

By the Committee on Community Affairs; and Senator Constantine

578-1957-06

1 A bill to be entitled
2 An act relating to building codes; authorizing
3 the Florida Building Commission to update and
4 modify the standard for wind design; repealing
5 s. 553.71(10), F.S., relating to a definition
6 of the term "exposure category C"; amending s.
7 553.73, F.S.; revising the requirements for
8 selecting codes to form the updated Florida
9 Building Code; authorizing the Florida Building
10 Commission to approve and publish amendments to
11 the Florida Building Code under certain
12 circumstances; authorizing certain authorities
13 to enforce the amendments to the Florida
14 Building Code; amending s. 553.775, F.S.;
15 prohibiting certain procedures from being
16 invoked to interpret the Florida Accessibility
17 Code for Building Construction and chapter 11
18 of the Florida Building Code; amending s.
19 553.791, F.S.; providing for the use of private
20 providers of building code inspection services
21 following commencement of construction;
22 providing an effective date.

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

25
26 Section 1. Notwithstanding subsection (3) of section
27 109 of chapter 2000-141, Laws of Florida, the Florida Building
28 Commission may update or modify the wind-design standard
29 applicable to construction in this state as adopted within the
30 Florida Building Code in accordance with the requirements of
31 s. 553.73, Florida Statutes. The Florida Building Commission

1 is specifically authorized to identify within the Florida
2 Building Code those areas of the state from the eastern border
3 of Franklin County west to the Florida-Alabama line which are
4 subject to the windborne-debris requirements of the code. The
5 Florida Building Commission's initial designation of wind
6 lines for this region shall address the results of the study
7 required by section 39 of chapter 2005-147, Laws of Florida.
8 The initial designation of those areas after July 1, 2006, is
9 subject to only the rule-adoption procedures of chapter 120,
10 Florida Statutes, notwithstanding the code-development
11 procedures of chapter 553, Florida Statutes. This section
12 shall not take effect for 6 months following the completion of
13 rulemaking or May 31, 2007, whichever occurs sooner. The
14 provisions of subsection (3) of section 109 of chapter
15 2000-141, Laws of Florida, are expressly superseded.

16 Section 2. Subsection (10) of section 553.71, Florida
17 Statutes, is repealed.

18 Section 3. Subsection (6) of section 553.73, Florida
19 Statutes, is amended to read:

20 553.73 Florida Building Code.--

21 (6)(a) The commission, by rule adopted pursuant to ss.
22 120.536(1) and 120.54, shall update the Florida Building Code
23 every 3 years. When updating the Florida Building Code, the
24 commission shall select the most current version of the
25 International Building Code, the International Fuel Gas Code,
26 the International Mechanical Code, the International Plumbing
27 Code, and the International Residential Code, all of which are
28 adopted by the International Code Council, and the National
29 Electrical Code, which is adopted by the National Fire
30 Protection Association, to form the foundation codes of the
31 updated Florida Building Code, if the version has been adopted

1 | by the applicable model code entity ~~International Code Council~~
2 | and made available to the public at least 6 months prior to
3 | its selection by the commission.

4 | (b) Codes regarding noise contour lines shall be
5 | reviewed annually, and the most current federal guidelines
6 | shall be adopted.

7 | (c) The commission may modify any portion of the
8 | foundation codes only as needed to accommodate the specific
9 | needs of this state, maintaining Florida-specific amendments
10 | previously adopted by the commission and not addressed by the
11 | updated foundation code. Standards or criteria referenced by
12 | the codes shall be incorporated by reference. If a referenced
13 | standard or criterion requires amplification or modification
14 | to be appropriate for use in this state, only the
15 | amplification or modification shall be set forth in the
16 | Florida Building Code. The commission may approve technical
17 | amendments to the updated Florida Building Code after the
18 | amendments have been subject to the conditions set forth in
19 | paragraphs (3)(a)-(d). Amendments to the foundation codes
20 | which are adopted in accordance with this subsection shall be
21 | clearly marked in printed versions of the Florida Building
22 | Code so that the fact that the provisions are Florida-specific
23 | amendments to the foundation codes is readily apparent.

24 | (d) The commission shall further consider the
25 | commission's own interpretations, declaratory statements,
26 | appellate decisions, and approved statewide and local
27 | technical amendments and shall incorporate such
28 | interpretations, statements, decisions, and amendments into
29 | the updated Florida Building Code only to the extent that they
30 | are needed to modify the foundation codes to accommodate the
31 | specific needs of the state. A change made by an institute or

1 standards organization to any standard or criterion that is
2 adopted by reference in the Florida Building Code does not
3 become effective statewide until it has been adopted by the
4 commission. Furthermore, the edition of the Florida Building
5 Code which is in effect on the date of application for any
6 permit authorized by the code governs the permitted work for
7 the life of the permit and any extension granted to the
8 permit.

9 (e) A rule updating the Florida Building Code in
10 accordance with this subsection shall take effect no sooner
11 than 6 months after publication of the updated code. Any
12 amendment to the Florida Building Code which is adopted upon a
13 finding by the commission that the amendment is necessary to
14 protect the public from immediate threat of harm takes effect
15 immediately.

16 (f) Upon the conclusion of a triennial update to the
17 Florida Building Code and notwithstanding other provisions of
18 this subsection or subsection (3), the commission may address
19 the issues identified in this subsection by amending the
20 Florida Building Code, subject only to the rule-adoption
21 procedures of chapter 120. Following the approval of any
22 amendments to the Florida Building Code by the commission and
23 publication on the commission's website, authorities having
24 jurisdiction to enforce the Florida Building Code are
25 authorized to enforce the amendments. The commission may
26 approve only amendments that are needed to:

27 1. Address conflicts within the updated Florida
28 Building Code;

29 2. Address conflicts between the updated Florida
30 Building Code and the Florida Fire Prevention Code adopted
31 pursuant to chapter 633;

1 3. Address the omission of Florida-specific amendments
2 that were previously adopted in the Florida Building Code if
3 the omission is not supported by a specific recommendation of
4 a technical advisory committee or a particular action by the
5 commission; or

6 4. Address unintended results from the integration of
7 Florida-specific amendments that were previously adopted with
8 the model code.

9 Section 4. Subsection (5) is added to section 553.775,
10 Florida Statutes, to read:

11 553.775 Interpretations.--

12 (5) Notwithstanding other provisions of this section,
13 the Florida Accessibility Code for Building Construction and
14 chapter 11 of the Florida Building Code may not be interpreted
15 by, and is not subject to review under, any of the procedures
16 specified in this section. This subsection has no effect on
17 the authority of the commission to waive the Florida
18 Accessibility Code for Building Construction as provided in s.
19 553.512.

20 Section 5. Section 553.791, Florida Statutes, is
21 amended to read:

22 553.791 Alternative plans review and inspection.--

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

24 (a) "Applicable codes" means the Florida Building Code
25 and any local technical amendments to the Florida Building
26 Code but does not include the applicable minimum fire
27 prevention and firesafety codes adopted pursuant to chapter
28 633.

29 (b) "Building" means any construction, erection,
30 alteration, demolition, or improvement of, or addition to, any
31

1 structure for which permitting by a local enforcement agency
2 is required.

3 (c) "Building code inspection services" means those
4 services described in s. 468.603(6) and (7) involving the
5 review of building plans to determine compliance with
6 applicable codes and those inspections required by law of each
7 phase of construction for which permitting by a local
8 enforcement agency is required to determine compliance with
9 applicable codes.

10 (d) "Duly authorized representative" means an agent of
11 the private provider identified in the permit application who
12 reviews plans or performs inspections as provided by this
13 section and who is licensed as an engineer under chapter 471
14 or as an architect under chapter 481 or who holds a standard
15 certificate under part XII of chapter 468.

16 (e) "Local building official" means the individual
17 within the governing jurisdiction responsible for direct
18 regulatory administration or supervision of plans review,
19 enforcement, and inspection of any construction, erection,
20 alteration, demolition, or substantial improvement of, or
21 addition to, any structure for which permitting is required to
22 indicate compliance with applicable codes and includes any
23 duly authorized designee of such person.

24 (f) "Permit application" means a properly completed
25 and submitted application for the requested building or
26 construction permit, including:

- 27 1. The plans reviewed by the private provider.
- 28 2. The affidavit from the private provider required
29 pursuant to subsection ~~(6)~~(5).
- 30 3. Any applicable fees.

31

1 4. 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 (g) "Private provider" means a person licensed as an
5 engineer under chapter 471 or as an architect under chapter
6 481. For purposes of performing inspections under this section
7 for additions and alterations that are limited to 1,000 square
8 feet or less to residential buildings, the term "private
9 provider" also includes a person who holds a standard
10 certificate under part XII of chapter 468.

11 (h) "Request for certificate of occupancy or
12 certificate of completion" means a properly completed and
13 executed application for:

14 1. A certificate of occupancy or certificate of
15 completion.

16 2. A certificate of compliance from the private
17 provider required pursuant to subsection (11) ~~(10)~~.

18 3. Any applicable fees.

19 4. Any documents required by the local building
20 official to determine that the fee owner has secured all other
21 government approvals required by law.

22 (2) Notwithstanding any other provision of law or
23 local government ordinance or local policy, the fee owner of a
24 building or structure, or the fee owner's contractor upon
25 written authorization from the fee owner, may choose to use a
26 private provider to provide building code inspection services
27 with regard to such building or structure and may make payment
28 directly to the private provider for the provision of such
29 services. All such services shall be the subject of a written
30 contract between the private provider, or the private
31 provider's firm, and the fee owner. The fee owner may elect to

1 use a private provider to provide plans review or required
2 building inspections, or both. However, if the fee owner or
3 the fee owner's contractor uses a private provider to provide
4 plans review, the local building official, in his or her
5 discretion and pursuant to duly adopted policies of the local
6 enforcement agency, may require the fee owner or the fee
7 owner's contractor to use a private provider to also provide
8 required building inspections.

9 (3) A private provider and any duly authorized
10 representative may only perform building code inspection
11 services that are within the disciplines covered by that
12 person's licensure or certification under chapter 468, chapter
13 471, or chapter 481. A private provider may not provide
14 building code inspection services pursuant to this section
15 upon any building designed or constructed by the private
16 provider or the private provider's firm.

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

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

28 (b) The name, firm, address, telephone number, and
29 facsimile number of each private provider who is performing or
30 will perform such services, his or her professional license or
31 certification number, qualification statements or resumes,

1 and, if required by the local building official, a certificate
2 of insurance demonstrating that professional liability
3 insurance coverage is in place for the private provider's
4 firm, the private provider, and any duly authorized
5 representative in the amounts required by this section.

6 (c) An acknowledgment from the fee owner in
7 substantially the following form:

8
9 I have elected to use one or more private
10 providers to provide building code plans review
11 and/or inspection services on the building or
12 structure that is the subject of the enclosed
13 permit application, as authorized by s.
14 553.791, Florida Statutes. I understand that
15 the local building official may not review the
16 plans submitted or perform the required
17 building inspections to determine compliance
18 with the applicable codes, except to the extent
19 specified in said law. Instead, plans review
20 and/or required building inspections will be
21 performed by licensed or certified personnel
22 identified in the application. The law requires
23 minimum insurance requirements for such
24 personnel, but I understand that I may require
25 more insurance to protect my interests. By
26 executing this form, I acknowledge that I have
27 made inquiry regarding the competence of the
28 licensed or certified personnel and the level
29 of their insurance and am satisfied that my
30 interests are adequately protected. I agree to
31 indemnify, defend, and hold harmless the local

1 government, the local building official, and
2 their building code enforcement personnel from
3 any and all claims arising from my use of these
4 licensed or certified personnel to perform
5 building code inspection services with respect
6 to the building or structure that is the
7 subject of the enclosed permit application.
8

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

24 (5) Once construction has commenced and the local
25 building official is unable to provide inspection services in
26 a timely manner, the fee owner or the fee owner's contractor
27 may elect to use a private provider to provide inspection
28 services by notifying the local building official of their
29 intention no less than 7 business days prior to the next
30 scheduled inspection using the notice provided for in
31 paragraphs (4)(a)-(c).

1 ~~(6)(5)~~ A private provider performing plans review
2 under this section shall review construction plans to
3 determine compliance with the applicable codes. Upon
4 determining that the plans reviewed comply with the applicable
5 codes, the private provider shall prepare an affidavit or
6 affidavits on a form adopted by the commission certifying,
7 under oath, that the following is true and correct to the best
8 of the private provider's knowledge and belief:

9 (a) The plans were reviewed by the affiant, who is
10 duly authorized to perform plans review pursuant to this
11 section and holds the appropriate license or certificate.

12 (b) The plans comply with the applicable codes.

13 ~~(7)(6)~~(a) No more than 30 business days after receipt
14 of a permit application and the affidavit from the private
15 provider required pursuant to subsection~~(6)(5)~~, the local
16 building official shall issue the requested permit or provide
17 a written notice to the permit applicant identifying the
18 specific plan features that do not comply with the applicable
19 codes, as well as the specific code chapters and sections. If
20 the local building official does not provide a written notice
21 of the plan deficiencies within the prescribed 30-day period,
22 the permit application shall be deemed approved as a matter of
23 law, and the permit shall be issued by the local building
24 official on the next business day.

25 (b) If the local building official provides a written
26 notice of plan deficiencies to the permit applicant within the
27 prescribed 30-day period, the 30-day period shall be tolled
28 pending resolution of the matter. To resolve the plan
29 deficiencies, the permit applicant may elect to dispute the
30 deficiencies pursuant to subsection~~(13)(12)~~ or to submit
31 revisions to correct the deficiencies.

1 (c) If the permit applicant submits revisions, the
2 local building official has the remainder of the tolled 30-day
3 period plus 5 business days to issue the requested permit or
4 to provide a second written notice to the permit applicant
5 stating which of the previously identified plan features
6 remain in noncompliance with the applicable codes, with
7 specific reference to the relevant code chapters and sections.
8 If the local building official does not provide the second
9 written notice within the prescribed time period, the permit
10 shall be issued by the local building official on the next
11 business day.

12 (d) If the local building official provides a second
13 written notice of plan deficiencies to the permit applicant
14 within the prescribed time period, the permit applicant may
15 elect to dispute the deficiencies pursuant to subsection (13)
16 ~~(12)~~ or to submit additional revisions to correct the
17 deficiencies. For all revisions submitted after the first
18 revision, the local building official has an additional 5
19 business days to issue the requested permit or to provide a
20 written notice to the permit applicant stating which of the
21 previously identified plan features remain in noncompliance
22 with the applicable codes, with specific reference to the
23 relevant code chapters and sections.

24 (8)~~(7)~~ A private provider performing required
25 inspections under this section shall inspect each phase of
26 construction as required by the applicable codes. The private
27 provider shall be permitted to send a duly authorized
28 representative to the building site to perform the required
29 inspections, provided all required reports and certifications
30 are prepared by and bear the signature of the private
31 provider. The duly authorized representative must be an

1 employee of the private provider entitled to receive
2 unemployment compensation benefits under chapter 443. The
3 contractor's contractual or legal obligations are not relieved
4 by any action of the private provider.

5 ~~(9)~~(8) A private provider performing required
6 inspections under this section shall provide notice to the
7 local building official of the date and approximate time of
8 any such inspection no later than the prior business day by 2
9 p.m. local time or by any later time permitted by the local
10 building official in that jurisdiction. The local building
11 official may visit the building site as often as necessary to
12 verify that the private provider is performing all required
13 inspections.

14 ~~(10)~~(9) Upon completing the required inspections at
15 each applicable phase of construction, the private provider
16 shall record such inspections on a form acceptable to the
17 local building official. These inspection records shall
18 reflect those inspections required by the applicable codes of
19 each phase of construction for which permitting by a local
20 enforcement agency is required. The private provider, before
21 leaving the project site, shall post each completed inspection
22 record, indicating pass or fail, at the site and provide the
23 record to the local building official within 2 business days.
24 The local building official may waive the requirement to
25 provide a record of each inspection within 2 business days if
26 the record is posted at the project site and all such
27 inspection records are submitted with the certificate of
28 compliance. Records of all required and completed inspections
29 shall be maintained at the building site at all times and made
30 available for review by the local building official. The
31 private provider shall report to the local enforcement agency

1 any condition that poses an immediate threat to public safety
2 and welfare.

3 ~~(11)~~~~(10)~~ Upon completion of all required inspections,
4 the private provider shall prepare a certificate of
5 compliance, on a form acceptable to the local building
6 official, summarizing the inspections performed and including
7 a written representation, under oath, that the stated
8 inspections have been performed and that, to the best of the
9 private provider's knowledge and belief, the building
10 construction inspected complies with the approved plans and
11 applicable codes. The statement required of the private
12 provider shall be substantially in the following form:

13
14 To the best of my knowledge and belief, the
15 building components and site improvements
16 outlined herein and inspected under my
17 authority have been completed in conformance
18 with the approved plans and the applicable
19 codes.

20
21 ~~(12)~~~~(11)~~ No more than 2 business days after receipt of
22 a request for a certificate of occupancy or certificate of
23 completion and the applicant's presentation of a certificate
24 of compliance and approval of all other government approvals
25 required by law, the local building official shall issue the
26 certificate of occupancy or certificate of completion or
27 provide a notice to the applicant identifying the specific
28 deficiencies, as well as the specific code chapters and
29 sections. If the local building official does not provide
30 notice of the deficiencies within the prescribed 2-day period,
31 the request for a certificate of occupancy or certificate of

1 completion shall be deemed granted and the certificate of
2 occupancy or certificate of completion shall be issued by the
3 local building official on the next business day. To resolve
4 any identified deficiencies, the applicant may elect to
5 dispute the deficiencies pursuant to subsection (13)~~(12)~~ or
6 to submit a corrected request for a certificate of occupancy
7 or certificate of completion.

8 (13)~~(12)~~ If the local building official determines
9 that the building construction or plans do not comply with the
10 applicable codes, the official may deny the permit or request
11 for a certificate of occupancy or certificate of completion,
12 as appropriate, or may issue a stop-work order for the project
13 or any portion thereof as provided by law, if the official
14 determines that such noncompliance poses a threat to public
15 safety and welfare, subject to the following:

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

21 (b) If the local building official and private
22 provider are unable to resolve the dispute, the matter shall
23 be referred to the local enforcement agency's board of
24 appeals, if one exists, which shall consider the matter at its
25 next scheduled meeting or sooner. Any decisions by the local
26 enforcement agency's board of appeals, or local building
27 official if there is no board of appeals, may be appealed to
28 the commission as provided by this chapter.

29 (c) Notwithstanding any provision of this section, any
30 decisions regarding the issuance of a building permit,
31 certificate of occupancy, or certificate of completion may be

1 reviewed by the local enforcement agency's board of appeals,
2 if one exists. Any decision by the local enforcement agency's
3 board of appeals, or local building official if there is no
4 board of appeals, may be appealed to the commission as
5 provided by this chapter, which shall consider the matter at
6 the commission's next scheduled meeting.

7 ~~(14)~~~~(13)~~ For the purposes of this section, any notice
8 to be provided by the local building official shall be deemed
9 to be provided to the person or entity when successfully
10 transmitted to the facsimile number listed for that person or
11 entity in the permit application or revised permit
12 application, or, if no facsimile number is stated, when
13 actually received by that person or entity.

14 ~~(15)~~~~(14)~~(a) No local enforcement agency, local
15 building official, or local government may adopt or enforce
16 any laws, rules, procedures, policies, qualifications, or
17 standards more stringent than those prescribed by this
18 section.

19 (b) A local enforcement agency, local building
20 official, or local government may establish, for private
21 providers and duly authorized representatives working within
22 that jurisdiction, a system of registration to verify
23 compliance with the licensure requirements of paragraph (1)(g)
24 and the insurance requirements of subsection ~~(16)~~~~(15)~~.

25 (c) Nothing in this section limits the authority of
26 the local building official to issue a stop-work order for a
27 building project or any portion of such order, as provided by
28 law, if the official determines that a condition on the
29 building site constitutes an immediate threat to public safety
30 and welfare.

31

1 ~~(16)~~(15) A private provider may perform building code
2 inspection services on a building project under this section
3 only if the private provider maintains insurance for
4 professional liability covering all services performed as a
5 private provider. Such insurance shall have minimum policy
6 limits of \$1 million per occurrence and \$2 million in the
7 aggregate for any project with a construction cost of \$5
8 million or less and \$2 million per occurrence and \$4 million
9 in the aggregate for any project with a construction cost of
10 over \$5 million. Nothing in this section limits the ability of
11 a fee owner to require additional insurance or higher policy
12 limits. For these purposes, the term "construction cost" means
13 the total cost of building construction as stated in the
14 building permit application. If the private provider chooses
15 to secure claims-made coverage to fulfill this requirement,
16 the private provider must also maintain coverage for a minimum
17 of 5 years subsequent to the performance of building code
18 inspection services. The insurance required under this
19 subsection shall be written only by insurers authorized to do
20 business in this state with a minimum A.M. Best's rating of A.
21 Before providing building code inspection services within a
22 local building official's jurisdiction, a private provider
23 must provide to the local building official a certificate of
24 insurance evidencing that the coverages required under this
25 subsection are in force.

26 ~~(17)~~(16) When performing building code inspection
27 services, a private provider is subject to the disciplinary
28 guidelines of the applicable professional board with
29 jurisdiction over his or her license or certification under
30 chapter 468, chapter 471, or chapter 481. All private
31 providers shall be subject to the disciplinary guidelines of

1 s. 468.621(1)(c)-(h). Any complaint processing,
2 investigation, and discipline that arise out of a private
3 provider's performance of building code inspection services
4 shall be conducted by the applicable professional board.

5 ~~(18)(17)~~ Each local building code enforcement agency
6 may audit the performance of building code inspection services
7 by private providers operating within the local jurisdiction.
8 Work on a building or structure may proceed after inspection
9 and approval by a private provider if the provider has given
10 notice of the inspection pursuant to subsection ~~(9)(8)~~ and,
11 subsequent to such inspection and approval, the work may not
12 be delayed for completion of an inspection audit by the local
13 building code enforcement agency.

14 ~~(19)(18)~~ The local government, the local building
15 official, and their building code enforcement personnel shall
16 be immune from liability to any person or party for any action
17 or inaction by a fee owner of a building, or by a private
18 provider or its duly authorized representative, in connection
19 with building code inspection services as authorized in this
20 act.

21 Section 6. This act shall take effect July 1, 2006.

22
23 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
24 COMMITTEE SUBSTITUTE FOR
25 Senate Bill 1774

26 The CS authorizes the Commission to revise, subject to the
27 findings of the Panhandle windborne Debris Study, Windborne
28 debris requirements governing the Panhandle region utilizing
29 the rule adoption procedures authorized in ch. 120, F.S. Any
30 changes in the wind design standards resulting from this
31 provision are to be effective 6 months following completion of
rulemaking or May 31, 2007, whichever is later.

The CS also provides a procedure by which a building owner may
elect to use a private provider for building code inspection
services following commencement of construction.