



1           adopted in the code; providing an effective  
2           date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6           Section 1. Subsection (7) of section 553.73, Florida  
7 Statutes, as amended by section 7 of chapter 2007-1, Laws of  
8 Florida, is amended to read:

9           553.73 Florida Building Code.--

10           (7) ~~Upon the conclusion of a triennial update to the~~  
11 ~~Florida Building Code,~~ Notwithstanding the provisions of  
12 subsection (3) or subsection (6), the commission may address  
13 issues identified in this subsection by amending the code  
14 pursuant only to the rule adoption procedures contained in  
15 chapter 120. Provisions of the Florida Building Code,  
16 including those contained in referenced standards and  
17 criteria, relating to wind resistance or the prevention of  
18 water intrusion may not be amended pursuant to this subsection  
19 to diminish those construction requirements; however, the  
20 commission may, subject to conditions in this subsection,  
21 amend the provisions to enhance those construction  
22 requirements. Following the approval of any amendments to the  
23 Florida Building Code by the commission and publication of the  
24 amendments on the commission's website, authorities having  
25 jurisdiction to enforce the Florida Building Code may enforce  
26 the amendments. The commission may approve amendments that are  
27 needed to address:

28           (a) Conflicts within the updated code;

29           (b) Conflicts between the updated code and the Florida  
30 Fire Prevention Code adopted pursuant to chapter 633;

31

1 (c) The omission of previously adopted  
2 Florida-specific amendments to the updated code if such  
3 omission is not supported by a specific recommendation of a  
4 technical advisory committee or particular action by the  
5 commission; ~~or~~

6 (d) Unintended results from the integration of  
7 previously adopted Florida-specific amendments with the model  
8 code;~~or~~

9 (e) Changes to federal or state law; or

10 (f) Interim updates to the foundation codes or  
11 reference standards.

12 Section 2. Subsections (1), (2), (4), (8), (10), (11),  
13 (13), and (15) of section 553.791, Florida Statutes, are  
14 amended to read:

15 553.791 Alternative plans review and inspection.--

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

17 (a) "Applicable codes" means the Florida Building Code  
18 and any local technical amendments to the Florida Building  
19 Code but does not include the applicable minimum fire  
20 prevention and firesafety codes adopted pursuant to chapter  
21 633.

22 (b) "Audit" means confirmation of the building code  
23 inspection services being performed by the private provider  
24 with specific attention to assuring that the required  
25 affidavit for the plan review has been properly completed and  
26 affixed to the permit documents and that the minimum mandatory  
27 building-code-required inspections are being performed and  
28 properly recorded. "Audit" does not mean that the local  
29 building official is required to replicate the plan review or  
30 inspection being performed by the private provider.

1           ~~(c)(b)~~ "Building" means any construction, erection,  
2 alteration, demolition, or improvement of, or addition to, any  
3 structure for which permitting by a local enforcement agency  
4 is required.

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

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

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

26           ~~(g)(f)~~ "Permit application" means a properly completed  
27 and submitted application for the requested building or  
28 construction permit, including:

- 29           1. The plans reviewed by the private provider.  
30           2. The affidavit from the private provider required  
31 pursuant to subsection (6).

1           3. Any applicable fees.

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

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

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

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

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

19           3. Any applicable fees.

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

23           ~~(j)~~ "Immediate threat to public safety and welfare"  
24 means a hazard that, if allowed to continue, may result in  
25 death, serious bodily injury, or significant property damage.

26           ~~(k)~~ "Stop work order" means the issuance of any  
27 written statement, written directive, or written order to stop  
28 work on a project.

29           (2) Notwithstanding any other provision of law or  
30 local government ordinance or local policy, the fee owner of a  
31 building or structure, or the fee owner's contractor upon

1 written authorization from the fee owner, may choose to use a  
2 private provider to provide building code inspection services  
3 with regard to such building or structure and may make payment  
4 directly to the private provider for the provision of such  
5 services. All such services shall be the subject of a written  
6 contract between the private provider, or the private  
7 provider's firm, and the fee owner or the fee owner's  
8 contractor, upon written authorization of the fee owner. The  
9 fee owner may elect to use a private provider to provide plans  
10 review or required building inspections, or both. However, if  
11 the fee owner or the fee owner's contractor uses a private  
12 provider to provide plans review, the local building official,  
13 in his or her discretion and pursuant to duly adopted policies  
14 of the local enforcement agency, may require the fee owner or  
15 the fee owner's contractor to use a private provider to also  
16 provide required building inspections.

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. A change of  
14 authorized representative named in the permit application does  
15 not require a revision of the permit, and the building code  
16 enforcement agency may not charge a fee for making the change.

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



1 | bear the signature of the private provider or the provider's  
2 | authorized representative. The duly authorized representative  
3 | must be an employee of the private provider entitled to  
4 | receive unemployment compensation benefits under chapter 443.  
5 | The contractor's contractual or legal obligations are not  
6 | relieved by any action of the private provider.

7 |         (10) Upon completing the required inspections at each  
8 | applicable phase of construction, the private provider shall  
9 | record such inspections on a form acceptable to the local  
10 | building official. The form shall be signed by the provider or  
11 | the provider's authorized representative. These inspection  
12 | records shall reflect those inspections required by the  
13 | applicable codes of each phase of construction for which  
14 | permitting by a local enforcement agency is required. The  
15 | private provider, before leaving the project site, shall post  
16 | each completed inspection record, indicating pass or fail, at  
17 | the site and provide the record to the local building official  
18 | within 2 business days. The local building official may waive  
19 | the requirement to provide a record of each inspection within  
20 | 2 business days if the record is posted at the project site  
21 | and all such inspection records are submitted with the  
22 | certificate of compliance. Records of all required and  
23 | completed inspections shall be maintained at the building site  
24 | at all times and made available for review by the local  
25 | building official. The private provider shall report to the  
26 | local enforcement agency any condition that poses an immediate  
27 | threat to public safety and welfare.

28 |         (11) Upon completion of all required inspections, the  
29 | private provider shall prepare a certificate of compliance, on  
30 | a form acceptable to the local building official, summarizing  
31 | the inspections performed and including a written

1 representation, under oath, that the stated inspections have  
2 been performed and that, to the best of the private provider's  
3 knowledge and belief, the building construction inspected  
4 complies with the approved plans and applicable codes. The  
5 statement required of the private provider shall be  
6 substantially in the following form and shall be signed and  
7 sealed by a private provider licensed as an engineer under  
8 chapter 471 or an architect under chapter 481:

9  
10 To the best of my knowledge and belief, the  
11 building components and site improvements  
12 outlined herein and inspected under my  
13 authority have been completed in conformance  
14 with the approved plans and the applicable  
15 codes.

16  
17 (13) If the local building official determines that  
18 the building construction or plans do not comply with the  
19 applicable codes, the official may deny the permit or request  
20 for a certificate of occupancy or certificate of completion,  
21 as appropriate, or may issue a written stop-work order for the  
22 project or any portion thereof, directing all work on the  
23 project to stop, as provided by law, if the official  
24 determines that such noncompliance poses an immediate ~~a~~ threat  
25 to public safety and welfare, subject to the following:

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

31

1           (b) If the local building official and private  
2 provider are unable to resolve the dispute, the matter shall  
3 be referred to the local enforcement agency's board of  
4 appeals, if one exists, which shall consider the matter at its  
5 next scheduled meeting or sooner. Any decisions by the local  
6 enforcement agency's board of appeals, or local building  
7 official if there is no board of appeals, may be appealed to  
8 the commission as provided by this chapter.

9           (c) Notwithstanding any provision of this section, any  
10 decisions regarding the issuance of a building permit,  
11 certificate of occupancy, or certificate of completion may be  
12 reviewed by the local enforcement agency's board of appeals,  
13 if one exists. Any decision by the local enforcement agency's  
14 board of appeals, or local building official if there is no  
15 board of appeals, may be appealed to the commission as  
16 provided by this chapter, which shall consider the matter at  
17 the commission's next scheduled meeting.

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

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

28           (c) Nothing in this section limits the authority of  
29 the local building official to issue a stop-work order for a  
30 building project or any portion of such project ~~order~~, as  
31 provided by law, if the official determines that a condition

1 on the building site constitutes an immediate threat to public  
2 safety and welfare.

3 Section 3. Section 553.841, Florida Statutes, is  
4 amended to read:

5 (Substantial rewording of section. See  
6 s. 553.841, F.S., for present text.)

7 553.841 Building code education and outreach  
8 program.--

9 (1) The Legislature finds that compliance with the  
10 Building Code is vital to the public health, safety, and  
11 welfare, particularly because of the threat that hurricanes  
12 pose to the state. The Legislature further finds that the code  
13 can be effective only if all persons in the construction  
14 industry and the code-enforcement process have a thorough  
15 knowledge of the code and amendments to it. The Legislature  
16 finds there is a pressing need for a program to provide  
17 ongoing education concerning the building code to such  
18 persons.

19 (2) The Building Code Education and Outreach Program  
20 is created, shall be administered by the Department of  
21 Community Affairs, and shall develop, coordinate, and maintain  
22 education and outreach to persons who are required to comply  
23 with the Florida Building Code and to ensure consistent  
24 education, training, and communication of the code's  
25 requirements.

26 (3) Services and materials under the program shall be  
27 provided through a private, nonprofit corporation under  
28 contract with the department. The term of the contract shall  
29 be 4 years, with the option of one 4-year renewal at the end  
30 of the contract term. The initial contract shall be awarded by  
31 January 1, 2008.

1           (4) In selecting a private provider for the program,  
2 the department shall give primary consideration to:

3           (a) The provider's experience and ability to develop  
4 and deliver building-code-related education, training, and  
5 outreach services;

6           (b) The provider's experience and ability to deliver  
7 education and outreach throughout the state;

8           (c) A provider whose membership comprises trade and  
9 professional organizations consisting primarily of persons who  
10 are required to comply with the code and who are licensed  
11 under part XII of chapter 468, chapter 471, chapter 481, and  
12 chapter 489;

13           (d) The provider's experience and ability to  
14 prioritize its education and outreach, based upon input from  
15 the commission, licenses regulatory boards, local building  
16 departments, and the design and construction industries; and

17           (e) The provider's experience and ability to promote  
18 hurricane-mitigation design and construction techniques and  
19 materials via a state-based trade conference that includes  
20 participants from the broadest possible range of design and  
21 construction trades and professions, including private-sector  
22 and public-sector entities having jurisdiction over building  
23 codes and design and construction licensure.

24           (5) Each biennium, upon receipt of funds by the  
25 department from the Construction Industry Licensing Board and  
26 the Electrical Contractors' Licensing Board provided under ss.  
27 489.109(3) and 489.509(3), the department shall determine the  
28 amount of funds available for education and outreach projects  
29 from the proceeds of contractor licensing fees and shall  
30 identify, solicit, and accept funds from other sources for  
31

1 education and outreach projects to be provided through the  
2 program.

3 (6) If the projects provided through the program in  
4 any state fiscal year do not require the use of all available  
5 funds, the unused funds shall be carried forward and allocated  
6 for the same purpose during the following fiscal year.

7 (7) This section does not prohibit or limit the  
8 subject areas or development of continuing education or  
9 training concerning the Florida Building Code by any qualified  
10 entity.

11 (8) The commission shall adopt rules that establish  
12 procedures and criteria to approve advanced building code  
13 education courses.

14 (9) This section does not change the continuing  
15 education course requirements or authority of any licensing  
16 board under part XII of chapter 468, chapter 471, chapter 481,  
17 or chapter 489.

18 Section 4. Subsections (5) and (7) of section 553.842,  
19 Florida Statutes, are amended, and subsection (16) is added to  
20 that section, to read:

21 553.842 Product evaluation and approval.--

22 (5) Statewide approval of products, methods, or  
23 systems of construction may be achieved by one of the  
24 following methods. One of these methods must be used by the  
25 commission to approve the following categories of products:  
26 panel walls, exterior doors, roofing, skylights, windows,  
27 shutters, and structural components as established by the  
28 commission by rule.

29 (a) Products for which the code establishes  
30 standardized testing or comparative or rational analysis  
31 methods shall be approved by submittal and validation of one

1 of the following reports or listings indicating that the  
2 product or method or system of construction was evaluated to  
3 be in compliance with the Florida Building Code and that the  
4 product or method or system of construction is, for the  
5 purpose intended, at least equivalent to that required by the  
6 Florida Building Code:

7 1. A certification mark or listing of an approved  
8 certification agency, which may be used only for products for  
9 which the code designates standardized testing;

10 2. A test report from an approved testing laboratory;

11 3. A product evaluation report based upon testing or  
12 comparative or rational analysis, or a combination thereof,  
13 from an approved product evaluation entity; or

14 4. A product evaluation report based upon testing or  
15 comparative or rational analysis, or a combination thereof,  
16 developed and signed and sealed by a professional engineer or  
17 architect, licensed in this state.

18

19 A product evaluation report or a certification mark or listing  
20 of an approved certification agency which demonstrates that  
21 the product or method or system of construction complies with  
22 the Florida Building Code for the purpose intended shall be  
23 equivalent to a test report and test procedure as referenced  
24 in the Florida Building Code.

25 (b) Products, methods, or systems of construction for  
26 which there are no specific standardized testing or  
27 comparative or rational analysis methods established in the  
28 code may be approved by submittal and validation of one of the  
29 following:

30 1. A product evaluation report based upon testing or  
31 comparative or rational analysis, or a combination thereof,

1 from an approved product evaluation entity indicating that the  
2 product or method or system of construction was evaluated to  
3 be in compliance with the intent of the Florida Building Code  
4 and that the product or method or system of construction is,  
5 for the purpose intended, at least equivalent to that required  
6 by the Florida Building Code; or

7         2. A product evaluation report based upon testing or  
8 comparative or rational analysis, or a combination thereof,  
9 developed and signed and sealed by a professional engineer or  
10 architect, licensed in this state, who certifies that the  
11 product or method or system of construction is, for the  
12 purpose intended, at least equivalent to that required by the  
13 Florida Building Code.

14         (7) For state approvals, validation shall be performed  
15 by validation entities approved by the commission. The  
16 commission shall adopt by rule criteria for approval of  
17 validation entities, which shall be third-party entities  
18 independent of the product's manufacturer and which shall  
19 certify to the commission the product's compliance with the  
20 code. The commission may also adopt by rule a schedule of  
21 penalties to be imposed against approved validators who  
22 validate product applications in violation of this section or  
23 rules adopted under this section. The imposition of such  
24 penalties shall be governed by s. 120.60 and the uniform rules  
25 of procedure.

26         (16) The commission may adopt a rule that identifies  
27 standards that are equivalent to or more stringent than those  
28 specifically adopted within the code, thereby allowing the use  
29 of products that comply with the equivalent standard within  
30 this state.

31         Section 5. This act shall take effect July 1, 2007.



\*\*\*\*\*

SENATE SUMMARY

1  
2  
3 Revises provisions relating to the Florida Building Code  
4 and the Florida Building Commission. Authorizes the  
5 commission to approve certain amendments to the code.  
6 Revises provisions that create the Building Commission  
7 Education and Outreach Program to allow it to be operated  
8 by a private nonprofit corporation selected by the  
9 Department of Community Affairs. Provides selection  
10 criteria and operating guidelines for the program.  
11 Provides for the adoption of rules. Limits the use of a  
12 certification mark to certain product evaluations  
13 relating to the code. Revises provisions related to the  
14 use of private providers to conduct inspection services.  
15 Allows authorized representatives to sign certain forms;  
16 requiring final forms to be signed and sealed. (See bill  
17 for details.)  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31