

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Kallinger offered the following:

Amendment to Amendment (114675) (with directory and title amendments)

Between lines 15 and 16, insert:

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

553.73 Florida Building Code.--

(2) The Florida Building Code shall contain provisions or requirements for public and private buildings, structures, and facilities relative to structural, mechanical, electrical, plumbing, energy, and gas systems, existing buildings, historical buildings, manufactured buildings, elevators, coastal construction, lodging facilities, food sales and food service facilities, health care facilities, including assisted living facilities, adult day care facilities, hospice residential facilities, inpatient facilities, and facilities for the control

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29 of radiation hazards, public or private educational facilities,
30 swimming pools, and correctional facilities and enforcement of
31 and compliance with such provisions or requirements. Further,
32 the Florida Building Code must provide for uniform
33 implementation of ss. 515.25, 515.27, and 515.29 by including
34 standards and criteria for residential swimming pool barriers,
35 pool covers, latching devices, door and window exit alarms, and
36 other equipment required therein, which are consistent with the
37 intent of s. 515.23. Technical provisions to be contained within
38 the Florida Building Code are restricted to requirements related
39 to the types of materials used and construction methods and
40 standards employed in order to meet criteria specified in the
41 Florida Building Code. Provisions relating to the personnel,
42 supervision or training of personnel, or any other professional
43 qualification requirements relating to contractors or their
44 workforce may not be included within the Florida Building Code,
45 and subsections (4), (5), (6), and (7) are not to be construed
46 to allow the inclusion of such provisions within the Florida
47 Building Code by amendment. This restriction applies to both
48 initial development and amendment of the Florida Building Code.

49 (4)(a) All entities authorized to enforce the Florida
50 Building Code pursuant to s. 553.80 shall comply with applicable
51 standards for issuance of mandatory certificates of occupancy,
52 minimum types of inspections, and procedures for plans review
53 and inspections as established by the commission by rule. Local
54 governments may adopt amendments to the administrative
55 provisions of the Florida Building Code, subject to the
56 limitations of this paragraph. Local amendments shall be more
57 stringent than the minimum standards described herein and shall

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58 be transmitted to the commission within 30 days after enactment.
59 The local government shall make such amendments available to the
60 general public in a usable format. The State Fire Marshal is
61 responsible for establishing the standards and procedures
62 required in this paragraph for governmental entities with
63 respect to applying the Florida Fire Prevention Code and the
64 Life Safety Code.

65 (b) Local governments may, subject to the limitations of
66 this section, adopt amendments to the technical provisions of
67 the Florida Building Code which apply solely within the
68 jurisdiction of such government and which provide for more
69 stringent requirements than those specified in the Florida
70 Building Code, not more than once every 6 months. A local
71 government may adopt technical amendments that address local
72 needs if:

73 1. The local governing body determines, following a public
74 hearing which has been advertised in a newspaper of general
75 circulation at least 10 days before the hearing, that there is a
76 need to strengthen the requirements of the Florida Building
77 Code. The determination must be based upon a review of local
78 conditions by the local governing body, which review
79 demonstrates by evidence or data that the geographical
80 jurisdiction governed by the local governing body exhibits a
81 local need to strengthen the Florida Building Code beyond the
82 needs or regional variation addressed by the Florida Building
83 Code, that the local need is addressed by the proposed local
84 amendment, and that the amendment is no more stringent than
85 necessary to address the local need.

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86 2. Such additional requirements are not discriminatory
87 against materials, products, or construction techniques of
88 demonstrated capabilities.

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

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

93 5. Any amendment to the Florida Building Code shall be
94 transmitted within 30 days by the adopting local government to
95 the commission. The commission shall maintain copies of all
96 such amendments in a format that is usable and obtainable by the
97 public. Local technical amendments shall not become effective
98 until 30 days after the amendment has been received and
99 published by the commission.

100 6. Any amendment to the Florida Building Code adopted by a
101 local government pursuant to this paragraph shall be effective
102 only until the adoption by the commission of the new edition of
103 the Florida Building Code every third year. At such time, the
104 commission shall review such amendment for consistency with the
105 criteria in paragraph (7)(a) and adopt such amendment as part of
106 the Florida Building Code or rescind the amendment. The
107 commission shall immediately notify the respective local
108 government of the rescission of any amendment. After receiving
109 such notice, the respective local government may readopt the
110 rescinded amendment pursuant to the provisions of this
111 paragraph.

112 7. Each county and municipality desiring to make local
113 technical amendments to the Florida Building Code shall by
114 interlocal agreement establish a countywide compliance review

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115 board to review any amendment to the Florida Building Code,
116 adopted by a local government within the county pursuant to this
117 paragraph, that is challenged by any substantially affected
118 party for purposes of determining the amendment's compliance
119 with this paragraph. If challenged, the local technical
120 amendments shall not become effective until time for filing an
121 appeal pursuant to subparagraph 8. has expired or, if there is
122 an appeal, until the commission issues its final order
123 determining the adopted amendment is in compliance with this
124 subsection.

125 8. If the compliance review board determines such
126 amendment is not in compliance with this paragraph, the
127 compliance review board shall notify such local government of
128 the noncompliance and that the amendment is invalid and
129 unenforceable until the local government corrects the amendment
130 to bring it into compliance. The local government may appeal the
131 decision of the compliance review board to the commission. If
132 the compliance review board determines such amendment to be in
133 compliance with this paragraph, any substantially affected party
134 may appeal such determination to the commission. Any such appeal
135 shall be filed with the commission within 14 days of the board's
136 written determination. The commission shall promptly refer the
137 appeal to the Division of Administrative Hearings for the
138 assignment of an administrative law judge. The administrative
139 law judge shall conduct the required hearing within 30 days, and
140 shall enter a recommended order within 30 days of the conclusion
141 of such hearing. The commission shall enter a final order within
142 30 days thereafter. The provisions of chapter 120 and the
143 uniform rules of procedure shall apply to such proceedings. The

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144 local government adopting the amendment that is subject to
145 challenge has the burden of proving that the amendment complies
146 with this paragraph in proceedings before the compliance review
147 board and the commission, as applicable. Actions of the
148 commission are subject to judicial review pursuant to s. 120.68.
149 The compliance review board shall determine whether its
150 decisions apply to a respective local jurisdiction or apply
151 countywide.

152 9. An amendment adopted under this paragraph shall include
153 a fiscal impact statement which documents the costs and benefits
154 of the proposed amendment. Criteria for the fiscal impact
155 statement shall include the impact to local government relative
156 to enforcement, the impact to property and building owners, as
157 well as to industry, relative to the cost of compliance. The
158 fiscal impact statement may not be used as a basis for
159 challenging the amendment for compliance.

160 10. In addition to subparagraphs 7. and 9., the
161 commission may review any amendments adopted pursuant to this
162 subsection and make nonbinding recommendations related to
163 compliance of such amendments with this subsection.

164 (c) Any amendment adopted by a local enforcing agency
165 pursuant to this subsection shall not apply to state or school
166 district owned buildings, manufactured buildings or factory-
167 built school buildings approved by the commission, or prototype
168 buildings approved pursuant to s. 553.77(5). The respective
169 responsible entities shall consider the physical performance
170 parameters substantiating such amendments when designing,
171 specifying, and constructing such exempt buildings.

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174 Upon approval of the Florida Building Code by the Legislature
175 during the 2000 legislative session, all existing local
176 technical amendments to any building code adopted by any local
177 government were repealed. Each local government may readopt such
178 amendments pursuant to this subsection.

179 (6)(a) It is the intent of the Legislature that the
180 Florida Building Code be maintained to be up-to-date with the
181 national consensus standards. Further, it is the intent of the
182 Legislature that the Florida Building Code be maintained to
183 reflect Florida-specific needs and conditions affecting its
184 built environment. When updating the code, the commission shall
185 consider new editions of national model codes and consensus
186 standards incorporated into the Florida Building Code; successor
187 national model codes and consensus standards if such national
188 model codes or consensus standards are no longer maintained by
189 their promulgating organizations; existing approved and adopted
190 Florida-specific modifications; such interpretations,
191 declaratory statements, and appellate decisions of the
192 commission; local amendments reviewed pursuant to subparagraph
193 (4)(b)6., and; such Florida-specific amendments first approved
194 by the commission pursuant to subsection (7), and considered
195 essential to maintaining the Florida Building Code requirements
196 appropriate to the state. All of the foregoing shall be
197 considered, selected, and adopted pursuant to paragraph (b).

198 (b) The commission, by rule adopted pursuant to ss.
199 120.536(1) and 120.54, shall update the Florida Building Code
200 every 3 years. When updating the Florida Building Code, the
201 commission shall consider changes made by the adopting entity of

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202 any selected model code for any model code incorporated into the
203 Florida Building Code, and may subsequently adopt the new
204 edition or successor of the model code or any part of such code,
205 no sooner than 6 months after it ~~such model code~~ has been
206 adopted by the adopting organization, which may then be modified
207 for this state as provided in this section, and shall further
208 consider the commission's own interpretations, declaratory
209 statements, appellate decisions, and approved statewide and
210 local technical amendments. A change made by an institute or
211 standards organization to any standard or criterion that is
212 adopted by reference in the Florida Building Code does not
213 become effective statewide until it has been adopted by the
214 commission. Furthermore, the edition of the Florida Building
215 Code which is in effect on the date of application for any
216 permit authorized by the code governs the permitted work for the
217 life of the permit and any extension granted to the permit. Any
218 amendment to the Florida Building Code which is adopted upon a
219 finding by the commission that the amendment is necessary to
220 protect the public from immediate threat of harm takes effect
221 immediately.

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

225 1. Has a reasonable and substantial connection with the
226 health, safety, and welfare of the general public.

227 2. Strengthens or improves the Florida Building Code, or
228 in the case of innovation or new technology, will provide
229 equivalent or better products or methods or systems of
230 construction.

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231 3. Does not discriminate against materials, products,
232 methods, or systems of construction of demonstrated
233 capabilities.

234 4. Does not degrade the effectiveness of the Florida
235 Building Code.

236
237 Furthermore, the Florida Building Commission may approve
238 technical amendments to the code once each year to incorporate
239 into the Florida Building Code its own interpretations of the
240 code which are embodied in its opinions, final orders, and
241 declaratory statements, and in interpretations of hearing
242 officer panels under s. 553.775(3)(c). Amendments approved under
243 this paragraph shall be adopted by rule pursuant to ss.
244 120.536(1) and 120.54, after the amendments have been subjected
245 to the provisions of subsection (3).

246 (c) The commission may not approve any proposed amendment
247 that does not accurately and completely address all requirements
248 for amendment which are set forth in this section. The
249 commission shall require all proposed amendments and information
250 submitted with proposed amendments to be reviewed by commission
251 staff prior to consideration by any technical advisory
252 committee. These reviews shall be for sufficiency only and are
253 not intended to be qualitative in nature. Staff members shall
254 reject any proposed amendment that fails to include a fiscal
255 impact statement providing information responsive to all
256 criteria identified. Proposed amendments rejected by members of
257 the staff may not be considered by the commission or any
258 technical advisory committee.

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

262 553.74 Florida Building Commission.--

263 (1) The Florida Building Commission is created and shall
264 be located within the Department of Community Affairs for
265 administrative purposes. Members shall be appointed by the
266 Governor subject to confirmation by the Senate. The commission
267 shall be composed of 23 members, consisting of the following:

268 (a) One architect registered to practice in this state and
269 actively engaged in the profession from a list of three
270 candidates provided by the American Institute of Architecture,
271 Florida Section.

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

275 (c) One air-conditioning or mechanical contractor
276 certified to do business in this state and actively engaged in
277 the profession from a list of three candidates provided by the
278 Florida Air Conditioning Contractors Association and the Florida
279 Refrigeration and Air Conditioning Contractors Association.

280 (d) One electrical contractor certified to do business in
281 this state and actively engaged in the profession from a list of
282 three candidates provided by the Florida Electrical Contractors
283 Association.

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

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288 (f) One ~~general~~ contractor certified to do business in
289 this state and actively engaged in the profession from a list of
290 three candidates provided by the Associated Builders and
291 Contractors of Florida and the Florida Associated General
292 Contractors Council.

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

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

301 (i) One ~~residential~~ contractor licensed to do business in
302 this state and actively engaged in the profession from a list of
303 three candidates provided by the Florida Home Builders
304 Association.

305 (j) Three members who are municipal or district codes
306 enforcement officials, two of whom shall be from a list of four
307 candidates provided by the Building Officials Association of
308 Florida and one of whom is also a fire official from a list of
309 three candidates provided by the Florida Fire Marshals
310 Association.

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

312 (l) One member who is a county codes enforcement official
313 from a list of three candidates provided by the Building
314 Officials Association of Florida.

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315 (m) One member of a Florida-based organization of persons
316 with disabilities or a nationally chartered organization of
317 persons with disabilities with chapters in this state.

318 (n) One member of the manufactured buildings industry who
319 is licensed to do business in this state and is actively engaged
320 in the industry from a list of three candidates provided by the
321 Florida Manufactured Housing Association.

322 (o) One mechanical or electrical engineer registered to
323 practice in this state and actively engaged in the profession
324 from a list of three candidates provided by the Florida
325 Engineering Society.

326 (p) One member who is an elected a representative of a
327 municipality or a charter county from a list of three candidates
328 provided by the Florida League of Cities and Florida Association
329 of Counties.

330 (q) One member of the building products manufacturing
331 industry who is authorized to do business in this state and is
332 actively engaged in the industry from a list of candidates
333 provided by the Florida Building Materials Association, Florida
334 Concrete and Products Association, and Fensestration
335 Manufacturers Association.

336 (r) One member who is a representative of the building
337 owners and managers industry who is actively engaged in
338 commercial building ownership or management from a list of three
339 candidates provided by the Building Owners and Managers
340 Association.

341 (s) One member who is a representative of the insurance
342 industry from a list of three candidates provided by the Florida
343 Insurance Council.

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344 (t) One member who is a representative of public
345 education.

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

347
348 Any person serving on the commission ~~under paragraph (c) or~~
349 ~~paragraph (h)~~ on October 1, 2003, and who has served less than
350 two full terms is eligible for reappointment to the commission
351 regardless of whether he or she meets the new qualification. The
352 Governor may appoint commission members from the lists of
353 candidates submitted by the respective professional
354 organizations or may appoint any other persons otherwise
355 qualified according to this section.

356 Section 3. Section 553.77, Florida Statutes, is amended to
357 read:

358 553.77 Specific powers of the commission.--

359 (1) The commission shall:

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

362 (b) Make a continual study of the operation of the Florida
363 Building Code and other laws relating to the design,
364 construction, erection, alteration, modification, repair, or
365 demolition of public or private buildings, structures, and
366 facilities, including manufactured buildings, and code
367 enforcement, to ascertain their effect upon the cost of building
368 construction and determine the effectiveness of their
369 provisions. Upon updating the Florida Building Code every 3
370 years, the commission shall review existing provisions of law
371 and make recommendations to the Legislature for the next regular
372 session of the Legislature regarding provisions of law that

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373 should be revised or repealed to ensure consistency with the
374 Florida Building Code at the point the update goes into effect.
375 State agencies and local jurisdictions shall provide such
376 information as requested by the commission for evaluation of and
377 recommendations for improving the effectiveness of the system of
378 building code laws for reporting to the Legislature annually.
379 Failure to comply with this or other requirements of this act
380 must be reported to the Legislature for further action. Any
381 proposed legislation providing for the revision or repeal of
382 existing laws and rules relating to technical requirements
383 applicable to building structures or facilities should expressly
384 state that such legislation is not intended to imply any repeal
385 or sunset of existing general or special laws governing any
386 special district that are not specifically identified in the
387 legislation.

388 (c) Upon written application by any substantially affected
389 person or a local enforcement agency, issue declaratory
390 statements pursuant to s. 120.565 relating to new technologies,
391 techniques, and materials which have been tested where necessary
392 and found to meet the objectives of the Florida Building Code.
393 This paragraph does not apply to the types of products,
394 materials, devices, or methods of construction required to be
395 approved under paragraph (f) ~~(i)~~.

396 ~~(d) Upon written application by any substantially affected~~
397 ~~person, state agency, or a local enforcement agency, issue~~
398 ~~declaratory statements pursuant to s. 120.565 relating to the~~
399 ~~enforcement or administration by local governments of the~~
400 ~~Florida Building Code. Paragraph (h) provides the exclusive~~
401 ~~remedy for addressing local interpretations of the code.~~

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402 ~~(e) When requested in writing by any substantially~~
403 ~~affected person, state agency, or a local enforcing agency,~~
404 ~~shall issue declaratory statements pursuant to s. 120.565~~
405 ~~relating to this part and ss. 515.25, 515.27, 515.29, and~~
406 ~~515.37. Actions of the commission are subject to judicial~~
407 ~~review pursuant to s. 120.68.~~

408 ~~(d)(f)~~ Make recommendations to, and provide assistance
409 upon the request of, the Florida Commission on Human Relations
410 regarding rules relating to accessibility for persons with
411 disabilities.

412 ~~(e)(g)~~ Participate with the Florida Fire Code Advisory
413 Council created under s. 633.72, to provide assistance and
414 recommendations relating to firesafety code interpretations. The
415 administrative staff of the commission shall attend meetings of
416 the Florida Fire Code Advisory Council and coordinate efforts to
417 provide consistency between the Florida Building Code and the
418 Florida Fire Prevention Code and the Life Safety Code.

419 ~~(h) Hear appeals of the decisions of local boards of~~
420 ~~appeal regarding interpretation decisions of local building~~
421 ~~officials, or if no local board exists, hear appeals of~~
422 ~~decisions of the building officials regarding interpretations of~~
423 ~~the code. For such appeals:~~

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

428 ~~2. All appeals shall be heard in the county of the~~
429 ~~jurisdiction defending the appeal.~~

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

433 (f)(i) Determine the types of products which may be
434 approved by the commission requiring approval for local or
435 statewide use and shall provide for the evaluation and approval
436 of such products, materials, devices, and method of construction
437 for statewide use. The commission may prescribe by rule a
438 schedule of reasonable fees to provide for evaluation and
439 approval of products, materials, devices, and methods of
440 construction. Evaluation and approval shall be by action of the
441 commission or delegated pursuant to s. 553.842. This paragraph
442 does not apply to products approved by the State Fire Marshal.

443 (g)(j) Appoint experts, consultants, technical advisers,
444 and advisory committees for assistance and recommendations
445 relating to the major areas addressed in the Florida Building
446 Code.

447 (h)(k) Establish and maintain a mutual aid program,
448 organized through the department, to provide an efficient supply
449 of various levels of code enforcement personnel, design
450 professionals, commercial property owners, and construction
451 industry individuals, to assist in the rebuilding effort in an
452 area which has been hit with disaster. The program shall
453 include provisions for:

454 1. Minimum postdisaster structural, electrical, and
455 plumbing inspections and procedures.

456 2. Emergency permitting and inspection procedures.

457 3. Establishing contact with emergency management
458 personnel and other state and federal agencies.

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

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

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

471 ~~(l)(o)~~ Develop recommendations for local governments to
472 use when pursuing partial or full privatization of building
473 department functions. The recommendations shall include, but not
474 be limited to, provisions relating to equivalency of service,
475 conflict of interest, requirements for competency, liability,
476 insurance, and long-term accountability.

477 ~~(2) Upon written application by any substantially affected~~
478 ~~person, the commission shall issue a declaratory statement~~
479 ~~pursuant to s. 120.565 relating to a state agency's~~
480 ~~interpretation and enforcement of the specific provisions of the~~
481 ~~Florida Building Code the agency is authorized to enforce. The~~
482 ~~provisions of this subsection shall not be construed to provide~~
483 ~~any powers, other than advisory, to the commission with respect~~
484 ~~to any decision of the State Fire Marshal made pursuant to the~~
485 ~~provisions of chapter 633.~~

486 ~~(3) The commission may designate a commission member with~~
487 ~~demonstrated expertise in interpreting building plans to attend~~

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488 ~~each meeting of the advisory council created in s. 553.512. The~~
489 ~~commission member may vary from meeting to meeting, shall serve~~
490 ~~on the council in a nonvoting capacity, and shall receive per~~
491 ~~diem and expenses as provided in s. 553.74(3).~~

492 (2)~~(4)~~ For educational and public information purposes,
493 the commission shall develop and publish an informational and
494 explanatory document which contains descriptions of the roles
495 and responsibilities of the licensed design professional,
496 residential designer, contractor, and local building and fire
497 code officials. The State Fire Marshal shall be responsible for
498 developing and specifying roles and responsibilities for fire
499 code officials. Such document may also contain descriptions of
500 roles and responsibilities of other participants involved in the
501 building codes system.

502 (3)~~(5)~~ The commission may provide by rule for plans review
503 and approval of prototype buildings owned by public and private
504 entities to be replicated throughout the state. The rule must
505 allow for review and approval of plans for prototype buildings
506 to be performed by a public or private entity with oversight by
507 the commission. The department may charge reasonable fees to
508 cover the administrative costs of the program. Such approved
509 plans or prototype buildings shall be exempt from further review
510 required by s. 553.79(2), except changes to the prototype
511 design, site plans, and other site-related items. As provided in
512 s. 553.73, prototype buildings are exempt from any locally
513 adopted amendment to any part of the Florida Building Code.
514 Construction or erection of such prototype buildings is subject
515 to local permitting and inspections pursuant to this part.

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516 ~~(4)(6)~~ The commission may produce and distribute a
517 commentary document to accompany the Florida Building Code. The
518 commentary must be limited in effect to providing technical
519 assistance and must not have the effect of binding
520 interpretations of the code document itself.

521 ~~(7) The commission shall by rule establish an informal~~
522 ~~process of rendering nonbinding interpretations of the Florida~~
523 ~~Building Code. The commission is specifically authorized to~~
524 ~~refer interpretive issues to organizations that represent those~~
525 ~~engaged in the construction industry. The commission is~~
526 ~~directed to immediately implement the process prior to the~~
527 ~~completion of formal rulemaking. It is the intent of the~~
528 ~~Legislature that the commission create a process to refer~~
529 ~~questions to a small, rotating group of individuals licensed~~
530 ~~under part XII of chapter 468, to which a party can pose~~
531 ~~questions regarding the interpretation of code provisions. It~~
532 ~~is the intent of the Legislature that the process provide for~~
533 ~~the expeditious resolution of the issues presented and~~
534 ~~publication of the resulting interpretation on the Building Code~~
535 ~~Information System. Such interpretations are to be advisory~~
536 ~~only and nonbinding on the parties or the commission.~~

537 Section 4. Section 553.775, Florida Statutes, is created
538 to read:

539 553.775 Interpretations.--

540 (1) It is the intent of the Legislature that the Florida
541 Building Code be interpreted by building officials, local
542 enforcement agencies, and the commission in a manner that
543 protects the public safety, health, and welfare at the most
544 reasonable cost to the consumer by ensuring uniform

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545 interpretations throughout the state and by providing processes
546 for resolving disputes regarding interpretations of the Florida
547 Building Code which are just and expeditious.

548 (2) Local enforcement agencies, local building officials,
549 state agencies, and the commission shall interpret provisions of
550 the Florida Building Code in a manner that is consistent with
551 declaratory statements and interpretations entered by the
552 commission, except that conflicts between the Florida Fire
553 Prevention Code and the Florida Building Code shall be resolved
554 in accordance with s. 553.73(9)(c) and (d).

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

557 (a) Upon written application by any substantially affected
558 person, state agency, or a local enforcement agency, the
559 commission shall issue declaratory statements pursuant to s.
560 120.565 relating to the enforcement or administration by local
561 governments of the Florida Building Code. Paragraph(c) provides
562 the exclusive remedy for addressing requests to review local
563 interpretations of the code and appeals from review proceedings.

564 (b) When requested in writing by any substantially
565 affected person, state agency, or a local enforcing agency, the
566 commission shall issue a declaratory statement pursuant to s.
567 120.565 relating to this part and ss. 515.25, 515.27, 515.29,
568 and 515.37. Actions of the commission are subject to judicial
569 review under s. 120.68.

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

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573 1. The commission shall coordinate with the Building
574 Officials Association of Florida, Inc., to designate panels
575 composed of five members to hear requests to review decisions of
576 local building officials. The members must be licensed as
577 building code administrators under part XII of chapter 468 and
578 must have experience interpreting and enforcing provisions of
579 the Florida Building Code.

580 2. Requests to review a decision of a local building
581 official interpreting provisions of the Florida Building Code
582 may be initiated by any substantially affected person, including
583 an owner or builder subject to a decision of a local building
584 official, or an association of owners or builders with members
585 who are subject to a decision of a local building official. In
586 order to initiate review, the substantially affected person must
587 file a petition with the commission. The commission shall adopt
588 a form for the petition, which shall be published on the
589 Building Code Information System. The form shall, at a minimum,
590 require the following:

591 a. The name and address of the county or municipality in
592 which provisions of the Florida Building Code are being
593 interpreted.

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

596 c. The name, address, and telephone number of the
597 petitioner; the name, address, and telephone number of the
598 petitioner's representative, if any; and an explanation of how
599 the petitioner's substantial interests are being affected by the
600 local interpretation of the Florida Building Code.

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601 d. A statement of the provisions of the Florida Building
602 Code which are being interpreted by the local building official.

603 e. A statement of the interpretation given to provisions
604 of the Florida Building Code by the local building official and
605 the manner in which the interpretation was rendered.

606 f. A statement of the interpretation that the petitioner
607 contends should be given to the provisions of the Florida
608 Building Code and a statement supporting the petitioner's
609 interpretation.

610 g. Space for the local building official to respond in
611 writing. The space shall, at a minimum, require the local
612 building official to respond by providing a statement admitting
613 or denying the statements containing in the petition and a
614 statement of the interpretation of the provisions of the Florida
615 Building Code which the local jurisdiction or the local building
616 official contends is correct, including the basis for the
617 interpretation.

618 3. The petitioner shall submit the petition to the local
619 building official, who shall place the date of receipt on the
620 petition. The local building official shall respond to the
621 petition in accordance with the form, and shall return the
622 petition along with his or her response to the petitioner within
623 5 days after receipt, exclusive of Saturdays, Sundays, and legal
624 holidays. The petitioner may file the petition with the
625 commission at any time after the local building official
626 provides a response. If no response is provided by the local
627 building official, the petitioner may file the petition with the
628 commission 10 days after submission of the petition to the local

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629 building official, and shall note that the local building
630 official did not respond.

631 4. Upon receipt of a petition that meets the requirements
632 of subparagraph 2., the commission shall immediately provide
633 copies of the petition to a panel, and the commission shall
634 publish the petition, including any response submitted by the
635 local building official, on the Building Code Information System
636 in a manner that allows interested persons to address the issues
637 by posting comments.

638 5. The panel shall conduct proceedings as necessary to
639 resolve the issues; shall give due regard to the petitions, and
640 the response, and to comments posed on the Building Code
641 Information System; and shall issue an interpretation regarding
642 the provisions of the Florida Building Code within 21 days after
643 the filing of the petition. The panel shall render a
644 determination based upon the Florida Building Code or, if the
645 code is ambiguous, the intent of the code. The panel's
646 interpretation shall be provided to the commission, which shall
647 publish the interpretation on the Building Code Information
648 System and in the Florida Administrative Weekly. The
649 interpretation shall be considered an interpretation entered by
650 the commission, and shall be binding upon the parties and upon
651 all jurisdictions subject to the Florida Building Code, unless
652 it is superseded by a declaratory statement issued by the
653 Florida Building Commission or by a final order entered after an
654 appeal proceeding conducted in accordance with subparagraph 7.

655 6. It is the intent of the Legislature that review
656 proceedings be completed within 21 days after the date that a
657 petition seeking review is filed with the commission, and the

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658 time periods set forth in this paragraph may be waived only upon
659 consent of all parties.

660 7. Any substantially affected person may appeal an
661 interpretation rendered by a hearing officer panel by filing a
662 petition with the commission. Such appeals shall be initiated in
663 accordance with chapter 120 and the uniform rules of procedure,
664 and must be filed within 30 days after publication of the
665 interpretation on the Building Code Information System or in the
666 Florida Administrative Weekly. Hearings shall be conducted
667 pursuant to chapter 120 and the uniform rules of procedure.
668 Decisions of the commission are subject to judicial review
669 pursuant to s. 120.68. The final order of the commission is
670 binding upon the parties and upon all jurisdictions subject to
671 the Florida Building Code.

672 8. The burden of proof in any proceeding initiated in
673 accordance with subparagraph 7. shall be on the party who
674 initiated the appeal.

675 9. In any review proceeding initiated in accordance with
676 this paragraph, including any proceeding initiated in accordance
677 with subparagraph 7., the fact that an owner or builder has
678 proceeded with construction shall not be grounds for determining
679 the issues to be moot, if the issue is one that is likely to
680 arise in the future.

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

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686 (e) Upon written application by any substantially affected
687 person, the commission shall issue a declaratory statement
688 pursuant to s. 120.565 relating to an agency's interpretation
689 and enforcement of the specific provisions of the Florida
690 Building Code which the agency is authorized to enforce. This
691 subsection does not provide any powers, other than advisory, to
692 the commission with respect to any decision of the State Fire
693 Marshal made pursuant to chapter 633.

694 (f) The commission may designate a commission member with
695 demonstrated expertise in interpreting building plans to attend
696 each meeting of the advisory council created in s. 553.512. The
697 commission member may vary from meeting to meeting, shall serve
698 on the council in a nonvoting capacity, and shall receive per
699 diem and expenses as provided in s. 553.74(3).

700 (g) The commission shall by rule establish an informal
701 process of rendering nonbinding interpretations of the Florida
702 Building Code. The commission is specifically authorized to
703 refer interpretive issues to organizations that represent those
704 engaged in the construction industry. The commission shall
705 immediately implement the process prior to the completion of
706 formal rulemaking. It is the intent of the Legislature that the
707 commission create a process to refer questions to a small,
708 rotating group of individuals licensed under part XII of chapter
709 468, to which a party may pose questions regarding the
710 interpretation of code provisions. It is the intent of the
711 Legislature that the process provide for the expeditious
712 resolution of the issues presented and publication of the
713 resulting interpretation on the Building Code Information

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714 System. Such interpretations shall be advisory only and
715 nonbinding on the parties and the commission.

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

718 553.79 Permits; applications; issuance; inspections.--

719 (14) Certifications by contractors authorized under the
720 provisions of s. 489.115(4)(b) shall be considered equivalent to
721 sealed plans and specifications by a person licensed under
722 chapter 471 or chapter 481 by local enforcement agencies for
723 plans review for permitting purposes relating to compliance with
724 the wind resistance provisions of the code or alternate
725 methodologies approved by the commission for one and two family
726 dwellings. Local enforcement agencies may rely upon such
727 certification by contractors that the plans and specifications
728 submitted conform to the requirements of the code for wind
729 resistance. Upon good cause shown, local government code
730 enforcement agencies may accept or reject plans sealed by
731 persons licensed under chapter 471, chapter 481, or chapter 489.
732 A truss placement plan is not required to be signed and sealed
733 by an engineer or architect unless prepared by an engineer or
734 architect or specifically required by the Florida Building Code.

735 Section 6. Subsections (2), (4), (6), (11), (14), (15) and
736 (19) of section 553.791, Florida Statutes, are amended to read:

737 553.791 Alternative plans review and inspection.--

738 (2) Notwithstanding any other provision of law or local
739 government ordinance or local policy to the contrary, the fee
740 owner of a building, or the fee owner's contractor upon written
741 authorization from the fee owner, may choose to use a private
742 provider to provide building code inspection services with

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743 regard to such building and may make payment directly to the
744 private provider for the provision of such services. All such
745 services shall be the subject of a written contract between the
746 private provider, or the private provider's firm, and the fee
747 owner. The fee owner may elect to use a private provider to
748 provide either plans review or required building inspections.
749 The local building official, in his or her discretion and
750 pursuant to duly adopted policies of the local enforcement
751 agency, may require the fee owner who desires to use a private
752 provider to use the private provider to provide both plans
753 review and required building inspection services.

754 (4) A fee owner or the fee owner's contractor using a
755 private provider to provide building code inspection services
756 shall notify the local building official at the time of permit
757 application or no less than 1 week prior to a private provider
758 providing building code inspection services on a form to be
759 adopted by the commission. This notice shall include the
760 following information:

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

762 (b) The name, firm, address, telephone number, and
763 facsimile number of each private provider who is performing or
764 will perform such services, his or her professional license or
765 certification number, qualification statements or resumes, and,
766 if required by the local building official, a certificate of
767 insurance demonstrating that professional liability insurance
768 coverage is in place for the private provider's firm, the
769 private provider, and any duly authorized representative in the
770 amounts required by this section.

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771 (c) An acknowledgment from the fee owner in substantially
772 the following form:

773
774 I have elected to use one or more private providers to provide
775 building code plans review and/or inspection services on the
776 building that is the subject of the enclosed permit application,
777 as authorized by s. 553.791, Florida Statutes. I understand
778 that the local building official may not review the plans
779 submitted or perform the required building inspections to
780 determine compliance with the applicable codes, except to the
781 extent specified in said law. Instead, plans review and/or
782 required building inspections will be performed by licensed or
783 certified personnel identified in the application. The law
784 requires minimum insurance requirements for such personnel, but
785 I understand that I may require more insurance to protect my
786 interests. By executing this form, I acknowledge that I have
787 made inquiry regarding the competence of the licensed or
788 certified personnel and the level of their insurance and am
789 satisfied that my interests are adequately protected. I agree to
790 indemnify, defend, and hold harmless the local government, the
791 local building official, and their building code enforcement
792 personnel from any and all claims arising from my use of these
793 licensed or certified personnel to perform building code
794 inspection services with respect to the building that is the
795 subject of the enclosed permit application.

796
797 If the fee owner or a fee owner's contractor makes any changes
798 to the listed private providers or the services to be provided
799 by those private providers, the fee owner or fee owner's

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800 contractor shall, within 1 business day after any change, update
801 the notice to reflect such changes.

802 (6)(a) No more than ~~Within~~ 30 ~~business~~ days after receipt
803 of a permit application and the affidavit from the private
804 provider required pursuant to subsection (5), the local building
805 official shall issue the requested permit or provide a written
806 notice to the permit applicant identifying the specific plan
807 features that do not comply with the applicable codes, as well
808 as the specific code chapters and sections. If the local
809 building official does not provide a written notice of the plan
810 deficiencies within the prescribed 30-day period, the permit
811 application shall be deemed approved as a matter of law, and the
812 permit shall be issued by the local building official on the
813 next business day.

814 (b) If the local building official provides a written
815 notice of plan deficiencies to the permit applicant within the
816 prescribed 30-day period, the 30-day period shall be tolled
817 pending resolution of the matter. To resolve the plan
818 deficiencies, the permit applicant may elect to dispute the
819 deficiencies pursuant to subsection (12) or to submit revisions
820 to correct the deficiencies.

821 (c) If the permit applicant submits revisions, the local
822 building official has the remainder of the tolled 30-day period
823 plus 5 business days to issue the requested permit or to provide
824 a second written notice to the permit applicant stating which of
825 the previously identified plan features remain in noncompliance
826 with the applicable codes, with specific reference to the
827 relevant code chapters and sections. If the local building
828 official does not provide the second written notice within the

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829 prescribed time period, the permit shall be issued by the local
830 building official on the next business day.

831 (d) If the local building official provides a second
832 written notice of plan deficiencies to the permit applicant
833 within the prescribed time period, the permit applicant may
834 elect to dispute the deficiencies pursuant to subsection (12) or
835 to submit additional revisions to correct the deficiencies. For
836 all revisions submitted after the first revision, the local
837 building official has an additional 5 business days to issue the
838 requested permit or to provide a written notice to the permit
839 applicant stating which of the previously identified plan
840 features remain in noncompliance with the applicable codes, with
841 specific reference to the relevant code chapters and sections.

842 (11) No more than ~~within~~ 2 business days after receipt of
843 a request for a certificate of occupancy or certificate of
844 completion and the applicant's presentation of a certificate of
845 compliance and approval of all other government approvals
846 required by law, the local building official shall issue the
847 certificate of occupancy or certificate of completion or provide
848 a notice to the applicant identifying the specific deficiencies,
849 as well as the specific code chapters and sections. If the
850 local building official does not provide notice of the
851 deficiencies within the prescribed 2-day period, the request for
852 a certificate of occupancy or certificate of completion shall be
853 deemed granted and the certificate of occupancy or certificate
854 of completion shall be issued by the local building official on
855 the next business day. To resolve any identified deficiencies,
856 the applicant may elect to dispute the deficiencies pursuant to

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857 subsection (12) or to submit a corrected request for a
858 certificate of occupancy or certificate of completion.

859 (14) No local enforcement agency, local building official,
860 or local government may adopt or enforce any laws, rules,
861 procedures, policies, or standards more stringent than those
862 prescribed by this section.

863 (15) A private provider may perform building code
864 inspection services under this section only if the private
865 provider maintains insurance for professional ~~and comprehensive~~
866 ~~general~~ liability with minimum policy limits of \$1 million per
867 occurrence covering relating to all services performed as a
868 private provider. If the private provider chooses to secure
869 claims-made coverage to fulfill this requirement, the private
870 provider must also maintain, including tail coverage for a
871 minimum of 5 years subsequent to the performance of building
872 code inspection services. Occurrence-based coverage shall not be
873 subject to any tail coverage requirement.

874 (19) The Florida Building Commission shall report on the
875 implementation of this section to the Legislature on or before
876 January 1, 2005 ~~2004~~, as part of the report required by s.
877 553.77(1)(b).

878 Section 7. Subsection (7) is added to section 553.80,
879 Florida Statutes, to read:

880 553.80 Enforcement.--

881 (7) The governing bodies of local governments may provide
882 a schedule of reasonable fees, as authorized by s. 125.56(2) or
883 s. 166.222 and this section, for the enforcement of this part.
884 Such fees, and any fines or investment earnings related to such
885 fees, shall be used solely for carrying out the local

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886 government's responsibilities in enforcing the Florida Building
887 Code. When providing a schedule of reasonable fees, the total
888 estimated annual revenue derived from fees and the fines and
889 investment earnings related to such fees may not exceed the
890 total estimated annual costs of allowable activities. Any
891 unexpended balances must be carried forward to future years for
892 allowable activities or shall be refunded at the discretion of
893 the local government. The basis for a fee structure for
894 allowable activities shall relate to the level of service
895 provided by the local government. Fees charged shall be
896 consistently applied.

897 (a) As used in this subsection, the term "enforcing the
898 Florida Building Code" includes the direct costs and reasonable
899 indirect costs associated with review of building plans,
900 building inspections, reinspections, building permit processing,
901 and building code enforcement. The term may also include
902 enforcement against unlicensed contractor activity to the extent
903 not funded with other user fees. Costs of inspections of public
904 buildings for a reduced fee or no fee, and costs incurred in
905 connection with public information requests, community
906 functions, boards, and programs that are not directly related to
907 enforcement of the Florida Building Code, may not be financed
908 with fees adopted under this subsection.

909 (b) A local government shall use recognized management,
910 accounting, and oversight practices to ensure that fees, fines,
911 and investment earnings generated under this subsection are
912 maintained and allocated or used solely for the purposes
913 described in paragraph (a).

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914 Section 8. The Florida Building Commission may expedite
915 the adoption and implementation of the State Existing Building
916 Code as part of the Florida Building Code pursuant only to the
917 provisions of chapter 120, Florida Statutes. The special update
918 and amendment requirements of section 553.73, Florida Statutes,
919 and the administrative rule requiring additional delay time
920 between adoption and implementation of such code are waived.

921 Section 9. Paragraph (c) is added to subsection (17) of
922 section 120.80, Florida Statutes, to read:

923 120.80 Exceptions and special requirements; agencies.--

924 (17) FLORIDA BUILDING COMMISSION.--

925 (c) Notwithstanding the provisions of s. 120.565, 120.569,
926 and 120.57, the Florida Building Commission and hearing officer
927 panels appointed by the commission in accordance with s.
928 553.775(3)(c)1., may conduct proceedings to review decisions of
929 local building code officials in accordance with s.
930 553.77(3)(c).

931 Section 10. Florida Construction Council.--

932 (1) This section may be cited as the "Florida Construction
933 Council Act."

934 (2) The purpose of this section is to create a public-
935 private partnership by providing that a single nonprofit
936 corporation be established to provide administrative, technical,
937 interpretive, and code-development services to the Florida
938 Building Commission and that no additional nonprofit corporation
939 be created for these purposes.

940 (3) The Florida Construction Council is created to provide
941 administrative, technical, and code-development services to the
942 Florida Building Commission in accordance with the provisions of

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943 chapter 553, Florida Statutes. The council may hire staff
944 members as necessary to carry out its functions. Such staff
945 members are not public employees for the purposes of chapter 110
946 or chapter 112, Florida Statutes, except that the board of
947 directors and the staff are subject to the provisions of section
948 112.061, Florida Statutes. However, the council may also use
949 staff members provided by the Florida State University who may
950 be public employees for the purposes of chapter 110 or chapter
951 112, Florida Statutes. The provisions of section 768.28, Florida
952 Statutes, apply to the Florida Construction Council, which is
953 deemed to be a corporation primarily acting as an
954 instrumentality of the state, but which is not an agency within
955 the meaning of section 20.03(11), Florida Statutes. The council
956 shall:

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

959 (b) Provide administrative, technical, and code-
960 development services to the Florida Building Commission in
961 accordance with the provisions of chapter 553, Florida Statutes,
962 and the contract required by this section. For the
963 administrative purposes of this act, the Florida Construction
964 Council shall be administratively attached to Florida State
965 University and shall be provided the administrative services
966 that the council and Florida State University find necessary.

967 (c) Receive, hold, and administer property and make only
968 prudent expenditures directly related to the responsibilities of
969 the Florida Building Commission, and in accordance with the
970 contract required by this section.

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971 (d) Operate under a fiscal year that begins on July 1 of
972 each year and ends on June 30 of the following year.

973 (e) Have a five-member board of directors, which shall
974 consist of the Secretary of Community Affairs or his or her
975 designee, two members appointed by the Florida Building
976 Commission, one member appointed by the Department of Community
977 Affairs who is a layperson not performing work within the
978 construction industry, and one member appointed by Florida State
979 University. Members shall be appointed to terms of 4 years each.
980 All initial appointments shall expire on October 31, 2007. A
981 member may not serve more than two consecutive terms. Failure to
982 attend three consecutive meetings shall be deemed a resignation
983 from the council and the vacancy shall be filled by a new
984 appointment.

985 (f) Select its officers in accordance with its bylaws.

986 (g) Operate under an annual written contract with the
987 Department of Community Affairs or the responsible budgeting
988 entity. The contract must provide for, but need not be limited
989 to:

990 1. Approval of the articles of incorporation and bylaws of
991 the council by the Florida Building Commission.

992 2. Submission by the council of an annual budget.

993 3. Annual certification by the Department of Community
994 Affairs or the responsible budgeting entity that the council is
995 complying with the terms of the contract in a manner consistent
996 with the goals and purposes of the Florida Building Commission
997 and in the best interest of the state. The contract must also
998 provide for methods and mechanisms to resolve any situation in
999 which the certification process determines noncompliance.

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1000 4. Employment by the Florida Building Council of an
1001 administrator to actively supervise the administrative,
1002 technical, and code-development services of the council to
1003 ensure compliance with the contract and the provisions of
1004 chapter 553, Florida Statutes, and to act as a liaison for the
1005 Florida Building Commission and the council to ensure the
1006 effective operation of the council.

1007 5. Funding of the council through appropriations and
1008 private sources.

1009 6. The reversion to the state if the commission ceases to
1010 exist, of moneys, records, data, and property held in trust by
1011 the council for the benefit of the commission, or if the council
1012 is no longer approved to operate for the commission. All records
1013 and data in a computerized database shall be returned to the
1014 state in a form that is compatible with the computerized
1015 database of the commission.

1016 7. The securing and maintaining by the council, during the
1017 term of the contract and for all acts performed during the term
1018 of the contract, of all liability insurance coverage in an
1019 amount to be approved by the Florida Construction Council to
1020 defend, indemnify, and hold harmless the council and its
1021 officers and employees, the Florida Building Commission and its
1022 commissioners and employees, and the state against all claims
1023 arising from state and federal laws. Such insurance coverage
1024 must be with insurers qualified and doing business in the state.

1025 8. Payment by the council, out of its allocated budget, to
1026 the Florida Building Commission of all costs of representation
1027 by the commission counsel, including salary and benefits,

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1028 travel, and any other compensation traditionally paid by the
1029 commission to other commission counsels.

1030 9. Payment by the council, out of its allocated budget, of
1031 all costs incurred by the council or the commission for the
1032 Division of Administrative Hearings of the Department of
1033 Management Services and any other costs for use of these state
1034 services.

1035 10. Payment by the council, out of its allocated budget,
1036 of all costs associated with the contract administrator of the
1037 commission, including salary and benefits, travel, and other
1038 related costs traditionally paid to state employees.

1039 11. Provide for an annual financial audit of its financial
1040 accounts and records by an independent certified public
1041 accountant. The annual audit report must include a management
1042 letter in accordance with section 11.45, Florida Statutes, and a
1043 detailed supplemental schedule of expenditures for each
1044 expenditure category. The annual audit report must be submitted
1045 to the Auditor General for review.

1046 12. Provide for persons charged with the responsibility of
1047 receiving and depositing fee and fine revenues to have a
1048 faithful performance bond in an amount and according to the
1049 terms specified in the contract.

1050 13. Submit to the Legislature, on or before January 1 of
1051 each year, a report on the status of the council which includes,
1052 but is not limited to, information concerning the programs and
1053 funds that have been transferred to the council. The report must
1054 include the number of inquiries received, the number of
1055 technical issues or questions addressed, the number of code or

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1056 other interpretations provided, and the number of instances of
1057 code development undertaken by the council.

1058 14. Develop, with the Florida Building Commission,
1059 performance standards and measurable outcomes for the commission
1060 to adopt by rule in order to facilitate efficient and cost-
1061 effective services and regulation.

1062 (4) The Florida Construction Council shall provide by rule
1063 the procedures the council must follow to ensure that all
1064 product and proprietary information is secure while under the
1065 responsibility of the council and that there is an appropriate
1066 level of protection and monitoring during any review or code-
1067 development activities.

1068 (5) The Florida Building Commission shall review this act
1069 and make recommendations to the Legislature regarding the
1070 implementation thereof as part of its report submitted to the
1071 Florida Legislature pursuant to section 553.77(1)(b), Florida
1072 Statutes, on or before January 1, 2004.

1073 (6) This section takes effect July 1, 2004.

1074 Section 11. Section 399.106, Florida Statutes, is amended
1075 to read:

1076 399.106 Elevator Safety Technical Advisory Committee.--

1077 (1) The Elevator Safety Technical Advisory Committee is
1078 created within the Department of Business and Professional
1079 Regulation, Division of Hotels and Restaurants, consisting of
1080 eight ~~seven~~ members to be appointed by the secretary of the
1081 Department of Business and Professional Regulation as follows:
1082 one representative from a major elevator manufacturing company
1083 or its authorized representative; one representative from an
1084 elevator servicing company; one representative from a building

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1085 design profession; one representative of the general public; one
1086 representative of a local government in this state; one
1087 representative of a building owner or manager; one
1088 representative of labor involved in the installation,
1089 maintenance, and repair of elevators; and one representative who
1090 is a certified elevator inspector from a private inspection
1091 service. The purpose of the committee is to provide technical
1092 assistance to the division in support of protecting the health,
1093 safety, and welfare of the public; to give the division the
1094 benefit of the committee members' knowledge and experience
1095 concerning the industries and individual businesses affected by
1096 the laws and rules administered by the division.

1097 (2) The committee members shall serve staggered terms of 4
1098 years to be set by rule without salary, but may receive from the
1099 state expenses for per diem and travel. The committee shall
1100 appoint one of the members to serve as chair.

1101 ~~(3) The committee shall meet and organize not later than~~
1102 ~~45 days prior to the convening of the 2002 Legislature. This~~
1103 ~~committee terminates December 31, 2003.~~

1104 (3)(4) The committee may consult with engineering
1105 authorities and organizations concerned with standard safety
1106 codes for recommendations to the department regarding rules and
1107 regulations governing the operation, maintenance, servicing,
1108 construction, alteration, installation, or inspection of
1109 vertical conveyances subject to this chapter.

1110 Section 12. Section 553.841, Florida Statutes, is amended
1111 to read:

1112 553.841 Building code training program; participant
1113 competency requirements.--

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1114 ~~(1) The Legislature finds that the effectiveness of the~~
1115 ~~building codes of this state depends on the performance of all~~
1116 ~~participants, as demonstrated through knowledge of the codes and~~
1117 ~~commitment to compliance with code directives and that to~~
1118 ~~strengthen compliance by industry and enforcement by government,~~
1119 ~~a Building Code Training Program is needed.~~

1120 (1)(2) The commission shall establish by rule the Building
1121 Code Training Program to develop and provide a core curriculum
1122 and offer voluntary accreditation of advance module courses
1123 relating to the Florida Building Code and its enforcement a
1124 ~~system of administering and enforcing the Florida Building Code.~~

1125 ~~(3) The program shall be developed, implemented, and~~
1126 ~~administered by the commission in consultation with the~~
1127 ~~Department of Education, the Department of Community Affairs,~~
1128 ~~the Department of Business and Professional Regulation, the~~
1129 ~~State Fire Marshal, the State University System, and the~~
1130 ~~Division of Community Colleges.~~

1131 ~~(4) The commission may enter into contracts with the~~
1132 ~~Department of Education, the State University System, the~~
1133 ~~Division of Community Colleges, model code organizations,~~
1134 ~~professional organizations, vocational technical schools, trade~~
1135 ~~organizations, and private industry to administer the program.~~

1136 (2)(5) The program shall be affordable, accessible,
1137 meaningful, financially self-sufficient and shall make maximum
1138 use of existing sources, systems, institutions, and programs
1139 available through private sources.

1140 (3)(6) The commission, in coordination with the Department
1141 of Community Affairs, the Department of Business and

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1142 Professional Regulation, the respective licensing boards, and
1143 the State Fire Marshal shall develop or cause to be developed-

1144 ~~(a) A core curriculum that ~~which~~ is prerequisite to~~
1145 ~~initial licensure for those licensees not subject to testing on~~
1146 ~~the Florida Building Code as a condition of licensure. These~~
1147 ~~entities shall also identify subject areas that are inadequately~~
1148 ~~addressed by specialized and advanced courses. all specialized~~
1149 ~~and advanced module coursework.~~

1150 ~~(b) A set of specialized and advanced modules specifically~~
1151 ~~designed for use by each profession.~~

1152 ~~(4)(7)~~ The core curriculum shall cover the information
1153 required to have all categories of participants appropriately
1154 informed as to their technical and administrative
1155 responsibilities in the effective execution of the code process
1156 by all individuals currently licensed under part XII of chapter
1157 468, chapter 471, chapter 481, or chapter 489, except as
1158 otherwise provided in s. 471.017. The core curriculum shall ~~be~~
1159 ~~prerequisite to the advanced module coursework for all licensees~~
1160 ~~and shall~~ be completed by individuals licensed in all categories
1161 under part XII of chapter 468, chapter 471, chapter 481, or
1162 chapter 489 by the date of license renewal in 2003. ~~within the~~
1163 ~~first 2-year period after establishment of the program. Core~~
1164 ~~course hours~~ All approved courses taken by licensees pursuant to
1165 this section ~~to complete this requirement~~ shall count toward
1166 fulfillment of required continuing education units under part
1167 XII of chapter 468, chapter 471, chapter 481, or chapter 489.

1168 ~~(8) The commission, in consultation with the Department of~~
1169 ~~Business and Professional Regulation and the respective~~
1170 ~~licensing boards, shall develop or cause to be developed an~~

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1171 ~~equivalency test for each category of licensee. Such test may~~
1172 ~~be taken in lieu of the core curriculum. A passing score on the~~
1173 ~~test shall be equivalent to completion of the core curriculum~~
1174 ~~and shall be credited toward the required number of hours of~~
1175 ~~continuing education.~~

1176 (5)~~(9)~~ The commission, in consultation with the Department
1177 of Business and Professional Regulation, shall develop or cause
1178 to be developed, or approve as a part of the program,
1179 appropriate courses ~~a core curriculum and specialized or~~
1180 ~~advanced module coursework~~ for the construction workforce,
1181 including, but not limited to, superintendents and journeymen.

1182 (6)~~(10)~~ The respective state boards under part XII of
1183 chapter 468, chapters 471, 481, and 489, and the State Fire
1184 Marshal under chapter 633, shall require specialized or advanced
1185 course modules as part of their regular continuing education
1186 requirements.

1187 (7)~~(11)~~ The Legislature hereby establishes the Office of
1188 Building Code Training Program Administration within the
1189 Institute of Applied Technology in Construction Excellence at
1190 the Florida Community College at Jacksonville. The office is
1191 charged with the following responsibilities as recommended by
1192 the Florida Building Commission and as resources are provided by
1193 the Legislature:

1194 (a) Provide research-to-practice capability for entry-
1195 level construction training development, delivery and quality
1196 assurance, as well as training and competency registry systems
1197 and recruitment initiatives.

1198 (b) Coordinate with the Department of Community Affairs
1199 and the Florida Building Commission to serve as school liaison

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1200 to disseminate construction awareness and promotion programs and
1201 materials to schools.

1202 (c) Develop model programs and approaches to construction
1203 career exploration to promote construction careers.

1204 Section 13. Subsection (9) of section 553.842, Florida
1205 Statutes, is amended to read:

1206 553.842 Product evaluation and approval.--

1207 (9) The commission may adopt rules to approve the
1208 following types of entities that produce information on which
1209 product approvals are based. All of the following entities,
1210 including engineers and architects, must comply with a
1211 nationally recognized standard demonstrating independence or no
1212 conflict of interest:

1213 (a) Evaluation entities that meet the criteria for
1214 approval adopted by the commission by rule. The commission shall
1215 specifically approve the National Evaluation Service, the
1216 International Conference of Building Officials Evaluation
1217 Services, the International Code Council Evaluation Services,
1218 the Building Officials and Code Administrators International
1219 Evaluation Services, the Southern Building Code Congress
1220 International Evaluation Services, and the Miami-Dade County
1221 Building Code Compliance Office Product Control. Architects and
1222 engineers licensed in this state are also approved to conduct
1223 product evaluations as provided in subsection (6).

1224 (b) Testing laboratories accredited by national
1225 organizations, such as A2LA and the National Voluntary
1226 Laboratory Accreditation Program, laboratories accredited by
1227 evaluation entities approved under paragraph (a), and

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1228 laboratories that comply with other guidelines for testing
1229 laboratories selected by the commission and adopted by rule.

1230 (c) Quality assurance entities approved by evaluation
1231 entities approved under paragraph (a) and by certification
1232 agencies approved under paragraph (d) and other quality
1233 assurance entities that comply with guidelines selected by the
1234 commission and adopted by rule.

1235 (d) Certification agencies accredited by nationally
1236 recognized accreditors and other certification agencies that
1237 comply with guidelines selected by the commission and adopted by
1238 rule.

1239 (e) Validation entities that comply with accreditation
1240 standards established by the commission by rule.

1241 Section 14. Subsection (3) is added to section 633.171,
1242 Florida Statutes, to read:

1243 633.171 Penalty for violation of law, rule, or order to
1244 cease and desist or for failure to comply with corrective
1245 order.--

1246 (3)(a) An owner or operator of an indoor facility may not
1247 knowingly allow the installation of a pyrotechnic device or
1248 fireworks inside his or her facility without a fire-suppression
1249 system or without a copy of a local fire marshal's permit
1250 furnished to the owner or operator by a vendor or licensee who
1251 wishes to install a pyrotechnic device or fireworks inside the
1252 indoor facility.

1253 (b) A vendor or licensee may not install fireworks or a
1254 pyrotechnic device in an indoor facility without a fire-
1255 suppression system unless he or she first obtains a local fire
1256 marshal's permit, furnishes a copy of that permit to the owner

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1257 or operator of the indoor facility, and obtains prior written
1258 consent of the owner or operator to install the fireworks or a
1259 pyrotechnic device inside his or her indoor facility.

1260 (c) A person who violates this subsection commits a felony
1261 of the third degree, punishable as provided in s. 775.082, s.
1262 775.083, or s. 775.084.

1263 Section 15. The administrative rule of the Florida
1264 Building Commission for the type of products for local or
1265 statewide use, as authorized by section 553.842, Florida
1266 Statutes, shall take effect no earlier than January 1, 2004. The
1267 commission shall conduct a review of the costs of operation of
1268 this rule and determine the benefits to the health, safety, and
1269 welfare of such state approvals. It shall report the results of
1270 its cost and benefit analysis together with any recommendations
1271 to the 2004 Florida Legislature. Funds may not be expended for
1272 optional state approval without determination of a positive cost
1273 and benefit of such regulation to the public.

1274
1275 ===== T I T L E A M E N D M E N T =====
1276

1277 Remove line(s) 124, and insert:
1278 An act relating to the Florida Building Code; amending s.
1279 553.73, F.S.; providing code amendment criteria and review
1280 requirements; amending s. 553.74, F.S.; revising the
1281 appointment of members to the Florida Building Commission;
1282 providing requirements relating to regional emergency
1283 elevator access; requiring elevators in certain newly
1284 constructed or substantially renovated buildings to be
1285 keyed alike within each of the state emergency response

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1286 regions; providing for these requirements to be phased in
1287 for certain existing buildings; restricting the
1288 duplication and issuance of master elevator keys;
1289 requiring the labeling of master elevator keys; allowing
1290 local fire marshals to allow substitute emergency measures
1291 for elevator access in certain circumstances; providing
1292 for appeal of the local fire marshal's decision; providing
1293 for the State Fire Marshal to enforce these provisions;
1294 encouraging builders to use applicable new technology to
1295 provide regional emergency elevator access; providing an
1296 exemption; amending s. 553.77, F.S.; revising duties of
1297 the Florida Building Commission; deleting requirements
1298 that the commission hear certain appeals and issue
1299 declaratory statements; creating s. 553.775, F.S.;
1300 providing legislative intent with respect to the
1301 interpretation of the Florida Building Code; providing for
1302 the commission to resolve disputes regarding
1303 interpretations of the code; requiring the commission to
1304 review decisions of local building officials and local
1305 enforcement agencies; providing for publication of an
1306 interpretation on the Building Code Information System and
1307 in the Florida Administrative Weekly; amending s. 553.79,
1308 F.S.; exempting truss placement plans from certain
1309 requirements; amending s. 553.791, F.S.; providing
1310 conditions for use of private plans review and inspection;
1311 requiring a report to the Legislature on the
1312 implementation of this section; amending s. 553.80, F.S.;
1313 authorizing local governments to impose certain fees for
1314 code enforcement; providing requirements and limitations;

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1315 authorizing the commission to expedite adoption and
1316 implementation of the existing state building code as part
1317 of the Florida Building Code pursuant to limited
1318 procedures; amending s. 120.80, F.S.; authorizing the
1319 Florida Building Commission to conduct proceedings to
1320 review decisions of local officials; creating the Florida
1321 Construction Council as a nonprofit corporation; requiring
1322 the council to provide administrative, technical, and
1323 code-development services to the Florida Building
1324 Commission; providing for staff for the council to be
1325 provided by Florida State University; providing for a
1326 board of directors; providing terms of office; providing
1327 requirements for operations; providing rulemaking
1328 authority; amending s. 399.106, F.S.; revising the
1329 membership of the Elevator Safety Technical Advisory
1330 Committee; removing provisions terminating the committee;
1331 amending s. 553.841, F.S.; revising the Building Code
1332 Training Program; amending s. 553.842, F.S.; adding an
1333 evaluation entity to the list of entities specifically
1334 approved by the commission; amending s. 633.171, F.S.;
1335 establishing penalties for unauthorized use of fireworks
1336 and pyrotechnic devices; directing the Florida Building
1337 Commission to make certain reports and recommendations to
1338 the Legislature; providing