

By the Committees on Comprehensive Planning; Regulated Industries; and Senator Constantine

316-2465-03

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. 553.74, F.S.; revising the
6 appointment of members to the Florida Building
7 Commission; providing requirements relating to
8 regional emergency elevator access; requiring
9 elevators in certain newly constructed or
10 substantially renovated buildings to be keyed
11 alike within each of the state emergency
12 response regions; providing for these
13 requirements to be phased in for certain
14 existing buildings; restricting the duplication
15 and issuance of master elevator keys; requiring
16 the labeling of master elevator keys; allowing
17 local fire marshals to allow substitute
18 emergency measures for elevator access in
19 certain circumstances; providing for appeal of
20 the local fire marshal's decision; providing
21 for the State Fire Marshal to enforce these
22 provisions; encouraging builders to use
23 applicable new technology to provide regional
24 emergency elevator access; providing an
25 exemption; amending s. 553.77, F.S.; revising
26 duties of the Florida Building Commission;
27 deleting requirements that the commission hear
28 certain appeals and issue declaratory
29 statements; creating s. 553.775, F.S.;
30 providing legislative intent with respect to
31 the interpretation of the Florida Building

1 Code; providing for the commission to resolve
2 disputes regarding interpretations of the code;
3 requiring the commission to review decisions of
4 local building officials and local enforcement
5 agencies; providing for publication of an
6 interpretation on the Building Code Information
7 System and in the Florida Administrative
8 Weekly; amending s. 553.79, F.S.; exempting
9 truss placement plans from certain
10 requirements; amending s. 553.791, F.S.;
11 providing conditions for use of private plans
12 review and inspection; requiring a report to
13 the Legislature on the implementation of this
14 section; amending s. 553.80, F.S.; authorizing
15 local governments to impose certain fees for
16 code enforcement; providing requirements and
17 limitations; authorizing the commission to
18 expedite adoption and implementation of the
19 existing state building code as part of the
20 Florida Building Code pursuant to limited
21 procedures; amending s. 120.80, F.S.;
22 authorizing the Florida Building Commission to
23 conduct proceedings to review decisions of
24 local officials; creating the Florida
25 Construction Council as a nonprofit
26 corporation; requiring the council to provide
27 administrative, technical, and code-development
28 services to the Florida Building Commission;
29 providing for staff for the council to be
30 provided by Florida State University; providing
31 for a board of directors; providing terms of

1 office; providing requirements for operations;
2 providing rulemaking authority; amending s.
3 399.106, F.S.; revising the membership of the
4 Elevator Safety Technical Advisory Committee;
5 removing provisions terminating the committee;
6 amending s. 553.841, F.S.; revising the
7 Building Code Training Program; amending s.
8 553.842, F.S.; adding an evaluation entity to
9 the list of entities specifically approved by
10 the commission; amending s. 633.171, F.S.;
11 establishing penalties for unauthorized use of
12 fireworks and pyrotechnic devices; directing
13 the Florida Building Commission to make certain
14 reports and recommendations to the Legislature;
15 providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Subsections (2), (4), and (6) and
20 paragraphs (a) and (c) of subsection (7) of section 553.73,
21 Florida Statutes, are amended to read:

22 553.73 Florida Building Code.--

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

1 for the control of radiation hazards, public or private
2 educational facilities, swimming pools, and correctional
3 facilities and enforcement of and compliance with such
4 provisions or requirements. Further, the Florida Building Code
5 must provide for uniform implementation of ss. 515.25, 515.27,
6 and 515.29 by including standards and criteria for residential
7 swimming pool barriers, pool covers, latching devices, door
8 and window exit alarms, and other equipment required therein,
9 which are consistent with the intent of s. 515.23. Technical
10 provisions to be contained within the Florida Building Code
11 are restricted to requirements related to the types of
12 materials used and construction methods and standards employed
13 in order to meet criteria specified in the Florida Building
14 Code. Provisions relating to the personnel, supervision or
15 training of personnel, or any other professional qualification
16 requirements relating to contractors or their workforce may
17 not be included within the Florida Building Code, and
18 subsections (4), (5), (6), and (7) are not to be construed to
19 allow the inclusion of such provisions within the Florida
20 Building Code by amendment. This restriction applies to both
21 initial development and amendment of the Florida Building
22 Code.

23 (4)(a) All entities authorized to enforce the Florida
24 Building Code pursuant to s. 553.80 shall comply with
25 applicable standards for issuance of mandatory certificates of
26 occupancy, minimum types of inspections, and procedures for
27 plans review and inspections as established by the commission
28 by rule. Local governments may adopt amendments to the
29 administrative provisions of the Florida Building Code,
30 subject to the limitations of this paragraph. Local amendments
31 shall be more stringent than the minimum standards described

1 herein and shall be transmitted to the commission within 30
2 days after enactment. The local government shall make such
3 amendments available to the general public in a usable format.
4 The State Fire Marshal is responsible for establishing the
5 standards and procedures required in this paragraph for
6 governmental entities with respect to applying the Florida
7 Fire Prevention Code and the Life Safety Code.

8 (b) Local governments may, subject to the limitations
9 of this section, adopt amendments to the technical provisions
10 of the Florida Building Code which apply solely within the
11 jurisdiction of such government and which provide for more
12 stringent requirements than those specified in the Florida
13 Building Code, not more than once every 6 months. A local
14 government may adopt technical amendments that address local
15 needs if:

16 1. The local governing body determines, following a
17 public hearing which has been advertised in a newspaper of
18 general circulation at least 10 days before the hearing, that
19 there is a need to strengthen the requirements of the Florida
20 Building Code. The determination must be based upon a review
21 of local conditions by the local governing body, which review
22 demonstrates by evidence or data that the geographical
23 jurisdiction governed by the local governing body exhibits a
24 local need to strengthen the Florida Building Code beyond the
25 needs or regional variation addressed by the Florida Building
26 Code, that the local need is addressed by the proposed local
27 amendment, and that the amendment is no more stringent than
28 necessary to address the local need.

29 2. Such additional requirements are not discriminatory
30 against materials, products, or construction techniques of
31 demonstrated capabilities.

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

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

6 5. Any amendment to the Florida Building Code shall be
7 transmitted within 30 days by the adopting local government to
8 the commission. The commission shall maintain copies of all
9 such amendments in a format that is usable and obtainable by
10 the public. Local technical amendments shall not become
11 effective until 30 days after the amendment has been received
12 and published by the commission.

13 6. Any amendment to the Florida Building Code adopted
14 by a local government pursuant to this paragraph shall be
15 effective only until the adoption by the commission of the new
16 edition of the Florida Building Code every third year. At such
17 time, the commission shall review such amendment for
18 consistency with the criteria in paragraph (7)(a) and adopt
19 such amendment as part of the Florida Building Code or rescind
20 the amendment. The commission shall immediately notify the
21 respective local government of the rescission of any
22 amendment. After receiving such notice, the respective local
23 government may readopt the rescinded amendment pursuant to the
24 provisions of this paragraph.

25 7. Each county and municipality desiring to make local
26 technical amendments to the Florida Building Code shall by
27 interlocal agreement establish a countywide compliance review
28 board to review any amendment to the Florida Building Code,
29 adopted by a local government within the county pursuant to
30 this paragraph, that is challenged by any substantially
31 affected party for purposes of determining the amendment's

1 compliance with this paragraph. If challenged, the local
2 technical amendments shall not become effective until time for
3 filing an appeal pursuant to subparagraph 8. has expired or,
4 if there is an appeal, until the commission issues its final
5 order determining the adopted amendment is in compliance with
6 this subsection.

7 8. If the compliance review board determines such
8 amendment is not in compliance with this paragraph, the
9 compliance review board shall notify such local government of
10 the noncompliance and that the amendment is invalid and
11 unenforceable until the local government corrects the
12 amendment to bring it into compliance. The local government
13 may appeal the decision of the compliance review board to the
14 commission. If the compliance review board determines such
15 amendment to be in compliance with this paragraph, any
16 substantially affected party may appeal such determination to
17 the commission. Any such appeal shall be filed with the
18 commission within 14 days of the board's written
19 determination. The commission shall promptly refer the appeal
20 to the Division of Administrative Hearings for the assignment
21 of an administrative law judge. The administrative law judge
22 shall conduct the required hearing within 30 days, and shall
23 enter a recommended order within 30 days of the conclusion of
24 such hearing. The commission shall enter a final order within
25 30 days thereafter. The provisions of chapter 120 and the
26 uniform rules of procedure shall apply to such proceedings.
27 The local government adopting the amendment that is subject to
28 challenge has the burden of proving that the amendment
29 complies with this paragraph in proceedings before the
30 compliance review board and the commission, as applicable.
31 Actions of the commission are subject to judicial review

1 pursuant to s. 120.68. The compliance review board shall
2 determine whether its decisions apply to a respective local
3 jurisdiction or apply countywide.

4 9. An amendment adopted under this paragraph shall
5 include a fiscal impact statement which documents the costs
6 and benefits of the proposed amendment. Criteria for the
7 fiscal impact statement shall include the impact to local
8 government relative to enforcement, the impact to property and
9 building owners, as well as to industry, relative to the cost
10 of compliance. The fiscal impact statement may not be used as
11 a basis for challenging the amendment for compliance.

12 10. In addition to subparagraphs 7. and 9., the
13 commission may review any amendments adopted pursuant to this
14 subsection and make nonbinding recommendations related to
15 compliance of such amendments with this subsection.

16 (c) Any amendment adopted by a local enforcing agency
17 pursuant to this subsection shall not apply to state or school
18 district owned buildings, manufactured buildings or
19 factory-built school buildings approved by the commission, or
20 prototype buildings approved pursuant to s. 553.77(5). The
21 respective responsible entities shall consider the physical
22 performance parameters substantiating such amendments when
23 designing, specifying, and constructing such exempt buildings.

24
25 Upon approval of the Florida Building Code by the Legislature
26 during the 2000 legislative session, all existing local
27 technical amendments to any building code adopted by any local
28 government were repealed. Each local government may readopt
29 such amendments pursuant to this subsection.

30 (6)(a) It is the intent of the Legislature that the
31 Florida Building Code be maintained to be up-to-date with the

1 national consensus standards. Further, it is the intent of the
2 Legislature that the Florida Building Code be maintained to
3 reflect Florida-specific needs and conditions affecting its
4 built environment. When updating the code, the commission
5 shall consider new editions of national model codes and
6 consensus standards incorporated into the Florida Building
7 Code; successor national model codes and consensus standards
8 if such national model codes or consensus standards are no
9 longer maintained by their promulgating organizations;
10 existing approved and adopted Florida-specific modifications;
11 such interpretations, declaratory statements, and appellate
12 decisions of the commission; local amendments reviewed
13 pursuant to subparagraph (4)(b)6., and; such Florida-specific
14 amendments first approved by the commission pursuant to
15 subsection (7), and considered essential to maintaining the
16 Florida Building Code requirements appropriate to the state.
17 All of the foregoing shall be considered, selected, and
18 adopted pursuant to paragraph (b).

19 **(b)** The commission, by rule adopted pursuant to ss.
20 120.536(1) and 120.54, shall update the Florida Building Code
21 every 3 years. When updating the Florida Building Code, the
22 commission shall consider changes made by the adopting entity
23 of any selected model code for any model code incorporated
24 into the Florida Building Code, and may subsequently adopt the
25 new edition or successor of the model code or any part of such
26 code, no sooner than 6 months after it ~~such model code~~ has
27 been adopted by the adopting organization, which may then be
28 modified for this state as provided in this section, and shall
29 further consider the commission's own interpretations,
30 declaratory statements, appellate decisions, and approved
31 statewide and local technical amendments. A change made by an

1 institute or standards organization to any standard or
2 criterion that is adopted by reference in the Florida Building
3 Code does not become effective statewide until it has been
4 adopted by the commission. Furthermore, the edition of the
5 Florida Building Code which is in effect on the date of
6 application for any permit authorized by the code governs the
7 permitted work for the life of the permit and any extension
8 granted to the permit. Any amendment to the Florida Building
9 Code which is adopted upon a finding by the commission that
10 the amendment is necessary to protect the public from
11 immediate threat of harm takes effect immediately.

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

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

17 2. Strengthens or improves the Florida Building Code,
18 or in the case of innovation or new technology, will provide
19 equivalent or better products or methods or systems of
20 construction.

21 3. Does not discriminate against materials, products,
22 methods, or systems of construction of demonstrated
23 capabilities.

24 4. Does not degrade the effectiveness of the Florida
25 Building Code.

26
27 Furthermore, the Florida Building Commission may approve
28 technical amendments to the code once each year to incorporate
29 into the Florida Building Code its own interpretations of the
30 code which are embodied in its opinions, final orders, ~~and~~
31 declaratory statements, and in interpretations of hearing

1 officer panels under s. 553.775(3)(c). Amendments approved
2 under this paragraph shall be adopted by rule pursuant to ss.
3 120.536(1) and 120.54, after the amendments have been
4 subjected to the provisions of subsection (3).

5 (c) The commission may not approve any proposed
6 amendment that does not accurately and completely address all
7 requirements for amendment which are set forth in this
8 section. The commission shall require all proposed amendments
9 and information submitted with proposed amendments to be
10 reviewed by commission staff prior to consideration by any
11 technical advisory committee. These reviews shall be for
12 sufficiency only and are not intended to be qualitative in
13 nature. Staff members shall reject any proposed amendment that
14 fails to include a fiscal impact statement providing
15 information responsive to all criteria identified. Proposed
16 amendments rejected by members of the staff may not be
17 considered by the commission or any technical advisory
18 committee.

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

22 553.74 Florida Building Commission.--

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

28 (a) One architect registered to practice in this state
29 and actively engaged in the profession from a list of three
30 candidates provided by the American Institute of Architecture,
31 Florida Section.

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

5 (c) One air-conditioning or mechanical contractor
6 certified to do business in this state and actively engaged in
7 the profession from a list of three candidates provided by the
8 Florida Air Conditioning Contractors Association and the
9 Florida Refrigeration and Air Conditioning Contractors
10 Association.

11 (d) One electrical contractor certified to do business
12 in this state and actively engaged in the profession from a
13 list of three candidates provided by the Florida Electrical
14 Contractors Association.

15 (e) One member from fire protection engineering or
16 technology who is actively engaged in the profession from a
17 list of three candidates provided by the Florida Fire
18 Protection Engineers Society and the Florida Fire Marshals
19 Association.

20 (f) One ~~general~~ contractor certified to do business in
21 this state and actively engaged in the profession from a list
22 of three candidates provided by the Associated Builders and
23 Contractors of Florida and the Florida Associated General
24 Contractors Council.

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

29 (h) One roofing or sheet metal contractor certified to
30 do business in this state and actively engaged in the
31 profession from a list of three candidates provided by the

1 Florida Roofing, Sheet Metal and Air Conditioning Contractors
2 Association.

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

7 (j) Three members who are municipal or district codes
8 enforcement officials, two of whom shall be from a list of
9 four candidates provided by the Building Officials Association
10 of Florida and one of whom is also a fire official from a list
11 of three candidates provided by the Florida Fire Marshals
12 Association.

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

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

18 (m) One member of a Florida-based organization of
19 persons with disabilities or a nationally chartered
20 organization of persons with disabilities with chapters in
21 this state.

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

26 (o) One mechanical or electrical engineer registered
27 to practice in this state and actively engaged in the
28 profession from a list of three candidates provided by the
29 Florida Engineering Society.

30 (p) One member who is an elected ~~a~~ representative of a
31 municipality or a charter county from a list of three

1 candidates provided by the Florida League of Cities and
2 Florida Association of Counties.

3 (q) One member of the building products manufacturing
4 industry who is authorized to do business in this state and is
5 actively engaged in the industry from a list of candidates
6 provided by the Florida Building Materials Association,
7 Florida Concrete and Products Association, and Fensestration
8 Manufacturers Association.

9 (r) One member who is a representative of the building
10 owners and managers industry who is actively engaged in
11 commercial building ownership or management from a list of
12 three candidates provided by the Building Owners and Managers
13 Association.

14 (s) One member who is a representative of the
15 insurance industry from a list of three candidates provided by
16 the Florida Insurance Council.

17 (t) One member who is a representative of public
18 education.

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

20
21 Any person serving on the commission ~~under paragraph (c) or~~
22 ~~paragraph (h)~~ on October 1, 2003, and who has served less than
23 two full terms is eligible for reappointment to the commission
24 regardless of whether he or she meets the new qualification.
25 The Governor may appoint commission members from the lists of
26 candidates submitted by the respective professional
27 organizations or may appoint any other persons otherwise
28 qualified according to this section.

29 Section 3. Regional emergency elevator access.--

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

31

1 (a) For each building in this state which is six or
2 more stories in height, including, but not limited to, hotels
3 and condominiums, and on which construction is begun after
4 June 30, 2003, all of the keys for elevators that allow public
5 access, including, but not limited to, service and freight
6 elevators, must be keyed so as to allow all elevators within
7 each of the seven state emergency response regions to be
8 operated in fire service emergency situations with one master
9 elevator key.

10 (b) Any building in this state which is six or more
11 stories in height and is "substantially renovated" as defined
12 in the Americans with Disabilities Act, as amended, after June
13 30, 2003, must also comply with paragraph (a).

14 (2) Each existing building in this state which is six
15 or more stories in height must comply with subsection (1)
16 before July 1, 2006.

17 (3) In addition to elevator owners, owners' agents,
18 elevator contractors, state certified inspectors, and state
19 agency representatives, master elevator keys may be issued
20 only to the fire department and may not be issued to any other
21 emergency-response agency. A person may not duplicate a master
22 elevator key for issuance to, or issue such a key to, anyone
23 other than authorized fire-department personnel. Each master
24 elevator key must be marked "DO NOT DUPLICATE."

25 (4) If it is technically or physically impossible to
26 bring a building into compliance with this section, the local
27 fire marshal may allow substitute emergency measures that will
28 provide reasonable emergency elevator access. The local fire
29 marshal's decision regarding substitute measures may be
30 appealed to the State Fire Marshal.

31

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

3 (6) Builders should make every effort to use new
4 technology and developments in keying systems which make it
5 possible to convert existing equipment so as to provide
6 efficient regional emergency elevator access.

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

10 Section 4. Section 553.77, Florida Statutes, is
11 amended to read:

12 553.77 Specific powers of the commission.--

13 (1) The commission shall:

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

16 (b) Make a continual study of the operation of the
17 Florida Building Code and other laws relating to the design,
18 construction, erection, alteration, modification, repair, or
19 demolition of public or private buildings, structures, and
20 facilities, including manufactured buildings, and code
21 enforcement, to ascertain their effect upon the cost of
22 building construction and determine the effectiveness of their
23 provisions. Upon updating the Florida Building Code every 3
24 years, the commission shall review existing provisions of law
25 and make recommendations to the Legislature for the next
26 regular session of the Legislature regarding provisions of law
27 that should be revised or repealed to ensure consistency with
28 the Florida Building Code at the point the update goes into
29 effect. State agencies and local jurisdictions shall provide
30 such information as requested by the commission for evaluation
31 of and recommendations for improving the effectiveness of the

1 system of building code laws for reporting to the Legislature
2 annually. Failure to comply with this or other requirements of
3 this act must be reported to the Legislature for further
4 action. Any proposed legislation providing for the revision or
5 repeal of existing laws and rules relating to technical
6 requirements applicable to building structures or facilities
7 should expressly state that such legislation is not intended
8 to imply any repeal or sunset of existing general or special
9 laws governing any special district that are not specifically
10 identified in the legislation.

11 (c) Upon written application by any substantially
12 affected person or a local enforcement agency, issue
13 declaratory statements pursuant to s. 120.565 relating to new
14 technologies, techniques, and materials which have been tested
15 where necessary and found to meet the objectives of the
16 Florida Building Code. This paragraph does not apply to the
17 types of products, materials, devices, or methods of
18 construction required to be approved under paragraph (f) ~~(i)~~.

19 ~~(d) Upon written application by any substantially~~
20 ~~affected person, state agency, or a local enforcement agency,~~
21 ~~issue declaratory statements pursuant to s. 120.565 relating~~
22 ~~to the enforcement or administration by local governments of~~
23 ~~the Florida Building Code. Paragraph (h) provides the~~
24 ~~exclusive remedy for addressing local interpretations of the~~
25 ~~code.~~

26 ~~(e) When requested in writing by any substantially~~
27 ~~affected person, state agency, or a local enforcing agency,~~
28 ~~shall issue declaratory statements pursuant to s. 120.565~~
29 ~~relating to this part and ss. 515.25, 515.27, 515.29, and~~
30 ~~515.37. Actions of the commission are subject to judicial~~
31 ~~review pursuant to s. 120.68.~~

1 (d)~~(f)~~ Make recommendations to, and provide assistance
2 upon the request of, the Florida Commission on Human Relations
3 regarding rules relating to accessibility for persons with
4 disabilities.

5 (e)~~(g)~~ Participate with the Florida Fire Code Advisory
6 Council created under s. 633.72, to provide assistance and
7 recommendations relating to firesafety code interpretations.
8 The administrative staff of the commission shall attend
9 meetings of the Florida Fire Code Advisory Council and
10 coordinate efforts to provide consistency between the Florida
11 Building Code and the Florida Fire Prevention Code and the
12 Life Safety Code.

13 ~~(h) Hear appeals of the decisions of local boards of
14 appeal regarding interpretation decisions of local building
15 officials, or if no local board exists, hear appeals of
16 decisions of the building officials regarding interpretations
17 of the code. For such appeals:~~

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

22 ~~2. All appeals shall be heard in the county of the
23 jurisdiction defending the appeal.~~

24 ~~3. Hearings shall be conducted pursuant to chapter 120
25 and the uniform rules of procedure, and decisions of the
26 commission are subject to judicial review pursuant to s.
27 120.68.~~

28 (f)~~(i)~~ Determine the types of products which may be
29 approved by the commission ~~requiring approval~~ for local or
30 statewide use and shall provide for the evaluation and
31 approval of such products, materials, devices, and method of

1 construction for statewide use. The commission may prescribe
2 by rule a schedule of reasonable fees to provide for
3 evaluation and approval of products, materials, devices, and
4 methods of construction. Evaluation and approval shall be by
5 action of the commission or delegated pursuant to s. 553.842.
6 This paragraph does not apply to products approved by the
7 State Fire Marshal.

8 (g)~~(j)~~ Appoint experts, consultants, technical
9 advisers, and advisory committees for assistance and
10 recommendations relating to the major areas addressed in the
11 Florida Building Code.

12 (h)~~(k)~~ Establish and maintain a mutual aid program,
13 organized through the department, to provide an efficient
14 supply of various levels of code enforcement personnel, design
15 professionals, commercial property owners, and construction
16 industry individuals, to assist in the rebuilding effort in an
17 area which has been hit with disaster. The program shall
18 include provisions for:

19 1. Minimum postdisaster structural, electrical, and
20 plumbing inspections and procedures.

21 2. Emergency permitting and inspection procedures.

22 3. Establishing contact with emergency management
23 personnel and other state and federal agencies.

24 (i)~~(l)~~ Maintain a list of interested parties for
25 noticing rulemaking workshops and hearings, disseminating
26 information on code adoption, revisions, amendments, and all
27 other such actions which are the responsibility of the
28 commission.

29 (j)~~(m)~~ Coordinate with the state and local
30 governments, industry, and other affected stakeholders in the
31 examination of legislative provisions and make recommendations

1 to fulfill the responsibility to develop a consistent, single
2 code.

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

7 (l)~~(o)~~ Develop recommendations for local governments
8 to use when pursuing partial or full privatization of building
9 department functions. The recommendations shall include, but
10 not be limited to, provisions relating to equivalency of
11 service, conflict of interest, requirements for competency,
12 liability, insurance, and long-term accountability.

13 ~~(2) Upon written application by any substantially~~
14 ~~affected person, the commission shall issue a declaratory~~
15 ~~statement pursuant to s. 120.565 relating to a state agency's~~
16 ~~interpretation and enforcement of the specific provisions of~~
17 ~~the Florida Building Code the agency is authorized to enforce.~~
18 ~~The provisions of this subsection shall not be construed to~~
19 ~~provide any powers, other than advisory, to the commission~~
20 ~~with respect to any decision of the State Fire Marshal made~~
21 ~~pursuant to the provisions of chapter 633.~~

22 ~~(3) The commission may designate a commission member~~
23 ~~with demonstrated expertise in interpreting building plans to~~
24 ~~attend each meeting of the advisory council created in s.~~
25 ~~553.512. The commission member may vary from meeting to~~
26 ~~meeting, shall serve on the council in a nonvoting capacity,~~
27 ~~and shall receive per diem and expenses as provided in s.~~
28 ~~553.74(3).~~

29 (2)~~(4)~~ For educational and public information
30 purposes, the commission shall develop and publish an
31 informational and explanatory document which contains

1 descriptions of the roles and responsibilities of the licensed
2 design professional, residential designer, contractor, and
3 local building and fire code officials. The State Fire Marshal
4 shall be responsible for developing and specifying roles and
5 responsibilities for fire code officials. Such document may
6 also contain descriptions of roles and responsibilities of
7 other participants involved in the building codes system.

8 (3)~~(5)~~ The commission may provide by rule for plans
9 review and approval of prototype buildings owned by public and
10 private entities to be replicated throughout the state. The
11 rule must allow for review and approval of plans for prototype
12 buildings to be performed by a public or private entity with
13 oversight by the commission. The department may charge
14 reasonable fees to cover the administrative costs of the
15 program. Such approved plans or prototype buildings shall be
16 exempt from further review required by s. 553.79(2), except
17 changes to the prototype design, site plans, and other
18 site-related items. As provided in s. 553.73, prototype
19 buildings are exempt from any locally adopted amendment to any
20 part of the Florida Building Code. Construction or erection of
21 such prototype buildings is subject to local permitting and
22 inspections pursuant to this part.

23 (4)~~(6)~~ The commission may produce and distribute a
24 commentary document to accompany the Florida Building Code.
25 The commentary must be limited in effect to providing
26 technical assistance and must not have the effect of binding
27 interpretations of the code document itself.

28 ~~(7) The commission shall by rule establish an informal~~
29 ~~process of rendering nonbinding interpretations of the Florida~~
30 ~~Building Code. The commission is specifically authorized to~~
31 ~~refer interpretive issues to organizations that represent~~

1 ~~those engaged in the construction industry. The commission is~~
2 ~~directed to immediately implement the process prior to the~~
3 ~~completion of formal rulemaking. It is the intent of the~~
4 ~~Legislature that the commission create a process to refer~~
5 ~~questions to a small, rotating group of individuals licensed~~
6 ~~under part XII of chapter 468, to which a party can pose~~
7 ~~questions regarding the interpretation of code provisions. It~~
8 ~~is the intent of the Legislature that the process provide for~~
9 ~~the expeditious resolution of the issues presented and~~
10 ~~publication of the resulting interpretation on the Building~~
11 ~~Code Information System. Such interpretations are to be~~
12 ~~advisory only and nonbinding on the parties or the commission.~~

13 Section 5. Section 553.775, Florida Statutes, is
14 created to read:

15 553.775 Interpretations.--

16 (1) It is the intent of the Legislature that the
17 Florida Building Code be interpreted by building officials,
18 local enforcement agencies, and the commission in a manner
19 that protects the public safety, health, and welfare at the
20 most reasonable cost to the consumer by ensuring uniform
21 interpretations throughout the state and by providing
22 processes for resolving disputes regarding interpretations of
23 the Florida Building Code which are just and expeditious.

24 (2) Local enforcement agencies, local building
25 officials, state agencies, and the commission shall interpret
26 provisions of the Florida Building Code in a manner that is
27 consistent with declaratory statements and interpretations
28 entered by the commission, except that conflicts between the
29 Florida Fire Prevention Code and the Florida Building Code
30 shall be resolved in accordance with s. 553.73(9)(c) and (d).

31

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

3 (a) Upon written application by any substantially
4 affected person, state agency, or a local enforcement agency,
5 the commission shall issue declaratory statements pursuant to
6 s. 120.565 relating to the enforcement or administration by
7 local governments of the Florida Building Code. Paragraph (c)
8 provides the exclusive remedy for addressing requests to
9 review local interpretations of the code and appeals from
10 review proceedings.

11 (b) When requested in writing by any substantially
12 affected person, state agency, or a local enforcing agency,
13 the commission shall issue a declaratory statement pursuant to
14 s. 120.565 relating to this part and ss. 515.25, 515.27,
15 515.29, and 515.37. Actions of the commission are subject to
16 judicial review under s. 120.68.

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

20 1. The commission shall coordinate with the Building
21 Officials Association of Florida, Inc., to designate panels
22 composed of five members to hear requests to review decisions
23 of local building officials. The members must be licensed as
24 building code administrators under part XII of chapter 468 and
25 must have experience interpreting and enforcing provisions of
26 the Florida Building Code.

27 2. Requests to review a decision of a local building
28 official interpreting provisions of the Florida Building Code
29 may be initiated by any substantially affected person,
30 including an owner or builder subject to a decision of a local
31 building official, or an association of owners or builders

1 with members who are subject to a decision of a local building
2 official. In order to initiate review, the substantially
3 affected person must file a petition with the commission. The
4 commission shall adopt a form for the petition, which shall be
5 published on the Building Code Information System. The form
6 shall, at a minimum, require the following:

7 a. The name and address of the county or municipality
8 in which provisions of the Florida Building Code are being
9 interpreted.

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

12 c. The name, address, and telephone number of the
13 petitioner; the name, address, and telephone number of the
14 petitioner's representative, if any; and an explanation of how
15 the petitioner's substantial interests are being affected by
16 the local interpretation of the Florida Building Code.

17 d. A statement of the provisions of the Florida
18 Building Code which are being interpreted by the local
19 building official.

20 e. A statement of the interpretation given to
21 provisions of the Florida Building Code by the local building
22 official and the manner in which the interpretation was
23 rendered.

24 f. A statement of the interpretation that the
25 petitioner contends should be given to the provisions of the
26 Florida Building Code and a statement supporting the
27 petitioner's interpretation.

28 g. Space for the local building official to respond in
29 writing. The space shall, at a minimum, require the local
30 building official to respond by providing a statement
31 admitting or denying the statements containing in the petition

1 and a statement of the interpretation of the provisions of the
2 Florida Building Code which the local jurisdiction or the
3 local building official contends is correct, including the
4 basis for the interpretation.

5 3. The petitioner shall submit the petition to the
6 local building official, who shall place the date of receipt
7 on the petition. The local building official shall respond to
8 the petition in accordance with the form, and shall return the
9 petition along with his or her response to the petitioner
10 within 5 days after receipt, exclusive of Saturdays, Sundays,
11 and legal holidays. The petitioner may file the petition with
12 the commission at any time after the local building official
13 provides a response. If no response is provided by the local
14 building official, the petitioner may file the petition with
15 the commission 10 days after submission of the petition to the
16 local building official, and shall note that the local
17 building official did not respond.

18 4. Upon receipt of a petition that meets the
19 requirements of subparagraph 2., the commission shall
20 immediately provide copies of the petition to a panel, and the
21 commission shall publish the petition, including any response
22 submitted by the local building official, on the Building Code
23 Information System in a manner that allows interested persons
24 to address the issues by posting comments.

25 5. The panel shall conduct proceedings as necessary to
26 resolve the issues; shall give due regard to the petitions,
27 and the response, and to comments posed on the Building Code
28 Information System; and shall issue an interpretation
29 regarding the provisions of the Florida Building Code within
30 21 days after the filing of the petition. The panel shall
31 render a determination based upon the Florida Building Code

1 or, if the code is ambiguous, the intent of the code. The
2 panel's interpretation shall be provided to the commission,
3 which shall publish the interpretation on the Building Code
4 Information System and in the Florida Administrative Weekly.
5 The interpretation shall be considered an interpretation
6 entered by the commission, and shall be binding upon the
7 parties and upon all jurisdictions subject to the Florida
8 Building Code, unless it is superseded by a declaratory
9 statement issued by the Florida Building Commission or by a
10 final order entered after an appeal proceeding conducted in
11 accordance with subparagraph 7.

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

17 7. Any substantially affected person may appeal an
18 interpretation rendered by a hearing officer panel by filing a
19 petition with the commission. Such appeals shall be initiated
20 in accordance with chapter 120 and the uniform rules of
21 procedure, and must be filed within 30 days after publication
22 of the interpretation on the Building Code Information System
23 or in the Florida Administrative Weekly. Hearings shall be
24 conducted pursuant to chapter 120 and the uniform rules of
25 procedure. Decisions of the commission are subject to judicial
26 review pursuant to s. 120.68. The final order of the
27 commission is binding upon the parties and upon all
28 jurisdictions subject to the Florida Building Code.

29 8. The burden of proof in any proceeding initiated in
30 accordance with subparagraph 7. shall be on the party who
31 initiated the appeal.

1 9. In any review proceeding initiated in accordance
2 with this paragraph, including any proceeding initiated in
3 accordance with subparagraph 7., the fact that an owner or
4 builder has proceeded with construction shall not be grounds
5 for determining the issues to be moot, if the issue is one
6 that is likely to arise in the future.

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

12 (e) Upon written application by any substantially
13 affected person, the commission shall issue a declaratory
14 statement pursuant to s. 120.565 relating to an agency's
15 interpretation and enforcement of the specific provisions of
16 the Florida Building Code which the agency is authorized to
17 enforce. This subsection does not provide any powers, other
18 than advisory, to the commission with respect to any decision
19 of the State Fire Marshal made pursuant to chapter 633.

20 (f) The commission may designate a commission member
21 with demonstrated expertise in interpreting building plans to
22 attend each meeting of the advisory council created in s.
23 553.512. The commission member may vary from meeting to
24 meeting, shall serve on the council in a nonvoting capacity,
25 and shall receive per diem and expenses as provided in s.
26 553.74(3).

27 (g) The commission shall by rule establish an informal
28 process of rendering nonbinding interpretations of the Florida
29 Building Code. The commission is specifically authorized to
30 refer interpretive issues to organizations that represent
31 those engaged in the construction industry. The commission

1 shall immediately implement the process prior to the
2 completion of formal rulemaking. It is the intent of the
3 Legislature that the commission create a process to refer
4 questions to a small, rotating group of individuals licensed
5 under part XII of chapter 468, to which a party may pose
6 questions regarding the interpretation of code provisions. It
7 is the intent of the Legislature that the process provide for
8 the expeditious resolution of the issues presented and
9 publication of the resulting interpretation on the Building
10 Code Information System. Such interpretations shall be
11 advisory only and nonbinding on the parties and the
12 commission.

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

15 553.79 Permits; applications; issuance; inspections.--

16 (14) Certifications by contractors authorized under
17 the provisions of s. 489.115(4)(b) shall be considered
18 equivalent to sealed plans and specifications by a person
19 licensed under chapter 471 or chapter 481 by local enforcement
20 agencies for plans review for permitting purposes relating to
21 compliance with the wind resistance provisions of the code or
22 alternate methodologies approved by the commission for one and
23 two family dwellings. Local enforcement agencies may rely upon
24 such certification by contractors that the plans and
25 specifications submitted conform to the requirements of the
26 code for wind resistance. Upon good cause shown, local
27 government code enforcement agencies may accept or reject
28 plans sealed by persons licensed under chapter 471, chapter
29 481, or chapter 489. A truss placement plan is not required to
30 be signed and sealed by an engineer or architect unless

31

1 prepared by an engineer or architect or specifically required
2 by the Florida Building Code.

3 Section 7. Subsections (2), (4), (6), (11), (14), (15)
4 and (19) of section 553.791, Florida Statutes, are amended to
5 read:

6 553.791 Alternative plans review and inspection.--

7 (2) Notwithstanding any other provision of law or
8 local government ordinance or local policy to the contrary,
9 the fee owner of a building, or the fee owner's contractor
10 upon written authorization from the fee owner, may choose to
11 use a private provider to provide building code inspection
12 services with regard to such building and may make payment
13 directly to the private provider for the provision of such
14 services. All such services shall be the subject of a written
15 contract between the private provider, or the private
16 provider's firm, and the fee owner. The fee owner may elect to
17 use a private provider to provide either plans review or
18 required building inspections. The local building official, in
19 his or her discretion and pursuant to duly adopted policies of
20 the local enforcement agency, may require the fee owner who
21 desires to use a private provider to use the private provider
22 to provide both plans review and required building inspection
23 services.

24 (4) A fee owner or the fee owner's contractor using a
25 private provider to provide building code inspection services
26 shall notify the local building official at the time of permit
27 application or no less than 1 week prior to a private provider
28 providing building code inspection services on a form to be
29 adopted by the commission. This notice shall include the
30 following information:

31

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

3 (b) The name, firm, address, telephone number, and
4 facsimile number of each private provider who is performing or
5 will perform such services, his or her professional license or
6 certification number, qualification statements or resumes,
7 and, if required by the local building official, a certificate
8 of insurance demonstrating that professional liability
9 insurance coverage is in place for the private provider's
10 firm, the private provider, and any duly authorized
11 representative in the amounts required by this section.

12 (c) An acknowledgment from the fee owner in
13 substantially the following form:

14
15 I have elected to use one or more private
16 providers to provide building code plans review
17 and/or inspection services on the building that
18 is the subject of the enclosed permit
19 application, as authorized by s. 553.791,
20 Florida Statutes. I understand that the local
21 building official may not review the plans
22 submitted or perform the required building
23 inspections to determine compliance with the
24 applicable codes, except to the extent
25 specified in said law. Instead, plans review
26 and/or required building inspections will be
27 performed by licensed or certified personnel
28 identified in the application. The law requires
29 minimum insurance requirements for such
30 personnel, but I understand that I may require
31 more insurance to protect my interests. By

1 executing this form, I acknowledge that I have
2 made inquiry regarding the competence of the
3 licensed or certified personnel and the level
4 of their insurance and am satisfied that my
5 interests are adequately protected. I agree to
6 indemnify, defend, and hold harmless the local
7 government, the local building official, and
8 their building code enforcement personnel from
9 any and all claims arising from my use of these
10 licensed or certified personnel to perform
11 building code inspection services with respect
12 to the building that is the subject of the
13 enclosed permit application.

14
15 If the fee owner or a fee owner's contractor makes any changes
16 to the listed private providers or the services to be provided
17 by those private providers, the fee owner or fee owner's
18 contractor shall, within 1 business day after any change,
19 update the notice to reflect such changes.

20 (6)(a) No more than ~~Within~~ 30 ~~business~~ days after
21 receipt of a permit application and the affidavit from the
22 private provider required pursuant to subsection (5), the
23 local building official shall issue the requested permit or
24 provide a written notice to the permit applicant identifying
25 the specific plan features that do not comply with the
26 applicable codes, as well as the specific code chapters and
27 sections. If the local building official does not provide a
28 written notice of the plan deficiencies within the prescribed
29 30-day period, the permit application shall be deemed approved
30 as a matter of law, and the permit shall be issued by the
31 local building official on the next business day.

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

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

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

31

1 (11) No more than ~~Within~~ 2 business days after receipt
2 of a request for a certificate of occupancy or certificate of
3 completion and the applicant's presentation of a certificate
4 of compliance and approval of all other government approvals
5 required by law, the local building official shall issue the
6 certificate of occupancy or certificate of completion or
7 provide a notice to the applicant identifying the specific
8 deficiencies, as well as the specific code chapters and
9 sections. If the local building official does not provide
10 notice of the deficiencies within the prescribed 2-day period,
11 the request for a certificate of occupancy or certificate of
12 completion shall be deemed granted and the certificate of
13 occupancy or certificate of completion shall be issued by the
14 local building official on the next business day. To resolve
15 any identified deficiencies, the applicant may elect to
16 dispute the deficiencies pursuant to subsection (12) or to
17 submit a corrected request for a certificate of occupancy or
18 certificate of completion.

19 (14) No local enforcement agency, local building
20 official, or local government may adopt or enforce any laws,
21 rules, procedures, policies, or standards more stringent than
22 those prescribed by this section.

23 (15) A private provider may perform building code
24 inspection services under this section only if the private
25 provider maintains insurance for professional ~~and~~
26 ~~comprehensive-general~~ liability with minimum policy limits of
27 \$1 million per occurrence covering ~~relating to~~ all services
28 performed as a private provider. If the private provider
29 chooses to secure claims-made coverage to fulfill this
30 requirement, the private provider must also maintain,
31 ~~including~~ tail coverage for a minimum of 5 years subsequent to

1 the performance of building code inspection services.

2 Occurrence-based coverage shall not be subject to any tail
3 coverage requirement.

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

8 Section 8. Subsection (7) is added to section 553.80,
9 Florida Statutes, to read:

10 553.80 Enforcement.--

11 (7) The governing bodies of local governments may
12 provide a schedule of reasonable fees, as authorized by s.
13 125.56(2) or s. 166.222 and this section, for the enforcement
14 of this part. Such fees, and any fines or investment earnings
15 related to such fees, shall be used solely for carrying out
16 the local government's responsibilities in enforcing the
17 Florida Building Code. When providing a schedule of reasonable
18 fees, the total estimated annual revenue derived from fees and
19 the fines and investment earnings related to such fees may not
20 exceed the total estimated annual costs of allowable
21 activities. Any unexpended balances must be carried forward to
22 future years for allowable activities or shall be refunded at
23 the discretion of the local government. The basis for a fee
24 structure for allowable activities shall relate to the level
25 of service provided by the local government. Fees charged
26 shall be consistently applied.

27 (a) As used in this subsection, the term "enforcing
28 the Florida Building Code" includes the direct costs and
29 reasonable indirect costs associated with review of building
30 plans, building inspections, reinspections, building permit
31 processing, and building code enforcement. The term may also

1 include enforcement against unlicensed contractor activity to
2 the extent not funded with other user fees. Costs of
3 inspections of public buildings for a reduced fee or no fee,
4 and costs incurred in connection with public information
5 requests, community functions, boards, and programs that are
6 not directly related to enforcement of the Florida Building
7 Code, may not be financed with fees adopted under this
8 subsection.

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

14 Section 9. The Florida Building Commission may
15 expedite the adoption and implementation of the State Existing
16 Building Code as part of the Florida Building Code pursuant
17 only to the provisions of chapter 120, Florida Statutes. The
18 special update and amendment requirements of section 553.73,
19 Florida Statutes, and the administrative rule requiring
20 additional delay time between adoption and implementation of
21 such code are waived.

22 Section 10. Paragraph (c) is added to subsection (17)
23 of section 120.80, Florida Statutes, to read:

24 120.80 Exceptions and special requirements;
25 agencies.--

26 (17) FLORIDA BUILDING COMMISSION.--

27 (c) Notwithstanding the provisions of s. 120.565,
28 120.569, and 120.57, the Florida Building Commission and
29 hearing officer panels appointed by the commission in
30 accordance with s. 553.775(3)(c)1., may conduct proceedings to
31

1 review decisions of local building code officials in
2 accordance with s. 553.77(3)(c).

3 Section 11. Florida Construction Council.--

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

6 (2) The purpose of this section is to create a
7 public-private partnership by providing that a single
8 nonprofit corporation be established to provide
9 administrative, technical, interpretive, and code-development
10 services to the Florida Building Commission and that no
11 additional nonprofit corporation be created for these
12 purposes.

13 (3) The Florida Construction Council is created to
14 provide administrative, technical, and code-development
15 services to the Florida Building Commission in accordance with
16 the provisions of chapter 553, Florida Statutes. The council
17 may hire staff members as necessary to carry out its
18 functions. Such staff members are not public employees for the
19 purposes of chapter 110 or chapter 112, Florida Statutes,
20 except that the board of directors and the staff are subject
21 to the provisions of section 112.061, Florida Statutes.
22 However, the council may also use staff members provided by
23 the Florida State University who may be public employees for
24 the purposes of chapter 110 or chapter 112, Florida Statutes.
25 The provisions of section 768.28, Florida Statutes, apply to
26 the Florida Construction Council, which is deemed to be a
27 corporation primarily acting as an instrumentality of the
28 state, but which is not an agency within the meaning of
29 section 20.03(11), Florida Statutes. The council shall:

30
31

1 (a) Be a Florida corporation not for profit,
2 incorporated under the provisions of chapter 617, Florida
3 Statutes.

4 (b) Provide administrative, technical, and
5 code-development services to the Florida Building Commission
6 in accordance with the provisions of chapter 553, Florida
7 Statutes, and the contract required by this section. For the
8 administrative purposes of this act, the Florida Construction
9 Council shall be administratively attached to Florida State
10 University and shall be provided the administrative services
11 that the council and Florida State University find necessary.

12 (c) Receive, hold, and administer property and make
13 only prudent expenditures directly related to the
14 responsibilities of the Florida Building Commission, and in
15 accordance with the contract required by this section.

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

18 (e) Have a five-member board of directors, which shall
19 consist of the Secretary of Community Affairs or his or her
20 designee, two members appointed by the Florida Building
21 Commission, one member appointed by the Department of
22 Community Affairs who is a layperson not performing work
23 within the construction industry, and one member appointed by
24 Florida State University. Members shall be appointed to terms
25 of 4 years each. All initial appointments shall expire on
26 October 31, 2007. A member may not serve more than two
27 consecutive terms. Failure to attend three consecutive
28 meetings shall be deemed a resignation from the council and
29 the vacancy shall be filled by a new appointment.

30 (f) Select its officers in accordance with its bylaws.
31

1 (g) Operate under an annual written contract with the
2 Department of Community Affairs or the responsible budgeting
3 entity. The contract must provide for, but need not be limited
4 to:
5 1. Approval of the articles of incorporation and
6 bylaws of the council by the Florida Building Commission.
7 2. Submission by the council of an annual budget.
8 3. Annual certification by the Department of Community
9 Affairs or the responsible budgeting entity that the council
10 is complying with the terms of the contract in a manner
11 consistent with the goals and purposes of the Florida Building
12 Commission and in the best interest of the state. The contract
13 must also provide for methods and mechanisms to resolve any
14 situation in which the certification process determines
15 noncompliance.
16 4. Employment by the Florida Building Council of an
17 administrator to actively supervise the administrative,
18 technical, and code-development services of the council to
19 ensure compliance with the contract and the provisions of
20 chapter 553, Florida Statutes, and to act as a liaison for the
21 Florida Building Commission and the council to ensure the
22 effective operation of the council.
23 5. Funding of the council through appropriations and
24 private sources.
25 6. The reversion to the state if the commission ceases
26 to exist, of moneys, records, data, and property held in trust
27 by the council for the benefit of the commission, or if the
28 council is no longer approved to operate for the commission.
29 All records and data in a computerized database shall be
30 returned to the state in a form that is compatible with the
31 computerized database of the commission.

1 7. The securing and maintaining by the council, during
2 the term of the contract and for all acts performed during the
3 term of the contract, of all liability insurance coverage in
4 an amount to be approved by the Florida Construction Council
5 to defend, indemnify, and hold harmless the council and its
6 officers and employees, the Florida Building Commission and
7 its commissioners and employees, and the state against all
8 claims arising from state and federal laws. Such insurance
9 coverage must be with insurers qualified and doing business in
10 the state.

11 8. Payment by the council, out of its allocated
12 budget, to the Florida Building Commission of all costs of
13 representation by the commission counsel, including salary and
14 benefits, travel, and any other compensation traditionally
15 paid by the commission to other commission counsels.

16 9. Payment by the council, out of its allocated
17 budget, of all costs incurred by the council or the commission
18 for the Division of Administrative Hearings of the Department
19 of Management Services and any other costs for use of these
20 state services.

21 10. Payment by the council, out of its allocated
22 budget, of all costs associated with the contract
23 administrator of the commission, including salary and
24 benefits, travel, and other related costs traditionally paid
25 to state employees.

26 11. Provide for an annual financial audit of its
27 financial accounts and records by an independent certified
28 public accountant. The annual audit report must include a
29 management letter in accordance with section 11.45, Florida
30 Statutes, and a detailed supplemental schedule of expenditures
31

1 for each expenditure category. The annual audit report must be
2 submitted to the Auditor General for review.

3 12. Provide for persons charged with the
4 responsibility of receiving and depositing fee and fine
5 revenues to have a faithful performance bond in an amount and
6 according to the terms specified in the contract.

7 13. Submit to the Legislature, on or before January 1
8 of each year, a report on the status of the council which
9 includes, but is not limited to, information concerning the
10 programs and funds that have been transferred to the council.
11 The report must include the number of inquiries received, the
12 number of technical issues or questions addressed, the number
13 of code or other interpretations provided, and the number of
14 instances of code development undertaken by the council.

15 14. Develop, with the Florida Building Commission,
16 performance standards and measurable outcomes for the
17 commission to adopt by rule in order to facilitate efficient
18 and cost-effective services and regulation.

19 (4) The Florida Construction Council shall provide by
20 rule the procedures the council must follow to ensure that all
21 product and proprietary information is secure while under the
22 responsibility of the council and that there is an appropriate
23 level of protection and monitoring during any review or
24 code-development activities.

25 (5) The Florida Building Commission shall review this
26 act and make recommendations to the Legislature regarding the
27 implementation thereof as part of its report submitted to the
28 Florida Legislature pursuant to section 553.77(1)(b), Florida
29 Statutes, on or before January 1, 2004.

30 (6) This section takes effect July 1, 2004.
31

1 Section 12. Section 399.106, Florida Statutes, is
2 amended to read:

3 399.106 Elevator Safety Technical Advisory
4 Committee.--

5 (1) The Elevator Safety Technical Advisory Committee
6 is created within the Department of Business and Professional
7 Regulation, Division of Hotels and Restaurants, consisting of
8 eight ~~seven~~ members to be appointed by the secretary of the
9 Department of Business and Professional Regulation as follows:
10 one representative from a major elevator manufacturing company
11 or its authorized representative; one representative from an
12 elevator servicing company; one representative from a building
13 design profession; one representative of the general public;
14 one representative of a local government in this state; one
15 representative of a building owner or manager; one
16 representative of labor involved in the installation,
17 maintenance, and repair of elevators; and one representative
18 who is a certified elevator inspector from a private
19 inspection service. The purpose of the committee is to provide
20 technical assistance to the division in support of protecting
21 the health, safety, and welfare of the public; to give the
22 division the benefit of the committee members' knowledge and
23 experience concerning the industries and individual businesses
24 affected by the laws and rules administered by the division.

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

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

1 ~~(3)~~(4) The committee may consult with engineering
2 authorities and organizations concerned with standard safety
3 codes for recommendations to the department regarding rules
4 and regulations governing the operation, maintenance,
5 servicing, construction, alteration, installation, or
6 inspection of vertical conveyances subject to this chapter.

7 Section 13. Section 553.841, Florida Statutes, is
8 amended to read:

9 553.841 Building code training program; participant
10 competency requirements.--

11 ~~(1) The Legislature finds that the effectiveness of~~
12 ~~the building codes of this state depends on the performance of~~
13 ~~all participants, as demonstrated through knowledge of the~~
14 ~~codes and commitment to compliance with code directives and~~
15 ~~that to strengthen compliance by industry and enforcement by~~
16 ~~government, a Building Code Training Program is needed.~~

17 (1)~~(2)~~ The commission shall establish by rule the
18 Building Code Training Program to develop and provide a core
19 curriculum and offer voluntary accreditation of advance module
20 courses relating to the Florida Building Code and its
21 enforcement ~~a system of administering and enforcing the~~
22 ~~Florida Building Code.~~

23 ~~(3) The program shall be developed, implemented, and~~
24 ~~administered by the commission in consultation with the~~
25 ~~Department of Education, the Department of Community Affairs,~~
26 ~~the Department of Business and Professional Regulation, the~~
27 ~~State Fire Marshal, the State University System, and the~~
28 ~~Division of Community Colleges.~~

29 ~~(4) The commission may enter into contracts with the~~
30 ~~Department of Education, the State University System, the~~
31 ~~Division of Community Colleges, model code organizations,~~

1 ~~professional organizations, vocational technical schools,~~
2 ~~trade organizations, and private industry to administer the~~
3 ~~program.~~

4 (2)(5) The program shall be affordable, accessible,
5 meaningful, financially self-sufficient and shall make maximum
6 use of existing sources, systems, institutions, and programs
7 available through private sources.

8 (3)(6) The commission, in coordination with the
9 Department of Community Affairs, the Department of Business
10 and Professional Regulation, the respective licensing boards,
11 and the State Fire Marshal shall develop or cause to be
12 developed:

13 (a) A core curriculum that ~~which~~ is prerequisite to
14 initial licensure for those licensees not subject to testing
15 on the Florida Building Code as a condition of licensure.
16 These entities shall also identify subject areas that are
17 inadequately addressed by specialized and advanced courses.
18 ~~all specialized and advanced module coursework.~~

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

21 (4)(7) The core curriculum shall cover the information
22 required to have all categories of participants appropriately
23 informed as to their technical and administrative
24 responsibilities in the effective execution of the code
25 process by all individuals currently licensed under part XII
26 of chapter 468, chapter 471, chapter 481, or chapter 489,
27 except as otherwise provided in s. 471.017. The core
28 curriculum shall ~~be prerequisite to the advanced module~~
29 ~~coursework for all licensees and shall be completed by~~
30 individuals licensed in all categories under part XII of
31 chapter 468, chapter 471, chapter 481, or chapter 489 by the

1 date of license renewal in 2003.~~within the first 2-year~~
2 ~~period after establishment of the program. Core course hours~~
3 All approved courses taken by licensees pursuant to this
4 section to complete this requirement shall count toward
5 fulfillment of required continuing education units under part
6 XII of chapter 468, chapter 471, chapter 481, or chapter 489.

7 ~~(8) The commission, in consultation with the~~
8 ~~Department of Business and Professional Regulation and the~~
9 ~~respective licensing boards, shall develop or cause to be~~
10 ~~developed an equivalency test for each category of licensee.~~
11 ~~Such test may be taken in lieu of the core curriculum. A~~
12 ~~passing score on the test shall be equivalent to completion of~~
13 ~~the core curriculum and shall be credited toward the required~~
14 ~~number of hours of continuing education.~~

15 (5)~~(9)~~ The commission, in consultation with the
16 Department of Business and Professional Regulation, shall
17 develop or cause to be developed, or approve as a part of the
18 program, appropriate courses ~~a core curriculum and specialized~~
19 ~~or advanced module coursework~~ for the construction workforce,
20 including, but not limited to, superintendents and journeymen.

21 (6)~~(10)~~ The respective state boards under part XII of
22 chapter 468, chapters 471, 481, and 489, and the State Fire
23 Marshal under chapter 633, shall require specialized or
24 advanced course modules as part of their regular continuing
25 education requirements.

26 (7)~~(11)~~ The Legislature hereby establishes the Office
27 of Building Code Training Program Administration within the
28 Institute of Applied Technology in Construction Excellence at
29 the Florida Community College at Jacksonville. The office is
30 charged with the following responsibilities as recommended by
31

1 the Florida Building Commission and as resources are provided
2 by the Legislature:

3 (a) Provide research-to-practice capability for
4 entry-level construction training development, delivery and
5 quality assurance, as well as training and competency registry
6 systems and recruitment initiatives.

7 (b) Coordinate with the Department of Community
8 Affairs and the Florida Building Commission to serve as school
9 liaison to disseminate construction awareness and promotion
10 programs and materials to schools.

11 (c) Develop model programs and approaches to
12 construction career exploration to promote construction
13 careers.

14 Section 14. Subsection (9) of section 553.842, Florida
15 Statutes, is amended to read:

16 553.842 Product evaluation and approval.--

17 (9) The commission may adopt rules to approve the
18 following types of entities that produce information on which
19 product approvals are based. All of the following entities,
20 including engineers and architects, must comply with a
21 nationally recognized standard demonstrating independence or
22 no conflict of interest:

23 (a) Evaluation entities that meet the criteria for
24 approval adopted by the commission by rule. The commission
25 shall specifically approve the National Evaluation Service,
26 the International Conference of Building Officials Evaluation
27 Services, the International Code Council Evaluation Services,
28 the Building Officials and Code Administrators International
29 Evaluation Services, the Southern Building Code Congress
30 International Evaluation Services, and the Miami-Dade County
31 Building Code Compliance Office Product Control. Architects

1 and engineers licensed in this state are also approved to
2 conduct product evaluations as provided in subsection (6).

3 (b) Testing laboratories accredited by national
4 organizations, such as A2LA and the National Voluntary
5 Laboratory Accreditation Program, laboratories accredited by
6 evaluation entities approved under paragraph (a), and
7 laboratories that comply with other guidelines for testing
8 laboratories selected by the commission and adopted by rule.

9 (c) Quality assurance entities approved by evaluation
10 entities approved under paragraph (a) and by certification
11 agencies approved under paragraph (d) and other quality
12 assurance entities that comply with guidelines selected by the
13 commission and adopted by rule.

14 (d) Certification agencies accredited by nationally
15 recognized accreditors and other certification agencies that
16 comply with guidelines selected by the commission and adopted
17 by rule.

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

20 Section 15. Subsection (3) is added to section
21 633.171, Florida Statutes, to read:

22 633.171 Penalty for violation of law, rule, or order
23 to cease and desist or for failure to comply with corrective
24 order.--

25 (3)(a) An owner or operator of an indoor facility may
26 not knowingly allow the installation of a pyrotechnic device
27 or fireworks inside his or her facility without a
28 fire-suppression system or without a copy of a local fire
29 marshal's permit furnished to the owner or operator by a
30 vendor or licensee who wishes to install a pyrotechnic device
31 or fireworks inside the indoor facility.

1 (b) A vendor or licensee may not install fireworks or
2 a pyrotechnic device in an indoor facility without a
3 fire-suppression system unless he or she first obtains a local
4 fire marshal's permit, furnishes a copy of that permit to the
5 owner or operator of the indoor facility, and obtains prior
6 written consent of the owner or operator to install the
7 fireworks or a pyrotechnic device inside his or her indoor
8 facility.

9 (c) A person who violates this subsection commits a
10 felony of the third degree, punishable as provided in s.
11 775.082, s. 775.083, or s. 775.084.

12 Section 16. The administrative rule of the Florida
13 Building Commission for the type of products for local or
14 statewide use, as authorized by section 553.842, Florida
15 Statutes, shall take effect no earlier than January 1, 2004.
16 The commission shall conduct a review of the costs of
17 operation of this rule and determine the benefits to the
18 health, safety, and welfare of such state approvals. It shall
19 report the results of its cost and benefit analysis together
20 with any recommendations to the 2004 Florida Legislature.
21 Funds may not be expended for optional state approval without
22 determination of a positive cost and benefit of such
23 regulation to the public.

24 Section 17. Except as otherwise expressly provided in
25 this act, this act shall take effect upon becoming a law.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/SB 518

4 This CS/CS makes a number of technical changes to the bill,
5 and differs from the CS in the following ways:

- 6 * Deletes section 8, and revises a portion of section 3,
7 which proposed to revise requirements, procedures, and
8 limitations relating to the state's product evaluation
9 and approval system. Instead, the Florida Building
10 Commission's product approval system adopted by
11 administrative rule is delayed at least until January 1,
12 2004, and the commission is required to conduct a review
13 of the cost/benefit of the rule, or any other similar
14 rule, and report their findings to the Legislature in
15 2004; Also, the rule may not be implemented unless it has
16 a positive cost and benefit to the public;
- 17 * Includes legislative intent language relating to the
18 triennial adoption of the Florida Building Code;
- 19 * Adds a new section to amend s. 553.74, F.S., to revise
20 the appointment of members to the Florida Building
21 Commission;
- 22 * Revises section 4, which establishes a panel to review
23 challenges to the local interpretations of the Florida
24 Building Code, to incorporate a number of changes
25 recommended by various affected entities;
- 26 * Expands section 6 to include changes to allow a private
27 plans review and inspection provider to satisfy the
28 required insurance coverage with occurrence-based
29 coverage, rather than only comprehensive general
30 liability with tail coverage; and extends the deadline
31 for a commission report on this section;
- * Amends section 7, which related to restrictions on
building code fees, to address concerns of local
governments;
- * Specifies that section 12, which creates the "Florida
Construction Council Act," becomes effective 1 July,
2004; and requires the Florida Building Commission to
make recommendations to the Legislature on implementing
this section;
- * Amends s. 553.841, F.S., to change the administration of
the Florida Building Code Training Program;
- * Amends s. 553.842, F.S., to add another evaluation entity
to the list of entities to be specifically approved by
the commission; and
- * Establishes a penalty for use of pyrotechnic devises in
an indoor facility without a fire-suppression system or
without a permit from the local fire marshal.