

Bill No. CS for CS for SB 2078

Amendment No.      Barcode 483402

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Constantine moved the following amendment:

**Senate Amendment (with title amendment)**  
Delete everything after the enacting clause

and insert:

Section 1. (1) The Legislature directs the Florida Building Commission to develop building code provisions that may be added to the Florida Building Code to facilitate the rehabilitation and use of existing structures. The commission shall select from available national or international model codes or the codes or code provisions adopted by another state to form the foundation for the code provisions required by this section.

(2) The commission shall seek consensus with firesafety professionals, advocates for persons with disabilities, representatives of the construction industry, land-use planners, building officials, and others identified by the commission as having an interest in building code provisions. The commission may modify the selected model codes and standards as needed to accommodate the specific needs of

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1 this state.

2 (3) In conjunction with its code development  
 3 activities, the commission shall identify legislative changes  
 4 required to implement the code provisions developed pursuant  
 5 to subsections (1) and (2).

6 (4) The commission shall report the activities  
 7 undertaken in response to the requirements of this section to  
 8 the Legislature on or before January 1, 2003, as a part of the  
 9 annual report required by s. 553.77(1)(b), Florida Statutes.  
 10 Recommended code provisions and the legislative changes  
 11 required for implementation shall be attached as appendices to  
 12 the annual report.

13 Section 2. Section 399.01, Florida Statutes, is  
 14 amended to read:

15 399.01 Definitions.--As used in this chapter, the  
 16 term:

17 (1) "Alteration" means any change or addition to the  
 18 vertical conveyance other than maintenance, repair, or  
 19 replacement.

20 ~~(2) "Certificate of competency" means a document~~  
 21 ~~issued by the division which evidences the competency of a~~  
 22 ~~person to construct, install, inspect, maintain, or repair any~~  
 23 ~~vertical conveyance.~~

24 (2)(3) "Certificate of operation" means a document  
 25 issued by the department which indicates that the conveyance  
 26 has had the required safety inspection and tests and that fees  
 27 have been paid as provided in this chapter.

28 (3)(4) "Conveyance" means an elevator, dumbwaiter,  
 29 escalator, moving sidewalk, platform lift, or ~~and~~ stairway  
 30 chairlift.

31 (4)(5) "Department" means the Department of Business

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1 and Professional Regulation.

2 (5)~~(6)~~ "Division" means the Division of Hotels and  
3 Restaurants of the Department of Business and Professional  
4 Regulation.

5 (6)~~(7)~~ "Elevator" means one of the following  
6 mechanical devices:

7 (a) A hoisting and lowering mechanism, equipped with a  
8 car and platform that moves in guide rails and serves two or  
9 more landings to transport material or passengers or both.

10 (b) An escalator, which is a power-driven, inclined  
11 continuous stairway used for raising or lowering passengers.

12 (c) A dumbwaiter, which is a hoisting and lowering  
13 mechanism equipped with a car of limited size which moves in  
14 guide rails and serves two or more landings.

15 (d) A moving walk, which is a type of  
16 passenger-carrying device on which passengers stand or walk  
17 and in which the passenger-carrying surface remains parallel  
18 to its direction of motion and is uninterrupted.

19 (e) An inclined stairway chairlift, which is a device  
20 used to transport physically handicapped persons over  
21 architectural barriers.

22 (f) An inclined or vertical wheelchair lift, which is  
23 a device used to transport wheelchair handicapped persons over  
24 architectural barriers.

25 ~~(8) "Escalator" means an installation defined as an~~  
26 ~~escalator in the Florida Building Code.~~

27 (7)~~(9)~~ "Existing installation" means an installation  
28 defined as an "installation, existing" in the Florida Building  
29 Code.

30 (8)~~(10)~~ "Elevator Safety Technical Advisory Committee"  
31 means the committee appointed by the secretary of the

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1 Department of Business and Professional Regulation.

2 (9)~~(11)~~ "Private residence" means a separate dwelling  
3 or a separate apartment in a multiple dwelling which is  
4 occupied by members of a single-family unit.

5 (10)~~(12)~~ "Service maintenance contract" means a  
6 contract that provides for routine examination, lubrication,  
7 cleaning, adjustment, replacement of parts, and performance of  
8 applicable code-required safety tests such as on a traction  
9 elevator and annual relief pressure test on a hydraulic  
10 elevator and any other service, repair, and maintenance  
11 sufficient to ensure the safe operation of the elevator. A  
12 service maintenance contract shall be made available upon  
13 request of the department for purposes of oversight and  
14 monitoring.

15 (11)~~(13)~~ "Temporarily dormant conveyance" means a  
16 conveyance whose power supply has been disconnected by  
17 removing fuses and placing a padlock on the mainline  
18 disconnect switch in the "OFF" position. The car is parked,  
19 and the hoistway doors are in the closed and latched position.  
20 A wire seal is installed on the mainline disconnect switch by  
21 a certified ~~certificate of competency~~ elevator inspector. This  
22 conveyance installation may not be used again until it has  
23 been put in safe running order and is in condition for use.  
24 Annual inspections shall continue for the duration of the  
25 temporarily dormant status by a certified ~~certificate of~~  
26 ~~competency~~ elevator inspector. The temporarily dormant status  
27 is renewable on an annual basis and may not exceed a 5-year  
28 period. The inspector shall file a report with the department  
29 ~~chief elevator inspector~~ describing the current conditions.  
30 The wire seal and padlock may not be removed for any purpose  
31 without permission from the department ~~elevator inspector~~.

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1           ~~(12)(14)~~ "Temporary operation inspection permit" means  
2 an inspection performed by a certified elevator inspector, the  
3 successful passage of a document issued by the department  
4 which permits the temporary use of a noncompliant vertical  
5 conveyance as provided by rule.

6           ~~(13)(15)~~ "Registered elevator company" means an entity  
7 registered with and authorized by the division employing  
8 persons to construct, install, inspect, maintain, or repair  
9 any vertical conveyance. Each registered elevator company must  
10 annually register with the division and maintain general  
11 liability insurance coverage in the minimum amounts set by  
12 rule ~~the division~~.

13           ~~(14)(16)~~ "Certified elevator inspector" is a natural  
14 person registered with and authorized by the division to  
15 construct, install, inspect, maintain, or repair any vertical  
16 conveyance, after having properly acquired the qualified  
17 elevator inspector credential as prescribed by the American  
18 Society of Mechanical Engineers. Each certified elevator  
19 inspector must annually register with the division and provide  
20 ~~from the National Association of Elevator Safety Authorities.~~  
21 ~~Such person shall remain so authorized by the division only~~  
22 ~~upon providing annual proof of completion of 8 hours of~~  
23 ~~continuing education, proof that and the qualified elevator~~  
24 ~~inspector credential remains in good standing, and proof of~~  
25 ~~with the National Association of Elevator Safety Authorities.~~  
26 ~~A licensed mechanical engineer whose license is in good~~  
27 ~~standing may be authorized as a certified elevator inspector~~  
28 ~~by the division. Each certified elevator inspector must~~  
29 ~~annually register with the division and maintain general~~  
30 ~~liability insurance coverage in the minimum amounts set by the~~  
31 ~~division.~~

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1           (15)(17) "Certified elevator technician" means a  
2 natural person authorized by the division to construct,  
3 install, maintain, or repair any vertical conveyance, after  
4 having been issued an elevator certificate of competency by  
5 the division. Each certified elevator technician must annually  
6 register with the division and be covered by ~~maintain~~ general  
7 liability insurance coverage in the minimum amounts set by the  
8 division.

9           (16)(18) "Elevator helper" means a natural person  
10 performing work under the direct supervision of an elevator  
11 certificate of competency holder ~~a certified elevator~~  
12 ~~inspector or an elevator technician~~ to construct, install,  
13 maintain, or repair any vertical conveyance.

14           (17)(19) "Elevator certificate of competency" means a  
15 credential issued by the division to any individual natural  
16 person successfully completing an examination as prescribed by  
17 rule and paying a nonrefundable fee of \$50. Such credential  
18 shall be valid for and expire at the end of 1 year, and may be  
19 renewed by the division when the division receives proof of  
20 the elevator certificate of competency holder's completion of  
21 8 hours of continuing education from a provider approved by  
22 the department and a nonrefundable renewal fee of \$50. The  
23 department shall adopt by rule criteria for providing approval  
24 and procedures for continuing education reporting.

25           (a) An elevator certificate of competency may be  
26 issued only if the applicant meets the following requirements:

27           1. Four years' work experience in the construction,  
28 maintenance, service, and repair of conveyances covered by  
29 this chapter. This experience shall be verified by current or  
30 previously registered elevator companies as required by the  
31 division.

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- 1           2. One of the following:  
2           a. Proof of completion and successful passage of a  
3 written examination administered by the division or a provider  
4 approved by the division under standards it adopted by rule.  
5           b. Proof of completion of an apprenticeship program  
6 for elevator mechanics which has standards substantially  
7 equivalent to those found in a national training program for  
8 elevator mechanics and is registered with the Bureau of  
9 Apprenticeship and Training of the United States Department of  
10 Labor or a state apprenticeship authority.  
11           c. Proof of licensure or certification by a state or  
12 local jurisdiction in the United States having standards  
13 substantially equal to or more stringent than those of this  
14 chapter.

15           (b) A licensed mechanical engineer whose license is in  
16 good standing may be granted an elevator certificate of  
17 competency.  
18

19 All other building transportation terms are defined in the  
20 current Florida Building Code.

21           Section 3. Subsections (1) and (5) of section 399.02,  
22 Florida Statutes, are amended to read:

23           399.02 General requirements.--

24           (1) The Elevator Safety Technical Advisory Committee  
25 shall develop and submit to the Director of Hotels and  
26 Restaurants proposed regarding revisions to the elevator  
27 safety code so that it is the same as or similar to the latest  
28 editions ~~versions~~ of ASME A17.1, ASME A17.3, and ASME A18.1.

29           (5)(a) The construction permitholder is responsible  
30 for the correction of violations and deficiencies until the  
31 elevator has been inspected and a certificate of operation has

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1 been issued by the department. The construction permitholder  
2 is responsible for all tests of new and altered equipment  
3 until the elevator has been inspected and a certificate of  
4 operation has been issued by the department.

5 (b) The elevator owner is responsible for the safe  
6 operation, and proper maintenance, and inspection and  
7 correction of code deficiencies of the elevator after ~~it has~~  
8 ~~been inspected and~~ a certificate of operation has been issued  
9 by the department. The responsibilities of the elevator owner  
10 may be assigned by lease.

11 ~~(c) The elevator owner shall report to the department~~  
12 ~~60 days before the expiration of the certificate of operation~~  
13 ~~whether there exists a service maintenance contract, with whom~~  
14 ~~the contract exists, and the details concerning the provisions~~  
15 ~~and implementation of the contract which the department~~  
16 ~~requires. The department shall keep the names of companies~~  
17 ~~with whom the contract exists confidential pursuant to the~~  
18 ~~public records exemption provided in s. 119.14(4)(b)3. This~~  
19 ~~annual contract report must be made on forms supplied by the~~  
20 ~~department. The elevator owner must report any material~~  
21 ~~change in the service maintenance contract no fewer than 30~~  
22 ~~days before the effective date of the change. The department~~  
23 ~~shall determine whether the provisions of the service~~  
24 ~~maintenance contract and its implementation ensure the safe~~  
25 ~~operation of the elevator.~~

26 Section 4. Section 399.03, Florida Statutes, is  
27 amended to read:

28 399.03 Design, installation, and alteration of  
29 conveyances.--

30 (1) A conveyance covered by this chapter may not be  
31 erected, constructed, installed, or altered within buildings



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1 or structures until unless a permit has been obtained from the  
2 department ~~before the work is commenced~~. Permits must be  
3 applied for by a registered elevator company and may only be  
4 granted upon receipt and approval of an application to be made  
5 on a form prescribed by the department, accompanied by proper  
6 fees and a sworn statement from an agent of the registered  
7 elevator company that the plans meet all applicable elevator  
8 safety and building codes. Permits may be granted only to  
9 registered elevator companies in good standing.When any  
10 material alteration is made, the alteration device must  
11 conform to applicable requirements of the Florida Building  
12 Code and the provisions of this chapter for the alteration. A  
13 ~~permit required hereunder may not be issued except to a~~  
14 ~~person, firm, or corporation holding a current elevator~~  
15 ~~contractor's license issued under this chapter.~~ A copy of the  
16 permit and plans must be kept at the construction site at all  
17 times while the work is in progress and until a certificate of  
18 operation is issued.

19 (2) The department shall provide by rule for permit  
20 application requirements and permit fees.

21 (3) Permits may be revoked for the following reasons:

22 (a) There are any false statements or  
23 misrepresentations as to the material facts in the  
24 application, plans, or specifications on which the permit was  
25 based.

26 (b) The permit was issued in error and not in  
27 accordance with the code or rules.

28 (c) The work detailed under the permit is not being  
29 performed in accordance with the provisions of the  
30 application, plans, or specifications or with the code or  
31 conditions of the permit.

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1 (d) The construction permitholder to whom the permit  
2 was issued fails or refuses to comply with a stop-work order.

3 (4) A permit expires if:

4 (a) The work authorized by the permit is not commenced  
5 within 6 months after the date of issuance, or within a  
6 shorter period of time as the department may specify at the  
7 time the permit is issued.

8 (b) The work is suspended or abandoned for a period of  
9 60 days, or such shorter period of time as the department may  
10 specify at the time the permit is issued, after the work has  
11 been started. For good cause, the department may allow a  
12 discretionary extension for the foregoing period.

13 (5) All new conveyance installations must be performed  
14 by a registered elevator company ~~person to whom a license to~~  
15 ~~install or service a conveyance has been issued. Subsequent to~~  
16 ~~installation, the licensed person, firm, or company must~~  
17 ~~certify compliance with the applicable sections of this~~  
18 ~~chapter and the Florida Building Code. Before any vertical~~  
19 ~~conveyance is used, except those in a private residence, it~~  
20 ~~must be inspected by a certified elevator licensed inspector~~  
21 ~~not employed, or associated, or having a conflict of interest~~  
22 ~~with the elevator construction permitholder or elevator owner~~  
23 ~~and certified as meeting the safety provisions of the Florida~~  
24 ~~Building Code, including the performance of all required~~  
25 ~~safety tests. The certified elevator inspector shall provide~~  
26 ~~the original copy of the inspection report to the department~~  
27 ~~within 5 days after the inspection. A certificate of operation~~  
28 ~~may not be issued until the permitholder provides an affidavit~~  
29 ~~signed by the construction supervisor attesting that the~~  
30 ~~supervisor directly supervised the construction or~~  
31 ~~installation of the elevator. Upon successful inspection, the~~

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1 ~~owner or lessee must apply to the department for a certificate~~  
2 ~~of operation from the department. A fee as prescribed in this~~  
3 ~~chapter must be paid for the certificate of operation. It is~~  
4 ~~the responsibility of the licensed elevator construction~~  
5 ~~permitholder to complete and submit a first-time registration~~  
6 ~~for a new installation. Vertical conveyances, including~~  
7 ~~stairway chairlifts, and inclined or vertical wheelchair lifts~~  
8 ~~located in private residences are not required to obtain a~~  
9 ~~certificate of operation under this chapter.~~

10 ~~(6) A certificate of operation expires July 31 of each~~  
11 ~~year and must be renewed prior to continued use of the~~  
12 ~~conveyance. A certificate of operation must be clearly~~  
13 ~~displayed on or in each conveyance or in the machine room for~~  
14 ~~use by and for the benefit of inspectors and code enforcement~~  
15 ~~personnel. Certificates of operation may only be renewed for~~  
16 ~~vertical conveyances having a current satisfactory inspection.~~

17 ~~(6)(7) At the department's request, and to facilitate~~  
18 ~~oversight and monitoring, the permitholder shall notify the~~  
19 ~~department of the scheduled final inspection date and time for~~  
20 ~~purposes of acquiring a certificate of inspection, in writing,~~  
21 ~~at least 7 days before completion of the work and shall, in~~  
22 ~~the presence of a licensed elevator inspector not associated~~  
23 ~~with or employed by the installing company or contractor,~~  
24 ~~subject the newly installed, relocated, or altered portions of~~  
25 ~~the elevator to tests required to show that the elevator meets~~  
26 ~~the applicable provisions of the Florida Building Code.~~

27 ~~(7)(8) Each elevator shall comply with the edition of~~  
28 ~~the Florida Building Code or Elevator Safety Code that was in~~  
29 ~~effect at the time of receipt of application for the~~  
30 ~~construction permit for the elevator.~~

31 ~~(8)(9) Each alteration to, or relocation of, an~~

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1 elevator shall comply with the edition of the Florida Building  
2 Code or Elevator Safety Code that was in effect at the time of  
3 receipt of the application for the construction permit for the  
4 alteration or relocation.

5 (9)~~(10)~~ When any change is made in the classification  
6 of an elevator, the elevator shall comply with all of the  
7 requirements of the version of the Florida Building Code or  
8 Elevator Safety Code that were in effect at the time of  
9 receipt of the application for the construction permit for the  
10 change in classification.

11 (10)(a) The temporary use of an elevator during  
12 installation or alteration is authorized for a period of 30  
13 days after the completion of a satisfactory temporary  
14 operation inspection. An additional 30-day period of temporary  
15 use is authorized from the date of completion of each  
16 additional satisfactory temporary operation inspection. A  
17 satisfactory temporary operation inspection must satisfy the  
18 following criteria: the elevator is tested under contract  
19 load; the hoistway is fully enclosed; the hoistway doors and  
20 interlocks are installed; the car is completely enclosed,  
21 including door or gate and top; all electrical safety devices  
22 are installed and properly functioning; and terminal stopping  
23 equipment is in place for a safe runby and proper clearance.  
24 When a car is provided with a temporary enclosure, the  
25 operating means must be by constant pressure push-button or  
26 lever-type switch. The car may not exceed the minimum safe  
27 operating speed of the elevator, and the governor tripping  
28 speed must be set in accordance with the operating speed of  
29 the elevator.

30 (b) Temporary use is authorized only when a  
31 satisfactory temporary operation inspection report, completed

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1 within the last 30 days by a certified elevator inspector, and  
 2 a notice prescribed by the department, bearing a statement  
 3 that the elevator has not been finally approved by a certified  
 4 elevator inspector, are conspicuously posted in the elevator.

5 Section 5. Section 399.049, Florida Statutes, is  
 6 amended to read:

7 399.049 Disciplinary action ~~Certificate of~~  
 8 ~~competency.--~~

9 (1) ~~SUSPENSION OR REVOCATION OF LICENSE OR CERTIFICATE~~  
 10 ~~OF COMPETENCY.--~~The department may suspend or revoke an  
 11 elevator inspector certification, an elevator company  
 12 registration, an elevator a license or certificate of  
 13 competency, or an elevator certificate of operation issued  
 14 under this chapter or impose an administrative penalty of up  
 15 to \$1,000 per violation upon any registered elevator company  
 16 ~~licensee~~ or certificateholder who commits any one or more of  
 17 the following violations:

18 (a) Any false statement as to a material matter in an  
 19 the application for registration, certification, or any permit  
 20 or certificate issued under this chapter.

21 (b) Fraud, misrepresentation, or bribery in the  
 22 practice of the profession ~~securing a license or certificate~~  
 23 ~~of competency.~~

24 (c) Failure by a certified elevator inspector to  
 25 provide to notify the department and the certificate of  
 26 operation holder with a copy of the inspection report within 5  
 27 days after the date of any inspection performed after the  
 28 initial certificate of operation is issued ~~of a conveyance~~  
 29 ~~covered by this chapter that is not in compliance with the~~  
 30 ~~provisions of the elevator safety code incorporated into the~~  
 31 ~~Florida Building Code.~~

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1           (d) Violation of any provision of this chapter.  
 2           (2) ~~DISCIPLINARY ACTION.~~ Any disciplinary action  
 3 taken under this chapter must comply with chapter 120 and any  
 4 rules adopted thereunder.

5           Section 6. Section 399.061, Florida Statutes, is  
 6 amended to read:

7           399.061 Inspections; service maintenance contracts;  
 8 correction of deficiencies.--

9           (1)(a) All elevators or other conveyances subject to  
 10 this chapter must be annually inspected by a certified  
 11 elevator inspector ~~through a third-party inspection service,~~  
 12 or by a municipality or county under contract with the  
 13 division, pursuant to s. 399.13. If the elevator ~~or other~~  
 14 conveyance is maintained pursuant to a service maintenance  
 15 contract continuously in force, it shall be inspected at least  
 16 once every 2 years by a certified elevator inspector who is  
 17 not employed by or otherwise associated with the maintenance  
 18 company; however, if the elevator is not an escalator or a  
 19 dumbwaiter, serves only two adjacent floors, and is covered by  
 20 a service maintenance contract, an inspection is not required  
 21 so long as the service contract remains in effect. ~~A statement~~  
 22 ~~verifying the existence, performance, and cancellation of each~~  
 23 ~~service maintenance contract must be filed annually with the~~  
 24 ~~division as prescribed by rule.~~

25           (b) A statement verifying the existence and  
 26 performance of each service maintenance contract must be filed  
 27 at least annually with the division and as prescribed by rule.  
 28 Cancellation of a service maintenance contract must be  
 29 reported to the division as prescribed by rule. ~~The division~~  
 30 ~~may inspect an elevator whenever necessary to ensure its safe~~  
 31 ~~operation or when a third-party inspection service is not~~

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1 ~~available for a routine inspection.~~

2           (2) The division may employ state elevator inspectors  
 3 to inspect an elevator whenever necessary to ensure its safe  
 4 operation.The division may also employ state elevator  
 5 inspectors to conduct any ~~the~~ inspections ~~as~~ required by this  
 6 chapter subsection (1)and may charge a ~~an inspection~~ fee for  
 7 each inspection in an amount sufficient to cover the costs of  
 8 that inspection, as provided by rule, when a private certified  
 9 elevator inspector is not available. Each state elevator  
 10 inspector shall be properly qualified as a certified elevator  
 11 inspector ~~hold a certificate of competency issued by the~~  
 12 ~~division.~~

13           (3) Whenever the division determines from the results  
 14 of any inspection that, in the interest of the public safety,  
 15 an elevator is in an unsafe condition, the division may seal  
 16 the elevator or order the discontinuance of the use of the  
 17 elevator until the division determines by inspection that such  
 18 elevator has been satisfactorily repaired or replaced so that  
 19 the elevator may be operated in a safe manner.

20           (4) When the division determines that an elevator is  
 21 in violation of this chapter or the Florida Building Code, the  
 22 division may issue an order to the elevator owner requiring  
 23 correction of the violation and reinspection of the elevator  
 24 evidencing the correction.

25           Section 7. Section 399.07, Florida Statutes, is  
 26 amended to read:

27           399.07 Certificates of operation; ~~temporary operation~~  
 28 ~~permits; fees.--~~

29           ~~(1)(a) A certificate of operation may not be issued~~  
 30 ~~until the elevator company supervisor signs an affidavit~~  
 31 ~~stating that the elevator company supervisor directly~~

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1 ~~supervised construction or installation of the elevator.~~  
2 (1)(b) The certificate of operation is valid for a  
3 period not to exceed 2 years and shall expire at the end of  
4 the period of 1 year unless sooner suspended or revoked. The  
5 department may adopt rules establishing a procedure for  
6 certificate renewal. Certificates of operation may be renewed  
7 only for vertical conveyances having a current satisfactory  
8 inspection. The owner of an elevator operating with an expired  
9 certificate of operation is in violation of this chapter.  
10 Certificate of operation renewal applications received by the  
11 department after the date of expiration of the last current  
12 certificate must be accompanied by a late fee of \$50 in  
13 addition to the renewal fee and any other fees required by  
14 law. The department shall adopt by rule a fee schedule for the  
15 renewal of certificates of operation. The fees must be  
16 deposited into the Hotel and Restaurant Trust Fund.  
17 ~~department shall by rule adopt a fee schedule for the renewal~~  
18 ~~of certificates of operation. The renewal period commences on~~  
19 ~~August 1 of each year.~~

20 (2)(c) The certificate of operation must be posted in  
21 a conspicuous location on the elevator and must be framed with  
22 a transparent cover.

23 ~~(d) The department shall charge an annual fee for~~  
24 ~~issuance of a certificate of operation in an amount to be set~~  
25 ~~by rule. However, a renewal application for a certificate of~~  
26 ~~operation filed with the department after expiration date of~~  
27 ~~the certificate must be accompanied by a delinquency fee of~~  
28 ~~\$50 in addition to the annual renewal fee and any other fees~~  
29 ~~required by law. The fees must be deposited into the Hotel and~~  
30 ~~Restaurant Trust Fund.~~

31 ~~(2)(a) The department may issue a temporary operation~~



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1 ~~permit authorizing the temporary use of an elevator during~~  
2 ~~installation or alteration to an elevator company or general~~  
3 ~~contractor acting as a general agent of an elevator company. A~~  
4 ~~temporary operation permit may not be issued until the~~  
5 ~~elevator has been inspected by a state elevator inspector and~~  
6 ~~tested under contract load; the hoistway is fully enclosed;~~  
7 ~~the hoistway doors and interlocks are installed; the car is~~  
8 ~~completely enclosed, including door or gate and top; all~~  
9 ~~electrical safety devices are installed and properly~~  
10 ~~functioning; and terminal stopping equipment is in place for a~~  
11 ~~safe runby and proper clearance. When a car is provided with a~~  
12 ~~temporary enclosure, the operating means must be by constant~~  
13 ~~pressure push-button or lever-type switch. The car may not~~  
14 ~~exceed the minimum safe operating speed of the elevator, and~~  
15 ~~the governor tripping speed must be set in accordance with the~~  
16 ~~operating speed of the elevator.~~

17 ~~(b) A temporary operation permit must be issued for a~~  
18 ~~period not to exceed 30 days. The permit may be renewed at~~  
19 ~~the discretion of the department.~~

20 ~~(c) When a temporary operation permit is issued, the~~  
21 ~~permit, together with a notice bearing a statement that the~~  
22 ~~elevator has not been finally approved by a state elevator~~  
23 ~~inspector, must be conspicuously posted in the elevator.~~

24 ~~(d) The department shall charge a fee, set by rule in~~  
25 ~~an amount not greater than \$100, for each temporary operation~~  
26 ~~permit. The fee must be deposited in the Hotel and Restaurant~~  
27 ~~Trust Fund.~~

28 (3) The certificate of operation shall contain the  
29 text of s. 823.12, relating to the prohibition against smoking  
30 in elevators.

31 (4) In addition to subsection (3), the designation "NO

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1 SMOKING" along with the international symbol for no smoking  
2 shall be conspicuously displayed within the interior of the  
3 elevator in the plain view of the public.

4 (5) Except for ~~as authorized by a~~ temporary use  
5 authorized by this chapter ~~operation permit~~, the operation or  
6 use of any newly installed, relocated, or altered elevator is  
7 prohibited until the elevator has passed the tests and  
8 inspections required by this chapter and a certificate of  
9 operation has been issued.

10 (6) The department may suspend any certificate of  
11 operation if it finds that the elevator is not in compliance  
12 with this chapter or of rules adopted under this chapter. The  
13 suspension remains in effect until the department receives  
14 satisfactory results of an inspection performed by a certified  
15 elevator inspector indicating ~~determines, by inspection,~~ that  
16 the elevator has been brought into compliance.

17 Section 8. Section 399.105, Florida Statutes, is  
18 amended to read:

19 399.105 Administrative fines.--

20 (1) Any person who fails to comply with the reporting  
21 requirements of this chapter ~~s. 399.02~~ or with the reasonable  
22 requests of the department to determine whether the provisions  
23 of a service maintenance contract and its implementation  
24 ensure ~~assure~~ safe elevator operation is subject to an  
25 administrative fine not greater than \$1,000 in addition to any  
26 other penalty provided by law.

27 (2) Any person who commences the operation,  
28 installation, relocation, or alteration of any elevator for  
29 which a permit or certificate is required by this chapter  
30 without having obtained from the department the permit or  
31 certificate is subject to an administrative fine not greater

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1 than \$1,000 in addition to any other penalty provided by law.  
2 ~~No fine may be imposed under this subsection for commencing~~  
3 ~~installation without a construction permit if such permit is~~  
4 ~~issued within 60 days after the actual commencement of~~  
5 ~~installation.~~

6 (3) An elevator owner who continues to operate an  
7 elevator after notice to discontinue its use or after it has  
8 been sealed by the department is subject to an administrative  
9 fine not greater than \$1,000 for each day the elevator has  
10 been operated after the service of the notice or sealing by  
11 the department, in addition to any other penalty provided by  
12 law.

13 (4) An elevator owner who fails to comply with an  
14 order to correct issued under s. 399.061(4) within 30 ~~60~~ days  
15 after its issuance is subject, in addition to any other  
16 penalty provided by law, to an administrative fine ~~set by the~~  
17 ~~department~~ in an amount not to exceed \$1,000.

18 (5) All administrative fines collected shall be  
19 deposited into the Hotel and Restaurant Trust Fund.

20 Section 9. Subsection (2) of section 399.106, Florida  
21 Statutes, is amended to read:

22 399.106 Elevator Safety Technical Advisory  
23 Committee.--

24 (2) The committee members shall serve staggered terms  
25 of 4 years to be set by rule without salary, but may receive  
26 from the state expenses for per diem and travel. The committee  
27 ~~commission~~ shall appoint one of the members to serve as chair.

28 Section 10. Section 399.125, Florida Statutes, is  
29 amended to read:

30 399.125 Reporting of elevator accidents ~~or incidents~~;  
31 penalties.--Within 5 working days after any accident ~~or~~

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1 ~~incident~~ occurring in or upon any elevator, the certificate of  
2 operation holder shall report the accident ~~or incident~~ to the  
3 division on a form prescribed by the division. Failure to  
4 timely file this report is a violation of this chapter and  
5 will subject the certificate of operation holder to an  
6 administrative fine, to be imposed by the division, in an  
7 amount not to exceed \$1,000.

8 Section 11. Section 399.13, Florida Statutes, is  
9 amended to read:

10 399.13 Delegation of authority to municipalities or  
11 counties.--

12 (1) The department may enter into contracts with  
13 municipalities or counties under which such municipalities or  
14 counties will issue construction permits, ~~temporary operation~~  
15 ~~permits~~, and certificates of operation; will provide for  
16 inspection of elevators, including temporary operation  
17 inspections; and will enforce the applicable provisions of the  
18 Florida Building Code, as required by this chapter. The  
19 municipality or county may choose to require inspections to be  
20 performed by its own inspectors or by private certified  
21 elevator inspectors. Each such agreement shall include a  
22 provision that the municipality or county shall maintain for  
23 inspection by the department copies of all applications for  
24 permits issued, a copy of each inspection report issued, and  
25 proper records showing the number of certificates of operation  
26 issued; shall include a provision that each required  
27 inspection be conducted by a certified elevator inspector ~~the~~  
28 ~~holder of a certificate of competency issued by the~~  
29 ~~department~~; and may include such other provisions as the  
30 department deems necessary.

31 (2) The department may make inspections of elevators

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1 in such municipality or county for the purpose of determining  
2 that the provisions of this chapter are being met and may  
3 cancel the contract with any municipality or county which the  
4 department finds has failed to comply with such contract or  
5 the provisions of this chapter. The amendments to chapter 399  
6 by this act shall apply only to the installation, relocation,  
7 or alteration of an elevator for which a permit has been  
8 issued after October 1, 1990.

9 Section 12. Subsection (1) of section 553.512, Florida  
10 Statutes, is amended to read:

11 553.512 Modifications and waivers; advisory council.--

12 (1) The Florida Building Commission shall provide by  
13 regulation criteria for granting individual modifications of,  
14 or exceptions from, the literal requirements of this part upon  
15 a determination of unnecessary, unreasonable, or extreme  
16 hardship, provided such waivers shall not violate federal  
17 accessibility laws and regulations and shall be reviewed by  
18 the Accessibility Advisory Council. Notwithstanding any other  
19 provision of this subsection, if an applicant for a waiver  
20 demonstrates economic hardship in accordance with 28 C.F.R.  
21 36.403(f)(1), a waiver shall be granted.The commission may  
22 not consider waiving any of the requirements of s. 553.5041  
23 unless the applicant first demonstrates that she or he has  
24 applied for and been denied waiver or variance from all local  
25 government zoning, subdivision regulations, or other  
26 ordinances that prevent compliance therewith. Further, the  
27 commission may not waive the requirement of s. 553.5041(5)(a)  
28 and (c)1. governing the minimum width of accessible routes and  
29 minimum width of accessible parking spaces.

30 Section 13. Paragraph (b) of subsection (4) and  
31 paragraph (e) of subsection (8) of section 553.73, Florida

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1 Statutes, as amended by section 2 of chapter 2001-372, Laws of  
2 Florida, is amended to read:

3 553.73 Florida Building Code.--

4 (4)

5 (b) Local governments may, subject to the limitations  
6 of this section, adopt amendments to the technical provisions  
7 of the Florida Building Code which apply solely within the  
8 jurisdiction of such government and which provide for more  
9 stringent requirements than those specified in the Florida  
10 Building Code, not more than once every 6 months. A local  
11 government may adopt technical amendments that address local  
12 needs if, provided:

13 1. The local governing body determines, following a  
14 public hearing which has been advertised in a newspaper of  
15 general circulation at least 10 days before the hearing, that  
16 there is a need to strengthen the requirements of the Florida  
17 Building Code. The determination must be based upon a review  
18 of local conditions by the local governing body, which review  
19 demonstrates by evidence or data that the geographical  
20 jurisdiction governed by the local governing body exhibits a  
21 local need to strengthen the Florida Building Code beyond the  
22 needs or regional variation addressed by the Florida Building  
23 Code, that the local need is addressed by the proposed local  
24 amendment, and that the amendment is no more stringent than  
25 necessary to address the local need that local conditions  
26 justify more stringent requirements than those specified in  
27 the Florida Building Code for the protection of life and  
28 property.

29 2. Such additional requirements are not discriminatory  
30 against materials, products, or construction techniques of  
31 demonstrated capabilities.

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1           3. Such additional requirements may not introduce a  
2 new subject not addressed in the Florida Building Code.

3           4. The enforcing agency shall make readily available,  
4 in a usable format, all amendments adopted pursuant to this  
5 section.

6           5. Any amendment to the Florida Building Code shall be  
7 transmitted within 30 days by the adopting local government to  
8 the commission. The commission shall maintain copies of all  
9 such amendments in a format that is usable and obtainable by  
10 the public. Local technical amendments shall not become  
11 effective until 30 days after the amendment has been received  
12 and published by the commission.

13           6. Any amendment to the Florida Building Code adopted  
14 by a local government pursuant to this paragraph shall be  
15 effective only until the adoption by the commission of the new  
16 edition of the Florida Building Code every third year. At such  
17 time, the commission shall review such amendment for  
18 consistency with the criteria in paragraph (6)(a) and adopt  
19 such amendment as part of the Florida Building Code or rescind  
20 the amendment. The commission shall immediately notify the  
21 respective local government of the rescission of any  
22 amendment. After receiving such notice, the respective local  
23 government may readopt the rescinded amendment pursuant to the  
24 provisions of this paragraph.

25           7. Each county and municipality desiring to make local  
26 technical amendments to the Florida Building Code shall by  
27 interlocal agreement establish a countywide compliance review  
28 board to review any amendment to the Florida Building Code,  
29 adopted by a local government within the county pursuant to  
30 this paragraph, that is challenged by any substantially  
31 affected party for purposes of determining the amendment's

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1 compliance with this paragraph. If challenged, the local  
2 technical amendments shall not become effective until time for  
3 filing an appeal pursuant to subparagraph 8 has expired or, if  
4 there is an appeal, until the commission issues its final  
5 order determining the adopted amendment is in compliance with  
6 this subsection.

7 8. If the compliance review board determines such  
8 amendment is not in compliance with this paragraph, the  
9 compliance review board shall notify such local government of  
10 the noncompliance and that the amendment is invalid and  
11 unenforceable until the local government corrects the  
12 amendment to bring it into compliance. The local government  
13 may appeal the decision of the compliance review board to the  
14 commission, which shall conduct a hearing under chapter 120  
15 and the uniform rules of procedure. If the compliance review  
16 board determines such amendment to be in compliance with this  
17 paragraph, any substantially affected party may appeal such  
18 determination to the commission, which shall conduct a hearing  
19 under chapter 120 and the uniform rules of procedure. Any such  
20 appeal shall be filed with the commission within 14 days of  
21 the board's written determination. The commission shall  
22 promptly refer the appeal to the Division of Administrative  
23 Hearings for the assignment of an administrative law judge.  
24 The administrative law judge shall conduct the required  
25 hearing within 30 days, and shall enter a recommended order  
26 within 30 days of the conclusion of such hearing. The  
27 commission shall enter a final order within 30 days  
28 thereafter. The provisions of chapter 120 and the uniform  
29 rules of procedure shall apply to such proceedings. The local  
30 government adopting the amendment that is subject to challenge  
31 has the burden of proving that the amendment complies with



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1 this paragraph in proceedings before the compliance review  
2 board and the commission, as applicable. Actions of the  
3 commission are subject to judicial review pursuant to s.  
4 120.68. The compliance review board shall determine whether  
5 its decisions apply to a respective local jurisdiction or  
6 apply countywide.

7 9.8- An amendment adopted under this paragraph shall  
8 include a fiscal impact statement which documents the costs  
9 and benefits of the proposed amendment. Criteria for the  
10 fiscal impact statement shall include the impact to local  
11 government relative to enforcement, the impact to property and  
12 building owners, as well as to industry, relative to the cost  
13 of compliance. The fiscal impact statement may not be used as  
14 a basis for challenging the amendment for compliance.

15 10.9- In addition to subparagraphs 7. and 9.8-, the  
16 commission may review any amendments adopted pursuant to this  
17 subsection and make nonbinding recommendations related to  
18 compliance of such amendments with this subsection.

19 (8) The following buildings, structures, and  
20 facilities are exempt from the Florida Building Code as  
21 provided by law, and any further exemptions shall be as  
22 determined by the Legislature and provided by law:

23 (e) Mobile or modular structures ~~homes~~ used as  
24 temporary offices, except that the provisions of part V  
25 relating to accessibility by persons with disabilities shall  
26 apply to such mobile or modular structures ~~homes~~.

27  
28 With the exception of paragraphs (a), (b), (c), and (f), in  
29 order to preserve the health, safety, and welfare of the  
30 public, the Florida Building Commission may, by rule adopted  
31 pursuant to chapter 120, provide for exceptions to the broad

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1 categories of buildings exempted in this section, including  
2 exceptions for application of specific sections of the code or  
3 standards adopted therein. The Department of Agriculture and  
4 Consumer Services shall have exclusive authority to adopt by  
5 rule, pursuant to chapter 120, exceptions to nonresidential  
6 farm buildings exempted in paragraph (c) when reasonably  
7 necessary to preserve public health, safety, and welfare. The  
8 exceptions must be based upon specific criteria, such as  
9 under-roof floor area, aggregate electrical service capacity,  
10 HVAC system capacity, or other building requirements. Further,  
11 the commission may recommend to the Legislature additional  
12 categories of buildings, structures, or facilities which  
13 should be exempted from the Florida Building Code, to be  
14 provided by law.

15 Section 14. Effective October 1, 2003, subsection (1)  
16 of section 553.74, Florida Statutes, is amended to read:

17 553.74 Florida Building Commission.--

18 (1) The Florida Building Commission is created and  
19 shall be located within the Department of Community Affairs  
20 for administrative purposes. Members shall be appointed by the  
21 Governor subject to confirmation by the Senate. The commission  
22 shall be composed of 23 members, consisting of the following:

23 (a) One architect registered to practice in this state  
24 and actively engaged in the profession.

25 (b) One structural engineer registered to practice in  
26 this state and actively engaged in the profession.

27 (c) One air-conditioning or mechanical contractor  
28 certified to do business in this state and actively engaged in  
29 the profession.

30 (d) One electrical contractor certified to do business  
31 in this state and actively engaged in the profession.

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- 1 (e) One member from fire protection engineering or  
2 technology who is actively engaged in the profession.
- 3 (f) One general contractor certified to do business in  
4 this state and actively engaged in the profession.
- 5 (g) One plumbing contractor licensed to do business in  
6 this state and actively engaged in the profession.
- 7 (h) One roofing ~~or sheet metal, or air conditioning~~  
8 contractor certified to do business in this state and actively  
9 engaged in the profession.
- 10 (i) One residential contractor licensed to do business  
11 in this state and actively engaged in the profession.
- 12 (j) Three members who are municipal or district codes  
13 enforcement officials, one of whom is also a fire official.
- 14 (k) One member who represents the Department of  
15 Insurance.
- 16 (l) One member who is a county codes enforcement  
17 official.
- 18 (m) One member of a Florida-based organization of  
19 persons with disabilities or a nationally chartered  
20 organization of persons with disabilities with chapters in  
21 this state.
- 22 (n) One member of the manufactured buildings industry  
23 who is licensed to do business in this state and is actively  
24 engaged in the industry.
- 25 (o) One mechanical or electrical engineer registered  
26 to practice in this state and actively engaged in the  
27 profession.
- 28 (p) One member who is a representative of a  
29 municipality or a charter county.
- 30 (q) One member of the building products manufacturing  
31 industry who is authorized to do business in this state and is

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1 actively engaged in the industry.

2 (r) One member who is a representative of the building  
3 owners and managers industry who is actively engaged in  
4 commercial building ownership or management.

5 (s) One member who is a representative of the  
6 insurance industry.

7 (t) One member who is a representative of public  
8 education.

9 (u) One member who shall be the chair.

10

11 Any person serving on the commission under paragraph (c) or  
12 paragraph (h) on October 1, 2003, and who has served less than  
13 two full terms is eligible for reappointment to the commission  
14 regardless of whether he or she meets the new qualification.

15 Section 15. Subsection (7) is added to section 553.77,  
16 Florida Statutes, to read:

17 553.77 Specific powers of the commission.--

18 (7) The commission shall by rule establish an informal  
19 process of rendering nonbinding interpretations of the Florida  
20 Building Code. The commission is specifically authorized to  
21 refer interpretive issues to organizations that represent  
22 those engaged in the construction industry. The commission is  
23 directed to immediately implement the process prior to the  
24 completion of formal rulemaking. It is the intent of the  
25 Legislature that the commission create a process to refer  
26 questions to a small, rotating group of individuals licensed  
27 under part XII of chapter 468, to which a party can pose  
28 questions regarding the interpretation of code provisions. It  
29 is the intent of the Legislature that the process provide for  
30 the expeditious resolution of the issues presented and  
31 publication of the resulting interpretation on the Building

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1 Code Information System. Such interpretations are to be  
2 advisory only and nonbinding on the parties or the commission.

3 Section 16. Effective October 1, 2002, section  
4 553.791, Florida Statutes, is 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 is licensed as an engineer under chapter 471  
27 or as an architect under chapter 481 or who holds a standard  
28 certificate under part XII of chapter 468.

29 (e) "Local building official" means the individual  
30 within the governing jurisdiction responsible for direct  
31 regulatory administration or supervision of plans review,

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

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

- 8 1. The requested building or construction permit.
- 9 2. The plans reviewed by the private provider.
- 10 3. The affidavit from the private provider required

11 pursuant to subsection (5).

12 4. Any applicable fees.

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

16 (g) "Private provider" means a person licensed as an  
17 engineer under chapter 471 or as an architect under chapter  
18 481. For purposes of performing inspections under this section  
19 for additions and alterations of 1,000 square feet or less to  
20 residential buildings, the term "private provider" also  
21 includes a person who holds a standard certificate under part  
22 XII of chapter 468.

23 (h) "Request for certificate of occupancy or  
24 certificate of completion" means a properly completed and  
25 executed application for:

26 1. A certificate of occupancy or certificate of  
27 completion.

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

30 3. Any applicable fees.

31 4. Any documents required by the local building

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1 official to determine that the fee owner has secured all other  
2 government approvals required by law.

3 (2) Notwithstanding any other provision of law, the  
4 fee owner of a building may use a private provider to provide  
5 building code inspection services with regard to such building  
6 and may make payment directly to the private provider for the  
7 provision of such services. All such services shall be the  
8 subject of a written contract between the private provider, or  
9 the private provider's firm, and the fee owner. The fee owner  
10 may elect to use a private provider to provide either plans  
11 review or required building inspections. The local building  
12 official, in his or her discretion and pursuant to duly  
13 adopted policies of the local enforcement agency, may require  
14 the fee owner who desires to use a private provider to use the  
15 private provider to provide both plans review and required  
16 building inspection services.

17 (3) A private provider and any duly authorized  
18 representative may only perform building code inspection  
19 services that are within the disciplines covered by that  
20 person's licensure or certification under chapter 481, chapter  
21 471, or chapter 468. A private provider may not provide  
22 building code inspection services pursuant to this section  
23 upon any building designed or constructed by the private  
24 provider or the private provider's firm.

25 (4) A fee owner using a private provider to provide  
26 building code inspection services shall notify the local  
27 building official at the time of permit application on a form  
28 to be adopted by the commission. This notice shall include the  
29 following information:

30 (a) The services to be performed by the private  
31 provider.

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1           (b) The name, firm, address, telephone number, and  
2 facsimile number of each private provider who is performing or  
3 will perform such services, his or her professional license or  
4 certification number, qualification statements or resumes,  
5 and, if required by the local building official, a certificate  
6 of insurance demonstrating that professional liability  
7 insurance coverage is in place for the private provider's  
8 firm, the private provider, and any duly authorized  
9 representative in the amounts required by this section.

10           (c) An acknowledgment from the fee owner in  
11 substantially the following form:

12  
13           I have elected to use one or more private  
14 providers to provide building code plans review  
15 and/or inspection services on the building that  
16 is the subject of the enclosed permit  
17 application, as authorized by s. 553.791,  
18 Florida Statutes. I understand that the local  
19 building official may not review the plans  
20 submitted or perform the required building  
21 inspections to determine compliance with the  
22 applicable codes, except to the extent  
23 specified in said law. Instead, plans review  
24 and/or required building inspections will be  
25 performed by licensed or certified personnel  
26 identified in the application. The law  
27 requires minimum insurance requirements for  
28 such personnel, but I understand that I may  
29 require more insurance to protect my interests.  
30 By executing this form, I acknowledge that I  
31 have made inquiry regarding the competence of



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1       the licensed or certified personnel and the  
2       level of their insurance and am satisfied that  
3       my interests are adequately protected. I agree  
4       to indemnify, defend, and hold harmless the  
5       local government, the local building official,  
6       and their building code enforcement personnel  
7       from any and all claims arising from my use of  
8       these licensed or certified personnel to  
9       perform building code inspection services with  
10       respect to the building that is the subject of  
11       the enclosed permit application.

12

13 If the fee owner makes any changes to the listed private  
14 providers or the services to be provided by those private  
15 providers, the fee owner shall, within 1 business day after  
16 any change, update the notice to reflect such changes.

17       (5) A private provider performing plans review under  
18 this section shall review construction plans to determine  
19 compliance with the applicable codes. Upon determining that  
20 the plans reviewed comply with the applicable codes, the  
21 private provider shall prepare an affidavit or affidavits on a  
22 form adopted by the commission certifying, under oath, that  
23 the following is true and correct to the best of the private  
24 provider's knowledge and belief:

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

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

29       (6)(a) Within 30 business days after receipt of a  
30 permit application, the local building official shall issue  
31 the requested permit or provide a written notice to the permit

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1 applicant identifying the specific plan features that do not  
2 comply with the applicable codes, as well as the specific code  
3 chapters and sections. If the local building official does  
4 not provide a written notice of the plan deficiencies within  
5 the prescribed 30-day period, the permit application shall be  
6 deemed approved as a matter of law and the permit shall be  
7 issued by the local building official on the next business  
8 day.

9 (b) If the local building official provides a written  
10 notice of plan deficiencies to the permit applicant within the  
11 prescribed 30-day period, the 30-day period shall be tolled  
12 pending resolution of the matter. To resolve the plan  
13 deficiencies, the permit applicant may elect to dispute the  
14 deficiencies pursuant to subsection (12) or to submit  
15 revisions to correct the deficiencies.

16 (c) If the permit applicant submits revisions, the  
17 local building official has the remainder of the tolled 30-day  
18 period plus 5 business days to issue the requested permit or  
19 to provide a second written notice to the permit applicant  
20 stating which of the previously identified plan features  
21 remain in noncompliance with the applicable codes, with  
22 specific reference to the relevant code chapters and sections.  
23 If the local building official does not provide the second  
24 written notice within the prescribed time period, the permit  
25 shall be issued by the local building official on the next  
26 business day.

27 (d) If the local building official provides a second  
28 written notice of plan deficiencies to the permit applicant  
29 within the prescribed time period, the permit applicant may  
30 elect to dispute the deficiencies pursuant to subsection (12)  
31 or to submit additional revisions to correct the deficiencies.

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1 For all revisions submitted after the first revision, the  
2 local building official has an additional 5 business days to  
3 issue the requested permit or to provide a written notice to  
4 the permit applicant stating which of the previously  
5 identified plan features remain in noncompliance with the  
6 applicable codes, with specific reference to the relevant code  
7 chapters and sections.

8 (7) A private provider performing required inspections  
9 under this section shall inspect each phase of construction as  
10 required by the applicable codes. The private provider shall  
11 be permitted to send a duly authorized representative to the  
12 building site to perform the required inspections, provided  
13 all required reports and certifications are prepared by and  
14 bear the signature of the private provider. The contractor's  
15 contractual or legal obligations are not relieved by any  
16 action of the private provider.

17 (8) A private provider performing required inspections  
18 under this section shall provide notice to the local building  
19 official of the date and approximate time of any such  
20 inspection no later than the prior business day by 2 p.m.  
21 local time or by any later time permitted by the local  
22 building official in that jurisdiction. The local building  
23 official may visit the building site as often as necessary to  
24 verify that the private provider is performing all required  
25 inspections.

26 (9) Upon completing the required inspections at each  
27 applicable phase of construction, the private provider shall  
28 record such inspections on a form acceptable to the local  
29 building official. These inspection records shall reflect  
30 those inspections required by the applicable codes of each  
31 phase of construction for which permitting by a local

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1 enforcement agency is required. The private provider, before  
2 leaving the project site, shall post each completed inspection  
3 record, indicating pass or fail, at the site and provide the  
4 record to the local building official within 2 business days.  
5 Records of all required and completed inspections shall be  
6 maintained at the building site at all times and made  
7 available for review by the local building official. The  
8 private provider shall report to the local enforcement agency  
9 any condition that poses an immediate threat to public safety  
10 and welfare.

11 (10) Upon completion of all required inspections, the  
12 private provider shall prepare a certificate of compliance, on  
13 a form acceptable to the local building official, summarizing  
14 the inspections performed and including a written  
15 representation, under oath, that the stated inspections have  
16 been performed and that, to the best of the private provider's  
17 knowledge and belief, the building construction inspected  
18 complies with the approved plans and applicable codes. The  
19 statement required of the private provider shall be  
20 substantially in the following form:

21  
22 To the best of my knowledge and belief, the  
23 building components and site improvements  
24 outlined herein and inspected under my  
25 authority have been completed in conformance  
26 with the approved plans and the applicable  
27 codes.

28  
29 (11) Within 2 business days after receipt of a request  
30 for a certificate of occupancy or certificate of completion  
31 and the applicant's presentation of a certificate of

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1 compliance and approval of all other government approvals  
2 required by law, the local building official shall issue the  
3 certificate of occupancy or certificate of completion or  
4 provide a notice to the applicant identifying the specific  
5 deficiencies, as well as the specific code chapters and  
6 sections. If the local building official does not provide  
7 notice of the deficiencies within the prescribed 2-day period,  
8 the request for a certificate of occupancy or certificate of  
9 completion shall be deemed granted and the certificate of  
10 occupancy or certificate of completion shall be issued by the  
11 local building official on the next business day. To resolve  
12 any identified deficiencies, the applicant may elect to  
13 dispute the deficiencies pursuant to subsection (12) or to  
14 submit a corrected request for a certificate of occupancy or  
15 certificate of completion.

16 (12) If the local building official determines that  
17 the building construction or plans do not comply with the  
18 applicable codes, the official may deny the permit or request  
19 for a certificate of occupancy or certificate of completion,  
20 as appropriate, or may issue a stop-work order for the project  
21 or any portion thereof, if the official determines that such  
22 noncompliance poses a threat to public safety and welfare,  
23 subject to the following:

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

29 (b) If the local building official and private  
30 provider are unable to resolve the dispute, the matter shall  
31 be referred to the local enforcement agency's board of

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1 appeals, if one exists, which shall consider the matter at its  
2 next scheduled meeting or sooner. Any decisions by the local  
3 enforcement agency's board of appeals, or local building  
4 official if there is no board of appeals, may be appealed to  
5 the commission pursuant to s. 553.77(1)(h).

6 (c) Notwithstanding any provision of this section, any  
7 decisions regarding the issuance of a building permit,  
8 certificate of occupancy, or certificate of completion may be  
9 reviewed by the local enforcement agency's board of appeals,  
10 if one exists. Any decision by the local enforcement agency's  
11 board of appeals, or local building official if there is no  
12 board of appeals, may be appealed to the commission pursuant  
13 to s. 553.77(1)(h), which shall consider the matter at the  
14 commission's next scheduled meeting.

15 (13) For the purposes of this section, any notice to  
16 be provided by the local building official shall be deemed to  
17 be provided to the person or entity when successfully  
18 transmitted to the facsimile number listed for that person or  
19 entity in the permit application or revised permit  
20 application, or, if no facsimile number is stated, when  
21 actually received by that person or entity.

22 (14) No local enforcement agency, local building  
23 official, or local government may adopt or enforce any laws,  
24 rules, procedures, or standards more stringent than those  
25 prescribed by this section.

26 (15) A private provider may perform building code  
27 inspection services under this section only if the private  
28 provider maintains insurance for professional and  
29 comprehensive general liability with minimum policy limits of  
30 \$1 million per occurrence relating to all services performed  
31 as a private provider, including tail coverage for a minimum

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1 of 5 years subsequent to the performance of building code  
2 inspection services.

3 (16) When performing building code inspection  
4 services, a private provider is subject to the disciplinary  
5 guidelines of the applicable professional board with  
6 jurisdiction over his or her license or certification under  
7 chapter 468, chapter 471, or chapter 481. All private  
8 providers shall be subject to the disciplinary guidelines of  
9 s. 468.621(1)(c)-(h). Any complaint processing,  
10 investigation, and discipline that arise out of a private  
11 provider's performance of building code inspection services  
12 shall be conducted by the applicable professional board.

13 (17) Each local building code enforcement agency shall  
14 develop and maintain a process to audit the performance of  
15 building code inspection services by private providers  
16 operating within the local jurisdiction.

17 (18) The local government, the local building  
18 official, and their building code enforcement personnel shall  
19 be immune from liability to any person or party for any action  
20 or inaction by a fee owner of a building, or by a private  
21 provider or its duly authorized representative, in connection  
22 with building code inspection services as authorized in this  
23 act.

24 (19) The Florida Building Commission shall report on  
25 the implementation of this section to the Legislature on or  
26 before January 1, 2004, as part of the report required by s.  
27 553.77(1)(b).

28 Section 17. Paragraph (a) of subsection (6) of section  
29 553.842, Florida Statutes, is amended to read:

30 553.842 Product evaluation and approval.--

31 (6) Statewide or local approval of products, methods,

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1 or systems of construction may be achieved by one of the  
2 following methods. One of these methods must be used by local  
3 officials or the commission to approve the following  
4 categories of products: panel walls, exterior doors, roofing,  
5 skylights, windows, shutters, and structural components as  
6 established by the commission by rule.

7 (a) Products for which the code establishes  
8 standardized testing or comparative or rational analysis  
9 methods shall be approved by submittal and validation of one  
10 of the following reports or listings indicating that the  
11 product or method or system of construction was evaluated to  
12 be in compliance with the Florida Building Code and that the  
13 product or method or system of construction is, for the  
14 purpose intended, at least equivalent to that required by the  
15 Florida Building Code:

- 16 1. A certification mark or listing of an approved  
17 certification agency;
- 18 2. A test report from an approved testing laboratory;
- 19 3. A product evaluation report based upon testing or  
20 comparative or rational analysis, or a combination thereof,  
21 from an approved product evaluation entity; or
- 22 4. A product evaluation report based upon testing or  
23 comparative or rational analysis, or a combination thereof,  
24 developed and signed and sealed by a professional engineer or  
25 architect, licensed in this state.

26  
27 A product evaluation report or a certification mark or listing  
28 of an approved certification agency which demonstrates that  
29 the product or method or system of construction complies with  
30 the Florida Building Code for the purpose intended shall be  
31 equivalent to a test report and test procedure as referenced



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1 in the Florida Building Code.

2 Section 18. Section 604.50, Florida Statutes, is  
3 amended to read:

4 604.50 Nonresidential farm buildings.--Notwithstanding  
5 any other law to the contrary, any nonresidential farm  
6 building ~~located on a farm~~ is exempt from the Florida Building  
7 Code and any county or municipal building code. For purposes  
8 of this section, the term "nonresidential farm building" means  
9 any building or support structure that is used for  
10 agricultural purposes, is located on a farm that is not used  
11 as a residential dwelling, and is located on land that is an  
12 integral part of a farm operation or is classified as  
13 agricultural land under s. 193.461. The term "farm" is as  
14 defined in s. 823.14.

15 Section 19. Subsection (1) of section 627.0629,  
16 Florida Statutes, as amended by chapter 2001-372, Laws of  
17 Florida, is amended to read:

18 627.0629 Residential property insurance; rate  
19 filings.--

20 (1) Effective June 1, 2002,a rate filing for  
21 residential property insurance must include actuarially  
22 reasonable discounts, credits, or other rate differentials, or  
23 appropriate reductions in deductibles, for properties on which  
24 fixtures or construction techniques demonstrated to reduce the  
25 amount of loss in a windstorm have been installed or  
26 implemented. The fixtures or construction techniques shall  
27 include, but not be limited to, fixtures or construction  
28 techniques which enhance roof strength, roof covering  
29 performance, roof-to-wall strength,  
30 wall-to-floor-to-foundation strength, opening protection, and  
31 window, door, and skylight strength. Credits, discounts, or

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1 other rate differentials for fixtures and construction  
2 techniques which meet the minimum requirements of the Florida  
3 Building Code must be included in the rate filing. All  
4 insurance companies must make a rate filing which includes the  
5 credits, discounts, or other rate differentials by February  
6 28, 2003.

7 Section 20. Except as otherwise expressly provided in  
8 this act, this act shall take effect upon becoming a law.

9

10

11 ===== T I T L E A M E N D M E N T =====

12 And the title is amended as follows:

13 Delete everything before the enacting clause

14

15 and insert:

16

A bill to be entitled

17

An act relating to building code development

18

and administration; requiring the Florida

19

Building Commission to develop building code

20

provisions to facilitate the rehabilitation and

21

use of existing structures; requiring the

22

commission to identify legislative changes

23

required to implement code provisions;

24

requiring a report to the Legislature; amending

25

s. 399.01, F.S.; revising and removing

26

definitions; requiring that elevator service

27

maintenance contracts be made available to the

28

Department of Business and Professional

29

Regulation upon request for oversight purposes;

30

revising qualifications for an elevator

31

certificate of competency; amending s. 399.02,

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1 F.S.; providing that each elevator owner is  
2 responsible for inspections and correction of  
3 code deficiencies; eliminating a requirement  
4 that the department review service maintenance  
5 contracts and determine whether they ensure  
6 safe operation; amending s. 399.03, F.S.;  
7 revising requirements relating to the design,  
8 installation, and alteration of conveyances;  
9 providing additional requirements for issuance  
10 of elevator permits; revising reporting  
11 requirements; providing requirements for  
12 temporary operation inspections; amending s.  
13 399.049, F.S.; revising grounds for suspension  
14 or revocation of certification or registration;  
15 amending s. 399.061, F.S.; eliminating the  
16 requirement that annual inspections be  
17 conducted through third-party inspection  
18 services; revising reporting requirements  
19 relating to service maintenance contracts;  
20 revising requirements relating to the  
21 correction of violations; amending s. 399.07,  
22 F.S.; extending the period of validity of  
23 certificates of operation from 1 to 2 years;  
24 revising fee provisions to conform; amending s.  
25 399.105, F.S.; providing administrative fines  
26 for violations relating to reporting, operating  
27 a sealed elevator, and complying with  
28 correction orders; eliminating a restriction on  
29 the issuance of an administrative fine relating  
30 to commencing installation without a  
31 construction permit; amending s. 399.106, F.S.;

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1           correcting a reference; amending s. 399.125,  
2           F.S.; eliminating the requirement to report  
3           elevator incidents; amending s. 399.13, F.S.;  
4           allowing municipalities or counties that assume  
5           elevator inspection duties to hire private  
6           inspectors to conduct inspections; amending s.  
7           553.512, F.S.; requiring the granting of a  
8           waiver of certain requirements for  
9           accessibility purposes under certain  
10          circumstances; amending s. 553.73, F.S.;  
11          revising provisions governing local government  
12          amendments to the technical provisions of the  
13          Florida Building Code; exempting modular  
14          structures from the code; amending s. 553.74,  
15          F.S.; revising eligibility for membership on  
16          the Florida Building Commission; amending s.  
17          553.77, F.S.; providing additional specific  
18          powers, duties, and requirements of the  
19          commission; providing legislative intent;  
20          amending s. 553.791, F.S.; providing  
21          alternative procedures for building plans  
22          review and inspection; providing definitions;  
23          authorizing use of a private provider to review  
24          plans and make building code inspections under  
25          certain circumstances; providing a limitation;  
26          requiring notice to the local building  
27          official; specifying notice information;  
28          specifying requirements, duties, and  
29          responsibilities of a private provider;  
30          providing for a certificate of compliance;  
31          providing duties of the local building

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1 official; providing procedures for approval or  
2 denial of a certificate of compliance or a  
3 building permit; prohibiting local entities  
4 from adopting or enforcing certain laws, rules,  
5 procedures, or standards; requiring a private  
6 provider to maintain certain insurance;  
7 subjecting private providers to certain  
8 disciplinary provisions; limiting use of a  
9 private provider under certain circumstances;  
10 requiring local building code enforcement  
11 agencies to develop and maintain a process to  
12 audit the performance of building code  
13 inspection services; providing immunity from  
14 liability; requiring a report; amending s.  
15 553.842, F.S.; providing certain equivalency  
16 with respect to product evaluation and approval  
17 under the Florida Building Code; amending s.  
18 604.50, F.S.; redefining the term  
19 "nonresidential farm building" for purposes of  
20 an exemption from the Florida Building Code;  
21 amending s. 627.0629, F.S.; revising timeframe  
22 for rate filing for residential property  
23 insurance; providing effective dates.

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