

By Senator Bennett

21-1605-03

See HB 1375

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

1 Legislature for approval by a time certain;
2 providing for repeal of certain local building
3 code amendments; providing for readoption of
4 such amendments as provided by law; providing
5 requirements; providing an effective date.
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7 Be It Enacted by the Legislature of the State of Florida:
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9 Section 1. Paragraph (c) of subsection (7) of section
10 553.73, Florida Statutes, is amended to read:

11 553.73 Florida Building Code.--

12 (7)

13 (c) The commission may not approve any proposed
14 amendment that does not accurately and completely address all
15 requirements for amendment which are set forth in this
16 section. The commission shall require all proposed amendments
17 to be reviewed by commission staff. Such amendments shall not
18 be considered by any deliberative body for inclusion in the
19 Florida Building Code if they do not meet the criteria
20 established in this section.

21 Section 2. Paragraph (i) of subsection (1) of section
22 553.77, Florida Statutes, is amended to read:

23 553.77 Specific powers of the commission.--

24 (1) The commission shall:

25 (i) Determine the types of products requiring approval
26 for local or statewide use and shall provide for the
27 evaluation and approval of such products, materials, devices,
28 and method of construction for statewide use. The commission
29 may prescribe by rule a schedule of reasonable fees to provide
30 for evaluation and approval of products, materials, devices,
31 and methods of construction. Evaluation and approval shall be

1 ~~by action of the commission or delegated~~ pursuant to s.
2 553.842. This paragraph does not apply to products approved by
3 the State Fire Marshal.

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

6 553.79 Permits; applications; issuance; inspections.--

7 (14) Certifications by contractors authorized under
8 the provisions of s. 489.115(4)(b) shall be considered
9 equivalent to sealed plans and specifications by a person
10 licensed under chapter 471 or chapter 481 by local enforcement
11 agencies for plans review for permitting purposes relating to
12 compliance with the wind resistance provisions of the code or
13 alternate methodologies approved by the commission for one and
14 two family dwellings. Local enforcement agencies may rely upon
15 such certification by contractors that the plans and
16 specifications submitted conform to the requirements of the
17 code for wind resistance. Upon good cause shown, local
18 government code enforcement agencies may accept or reject
19 plans sealed by persons licensed under chapter 471, chapter
20 481, or chapter 489. A truss placement plan shall not be
21 required to be signed and sealed by an engineer or architect.

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

24 553.80 Enforcement.--

25 (7) The governing bodies of local governments may
26 provide a schedule of reasonable fees, as authorized by s.
27 125.56(2) or s. 166.222 and this section, for the enforcement
28 of provisions of this part. Such fees, and any fines or
29 investment earnings related to such fees, shall be used solely
30 for carrying out the local government's responsibilities in
31 enforcing the Florida Building Code. When providing a schedule

1 of reasonable fees, total estimated annual revenue derived
2 from fees, and fines and investment earnings related to such
3 fees, shall not exceed the total estimated annual costs of
4 allowable activities. Any unexpended balances must be carried
5 forward to future years for allowable activities or shall be
6 refunded. The basis for a fee structure for allowable
7 activities shall relate to the level of service provided by
8 the local government. Fees charged shall be consistently
9 applied.

10 (a) For purposes of this subsection, the term
11 "enforcing the Florida Building Code" includes the direct
12 costs and reasonable indirect costs associated with review of
13 building plans, building inspections, reinspections, building
14 permit processing, and building code enforcement. The term may
15 also include enforcement against unlicensed contractor
16 activity to the extent not funded with other user fees.
17 Enforcing the Florida Building Code specifically excludes the
18 following activities: any land-use-related activities,
19 including, but not limited to, reviews and enforcement
20 associated with comprehensive planning, zoning, site planning,
21 and concurrency; address assignment; inspections of
22 right-of-way; inspections of utility hookups outside a house;
23 arbor compliance; nonconstruction-related fire prevention
24 inspections of existing units; demolition; debris cleanup;
25 landscaping; environmental regulation and enforcement; the
26 enforcement of any other state or federal requirement; the
27 enforcement of any other local ordinance or local requirement;
28 and any other building or general government activity that
29 does not directly pertain to such activities in enforcing the
30 Florida Building Code. Costs of inspections of public
31 buildings for a reduced fee or no fee, and costs incurred in

1 connection with public information requests, community
2 functions, boards, and programs that are not directly related
3 to enforcement of the Florida Building Code, shall not be
4 financed with fees adopted under this section.

5 (b) A local government shall use recognized
6 management, accounting, and oversight practices to ensure that
7 fees, fines, and investment earnings generated under this
8 subsection are maintained and used solely for the purposes
9 described in paragraph (a).

10 (c) Local governments shall, to the greatest extent
11 possible or practicable, work with their local building
12 industries to create a review process to assist in
13 implementing and overseeing budgetary procedures and reports
14 for revenue and expenditures relating to building permit fees
15 and assist in offering suggestions or recommendations on the
16 use and amount of building permit fees and the level and type
17 of service provided to the local building industry.

18 Section 5. Section 553.842, Florida Statutes, is
19 amended to read:

20 553.842 Product evaluation and approval.--

21 ~~(1) The commission shall adopt rules under ss.~~
22 ~~120.536(1) and 120.54 to develop and implement a product~~
23 ~~evaluation and approval system~~ described in this section shall
24 apply that applies statewide to operate in coordination with
25 the Florida Building Code. ~~The commission may enter into~~
26 ~~contracts to provide for administration of the product~~
27 ~~evaluation and approval system. The product evaluation and~~
28 ~~approval system shall provide:~~

29 ~~(a) Appropriate promotion of innovation and new~~
30 ~~technologies.~~

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1 ~~(b) Processing submittals of products from~~
2 ~~manufacturers in a timely manner.~~

3 ~~(c) Independent, third-party qualified and accredited~~
4 ~~testing and laboratory facilities, product evaluation~~
5 ~~entities, quality assurance agencies, certification agencies,~~
6 ~~and validation entities.~~

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

9 ~~(e) Development of stringent but reasonable testing~~
10 ~~criteria based upon existing consensus standards, when~~
11 ~~available, for products.~~

12 ~~(f) Long-term approvals, where feasible. State and~~
13 ~~local approvals will be valid until the requirements of the~~
14 ~~code on which the approval is based change, the product~~
15 ~~changes in a manner affecting its performance as required by~~
16 ~~the code, or the approval is revoked.~~

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

18 ~~(h) Cost-effectiveness.~~

19 (2) The product evaluation and approval system shall
20 rely on demonstration of compliance with national and
21 international consensus standards as, whenever adopted by the
22 Florida Building Code, ~~for demonstrating compliance with code~~
23 ~~standards~~. Other standards which meet or exceed the intent of
24 the Florida Building Code established state requirements shall
25 also be acceptable considered.

26 (3) Such statewide product evaluation and approval
27 system shall grant approvals for use. The local building
28 official, through the plans review and inspection process,
29 shall determine whether the product, method, or system of
30 construction is used in accordance with its limitations of
31 use.

1 ~~(4)(3)~~ Products or methods or systems of construction
2 for which there are specific that require approval under s.
3 553.77, that have standardized testing or comparative or
4 rational analysis methods established in by the Florida
5 Building Code, and that are certified by an approved product
6 evaluation entity, testing laboratory, or certification agency
7 as complying with the standards specified by the code shall be
8 approved for local or statewide use, by one of the methods
9 established in subsection (6) without further evaluation, by
10 demonstrating compliance with their applicable standards
11 listed in the Florida Building Code through one of the
12 following methods-

13 ~~(4)~~ By October 1, 2003, products or methods or systems
14 of construction requiring approval under s. 553.77 must be
15 approved by one of the methods established in subsection (5)
16 or subsection (6) before their use in construction in this
17 state. Products may be approved either by the commission for
18 statewide use, or by a local building department for use in
19 that department's jurisdiction only. Notwithstanding a local
20 government's authority to amend the Florida Building Code as
21 provided in this act, statewide approval shall preclude local
22 jurisdictions from requiring further testing, evaluation, or
23 submission of other evidence as a condition of using the
24 product so long as the product is being used consistent with
25 the conditions of its approval.

26 ~~(5)~~ Local approval of products or methods or systems
27 of construction may be achieved by the local building official
28 through building plans review and inspection to determine that
29 the product, method, or system of construction complies with
30 the prescriptive standards established in the code.

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1 ~~Alternatively, local approval may be achieved by one of the~~
2 ~~methods established in subsection (6).~~

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

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

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

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

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

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

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1 ~~A product evaluation report or a certification mark or listing~~
2 ~~of an approved certification agency which demonstrates that~~
3 ~~the product or method or system of construction complies with~~
4 ~~the Florida Building Code for the purpose intended shall be~~
5 ~~equivalent to a test report and test procedure as referenced~~
6 ~~in the Florida Building Code.~~

7 (5)(b) Products, methods, or systems of construction
8 for which there are no specific standardized testing or
9 comparative or rational analysis methods established in the
10 Florida Building Code shall demonstrate compliance with the
11 intent of the code through ~~may be approved by submittal and~~
12 ~~validation~~ of one of the following:

13 (a)1. A product evaluation report based upon testing
14 or comparative or rational analysis, or a combination thereof,
15 from an approved product evaluation entity indicating that the
16 product or method or system of construction was evaluated to
17 be in compliance with the intent of the Florida Building Code
18 and that the product or method or system of construction is,
19 for the purpose intended, at least equivalent to that required
20 by the Florida Building Code; or

21 (b)2. A product evaluation report based upon testing
22 or comparative or rational analysis, or a combination thereof,
23 developed and signed and sealed by a professional engineer or
24 architect, licensed in this state, who certifies that the
25 product or method or system of construction was evaluated to
26 be in compliance with the intent of the Florida Building Code
27 and that the product or method or system of construction is,
28 for the purpose intended, at least equivalent to that required
29 by the Florida Building Code.

30 (6) Products that are specifically addressed in the
31 code through prescriptive provisions may be approved for use

1 in accordance with the building plan review and inspection
2 process.

3 (7) Structural components comprised of materials or
4 products that are assembled or placed in the field and are
5 subject to standardized field testing procedures contained
6 within nationally recognized standards adopted by the Florida
7 Building Code may demonstrate compliance by a batch ticket or
8 bill of lading made available at the site of assembly or
9 placement.~~The commission shall ensure that product~~
10 ~~manufacturers operate quality assurance programs for all~~
11 ~~approved products. The commission shall adopt by rule criteria~~
12 ~~for operation of the quality assurance programs.~~

13 ~~(8) For local approvals, validation shall be performed~~
14 ~~by the local building official. The commission shall adopt by~~
15 ~~rule criteria constituting complete validation by the local~~
16 ~~official, including, but not limited to, criteria governing~~
17 ~~verification of a quality assurance program. For state~~
18 ~~approvals, validation shall be performed by validation~~
19 ~~entities approved by the commission. The commission shall~~
20 ~~adopt by rule criteria for approval of validation entities,~~
21 ~~which shall be third-party entities independent of the~~
22 ~~product's manufacturer and which shall certify to the~~
23 ~~commission the product's compliance with the code.~~

24 (8)~~(11)~~ Products, other than manufactured buildings,
25 which are custom fabricated or assembled shall not require
26 separate approval under this section provided the component
27 parts have been approved for the fabricated or assembled
28 product's use and the components meet the standards and
29 requirements of the Florida Building Code which apply ~~applies~~
30 to the product's intended use.

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1 (9) Product approvals shall be valid until such time
2 as the product changes, decreasing the product's performance,
3 or the standards or intent of the Florida Building Code
4 affecting the product change.

5 (10) Notwithstanding a local government's authority to
6 amend the Florida Building Code as provided in this section,
7 local jurisdictions are precluded from requiring further
8 testing, test reports, evaluation, or submission of other
9 evidence as a condition of using the product so long as the
10 product is being used in a manner consistent with the
11 conditions of its approval.

12 (11)~~(10)~~ A building official may deny the local use
13 ~~application~~ of a product or method or system of construction
14 ~~that which~~ has been approved ~~received statewide approval,~~
15 based upon a written report signed by the official that
16 concludes the product application is inconsistent with the
17 ~~statewide~~ approval and that states the reasons the application
18 is inconsistent. Such denial is subject to the provisions of
19 s. 553.77 governing appeal of the building official's
20 interpretation of the code.

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

26 (13) The decisions of local building officials shall
27 be appealable to the local board of appeals, if such board
28 exists, and then to the commission, which shall conduct a
29 hearing under chapter 120 and the uniform rules of procedure.
30 Decisions of the commission regarding ~~statewide~~ product
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1 | approvals and appeals of local product approval shall be
2 | subject to judicial review pursuant to s. 120.68.

3 | ~~(14)(9)~~ The commission shall ~~may~~ adopt rules to
4 | approve product evaluation entities, testing laboratories,
5 | certification agencies, and quality assurance agencies ~~the~~
6 | ~~following types of entities that produce information on which~~
7 | ~~product approvals are based.~~ All of the following entities,
8 | including engineers and architects, must comply with a
9 | nationally recognized standard demonstrating independence or
10 | no conflict of interest.~~‡~~

11 | (a) ~~Evaluation entities that meet the criteria for~~
12 | ~~approval adopted by the commission by rule.~~The commission
13 | shall specifically approve the National Evaluation Service,
14 | the International Conference of Building Officials Evaluation
15 | Services, the Building Officials and Code Administrators
16 | International Evaluation Services, the Southern Building Code
17 | Congress International Evaluation Services, the International
18 | Code Council Evaluation Service, and the Miami-Dade County
19 | Building Code Compliance Office Product Control. Architects
20 | and engineers licensed in this state are also approved to
21 | conduct product evaluations ~~as provided in subsection (6).~~

22 | (b) The commission shall approve testing laboratories
23 | accredited by national organizations, such as A2LA and the
24 | National Voluntary Laboratory Accreditation Program,
25 | laboratories accredited by evaluation entities approved under
26 | paragraph (a), and laboratories that comply with other
27 | guidelines for testing laboratories selected by the commission
28 | and adopted by rule.

29 | (c) The commission shall approve quality assurance
30 | entities approved by evaluation entities approved under
31 | paragraph (a) and by certification agencies approved under

1 paragraph (d) and other quality assurance entities that comply
2 with guidelines selected by the commission and adopted by
3 rule.

4 (d) The commission shall approve certification
5 agencies accredited by nationally recognized accreditors and
6 other certification agencies that comply with guidelines
7 selected by the commission and adopted by rule.

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

10 (15)(14) The commission shall maintain a list of the
11 approved state-approved products, product evaluation entities,
12 testing laboratories, quality assurance agencies, and
13 certification agencies, ~~and validation entities~~ and make such
14 lists available in the most cost-effective and timely manner.
15 ~~The commission shall establish reasonable timeframes~~
16 ~~associated with the product approval process and availability~~
17 ~~of the lists.~~

18 (16)(15) The commission shall by rule establish
19 criteria for revocation of ~~product approvals as well as~~
20 ~~revocation of~~ approvals of product evaluation entities,
21 testing laboratories, quality assurance entities, and
22 certification agencies, ~~and validation entities~~. Revocation is
23 governed by s. 120.60 and the uniform rules of procedure.

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

26 ~~(16) The commission shall establish a schedule for~~
27 ~~adoption of the rules required in this section to ensure that~~
28 ~~the product manufacturing industry has sufficient time to~~
29 ~~revise products to meet the requirements for approval and~~
30 ~~submit them for testing or evaluation before the system takes~~

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1 ~~effect on October 1, 2003, and to ensure that the availability~~
2 ~~of statewide approval is not delayed.~~

3 Section 6. The Florida Building Commission is
4 authorized to expedite the adoption and implementation of the
5 existing state building code as part of the Florida Building
6 Code pursuant only to the provisions of chapter 120, Florida
7 Statutes. The special update and amendment requirements of
8 section 553.73, Florida Statutes, and the administrative rule
9 requiring additional delay time between adoption and
10 implementation of such code are waived.

11 Section 7. (1) Before the 2004 Regular Session of the
12 Legislature, the Florida Building Commission shall submit to
13 the Legislature, for review and approval or rejection, the
14 Florida Building Code adopted by the commission and shall
15 prepare a list of recommendations of revisions to the Florida
16 Statutes necessitated by adoption of the Florida Building Code
17 if the Legislature approves the Florida Building Code.

18 (2) Upon approval of the Florida Building Code by the
19 Legislature, all existing local technical amendments to any
20 building code adopted by any local government are repealed.
21 Each local government may readopt such amendments pursuant to
22 section 553.73, Florida Statutes, provided such amendments
23 comply with applicable provisions of the Florida Building
24 Code.

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