

By the Committees on Governmental Oversight and Productivity;  
Comprehensive Planning, Local and Military Affairs; and  
Senator Constantine

302-2242-02

1                                   A bill to be entitled  
2           An act relating to uniform building codes;  
3           requiring the Florida Building Commission to  
4           develop building code provisions to facilitate  
5           the rehabilitation and use of existing  
6           structures; requiring the commission to  
7           identify legislative changes required to  
8           implement such code provisions; requiring a  
9           report to the Legislature; amending s. 604.50,  
10          F.S.; redefining the term "nonresidential farm  
11          building" for purposes of applicability of  
12          building codes; creating s. 553.791, F.S.;  
13          providing an alternative method of building  
14          plan code review and building inspections;  
15          providing for building owners to use private  
16          providers for building code inspection  
17          services; prescribing standards for such  
18          private providers; prescribing powers and  
19          duties of private providers and local building  
20          officials; providing an appeals process;  
21          prohibiting certain local rules and standards;  
22          providing for exemptions from alternative  
23          review and inspections; providing immunity from  
24          liability for certain personnel in connection  
25          with building code inspection services;  
26          providing an effective date.

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

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30           Section 1. (1) The Legislature directs the Florida  
31 Building Commission to develop building code provisions that

1 may be added to the Florida Building Code to facilitate the  
2 rehabilitation and use of existing structures. The commission  
3 shall select from available national or international model  
4 codes or the codes or code provisions adopted by another state  
5 to form the foundation for the code provisions required by  
6 this section.

7 (2) The commission shall seek consensus with fire  
8 safety professionals, advocates for persons with disabilities,  
9 representatives of the construction industry, land-use  
10 planners, building officials, and others identified by the  
11 commission as having an interest in building code provisions.  
12 The commission may modify the selected model codes and  
13 standards as needed to accommodate the specific needs of this  
14 state.

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

19 (4) The commission shall report the activities  
20 undertaken in response to the requirements of this act to the  
21 Legislature on or before January 1, 2003, as a part of the  
22 annual report required by section 553.77(1)(b), Florida  
23 Statutes. Recommended code provisions and the legislative  
24 changes required for implementation shall be attached as  
25 appendices to the annual report.

26 Section 2. Section 604.50, Florida Statutes, is  
27 amended to read:

28 604.50 Nonresidential farm buildings.--Notwithstanding  
29 any other law to the contrary, any nonresidential farm  
30 building located on a farm is exempt from the Florida Building  
31 Code and any county or municipal building code. For purposes

1 of this section "nonresidential farm building" means any  
2 building or support structure used by a farm operation which  
3 ~~located on a farm that~~ is not used as a residential dwelling  
4 and is located on land classified as agricultural land under  
5 s. 193.461. Farm is as defined in s. 823.14.

6 Section 3. Section 553.791, Florida Statutes, is  
7 created to read:

8 553.791 Alternative plans review and inspection.--

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

10 (a) "Applicable codes" means the Florida Building Code  
11 and any local technical amendments to the Florida Building  
12 Code but does not include the applicable minimum fire  
13 prevention and fire safety codes adopted pursuant to chapter  
14 633.

15 (b) "Request for certificate of occupancy or  
16 certificate of completion" means a properly completed and  
17 executed application for a certificate of occupancy or  
18 certificate of completion, the certificate of compliance from  
19 the private provider required pursuant to subsection (10), any  
20 applicable fees, and those documents required by the local  
21 building official to determine that the fee owner has secured  
22 all other government approvals required by law.

23 (c) "Building" means any construction, erection,  
24 alteration, demolition, addition to, or substantial  
25 improvement of any structure for which permitting by a local  
26 law enforcement agency is required.

27 (d) "Building code inspection services" means those  
28 services described in s. 468.603(6) and (7) involving the  
29 review of building plans to determine compliance with  
30 applicable codes and those inspections required by law of each  
31 phase of construction for which permitting by a local

1 enforcement agency is required to determine compliance with  
2 applicable codes.

3 (e) "Duly authorized representative" means an agent of  
4 the private provider identified in the permit application who  
5 reviews plans or performs inspections as provided by this  
6 section and who is licensed as an engineer under chapter 471  
7 or as an architect under chapter 481, or who holds a standard  
8 certificate under part XII of chapter 468.

9 (f) "Local building official" means the individual  
10 within the governing jurisdiction responsible for direct  
11 regulatory administration or supervision of plan review,  
12 enforcement and inspection of any construction, erection,  
13 alteration, demolition, addition to, or substantial  
14 improvement of any structure for which permitting is required  
15 to indicate compliance with applicable codes and includes any  
16 duly authorized designee of such person.

17 (g) "Permit application" means a properly completed  
18 and submitted application for the requested building or  
19 construction permit, the plans reviewed by the private  
20 provider, the affidavit from the private provider required  
21 pursuant to subsection (5), any applicable fees, and those  
22 documents required by the local building official to determine  
23 that the fee owner has secured all other government approvals  
24 required by law.

25 (h) "Private provider" means a person licensed as an  
26 engineer under chapter 471 or as an architect under chapter  
27 481.

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

1 provision of these services. All such services shall be the  
2 subject of a written contract between the private provider, or  
3 the provider's firm, and the fee owner. The fee owner may  
4 elect to use a private provider to provide either plan review  
5 or required building inspections. The local building official,  
6 in his or her discretion and pursuant to duly adopted policies  
7 of the local enforcement agency, may require the fee owner who  
8 wishes to use the private provider to provide both plan review  
9 and required building inspection services.

10 (3) A private provider and any duly authorized  
11 representative may perform only building code inspection  
12 services that are within the disciplines covered by that  
13 person's licensure or certification under chapter 481, chapter  
14 471, or chapter 468. A private provider may not provide  
15 building code inspection services pursuant to this section  
16 upon any building designed or constructed by the private  
17 provider or the provider's firm.

18 (4) A fee owner using a private provider to provide  
19 building code inspection services shall notify the local  
20 building official at the time of permit application on a form  
21 to be adopted by the commission. This notice shall include the  
22 following information:

23 (a) The services to be performed by a private  
24 provider;

25 (b) The name, firm, address, telephone number, and  
26 facsimile number of each private provider who is performing or  
27 will perform such services, their professional license or  
28 certification number, qualification statements or resumes,  
29 and, if required by the local building official, a certificate  
30 of insurance demonstrating that professional liability  
31 insurance coverage is in place for the provider's firm, the

1 provider, and any duly authorized representative, in the  
2 amounts required by this section; and

3 (c) An acknowledgment from the fee owner in  
4 substantially the following form:

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

1           certified personnel to perform building code  
2           inspection services with respect to the  
3           building that is the subject of the enclosed  
4           permit application.

5  
6           The fee owner must, within 1 business day, update the notice  
7           if the fee owner makes any changes to the listed private  
8           provider or the services to be provided by those providers.

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

17           (a) The plans were reviewed by the affiant, who is  
18           duly authorized to perform plans review pursuant to this  
19           section and holds the appropriate license or certificate; and

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

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

1           (b) If the local business official provides a written  
2 notice of plan deficiencies to the permit applicant within the  
3 prescribed 30-day period, this 30-day period shall be tolled  
4 pending resolution of the matter. To resolve the plan  
5 deficiencies, the permit applicant may elect either to dispute  
6 the deficiencies pursuant to subsection (12) or to submit  
7 revisions to correct the deficiencies.

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

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

31



1           (7) A private provider performing required inspections  
2 under this section shall inspect each phase of construction as  
3 required by the applicable codes. The private provider shall  
4 be permitted to send a duly authorized representative to the  
5 building site to perform the required inspections, provided  
6 that all required reports and certifications are prepared by  
7 and bear the signature of the private provider. The  
8 contractor's contractual or statutory obligations are not  
9 relieved by any action of the private provider.

10           (8) A private provider performing required inspections  
11 under this section shall provide notice to the local building  
12 official of the date and approximate time of any such  
13 inspection no later than the prior business day by 2 p.m.  
14 local time, or by any later time permitted by the local  
15 building official in that jurisdiction. The local building  
16 official may visit the building site as often as necessary to  
17 verify that the private provider is performing all required  
18 inspections.

19           (9) Upon completing the required inspections at each  
20 applicable phase of construction, the private provider shall  
21 record such inspections on a form acceptable to the local  
22 building official. These inspection records shall reflect  
23 those inspections required by the applicable codes of each  
24 phase of construction for which permitting by a local  
25 enforcement agency is required. The private provider, before  
26 leaving the project site, shall post each completed inspection  
27 record, indicating pass or fail, at the site and provide the  
28 record to the local building official within 2 business days.  
29 Records of all required inspections completed to date shall be  
30 maintained at the building site at all times and made  
31 available for review by the local building official. The

1 private provider shall report to the local enforcement agency  
2 any condition that poses an immediate threat to public safety  
3 and welfare.

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

14  
15 "To the best of my knowledge and belief, the  
16 building components and site improvements,  
17 outlined herein and inspected under my  
18 authority, have been completed in conformance  
19 with the approved plans and the applicable  
20 codes."

21  
22 (11) Upon receipt of a request for certificate of  
23 occupancy or certificate of completion and upon presentation  
24 of certificate of compliance and approval of all other  
25 governmental approvals required by law, the local building  
26 official has 2 business days after receipt either to issue the  
27 certificate of occupancy or completion or to provide a notice  
28 to the applicant identifying the specific deficiencies, as  
29 well as the specific code chapters and sections. If the local  
30 building official does not provide notice of the deficiencies  
31 within the prescribed 2-day period, the request for

1 certificate of occupancy or completion shall be deemed granted  
2 and the certificate of occupancy or certificate of completion  
3 shall be issued by the local building official on the next  
4 business day. To resolve any identified deficiencies, the  
5 applicant may elect either to dispute the deficiencies  
6 pursuant to subsection (12) or to submit a corrected request  
7 for certificate of occupancy or completion.

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

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

21 (b) If the local building official and private  
22 provider are unable to resolve the dispute, the matter must be  
23 referred to the local enforcement agency's board of appeals,  
24 if one exists, which must consider the matter at its next  
25 scheduled meeting or sooner. Any decision by the local  
26 enforcement agency's board of appeals, or local building  
27 official if there is no board of appeals, may be appealed to  
28 the commission pursuant to s. 553.77(1)(h).

29 (c) Notwithstanding any provision of this section to  
30 the contrary, any decision regarding the issuance of a  
31 building permit, certificate of occupancy, or certificate of

1 completion may be reviewed by the local enforcement agency's  
2 board of appeals, if one exists. Any decision 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  
5 pursuant to s. 553.77(1)(h) to the commission, which must  
6 consider the matter at its next scheduled meeting.

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

14 (14) No local enforcement agency, local building  
15 official, or local government may adopt or enforce any law,  
16 rule, procedure, or standard that is more stringent than those  
17 prescribed by this section.

18 (15) A private provider may perform building code  
19 inspection services under this section only if the private  
20 provider maintains insurance for professional and  
21 comprehensive general liability with minimum policy limits of  
22 \$1 million per occurrence relating to all services performed  
23 as a private provider, and including tail coverage for a  
24 minimum of 5 years subsequent to the performance of building  
25 code inspection services.

26 (16) When performing building code inspection  
27 services, an inspector is subject to the disciplinary  
28 guidelines of the applicable professional board with  
29 jurisdiction over his or her license or certification under  
30 chapter 468, chapter 471, or chapter 481. Any complaint  
31 processing, investigation, and discipline that arise out of a

1 private provider's performance of building code inspection  
2 services shall be conducted by the applicable professional  
3 board.

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

14 (a) The local chapter of the Associated General  
15 Contractors;

16 (b) The local chapter of the Florida Chapter of the  
17 American Institute of Architects;

18 (c) The local chapter of the Florida Home Builders  
19 Association; and

20 (d) The local chapter of the Florida Engineering  
21 Society.

22  
23 A certification of exemption shall be valid for a period of 1  
24 year and must be renewed annually.

25 (18) Each local building code enforcement agency shall  
26 develop and maintain a process to audit the performance of  
27 building code inspection services by private providers  
28 operating within the local jurisdiction.

29 (19) The local government, the local building  
30 official, and their building code enforcement personnel are  
31 immune from liability to any person or party for any action or

1 inaction by a fee owner of a building, or by a private  
2 provider or its duly authorized representative, in connection  
3 with building code inspection services as authorized in this  
4 section.

5 Section 4. This act shall take effect October 1, 2002.

6

7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
8 COMMITTEE SUBSTITUTE FOR  
9 CS/SB 2078

10 Modifies the definition of "private provider" to remove  
11 persons who hold a standard certificate under part XII of ch.  
12 468, F.S.

13 Permits a fee owner to elect to use a private provider to  
14 review plans or provide required building inspections.

15 Permits local building official, in his or her discretion,  
16 pursuant to duly adopted policies of the local enforcement  
17 agency, to require a fee owner to provide both plan review and  
18 required building inspection services.

19 Adds the local chapter of the Florida Engineering Society to  
20 those entities who must consent to exempt local enforcement  
21 agency from requirements of the section.

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