

Bill No. SB 1470

Barcode 695258

CHAMBER ACTION

Senate

House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

468.621 Disciplinary proceedings.--

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

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

Section 2. 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:

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1 (f) "Permit application" means a properly completed
2 and submitted application for:

3 ~~1.~~ the requested building or construction permit,
4 including:-

5 ~~1.2.~~ The plans reviewed by the private provider.

6 ~~2.3.~~ The affidavit from the private provider required
7 pursuant to subsection (5).

8 ~~3.4.~~ Any applicable fees.

9 ~~4.5.~~ Any documents required by the local building
10 official to determine that the fee owner has secured all other
11 government approvals required by law.

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

31 (4) A fee owner or the fee owner's contractor using a

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1 private provider to provide building code inspection services
 2 shall notify the local building official at the time of permit
 3 application, or no less than 7 business days prior to the
 4 first scheduled inspection by the local building official or
 5 building code enforcement agency for a private provider
 6 performing required inspections of construction under this
 7 section, on a form to be adopted by the commission. This
 8 notice shall include the following information:

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

11 (b) The name, firm, address, telephone number, and
 12 facsimile number of each private provider who is performing or
 13 will perform such services, his or her professional license or
 14 certification number, qualification statements or resumes,
 15 and, if required by the local building official, a certificate
 16 of insurance demonstrating that professional liability
 17 insurance coverage is in place for the private provider's
 18 firm, the private provider, and any duly authorized
 19 representative in the amounts required by this section.

20 (c) An acknowledgment from the fee owner in
 21 substantially the following form:

22
 23 I have elected to use one or more private providers to provide
 24 building code plans review and/or inspection services on the
 25 building or structure that is the subject of the enclosed
 26 permit application, as authorized by s. 553.791, Florida
 27 Statutes. I understand that the local building official may
 28 not review the plans submitted or perform the required
 29 building inspections to determine compliance with the
 30 applicable codes, except to the extent specified in said law.
 31 Instead, plans review and/or required building inspections

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1 will be performed by licensed or certified personnel
 2 identified in the application. The law requires minimum
 3 insurance requirements for such personnel, but I understand
 4 that I may require more insurance to protect my interests. By
 5 executing this form, I acknowledge that I have made inquiry
 6 regarding the competence of the licensed or certified
 7 personnel and the level of their insurance and am satisfied
 8 that my interests are adequately protected. I agree to
 9 indemnify, defend, and hold harmless the local government, the
 10 local building official, and their building code enforcement
 11 personnel from any and all claims arising from my use of these
 12 licensed or certified personnel to perform building code
 13 inspection services with respect to the building that is the
 14 subject of the enclosed permit application.

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

30 (6)(a) No more than ~~within~~ 30 business days after
 31 receipt of a permit application and the affidavit from the

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1 private provider required pursuant to subsection (5), the
2 local building official shall issue the requested permit or
3 provide a written notice to the permit applicant identifying
4 the specific plan features that do not comply with the
5 applicable codes, as well as the specific code chapters and
6 sections. If the local building official does not provide a
7 written notice of the plan deficiencies within the prescribed
8 30-day period, the permit application shall be deemed approved
9 as a matter of law, and the permit shall be issued by the
10 local building official on the next business day.

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

23 (9) Upon completing the required inspections at each
24 applicable phase of construction, the private provider shall
25 record such inspections on a form acceptable to the local
26 building official. These inspection records shall reflect
27 those inspections required by the applicable codes of each
28 phase of construction for which permitting by a local
29 enforcement agency is required. The private provider, before
30 leaving the project site, shall post each completed inspection
31 record, indicating pass or fail, at the site and provide the

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1 record to the local building official within 2 business days.
2 The local building official may waive the requirement to
3 provide a record of each inspection within 2 business days if
4 the record is posted at the project site and all such
5 inspection records are submitted with the certificate of
6 compliance. Records of all required and completed inspections
7 shall be maintained at the building site at all times and made
8 available for review by the local building official. The
9 private provider shall report to the local enforcement agency
10 any condition that poses an immediate threat to public safety
11 and welfare.

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

30 (12) If the local building official determines that
31 the building construction or plans do not comply with the

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1 applicable codes, the official may deny the permit or request
2 for a certificate of occupancy or certificate of completion,
3 as appropriate, or may issue a stop-work order for the project
4 or any portion thereof as provided by law, if the official
5 determines that such noncompliance poses a threat to public
6 safety and welfare, subject to the following:

7 (a) The local building official shall be available to
8 meet with the private provider within 2 business days to
9 resolve any dispute after issuing a stop-work order or
10 providing notice to the applicant denying a permit or request
11 for a certificate of occupancy or certificate of completion.

12 (b) If the local building official and private
13 provider are unable to resolve the dispute, the matter shall
14 be referred to the local enforcement agency's board of
15 appeals, if one exists, which shall consider the matter at its
16 next scheduled meeting or sooner. Any decisions by the local
17 enforcement agency's board of appeals, or local building
18 official if there is no board of appeals, may be appealed to
19 the commission as provided by this chapter ~~pursuant to s.~~
20 ~~553.77(1)(h)~~.

21 (c) Notwithstanding any provision of this section, any
22 decisions regarding the issuance of a building permit,
23 certificate of occupancy, or certificate of completion may be
24 reviewed by the local enforcement agency's board of appeals,
25 if one exists. Any decision by the local enforcement agency's
26 board of appeals, or local building official if there is no
27 board of appeals, may be appealed to the commission as
28 provided by this chapter ~~pursuant to s. 553.77(1)(h)~~, and the
29 commission ~~which~~ shall consider the matter at its ~~the~~
30 ~~commission's~~ next scheduled meeting.

31 (14)(a) No local enforcement agency, local building

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1 official, or local government may adopt or enforce any laws,
2 rules, procedures, policies, qualifications, or standards more
3 stringent than those prescribed by this section.

4 (b) A local enforcement agency, local building
5 official, or local government may establish, for private
6 providers and duly authorized representatives working within
7 that jurisdiction, a system of registration to verify
8 compliance with the licensure requirements of paragraph (1)(g)
9 and the insurance requirements of subsection (15).

10 (c) This section does not limit the authority of the
11 local building official to issue a stop-work order for a
12 building project or any portion of such project, as provided
13 by law, if the official determines that a condition on the
14 building site constitutes an immediate threat to public safety
15 and welfare.

16 (15) A private provider may perform building code
17 inspection services on a building project under this section
18 only if the private provider maintains insurance for
19 professional ~~and comprehensive general liability~~ covering with
20 minimum policy limits of \$1 million per occurrence relating to
21 all services performed as a private provider. The insurance
22 shall have minimum policy limits of \$1 million per occurrence
23 and \$2 million in the aggregate for any project having a
24 construction cost of \$5 million or less and \$2 million per
25 occurrence and \$4 million in the aggregate for any project
26 having a construction cost of over \$5 million. This section
27 does not limit the ability of the fee owner to require
28 additional insurance or higher policy limits. For these
29 purposes, the term "construction cost" means the total cost of
30 building construction as stated in the building permit
31 application. If the private provider chooses to secure

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1 claims-made coverage to fulfill this requirement, the private
 2 provider must also maintain, including tail coverage for a
 3 minimum of 5 years subsequent to the performance of building
 4 code inspection services. The insurance required under this
 5 subsection may be written only by an insurer that is
 6 authorized to do business in this state and has a minimum A.M.
 7 Best's rating of "A." Before providing building code
 8 inspection services within a local building official's
 9 jurisdiction, a private provider must provide to the local
 10 building official a certificate of insurance evidencing that
 11 the coverages required under this subsection are in force.

12 (17) Each local building code enforcement agency may
 13 ~~shall develop and maintain a process to~~ audit the performance
 14 of building code inspection services by private providers
 15 operating within the local jurisdiction. Work on a building or
 16 structure may proceed after inspection and approval by a
 17 private provider if the provider has given notice of the
 18 inspection pursuant to subsection (8). Subsequent to such
 19 inspection and approval, the work may not be delayed for
 20 completion of an inspection audit by the local building code
 21 enforcement agency.

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 amending s. 468.621, F.S.; revising a ground
 31 for which disciplinary action may be taken

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1 against building code enforcement officials;
2 amending s. 553.791, F.S.; clarifying a
3 definition; expanding authorization to use
4 private providers to provide building code
5 inspection services; including fee owner
6 contractors within such authorization; revising
7 notice requirements for using private
8 providers; revising procedures for issuing
9 permits; providing requirements for
10 representatives of private providers; providing
11 for waiver of certain inspection records
12 requirements under certain circumstances;
13 requiring that issuance of stop-work orders be
14 pursuant to law; providing for establishment of
15 a registration system for private providers and
16 authorized representatives of private providers
17 for licensure compliance purposes; preserving
18 authority to issue emergency stop-work orders;
19 revising insurance requirements for private
20 providers; specifying conditions for proceeding
21 with building work; providing an effective
22 date.

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