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1 A bill to be entitled
2 An act relating to the Florida Building Code; amending s.
3 553.73, F.S.; providing code-amendment review
4 requirements; conforming a cross reference; amending s.
5 553.74, F.S.; revising the appointment of members to the
6 Florida Building Commission; amending s. 553.77, F.S.;
7 revising duties of the Florida Building Commission;
8 deleting requirements that the commission hear certain
9 appeals and issue declaratory statements; creating s.
10 553.775, F.S.; providing legislative intent with respect
11 to the interpretation of the Florida Building Code;
12 providing for the commission to resolve disputes regarding
13 interpretations of the code; requiring the commission to
14 review decisions of local building officials and local
15 enforcement agencies; providing for publication of an
16 interpretation on the Building Code Information System and
17 in the Florida Administrative Weekly; amending s. 553.79,
18 F.S.; exempting truss-placement plans from certain
19 requirements; amending s. 553.791, F.S.; providing
20 conditions for use of private plans review and inspection;
21 conforming cross references; amending s. 553.80, F.S.;
22 authorizing local governments to impose certain fees for
23 code enforcement; providing requirements and limitations;
24 requiring the commission to expedite adoption and
25 implementation of the existing state building code as part
26 of the Florida Building Code pursuant to limited
27 procedures; conforming a cross reference; amending s.
28 120.80, F.S.; authorizing the Florida Building Commission
29 to conduct proceedings to review decisions of local

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30 officials; amending s. 553.841, F.S.; revising Building
 31 Code Training Program provisions; amending s. 553.8412,
 32 F.S.; conforming a cross reference; amending s. 553.842,
 33 F.S.; adding an evaluation entity to the list of entities
 34 specifically approved by the commission; providing an
 35 effective date.

36
 37 Be It Enacted by the Legislature of the State of Florida:

38
 39 Section 1. Subsection (2), paragraph (c) of subsection
 40 (4), and paragraphs (a) and (c) of subsection (7) of section
 41 553.73, Florida Statutes, are amended to read:

42 553.73 Florida Building Code.--

43 (2) The Florida Building Code shall contain provisions or
 44 requirements for public and private buildings, structures, and
 45 facilities relative to structural, mechanical, electrical,
 46 plumbing, energy, and gas systems, existing buildings,
 47 historical buildings, manufactured buildings, elevators, coastal
 48 construction, lodging facilities, food sales and food service
 49 facilities, health care facilities, including assisted living
 50 facilities, adult day care facilities, hospice residential
 51 facilities, inpatient facilities, and facilities for the control
 52 of radiation hazards, public or private educational facilities,
 53 swimming pools, and correctional facilities and enforcement of
 54 and compliance with such provisions or requirements. Further,
 55 the Florida Building Code must provide for uniform
 56 implementation of ss. 515.25, 515.27, and 515.29 by including
 57 standards and criteria for residential swimming pool barriers,
 58 pool covers, latching devices, door and window exit alarms, and

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59 other equipment required therein, which are consistent with the
 60 intent of s. 515.23. Technical provisions to be contained within
 61 the Florida Building Code are restricted to requirements related
 62 to the types of materials used and construction methods and
 63 standards employed in order to meet criteria specified in the
 64 Florida Building Code. Provisions relating to the personnel,
 65 supervision or training of personnel, or any other professional
 66 qualification requirements relating to contractors or their
 67 workforce may not be included within the Florida Building Code,
 68 and subsections (4), (5), (6), and (7) are not to be construed
 69 to allow the inclusion of such provisions within the Florida
 70 Building Code by amendment. This restriction applies to both
 71 initial development and amendment of the Florida Building Code.

72 (4)

73 (c) Any amendment adopted by a local enforcing agency
 74 pursuant to this subsection shall not apply to state or school
 75 district owned buildings, manufactured buildings or factory-
 76 built school buildings approved by the commission, or prototype
 77 buildings approved pursuant to s. 553.77 (3)~~(5)~~. The respective
 78 responsible entities shall consider the physical performance
 79 parameters substantiating such amendments when designing,
 80 specifying, and constructing such exempt buildings.

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

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

86 2. Strengthens or improves the Florida Building Code, or
 87 in the case of innovation or new technology, will provide

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88 equivalent or better products or methods or systems of
 89 construction.

90 3. Does not discriminate against materials, products,
 91 methods, or systems of construction of demonstrated
 92 capabilities.

93 4. Does not degrade the effectiveness of the Florida
 94 Building Code.

95
 96 Furthermore, the Florida Building Commission may approve
 97 technical amendments to the code once each year to incorporate
 98 into the Florida Building Code its own interpretations of the
 99 code which are embodied in its opinions, final orders, and
 100 declaratory statements, and interpretations of hearing officer
 101 panels under s. 553.775(3)(c). Amendments approved under this
 102 paragraph shall be adopted by rule pursuant to ss. 120.536(1)
 103 and 120.54, after the amendments have been subjected to the
 104 provisions of subsection (3).

105 (c) The commission may not approve any proposed amendment
 106 that does not accurately and completely address all requirements
 107 for amendment which are set forth in this section. The
 108 commission shall require all proposed amendments and information
 109 submitted with proposed amendments to be reviewed by commission
 110 staff prior to consideration by any technical advisory
 111 committee. These reviews shall be for sufficiency only and are
 112 not intended to be qualitative in nature. Staff members shall
 113 reject any proposed amendment that fails to include a fiscal
 114 impact statement providing information responsive to all
 115 criteria identified. Proposed amendments rejected by members of

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116 the staff may not be considered by the commission or any
 117 technical advisory committee.

118 Section 2. Subsection (1) of section 553.74, Florida
 119 Statutes, is amended to read:

120 553.74 Florida Building Commission.--

121 (1) The Florida Building Commission is created and shall
 122 be located within the Department of Community Affairs for
 123 administrative purposes. Members shall be appointed by the
 124 Governor subject to confirmation by the Senate. The Governor may
 125 appoint commission members from lists of candidates submitted by
 126 the respective professional organizations or may appoint any
 127 other person otherwise qualified according to this section. The
 128 commission shall be composed of 23 members, consisting of the
 129 following:

130 (a) One architect registered to practice in this state and
 131 actively engaged in the profession from a list of three
 132 candidates provided by the American Institute of Architecture,
 133 Florida Section.

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

137 (c) One air-conditioning or mechanical contractor
 138 certified to do business in this state and actively engaged in
 139 the profession from a list of three candidates provided by the
 140 Florida Air Conditioning Contractors Association and the Florida
 141 Refrigeration and Air Conditioning Contractors Association.

142 (d) One electrical contractor certified to do business in
 143 this state and actively engaged in the profession from a list of

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144 three candidates provided by the Florida Electrical Contractors
 145 Association.

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

150 (f) One ~~general~~ contractor certified to do business in
 151 this state and actively engaged in the profession from a list of
 152 three candidates provided by the Associated Builders and
 153 Contractors of Florida and the Florida Associated General
 154 Contractors Council.

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

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

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

167 (j) Three members who are municipal or district codes
 168 enforcement officials, two of whom shall be from a list of four
 169 candidates provided by the Building Officials Association of
 170 Florida and one of whom is also a fire official from a list of
 171 three candidates provided by the Florida Fire Marshals
 172 Association.

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173 (k) One member who represents the Department of Financial
174 Services.

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

178 (m) One member of a Florida-based organization of persons
179 with disabilities or a nationally chartered organization of
180 persons with disabilities with chapters in this state.

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

185 (o) One mechanical or electrical engineer registered to
186 practice in this state and actively engaged in the profession
187 from a list of three candidates provided by the Florida
188 Engineering Society.

189 (p) One member who is an elected a representative of a
190 municipality or a charter county from a list of three candidates
191 provided by the Florida League of Cities and the Florida
192 Association of Counties.

193 (q) One member of the building products manufacturing
194 industry who is authorized to do business in this state and is
195 actively engaged in the industry from a list of three candidates
196 provided by the Florida Building Materials Association, the
197 Florida Concrete and Products Association, and the Fenestration
198 Manufacturers Association.

199 (r) One member who is a representative of the building
200 owners and managers industry who is actively engaged in
201 commercial building ownership or management from a list of three

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202 candidates provided by the Building Owners and Managers
 203 Association.

204 (s) One member who is a representative of the insurance
 205 industry from a list of three candidates provided by the Florida
 206 Insurance Council.

207 (t) One member who is a representative of public
 208 education.

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

210
 211 Any person serving on the commission under paragraph (c) or
 212 paragraph (h) on October 1, 2004 ~~2003~~, and who has served less
 213 than two full terms is eligible for reappointment to the
 214 commission regardless of whether he or she meets the new
 215 qualification.

216 Section 3. Section 553.77, Florida Statutes, is amended to
 217 read:

218 553.77 Specific powers of the commission.--

219 (1) The commission shall:

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

222 (b) Make a continual study of the operation of the Florida
 223 Building Code and other laws relating to the design,
 224 construction, erection, alteration, modification, repair, or
 225 demolition of public or private buildings, structures, and
 226 facilities, including manufactured buildings, and code
 227 enforcement, to ascertain their effect upon the cost of building
 228 construction and determine the effectiveness of their
 229 provisions. Upon updating the Florida Building Code every 3
 230 years, the commission shall review existing provisions of law

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231 and make recommendations to the Legislature for the next regular
 232 session of the Legislature regarding provisions of law that
 233 should be revised or repealed to ensure consistency with the
 234 Florida Building Code at the point the update goes into effect.
 235 State agencies and local jurisdictions shall provide such
 236 information as requested by the commission for evaluation of and
 237 recommendations for improving the effectiveness of the system of
 238 building code laws for reporting to the Legislature annually.
 239 Failure to comply with this or other requirements of this act
 240 must be reported to the Legislature for further action. Any
 241 proposed legislation providing for the revision or repeal of
 242 existing laws and rules relating to technical requirements
 243 applicable to building structures or facilities should expressly
 244 state that such legislation is not intended to imply any repeal
 245 or sunset of existing general or special laws governing any
 246 special district that are not specifically identified in the
 247 legislation.

248 (c) Upon written application by any substantially affected
 249 person or a local enforcement agency, issue declaratory
 250 statements pursuant to s. 120.565 relating to new technologies,
 251 techniques, and materials which have been tested where necessary
 252 and found to meet the objectives of the Florida Building Code.
 253 This paragraph does not apply to the types of products,
 254 materials, devices, or methods of construction required to be
 255 approved under paragraph (f) ~~(i)~~.

256 ~~(d) Upon written application by any substantially affected~~
 257 ~~person, state agency, or a local enforcement agency, issue~~
 258 ~~declaratory statements pursuant to s. 120.565 relating to the~~
 259 ~~enforcement or administration by local governments of the~~

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260 ~~Florida Building Code. Paragraph (h) provides the exclusive~~
 261 ~~remedy for addressing local interpretations of the code.~~

262 ~~(e) When requested in writing by any substantially~~
 263 ~~affected person, state agency, or a local enforcing agency,~~
 264 ~~shall issue declaratory statements pursuant to s. 120.565~~
 265 ~~relating to this part and ss. 515.25, 515.27, 515.29, and~~
 266 ~~515.37. Actions of the commission are subject to judicial~~
 267 ~~review pursuant to s. 120.68.~~

268 (d)(f) Make recommendations to, and provide assistance
 269 upon the request of, the Florida Commission on Human Relations
 270 regarding rules relating to accessibility for persons with
 271 disabilities.

272 (e)(g) Participate with the Florida Fire Code Advisory
 273 Council created under s. 633.72, to provide assistance and
 274 recommendations relating to firesafety code interpretations. The
 275 administrative staff of the commission shall attend meetings of
 276 the Florida Fire Code Advisory Council and coordinate efforts to
 277 provide consistency between the Florida Building Code and the
 278 Florida Fire Prevention Code and the Life Safety Code.

279 ~~(h) Hear appeals of the decisions of local boards of~~
 280 ~~appeal regarding interpretation decisions of local building~~
 281 ~~officials, or if no local board exists, hear appeals of~~
 282 ~~decisions of the building officials regarding interpretations of~~
 283 ~~the code. For such appeals:~~

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

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288 ~~2. All appeals shall be heard in the county of the~~
 289 ~~jurisdiction defending the appeal.~~

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

293 (f)(i) Determine the types of products which may be
 294 approved by the commission requiring approval for local or
 295 statewide use and shall provide for the evaluation and approval
 296 of such products, materials, devices, and method of construction
 297 for statewide use. The commission may prescribe by rule a
 298 schedule of reasonable fees to provide for evaluation and
 299 approval of products, materials, devices, and methods of
 300 construction. Evaluation and approval shall be by action of the
 301 commission or delegated pursuant to s. 553.842. This paragraph
 302 does not apply to products approved by the State Fire Marshal.

303 (g)(j) Appoint experts, consultants, technical advisers,
 304 and advisory committees for assistance and recommendations
 305 relating to the major areas addressed in the Florida Building
 306 Code.

307 (h)(k) Establish and maintain a mutual aid program,
 308 organized through the department, to provide an efficient supply
 309 of various levels of code enforcement personnel, design
 310 professionals, commercial property owners, and construction
 311 industry individuals, to assist in the rebuilding effort in an
 312 area which has been hit with disaster. The program shall
 313 include provisions for:

- 314 1. Minimum postdisaster structural, electrical, and
- 315 plumbing inspections and procedures.
- 316 2. Emergency permitting and inspection procedures.

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317 3. Establishing contact with emergency management
 318 personnel and other state and federal agencies.

319 (i)~~(l)~~ Maintain a list of interested parties for noticing
 320 rulemaking workshops and hearings, disseminating information on
 321 code adoption, revisions, amendments, and all other such actions
 322 which are the responsibility of the commission.

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

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

331 (l)~~(o)~~ Develop recommendations for local governments to
 332 use when pursuing partial or full privatization of building
 333 department functions. The recommendations shall include, but not
 334 be limited to, provisions relating to equivalency of service,
 335 conflict of interest, requirements for competency, liability,
 336 insurance, and long-term accountability.

337 ~~(2) Upon written application by any substantially affected~~
 338 ~~person, the commission shall issue a declaratory statement~~
 339 ~~pursuant to s. 120.565 relating to a state agency's~~
 340 ~~interpretation and enforcement of the specific provisions of the~~
 341 ~~Florida Building Code the agency is authorized to enforce. The~~
 342 ~~provisions of this subsection shall not be construed to provide~~
 343 ~~any powers, other than advisory, to the commission with respect~~
 344 ~~to any decision of the State Fire Marshal made pursuant to the~~
 345 ~~provisions of chapter 633.~~

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346 ~~(3) The commission may designate a commission member with~~
 347 ~~demonstrated expertise in interpreting building plans to attend~~
 348 ~~each meeting of the advisory council created in s. 553.512. The~~
 349 ~~commission member may vary from meeting to meeting, shall serve~~
 350 ~~on the council in a nonvoting capacity, and shall receive per~~
 351 ~~diem and expenses as provided in s. 553.74(3).~~

352 (2)~~(4)~~ For educational and public information purposes,
 353 the commission shall develop and publish an informational and
 354 explanatory document which contains descriptions of the roles
 355 and responsibilities of the licensed design professional,
 356 residential designer, contractor, and local building and fire
 357 code officials. The State Fire Marshal shall be responsible for
 358 developing and specifying roles and responsibilities for fire
 359 code officials. Such document may also contain descriptions of
 360 roles and responsibilities of other participants involved in the
 361 building codes system.

362 (3)~~(5)~~ The commission may provide by rule for plans review
 363 and approval of prototype buildings owned by public and private
 364 entities to be replicated throughout the state. The rule must
 365 allow for review and approval of plans for prototype buildings
 366 to be performed by a public or private entity with oversight by
 367 the commission. The department may charge reasonable fees to
 368 cover the administrative costs of the program. Such approved
 369 plans or prototype buildings shall be exempt from further review
 370 required by s. 553.79(2), except changes to the prototype
 371 design, site plans, and other site-related items. As provided in
 372 s. 553.73, prototype buildings are exempt from any locally
 373 adopted amendment to any part of the Florida Building Code.

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374 Construction or erection of such prototype buildings is subject
 375 to local permitting and inspections pursuant to this part.

376 ~~(4)(6)~~ The commission may produce and distribute a
 377 commentary document to accompany the Florida Building Code. The
 378 commentary must be limited in effect to providing technical
 379 assistance and must not have the effect of binding
 380 interpretations of the code document itself.

381 ~~(7) The commission shall by rule establish an informal~~
 382 ~~process of rendering nonbinding interpretations of the Florida~~
 383 ~~Building Code. The commission is specifically authorized to~~
 384 ~~refer interpretive issues to organizations that represent those~~
 385 ~~engaged in the construction industry. The commission is~~
 386 ~~directed to immediately implement the process prior to the~~
 387 ~~completion of formal rulemaking. It is the intent of the~~
 388 ~~Legislature that the commission create a process to refer~~
 389 ~~questions to a small, rotating group of individuals licensed~~
 390 ~~under part XII of chapter 468, to which a party can pose~~
 391 ~~questions regarding the interpretation of code provisions. It~~
 392 ~~is the intent of the Legislature that the process provide for~~
 393 ~~the expeditious resolution of the issues presented and~~
 394 ~~publication of the resulting interpretation on the Building Code~~
 395 ~~Information System. Such interpretations are to be advisory~~
 396 ~~only and nonbinding on the parties or the commission.~~

397 Section 4. Section 553.775, Florida Statutes, is created
 398 to read:

399 553.775 Interpretations.--

400 (1) It is the intent of the Legislature that the Florida
 401 Building Code be interpreted by building officials, local
 402 enforcement agencies, and the commission in a manner that

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403 protects the public safety, health, and welfare at the most
404 reasonable cost to the consumer by ensuring uniform
405 interpretations throughout the state and by providing processes
406 for resolving disputes regarding interpretations of the Florida
407 Building Code which are just and expeditious.

408 (2) Local enforcement agencies, local building officials,
409 state agencies, and the commission shall interpret provisions of
410 the Florida Building Code in a manner that is consistent with
411 declaratory statements and interpretations entered by the
412 commission, except that conflicts between the Florida Fire
413 Prevention Code and the Florida Building Code shall be resolved
414 in accordance with s. 553.73(9)(c) and (d).

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

417 (a) Upon written application by any substantially affected
418 person, state agency or by a local enforcement agency, the
419 commission shall issue declaratory statements pursuant to s.
420 120.565 relating to the enforcement or administration by local
421 governments of the Florida Building Code.

422 (b) When requested in writing by any substantially
423 affected person, state agency or by a local enforcement agency,
424 the commission shall issue a declaratory statement pursuant to
425 s. 120.565 relating to this part and ss. 515.25, 515.27, 515.29,
426 and 515.37. Actions of the commission are subject to judicial
427 review under s. 120.68.

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

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431 1. The commission shall coordinate with the Building
432 Officials Association of Florida, Inc., to designate panels
433 composed of five members to hear requests to review decisions of
434 local building officials. The members must be licensed as
435 building code administrators under part XII of chapter 468 and
436 must have experience interpreting and enforcing provisions of
437 the Florida Building Code.

438 2. Requests to review a decision of a local building
439 official interpreting provisions of the Florida Building Code
440 may be initiated by any substantially affected person, including
441 an owner or builder subject to a decision of a local building
442 official, or an association of owners or builders with members
443 who are subject to a decision of a local building official. In
444 order to initiate review, the substantially affected person must
445 file a petition with the commission. The commission shall adopt
446 a form for the petition, which shall be published on the
447 Building Code Information System. The form shall, at a minimum,
448 require the following:

449 a. The name and address of the county or municipality in
450 which provisions of the Florida Building Code are being
451 interpreted.

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

454 c. The name, address, and telephone number of the
455 petitioner; the name, address, and telephone number of the
456 petitioner's representative, if any; and an explanation of how
457 the petitioner's substantial interests are being affected by the
458 local interpretation of the Florida Building Code.

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

461 e. A statement of the interpretation given to provisions
 462 of the Florida Building Code by the local building official and
 463 the manner in which the interpretation was rendered.

464 f. A statement of the interpretation that the petitioner
 465 contends should be given to the provisions of the Florida
 466 Building Code and a statement supporting the petitioner's
 467 interpretation.

468 g. Space for the local building official to respond in
 469 writing. The space shall, at a minimum, require the local
 470 building official to respond by providing a statement admitting
 471 or denying the statements contained in the petition and a
 472 statement of the interpretation of the provisions of the Florida
 473 Building Code which the local jurisdiction or the local building
 474 official contends is correct, including the basis for the
 475 interpretation.

476 3. The petitioner shall submit the petition to the local
 477 building official, who shall place the date of receipt on the
 478 petition. The local building official shall respond to the
 479 petition in accordance with the form and shall return the
 480 petition along with his or her response to the petitioner within
 481 5 days after receipt, exclusive of Saturdays, Sundays, and legal
 482 holidays. The petitioner may file the petition with the
 483 commission at any time after the local building official
 484 provides a response. If no response is provided by the local
 485 building official, the petitioner may file the petition with the
 486 commission 10 days after submission of the petition to the local

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487 building official and shall note that the local building
488 official did not respond.

489 4. Upon receipt of a petition that meets the requirements
490 of subparagraph 2., the commission shall immediately provide
491 copies of the petition to a panel, and the commission shall
492 publish the petition, including any response submitted by the
493 local building official, on the Building Code Information System
494 in a manner that allows interested persons to address the issues
495 by posting comments.

496 5. The panel shall conduct proceedings as necessary to
497 resolve the issues; shall give due regard to the petitions, and
498 the response, and to comments posed on the Building Code
499 Information System; and shall issue an interpretation regarding
500 the provisions of the Florida Building Code within 21 days after
501 the filing of the petition. The panel shall render a
502 determination based upon the Florida Building Code or, if the
503 code is ambiguous, the intent of the code. The panel's
504 interpretation shall be provided to the commission, which shall
505 publish the interpretation on the Building Code Information
506 System and in the Florida Administrative Weekly. The
507 interpretation shall be considered an interpretation entered by
508 the commission, and shall be binding upon the parties and upon
509 all jurisdictions subject to the Florida Building Code, unless
510 it is superseded by a declaratory statement issued by the
511 Florida Building Commission or by a final order entered after an
512 appeal proceeding conducted in accordance with subparagraph 7.

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

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

518 7. Any substantially affected person may appeal an
519 interpretation rendered by a hearing officer panel by filing a
520 petition with the commission. Such appeals shall be initiated in
521 accordance with chapter 120 and the uniform rules of procedure
522 and must be filed within 30 days after publication of the
523 interpretation on the Building Code Information System or in the
524 Florida Administrative Weekly. Hearings shall be conducted
525 pursuant to chapter 120 and the uniform rules of procedure.
526 Decisions of the commission are subject to judicial review
527 pursuant to s. 120.68. The final order of the commission is
528 binding upon the parties and upon all jurisdictions subject to
529 the Florida Building Code.

530 8. The burden of proof in any proceeding initiated in
531 accordance with subparagraph 7. shall be on the party who
532 initiated the appeal.

533 9. In any review proceeding initiated in accordance with
534 this paragraph, including any proceeding initiated in accordance
535 with subparagraph 7., the fact that an owner or builder has
536 proceeded with construction shall not be grounds for determining
537 an issue to be moot if the issue is one that is likely to arise
538 in the future.

539
540 This paragraph provides the exclusive remedy for addressing
541 requests to review local interpretations of the code and appeals
542 from review proceedings.

543 (d) Local decisions declaring structures to be unsafe and
544 subject to repair or demolition are not subject to review under

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545 this subsection and may not be appealed to the commission if the
 546 local governing body finds that there is an immediate danger to
 547 the health and safety of the public.

548 (e) Upon written application by any substantially affected
 549 person, the commission shall issue a declaratory statement
 550 pursuant to s. 120.565 relating to an agency's interpretation
 551 and enforcement of the specific provisions of the Florida
 552 Building Code which the agency is authorized to enforce. This
 553 subsection does not provide any powers, other than advisory, to
 554 the commission with respect to any decision of the State Fire
 555 Marshal made pursuant to chapter 633.

556 (f) The commission may designate a commission member with
 557 demonstrated expertise in interpreting building plans to attend
 558 each meeting of the advisory council created in s. 553.512. The
 559 commission member may vary from meeting to meeting, shall serve
 560 on the council in a nonvoting capacity, and shall receive per
 561 diem and expenses as provided in s. 553.74(3).

562 (g) The commission shall by rule establish an informal
 563 process of rendering nonbinding interpretations of the Florida
 564 Building Code. The commission is specifically authorized to
 565 refer interpretive issues to organizations that represent those
 566 engaged in the construction industry. The commission shall
 567 immediately implement the process prior to the completion of
 568 formal rulemaking. It is the intent of the Legislature that the
 569 commission create a process to refer questions to a small,
 570 rotating group of individuals licensed under part XII of chapter
 571 468, to which a party may pose questions regarding the
 572 interpretation of code provisions. It is the intent of the
 573 Legislature that the process provide for the expeditious

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574 resolution of the issues presented and publication of the
 575 resulting interpretation on the Building Code Information
 576 System. Such interpretations shall be advisory only and
 577 nonbinding on the parties and the commission.

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

580 553.79 Permits; applications; issuance; inspections.--

581 (14) Certifications by contractors authorized under the
 582 provisions of s. 489.115(4)(b) shall be considered equivalent to
 583 sealed plans and specifications by a person licensed under
 584 chapter 471 or chapter 481 by local enforcement agencies for
 585 plans review for permitting purposes relating to compliance with
 586 the wind resistance provisions of the code or alternate
 587 methodologies approved by the commission for one and two family
 588 dwellings. Local enforcement agencies may rely upon such
 589 certification by contractors that the plans and specifications
 590 submitted conform to the requirements of the code for wind
 591 resistance. Upon good cause shown, local government code
 592 enforcement agencies may accept or reject plans sealed by
 593 persons licensed under chapter 471, chapter 481, or chapter 489.
 594 A truss-placement plan is not required to be signed and sealed
 595 by an engineer or architect unless prepared by an engineer or
 596 architect or specifically required by the Florida Building Code.

597 Section 6. Subsections (2), (4), paragraph (a) of
 598 subsection (6), subsection (11), paragraphs (b) and (c) of
 599 subsection (12), and subsections (14) and (15) of section
 600 553.791, Florida Statutes, are amended to read:

601 553.791 Alternative plans review and inspection.--

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602 (2) Notwithstanding any other provision of law or local
 603 government ordinance or local policy to the contrary, the fee
 604 owner of a building, or the fee owner's contractor upon written
 605 authorization from the fee owner, may choose to use a private
 606 provider to provide building code inspection services with
 607 regard to such building and may make payment directly to the
 608 private provider for the provision of such services. All such
 609 services shall be the subject of a written contract between the
 610 private provider, or the private provider's firm, and the fee
 611 owner. The fee owner may elect to use a private provider to
 612 provide either plans review or required building inspections.
 613 The local building official, in his or her discretion and
 614 pursuant to duly adopted policies of the local enforcement
 615 agency, may require the fee owner who desires to use a private
 616 provider to use the private provider to provide both plans
 617 review and required building inspection services.

618 (4) A fee owner or the fee owner's contractor using a
 619 private provider to provide building code inspection services
 620 shall notify the local building official at the time of permit
 621 application or no less than 1 week prior to a private provider's
 622 providing building code inspection services on a form to be
 623 adopted by the commission. This notice shall include the
 624 following information:

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

626 (b) The name, firm, address, telephone number, and
 627 facsimile number of each private provider who is performing or
 628 will perform such services, his or her professional license or
 629 certification number, qualification statements or resumes, and,
 630 if required by the local building official, a certificate of

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631 insurance demonstrating that professional liability insurance
 632 coverage is in place for the private provider's firm, the
 633 private provider, and any duly authorized representative in the
 634 amounts required by this section.

635 (c) An acknowledgment from the fee owner in substantially
 636 the following form:

637
 638 I have elected to use one or more private providers to
 639 provide building code plans review and/or inspection
 640 services on the building that is the subject of the
 641 enclosed permit application, as authorized by s.
 642 553.791, Florida Statutes. I understand that the
 643 local building official may not review the plans
 644 submitted or perform the required building inspections
 645 to determine compliance with the applicable codes,
 646 except to the extent specified in said law. Instead,
 647 plans review and/or required building inspections will
 648 be performed by licensed or certified personnel
 649 identified in the application. The law requires
 650 minimum insurance requirements for such personnel, but
 651 I understand that I may require more insurance to
 652 protect my interests. By executing this form, I
 653 acknowledge that I have made inquiry regarding the
 654 competence of the licensed or certified personnel and
 655 the level of their insurance and am satisfied that my
 656 interests are adequately protected. I agree to
 657 indemnify, defend, and hold harmless the local
 658 government, the local building official, and their
 659 building code enforcement personnel from any and all

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660 claims arising from my use of these licensed or
 661 certified personnel to perform building code
 662 inspection services with respect to the building that
 663 is the subject of the enclosed permit application.

664
 665 If the fee owner or the fee owner's contractor makes any changes
 666 to the listed private providers or the services to be provided
 667 by those private providers, the fee owner or the fee owner's
 668 contractor shall, within 1 business day after any change, update
 669 the notice to reflect such changes.

670 (6)(a) No more than ~~Within~~ 30 ~~business~~ days after receipt
 671 of a permit application and the affidavit from the private
 672 provider required pursuant to subsection (5), the local building
 673 official shall issue the requested permit or provide a written
 674 notice to the permit applicant identifying the specific plan
 675 features that do not comply with the applicable codes, as well
 676 as the specific code chapters and sections. If the local
 677 building official does not provide a written notice of the plan
 678 deficiencies within the prescribed 30-day period, the permit
 679 application shall be deemed approved as a matter of law, and the
 680 permit shall be issued by the local building official on the
 681 next business day.

682 (11) No more than ~~Within~~ 2 business days after receipt of
 683 a request for a certificate of occupancy or certificate of
 684 completion and the applicant's presentation of a certificate of
 685 compliance and approval of all other government approvals
 686 required by law, the local building official shall issue the
 687 certificate of occupancy or certificate of completion or provide
 688 a notice to the applicant identifying the specific deficiencies,

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689 as well as the specific code chapters and sections. If the
 690 local building official does not provide notice of the
 691 deficiencies within the prescribed 2-day period, the request for
 692 a certificate of occupancy or certificate of completion shall be
 693 deemed granted and the certificate of occupancy or certificate
 694 of completion shall be issued by the local building official on
 695 the next business day. To resolve any identified deficiencies,
 696 the applicant may elect to dispute the deficiencies pursuant to
 697 subsection (12) or to submit a corrected request for a
 698 certificate of occupancy or certificate of completion.

699 (12) If the local building official determines that the
 700 building construction or plans do not comply with the applicable
 701 codes, the official may deny the permit or request for a
 702 certificate of occupancy or certificate of completion, as
 703 appropriate, or may issue a stop-work order for the project or
 704 any portion thereof, if the official determines that such
 705 noncompliance poses a threat to public safety and welfare,
 706 subject to the following:

707 (b) If the local building official and private provider
 708 are unable to resolve the dispute, the matter shall be referred
 709 to the local enforcement agency's board of appeals, if one
 710 exists, which shall consider the matter at its next scheduled
 711 meeting or sooner. Any decisions by the local enforcement
 712 agency's board of appeals, or local building official if there
 713 is no board of appeals, may be appealed to the commission
 714 pursuant to s. 553.775 ~~553.77(1)(h)~~.

715 (c) Notwithstanding any provision of this section, any
 716 decisions regarding the issuance of a building permit,
 717 certificate of occupancy, or certificate of completion may be

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718 reviewed by the local enforcement agency's board of appeals, if
 719 one exists. Any decision by the local enforcement agency's board
 720 of appeals, or local building official if there is no board of
 721 appeals, may be appealed to the commission pursuant to s.
 722 553.775 ~~553.77(1)(h)~~, which shall consider the matter at the
 723 commission's next scheduled meeting.

724 (14) No local enforcement agency, local building official,
 725 or local government may adopt or enforce any laws, rules,
 726 procedures, policies, or standards more stringent than those
 727 prescribed by this section.

728 (15) A private provider may perform building code
 729 inspection services under this section only if the private
 730 provider maintains insurance for professional ~~and comprehensive~~
 731 ~~general~~ liability with minimum policy limits of \$1 million per
 732 occurrence covering ~~relating to~~ all services performed as a
 733 private provider. If the private provider chooses to secure
 734 claims-made coverage to fulfill this requirement, the private
 735 provider must also maintain, including tail coverage for a
 736 minimum of 5 years subsequent to the performance of building
 737 code inspection services. Occurrence-based coverage shall not be
 738 subject to any tail coverage requirement.

739 Section 7. Paragraph (d) of subsection (1) of section
 740 553.80, Florida Statutes, is amended, and subsection (7) is
 741 added to said section, to read:

742 553.80 Enforcement.--

743 (1) Except as provided in paragraphs (a)-(f), each local
 744 government and each legally constituted enforcement district
 745 with statutory authority shall regulate building construction
 746 and, where authorized in the state agency's enabling

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747 legislation, each state agency shall enforce the Florida
 748 Building Code required by this part on all public or private
 749 buildings, structures, and facilities, unless such
 750 responsibility has been delegated to another unit of government
 751 pursuant to s. 553.79(9).

752 (d) Building plans approved pursuant to s. 553.77~~(3)~~~~(5)~~
 753 and state-approved manufactured buildings, including buildings
 754 manufactured and assembled offsite and not intended for
 755 habitation, such as lawn storage buildings and storage sheds,
 756 are exempt from local code enforcing agency plan reviews except
 757 for provisions of the code relating to erection, assembly, or
 758 construction at the site. Erection, assembly, and construction
 759 at the site are subject to local permitting and inspections.

760
 761 The governing bodies of local governments may provide a schedule
 762 of fees, as authorized by s. 125.56(2) or s. 166.222 and this
 763 section, for the enforcement of the provisions of this part.
 764 Such fees shall be used solely for carrying out the local
 765 government's responsibilities in enforcing the Florida Building
 766 Code. The authority of state enforcing agencies to set fees for
 767 enforcement shall be derived from authority existing on July 1,
 768 1998. However, nothing contained in this subsection shall
 769 operate to limit such agencies from adjusting their fee schedule
 770 in conformance with existing authority.

771 (7) The governing bodies of local governments may provide
 772 a schedule of reasonable fees, as authorized by s. 125.56(2) or
 773 s. 166.222 and this section, for enforcing this part. These
 774 fees, and any fines or investment earnings related to the fees,
 775 shall be used solely for carrying out the local government's

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776 responsibilities in enforcing the Florida Building Code. When
 777 providing a schedule of reasonable fees, the total estimated
 778 annual revenue derived from fees and the fines and investment
 779 earnings related to the fees may not exceed the total estimated
 780 annual costs of allowable activities. Any unexpended balances
 781 shall be carried forward to future years for allowable
 782 activities or shall be refunded at the discretion of the local
 783 government. The basis for a fee structure for allowable
 784 activities shall relate to the level of service provided by the
 785 local government. Fees charged shall be consistently applied.

786 (a) As used in this subsection, the phrase "enforcing the
 787 Florida Building Code" includes the direct costs and reasonable
 788 indirect costs associated with review of building plans,
 789 building inspections, reinspections, building permit processing,
 790 and building code enforcement. The phrase may also include
 791 enforcement action pertaining to unlicensed contractor activity
 792 to the extent not funded by other user fees. Costs related to
 793 planning and zoning or other general government activities;
 794 costs related to the inspections of public buildings for a
 795 reduced fee or no fee; costs incurred in connection with public
 796 information requests, community functions, boards, and programs
 797 that are not directly related to enforcement of the Florida
 798 Building Code; and costs associated with the enforcement and
 799 implementation of any other local ordinance, excluding validly
 800 adopted local amendments to the Florida Building Code and
 801 excluding any local ordinance directly related to enforcing the
 802 Florida Building Code as defined in this paragraph, may not be
 803 financed with fees adopted under this subsection.

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

809 Section 8. The Florida Building Commission shall expedite
 810 the adoption and implementation of the State Existing Building
 811 Code as part of the Florida Building Code pursuant only to the
 812 provisions of chapter 120, Florida Statutes. The special update
 813 and amendment requirements of s. 553.73, Florida Statutes, and
 814 the administrative rule requiring additional delay time between
 815 adoption and implementation of such code are waived.

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

818 120.80 Exceptions and special requirements; agencies.--

819 (17) FLORIDA BUILDING COMMISSION.--

820 (c) Notwithstanding ss. 120.565, 120.569, and 120.57, the
 821 Florida Building Commission and hearing officer panels appointed
 822 by the commission in accordance with s. 553.775(3)(c)1. may
 823 conduct proceedings to review decisions of local building code
 824 officials in accordance with s. 553.775(3)(c).

825 Section 10. Section 553.841, Florida Statutes, is amended
 826 to read:

827 553.841 Building code training program; participant
 828 competency requirements.--

829 ~~(1) The Legislature finds that the effectiveness of the~~
 830 ~~building codes of this state depends on the performance of all~~
 831 ~~participants, as demonstrated through knowledge of the codes and~~
 832 ~~commitment to compliance with code directives and that to~~

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833 ~~strengthen compliance by industry and enforcement by government,~~
 834 ~~a Building Code Training Program is needed.~~

835 (1)(2) The commission shall establish by rule the Building
 836 Code Training Program to develop and provide a core curriculum
 837 and offer voluntary accreditation of advance module courses
 838 relating to the Florida Building Code and its enforcement a
 839 ~~system of administering and enforcing the Florida Building Code.~~

840 ~~(3) The program shall be developed, implemented, and~~
 841 ~~administered by the commission in consultation with the~~
 842 ~~Department of Education, the Department of Community Affairs,~~
 843 ~~the Department of Business and Professional Regulation, the~~
 844 ~~State Fire Marshal, the State University System, and the~~
 845 ~~Division of Community Colleges.~~

846 ~~(4) The commission may enter into contracts with the~~
 847 ~~Department of Education, the State University System, the~~
 848 ~~Division of Community Colleges, model code organizations,~~
 849 ~~professional organizations, vocational technical schools, trade~~
 850 ~~organizations, and private industry to administer the program.~~

851 (2)(5) The program shall be affordable, accessible,
 852 meaningful, financially self-sufficient and shall make maximum
 853 use of existing sources, systems, institutions, and programs
 854 available through private sources.

855 (3)(6) The commission, in coordination with the Department
 856 of Community Affairs, the Department of Business and
 857 Professional Regulation, the respective licensing boards, and
 858 the State Fire Marshal shall develop or cause to be developed-

859 (a) a core curriculum ~~that~~ ~~which~~ is prerequisite to
 860 initial licensure for those licensees not subject to testing on
 861 the Florida Building Code as a condition of licensure. These

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862 entities shall also identify subject areas that are inadequately
 863 addressed by specialized and advanced courses ~~all specialized~~
 864 ~~and advanced module coursework.~~

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

867 (4)(7) The core curriculum shall cover the information
 868 required to have all categories of participants appropriately
 869 informed as to their technical and administrative
 870 responsibilities in the effective execution of the code process
 871 by all individuals currently licensed under part XII of chapter
 872 468, chapter 471, chapter 481, or chapter 489, except as
 873 otherwise provided in s. 471.017. The core curriculum shall ~~be~~
 874 ~~prerequisite to the advanced module coursework for all licensees~~
 875 ~~and shall~~ be completed by individuals licensed in all categories
 876 under part XII of chapter 468, chapter 471, chapter 481, or
 877 chapter 489 by the date of license renewal in 2004. ~~within the~~
 878 ~~first 2-year period after establishment of the program. Core~~
 879 ~~course hours~~ All approved courses taken by licensees pursuant to
 880 this section ~~to complete this requirement~~ shall count toward
 881 fulfillment of required continuing education units under part
 882 XII of chapter 468, chapter 471, chapter 481, or chapter 489.

883 ~~(8) The commission, in consultation with the Department of~~
 884 ~~Business and Professional Regulation and the respective~~
 885 ~~licensing boards, shall develop or cause to be developed an~~
 886 ~~equivalency test for each category of licensee. Such test may~~
 887 ~~be taken in lieu of the core curriculum. A passing score on the~~
 888 ~~test shall be equivalent to completion of the core curriculum~~
 889 ~~and shall be credited toward the required number of hours of~~
 890 ~~continuing education.~~

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891 (5)~~(9)~~ The commission, in consultation with the Department
 892 of Business and Professional Regulation, shall develop or cause
 893 to be developed, or approve as a part of the program,
 894 appropriate courses ~~a core curriculum and specialized or~~
 895 ~~advanced module coursework~~ for the construction workforce,
 896 including, but not limited to, superintendents and journeymen.

897 (6)~~(10)~~ The respective state boards under part XII of
 898 chapter 468, chapters 471, 481, and 489, and the State Fire
 899 Marshal under chapter 633, shall require specialized or advanced
 900 course modules as part of their regular continuing education
 901 requirements.

902 (7)~~(11)~~ The Legislature hereby establishes the Office of
 903 Building Code Training Program Administration within the
 904 Institute of Applied Technology in Construction Excellence at
 905 the Florida Community College at Jacksonville. The office is
 906 charged with the following responsibilities as recommended by
 907 the Florida Building Commission and as resources are provided by
 908 the Legislature:

909 (a) Provide research-to-practice capability for entry-
 910 level construction training development, delivery and quality
 911 assurance, as well as training and competency registry systems
 912 and recruitment initiatives.

913 (b) Coordinate with the Department of Community Affairs
 914 and the Florida Building Commission to serve as school liaison
 915 to disseminate construction awareness and promotion programs and
 916 materials to schools.

917 (c) Develop model programs and approaches to construction
 918 career exploration to promote construction careers.

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919 Section 11. Subsection (3) of section 553.8412, Florida
 920 Statutes, is amended to read:

921 553.8412 Legislative intent; delivery of training;
 922 outsourcing.--

923 (3) To the extent available, funding for outreach,
 924 coordination of training, or training may come from existing
 925 resources. If necessary, the Florida Building Commission or the
 926 department may seek additional or supplemental funds pursuant to
 927 s. 215.559(5). This section does not preclude the Florida
 928 Building Commission from charging fees to fund the building code
 929 training program in a self-sufficient manner as provided in s.
 930 553.841 ~~(2)(5)~~.

931 Section 12. Paragraph (a) of subsection (9) of section
 932 553.842, Florida Statutes, is amended to read:

933 553.842 Product evaluation and approval.--

934 (9) The commission may adopt rules to approve the
 935 following types of entities that produce information on which
 936 product approvals are based. All of the following entities,
 937 including engineers and architects, must comply with a
 938 nationally recognized standard demonstrating independence or no
 939 conflict of interest:

940 (a) Evaluation entities that meet the criteria for
 941 approval adopted by the commission by rule. The commission shall
 942 specifically approve the National Evaluation Service, the
 943 International Conference of Building Officials Evaluation
 944 Services, the International Code Council Evaluation Services,
 945 the Building Officials and Code Administrators International
 946 Evaluation Services, the Southern Building Code Congress
 947 International Evaluation Services, and the Miami-Dade County

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948 Building Code Compliance Office Product Control. Architects and
949 engineers licensed in this state are also approved to conduct
950 product evaluations as provided in subsection (6).

951 Section 13. This act shall take effect upon becoming a
952 law.