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1 A bill to be entitled

2 An act relating to the Florida Building Code; amending s.  
3 553.73, F.S.; providing code amendment criteria and review  
4 requirements; amending s. 553.79, F.S.; exempting truss  
5 placement plans from certain requirements; amending s.  
6 553.80, F.S.; authorizing local governments to impose  
7 certain fees for code enforcement; providing requirements  
8 and limitations; amending s. 553.842, F.S.; revising  
9 requirements, procedures, and limitations relating to a  
10 product evaluation and approval system; deleting Florida  
11 Building Commission authority to adopt certain rules and  
12 enter into certain contracts to administer the product  
13 evaluation and approval system; deleting system criteria;  
14 deleting provisions relating to local or statewide  
15 approval of products or methods or systems of  
16 construction; deleting provisions relating to  
17 certifications by approved product evaluation entities,  
18 testing laboratories, or certification agencies; revising  
19 commission rulemaking authority; revising commission  
20 responsibilities; authorizing the commission to expedite  
21 adoption and implementation of the existing state building  
22 code as part of the Florida Building Code pursuant to  
23 limited procedures; requiring the commission to submit the  
24 building code adopted by the commission, with  
25 recommendations and revisions, to the Legislature for  
26 approval by a time certain; providing for repeal of  
27 certain local building code amendments; providing for  
28 readoption of such amendments as provided by law;  
29 providing requirements; providing an effective date.

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

32

33 Section 1. Paragraph (c) of subsection (7) of section  
34 553.73, Florida Statutes, is amended to read:

35 553.73 Florida Building Code.--

36 (7)

37 (c) The commission may not approve any proposed amendment  
38 that does not accurately and completely address all requirements  
39 for amendment which are set forth in this section. The  
40 commission shall require all proposed amendments to be reviewed  
41 by commission staff. Such amendments shall not be considered by  
42 any deliberative body for inclusion in the Florida Building Code  
43 if they do not meet the criteria established in this section.

44 Section 2. Paragraph (i) of subsection (1) of section  
45 553.77, Florida Statutes, is amended to read:

46 553.77 Specific powers of the commission.--

47 (1) The commission shall:

48 (i) Determine the types of products requiring approval for  
49 local or statewide use and shall provide for the evaluation and  
50 approval of such products, materials, devices, and method of  
51 construction for statewide use. The commission may prescribe by  
52 rule a schedule of reasonable fees to provide for evaluation and  
53 approval of products, materials, devices, and methods of  
54 construction. Evaluation and approval shall be ~~by action of the~~  
55 ~~commission or delegated~~ pursuant to s. 553.842. This paragraph  
56 does not apply to products approved by the State Fire Marshal.

57 Section 3. Subsection (14) of section 553.79, Florida  
58 Statutes, is amended to read:

59 553.79 Permits; applications; issuance; inspections.--



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60 (14) Certifications by contractors authorized under the  
61 provisions of s. 489.115(4)(b) shall be considered equivalent to  
62 sealed plans and specifications by a person licensed under  
63 chapter 471 or chapter 481 by local enforcement agencies for  
64 plans review for permitting purposes relating to compliance with  
65 the wind resistance provisions of the code or alternate  
66 methodologies approved by the commission for one and two family  
67 dwellings. Local enforcement agencies may rely upon such  
68 certification by contractors that the plans and specifications  
69 submitted conform to the requirements of the code for wind  
70 resistance. Upon good cause shown, local government code  
71 enforcement agencies may accept or reject plans sealed by  
72 persons licensed under chapter 471, chapter 481, or chapter 489.  
73 A truss placement plan shall not be required to be signed and  
74 sealed by an engineer or architect.

75 Section 4. Subsection (7) is added to section 553.80,  
76 Florida Statutes, to read:

77 553.80 Enforcement.--

78 (7) The governing bodies of local governments may provide  
79 a schedule of reasonable fees, as authorized by s. 125.56(2) or  
80 s. 166.222 and this section, for the enforcement of provisions  
81 of this part. Such fees, and any fines or investment earnings  
82 related to such fees, shall be used solely for carrying out the  
83 local government's responsibilities in enforcing the Florida  
84 Building Code. When providing a schedule of reasonable fees,  
85 total estimated annual revenue derived from fees, and fines and  
86 investment earnings related to such fees, shall not exceed the  
87 total estimated annual costs of allowable activities. Any  
88 unexpended balances must be carried forward to future years for  
89 allowable activities or shall be refunded. The basis for a fee



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90 structure for allowable activities shall relate to the level of  
91 service provided by the local government. Fees charged shall be  
92 consistently applied.

93 (a) For purposes of this subsection, the term "enforcing  
94 the Florida Building Code" includes the direct costs and  
95 reasonable indirect costs associated with review of building  
96 plans, building inspections, reinspections, building permit  
97 processing, and building code enforcement. The term may also  
98 include enforcement against unlicensed contractor activity to  
99 the extent not funded with other user fees. Enforcing the  
100 Florida Building Code specifically excludes the following  
101 activities: any land-use-related activities, including, but not  
102 limited to, reviews and enforcement associated with  
103 comprehensive planning, zoning, site planning, and concurrency;  
104 address assignment; inspections of right-of-way; inspections of  
105 utility hookups outside a house; arbor compliance;  
106 nonconstruction-related fire prevention inspections of existing  
107 units; demolition; debris cleanup; landscaping; environmental  
108 regulation and enforcement; the enforcement of any other state  
109 or federal requirement; the enforcement of any other local  
110 ordinance or local requirement; and any other building or  
111 general government activity that does not directly pertain to  
112 such activities in enforcing the Florida Building Code. Costs of  
113 inspections of public buildings for a reduced fee or no fee, and  
114 costs incurred in connection with public information requests,  
115 community functions, boards, and programs that are not directly  
116 related to enforcement of the Florida Building Code, shall not  
117 be financed with fees adopted under this section.

118 (b) A local government shall use recognized management,  
119 accounting, and oversight practices to ensure that fees, fines,



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120 and investment earnings generated under this subsection are  
121 maintained and used solely for the purposes described in  
122 paragraph (a).

123 (c) Local governments shall, to the greatest extent  
124 possible or practicable, work with their local building  
125 industries to create a review process to assist in implementing  
126 and overseeing budgetary procedures and reports for revenue and  
127 expenditures relating to building permit fees and assist in  
128 offering suggestions or recommendations on the use and amount of  
129 building permit fees and the level and type of service provided  
130 to the local building industry.

131 Section 5. Section 553.842, Florida Statutes, is amended  
132 to read:

133 553.842 Product evaluation and approval.--

134 ~~(1) The commission shall adopt rules under ss. 120.536(1)~~  
135 ~~and 120.54 to develop and implement a product evaluation and~~  
136 ~~approval system described in this section shall apply that~~  
137 ~~applies statewide to operate in coordination with the Florida~~  
138 ~~Building Code. The commission may enter into contracts to~~  
139 ~~provide for administration of the product evaluation and~~  
140 ~~approval system. The product evaluation and approval system~~  
141 ~~shall provide:~~

142 ~~(a) Appropriate promotion of innovation and new~~  
143 ~~technologies.~~

144 ~~(b) Processing submittals of products from manufacturers~~  
145 ~~in a timely manner.~~

146 ~~(c) Independent, third party qualified and accredited~~  
147 ~~testing and laboratory facilities, product evaluation entities,~~  
148 ~~quality assurance agencies, certification agencies, and~~  
149 ~~validation entities.~~



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150 ~~(d) An easily accessible product acceptance list to~~  
151 ~~entities subject to the Florida Building Code.~~

152 ~~(e) Development of stringent but reasonable testing~~  
153 ~~criteria based upon existing consensus standards, when~~  
154 ~~available, for products.~~

155 ~~(f) Long term approvals, where feasible. State and local~~  
156 ~~approvals will be valid until the requirements of the code on~~  
157 ~~which the approval is based change, the product changes in a~~  
158 ~~manner affecting its performance as required by the code, or the~~  
159 ~~approval is revoked.~~

160 ~~(g) Criteria for revocation of a product approval.~~

161 ~~(h) Cost effectiveness.~~

162 (2) The product evaluation and approval system shall rely  
163 on demonstration of compliance with national and international  
164 consensus standards ~~as, whenever~~ adopted by the Florida Building  
165 Code, ~~for demonstrating compliance with code standards.~~ Other  
166 standards which meet or exceed the intent of the Florida  
167 Building Code ~~established state requirements~~ shall also be  
168 acceptable considered.

169 (3) Such statewide product evaluation and approval system  
170 shall grant approvals for use. The local building official,  
171 through the plans review and inspection process, shall determine  
172 whether the product, method, or system of construction is used  
173 in accordance with its limitations of use.

174 ~~(4)(3)~~ Products or methods or systems of construction for  
175 which there are specific that require approval under s. 553.77,  
176 ~~that have~~ standardized testing or comparative or rational  
177 analysis methods established in by the Florida Building Code,  
178 ~~and that are certified by an approved product evaluation entity,~~  
179 ~~testing laboratory, or certification agency as complying with~~



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180 ~~the standards specified by the code shall be approved for local~~  
181 ~~or statewide use, by one of the methods established in~~  
182 ~~subsection (6) without further evaluation, by demonstrating~~  
183 compliance with their applicable standards listed in the Florida  
184 Building Code through one of the following methods-

185 ~~(4) By October 1, 2003, products or methods or systems of~~  
186 ~~construction requiring approval under s. 553.77 must be approved~~  
187 ~~by one of the methods established in subsection (5) or~~  
188 ~~subsection (6) before their use in construction in this state.~~  
189 ~~Products may be approved either by the commission for statewide~~  
190 ~~use, or by a local building department for use in that~~  
191 ~~department's jurisdiction only. Notwithstanding a local~~  
192 ~~government's authority to amend the Florida Building Code as~~  
193 ~~provided in this act, statewide approval shall preclude local~~  
194 ~~jurisdictions from requiring further testing, evaluation, or~~  
195 ~~submission of other evidence as a condition of using the product~~  
196 ~~so long as the product is being used consistent with the~~  
197 ~~conditions of its approval.~~

198 ~~(5) Local approval of products or methods or systems of~~  
199 ~~construction may be achieved by the local building official~~  
200 ~~through building plans review and inspection to determine that~~  
201 ~~the product, method, or system of construction complies with the~~  
202 ~~prescriptive standards established in the code. Alternatively,~~  
203 ~~local approval may be achieved by one of the methods established~~  
204 ~~in subsection (6).~~

205 ~~(6) Statewide or local approval of products, methods, or~~  
206 ~~systems of construction may be achieved by one of the following~~  
207 ~~methods. One of these methods must be used by local officials or~~  
208 ~~the commission to approve the following categories of products:~~  
209 ~~panel walls, exterior doors, roofing, skylights, windows,~~



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210 ~~shutters, and structural components as established by the~~  
211 ~~commission by rule.~~

212 ~~(a) Products for which the code establishes standardized~~  
213 ~~testing or comparative or rational analysis methods shall be~~  
214 ~~approved by submittal and validation of one of the following~~  
215 ~~reports or listings indicating that the product or method or~~  
216 ~~system of construction was evaluated to be in compliance with~~  
217 ~~the Florida Building Code and that the product or method or~~  
218 ~~system of construction is, for the purpose intended, at least~~  
219 ~~equivalent to that required by the Florida Building Code:~~

220 ~~(a)1.~~ A certification mark or listing of an approved  
221 certification agency;

222 ~~(b)2.~~ A test report from an approved testing laboratory;

223 ~~(c)3.~~ A product evaluation report based upon testing or  
224 comparative or rational analysis, or a combination thereof, from  
225 an approved product evaluation entity; or

226 ~~(d)4.~~ A product evaluation report based upon testing or  
227 comparative or rational analysis, or a combination thereof,  
228 developed and signed and sealed by a professional engineer or  
229 architect, licensed in this state.

230  
231 ~~A product evaluation report or a certification mark or listing~~  
232 ~~of an approved certification agency which demonstrates that the~~  
233 ~~product or method or system of construction complies with the~~  
234 ~~Florida Building Code for the purpose intended shall be~~  
235 ~~equivalent to a test report and test procedure as referenced in~~  
236 ~~the Florida Building Code.~~

237 ~~(5)(b)~~ Products, methods, or systems of construction for  
238 which there are no specific standardized testing or comparative  
239 or rational analysis methods established in the Florida Building





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240 Code shall demonstrate compliance with the intent of the code  
241 through ~~may be approved by submittal and validation of~~ one of  
242 the following:

243 (a)1. A product evaluation report based upon testing or  
244 comparative or rational analysis, or a combination thereof, from  
245 an approved product evaluation entity indicating that the  
246 product or method or system of construction was evaluated to be  
247 in compliance with the intent of the Florida Building Code and  
248 that the product or method or system of construction is, for the  
249 purpose intended, at least equivalent to that required by the  
250 Florida Building Code; or

251 (b)2. A product evaluation report based upon testing or  
252 comparative or rational analysis, or a combination thereof,  
253 developed and signed and sealed by a professional engineer or  
254 architect, licensed in this state, who certifies that the  
255 product or method or system of construction was evaluated to be  
256 in compliance with the intent of the Florida Building Code and  
257 that the product or method or system of construction is, for the  
258 purpose intended, at least equivalent to that required by the  
259 Florida Building Code.

260 (6) Products that are specifically addressed in the code  
261 through prescriptive provisions may be approved for use in  
262 accordance with the building plan review and inspection process.

263 (7) Structural components comprised of materials or  
264 products that are assembled or placed in the field and are  
265 subject to standardized field testing procedures contained  
266 within nationally recognized standards adopted by the Florida  
267 Building Code may demonstrate compliance by a batch ticket or  
268 bill of lading made available at the site of assembly or  
269 placement. ~~The commission shall ensure that product~~



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270 ~~manufacturers operate quality assurance programs for all~~  
271 ~~approved products. The commission shall adopt by rule criteria~~  
272 ~~for operation of the quality assurance programs.~~

273 ~~(8) For local approvals, validation shall be performed by~~  
274 ~~the local building official. The commission shall adopt by rule~~  
275 ~~criteria constituting complete validation by the local official,~~  
276 ~~including, but not limited to, criteria governing verification~~  
277 ~~of a quality assurance program. For state approvals, validation~~  
278 ~~shall be performed by validation entities approved by the~~  
279 ~~commission. The commission shall adopt by rule criteria for~~  
280 ~~approval of validation entities, which shall be third-party~~  
281 ~~entities independent of the product's manufacturer and which~~  
282 ~~shall certify to the commission the product's compliance with~~  
283 ~~the code.~~

284 ~~(8)(11)~~ Products, other than manufactured buildings, which  
285 are custom fabricated or assembled shall not require separate  
286 approval under this section provided the component parts have  
287 been approved for the fabricated or assembled product's use and  
288 the components meet the standards and requirements of the  
289 Florida Building Code which apply ~~applies~~ to the product's  
290 intended use.

291 (9) Product approvals shall be valid until such time as  
292 the product changes, decreasing the product's performance, or  
293 the standards or intent of the Florida Building Code affecting  
294 the product change.

295 (10) Notwithstanding a local government's authority to  
296 amend the Florida Building Code as provided in this section,  
297 local jurisdictions are precluded from requiring further  
298 testing, test reports, evaluation, or submission of other  
299 evidence as a condition of using the product so long as the



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300 product is being used in a manner consistent with the conditions  
 301 of its approval.

302 (11)(10) A building official may deny the local use  
 303 ~~application~~ of a product or method or system of construction  
 304 that ~~which~~ has been approved ~~received statewide approval~~, based  
 305 upon a written report signed by the official that concludes the  
 306 product application is inconsistent with the ~~statewide~~ approval  
 307 and that states the reasons the application is inconsistent.  
 308 Such denial is subject to the provisions of s. 553.77 governing  
 309 appeal of the building official's interpretation of the code.

310 (12) A building official may appeal the required approval  
 311 for local use of a product or method or system of construction  
 312 to the commission. The commission shall conduct a hearing under  
 313 chapter 120 and the uniform rules of procedure and shall handle  
 314 such appeals in an expedited manner.

315 (13) The decisions of local building officials shall be  
 316 appealable to the local board of appeals, if such board exists,  
 317 and then to the commission, which shall conduct a hearing under  
 318 chapter 120 and the uniform rules of procedure. Decisions of the  
 319 commission regarding ~~statewide~~ product approvals and appeals of  
 320 local product approval shall be subject to judicial review  
 321 pursuant to s. 120.68.

322 (14)(9) The commission shall ~~may~~ adopt rules to approve  
 323 product evaluation entities, testing laboratories, certification  
 324 agencies, and quality assurance agencies ~~the following types of~~  
 325 ~~entities that produce information on which product approvals are~~  
 326 ~~based~~. All of the ~~following~~ entities, including engineers and  
 327 architects, must comply with a nationally recognized standard  
 328 demonstrating independence or no conflict of interest. +



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329           (a) ~~Evaluation entities that meet the criteria for~~  
330 ~~approval adopted by the commission by rule.~~ The commission shall  
331 specifically approve the National Evaluation Service, the  
332 International Conference of Building Officials Evaluation  
333 Services, the Building Officials and Code Administrators  
334 International Evaluation Services, the Southern Building Code  
335 Congress International Evaluation Services, the International  
336 Code Council Evaluation Service, and the Miami-Dade County  
337 Building Code Compliance Office Product Control. Architects and  
338 engineers licensed in this state are also approved to conduct  
339 product evaluations ~~as provided in subsection (6).~~

340           (b) The commission shall approve testing laboratories  
341 accredited by national organizations, such as A2LA and the  
342 National Voluntary Laboratory Accreditation Program,  
343 laboratories accredited by evaluation entities approved under  
344 paragraph (a), and laboratories that comply with other  
345 guidelines for testing laboratories selected by the commission  
346 and adopted by rule.

347           (c) The commission shall approve quality assurance  
348 entities approved by evaluation entities approved under  
349 paragraph (a) and by certification agencies approved under  
350 paragraph (d) and other quality assurance entities that comply  
351 with guidelines selected by the commission and adopted by rule.

352           (d) The commission shall approve certification agencies  
353 accredited by nationally recognized accreditors and other  
354 certification agencies that comply with guidelines selected by  
355 the commission and adopted by rule.

356           ~~(e) Validation entities that comply with accreditation~~  
357 ~~standards established by the commission by rule.~~



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358        (15)~~(14)~~ The commission shall maintain a list of the  
 359 approved ~~state-approved products~~, product evaluation entities,  
 360 testing laboratories, quality assurance agencies, and  
 361 certification agencies, ~~and validation entities~~ and make such  
 362 lists available in the most cost-effective and timely manner.  
 363 ~~The commission shall establish reasonable timeframes associated~~  
 364 ~~with the product approval process and availability of the lists.~~

365        (16)~~(15)~~ The commission shall by rule establish criteria  
 366 for revocation of ~~product approvals as well as revocation of~~  
 367 approvals of product evaluation entities, testing laboratories,  
 368 quality assurance entities, and certification agencies, ~~and~~  
 369 ~~validation entities~~. Revocation is governed by s. 120.60 and the  
 370 uniform rules of procedure.

371        (17) The product evaluation approval system shall take  
 372 effect October 1, 2003.

373        ~~(16) The commission shall establish a schedule for~~  
 374 ~~adoption of the rules required in this section to ensure that~~  
 375 ~~the product manufacturing industry has sufficient time to revise~~  
 376 ~~products to meet the requirements for approval and submit them~~  
 377 ~~for testing or evaluation before the system takes effect on~~  
 378 ~~October 1, 2003, and to ensure that the availability of~~  
 379 ~~statewide approval is not delayed.~~

380        Section 6. The Florida Building Commission is authorized  
 381 to expedite the adoption and implementation of the existing  
 382 state building code as part of the Florida Building Code  
 383 pursuant only to the provisions of chapter 120, Florida  
 384 Statutes. The special update and amendment requirements of s.  
 385 553.73, Florida Statutes, and the administrative rule requiring  
 386 additional delay time between adoption and implementation of  
 387 such code are waived.



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388           Section 7. (1) Before the 2004 Regular Session of the  
389 Legislature, the Florida Building Commission shall submit to the  
390 Legislature, for review and approval or rejection, the Florida  
391 Building Code adopted by the commission and shall prepare a list  
392 of recommendations of revisions to the Florida Statutes  
393 necessitated by adoption of the Florida Building Code if the  
394 Legislature approves the Florida Building Code.

395           (2) Upon approval of the Florida Building Code by the  
396 Legislature, all existing local technical amendments to any  
397 building code adopted by any local government are repealed. Each  
398 local government may readopt such amendments pursuant to s.  
399 553.73, Florida Statutes, provided such amendments comply with  
400 applicable provisions of the Florida Building Code.

401           Section 8. This act shall take effect upon becoming a law.