

Bill No. SB 1470

Barcode 334718

CHAMBER ACTION

Senate

House

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The Committee on Regulated Industries (Posey) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (f) of subsection (1), subsections (2) and (4), paragraph (a) of subsection (6), and subsections (7), (9), (11), (12), (14), (15), and (17) of section 553.791, Florida Statutes, are amended to read:

553.791 Alternative plans review and inspection.--

(1) As used in this section, the term:

(f) "Permit application" means a properly completed

and submitted application for+

~~1-~~ the requested building or construction permit,

including:-

~~1.2-~~ The plans reviewed by the private provider.

~~2.3-~~ The affidavit from the private provider required pursuant to subsection (5).

~~3.4-~~ Any applicable fees.

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1           ~~4.5.~~ Any documents required by the local building  
 2 official to determine that the fee owner has secured all other  
 3 government approvals required by law.

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

23           (4) A fee owner or the fee owner's contractor using a  
 24 private provider to provide building code inspection services  
 25 shall notify the local building official at the time of permit  
 26 application, or no less than 7 business days prior to the  
 27 first scheduled inspection by the local building official or  
 28 building code enforcement agency for a private provider  
 29 performing required inspections of construction under this  
 30 section, on a form to be adopted by the commission. This  
 31 notice shall include the following information:

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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 providers to provide  
16 building code plans review and/or inspection services on the  
17 building or structure that is the subject of the enclosed  
18 permit application, as authorized by s. 553.791, Florida  
19 Statutes. I understand that the local building official may  
20 not review the plans submitted or perform the required  
21 building inspections to determine compliance with the  
22 applicable codes, except to the extent specified in said law.  
23 Instead, plans review and/or required building inspections  
24 will be performed by licensed or certified personnel  
25 identified in the application. The law requires minimum  
26 insurance requirements for such personnel, but I understand  
27 that I may require more insurance to protect my interests. By  
28 executing this form, I acknowledge that I have made inquiry  
29 regarding the competence of the licensed or certified  
30 personnel and the level of their insurance and am satisfied  
31 that my interests are adequately protected. I agree to

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1 indemnify, defend, and hold harmless the local government, the  
 2 local building official, and their building code enforcement  
 3 personnel from any and all claims arising from my use of these  
 4 licensed or certified personnel to perform building code  
 5 inspection services with respect to the building or structure  
 6 that is the subject of the enclosed permit application.

7  
 8 If the fee owner or the fee owner's contractor makes any  
 9 changes to the listed private providers or the services to be  
 10 provided by those private providers, the fee owner or the fee  
 11 owner's contractor shall, within 1 business day after any  
 12 change, update the notice to reflect such changes. In  
 13 addition, the fee owner or the fee owner's contractor shall  
 14 post at the project site, prior to the commencement of  
 15 construction and updated within 1 business day after any  
 16 change, on a form to be adopted by the commission, the name,  
 17 firm, address, telephone number, and facsimile number of each  
 18 private provider who is performing or will perform building  
 19 code inspection services, the type of service being performed,  
 20 and similar information for the primary contact of the private  
 21 provider on the project.

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

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1 as a matter of law, and the permit shall be issued by the  
2 local building official on the next business day.

3 (7) A private provider performing required inspections  
4 under this section shall inspect each phase of construction as  
5 required by the applicable codes. The private provider shall  
6 be permitted to send a duly authorized representative to the  
7 building site to perform the required inspections, provided  
8 all required reports and certifications are prepared by and  
9 bear the signature of the private provider. The duly  
10 authorized representative must be an employee of the private  
11 provider entitled to receive unemployment compensation  
12 benefits under chapter 443. The contractor's contractual or  
13 legal obligations are not relieved by any action of the  
14 private provider.

15 (9) Upon completing the required inspections at each  
16 applicable phase of construction, the private provider shall  
17 record such inspections on a form acceptable to the local  
18 building official. These inspection records shall reflect  
19 those inspections required by the applicable codes of each  
20 phase of construction for which permitting by a local  
21 enforcement agency is required. The private provider, before  
22 leaving the project site, shall post each completed inspection  
23 record, indicating pass or fail, at the site and provide the  
24 record to the local building official within 2 business days.  
25 The local building official may waive the requirement to  
26 provide a record of each inspection within 2 business days if  
27 the record is posted at the project site and all such  
28 inspection records are submitted with the certificate of  
29 compliance. Records of all required and completed inspections  
30 shall be maintained at the building site at all times and made  
31 available for review by the local building official. The

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1 private provider shall report to the local enforcement agency  
2 any condition that poses an immediate threat to public safety  
3 and welfare.

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

22 (12) If the local building official determines that  
23 the building construction or plans do not comply with the  
24 applicable codes, the official may deny the permit or request  
25 for a certificate of occupancy or certificate of completion,  
26 as appropriate, or may issue a stop-work order for the project  
27 or any portion thereof as provided by law, if the official  
28 determines that such noncompliance poses a threat to public  
29 safety and welfare, subject to the following:

30 (a) The local building official shall be available to  
31 meet with the private provider within 2 business days to

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1 resolve any dispute after issuing a stop-work order or  
 2 providing notice to the applicant denying a permit or request  
 3 for a certificate of occupancy or certificate of completion.

4 (b) If the local building official and private  
 5 provider are unable to resolve the dispute, the matter shall  
 6 be referred to the local enforcement agency's board of  
 7 appeals, if one exists, which shall consider the matter at its  
 8 next scheduled meeting or sooner. Any decisions by the local  
 9 enforcement agency's board of appeals, or local building  
 10 official if there is no board of appeals, may be appealed to  
 11 the commission as provided by this chapter ~~pursuant to s.~~  
 12 ~~553.77(1)(h)~~.

13 (c) Notwithstanding any provision of this section, any  
 14 decisions regarding the issuance of a building permit,  
 15 certificate of occupancy, or certificate of completion may be  
 16 reviewed by the local enforcement agency's board of appeals,  
 17 if one exists. Any decision by the local enforcement agency's  
 18 board of appeals, or local building official if there is no  
 19 board of appeals, may be appealed to the commission as  
 20 provided by this chapter ~~pursuant to s. 553.77(1)(h)~~, which  
 21 shall consider the matter at the commission's next scheduled  
 22 meeting.

23 (14)(a) No local enforcement agency, local building  
 24 official, or local government may adopt or enforce any laws,  
 25 rules, procedures, policies, qualifications, or standards more  
 26 stringent than those prescribed by this section.

27 (b) A local enforcement agency, local building  
 28 official, or local government may establish, for private  
 29 providers and duly authorized representatives working within  
 30 that jurisdiction, a system of registration to verify  
 31 compliance with the licensure requirements of paragraph (1)(g)

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1 and the insurance requirements of subsection (15).

2 (c) This section does not limit the authority of the  
3 local building official to issue a stop-work order for a  
4 building project or any portion of such order, as provided by  
5 law, if the official determines that a condition on the  
6 building site constitutes an immediate threat to public safety  
7 and welfare.

8 (15) A private provider may perform building code  
9 inspection services on a building project under this section  
10 only if the private provider maintains insurance for  
11 professional ~~and comprehensive general liability~~ covering with  
12 minimum policy limits of \$1 million per occurrence relating to  
13 all services performed as a private provider. Such insurance  
14 shall have minimum policy limits of \$1 million per occurrence  
15 and \$2 million in the aggregate for any project with a  
16 construction cost of \$5 million or less and \$2 million per  
17 occurrence and \$4 million in the aggregate for any project  
18 with a construction cost of over \$5 million. This section does  
19 not limit the ability of a fee owner to require additional  
20 insurance or higher policy limits. For these purposes, the  
21 term "construction cost" means the total cost of building  
22 construction as stated in the building permit application. If  
23 the private provider chooses to secure claims-made coverage to  
24 fulfill this requirement, the private provider must also  
25 maintain, including tail coverage for a minimum of 5 years  
26 subsequent to the performance of building code inspection  
27 services. The insurance required under this subsection must be  
28 written only by insurers authorized to do business in this  
29 state with a minimum A.M. Best's rating of A. Before providing  
30 building code inspection services within a local building  
31 official's jurisdiction, a private provider shall provide to



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1 the local building official a certificate of insurance  
2 evidencing that the coverages required under this subsection  
3 are in force.

4 (17) Each local building code enforcement agency may  
5 ~~shall develop and maintain a process to~~ audit the performance  
6 of building code inspection services by private providers  
7 operating within the local jurisdiction. Work on a building or  
8 structure may proceed after inspection and approval by a  
9 private provider if the provider has given notice of the  
10 inspection pursuant to subsection (8) and, subsequent to such  
11 inspection and approval, the work may not be delayed for  
12 completion of an inspection audit by the local building code  
13 enforcement agency.

14 Section 2. Paragraph (i) of subsection (1) of section  
15 468.621, Florida Statutes, is amended to read:

16 468.621 Disciplinary proceedings.--

17 (1) The following acts constitute grounds for which  
18 the disciplinary actions in subsection (2) may be taken:

19 (i) Failing to lawfully execute the duties and  
20 responsibilities specified in this part and ss. 553.73,  
21 553.781, ~~and~~ 553.79, and 553.791.

22 Section 3. This act shall take effect October 1, 2005.

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24  
25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:

27 Delete everything before the enacting clause

28  
29 and insert:

30 A bill to be entitled

31 An act relating to alternative plans review and

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1 inspection; amending s. 553.791, F.S.;

2 clarifying a definition; expanding

3 authorization to use private providers to

4 provide building code inspection services;

5 including fee owner contractors within such

6 authorization; revising notice requirements for

7 using private providers; revising procedures

8 for issuing permits; providing requirements for

9 representatives of private providers; providing

10 for waiver of certain inspection records

11 requirements under certain circumstances;

12 requiring issuance of stop-work orders to be

13 pursuant to law; providing for establishment of

14 a registration system for private providers and

15 authorized representatives of private providers

16 for licensure compliance purposes; preserving

17 authority to issue emergency stop-work orders;

18 revising insurance requirements for private

19 providers; providing a definition; authorizing

20 performance audits by local building code

21 enforcement agencies of private providers;

22 specifying conditions for proceeding with

23 building work; amending s. 468.621, F.S.;

24 revising a ground for taking certain

25 disciplinary actions; providing an effective

26 date.

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