

By Representative Cantens

1                                   A bill to be entitled  
2           An act relating to private provider plans  
3           review and building code inspection services;  
4           creating s. 553.791, F.S.; providing  
5           alternative procedures for building plans  
6           review and inspection; providing definitions;  
7           authorizing use of a private provider to review  
8           plans and make building code inspections under  
9           certain circumstances; providing a limitation;  
10          requiring notice to the local building  
11          official; specifying notice information;  
12          specifying requirements, duties, and  
13          responsibilities of a private provider;  
14          providing for a certificate of compliance;  
15          providing duties of the local building  
16          official; providing procedures for approval or  
17          denial of a certificate of compliance or a  
18          building permit; prohibiting local entities  
19          from adopting or enforcing certain laws, rules,  
20          procedures, or standards; requiring a private  
21          provider to maintain certain insurance;  
22          subjecting private providers to certain  
23          disciplinary provisions; limiting use of a  
24          private provider under certain circumstances;  
25          providing for exempting certain local  
26          enforcement agencies under certain  
27          circumstances for certain purposes; requiring  
28          local building code enforcement agencies to  
29          develop and maintain a quality assurance  
30          auditing process for certain purposes;  
31          providing an effective date.

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

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3 Section 1. Section 553.791, Florida Statutes, is  
4 created to read:

5 553.791 Alternative plans review and inspection.--

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

7 (a) "Applicable codes" means the Florida Building Code  
8 and any local technical amendments to the Florida Building  
9 Code but does not include the applicable minimum fire  
10 prevention and firesafety codes adopted pursuant to chapter  
11 633.

12 (b) "Building" means any construction, erection,  
13 alteration, demolition, or improvement of, or addition to, any  
14 structure for which permitting by a local enforcement agency  
15 is required.

16 (c) "Building code inspection services" means those  
17 services described in s. 468.603(6) and (7) involving the  
18 review of building plans to determine compliance with  
19 applicable codes and those inspections required by law of each  
20 phase of construction for which permitting by a local  
21 enforcement agency is required to determine compliance with  
22 applicable codes.

23 (d) "Duly authorized representative" means an agent of  
24 the private provider identified in the permit application who  
25 reviews plans or performs inspections as provided by this  
26 section and who holds a license under chapter 471 or chapter  
27 481 or a certificate under part XII of chapter 468.

28 (e) "Local building official" means the individual  
29 within the governing jurisdiction responsible for direct  
30 regulatory administration or supervision of plans review,  
31 enforcement, and inspection of any construction, erection,

1 alteration, demolition, or substantial improvement of, or  
2 addition to, any structure for which permitting is required to  
3 indicate compliance with applicable codes and includes any  
4 duly authorized designee of such person.

5 (f) "Permit application" means a properly completed  
6 and submitted application for:

- 7 1. The requested building or construction permit.  
8 2. The plans reviewed by the private provider.  
9 3. The affidavit from the private provider required  
10 pursuant to subsection (5).

11 4. Any applicable fees.

12 5. Any documents required by the local building  
13 official to determine that the fee owner has secured all other  
14 government approvals required by law.

15 (g) "Private provider" means a person who holds a  
16 license under chapter 471 or chapter 481 or a standard  
17 certificate under part XII of chapter 468.

18 (h) "Request for certificate of occupancy or  
19 certificate of completion" means a properly completed and  
20 executed application for:

21 1. A certificate of occupancy or certificate of  
22 completion.

23 2. A certificate of compliance from the private  
24 provider required pursuant to subsection (10).

25 3. Any applicable fees.

26 4. Any documents required by the local building  
27 official to determine that the fee owner has secured all other  
28 government approvals required by law.

29 (2) Notwithstanding any other provision of law, the  
30 fee owner of a building may use a private provider to provide  
31 building code inspection services with regard to such building

1 and may make payment directly to the private provider for the  
2 provision of such services. All such services shall be the  
3 subject of a written contract between the private provider, or  
4 the private provider's firm, and the fee owner.

5 Notwithstanding any other provision of law, the fee owner may  
6 elect to use a private provider to provide both plans review  
7 and required building inspections or to use the local  
8 enforcement agency for one or both of such purposes.

9 (3) A private provider may not provide building code  
10 inspection services or plans review pursuant to this section  
11 upon any building designed or constructed by the private  
12 provider or the private provider's firm.

13 (4) A fee owner using a private provider to provide  
14 building code inspection services shall notify the local  
15 building official at the time of permit application on a form  
16 to be adopted by the commission. This notice shall include the  
17 following information:

18 (a) The services to be performed by the private  
19 provider, whether plans review, required building inspections,  
20 or both.

21 (b) The name, firm, address, telephone number, and  
22 facsimile number of each private provider who is performing or  
23 will perform such services, his or her professional license or  
24 certification number, qualification statements or resumes,  
25 and, if required by the local building official, a certificate  
26 of insurance demonstrating that professional liability  
27 insurance coverage is in place for the private provider's  
28 firm, the private provider, and any duly authorized  
29 representative in the amounts required by this section.

30 (c) An acknowledgment from the fee owner in  
31 substantially the following form:

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2       I have elected to use one or more private  
3       providers to provide building code plans review  
4       and/or inspection services on the building that  
5       is the subject of the enclosed permit  
6       application, as authorized by s. 553.791,  
7       Florida Statutes. I understand that the local  
8       building official may not review the plans  
9       submitted or perform the required building  
10       inspections to determine compliance with the  
11       applicable codes, except to the extent  
12       specified in said law. Instead, plans review  
13       and/or required building inspections will be  
14       performed by licensed or certified personnel  
15       identified in the application. The law  
16       requires minimum insurance requirements for  
17       such personnel, but I understand that I may  
18       require more insurance to protect my interests.  
19       By executing this form, I acknowledge that I  
20       have made inquiry regarding the competence of  
21       the licensed or certified personnel and the  
22       level of their insurance and am satisfied that  
23       my interests are adequately protected. I agree  
24       to indemnify, defend, and hold harmless the  
25       local government and the local building  
26       official for any and all claims arising from my  
27       use of these licensed or certified personnel to  
28       perform building code inspection services with  
29       respect to the building that is the subject of  
30       the enclosed permit application.  
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1 If the fee owner makes any changes to the listed private  
2 providers or the services to be provided by those private  
3 providers, the fee owner shall, within 24 hours after any  
4 change, update the notice to reflect such changes.

5 (5) A private provider performing plans review under  
6 this section shall review construction plans to determine  
7 compliance with the applicable codes. Upon determining that  
8 the plans reviewed comply with the applicable codes, the  
9 private provider shall prepare an affidavit or affidavits on a  
10 form adopted by the commission certifying, under oath, that  
11 the following is true and correct to the best of the private  
12 provider's knowledge and belief:

13 (a) The plans were reviewed by the affiant, who is  
14 duly authorized to perform plans review pursuant to this  
15 section and holds the appropriate license or certificate.

16 (b) The plans comply with the applicable codes.

17 (6)(a) Within 30 business days after receipt of a  
18 permit application, the local building official shall issue  
19 the requested permit or provide a written notice to the permit  
20 applicant identifying the specific plan features that do not  
21 comply with the applicable codes, as well as the specific code  
22 chapters and sections. If the local building official does  
23 not provide a written notice of the plan deficiencies within  
24 the prescribed 30-day period, the permit application shall be  
25 deemed approved as a matter of law and the permit shall be  
26 issued by the local building official on the next business  
27 day.

28 (b) If the local building official provides a written  
29 notice of plan deficiencies to the permit applicant within the  
30 prescribed 30-day period, the 30-day period shall be tolled  
31 pending resolution of the matter. To resolve the plan

1 deficiencies, the permit applicant may elect to dispute the  
2 deficiencies pursuant to subsection (12) or to submit  
3 revisions to correct the deficiencies.

4 (c) If the permit applicant submits revisions, the  
5 local building official has the remainder of the tolled 30-day  
6 period plus 5 business days to issue the requested permit or  
7 to provide a second written notice to the permit applicant  
8 stating which of the previously identified plan features  
9 remain in noncompliance with the applicable codes, with  
10 specific reference to the relevant code chapters and sections.  
11 If the local building official does not provide the second  
12 written notice within the prescribed time period, the permit  
13 shall be issued by the local building official on the next  
14 business day.

15 (d) If the local building official provides a second  
16 written notice of plan deficiencies to the permit applicant  
17 within the prescribed time period, the permit applicant may  
18 elect to dispute the deficiencies pursuant to subsection (12)  
19 or to submit additional revisions to correct the deficiencies.  
20 For all revisions submitted after the first revision, the  
21 local building official has an additional 5 business days to  
22 issue the requested permit or to provide a written notice to  
23 the permit applicant stating which of the previously  
24 identified plan features remain in noncompliance with the  
25 applicable codes, with specific reference to the relevant code  
26 chapters and sections.

27 (7) A private provider performing required inspections  
28 under this section shall inspect each phase of construction as  
29 required by the applicable codes. The private provider shall  
30 be permitted to send a duly authorized representative to the  
31 building site to perform the required inspections, provided

1 all required reports and certifications are prepared by and  
2 bear the signature and seal of the private provider. The  
3 contractor's contractual or legal obligations are not relieved  
4 by any action of the private provider.

5 (8) A private provider performing required inspections  
6 under this section shall provide notice to the local building  
7 official of the date and approximate time of any such  
8 inspection no later than 1 business day prior to the scheduled  
9 inspection. The local building official may visit the building  
10 site as often as necessary to verify that the private provider  
11 is performing all required inspections.

12 (9) Upon completing the required inspections at each  
13 applicable phase of construction, the private provider shall  
14 record such inspections on a form acceptable to the local  
15 building official. These inspection records shall reflect  
16 those inspections required by the applicable codes of each  
17 phase of construction for which permitting by a local  
18 enforcement agency is required. The private provider, before  
19 leaving the project site, shall post each completed inspection  
20 record, indicating pass or fail, at the site and provide the  
21 record to the local building official within 2 business days.  
22 Records of all required and completed inspections shall be  
23 maintained at the building site at all times and made  
24 available for review by the local building official. The  
25 private provider shall report to the local enforcement agency  
26 any condition that poses an immediate threat to public safety  
27 and welfare.

28 (10) Upon completion of all required inspections, the  
29 private provider shall prepare a certificate of compliance, on  
30 a form acceptable to the local building official, summarizing  
31 the inspections performed and including a written



1 representation, under oath, that the stated inspections have  
2 been performed and that, to the best of the private provider's  
3 knowledge and belief, the building construction inspected  
4 complies with the approved plans and applicable codes. The  
5 statement required of the private provider shall be  
6 substantially in the following form:

7  
8 To the best of my knowledge and belief, the  
9 building components and site improvements  
10 outlined herein and inspected under my  
11 authority have been completed in conformance  
12 with the approved plans and the applicable  
13 codes.

14  
15 (11) Within 2 business days after receipt of a request  
16 for a certificate of occupancy or certificate of completion  
17 and the applicant's presentation of a certificate of  
18 compliance and approval of all other government approvals  
19 required by law, the local building official shall issue the  
20 certificate of occupancy or certificate of completion or  
21 provide a notice to the applicant identifying the specific  
22 deficiencies, as well as the specific code chapters and  
23 sections. If the local building official does not provide  
24 notice of the deficiencies within the prescribed 2-day period,  
25 the request for a certificate of occupancy or certificate of  
26 completion shall be deemed granted and the certificate of  
27 occupancy or certificate of completion shall be issued by the  
28 local building official on the next business day. To resolve  
29 any identified deficiencies, the applicant may elect to  
30 dispute the deficiencies pursuant to subsection (12) or to  
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1 submit a corrected request for a certificate of occupancy or  
2 certificate of completion.

3 (12) If the local building official determines that  
4 the building construction or plans do not comply with the  
5 applicable codes, the official may deny the permit or request  
6 for a certificate of occupancy or certificate of completion,  
7 as appropriate, or may issue a stop-work order for the project  
8 or any portion thereof, if the official determines that such  
9 noncompliance poses a threat to public safety and welfare,  
10 subject to the following:

11 (a) The local building official shall be available to  
12 meet with the private provider within 2 business days to  
13 resolve any dispute after issuing a stop-work order or  
14 providing notice to the applicant denying a permit or request  
15 for a certificate of occupancy or certificate of completion.

16 (b) If the local building official and private  
17 provider are unable to resolve the dispute, the matter shall  
18 be referred to the local enforcement agency's board of  
19 appeals, if one exists, which shall consider the matter at its  
20 next scheduled meeting or sooner. Any decisions by the local  
21 enforcement agency's board of appeals, or local building  
22 official if there is no board of appeals, may be appealed to  
23 the commission pursuant to s. 553.77(1)(h).

24 (c) Notwithstanding any provision of this section, any  
25 decisions regarding the issuance of a building permit,  
26 certificate of occupancy, or certificate of completion may be  
27 reviewed by the local enforcement agency's board of appeals,  
28 if one exists. Any decision by the local enforcement agency's  
29 board of appeals, or local building official if there is no  
30 board of appeals, may be appealed to the commission pursuant  
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1 to s. 553.77(1)(h), which shall consider the matter at the  
2 commission's next scheduled meeting.

3 (13) For the purposes of this section, any notice to  
4 be provided by the local building official shall be deemed to  
5 be provided to the person or entity when successfully  
6 transmitted to the facsimile number listed for that person or  
7 entity in the permit application or revised permit  
8 application, or, if no facsimile number is stated, when  
9 actually received by that person or entity.

10 (14) No local enforcement agency, local building  
11 official, or local government may adopt or enforce any laws,  
12 rules, procedures, or standards more stringent than those  
13 prescribed by this section.

14 (15) A private provider may perform building code  
15 inspection services under this section only if the private  
16 provider maintains insurance for professional and  
17 comprehensive general liability with minimum policy limits of  
18 \$1 million per occurrence relating to all services performed  
19 as a private provider, including tail coverage for a minimum  
20 of 5 years subsequent to the performance of building code  
21 inspection services.

22 (16) When performing building code inspection  
23 services, a private provider is subject to the disciplinary  
24 guidelines of the applicable professional board with  
25 jurisdiction over his or her license or certification under  
26 chapter 468, chapter 471, or chapter 481. Any complaint  
27 processing, investigation, and discipline that arise out of a  
28 private provider's performance of building code inspection  
29 services shall be conducted by the applicable professional  
30 board.

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1       (17) The fee owner of a building located within the  
2 jurisdiction of a local enforcement agency that the commission  
3 certifies as exempt from this section may not elect to use a  
4 private provider to provide building code inspection services  
5 with regard to such building. The commission may certify a  
6 local enforcement agency as exempt from this section if the  
7 local enforcement agency demonstrates that it routinely  
8 performs building code inspection services within the  
9 timeframes established in this section and that a majority of  
10 the following local entities consents to the exemption:

11           (a) The local chapter of the Associated General  
12 Contractors.

13           (b) The local chapter of the Florida Chapter of the  
14 American Institute of Architects.

15           (c) The local chapter of the Florida Home Builders  
16 Association.

17  
18 A certification of exemption shall be valid for a period of 1  
19 year and must be renewed annually.

20       (18) Each local building code enforcement agency shall  
21 develop and maintain a quality assurance process to audit  
22 construction projects in which privatized plans reviews and  
23 inspections were used. These audits shall track performance  
24 of building code inspection services by private providers  
25 operating within the local jurisdiction to conduct such  
26 services within their jurisdiction.

27       Section 2. This act shall take effect upon becoming a  
28 law.

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HOUSE SUMMARY

Authorizes a property owner to use a private provider to review plans and make building code inspections as an alternative to such activities being performed by a local building official. Specifies requirements, duties, and responsibilities of a private provider. Provides procedures for application and issuance of a building permit, certificate of compliance, or certificate of occupancy. Provides duties of the local building official. Provides procedures for approval or denial of a certificate of compliance or a building permit. Prohibits local entities from adopting or enforcing laws, rules, procedures, or standards more stringent than those specified. Requires a private provider to maintain liability insurance. Subjects private providers to applicable disciplinary provisions. Limits use of a private provider under specified circumstances. Provides for exempting a local enforcement agency from such alternative process. Requires local building code enforcement agencies to develop and maintain a quality assurance auditing process. See bill for details.