

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Regulated Industries Committee

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BILL: CS/SB 1470

SPONSOR: Regulated Industries Committee and Senator Constantine

SUBJECT: Alternative Plans Review and Inspection

DATE: April 17, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vickers</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
2.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<b>Fav/CS</b>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

Currently, s. 553.791, F.S., establishes an alternative plans review and inspection program which authorizes the use of private providers for the overview of construction projects and compliance with building code standards. This section authorizes the fee owner of a building or structure to use and pay a private provider (an engineer or architect) to perform building code inspection services, subject to a written contract between these parties. The owner may use a private provider to offer both plans review and required building inspections, or to use the local enforcement agency for one or both of these purposes.

This committee substitute (CS) provides that a contractor, in addition to the owner of the property and upon written authorization from the owner, may choose a private provider to furnish building plans review and inspection services.

In addition, the CS eliminates the requirement that the private provider maintain comprehensive general liability insurance with minimum policy limits of one million dollars per occurrence, but retains the requirement that private providers are to maintain certain professional liability insurance.

In addition, the CS requires that the private provider maintain comprehensive general liability insurance with minimum policy limits of \$1 million per occurrence and \$2 million in the aggregate for any project with a construction cost of \$5 million or less. If the project has a construction cost of over \$5 million, then the insurance must have minimum policy limits of \$2 million per occurrence and \$4 million in the aggregate. The fee owner may require additional insurance.

The CS provides that if the private provider chooses to secure claims-made coverage, the private provider must maintain the coverage for a minimum of five years after the performance of the building inspection. The insurance required by this section must be written by an insurer authorized in Florida and with a minimum A.M. Best's rating of A. The private provider must give to the local building official a certificate that evidences the required insurance coverage.

The CS states that local governments may, at their option, establish a registration system to ensure private providers comply with the licensure and insurance requirements. The bill specifies that work on a building may proceed after the inspection and approval by a private provider if the provider has given appropriate notice of the inspection. Finally, the bill specifies that subsequent to inspection and approval, the completion of work may not be held up or delayed due to the failure to complete an inspection audit by a local building enforcement official.

This bill substantially amends sections 553.791 and 468.621, Florida Statutes.

## II. Present Situation:

Section 17 of ch. 2002-293, L.O.F, created s. 553.791, F.S., to establish a procedure by which the public could choose to hire an engineer or architect to perform plans review and building inspection services for structures for which building permits are required. This section authorizes the fee owner of a building to use and pay a private provider (architect or engineer) to offer building code inspection services, subject to a written contract between these parties. The fee owner may use a private provider to offer both plans review and required building inspections, or to use the local enforcement agency for one or both of these purposes.

A private provider is authorized to perform building code inspection services under this section only if the private provider maintains insurance for professional and comprehensive general liability. Minimum policy limits are specified in the amount of \$1 million per occurrence relating to services performed as a private provider, and including tail coverage for a minimum of 5 years subsequent to the performance of building code inspection services.

In response to concerns relating to the use of private providers, the Florida Building Commission established a workgroup to evaluate the private provider program and make recommendations to the Legislature. The following major issues were evaluated and recommendations of the workgroup were included in the Building Commission's 2005 report to the Legislature:

- Clarification of insurance requirements for private providers;
- Clarification of requirements for building departments' audit of private provider inspections;
- Flexibility for owners to select private provider inspections after permits are issued;
- preemption of local requirements for private providers; and
- Authorization of licensed building code administrators to be private providers.

## III. Effect of Proposed Changes:

**Section 1** amends s. 553.791, F.S., to provide that a contractor, in addition to the owner of the property (fee owner) and upon written authorization from the owner, may choose a private provider to provide building inspection services. Currently, the owner or contractor is required to

notify the local building department about the use of a private provider at the time of application for a building permit. The bill allows the notification of the use of a private provider to take place for up to 7 business days prior to the first scheduled inspection of the project. The bill also provides additional conditions and notification requirements governing the use of private providers.

The bill states that local governments may, at their option, establish a registration system to ensure private providers comply with the licensure and insurance requirements. It further provides that local building officials retain the authority to issue a stop-work order for a building project if the official determines that a condition on a building site constitutes an immediate threat to public safety and welfare.

The bill eliminates the requirement that the private provider maintain comprehensive general liability insurance with minimum policy limits of one million dollars per occurrence. It requires that the private provider maintain comprehensive general liability insurance with minimum policy limits of \$1 million per occurrence and \$2 million in the aggregate for any project with a construction cost of \$5 million or less. If the project has a construction cost of over \$5 million, then the insurance must have minimum policy limits of \$2 million per occurrence and \$4 million in the aggregate. The fee owner may require additional insurance.

The CS defines the term “construction cost” to mean the total cost of building construction as stated in the building permit application.

The CS provides that if the private provider chooses to secure claims-made coverage, the private provider must maintain the coverage for a minimum of five years after the performance of the building inspection.

The insurance required by this section must be written by an insurer authorized in Florida and with a minimum A.M. Bests rating of A. The private provider must give to the local building official a certificate that evidences the required insurance coverage.

The bill specifies that work on a building may proceed after the inspection and approval by a private provider if the provider has given notice of the inspection. It further specifies that subsequent to inspection and approval, the completion of work may not be held up or delayed due to the failure to complete an inspection audit by a local building enforcement official.

**Section 2** amends s. 468.621, F.S., which provides the disciplinary provisions for building code inspectors and administrators, to reference the s. 553.791, F.S. The CS subjects building code inspectors and administrators to discipline for failure to lawfully execute the duties and responsibilities in s. 553.791, F.S.

**Section 3** provides an effective date of October 1, 2005.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

The economic impact on the private sector would be reflected in the authority to conduct business as a private provider and for an owner of a building to negotiate inspector services.

## C. Government Sector Impact:

The bill could reduce local government expenditures associated with plans review and inspections in instances where a building owner contracts with a private provider to perform such services.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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## **VIII. Summary of Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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