

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|----------------------------------------|-----------------------------------------|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

1. Reduce government? - The provisions of the bill do not reduce government, however, the workload of the Florida Building Commission is expanded to include the responsibility to research issues associated with construction activities in the state and preparation and distribution of a report related to the commission’s findings.

B. EFFECT OF PROPOSED CHANGES:

Present situation

Part IV of chapter 553, F.S., establishes the “Florida Building Code Act.” The stated intent in providing for the Florida Building Code is to create a “mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of a single, unified state building code.”

The Florida Building Commission is required to adopt and update the Florida Building Code:

which shall contain or incorporate by reference all laws and rules which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and enforcement of such laws and rules, except as otherwise provided in this section.

Enforcement of the Florida Building Code resides with local governments, certain enforcement districts, and authorized state agencies for public or private buildings, structures, and facilities. Enforcement occurs through inspections programs at the local level.

Effect of proposed changes

This bill sets forth legislative findings and requires the Florida Building Commission to conduct a review of current construction practices and to report its findings.

The bill has a statement of legislative finding which states:

The Legislature finds that a rapidly increasing rate of construction has occurred in the first few years of the 21st century.

The bill sets forth the intent of the Legislature:

The intent of the Legislature is that the review initiated under this act will produce findings that will increase the quality of construction and optimize the effectiveness of home inspections, while promoting the safety, accountability, and affordability of construction in this state.

Based on the legislative findings and intent, the bill requires the Florida Building Commission to conduct a review of current construction practices in Florida. The purpose of the review is to formulate recommendations concerning how to improve the quality of construction in the state and how to maximize the effectiveness of the building inspections and home inspections associated with construction. The Florida Building Commission is required to conduct or contract for research as part of this review and must also conduct hearings and any other activities that the Florida Building Commission considers essential in order to make the recommendations.

The bill requires the Florida Building Commission to prepare a report of its findings prior to January 15, 2005. Copies of the report must be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The bill specifies that the report include any recommendations for proposed legislation that the commission considers appropriate and necessary.

C. SECTION DIRECTORY:

Section 1. Requires the Florida Building Commission to conduct a review of current construction practices, and provides for the Florida Building Commission to report its findings.

Section 2. Effective date - July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

There are no known or expected fiscal impacts on state government revenues.

2. Expenditures:

The bill is anticipated to have an indeterminate impact on state government expenditures in that it requires the Florida Building Commission to conduct or contract for research and conduct hearings and any other activities that the commission considers essential in order to make recommendations on current construction practices.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

There are no known or expected fiscal impacts on local government revenues.

2. Expenditures:

There are no known or expected fiscal impacts on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There does not appear to be a direct economic impact on the private sector in relation to conducting and reporting the study.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None noted.

B. RULE-MAKING AUTHORITY:

This bill does not appear to provide rule-making authority to the Florida Building Commission or the Department of Community Affairs.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill analysis of HB 1479 w/CS prepared by the Committee on Local Government & Veterans' Affairs states, in part:

Problems with enforcement of the Florida Building Code were raised as part of an investigation by the Orlando Sentinel and WESH-NewsChannel 2.¹

According to the Orlando Sentinel and WESH, 406 homes were randomly selected from a list of the 18,000 homes sold in 2001 in Orange, Osceola, Seminole, Lake, western Volusia and northeastern Polk counties.² These 406 homes were inspected by 15 graduate and undergraduate industrial engineering students at the University of Central Florida. The first house was checked April 4, 2003, and the last house was inspected Oct. 4, 2003.

¹ See Dan Tracy, *Attentive Buyers Can Thwart Flaws*, Orlando Sentinel, Nov. 11, 2003, available at <http://www.orlandosentinel.com/news/local/orl-bldg-abouttheseries.story> (last visited Mar. 9, 2004); Dan Tracy, *Builders' Clout Keeps Regulations Weak*, Orlando Sentinel, Nov. 10, 2003, available at <http://www.orlandosentinel.com/news/local/orl-bldg-abouttheseries.story> (last visited Mar. 9, 2004); Dan Tracy, *Code, Inspections Let Flaws Through*, Orlando Sentinel, Nov. 11, 2003, available at <http://www.orlandosentinel.com/news/local/orl-bldg-abouttheseries.story> (last visited Mar. 9, 2004); Dan Tracy, *Mexican Migrants Carve Path of Hope to Orlando*, Orlando Sentinel, Nov. 5, 2003, available at <http://www.orlandosentinel.com/news/local/orl-bldg-abouttheseries.story> (last visited Mar. 9, 2004); Dan Tracy, *Top Builders Downplay Homes' Flaws*, Orlando Sentinel, Nov. 4, 2003, available at <http://www.orlandosentinel.com/news/local/orl-bldg-abouttheseries.story> (last visited Mar. 9, 2004); Dan Tracy, *Homes Often Rush Jobs, Critics Assert*, Orlando Sentinel, Nov. 3, 2003, available at <http://www.orlandosentinel.com/news/local/orl-bldg-abouttheseries.story> (last visited Mar. 9, 2004); Dan Tracy, *'Good Enough' Work Means Shoddy Homes*, Orlando Sentinel, Nov. 2, 2003, available at <http://www.orlandosentinel.com/news/local/orl-bldg-abouttheseries.story> (last visited Mar. 9, 2004); and Dan Tracy, *Region's New Homes Riddled with Flaws*, Orlando Sentinel, Oct. 31, 2003, available at <http://www.orlandosentinel.com/news/local/orl-bldg-abouttheseries.story> (last visited Mar. 9, 2004).

² See Orlando Sentinel, *How We Did It*, at <http://www.orlandosentinel.com/news/local/orl-bldg-abouttheseries.story> (last visited Mar. 9, 2004); see also Dan Tracy, *UCF Team Did Inspections for 6 Months*, Orlando Sentinel, Oct. 31, 2003, available at <http://www.orlandosentinel.com/news/local/orl-bldg-abouttheseries.story> (last visited Mar. 9, 2004).

Among the findings:³

386 homes had problems that were classified as priority problems
337 homes had problems that were classified as concerns
304 homes had problems that were classified as worth noting
53 homes had air leak critical issues
215 homes had caulk critical issues
112 homes had code concerns critical issues
45 homes had leak critical issues
247 homes had major crack critical issues
71 homes had moisture critical issues
83 homes had mold critical issues
37 homes had mold on HVAC critical issues
72 homes had poor drainage critical issues

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 16, 2004, the Committee on Local Government and Veterans' Affairs adopted one amendment, without objection, which removed lines 23-24 and added new language to have the legislative intent for the review focus on the "home inspections, while promoting the safety, accountability, and affordability of construction in this state" rather than the "effectiveness of building and home inspections, while providing protection for builders, inspectors, and consumers." The bill, as amended, was reported favorably with committee substitute.

On March 24, 2004 the Committee on Business Regulation amended the bill to delete a reference in the statement of findings. The following language was removed, "the possibility exists for an increase in the prevalence of construction flaws and for a decrease in the quality of building and home inspections." The bill, as amended, was reported favorably with committee substitute.

³ See Orlando Sentinel, *What Did We Find?*, at <http://extra.orlandosentinel.com/buildingproblems/> (last visited Mar. 9, 2004).