

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1479 w/CS Florida Building Commission/Review of Construction Practices
SPONSOR(S): Adams
TIED BILLS: **IDEN./SIM. BILLS:** SB 1328

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government & Veterans' Affairs</u>	<u>19 Y, 0 N w/CS</u>	<u>Mitchell</u>	<u>Cutchins</u>
2) <u>Business Regulation</u>	_____	_____	_____
3) <u>Transportation & Economic Development Appropriations</u>	_____	_____	_____
4) <u>Appropriations</u>	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill with committee substitute sets forth legislative findings, requires the Florida Building Commission to conduct a review of current construction practices, and provides for the Florida Building Commission to report its findings.

The bill provides legislative findings which include the possibility for an increase in the prevalence of construction flaws and for a decrease in the quality of building and home inspections due to the rapidly increasing rate of construction which has occurred in the first few years of the 21st century.

Based on these findings, the bill expresses the intent of the Legislature to initiate a review that 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.

The bill requires the Florida Building Commission to conduct a review of current construction practices in Florida and sets forth the purpose of the review. The bill requires the Florida Building Commission to conduct or contract for research as part of this review and to also conduct hearings and any other activities considered essential in order to make the recommendations.

The bill provides for the Florida Building Commission to write a report of its findings and to submit copies of the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must include any recommendations for proposed legislation that the commission considers appropriate and necessary.

The bill takes effect July 1, 2004.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1479a.lgv.doc
DATE: March 16, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

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

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

B. EFFECT OF PROPOSED CHANGES:

Part IV of chapter 553, Florida Statutes, sets forth the requirements for the Florida Building Code. The intent of the Legislature in providing for the Florida Building Code was to create a “mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of a single, unified state building code.”¹

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.²

Enforcement of the Florida Building Code resides with local governments, certain enforcement districts, and authorized state agencies for all public or private buildings, structures, and facilities.³ Enforcement at the local level generally occurs through building inspections.

Problems with Enforcement

Problems with enforcement of the Florida Building Code were raised as part of an investigation by the Orlando Sentinel and WESH-NewsChannel 2.⁴

¹ See Fla. Stat. §553.72(1) (2003).

² See Fla. Stat. §553.73(1) (2003).

³ See Fla. Stat. §553.80(1) (2003).

⁴ 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

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.⁵ 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.

Among the findings:⁶

- 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

Responding to the Enforcement Problems

This bill responds to the issues raised in the review of enforcement in Central Florida. It sets forth legislative findings, requires the Florida Building Commission to conduct a review of current construction practices, and provides for the Florida Building Commission to report its findings.

Legislative Findings and Intent

The bill has legislative findings:

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

Review Procedures

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

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).

⁵ 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).

⁶ See Orlando Sentinel, *What Did We Find?*, at <http://extra.orlandosentinel.com/buildingproblems/> (last visited Mar. 9, 2004).

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.

Report

The bill requires the Florida Building Commission to write a report of its findings and to submit copies of the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must include any recommendations for proposed legislation that the commission considers appropriate and necessary.

C. SECTION DIRECTORY:

Section 1: Sets forth legislative findings, 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: Provides that the bill will take effect 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 will have an indeterminate impact on state government revenues in that it requires the Florida Building Commission, which is administratively part of the Department of Community Affairs, to conduct or contract for research and conduct hearings and any other activities that the commission considers essential in order to make the 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.

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:

There do not appear to be any other constitutional issues with this bill.

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:

There are no other drafting issues or other comments.

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.