

1 A bill to be entitled

2 An act relating to alternative plans review and inspection;  
3 amending s. 553.791, F.S.; clarifying a definition;  
4 expanding authorization to use private providers to provide  
5 building code inspection services; including fee owner  
6 contractors within such authorization; revising notice  
7 requirements for using private providers; revising  
8 procedures for issuing permits; providing requirements for  
9 representatives of private providers; providing for waiver  
10 of certain inspection records requirements under certain  
11 circumstances; requiring issuance of stop-work orders to be  
12 pursuant to law; providing for establishment of a  
13 registration system for private providers and authorized  
14 representatives of private providers for licensure  
15 compliance purposes; preserving authority to issue  
16 emergency stop-work orders; revising insurance requirements  
17 for private providers; providing a definition; authorizing  
18 performance audits by local building code enforcement  
19 agencies of private providers; specifying conditions for  
20 proceeding with building work; amending s. 468.621, F.S.;  
21 revising a ground for taking certain disciplinary actions;  
22 providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26 Section 1. Paragraph (f) of subsection (1), subsections  
27 (2) and (4), paragraph (a) of subsection (6), and subsections

28 (7), (9), (11), (12), (14), (15), and (17) of section 553.791,  
 29 Florida Statutes, are amended to read:

30 553.791 Alternative plans review and inspection.--

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

32 (f) "Permit application" means a properly completed and  
 33 submitted application for+

34 ~~+~~ the requested building or construction permit,  
 35 including:-

36 1.2- The plans reviewed by the private provider.

37 2.3- The affidavit from the private provider required  
 38 pursuant to subsection (5).

39 3.4- Any applicable fees.

40 4.5- Any documents required by the local building official  
 41 to determine that the fee owner has secured all other government  
 42 approvals required by law.

43 (2) Notwithstanding any other provision of law or local  
 44 government ordinance or local policy, the fee owner of a  
 45 building or structure, or the fee owner's contractor upon  
 46 written authorization from the fee owner, may choose to use a  
 47 private provider to provide building code inspection services  
 48 with regard to such building or structure and may make payment  
 49 directly to the private provider for the provision of such  
 50 services. All such services shall be the subject of a written  
 51 contract between the private provider, or the private provider's  
 52 firm, and the fee owner. The fee owner may elect to use a  
 53 private provider to provide ~~either~~ plans review or required  
 54 building inspections, or both. However, if the fee owner or the  
 55 fee owner's contractor uses a private provider to provide plans

56 review, the local building official, in his or her discretion  
57 and pursuant to duly adopted policies of the local enforcement  
58 agency, may require the fee owner or the fee owner's contractor  
59 ~~who desires~~ to use a private provider ~~to use the private~~  
60 ~~provider~~ to also provide ~~both plans review and~~ required building  
61 inspections ~~inspection services~~.

62 (4) A fee owner or the fee owner's contractor using a  
63 private provider to provide building code inspection services  
64 shall notify the local building official at the time of permit  
65 application, or no less than 7 business days prior to the first  
66 scheduled inspection by the local building official or building  
67 code enforcement agency for a private provider performing  
68 required inspections of construction under this section, on a  
69 form to be adopted by the commission. This notice shall include  
70 the following information:

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

72 (b) The name, firm, address, telephone number, and  
73 facsimile number of each private provider who is performing or  
74 will perform such services, his or her professional license or  
75 certification number, qualification statements or resumes, and,  
76 if required by the local building official, a certificate of  
77 insurance demonstrating that professional liability insurance  
78 coverage is in place for the private provider's firm, the  
79 private provider, and any duly authorized representative in the  
80 amounts required by this section.

81 (c) An acknowledgment from the fee owner in substantially  
82 the following form:

83

84 I have elected to use one or more private providers to provide  
85 building code plans review and/or inspection services on the  
86 building or structure that is the subject of the enclosed permit  
87 application, as authorized by s. 553.791, Florida Statutes. I  
88 understand that the local building official may not review the  
89 plans submitted or perform the required building inspections to  
90 determine compliance with the applicable codes, except to the  
91 extent specified in said law. Instead, plans review and/or  
92 required building inspections will be performed by licensed or  
93 certified personnel identified in the application. The law  
94 requires minimum insurance requirements for such personnel, but  
95 I understand that I may require more insurance to protect my  
96 interests. By executing this form, I acknowledge that I have  
97 made inquiry regarding the competence of the licensed or  
98 certified personnel and the level of their insurance and am  
99 satisfied that my interests are adequately protected. I agree to  
100 indemnify, defend, and hold harmless the local government, the  
101 local building official, and their building code enforcement  
102 personnel from any and all claims arising from my use of these  
103 licensed or certified personnel to perform building code  
104 inspection services with respect to the building or structure  
105 that is the subject of the enclosed permit application.

106  
107 If the fee owner or the fee owner's contractor makes any changes  
108 to the listed private providers or the services to be provided  
109 by those private providers, the fee owner or the fee owner's  
110 contractor shall, within 1 business day after any change, update  
111 the notice to reflect such changes. In addition, the fee owner

112 or the fee owner's contractor shall post at the project site,  
113 prior to the commencement of construction and updated within 1  
114 business day after any change, on a form to be adopted by the  
115 commission, the name, firm, address, telephone number, and  
116 facsimile number of each private provider who is performing or  
117 will perform building code inspection services, the type of  
118 service being performed, and similar information for the primary  
119 contact of the private provider on the project.

120 (6) (a) No more than ~~Within~~ 30 business days after receipt  
121 of a permit application and the affidavit from the private  
122 provider required pursuant to subsection (5), the local building  
123 official shall issue the requested permit or provide a written  
124 notice to the permit applicant identifying the specific plan  
125 features that do not comply with the applicable codes, as well  
126 as the specific code chapters and sections. If the local  
127 building official does not provide a written notice of the plan  
128 deficiencies within the prescribed 30-day period, the permit  
129 application shall be deemed approved as a matter of law, and the  
130 permit shall be issued by the local building official on the  
131 next business day.

132 (7) A private provider performing required inspections  
133 under this section shall inspect each phase of construction as  
134 required by the applicable codes. The private provider shall be  
135 permitted to send a duly authorized representative to the  
136 building site to perform the required inspections, provided all  
137 required reports and certifications are prepared by and bear the  
138 signature of the private provider. The duly authorized  
139 representative must be an employee of the private provider

140 entitled to receive unemployment compensation benefits under  
141 chapter 443. The contractor's contractual or legal obligations  
142 are not relieved by any action of the private provider.

143 (9) Upon completing the required inspections at each  
144 applicable phase of construction, the private provider shall  
145 record such inspections on a form acceptable to the local  
146 building official. These inspection records shall reflect those  
147 inspections required by the applicable codes of each phase of  
148 construction for which permitting by a local enforcement agency  
149 is required. The private provider, before leaving the project  
150 site, shall post each completed inspection record, indicating  
151 pass or fail, at the site and provide the record to the local  
152 building official within 2 business days. The local building  
153 official may waive the requirement to provide a record of each  
154 inspection within 2 business days if the record is posted at the  
155 project site and all such inspection records are submitted with  
156 the certificate of compliance. Records of all required and  
157 completed inspections shall be maintained at the building site  
158 at all times and made available for review by the local building  
159 official. The private provider shall report to the local  
160 enforcement agency any condition that poses an immediate threat  
161 to public safety and welfare.

162 (11) No more than ~~Within~~ 2 business days after receipt of  
163 a request for a certificate of occupancy or certificate of  
164 completion and the applicant's presentation of a certificate of  
165 compliance and approval of all other government approvals  
166 required by law, the local building official shall issue the  
167 certificate of occupancy or certificate of completion or provide

168 a notice to the applicant identifying the specific deficiencies,  
169 as well as the specific code chapters and sections. If the local  
170 building official does not provide notice of the deficiencies  
171 within the prescribed 2-day period, the request for a  
172 certificate of occupancy or certificate of completion shall be  
173 deemed granted and the certificate of occupancy or certificate  
174 of completion shall be issued by the local building official on  
175 the next business day. To resolve any identified deficiencies,  
176 the applicant may elect to dispute the deficiencies pursuant to  
177 subsection (12) or to submit a corrected request for a  
178 certificate of occupancy or certificate of completion.

179 (12) If the local building official determines that the  
180 building construction or plans do not comply with the applicable  
181 codes, the official may deny the permit or request for a  
182 certificate of occupancy or certificate of completion, as  
183 appropriate, or may issue a stop-work order for the project or  
184 any portion thereof as provided by law, if the official  
185 determines that such noncompliance poses a threat to public  
186 safety and welfare, subject to the following:

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

192 (b) If the local building official and private provider  
193 are unable to resolve the dispute, the matter shall be referred  
194 to the local enforcement agency's board of appeals, if one  
195 exists, which shall consider the matter at its next scheduled

196 meeting or sooner. Any decisions by the local enforcement  
 197 agency's board of appeals, or local building official if there  
 198 is no board of appeals, may be appealed to the commission as  
 199 provided by this chapter pursuant to s. 553.77(1)(h).

200 (c) Notwithstanding any provision of this section, any  
 201 decisions regarding the issuance of a building permit,  
 202 certificate of occupancy, or certificate of completion may be  
 203 reviewed by the local enforcement agency's board of appeals, if  
 204 one exists. Any decision by the local enforcement agency's board  
 205 of appeals, or local building official if there is no board of  
 206 appeals, may be appealed to the commission as provided by this  
 207 chapter pursuant to s. 553.77(1)(h), which shall consider the  
 208 matter at the commission's next scheduled meeting.

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

213 (b) A local enforcement agency, local building official,  
 214 or local government may establish, for private providers and  
 215 duly authorized representatives working within that  
 216 jurisdiction, a system of registration to verify compliance with  
 217 the licensure requirements of paragraph (1)(g) and the insurance  
 218 requirements of subsection (15).

219 (c) Nothing in this section limits the authority of the  
 220 local building official to issue a stop-work order for a  
 221 building project or any portion of such order, as provided by  
 222 law, if the official determines that a condition on the building

223 site constitutes an immediate threat to public safety and  
224 welfare.

225 (15) A private provider may perform building code  
226 inspection services on a building project under this section  
227 only if the private provider maintains insurance for  
228 professional and ~~comprehensive general~~ liability covering with  
229 ~~minimum policy limits of \$1 million per occurrence relating to~~  
230 all services performed as a private provider. Such insurance  
231 shall have minimum policy limits of \$1 million per occurrence  
232 and \$2 million in the aggregate for any project with a  
233 construction cost of \$5 million or less and \$2 million per  
234 occurrence and \$4 million in the aggregate for any project with  
235 a construction cost of over \$5 million. Nothing in this section  
236 limits the ability of a fee owner to require additional  
237 insurance or higher policy limits. For these purposes, the term  
238 "construction cost" means the total cost of building  
239 construction as stated in the building permit application. If  
240 the private provider chooses to secure claims-made coverage to  
241 fulfill this requirement, the private provider must also  
242 maintain, including tail coverage for a minimum of 5 years  
243 subsequent to the performance of building code inspection  
244 services. The insurance required under this subsection shall be  
245 written only by insurers authorized to do business in this state  
246 with a minimum A.M. Best's rating of A. Before providing  
247 building code inspection services within a local building  
248 official's jurisdiction, a private provider must provide to the  
249 local building official a certificate of insurance evidencing  
250 that the coverages required under this subsection are in force.

251           (17) Each local building code enforcement agency may ~~shall~~  
 252 ~~develop and maintain a process to~~ audit the performance of  
 253 building code inspection services by private providers operating  
 254 within the local jurisdiction. Work on a building or structure  
 255 may proceed after inspection and approval by a private provider  
 256 if the provider has given notice of the inspection pursuant to  
 257 subsection (8) and, subsequent to such inspection and approval,  
 258 the work may not be delayed for completion of an inspection  
 259 audit by the local building code enforcement agency.

260           Section 2. Paragraph (i) of subsection (1) of section  
 261 468.621, Florida Statutes, is amended to read:

262           468.621 Disciplinary proceedings.--

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

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

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