

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1328

SPONSOR: Senator Constantine

SUBJECT: Construction Practices Review

DATE: February 13, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Favorable
2.	_____	_____	CP	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill makes legislative finding that the possibility exists for an increase in the prevalence of construction flaws and a decrease in the quality of building and home construction because of the increasing rate of home construction.

The bill provides that it is the legislative intent that the review required by this act will increase the quality of construction and the effectiveness of home inspections while providing protection for builders, inspectors, and consumers.

The bill requires that beginning July 1, 2004, the commission must conduct or contract for a review of current construction practices in this state for the purpose of formulating recommendations concerning how to improve the quality of construction and the effectiveness of building and home inspections.

The bill requires that the commission make a written report of its findings to the Governor, President of the Senate, and Speaker of the House by January 15, 2005. The report must include any recommendations for proposed legislation that the commission considers appropriate and necessary.

This bill would take effect July 1, 2004.

This bill creates an unnumbered section of the Florida Statutes.

II. Present Situation:

The Florida Building Commission (commission) is created in s. 553.74, F.S., to adopt and update the Florida Building Code (code). The commission is located within the Department of Community Affairs for administrative purposes, and consists of 23 members who are appointed by the governor and confirmed by the Senate.

The Florida Building Code

Section 553.73(2), F.S., requires the code 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, and facilities for the control of radiation hazards, public or private educational facilities, swimming pools, and correctional facilities and enforcement of and compliance with such provisions or requirements.

In addition, the code must include standards and criteria for residential swimming pool barriers, pool covers, latching devices, and door and window exit alarms. However, the code does not specifically include hospice residential and inpatient facilities. The code is required to be adopted by the rulemaking pursuant in ss. 120.536(1) and 120.54, F.S.

Specific Powers of the Commission

The commission is required by s. 553.77, F.S., to adopt and update the code. The Code must be updated every three years. The commission is required to make a continual study of the operation of the Code, and other related laws relating to:

the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, and facilities, including manufactured buildings, and code enforcement, to ascertain their effect upon the cost of building construction and determine the effectiveness of their provisions.

The commission's powers also include the following:

- Hearing appeals from decisions of local boards regarding the interpretation of the code.
- Issue declaratory statements pursuant to s. 120.565 relating to this part IV of ch. 553, and ss. 515.25, 515.27, 515.29, and 515.37, F.S.
- Determine the types of products requiring approval for local or statewide use and provide for the evaluation and approval of such products, materials, devices, and method of construction for statewide use.
- The commission may prescribe by rule a schedule of reasonable fees to provide for evaluation and approval of products, materials, devices, and methods of construction.
- Provide technical assistance to local building departments.

Amending the Florida Building Code

Section 553.73(7) (a), F.S., authorizes the commission to approve technical amendments to the code once each year for statewide or regional application upon finding that the amendment:

- Has a reasonable and substantial connection with the health, safety, and welfare of the general public.
- Strengthens or improves the code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction.
- Does not discriminate against materials, products, methods, or systems of construction of demonstrated capabilities.
- Does not degrade the effectiveness of the code.

In addition, the commission may approve technical amendments to the code once each year to incorporate into the code its own interpretations of the code which are embodied in its opinions and declaratory statements. A proposed amendment must include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall be established by rule by the commission and must include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance. However, the commission may not approve any proposed amendment that does not accurately and completely address all requirements for amendment which are set forth above.

Orlando Sentinel and WESH-News Channel 2 Investigation

The Orlando Sentinel and WESH-News Channel 2 conducted a yearlong investigation into the quality of new-home construction in Orange, Seminole, Lake, Osceola, Polk, and Volusia counties. They were aided in their investigation by engineering students from the University of Central Florida, who helped inspect 406 homes that had been built in 2001. The inspections were conducted between April and October, 2003. These homes were randomly selected from the approximately 18,000 home built in those six counties during 2001.

The investigation, which was chronicled in an eight-part series in the Orlando Sentinel between October 31 and November 11, 2003, documented a range of problems with the quality of new-home construction in Central Florida.

The survey found widespread problems in the construction of homes in the Orlando area. It found cracking in walls and concrete slabs, window and door problems, finishing, heating and cooling problems, mold in ductwork and air handlers, roofing flaws and poor drainage.¹

According the Orlando Sentinel's report, industry experts believe that these problems could result in higher maintenance costs, lower resale values, and "a worn and faded-looking housing stock."²

¹ Orlando Sentinel Eight-Part Series: *Building Homes: Building Problems*, October 31, 2003 through November 11, 2003.

² Orlando Sentinel Eight-Part Series: *Building Homes: Building Problems*, October 31, 2003, page A8

The builders involved disagreed heatedly with the findings of the survey. In the survey, production or tract builders built 41 percent of the homes inspected. A spokesman for some of these builders indicated the builders were concerned because the inspections were not conducted by certified individuals.³

III. Effect of Proposed Changes:

Section 1. This bill creates an unnumbered section of the Florida Statutes. Subsection (1) makes the legislative finding that, due to the increasing rate of home construction, the possibility exists for an increase in the prevalence of construction flaws and a decrease in the quality of building and home construction.

The bill provides that it is the legislative intent that the review required by this act will increase the quality of construction and the effectiveness of home inspections while providing protection for builders, inspectors, and consumers.

This bill does not address a particular building practice, specialty, or standard.

Subsection (2) of the bill requires that beginning July 1, 2004, the commission must conduct or contract for a review of current construction practices in this state for the purpose of formulating recommendations concerning how to improve the quality of construction and the effectiveness of building and home inspections.

The bill requires the commission to conduct or contract for the research that supports the purpose of this bill. It requires that the commission conduct hearings and other activities that it considers essential in fulfilling this purpose.

Subsection (3) requires that the commission make a written report of its findings to the Governor, President of the Senate, and Speaker of the House by January 15, 2005. The report must include any recommendations for proposed legislation that the commission considers appropriate and necessary.

Section 2. This bill would take effect July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

³ Orlando Sentinel, *Angry Builders Object to New-Homes Survey*, November 2, 2003.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
