



CHAMBER ACTION

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The Committee on Local Government & Veterans' Affairs recommends the following:

**Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to the Florida Building Code; amending s. 553.73, F.S.; applying code requirements to certain additional structures; providing for readoption of certain local technical amendments; providing legislative intent relating to maintaining the code concurrent with certain national standards; providing code amendment criteria and review requirements; amending s. 553.74, F.S., as amended; providing for nominations of Florida Building Commission members from certain lists; authorizing the Governor to appoint commission members; providing requirements, procedures, limitations, and criteria for regional emergency elevator access; providing duties of the State Fire Marshal; providing an exception; amending s. 553.77, F.S.; revising specific powers of the commission; creating s. 553.775, F.S.; providing for interpretations of the building code by certain entities; providing procedures and requirements; providing for reviews of certain



29 | decisions to interpret provisions of the code; providing  
30 | procedures and requirements; providing for hearings;  
31 | providing for appeals of decisions; providing exceptions;  
32 | authorizing the commission to adopt rules; amending s.  
33 | 553.79, F.S.; exempting truss placement plans from certain  
34 | requirements; amending s. 553.791, F.S.; revising  
35 | provisions for alternative plans review and inspection;  
36 | correcting a cross reference; amending s. 553.80, F.S.;  
37 | authorizing local governments to impose certain fees for  
38 | code enforcement; providing requirements and limitations;  
39 | authorizing the commission to expedite adoption and  
40 | implementation of the Florida Existing Buildings Code as  
41 | part of the Florida Building Code pursuant to limited  
42 | procedures; correcting a cross reference; amending s.  
43 | 553.842, F.S.; including an additional entity within  
44 | provisions for product evaluation and approval; amending  
45 | s. 120.80, F.S.; authorizing the Florida Building  
46 | Commission and hearing officers to conduct proceedings to  
47 | review decisions of local building code officials;  
48 | creating the Florida Construction Council Act; creating  
49 | the Florida Construction Council for certain purposes;  
50 | providing for staff; providing duties and  
51 | responsibilities; providing for a board of directors;  
52 | providing for membership; providing powers and duties of  
53 | the council; amending s. 399.106, F.S.; revising  
54 | membership of the Elevator Safety Technical Advisory  
55 | Committee; deleting an obsolete meeting requirement;  
56 | amending s. 553.841, F.S.; revising provisions relating to



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57 | a building code training program; amending s. 553.8412,  
58 | F.S.; correcting a cross reference; amending s. 633.171,  
59 | F.S.; prohibiting certain installations of fireworks or  
60 | pyrotechnic devices in certain facilities under certain  
61 | circumstances; providing a criminal penalty; providing an  
62 | effective date for certain administrative rules of the  
63 | Florida Building Commission; providing commission duties  
64 | and requirements; limiting expenditures of certain funds;  
65 | providing an effective date.

66 |  
67 | Be It Enacted by the Legislature of the State of Florida:

68 |  
69 | Section 1. Subsections (2), (4), and (6) and paragraphs  
70 | (a) and (c) of subsection (7) of section 553.73, Florida  
71 | Statutes, are amended to read:

72 | 553.73 Florida Building Code.--

73 | (2) The Florida Building Code shall contain provisions or  
74 | requirements for public and private buildings, structures, and  
75 | facilities relative to structural, mechanical, electrical,  
76 | plumbing, energy, and gas systems, existing buildings,  
77 | historical buildings, manufactured buildings, elevators, coastal  
78 | construction, lodging facilities, food sales and food service  
79 | facilities, health care facilities, including assisted living  
80 | facilities, adult day care facilities, hospice residential  
81 | facilities, inpatient facilities, and facilities for the control  
82 | of radiation hazards, public or private educational facilities,  
83 | swimming pools, and correctional facilities and enforcement of  
84 | and compliance with such provisions or requirements. Further,



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85 | the Florida Building Code must provide for uniform  
86 | implementation of ss. 515.25, 515.27, and 515.29 by including  
87 | standards and criteria for residential swimming pool barriers,  
88 | pool covers, latching devices, door and window exit alarms, and  
89 | other equipment required therein, which are consistent with the  
90 | intent of s. 515.23. Technical provisions to be contained within  
91 | the Florida Building Code are restricted to requirements related  
92 | to the types of materials used and construction methods and  
93 | standards employed in order to meet criteria specified in the  
94 | Florida Building Code. Provisions relating to the personnel,  
95 | supervision or training of personnel, or any other professional  
96 | qualification requirements relating to contractors or their  
97 | workforce may not be included within the Florida Building Code,  
98 | and subsections (4), (5), (6), and (7) are not to be construed  
99 | to allow the inclusion of such provisions within the Florida  
100 | Building Code by amendment. This restriction applies to both  
101 | initial development and amendment of the Florida Building Code.

102 |       (4)(a) All entities authorized to enforce the Florida  
103 | Building Code pursuant to s. 553.80 shall comply with applicable  
104 | standards for issuance of mandatory certificates of occupancy,  
105 | minimum types of inspections, and procedures for plans review  
106 | and inspections as established by the commission by rule. Local  
107 | governments may adopt amendments to the administrative  
108 | provisions of the Florida Building Code, subject to the  
109 | limitations of this paragraph. Local amendments shall be more  
110 | stringent than the minimum standards described herein and shall  
111 | be transmitted to the commission within 30 days after enactment.  
112 | The local government shall make such amendments available to the



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113 | general public in a usable format. The State Fire Marshal is  
114 | responsible for establishing the standards and procedures  
115 | required in this paragraph for governmental entities with  
116 | respect to applying the Florida Fire Prevention Code and the  
117 | Life Safety Code.

118 |       (b) Local governments may, subject to the limitations of  
119 | this section, adopt amendments to the technical provisions of  
120 | the Florida Building Code which apply solely within the  
121 | jurisdiction of such government and which provide for more  
122 | stringent requirements than those specified in the Florida  
123 | Building Code, not more than once every 6 months. A local  
124 | government may adopt technical amendments that address local  
125 | needs if:

126 |       1. The local governing body determines, following a public  
127 | hearing which has been advertised in a newspaper of general  
128 | circulation at least 10 days before the hearing, that there is a  
129 | need to strengthen the requirements of the Florida Building  
130 | Code. The determination must be based upon a review of local  
131 | conditions by the local governing body, which review  
132 | demonstrates by evidence or data that the geographical  
133 | jurisdiction governed by the local governing body exhibits a  
134 | local need to strengthen the Florida Building Code beyond the  
135 | needs or regional variation addressed by the Florida Building  
136 | Code, that the local need is addressed by the proposed local  
137 | amendment, and that the amendment is no more stringent than  
138 | necessary to address the local need.



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139           2. Such additional requirements are not discriminatory  
140 against materials, products, or construction techniques of  
141 demonstrated capabilities.

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

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

146           5. Any amendment to the Florida Building Code shall be  
147 transmitted within 30 days by the adopting local government to  
148 the commission. The commission shall maintain copies of all such  
149 amendments in a format that is usable and obtainable by the  
150 public. Local technical amendments shall not become effective  
151 until 30 days after the amendment has been received and  
152 published by the commission.

153           6. Any amendment to the Florida Building Code adopted by a  
154 local government pursuant to this paragraph shall be effective  
155 only until the adoption by the commission of the new edition of  
156 the Florida Building Code every third year. At such time, the  
157 commission shall review such amendment for consistency with the  
158 criteria in paragraph (7)(a) and adopt such amendment as part of  
159 the Florida Building Code or rescind the amendment. The  
160 commission shall immediately notify the respective local  
161 government of the rescission of any amendment. After receiving  
162 such notice, the respective local government may readopt the  
163 rescinded amendment pursuant to the provisions of this  
164 paragraph.

165           7. Each county and municipality desiring to make local  
166 technical amendments to the Florida Building Code shall by



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167 interlocal agreement establish a countywide compliance review  
168 board to review any amendment to the Florida Building Code,  
169 adopted by a local government within the county pursuant to this  
170 paragraph, that is challenged by any substantially affected  
171 party for purposes of determining the amendment's compliance  
172 with this paragraph. If challenged, the local technical  
173 amendments shall not become effective until time for filing an  
174 appeal pursuant to subparagraph 8. has expired or, if there is  
175 an appeal, until the commission issues its final order  
176 determining the adopted amendment is in compliance with this  
177 subsection.

178 8. If the compliance review board determines such  
179 amendment is not in compliance with this paragraph, the  
180 compliance review board shall notify such local government of  
181 the noncompliance and that the amendment is invalid and  
182 unenforceable until the local government corrects the amendment  
183 to bring it into compliance. The local government may appeal the  
184 decision of the compliance review board to the commission. If  
185 the compliance review board determines such amendment to be in  
186 compliance with this paragraph, any substantially affected party  
187 may appeal such determination to the commission. Any such appeal  
188 shall be filed with the commission within 14 days of the board's  
189 written determination. The commission shall promptly refer the  
190 appeal to the Division of Administrative Hearings for the  
191 assignment of an administrative law judge. The administrative  
192 law judge shall conduct the required hearing within 30 days, and  
193 shall enter a recommended order within 30 days of the conclusion  
194 of such hearing. The commission shall enter a final order within



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195 30 days thereafter. The provisions of chapter 120 and the  
196 uniform rules of procedure shall apply to such proceedings. The  
197 local government adopting the amendment that is subject to  
198 challenge has the burden of proving that the amendment complies  
199 with this paragraph in proceedings before the compliance review  
200 board and the commission, as applicable. Actions of the  
201 commission are subject to judicial review pursuant to s. 120.68.  
202 The compliance review board shall determine whether its  
203 decisions apply to a respective local jurisdiction or apply  
204 countywide.

205 9. An amendment adopted under this paragraph shall include  
206 a fiscal impact statement which documents the costs and benefits  
207 of the proposed amendment. Criteria for the fiscal impact  
208 statement shall include the impact to local government relative  
209 to enforcement, the impact to property and building owners, as  
210 well as to industry, relative to the cost of compliance. The  
211 fiscal impact statement may not be used as a basis for  
212 challenging the amendment for compliance.

213 10. In addition to subparagraphs 7. and 9., the commission  
214 may review any amendments adopted pursuant to this subsection  
215 and make nonbinding recommendations related to compliance of  
216 such amendments with this subsection.

217 (c) Any amendment adopted by a local enforcing agency  
218 pursuant to this subsection shall not apply to state or school  
219 district owned buildings, manufactured buildings or factory-  
220 built school buildings approved by the commission, or prototype  
221 buildings approved pursuant to s. 553.77 (3) ~~(5)~~. The respective  
222 responsible entities shall consider the physical performance





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223 parameters substantiating such amendments when designing,  
224 specifying, and constructing such exempt buildings.

225  
226 Each local government may readopt, pursuant to this subsection,  
227 any local technical amendment to a building code which amendment  
228 was adopted by the local government but was repealed by the  
229 Legislature upon approval of the Florida Building Code by the  
230 Legislature during the 2000 legislative session.

231 (6)(a) It is the intent of the Legislature that the  
232 Florida Building Code be maintained up to date with the national  
233 consensus standards. Further, it is the intent of the  
234 Legislature that the Florida Building Code be maintained to  
235 reflect Florida-specific needs and conditions affecting its  
236 built environment. When updating the code, the commission shall  
237 consider:

238 1. New editions of national model codes and consensus  
239 standards incorporated into the Florida Building Code.

240 2. Successor national model codes and consensus standards  
241 if the predecessor national model codes or consensus standards  
242 are no longer maintained by the organizations which adopted such  
243 predecessor codes or standards.

244 3. Existing approved and adopted Florida-specific  
245 modifications and such interpretations, declaratory statements,  
246 and appellate decisions of the commission.

247 4. Local amendments reviewed pursuant to subparagraph  
248 (4)(b)6.

249 5. Such Florida-specific amendments first approved by the  
250 commission pursuant to subsection (7) and considered essential



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251 | to maintaining the Florida Building Code requirements  
252 | appropriate to the state.

253 |  
254 | All of the foregoing shall be considered, selected, and adopted  
255 | pursuant to paragraph (b).

256 |       (b) The commission, by rule adopted pursuant to ss.  
257 | 120.536(1) and 120.54, shall update the Florida Building Code  
258 | every 3 years. When updating the Florida Building Code, the  
259 | commission shall consider changes made by the adopting entity of  
260 | any selected model code for any model code incorporated into the  
261 | Florida Building Code, and may subsequently adopt the new  
262 | edition or successor of the model code or any part of such code,  
263 | no sooner than 6 months after such model code has been adopted  
264 | by the adopting organization, which may then be modified for  
265 | this state as provided in this section, and shall further  
266 | consider the commission's own interpretations, declaratory  
267 | statements, appellate decisions, and approved statewide and  
268 | local technical amendments. A change made by an institute or  
269 | standards organization to any standard or criterion that is  
270 | adopted by reference in the Florida Building Code does not  
271 | become effective statewide until it has been adopted by the  
272 | commission. Furthermore, the edition of the Florida Building  
273 | Code which is in effect on the date of application for any  
274 | permit authorized by the code governs the permitted work for the  
275 | life of the permit and any extension granted to the permit. Any  
276 | amendment to the Florida Building Code which is adopted upon a  
277 | finding by the commission that the amendment is necessary to



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278 | protect the public from immediate threat of harm takes effect  
279 | immediately.

280 |         (7)(a) The commission may approve technical amendments to  
281 | the Florida Building Code once each year for statewide or  
282 | regional application upon a finding that the amendment:

283 |             1. Has a reasonable and substantial connection with the  
284 | health, safety, and welfare of the general public.

285 |             2. Strengthens or improves the Florida Building Code, or  
286 | in the case of innovation or new technology, will provide  
287 | equivalent or better products or methods or systems of  
288 | construction.

289 |             3. Does not discriminate against materials, products,  
290 | methods, or systems of construction of demonstrated  
291 | capabilities.

292 |             4. Does not degrade the effectiveness of the Florida  
293 | Building Code.

294 |  
295 | Furthermore, the Florida Building Commission may approve  
296 | technical amendments to the code once each year to incorporate  
297 | into the Florida Building Code its own interpretations of the  
298 | code which are embodied in its opinions, final orders, and  
299 | declaratory statements and in interpretations of hearing officer  
300 | panels under s. 553.775(3)(c). Amendments approved under this  
301 | paragraph shall be adopted by rule pursuant to ss. 120.536(1)  
302 | and 120.54, after the amendments have been subjected to the  
303 | provisions of subsection (3).

304 |         (c) The commission may not approve any proposed amendment  
305 | that does not accurately and completely address all requirements



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306 for amendment which are set forth in this section. The  
307 commission shall require all proposed amendments and information  
308 submitted with proposed amendments to be reviewed by commission  
309 staff prior to consideration by any technical advisory  
310 committee. These reviews shall be for sufficiency only and are  
311 not intended to be qualitative in nature. Staff members shall  
312 reject any proposed amendment that fails to include a fiscal  
313 impact statement providing information responsive to all  
314 criteria identified. Proposed amendments rejected by members of  
315 the staff may not be considered by the commission or any  
316 technical advisory committee.

317 Section 2. Effective October 1, 2003, subsection (1) of  
318 section 553.74, Florida Statutes, as amended by section 15 of  
319 chapter 2002-293, Laws of Florida, is amended to read:

320 553.74 Florida Building Commission.--

321 (1) The Florida Building Commission is created and shall  
322 be located within the Department of Community Affairs for  
323 administrative purposes. Members shall be appointed by the  
324 Governor subject to confirmation by the Senate. The commission  
325 shall be composed of 23 members, consisting of the following:

326 (a) One architect registered to practice in this state and  
327 actively engaged in the profession from a list of three  
328 candidates provided by the American Institute of Architecture,  
329 Florida Section.

330 (b) One structural engineer registered to practice in this  
331 state and actively engaged in the profession from a list of  
332 three candidates provided by the Florida Engineering Society.



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333 (c) One air-conditioning or mechanical contractor  
334 certified to do business in this state and actively engaged in  
335 the profession from a list of three candidates provided by the  
336 Florida Air Conditioning Contractors Association and the Florida  
337 Refrigeration and Air Conditioning Contractors Association.

338 (d) One electrical contractor certified to do business in  
339 this state and actively engaged in the profession from a list of  
340 three candidates provided by the Florida Electrical Contractors  
341 Association.

342 (e) One member from fire protection engineering or  
343 technology who is actively engaged in the profession from a list  
344 of three candidates provided by the Florida Fire Protection  
345 Engineers Society and the Florida Fire Marshals Association.

346 (f) One ~~general~~ contractor certified to do business in  
347 this state and actively engaged in the profession from a list of  
348 three candidates provided by the Associated Builders and  
349 Contractors of Florida and the Florida Associated General  
350 Contractors Council.

351 (g) One plumbing contractor licensed to do business in  
352 this state and actively engaged in the profession from a list of  
353 three candidates provided by the Florida Association of  
354 Plumbing, Heating, and Cooling Contractors.

355 (h) One roofing or sheet metal contractor certified to do  
356 business in this state and actively engaged in the profession  
357 from a list of three candidates provided by the Florida Roofing,  
358 Sheet Metal and Air Conditioning Contractors Association.

359 (i) One ~~residential~~ contractor licensed to do business in  
360 this state and actively engaged in the profession from a list of



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361 | three candidates provided by the Florida Home Builders  
362 | Association.

363 | (j) Three members who are municipal or district codes  
364 | enforcement officials, two of whom shall be from a list of four  
365 | candidates provided by the Building Officials Association of  
366 | Florida, Inc., and one of whom is also a fire official from a  
367 | list of three candidates provided by the Florida Fire Marshals  
368 | Association.

369 | (k) One member who represents the Department of Insurance.

370 | (l) One member who is a county codes enforcement official  
371 | from a list of three candidates provided by the Building  
372 | Officials Association of Florida, Inc.

373 | (m) One member of a Florida-based organization of persons  
374 | with disabilities or a nationally chartered organization of  
375 | persons with disabilities with chapters in this state.

376 | (n) One member of the manufactured buildings industry who  
377 | is licensed to do business in this state and is actively engaged  
378 | in the industry from a list of three candidates provided by the  
379 | Florida Manufactured Housing Association.

380 | (o) One mechanical or electrical engineer registered to  
381 | practice in this state and actively engaged in the profession  
382 | from a list of three candidates provided by the Florida  
383 | Engineering Society.

384 | (p) One member who is an elected a representative of a  
385 | municipality or a charter county from a list of three candidates  
386 | provided by the Florida League of Cities and the Florida  
387 | Association of Counties.



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388 (q) One member of the building products manufacturing  
389 industry who is authorized to do business in this state and is  
390 actively engaged in the industry from a list of candidates  
391 provided by the Florida Building Materials Association, the  
392 Florida Concrete and Products Association, and the Fenestration  
393 Manufacturers Association.

394 (r) One member who is a representative of the building  
395 owners and managers industry who is actively engaged in  
396 commercial building ownership or management from a list of three  
397 candidates provided by the Building Owners and Managers  
398 Association.

399 (s) One member who is a representative of the insurance  
400 industry from a list of three candidates provided by the Florida  
401 Insurance Council.

402 (t) One member who is a representative of public  
403 education.

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

405

406 Any person serving on the commission ~~under paragraph (e) or~~  
407 ~~paragraph (h)~~ on October 1, 2003, and who has served less than  
408 two full terms is eligible for reappointment to the commission  
409 regardless of whether he or she meets the new qualification. The  
410 Governor may appoint commission members from the lists of  
411 candidates submitted by the respective professional  
412 organizations or may appoint any other persons otherwise  
413 qualified according to this section.

414 Section 3. Regional emergency elevator access.--

415 (1) In order to provide emergency access to elevators:



416        (a) For each building in this state that is six or more  
417 stories in height, including, but not limited to, hotels and  
418 condominiums, and on which construction is begun after June 30,  
419 2003, all of the keys for elevators that allow public access,  
420 including, but not limited to, service and freight elevators,  
421 must be keyed so as to allow all elevators within each of the  
422 seven state emergency response regions to be operated in fire  
423 service emergency situations with one master elevator key.

424        (b) Any building in this state that is six or more stories  
425 in height and is "substantially renovated" as defined in the  
426 Americans with Disabilities Act, as amended, after June 30,  
427 2003, must also comply with paragraph (a).

428        (2) Each existing building in this state that is six or  
429 more stories in height must comply with subsection (1) before  
430 July 1, 2006.

431        (3) In addition to elevator owners, owners' agents,  
432 elevator contractors, state certified inspectors, and state  
433 agency representatives, master elevator keys may be issued only  
434 to the fire department and may not be issued to any other  
435 emergency response agency. A person may not duplicate a master  
436 elevator key for issuance to, or issue such a key to, anyone  
437 other than authorized fire department personnel. Each master  
438 elevator key must be marked "DO NOT DUPLICATE."

439        (4) If it is technically or physically impossible to bring  
440 a building into compliance with this section, the local fire  
441 marshal may allow substitute emergency measures that will  
442 provide reasonable emergency elevator access. The local fire





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443 marshal's decision regarding substitute measures may be appealed  
444 to the State Fire Marshal.

445 (5) The Division of State Fire Marshal of the Department  
446 of Financial Services shall enforce this section.

447 (6) Builders should make every effort to use new  
448 technology and developments in keying systems that make it  
449 possible to convert existing equipment so as to provide  
450 efficient regional emergency elevator access.

451 (7) Any building operated by an independent special  
452 district or airport that has 24-hour emergency response services  
453 is exempt from this section.

454 Section 4. Section 553.77, Florida Statutes, is amended to  
455 read:

456 553.77 Specific powers of the commission.--

457 (1) The commission shall:

458 (a) Adopt and update the Florida Building Code or  
459 amendments thereto, pursuant to ss. 120.536(1) and 120.54.

460 (b) Make a continual study of the operation of the Florida  
461 Building Code and other laws relating to the design,  
462 construction, erection, alteration, modification, repair, or  
463 demolition of public or private buildings, structures, and  
464 facilities, including manufactured buildings, and code  
465 enforcement, to ascertain their effect upon the cost of building  
466 construction and determine the effectiveness of their  
467 provisions. Upon updating the Florida Building Code every 3  
468 years, the commission shall review existing provisions of law  
469 and make recommendations to the Legislature for the next regular  
470 session of the Legislature regarding provisions of law that



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471 should be revised or repealed to ensure consistency with the  
472 Florida Building Code at the point the update goes into effect.  
473 State agencies and local jurisdictions shall provide such  
474 information as requested by the commission for evaluation of and  
475 recommendations for improving the effectiveness of the system of  
476 building code laws for reporting to the Legislature annually.  
477 Failure to comply with this or other requirements of this act  
478 must be reported to the Legislature for further action. Any  
479 proposed legislation providing for the revision or repeal of  
480 existing laws and rules relating to technical requirements  
481 applicable to building structures or facilities should expressly  
482 state that such legislation is not intended to imply any repeal  
483 or sunset of existing general or special laws governing any  
484 special district that are not specifically identified in the  
485 legislation.

486 (c) Upon written application by any substantially affected  
487 person or a local enforcement agency, issue declaratory  
488 statements pursuant to s. 120.565 relating to new technologies,  
489 techniques, and materials which have been tested where necessary  
490 and found to meet the objectives of the Florida Building Code.  
491 This paragraph does not apply to the types of products,  
492 materials, devices, or methods of construction required to be  
493 approved under paragraph (f) ~~(i)~~.

494 ~~(d) Upon written application by any substantially affected~~  
495 ~~person, state agency, or a local enforcement agency, issue~~  
496 ~~declaratory statements pursuant to s. 120.565 relating to the~~  
497 ~~enforcement or administration by local governments of the~~



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498 ~~Florida Building Code. Paragraph (h) provides the exclusive~~  
499 ~~remedy for addressing local interpretations of the code.~~

500 ~~(e) When requested in writing by any substantially~~  
501 ~~affected person, state agency, or a local enforcing agency,~~  
502 ~~shall issue declaratory statements pursuant to s. 120.565~~  
503 ~~relating to this part and ss. 515.25, 515.27, 515.29, and~~  
504 ~~515.37. Actions of the commission are subject to judicial review~~  
505 ~~pursuant to s. 120.68.~~

506 (d)~~(f)~~ Make recommendations to, and provide assistance  
507 upon the request of, the Florida Commission on Human Relations  
508 regarding rules relating to accessibility for persons with  
509 disabilities.

510 (e)~~(g)~~ Participate with the Florida Fire Code Advisory  
511 Council created under s. 633.72, to provide assistance and  
512 recommendations relating to firesafety code interpretations. The  
513 administrative staff of the commission shall attend meetings of  
514 the Florida Fire Code Advisory Council and coordinate efforts to  
515 provide consistency between the Florida Building Code and the  
516 Florida Fire Prevention Code and the Life Safety Code.

517 ~~(h) Hear appeals of the decisions of local boards of~~  
518 ~~appeal regarding interpretation decisions of local building~~  
519 ~~officials, or if no local board exists, hear appeals of~~  
520 ~~decisions of the building officials regarding interpretations of~~  
521 ~~the code. For such appeals:~~

522 ~~1. Local decisions declaring structures to be unsafe and~~  
523 ~~subject to repair or demolition shall not be appealable to the~~  
524 ~~commission if the local governing body finds there is an~~  
525 ~~immediate danger to the health and safety of its citizens.~~



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526           ~~2. All appeals shall be heard in the county of the~~  
527 ~~jurisdiction defending the appeal.~~

528           ~~3. Hearings shall be conducted pursuant to chapter 120 and~~  
529 ~~the uniform rules of procedure, and decisions of the commission~~  
530 ~~are subject to judicial review pursuant to s. 120.68.~~

531           (f)~~(i)~~ Determine the types of products requiring approval  
532 for local or statewide use and shall provide for the evaluation  
533 and approval of such products, materials, devices, and method of  
534 construction for statewide use. The commission may prescribe by  
535 rule a schedule of reasonable fees to provide for evaluation and  
536 approval of products, materials, devices, and methods of  
537 construction. Evaluation and approval shall be by action of the  
538 commission or delegated pursuant to s. 553.842. This paragraph  
539 does not apply to products approved by the State Fire Marshal.

540           (g)~~(j)~~ Appoint experts, consultants, technical advisers,  
541 and advisory committees for assistance and recommendations  
542 relating to the major areas addressed in the Florida Building  
543 Code.

544           (h)~~(k)~~ Establish and maintain a mutual aid program,  
545 organized through the department, to provide an efficient supply  
546 of various levels of code enforcement personnel, design  
547 professionals, commercial property owners, and construction  
548 industry individuals, to assist in the rebuilding effort in an  
549 area which has been hit with disaster. The program shall include  
550 provisions for:

- 551           1. Minimum postdisaster structural, electrical, and  
552 plumbing inspections and procedures.
- 553           2. Emergency permitting and inspection procedures.



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554 3. Establishing contact with emergency management  
555 personnel and other state and federal agencies.

556 (i)~~(1)~~ Maintain a list of interested parties for noticing  
557 rulemaking workshops and hearings, disseminating information on  
558 code adoption, revisions, amendments, and all other such actions  
559 which are the responsibility of the commission.

560 (j)~~(m)~~ Coordinate with the state and local governments,  
561 industry, and other affected stakeholders in the examination of  
562 legislative provisions and make recommendations to fulfill the  
563 responsibility to develop a consistent, single code.

564 (k)~~(n)~~ Provide technical assistance to local building  
565 departments in order to implement policies, procedures, and  
566 practices which would produce the most cost-effective property  
567 insurance ratings.

568 (l)~~(o)~~ Develop recommendations for local governments to  
569 use when pursuing partial or full privatization of building  
570 department functions. The recommendations shall include, but not  
571 be limited to, provisions relating to equivalency of service,  
572 conflict of interest, requirements for competency, liability,  
573 insurance, and long-term accountability.

574 ~~(2) Upon written application by any substantially affected~~  
575 ~~person, the commission shall issue a declaratory statement~~  
576 ~~pursuant to s. 120.565 relating to a state agency's~~  
577 ~~interpretation and enforcement of the specific provisions of the~~  
578 ~~Florida Building Code the agency is authorized to enforce. The~~  
579 ~~provisions of this subsection shall not be construed to provide~~  
580 ~~any powers, other than advisory, to the commission with respect~~



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581 | ~~to any decision of the State Fire Marshal made pursuant to the~~  
582 | ~~provisions of chapter 633.~~

583 | ~~(3) The commission may designate a commission member with~~  
584 | ~~demonstrated expertise in interpreting building plans to attend~~  
585 | ~~each meeting of the advisory council created in s. 553.512. The~~  
586 | ~~commission member may vary from meeting to meeting, shall serve~~  
587 | ~~on the council in a nonvoting capacity, and shall receive per~~  
588 | ~~diem and expenses as provided in s. 553.74(3).~~

589 | (2)~~(4)~~ For educational and public information purposes,  
590 | the commission shall develop and publish an informational and  
591 | explanatory document which contains descriptions of the roles  
592 | and responsibilities of the licensed design professional,  
593 | residential designer, contractor, and local building and fire  
594 | code officials. The State Fire Marshal shall be responsible for  
595 | developing and specifying roles and responsibilities for fire  
596 | code officials. Such document may also contain descriptions of  
597 | roles and responsibilities of other participants involved in the  
598 | building codes system.

599 | (3)~~(5)~~ The commission may provide by rule for plans review  
600 | and approval of prototype buildings owned by public and private  
601 | entities to be replicated throughout the state. The rule must  
602 | allow for review and approval of plans for prototype buildings  
603 | to be performed by a public or private entity with oversight by  
604 | the commission. The department may charge reasonable fees to  
605 | cover the administrative costs of the program. Such approved  
606 | plans or prototype buildings shall be exempt from further review  
607 | required by s. 553.79(2), except changes to the prototype  
608 | design, site plans, and other site-related items. As provided in



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609 s. 553.73, prototype buildings are exempt from any locally  
610 adopted amendment to any part of the Florida Building Code.  
611 Construction or erection of such prototype buildings is subject  
612 to local permitting and inspections pursuant to this part.

613 (4)~~(6)~~ The commission may produce and distribute a  
614 commentary document to accompany the Florida Building Code. The  
615 commentary must be limited in effect to providing technical  
616 assistance and must not have the effect of binding  
617 interpretations of the code document itself.

618 ~~(7) The commission shall by rule establish an informal~~  
619 ~~process of rendering nonbinding interpretations of the Florida~~  
620 ~~Building Code. The commission is specifically authorized to~~  
621 ~~refer interpretive issues to organizations that represent those~~  
622 ~~engaged in the construction industry. The commission is directed~~  
623 ~~to immediately implement the process prior to the completion of~~  
624 ~~formal rulemaking. It is the intent of the Legislature that the~~  
625 ~~commission create a process to refer questions to a small,~~  
626 ~~rotating group of individuals licensed under part XII of chapter~~  
627 ~~468, to which a party can pose questions regarding the~~  
628 ~~interpretation of code provisions. It is the intent of the~~  
629 ~~Legislature that the process provide for the expeditious~~  
630 ~~resolution of the issues presented and publication of the~~  
631 ~~resulting interpretation on the Building Code Information~~  
632 ~~System. Such interpretations are to be advisory only and~~  
633 ~~nonbinding on the parties or the commission.~~

634 Section 5. Section 553.775, Florida Statutes, is created  
635 to read:

636 553.775 Interpretations.--



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637       (1) It is the intent of the Legislature that the Florida  
638 Building Code be interpreted by building officials, local  
639 enforcement agencies, and the commission in a manner that  
640 protects the public safety, health, and welfare at the most  
641 reasonable cost to the consumer by ensuring uniform  
642 interpretations throughout the state and by providing processes  
643 for resolving disputes regarding interpretations of the Florida  
644 Building Code which are just and expeditious.

645       (2) Local enforcement agencies, local building officials,  
646 state agencies, and the commission shall interpret provisions of  
647 the Florida Building Code in a manner that is consistent with  
648 declaratory statements and interpretations entered by the  
649 commission, except that conflicts between the Florida Fire  
650 Prevention Code and the Florida Building Code shall be resolved  
651 in accordance with s. 553.73(9)(c) and (d).

652       (3) The following procedures may be invoked regarding  
653 interpretations of the Florida Building Code:

654       (a) Upon written application by any substantially affected  
655 person or state agency or a local enforcement agency, the  
656 commission shall issue declaratory statements pursuant to s.  
657 120.565 relating to the enforcement or administration by local  
658 governments of the Florida Building Code. Paragraph (c) provides  
659 the exclusive remedy for addressing requests to review local  
660 interpretations of the code and appeals from review proceedings.

661       (b) When requested in writing by any substantially  
662 affected person or state agency or a local enforcement agency,  
663 the commission shall issue a declaratory statement pursuant to  
664 s. 120.565 relating to this part and ss. 515.25, 515.27, 515.29,





665 and 515.37. Actions of the commission are subject to judicial  
 666 review under s. 120.68.

667 (c) The commission shall review decisions of local  
 668 building officials and local enforcement agencies regarding  
 669 interpretations of the Florida Building Code as follows:

670 1. The commission shall coordinate with the Building  
 671 Officials Association of Florida, Inc., to designate panels  
 672 composed of five members to hear requests to review decisions of  
 673 local building officials. The members must be licensed as  
 674 building code administrators under part XII of chapter 468 and  
 675 must have experience interpreting and enforcing provisions of  
 676 the Florida Building Code.

677 2. Requests to review a decision of a local building  
 678 official interpreting provisions of the Florida Building Code  
 679 may be initiated by any substantially affected person, including  
 680 an owner or builder subject to a decision of a local building  
 681 official, or an association of owners or builders with members  
 682 who are subject to a decision of a local building official. In  
 683 order to initiate review, the substantially affected person must  
 684 file a petition with the commission. The commission shall adopt  
 685 a form for the petition, which shall be published on the  
 686 Building Code Information System. The form shall, at a minimum,  
 687 require the following:

688 a. The name and address of the county or municipality in  
 689 which provisions of the Florida Building Code are being  
 690 interpreted.

691 b. The name and address of the local building official who  
 692 has made the interpretation being appealed.



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693 c. The name, address, and telephone number of the  
694 petitioner; the name, address, and telephone number of the  
695 petitioner's representative, if any; and an explanation of how  
696 the petitioner's substantial interests are being affected by the  
697 local interpretation of the Florida Building Code.

698 d. A statement of the provisions of the Florida Building  
699 Code that are being interpreted by the local building official.

700 e. A statement of the interpretation given to provisions  
701 of the Florida Building Code by the local building official and  
702 the manner in which the interpretation was rendered.

703 f. A statement of the interpretation that the petitioner  
704 contends should be given to the provisions of the Florida  
705 Building Code and a statement supporting the petitioner's  
706 interpretation.

707 g. Space for the local building official to respond in  
708 writing. The space shall, at a minimum, require the local  
709 building official to respond by providing a statement admitting  
710 or denying the statements contained in the petition and a  
711 statement of the interpretation of the provisions of the Florida  
712 Building Code which the local jurisdiction or the local building  
713 official contends is correct, including the basis for the  
714 interpretation.

715 3. The petitioner shall submit the petition to the local  
716 building official, who shall place the date of receipt on the  
717 petition. The local building official shall respond to the  
718 petition in accordance with the form and shall return the  
719 petition along with his or her response to the petitioner within  
720 5 days after receipt, exclusive of Saturdays, Sundays, and legal



721 holidays. The petitioner may file the petition with the  
722 commission at any time after the local building official  
723 provides a response. If no response is provided by the local  
724 building official, the petitioner may file the petition with the  
725 commission 10 days after submission of the petition to the local  
726 building official and shall note that the local building  
727 official did not respond.

728 4. Upon receipt of a petition that meets the requirements  
729 of subparagraph 2., the commission shall immediately provide  
730 copies of the petition to a panel, and the commission shall  
731 publish the petition, including any response submitted by the  
732 local building official, on the Building Code Information System  
733 in a manner that allows interested persons to address the issues  
734 by posting comments.

735 5. The panel shall conduct proceedings as necessary to  
736 resolve the issues, shall give due regard to the petitions and  
737 the response and to comments posed on the Building Code  
738 Information System, and shall issue an interpretation regarding  
739 the provisions of the Florida Building Code within 21 days after  
740 the filing of the petition. The panel shall render a  
741 determination based upon the Florida Building Code or, if the  
742 code is ambiguous, the intent of the code. The panel's  
743 interpretation shall be provided to the commission, which shall  
744 publish the interpretation on the Building Code Information  
745 System and in the Florida Administrative Weekly. The  
746 interpretation shall be considered an interpretation entered by  
747 the commission, and shall be binding upon the parties and upon  
748 all jurisdictions subject to the Florida Building Code, unless



749 it is superseded by a declaratory statement issued by the  
750 commission or by a final order entered after an appeal  
751 proceeding conducted in accordance with subparagraph 7.

752 6. It is the intent of the Legislature that review  
753 proceedings be completed within 21 days after the date that a  
754 petition seeking review is filed with the commission, and the  
755 time periods set forth in this paragraph may be waived only upon  
756 consent of all parties.

757 7. Any substantially affected person may appeal an  
758 interpretation rendered by a hearing officer panel by filing a  
759 petition with the commission. Such appeals shall be initiated in  
760 accordance with chapter 120 and the uniform rules of procedure  
761 and must be filed within 30 days after publication of the  
762 interpretation on the Building Code Information System or in the  
763 Florida Administrative Weekly. Hearings shall be conducted  
764 pursuant to chapter 120 and the uniform rules of procedure.  
765 Decisions of the commission are subject to judicial review  
766 pursuant to s. 120.68. The final order of the commission is  
767 binding upon the parties and upon all jurisdictions subject to  
768 the Florida Building Code.

769 8. The burden of proof in any proceeding initiated in  
770 accordance with subparagraph 7. shall be on the party who  
771 initiated the appeal.

772 9. In any review proceeding initiated in accordance with  
773 this paragraph, including any proceeding initiated in accordance  
774 with subparagraph 7., the fact that an owner or builder has  
775 proceeded with construction shall not be grounds for determining



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776 the issues to be moot if the issue is one that is likely to  
777 arise in the future.

778 (d) Local decisions declaring structures to be unsafe and  
779 subject to repair or demolition are not subject to review under  
780 this subsection and may not be appealed to the commission if the  
781 local governing body finds that there is an immediate danger to  
782 the health and safety of the public.

783 (e) Upon written application by any substantially affected  
784 person, the commission shall issue a declaratory statement  
785 pursuant to s. 120.565 relating to an agency's interpretation  
786 and enforcement of the specific provisions of the Florida  
787 Building Code which the agency is authorized to enforce. This  
788 subsection does not provide any powers, other than advisory  
789 powers, to the commission with respect to any decision of the  
790 State Fire Marshal made pursuant to chapter 633.

791 (f) The commission may designate a commission member with  
792 demonstrated expertise in interpreting building plans to attend  
793 each meeting of the advisory council created in s. 553.512. The  
794 commission member may vary from meeting to meeting, shall serve  
795 on the council in a nonvoting capacity, and shall receive per  
796 diem and travel expenses as provided in s. 553.74(3).

797 (g) The commission shall by rule establish an informal  
798 process of rendering nonbinding interpretations of the Florida  
799 Building Code. The commission is specifically authorized to  
800 refer interpretive issues to organizations that represent those  
801 engaged in the construction industry. The commission shall  
802 immediately implement the process prior to the completion of  
803 formal rulemaking. It is the intent of the Legislature that the



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804 commission create a process to refer questions to a small,  
805 rotating group of individuals licensed under part XII of chapter  
806 468, to which a party may pose questions regarding the  
807 interpretation of code provisions. It is the intent of the  
808 Legislature that the process provide for the expeditious  
809 resolution of the issues presented and publication of the  
810 resulting interpretation on the Building Code Information  
811 System. Such interpretations shall be advisory only and  
812 nonbinding on the parties and the commission.

813 Section 6. Subsection (14) of section 553.79, Florida  
814 Statutes, is amended to read:

815 553.79 Permits; applications; issuance; inspections.--

816 (14) Certifications by contractors authorized under the  
817 provisions of s. 489.115(4)(b) shall be considered equivalent to  
818 sealed plans and specifications by a person licensed under  
819 chapter 471 or chapter 481 by local enforcement agencies for  
820 plans review for permitting purposes relating to compliance with  
821 the wind resistance provisions of the code or alternate  
822 methodologies approved by the commission for one and two family  
823 dwellings. Local enforcement agencies may rely upon such  
824 certification by contractors that the plans and specifications  
825 submitted conform to the requirements of the code for wind  
826 resistance. Upon good cause shown, local government code  
827 enforcement agencies may accept or reject plans sealed by  
828 persons licensed under chapter 471, chapter 481, or chapter 489.  
829 A truss placement plan shall not be required to be signed and  
830 sealed by an engineer or architect unless prepared by an



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831 engineer or architect or specifically required by the Florida  
832 Building Code.

833 Section 7. Subsections (2), (4), (6), and (11), paragraphs  
834 (b) and (c) of subsection (12), and subsections (14), (15), and  
835 (19) of section 553.791, Florida Statutes, are amended to read:

836 553.791 Alternative plans review and inspection.--

837 (2) Notwithstanding any other provision of law or local  
838 government ordinance or local policy, the fee owner of a  
839 building, or the fee owner's contractor upon written  
840 authorization from the fee owner, may elect to use a private  
841 provider to provide building code inspection services with  
842 regard to such building and may make payment directly to the  
843 private provider for the provision of such services. All such  
844 services shall be the subject of a written contract between the  
845 private provider, or the private provider's firm, and the fee  
846 owner. The fee owner may elect to use a private provider to  
847 provide either plans review or required building inspections.  
848 The local building official, in his or her discretion and  
849 pursuant to duly adopted policies of the local enforcement  
850 agency, may require the fee owner who desires to use a private  
851 provider to use the private provider to provide both plans  
852 review and required building inspection services.

853 (4) A fee owner or the fee owner's contractor using a  
854 private provider to provide building code inspection services  
855 shall notify the local building official at the time of permit  
856 application or no less than 1 week prior to a private provider  
857 providing building code inspection services on a form to be



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858 adopted by the commission. This notice shall include the  
859 following information:

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

861 (b) The name, firm, address, telephone number, and  
862 facsimile number of each private provider who is performing or  
863 will perform such services, his or her professional license or  
864 certification number, qualification statements or resumes, and,  
865 if required by the local building official, a certificate of  
866 insurance demonstrating that professional liability insurance  
867 coverage is in place for the private provider's firm, the  
868 private provider, and any duly authorized representative in the  
869 amounts required by this section.

870 (c) An acknowledgment from the fee owner in substantially  
871 the following form:

872

873 I have elected to use one or more private providers to provide  
874 building code plans review and/or inspection services on the  
875 building that is the subject of the enclosed permit application,  
876 as authorized by s. 553.791, Florida Statutes. I understand that  
877 the local building official may not review the plans submitted  
878 or perform the required building inspections to determine  
879 compliance with the applicable codes, except to the extent  
880 specified in said law. Instead, plans review and/or required  
881 building inspections will be performed by licensed or certified  
882 personnel identified in the application. The law requires  
883 minimum insurance requirements for such personnel, but I  
884 understand that I may require more insurance to protect my  
885 interests. By executing this form, I acknowledge that I have





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886 made inquiry regarding the competence of the licensed or  
887 certified personnel and the level of their insurance and am  
888 satisfied that my interests are adequately protected. I agree to  
889 indemnify, defend, and hold harmless the local government, the  
890 local building official, and their building code enforcement  
891 personnel from any and all claims arising from my use of these  
892 licensed or certified personnel to perform building code  
893 inspection services with respect to the building that is the  
894 subject of the enclosed permit application.

895

896 If the fee owner or a fee owner's contractor makes any changes  
897 to the listed private providers or the services to be provided  
898 by those private providers, the fee owner or fee owner's  
899 contractor shall, within 1 business day after any change, update  
900 the notice to reflect such changes.

901 (6)(a) No more than ~~Within~~ 30 business days after receipt  
902 of a permit application and affidavit from the private provider  
903 required pursuant to subsection (5), the local building official  
904 shall issue the requested permit or provide a written notice to  
905 the permit applicant identifying the specific plan features that  
906 do not comply with the applicable codes, as well as the specific  
907 code chapters and sections. If the local building official does  
908 not provide a written notice of the plan deficiencies within the  
909 prescribed 30-day period, the permit application shall be deemed  
910 approved as a matter of law, and the permit shall be issued by  
911 the local building official on the next business day.

912 (b) If the local building official provides a written  
913 notice of plan deficiencies to the permit applicant within the



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914 prescribed 30-day period, the 30-day period shall be tolled  
915 pending resolution of the matter. To resolve the plan  
916 deficiencies, the permit applicant may elect to dispute the  
917 deficiencies pursuant to subsection (12) or to submit revisions  
918 to correct the deficiencies.

919 (c) If the permit applicant submits revisions, the local  
920 building official has the remainder of the tolled 30-day period  
921 plus 5 business days to issue the requested permit or to provide  
922 a second written notice to the permit applicant stating which of  
923 the previously identified plan features remain in noncompliance  
924 with the applicable codes, with specific reference to the  
925 relevant code chapters and sections. If the local building  
926 official does not provide the second written notice within the  
927 prescribed time period, the permit shall be issued by the local  
928 building official on the next business day.

929 (d) If the local building official provides a second  
930 written notice of plan deficiencies to the permit applicant  
931 within the prescribed time period, the permit applicant may  
932 elect to dispute the deficiencies pursuant to subsection (12) or  
933 to submit additional revisions to correct the deficiencies. For  
934 all revisions submitted after the first revision, the local  
935 building official has an additional 5 business days to issue the  
936 requested permit or to provide a written notice to the permit  
937 applicant stating which of the previously identified plan  
938 features remain in noncompliance with the applicable codes, with  
939 specific reference to the relevant code chapters and sections.

940 (11) No more than ~~Within~~ 2 business days after receipt of  
941 a request for a certificate of occupancy or certificate of



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942 completion and the applicant's presentation of a certificate of  
943 compliance and approval of all other government approvals  
944 required by law, the local building official shall issue the  
945 certificate of occupancy or certificate of completion or provide  
946 a notice to the applicant identifying the specific deficiencies,  
947 as well as the specific code chapters and sections. If the local  
948 building official does not provide notice of the deficiencies  
949 within the prescribed 2-day period, the request for a  
950 certificate of occupancy or certificate of completion shall be  
951 deemed granted and the certificate of occupancy or certificate  
952 of completion shall be issued by the local building official on  
953 the next business day. To resolve any identified deficiencies,  
954 the applicant may elect to dispute the deficiencies pursuant to  
955 subsection (12) or to submit a corrected request for a  
956 certificate of occupancy or certificate of completion.

957 (12) If the local building official determines that the  
958 building construction or plans do not comply with the applicable  
959 codes, the official may deny the permit or request for a  
960 certificate of occupancy or certificate of completion, as  
961 appropriate, or may issue a stop-work order for the project or  
962 any portion thereof, if the official determines that such  
963 noncompliance poses a threat to public safety and welfare,  
964 subject to the following:

965 (b) If the local building official and private provider  
966 are unable to resolve the dispute, the matter shall be referred  
967 to the local enforcement agency's board of appeals, if one  
968 exists, which shall consider the matter at its next scheduled  
969 meeting or sooner. Any decisions by the local enforcement



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970 agency's board of appeals, or local building official if there  
971 is no board of appeals, may be appealed to the commission  
972 pursuant to s. 553.775 ~~553.77(1)(h)~~.

973 (c) Notwithstanding any provision of this section, any  
974 decisions regarding the issuance of a building permit,  
975 certificate of occupancy, or certificate of completion may be  
976 reviewed by the local enforcement agency's board of appeals, if  
977 one exists. Any decision by the local enforcement agency's board  
978 of appeals, or local building official if there is no board of  
979 appeals, may be appealed to the commission pursuant to s.  
980 553.775 ~~553.77(1)(h)~~, which shall consider the matter at the  
981 commission's next scheduled meeting.

982 (14) No local enforcement agency, local building official,  
983 or local government may adopt or enforce any laws, rules,  
984 procedures, policies, or standards more stringent than those  
985 prescribed by this section.

986 (15) A private provider may perform building code  
987 inspection services under this section only if the private  
988 provider maintains insurance for professional ~~and comprehensive~~  
989 ~~general~~ liability with minimum policy limits of \$1 million per  
990 occurrence covering relating to all services performed as a  
991 private provider. If the private provider chooses to secure  
992 claims-made coverage to fulfill this requirement, the private  
993 provider must also maintain, including tail coverage for a  
994 minimum of 5 years subsequent to the performance of building  
995 code inspection services. Occurrence-based coverage shall not be  
996 subject to any tail coverage requirement.



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997 (19) The Florida Building Commission shall report on the  
 998 implementation of this section to the Legislature on or before  
 999 January 1, 2005 ~~2004~~, as part of the report required by s.  
 1000 553.77(1)(b).

1001 Section 8. Paragraph (d) of subsection (1) of section  
 1002 553.80, Florida Statutes, is amended, and subsection (7) is  
 1003 added to said section, to read:

1004 553.80 Enforcement.--

1005 (1) Except as provided in paragraphs (a)-(f), each local  
 1006 government and each legally constituted enforcement district  
 1007 with statutory authority shall regulate building construction  
 1008 and, where authorized in the state agency's enabling  
 1009 legislation, each state agency shall enforce the Florida  
 1010 Building Code required by this part on all public or private  
 1011 buildings, structures, and facilities, unless such  
 1012 responsibility has been delegated to another unit of government  
 1013 pursuant to s. 553.79(9).

1014 (d) Building plans approved pursuant to s. 553.77~~(3)~~(5)  
 1015 and state-approved manufactured buildings, including buildings  
 1016 manufactured and assembled offsite and not intended for  
 1017 habitation, such as lawn storage buildings and storage sheds,  
 1018 are exempt from local code enforcing agency plan reviews except  
 1019 for provisions of the code relating to erection, assembly, or  
 1020 construction at the site. Erection, assembly, and construction  
 1021 at the site are subject to local permitting and inspections.

1022  
 1023 The governing bodies of local governments may provide a schedule  
 1024 of fees, as authorized by s. 125.56(2) or s. 166.222 and this



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1025 section, for the enforcement of the provisions of this part.  
1026 Such fees shall be used solely for carrying out the local  
1027 government's responsibilities in enforcing the Florida Building  
1028 Code. The authority of state enforcing agencies to set fees for  
1029 enforcement shall be derived from authority existing on July 1,  
1030 1998. However, nothing contained in this subsection shall  
1031 operate to limit such agencies from adjusting their fee schedule  
1032 in conformance with existing authority.

1033 (7) The governing bodies of local governments may provide  
1034 a schedule of reasonable fees, as authorized by s. 125.56(2) or  
1035 s. 166.222 and this section, for the enforcement of provisions  
1036 of this part. Such fees, and any fines or investment earnings  
1037 related to such fees, shall be used solely for carrying out the  
1038 local government's responsibilities in enforcing the Florida  
1039 Building Code. When providing a schedule of reasonable fees,  
1040 total estimated annual revenue derived from fees, and fines and  
1041 investment earnings related to such fees, shall not exceed the  
1042 total estimated annual costs of allowable activities. Any  
1043 unexpended balances shall be carried forward to future years for  
1044 allowable activities or shall be refunded at the discretion of  
1045 the local government. The basis for a fee structure for  
1046 allowable activities shall relate to the level of service  
1047 provided by the local government. Fees charged shall be  
1048 consistently applied.

1049 (a) For purposes of this subsection, the term "enforcing  
1050 the Florida Building Code" includes the direct costs and  
1051 reasonable indirect costs associated with review of building  
1052 plans, building inspections, reinspections, building permit



1053 processing, and building code enforcement. The term may also  
 1054 include enforcement against unlicensed contractor activity to  
 1055 the extent not funded with other user fees. Costs of inspections  
 1056 of public buildings for a reduced fee or no fee, and costs  
 1057 incurred in connection with public information requests,  
 1058 community functions, boards, and programs that are not directly  
 1059 related to enforcement of the Florida Building Code, shall not  
 1060 be financed with fees adopted under this subsection.

1061 (b) A local government shall use recognized management,  
 1062 accounting, and oversight practices to ensure that fees, fines,  
 1063 and investment earnings generated under this subsection are  
 1064 maintained and used solely for the purposes described in  
 1065 paragraph (a).

1066 Section 9. The Florida Building Commission may expedite  
 1067 the adoption and implementation of the Florida Existing  
 1068 Buildings Code as part of the Florida Building Code pursuant  
 1069 only to the provisions of chapter 120, Florida Statutes. The  
 1070 special update and amendment requirements of s. 553.73, Florida  
 1071 Statutes, and the administrative rule requiring additional delay  
 1072 time between adoption and implementation of such code are  
 1073 waived.

1074 Section 10. Paragraph (a) of subsection (9) of section  
 1075 553.842, Florida Statutes, is amended to read:

1076 553.842 Product evaluation and approval.--

1077 (9) The commission may adopt rules to approve the  
 1078 following types of entities that produce information on which  
 1079 product approvals are based. All of the following entities,  
 1080 including engineers and architects, must comply with a



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1081 nationally recognized standard demonstrating independence or no  
1082 conflict of interest:

1083 (a) Evaluation entities that meet the criteria for  
1084 approval adopted by the commission by rule. The commission shall  
1085 specifically approve the National Evaluation Service, the  
1086 International Conference of Building Officials Evaluation  
1087 Services, the Building Officials and Code Administrators  
1088 International Evaluation Services, the International Code  
1089 Council Evaluation Services, the Southern Building Code Congress  
1090 International Evaluation Services, and the Miami-Dade County  
1091 Building Code Compliance Office Product Control. Architects and  
1092 engineers licensed in this state are also approved to conduct  
1093 product evaluations as provided in subsection (6).

1094 Section 11. Paragraph (c) is added to subsection (17) of  
1095 section 120.80, Florida Statutes, to read:

1096 120.80 Exceptions and special requirements; agencies.--

1097 (17) FLORIDA BUILDING COMMISSION.--

1098 (c) Notwithstanding the provisions of ss. 120.565,  
1099 120.569, and 120.57, the Florida Building Commission and hearing  
1100 officer panels appointed by the commission in accordance with s.  
1101 553.775(3)(c)1. may conduct proceedings to review decisions of  
1102 local building code officials in accordance with s.  
1103 553.775(3)(c).

1104 Section 12. Florida Construction Council.--

1105 (1) This section may be known by the popular name the  
1106 "Florida Construction Council Act."

1107 (2) The purpose of this section is to create a public-  
1108 private partnership by providing that a single nonprofit





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1109 corporation be established to provide administrative, technical,  
1110 interpretive, and code development services to the Florida  
1111 Building Commission and that no additional nonprofit corporation  
1112 be created for these purposes.

1113 (3) The Florida Construction Council is created to provide  
1114 administrative, technical, and code development services to the  
1115 Florida Building Commission in accordance with the provisions of  
1116 chapter 553, Florida Statutes. The council may hire staff  
1117 members as necessary to carry out its functions. Such staff  
1118 members are not public employees for the purposes of chapter 110  
1119 or chapter 112, Florida Statutes, except that the board of  
1120 directors and the staff are subject to the provisions of s.  
1121 112.061, Florida Statutes. However, the council may also use  
1122 staff members provided by Florida State University who may be  
1123 public employees for the purposes of chapter 110 or chapter 112,  
1124 Florida Statutes. The provisions of s. 768.28, Florida Statutes,  
1125 apply to the Florida Construction Council, which is deemed to be  
1126 a corporation primarily acting as an instrumentality of the  
1127 state but which is not an agency within the meaning of s.  
1128 20.03(11), Florida Statutes. The council shall:

1129 (a) Be a Florida corporation not for profit, incorporated  
1130 under the provisions of chapter 617, Florida Statutes.

1131 (b) Provide administrative, technical, and code  
1132 development services to the Florida Building Commission in  
1133 accordance with the provisions of chapter 553, Florida Statutes,  
1134 and the contract required by this section. For the  
1135 administrative purposes of this act, the Florida Construction  
1136 Council shall be administratively attached to Florida State



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1137 University and shall be provided the administrative services  
 1138 that the council and Florida State University find necessary.  
 1139 (c) Receive, hold, and administer property and make only  
 1140 prudent expenditures directly related to the responsibilities of  
 1141 the Florida Building Commission and in accordance with the  
 1142 contract required by this section.  
 1143 (d) Operate under a fiscal year that begins on July 1 of  
 1144 each year and ends on June 30 of the following year.  
 1145 (e) Have a five-member board of directors, which shall  
 1146 consist of the Secretary of Community Affairs or his or her  
 1147 designee, two members appointed by the Florida Building  
 1148 Commission, one member appointed by the Department of Community  
 1149 Affairs who is a layperson not performing work within the  
 1150 construction industry, and one member appointed by Florida State  
 1151 University. Members shall be appointed to terms of 4 years each.  
 1152 All initial appointments shall expire on October 31, 2007. A  
 1153 member may not serve more than two consecutive terms. Failure to  
 1154 attend three consecutive meetings shall be deemed a resignation  
 1155 from the council, and the vacancy shall be filled by a new  
 1156 appointment.  
 1157 (f) Select its officers in accordance with its bylaws.  
 1158 (g) Operate under an annual written contract with the  
 1159 Department of Community Affairs or the responsible budgeting  
 1160 entity. The contract must provide for, but need not be limited  
 1161 to:  
 1162 1. Approval of the articles of incorporation and bylaws of  
 1163 the council by the Florida Building Commission.  
 1164 2. Submission by the council of an annual budget.



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1165       3. Annual certification by the Department of Community  
1166 Affairs or the responsible budgeting entity that the council is  
1167 complying with the terms of the contract in a manner consistent  
1168 with the goals and purposes of the Florida Building Commission  
1169 and in the best interest of the state. The contract must also  
1170 provide for methods and mechanisms to resolve any situation in  
1171 which the certification process determines noncompliance.

1172       4. Employment by the Florida Building Commission of an  
1173 administrator to actively supervise the administrative,  
1174 technical, and code development services of the council to  
1175 ensure compliance with the contract and the provisions of  
1176 chapter 553, Florida Statutes, and to act as a liaison for the  
1177 Florida Building Commission and the council to ensure the  
1178 effective operation of the council.

1179       5. Funding of the council through appropriations and  
1180 private sources.

1181       6. The reversion to the state of moneys, records, data,  
1182 and property held in trust by the council for the benefit of the  
1183 commission if the council ceases to exist or if the council is  
1184 no longer approved to operate for the commission. All records  
1185 and data in a computerized database shall be returned to the  
1186 state in a form that is compatible with the computerized  
1187 database of the commission.

1188       7. The securing and maintaining by the council, during the  
1189 term of the contract and for all acts performed during the term  
1190 of the contract, of all liability insurance coverage in an  
1191 amount to be approved by the Florida Construction Council to  
1192 defend, indemnify, and hold harmless the council and its



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1193 officers and employees, the Florida Building Commission and its  
1194 commissioners and employees, and the state against all claims  
1195 arising from state and federal laws. Such insurance coverage  
1196 must be with insurers qualified and doing business in the state.

1197 8. Payment by the council, out of its allocated budget, to  
1198 the Florida Building Commission of all costs of representation  
1199 by the commission counsel, including salary and benefits,  
1200 travel, and any other compensation traditionally paid by the  
1201 commission to other commission counsels.

1202 9. Payment by the council, out of its allocated budget, of  
1203 all costs incurred by the council or the commission for the  
1204 Division of Administrative Hearings of the Department of  
1205 Management Services and any other costs for use of these state  
1206 services.

1207 10. Payment by the council, out of its allocated budget,  
1208 of all costs associated with the contract administrator of the  
1209 commission, including salary and benefits, travel, and other  
1210 related costs traditionally paid to state employees.

1211 11. An annual financial audit of the council's financial  
1212 accounts and records by an independent certified public  
1213 accountant. The annual audit report must include a management  
1214 letter in accordance with s. 11.45, Florida Statutes, and a  
1215 detailed supplemental schedule of expenditures for each  
1216 expenditure category. The annual audit report must be submitted  
1217 to the Auditor General for review.

1218 12. Persons charged with the responsibility of receiving  
1219 and depositing fee and fine revenues to have a faithful



1220 performance bond in an amount and according to the terms  
 1221 specified in the contract.

1222 13. Submittal to the Legislature, on or before January 1  
 1223 of each year, of a report on the status of the council that  
 1224 includes, but is not limited to, information concerning the  
 1225 programs and funds that have been transferred to the council.  
 1226 The report must include the number of inquiries received, the  
 1227 number of technical issues or questions addressed, the number of  
 1228 code or other interpretations provided, and the number of  
 1229 instances of code development undertaken by the council.

1230 14. Development, with the Florida Building Commission, of  
 1231 performance standards and measurable outcomes for the commission  
 1232 to adopt by rule in order to facilitate efficient and cost-  
 1233 effective services and regulation.

1234 (4) The Florida Construction Council shall provide by rule  
 1235 the procedures the council must follow to ensure that all  
 1236 product and proprietary information is secure while under the  
 1237 responsibility of the council and that there is an appropriate  
 1238 level of protection and monitoring during any review or code  
 1239 development activities.

1240 (5) The Florida Building Commission shall review this  
 1241 section and make recommendations to the Legislature regarding  
 1242 the implementation thereof as part of its report submitted to  
 1243 the Legislature pursuant to s. 553.77(1)(b), Florida Statutes,  
 1244 on or before January 1, 2004.

1245 (6) This section shall take effect July 1, 2004.

1246 Section 13. Section 399.106, Florida Statutes, is amended  
 1247 to read:



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1248           399.106 Elevator Safety Technical Advisory Committee.--  
 1249           (1) The Elevator Safety Technical Advisory Committee is  
 1250 created within the Department of Business and Professional  
 1251 Regulation, Division of Hotels and Restaurants, consisting of  
 1252 eight ~~seven~~ members to be appointed by the secretary of the  
 1253 Department of Business and Professional Regulation as follows:  
 1254 one representative from a major elevator manufacturing company  
 1255 or its authorized representative; one representative from an  
 1256 elevator servicing company; one representative from a building  
 1257 design profession; one representative of the general public; one  
 1258 representative of a local government in this state; one  
 1259 representative of a building owner or manager; one  
 1260 representative of labor involved in the installation,  
 1261 maintenance, and repair of elevators; and one representative who  
 1262 is a certified elevator inspector from a private inspection  
 1263 service. The purpose of the committee is to provide technical  
 1264 assistance to the division in support of protecting the health,  
 1265 safety, and welfare of the public; to give the division the  
 1266 benefit of the committee members' knowledge and experience  
 1267 concerning the industries and individual businesses affected by  
 1268 the laws and rules administered by the division.  
 1269           (2) The committee members shall serve staggered terms of 4  
 1270 years to be set by rule without salary, but may receive from the  
 1271 state expenses for per diem and travel. The committee shall  
 1272 appoint one of the members to serve as chair.  
 1273           ~~(3) The committee shall meet and organize not later than~~  
 1274 ~~45 days prior to the convening of the 2002 Legislature. This~~  
 1275 ~~committee terminates December 31, 2003.~~



1276           ~~(3)~~(4) The committee may consult with engineering  
1277 authorities and organizations concerned with standard safety  
1278 codes for recommendations to the department regarding rules and  
1279 regulations governing the operation, maintenance, servicing,  
1280 construction, alteration, installation, or inspection of  
1281 vertical conveyances subject to this chapter.

1282           Section 14. Section 553.841, Florida Statutes, is amended  
1283 to read:

1284           553.841 Building code training program; participant  
1285 competency requirements.--

1286           ~~(1) The Legislature finds that the effectiveness of the  
1287 building codes of this state depends on the performance of all  
1288 participants, as demonstrated through knowledge of the codes and  
1289 commitment to compliance with code directives and that to  
1290 strengthen compliance by industry and enforcement by government,  
1291 a Building Code Training Program is needed.~~

1292           (1)~~(2)~~ The commission shall establish by rule the Building  
1293 Code Training Program to develop and provide a core curriculum  
1294 and offer voluntary accreditation of advance module courses  
1295 relating to the Florida Building Code and its enforcement a  
1296 ~~system of administering and enforcing the Florida Building Code.~~

1297           ~~(3) The program shall be developed, implemented, and  
1298 administered by the commission in consultation with the  
1299 Department of Education, the Department of Community Affairs,  
1300 the Department of Business and Professional Regulation, the  
1301 State Fire Marshal, the State University System, and the  
1302 Division of Community Colleges.~~



1303           ~~(4) The commission may enter into contracts with the~~  
 1304 ~~Department of Education, the State University System, the~~  
 1305 ~~Division of Community Colleges, model code organizations,~~  
 1306 ~~professional organizations, vocational technical schools, trade~~  
 1307 ~~organizations, and private industry to administer the program.~~

1308           (2)~~(5)~~ The program shall be affordable, accessible,  
 1309 meaningful, financially self-sufficient and shall make maximum  
 1310 use of existing sources, systems, institutions, and programs  
 1311 available through private sources.

1312           (3)~~(6)~~ The commission, in coordination with the Department  
 1313 of Community Affairs, the Department of Business and  
 1314 Professional Regulation, the respective licensing boards, and  
 1315 the State Fire Marshal shall develop or cause to be developed-

1316           ~~(a)~~ a core curriculum that ~~which~~ is prerequisite to  
 1317 initial licensure for those licensees not subject to testing on  
 1318 the Florida Building Code as a condition of licensure. These  
 1319 entities shall also identify subject areas that are inadequately  
 1320 addressed by specialized and advanced courses ~~all specialized~~  
 1321 ~~and advanced module coursework.~~

1322           ~~(b) A set of specialized and advanced modules specifically~~  
 1323 ~~designed for use by each profession.~~

1324           (4)~~(7)~~ The core curriculum shall cover the information  
 1325 required to have all categories of participants appropriately  
 1326 informed as to their technical and administrative  
 1327 responsibilities in the effective execution of the code process  
 1328 by all individuals currently licensed under part XII of chapter  
 1329 468, chapter 471, chapter 481, or chapter 489, except as  
 1330 otherwise provided in s. 471.017. The core curriculum shall be





1331 ~~prerequisite to the advanced module coursework for all licensees~~  
 1332 ~~and shall be completed by individuals licensed in all categories~~  
 1333 ~~under part XII of chapter 468, chapter 471, chapter 481, or~~  
 1334 ~~chapter 489 by the date of licensure in 2003 within the first 2-~~  
 1335 ~~year period after establishment of the program. All approved~~  
 1336 ~~courses~~ Core course hours taken by licensees pursuant to  
 1337 ~~complete this section requirement~~ shall count toward fulfillment  
 1338 of required continuing education units under part XII of chapter  
 1339 468, chapter 471, chapter 481, or chapter 489.

1340 ~~(8) The commission, in consultation with the Department of~~  
 1341 ~~Business and Professional Regulation and the respective~~  
 1342 ~~licensing boards, shall develop or cause to be developed an~~  
 1343 ~~equivalency test for each category of licensee. Such test may be~~  
 1344 ~~taken in lieu of the core curriculum. A passing score on the~~  
 1345 ~~test shall be equivalent to completion of the core curriculum~~  
 1346 ~~and shall be credited toward the required number of hours of~~  
 1347 ~~continuing education.~~

1348 (5)~~(9)~~ The commission, in consultation with the Department  
 1349 of Business and Professional Regulation, shall develop or cause  
 1350 to be developed, or approve as a part of the program,  
 1351 appropriate courses ~~a core curriculum and specialized or~~  
 1352 ~~advanced module coursework~~ for the construction workforce,  
 1353 including, but not limited to, superintendents and journeymen.

1354 (6)~~(10)~~ The respective state boards under part XII of  
 1355 chapter 468, chapters 471, 481, and 489, and the State Fire  
 1356 Marshal under chapter 633, shall require specialized or advanced  
 1357 course modules as part of their regular continuing education  
 1358 requirements.



1359            (7)~~(11)~~ The Legislature hereby establishes the Office of  
 1360 Building Code Training Program Administration within the  
 1361 Institute of Applied Technology in Construction Excellence at  
 1362 the Florida Community College at Jacksonville. The office is  
 1363 charged with the following responsibilities as recommended by  
 1364 the Florida Building Commission and as resources are provided by  
 1365 the Legislature:

1366            (a) Provide research-to-practice capability for entry-  
 1367 level construction training development, delivery and quality  
 1368 assurance, as well as training and competency registry systems  
 1369 and recruitment initiatives.

1370            (b) Coordinate with the Department of Community Affairs  
 1371 and the Florida Building Commission to serve as school liaison  
 1372 to disseminate construction awareness and promotion programs and  
 1373 materials to schools.

1374            (c) Develop model programs and approaches to construction  
 1375 career exploration to promote construction careers.

1376            Section 15. Subsection (3) of section 553.8412, Florida  
 1377 Statutes, is amended to read:

1378            553.8412 Legislative intent; delivery of training;  
 1379 outsourcing.--

1380            (3) To the extent available, funding for outreach,  
 1381 coordination of training, or training may come from existing  
 1382 resources. If necessary, the Florida Building Commission or the  
 1383 department may seek additional or supplemental funds pursuant to  
 1384 s. 215.559(5). This section does not preclude the Florida  
 1385 Building Commission from charging fees to fund the building code



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1386 training program in a self-sufficient manner as provided in s.  
1387 553.841 (2)~~(5)~~.

1388 Section 16. Subsection (3) is added to section 633.171,  
1389 Florida Statutes, to read:

1390 633.171 Penalty for violation of law, rule, or order to  
1391 cease and desist or for failure to comply with corrective  
1392 order.--

1393 (3)(a) An owner or operator of an indoor facility may not  
1394 knowingly allow the installation of fireworks or a pyrotechnic  
1395 device inside his or her facility without a fire suppression  
1396 system or without a copy of a local fire marshal's permit  
1397 furnished to the owner or operator by a vendor or licensee who  
1398 wishes to install fireworks or a pyrotechnic device inside the  
1399 indoor facility.

1400 (b) A vendor or licensee may not install fireworks or a  
1401 pyrotechnic device in an indoor facility without a fire  
1402 suppression system unless he or she first obtains a local fire  
1403 marshal's permit, furnishes a copy of that permit to the owner  
1404 or operator of the indoor facility, and obtains prior written  
1405 consent of the owner or operator to install the fireworks or a  
1406 pyrotechnic device inside his or her indoor facility.

1407 (c) A person who violates this subsection commits a felony  
1408 of the third degree, punishable as provided in s. 775.082, s.  
1409 775.083, or s. 775.084.

1410 Section 17. The administrative rule of the Florida  
1411 Building Commission for the type of products approved for local  
1412 or statewide use, as authorized by s. 553.842, Florida Statutes,  
1413 shall take effect no earlier than January 1, 2004. The



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1414 commission shall conduct a review of the costs of operation of  
1415 this rule and determine the benefits of such state approvals to  
1416 the public health, safety, and welfare. The commission shall  
1417 report the results of its cost and benefit analysis together  
1418 with any recommendations to the 2004 Legislature. Funds may not  
1419 be expended for optional state approval without determination of  
1420 a positive cost and benefit of such regulation to the public.

1421       Section 18. This act shall take effect upon becoming a  
1422 law.