

HB 1035

2010

1 A bill to be entitled
2 An act relating to elevator safety; amending s. 399.01,
3 F.S.; revising definitions; amending s. 399.02, F.S.;
4 conforming a reference to a safety code; requiring the
5 Division of Hotels and Restaurants of the Department of
6 Business and Professional Regulation to adopt rules;
7 authorizing the division to enter certain buildings;
8 providing for variances; exempting certain elevators from
9 specific code update requirements; providing a phase-in
10 period for such elevators; amending s. 399.035, F.S.;
11 conforming a reference to certain safety standards;
12 amending s. 399.049, F.S.; specifying additional acts by a
13 registered elevator company or certificateholder which are
14 subject to discipline; amending s. 399.061, F.S.;
15 requiring certain licensees to provide written responses
16 to departmental requests relating to inspection reports;
17 amending s. 399.105, F.S.; extending the time within which
18 an elevator owner may comply with certain orders to
19 correct; creating s. 399.16, F.S.; providing procedures
20 related to citations and discipline relating to unlicensed
21 activity; creating s. 399.17, F.S.; providing registration
22 and continuing education requirements for certified
23 elevator inspectors; amending s. 553.509, F.S.; deleting
24 provisions establishing elevator requirements for certain
25 residential multifamily buildings; providing an effective
26 date.

27
28 Be It Enacted by the Legislature of the State of Florida:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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Section 1. Subsection (11) of section 399.01, Florida Statutes, is repealed, present subsections (12) through (17) of that section are redesignated as subsections (11) through (16), respectively, and present subsection (14) of that section is amended, to read:

399.01 Definitions.—As used in this chapter, the term:
(13)~~(14)~~ "Certified elevator inspector" is a natural person registered with and authorized by the division to construct, install, inspect, maintain, or repair any vertical conveyance, after having properly acquired the qualified elevator inspector credential as prescribed by the American Society of Mechanical Engineers. ~~Each certified elevator inspector must annually register with the division and provide proof of completion of 8 hours of continuing education, proof that the qualified elevator inspector credential remains in good standing, and proof of general liability insurance coverage in the minimum amounts set by the division.~~

All other building transportation terms are defined in the current Florida Building Code.

Section 2. Paragraph (t) of subsection (3) and subsection (6) of section 399.02, Florida Statutes, are amended, and subsections (8) and (9) are added to that section, to read:

399.02 General requirements.—

(3) Equipment not covered by this chapter includes, but is not limited to:

(t) Equipment covered in s. 1.1.2 ~~1.2~~ of the Elevator

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57 Safety Code.

58 (6) (a) The department is empowered to carry out all of the
59 provisions of this chapter relating to the inspection and
60 regulation of elevators and to enforce the provisions of the
61 Florida Building Code. The division shall adopt rules to
62 administer this chapter.

63 (b) In order to perform its duties and responsibilities
64 under this section, the division may enter and have reasonable
65 access to all buildings and rooms or spaces in which an existing
66 or newly installed conveyance and equipment are located.

67 (8) The division may grant variances for undue hardship
68 pursuant to s. 120.542 and the rules adopted under this section.
69 Such rules must include a process for requests for variances.
70 The division may not grant a request for a variance unless it
71 finds that the variance will not adversely affect the safety of
72 the public.

73 (9) Updates to the code requiring modifications for Phase
74 II Firefighters' Service on existing elevators, as amended into
75 the Safety Code for Existing Elevators and Escalators, ASME
76 A17.1 and A17.3, may not be enforced on elevators in
77 condominiums issued a certificate of occupancy by the local
78 building authority as of July 1, 2008, for 5 years or until the
79 elevator is replaced or requires major modification, whichever
80 occurs first. This exception does not apply to a building for
81 which a certificate of occupancy was issued after July 1, 2008.
82 This exception does not prevent an elevator owner from
83 requesting a variance from the applicable codes before or after
84 the expiration of the 5-year term. This subsection does not

85 prohibit the division from granting variances pursuant to s.
 86 120.542 and subsection (8). The division shall adopt rules to
 87 administer this subsection.

88 Section 3. Paragraph (c) of subsection (1) of section
 89 399.035, Florida Statutes, is amended to read:

90 399.035 Elevator accessibility requirements for the
 91 physically handicapped.—

92 (1) Each elevator, the installation of which is begun
 93 after October 1, 1990, must be made accessible to physically
 94 handicapped persons with the following requirements:

95 (c) Each elevator covered by this section must be
 96 available to be used at any time to assist the physically
 97 handicapped in an emergency evacuation. The requirements of the
 98 latest revision of s. 2.27 ~~211~~ of the American Society of
 99 Mechanical Engineers Standard ASME ~~National Standards Institute~~
 100 ~~standard ANSI A17.1~~ must be complied with to meet the
 101 requirements of this paragraph.

102 Section 4. Subsection (1) of section 399.049, Florida
 103 Statutes, is amended to read:

104 399.049 Disciplinary action.—

105 (1) The department may suspend or revoke an elevator
 106 inspector certification, an elevator company registration, an
 107 elevator certificate of competency, or an elevator certificate
 108 of operation issued under this chapter or impose an
 109 administrative penalty of up to \$1,000 per violation upon any
 110 registered elevator company or certificateholder who commits any
 111 one or more of the following violations:

112 (a) Any false statement as to a material matter in an

113 application for registration, certification, or any permit or
 114 certificate issued under this chapter.

115 (b) Fraud, misrepresentation, or bribery in the practice
 116 of the profession.

117 (c) Failure by a certified elevator inspector to provide
 118 the department and the certificate of operation holder with a
 119 copy of the inspection report within 5 days after the date of
 120 any inspection performed after the initial certificate of
 121 operation is issued.

122 (d) Violation of any provision of this chapter.

123 (e) Failure by a certified elevator inspector to maintain
 124 his or her qualified elevator inspector credential in good
 125 standing.

126 (f) Having a license to install, inspect, maintain, or
 127 repair any vertical conveyance revoked, suspended, or otherwise
 128 acted against, including the denial of licensure, by the
 129 licensing authority of another state, territory, or county.

130 (g) Engaging in fraud or deceit, negligence, incompetency,
 131 or misconduct in the practice of the profession.

132 Section 5. Subsection (5) is added to section 399.061,
 133 Florida Statutes, to read:

134 399.061 Inspections; service maintenance contracts;
 135 correction of deficiencies.-

136 (5) A certified elevator inspector or registered elevator
 137 company shall, upon the written request of the department,
 138 provide a written response that explains the inspection
 139 procedures and applications used to prepare an inspection report
 140 that was found by the department to contain errors or omissions

141 of code violations or tests.

142 Section 6. Subsection (4) of section 399.105, Florida
 143 Statutes, is amended to read:

144 399.105 Administrative fines.—

145 (4) An elevator owner who fails to comply with an order to
 146 correct issued under s. 399.061(4) within 90 ~~30~~ days after its
 147 issuance is subject, in addition to any other penalty provided
 148 by law, to an administrative fine in an amount not to exceed
 149 \$1,000.

150 Section 7. Section 399.16, Florida Statutes, is created to
 151 read:

152 399.16 Unlicensed activity; citations; prohibitions;
 153 penalties.—

154 (1) The division may issue a citation for unlicensed
 155 activity upon a finding of probable cause that activity
 156 requiring a permit, certificate, or license is being performed
 157 without a valid permit, certificate, or license. The citation
 158 constitutes a stop work order that may be enforced by the
 159 division.

160 (a) The citation shall be in a form prescribed by rule.
 161 The division may adopt rules to administer this section,
 162 including a schedule of penalties.

163 (b) The division shall issue a citation to the owner of an
 164 unlicensed elevator, to unlicensed elevator personnel, or to the
 165 owner of an unregistered elevator company.

166 (c) The activity for which a citation is issued shall
 167 cease upon receipt of the citation and the person who receives
 168 the citation must correct the violation and respond to the civil

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169 penalty, which may not exceed \$1,000 per violation, or request
170 an administrative hearing pursuant to chapter 120.

171 (2) Each day that a violation continues constitutes a
172 separate violation.

173 (3) The remedies in this section are not exclusive and may
174 be imposed in addition to other remedies in this chapter.

175 Section 8. Section 399.17, Florida Statutes, is created to
176 read:

177 399.17 Certified elevator inspectors; registration.—Each
178 certified elevator inspector must annually register with the
179 division and provide proof of completion of 8 hours of
180 continuing education, proof of good standing, and proof of
181 general liability insurance coverage in the minimum amounts
182 established by the division. The registration must remain in
183 good standing throughout the license year.

184 Section 9. Section 553.509, Florida Statutes, is amended
185 to read:

186 553.509 Vertical accessibility.—

187 ~~(1)~~ Nothing in ss. 553.501-553.513 or the guidelines shall
188 be construed to relieve the owner of any building, structure, or
189 facility governed by those sections from the duty to provide
190 vertical accessibility to all levels above and below the
191 occupiable grade level, regardless of whether the guidelines
192 require an elevator to be installed in such building, structure,
193 or facility, except for:

194 (1) ~~(a)~~ Elevator pits, elevator penthouses, mechanical
195 rooms, piping or equipment catwalks, and automobile lubrication
196 and maintenance pits and platforms;

197 (2) ~~(b)~~ Unoccupiable spaces, such as rooms, enclosed
 198 spaces, and storage spaces that are not designed for human
 199 occupancy, for public accommodations, or for work areas; and

200 (3) ~~(e)~~ Occupiable spaces and rooms that are not open to
 201 the public and that house no more than five persons, including,
 202 but not limited to, equipment control rooms and projection
 203 booths.

204 ~~(2) (a) Any person, firm, or corporation that owns,
 205 manages, or operates a residential multifamily dwelling,
 206 including a condominium, that is at least 75 feet high and
 207 contains a public elevator, as described in s. 399.035(2) and
 208 (3) and rules adopted by the Florida Building Commission, shall
 209 have at least one public elevator that is capable of operating
 210 on an alternate power source for emergency purposes. Alternate
 211 power shall be available for the purpose of allowing all
 212 residents access for a specified number of hours each day over a
 213 5-day period following a natural disaster, manmade disaster,
 214 emergency, or other civil disturbance that disrupts the normal
 215 supply of electricity. The alternate power source that controls
 216 elevator operations must also be capable of powering any
 217 connected fire alarm system in the building.~~

218 ~~(b) At a minimum, the elevator must be appropriately
 219 prewired and prepared to accept an alternate power source and
 220 must have a connection on the line side of the main disconnect,
 221 pursuant to National Electric Code Handbook, Article 700. In
 222 addition to the required power source for the elevator and
 223 connected fire alarm system in the building, the alternate power
 224 supply must be sufficient to provide emergency lighting to the~~

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225 ~~interior lobbies, hallways, and other portions of the building~~
226 ~~used by the public. Residential multifamily dwellings must have~~
227 ~~an available generator and fuel source on the property or have~~
228 ~~proof of a current contract posted in the elevator machine room~~
229 ~~or other place conspicuous to the elevator inspector affirming a~~
230 ~~current guaranteed service contract for such equipment and fuel~~
231 ~~source to operate the elevator on an on-call basis within 24~~
232 ~~hours after a request. By December 31, 2006, any person, firm or~~
233 ~~corporation that owns, manages, or operates a residential~~
234 ~~multifamily dwelling as defined in paragraph (a) must provide to~~
235 ~~the local building inspection agency verification of engineering~~
236 ~~plans for residential multifamily dwellings that provide for the~~
237 ~~capability to generate power by alternate means. Compliance with~~
238 ~~installation requirements and operational capability~~
239 ~~requirements must be verified by local building inspectors and~~
240 ~~reported to the county emergency management agency by December~~
241 ~~31, 2007.~~

242 ~~(c) Each newly constructed residential multifamily~~
243 ~~dwelling, including a condominium, that is at least 75 feet high~~
244 ~~and contains a public elevator, as described in s. 399.035(2)~~
245 ~~and (3) and rules adopted by the Florida Building Commission,~~
246 ~~must have at least one public elevator that is capable of~~
247 ~~operating on an alternate power source for the purpose of~~
248 ~~allowing all residents access for a specified number of hours~~
249 ~~each day over a 5-day period following a natural disaster,~~
250 ~~manmade disaster, emergency, or other civil disturbance that~~
251 ~~disrupts the normal supply of electricity. The alternate power~~
252 ~~source that controls elevator operations must be capable of~~

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253 ~~powering any connected fire alarm system in the building. In~~
254 ~~addition to the required power source for the elevator and~~
255 ~~connected fire alarm system, the alternate power supply must be~~
256 ~~sufficient to provide emergency lighting to the interior~~
257 ~~lobbies, hallways, and other portions of the building used by~~
258 ~~the public. Engineering plans and verification of operational~~
259 ~~capability must be provided by the local building inspector to~~
260 ~~the county emergency management agency before occupancy of the~~
261 ~~newly constructed building.~~

262 ~~(d) Each person, firm, or corporation that is required to~~
263 ~~maintain an alternate power source under this subsection shall~~
264 ~~maintain a written emergency operations plan that details the~~
265 ~~sequence of operations before, during, and after a natural or~~
266 ~~manmade disaster or other emergency situation. The plan must~~
267 ~~include, at a minimum, a lifesafety plan for evacuation,~~
268 ~~maintenance of the electrical and lighting supply, and~~
269 ~~provisions for the health, safety, and welfare of the residents.~~
270 ~~In addition, the owner, manager, or operator of the residential~~
271 ~~multifamily dwelling must keep written records of any contracts~~
272 ~~for alternative power generation equipment. Also, quarterly~~
273 ~~inspection records of lifesafety equipment and alternate power~~
274 ~~generation equipment must be posted in the elevator machine room~~
275 ~~or other place conspicuous to the elevator inspector, which~~
276 ~~confirm that such equipment is properly maintained and in good~~
277 ~~working condition, and copies of contracts for alternate power~~
278 ~~generation equipment shall be maintained on site for~~
279 ~~verification. The written emergency operations plan and~~
280 ~~inspection records shall also be open for periodic inspection by~~

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281 ~~local and state government agencies as deemed necessary. The~~
282 ~~owner or operator must keep a generator key in a lockbox posted~~
283 ~~at or near any installed generator unit.~~

284 ~~(c) Multistory affordable residential dwellings for~~
285 ~~persons age 62 and older that are financed or insured by the~~
286 ~~United States Department of Housing and Urban Development must~~
287 ~~make every effort to obtain grant funding from the Federal~~
288 ~~Government or the Florida Housing Finance Corporation to comply~~
289 ~~with this subsection. If an owner of such a residential dwelling~~
290 ~~cannot comply with the requirements of this subsection, the~~
291 ~~owner must develop a plan with the local emergency management~~
292 ~~agency to ensure that residents are evacuated to a place of~~
293 ~~safety in the event of a power outage resulting from a natural~~
294 ~~or manmade disaster or other emergency situation that disrupts~~
295 ~~the normal supply of electricity for an extended period of time.~~
296 ~~A place of safety may include, but is not limited to, relocation~~
297 ~~to an alternative site within the building or evacuation to a~~
298 ~~local shelter.~~

299 ~~(f) As a part of the annual elevator inspection required~~
300 ~~under s. 399.061, certified elevator inspectors shall confirm~~
301 ~~that all installed generators required by this chapter are in~~
302 ~~working order, have current inspection records posted in the~~
303 ~~elevator machine room or other place conspicuous to the elevator~~
304 ~~inspector, and that the required generator key is present in the~~
305 ~~lockbox posted at or near the installed generator. If a building~~
306 ~~does not have an installed generator, the inspector shall~~
307 ~~confirm that the appropriate rewiring and switching~~
308 ~~capabilities are present and that a statement is posted in the~~

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309 ~~elevator machine room or other place conspicuous to the elevator~~
310 ~~inspector affirming a current guaranteed contract exists for~~
311 ~~contingent services for alternate power is current for the~~
312 ~~operating period.~~

313

314 ~~However, buildings, structures, and facilities must, as a~~
315 ~~minimum, comply with the requirements in the Americans with~~
316 ~~Disabilities Act Accessibility Guidelines.~~

317 Section 10. This act shall take effect July 1, 2010.