the board prior to final action.~~

27 ~~(5) DISPOSITION OF FEES AND EXPENSES.--All moneys~~  
28 ~~collected by the board shall be received, deposited, expended,~~  
29 ~~and accounted for pursuant to law. The expenses of the~~  
30 ~~advisory board, consulting fees, testing fees, and all other~~

31

1 ~~necessary and appropriate fees shall be paid by the board from~~  
2 ~~the moneys collected.~~

3 ~~(6) DISAPPROVAL.--Applications recommended for~~  
4 ~~disapproval, during any phase of the review process, shall be~~  
5 ~~returned to the applicant in writing, stating the reasons for~~  
6 ~~the recommendation of disapproval.~~

7 ~~(7) REVOCATION.--~~

8 ~~(a) At any time during the valid term of a compliance~~  
9 ~~report, the recommendation may be revoked and become null and~~  
10 ~~void for any of the following reasons:~~

11 ~~1. Nonconformance with the model codes adopted~~  
12 ~~pursuant to section 1, and any amendments or revisions~~  
13 ~~thereto, or any subsequent updates to such standards which~~  
14 ~~occur after the date of acceptance.~~

15 ~~2. Deviation from the design on which the~~  
16 ~~recommendation of acceptance was based, due to change,~~  
17 ~~omission, or substitution.~~

18 ~~3. Use of the product, components, system, or method~~  
19 ~~not within the scope of the recommendation of acceptance.~~

20 ~~4. Unsatisfactory performance when subjected to actual~~  
21 ~~conditions.~~

22 ~~5. Appearance of intolerable effects such as, but not~~  
23 ~~limited to, toxicity when associated with other materials.~~

24 ~~(b) Notification of revocation shall be provided to~~  
25 ~~all persons having received the recommendation of acceptance.~~  
26 ~~Revocations based on subparagraph (a)1. or subparagraph (a)2.~~  
27 ~~may be considered for reinstatement if the original applicant~~  
28 ~~submits:~~

29 ~~1. Revised drawings, calculations, test reports, or~~  
30 ~~other information to the satisfaction of the board.~~

31 ~~2. Payment of a \$50 review fee.~~

1           ~~3. Payment of additional costs incurred by the board.~~  
2  
3           ~~Submittals for revisions shall bear the revised date and shall~~  
4           ~~be processed as a new application. Revised reports~~  
5           ~~recommended for approval shall be identified to indicate the~~  
6           ~~revised date; however, the submittal shall maintain the same~~  
7           ~~expiration date.~~

8           ~~(8) RENEWAL.--One year from the date of acceptance and~~  
9           ~~every year thereafter, or upon the adoption of new codes,~~  
10           ~~amendments, revisions, or standards, the board shall ask the~~  
11           ~~original applicant whether he desires the evaluation and~~  
12           ~~compliance report to be renewed. Failure of the applicant to~~  
13           ~~respond within 30 days shall cause the report or approval to~~  
14           ~~be automatically canceled. An applicant desiring the report~~  
15           ~~or approval to be renewed shall submit a \$200 fee. The~~  
16           ~~applicant shall also be responsible for any additional cost~~  
17           ~~incurred by the board prior to final action.~~

18           Section 2. If any provision of this act or the  
19           application thereof to any person or circumstance is held  
20           invalid, the invalidity shall not affect other provisions or  
21           applications of the act which can be given effect without the  
22           invalid provision or application, and to this end the  
23           provisions of this act are declared severable.

24           Section 3. This act shall take effect upon becoming a  
25           law.

26  
27  
28  
29  
30  
31