

By Senator Constantine

22-1070-05

See HB 567

1                                    A bill to be entitled

2                    An act relating to alternative plans review and

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

4                    clarifying a definition; expanding

5                    authorization to use private providers to

6                    provide building code inspection services;

7                    including fee owner contractors within such

8                    authorization; revising notice requirements for

9                    using private providers; revising procedures

10                    for issuing permits; providing requirements for

11                    representatives of private providers; providing

12                    for waiver of certain inspection records

13                    requirements under certain circumstances;

14                    requiring issuance of stop-work orders to be

15                    pursuant to law; providing for establishment of

16                    a registration system for private providers and

17                    authorized representatives of private providers

18                    for licensure compliance purposes; preserving

19                    authority to issue emergency stop-work orders;

20                    revising insurance requirements for private

21                    providers; specifying conditions for proceeding

22                    with building work; providing an effective

23                    date.

25 Be It Enacted by the Legislature of the State of Florida:

26

27                    Section 1. Paragraph (f) of subsection (1),

28                    subsections (2) and (4), paragraph (a) of subsection (6), and

29                    subsections (7), (9), (11), (12), (14), (15), and (17) of

30                    section 553.791, Florida Statutes, are amended to read:

31                    553.791 Alternative plans review and inspection.--

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

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

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

6 ~~1.2.~~ The plans reviewed by the private provider.

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

9 ~~3.4.~~ Any applicable fees.

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

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

30 (4) A fee owner or the fee owner's contractor using a  
31 private provider to provide building code inspection services

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

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

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

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

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

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

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

26 |       (6)(a) No more than ~~Within~~ 30 business days after  
27 | receipt of a permit application and the affidavit from the  
28 | private provider required pursuant to subsection (5), the  
29 | local building official shall issue the requested permit or  
30 | provide a written notice to the permit applicant identifying  
31 | the specific plan features that do not comply with the

1 applicable codes, as well as the specific code chapters and  
2 sections. If the local building official does not provide a  
3 written notice of the plan deficiencies within the prescribed  
4 30-day period, the permit application shall be deemed approved  
5 as a matter of law, and the permit shall be issued by the  
6 local building official on the next business day.

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

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

1 inspection records are submitted with the certificate of  
2 compliance. Records of all required and completed inspections  
3 shall be maintained at the building site at all times and made  
4 available for review by the local building official. The  
5 private provider shall report to the local enforcement agency  
6 any condition that poses an immediate threat to public safety  
7 and welfare.

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

26           (12) If the local building official determines that  
27 the building construction or plans do not comply with the  
28 applicable codes, the official may deny the permit or request  
29 for a certificate of occupancy or certificate of completion,  
30 as appropriate, or may issue a stop-work order for the project  
31 or any portion thereof as provided by law, if the official

1 determines that such noncompliance poses a threat to public  
2 safety and welfare, subject to the following:

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

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

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

27 (14)(a) No local enforcement agency, local building  
28 official, or local government may adopt or enforce any laws,  
29 rules, procedures, policies, qualifications, or standards more  
30 stringent than those prescribed by this section.  
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1           (b) A local enforcement agency, local building  
2 official, or local government may establish, for private  
3 providers and duly authorized representatives working within  
4 that jurisdiction, a system of registration to verify  
5 compliance with the licensure requirements of paragraph (1)(g)  
6 and the insurance requirements of subsection (15).

7           (c) Nothing in this section limits the authority of  
8 the local building official to issue a stop-work order for a  
9 building project or any portion of such order, as provided by  
10 law, if the official determines that a condition on the  
11 building site constitutes an immediate threat to public safety  
12 and welfare.

13           (15) A private provider may perform building code  
14 inspection services under this section only if the private  
15 provider maintains insurance for professional ~~and~~  
16 ~~comprehensive general~~ liability with minimum policy limits of  
17 \$1 million per occurrence covering relating to all services  
18 performed as a private provider. If the private provider  
19 chooses to secure claims-made coverage to fulfill this  
20 requirement, the private provider must also maintain,  
21 ~~including~~ tail coverage for a minimum of 5 years subsequent to  
22 the performance of building code inspection services.  
23 Occurrence-based coverage may not be subject to any tail  
24 coverage requirement. Before providing building code  
25 inspection services within a local building official's  
26 jurisdiction, a private provider must provide to the local  
27 building official a certificate of insurance evidencing that  
28 the coverages required under this subsection are in force.

29           (17) Each local building code enforcement agency shall  
30 develop and maintain a process to audit the performance of  
31 building code inspection services by private providers



1 operating within the local jurisdiction. Work on a building  
2 may proceed after inspection and approval by a private  
3 provider if the provider has given notice of the inspection  
4 pursuant to subsection (8) and, subsequent to such inspection  
5 and approval, the work may not be delayed for completion of an  
6 inspection audit by the local building code enforcement  
7 agency.

8 Section 2. This act shall take effect October 1, 2005.

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