

By Senator Bennett

21-00953-10

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

31  
32 Section 1. Subsection (11) of section 399.01, Florida  
33 Statutes, is repealed, present subsections (12) through (17) of  
34 that section are redesignated as subsections (11) through (16),  
35 respectively, and present subsection (14) of that section is  
36 amended, to read:

37 399.01 Definitions.—As used in this chapter, the term:

38 (13) ~~(14)~~ "Certified elevator inspector" is a natural person  
39 registered with and authorized by the division to construct,  
40 install, inspect, maintain, or repair any vertical conveyance,  
41 after having properly acquired the qualified elevator inspector  
42 credential as prescribed by the American Society of Mechanical  
43 Engineers. ~~Each certified elevator inspector must annually~~  
44 ~~register with the division and provide proof of completion of 8~~  
45 ~~hours of continuing education, proof that the qualified elevator~~  
46 ~~inspector credential remains in good standing, and proof of~~  
47 ~~general liability insurance coverage in the minimum amounts set~~  
48 ~~by the division.~~

49  
50 All other building transportation terms are defined in the  
51 current Florida Building Code.

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

55 399.02 General requirements.—

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

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

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59 Safety Code.

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

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

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

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

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88 120.542 and subsection (8). The division shall adopt rules to  
89 administer this subsection.

90 Section 3. Paragraph (c) of subsection (1) of section  
91 399.035, Florida Statutes, is amended to read:

92 399.035 Elevator accessibility requirements for the  
93 physically handicapped.—

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

97 (c) Each elevator covered by this section must be available  
98 to be used at any time to assist the physically handicapped in  
99 an emergency evacuation. The requirements of the latest revision  
100 of s. 2.27.3 ~~211~~ of the Society of Mechanical Engineers Standard  
101 ASME American National Standards Institute standard ANSI A17.1  
102 must be complied with to meet the requirements of this  
103 paragraph.

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

106 399.049 Disciplinary action.—

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

114 (a) Any false statement as to a material matter in an  
115 application for registration, certification, or any permit or  
116 certificate issued under this chapter.

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117 (b) Fraud, misrepresentation, or bribery in the practice of  
118 the profession.

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

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

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

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

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

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

136 399.061 Inspections; service maintenance contracts;  
137 correction of deficiencies.-

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

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

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146 399.105 Administrative fines.—

147 (4) An elevator owner who fails to comply with an order to  
148 correct issued under s. 399.061(4) within 90 ~~30~~ days after its  
149 issuance is subject, in addition to any other penalty provided  
150 by law, to an administrative fine in an amount not to exceed  
151 \$1,000.

152 Section 7. Section 399.16, Florida Statutes, is created to  
153 read:

154 399.16 Unlicensed activity; citations; prohibitions;  
155 penalties.—

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

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

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

168 (c) The activity for which a citation is issued shall cease  
169 upon receipt of the citation and the person who receives the  
170 citation must correct the violation and respond to the civil  
171 penalty, which may not exceed \$1,000 per violation, or request  
172 an administrative hearing pursuant to chapter 120.

173 (2) Each day that a violation continues constitutes a  
174 separate violation.

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

177       Section 8. Section 399.17, Florida Statutes, is created to  
178 read:

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

186       Section 9. Section 553.509, Florida Statutes, is amended to  
187 read:

188       553.509 Vertical accessibility.—

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

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

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

202       (3)~~(e)~~ Occupiable spaces and rooms that are not open to the  
203 public and that house no more than five persons, including, but

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204 not limited to, equipment control rooms and projection booths.

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

219 ~~(b) At a minimum, the elevator must be appropriately~~  
220 ~~prewired and prepared to accept an alternate power source and~~  
221 ~~must have a connection on the line side of the main disconnect,~~  
222 ~~pursuant to National Electric Code Handbook, Article 700. In~~  
223 ~~addition to the required power source for the elevator and~~  
224 ~~connected fire alarm system in the building, the alternate power~~  
225 ~~supply must be sufficient to provide emergency lighting to the~~  
226 ~~interior lobbies, hallways, and other portions of the building~~  
227 ~~used by the public. Residential multifamily dwellings must have~~  
228 ~~an available generator and fuel source on the property or have~~  
229 ~~proof of a current contract posted in the elevator machine room~~  
230 ~~or other place conspicuous to the elevator inspector affirming a~~  
231 ~~current guaranteed service contract for such equipment and fuel~~  
232 ~~source to operate the elevator on an on-call basis within 24~~



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233 ~~hours after a request. By December 31, 2006, any person, firm or~~  
234 ~~corporation that owns, manages, or operates a residential~~  
235 ~~multifamily dwelling as defined in paragraph (a) must provide to~~  
236 ~~the local building inspection agency verification of engineering~~  
237 ~~plans for residential multifamily dwellings that provide for the~~  
238 ~~capability to generate power by alternate means. Compliance with~~  
239 ~~installation requirements and operational capability~~  
240 ~~requirements must be verified by local building inspectors and~~  
241 ~~reported to the county emergency management agency by December~~  
242 ~~31, 2007.~~

243 ~~(c) Each newly constructed residential multifamily~~  
244 ~~dwelling, including a condominium, that is at least 75 feet high~~  
245 ~~and contains a public elevator, as described in s. 399.035(2)~~  
246 ~~and (3) and rules adopted by the Florida Building Commission,~~  
247 ~~must have at least one public elevator that is capable of~~  
248 ~~operating on an alternate power source for the purpose of~~  
249 ~~allowing all residents access for a specified number of hours~~  
250 ~~each day over a 5-day period following a natural disaster,~~  
251 ~~manmade disaster, emergency, or other civil disturbance that~~  
252 ~~disrupts the normal supply of electricity. The alternate power~~  
253 ~~source that controls elevator operations must be capable of~~  
254 ~~powering any connected fire alarm system in the building. In~~  
255 ~~addition to the required power source for the elevator and~~  
256 ~~connected fire alarm system, the alternate power supply must be~~  
257 ~~sufficient to provide emergency lighting to the interior~~  
258 ~~lobbies, hallways, and other portions of the building used by~~  
259 ~~the public. Engineering plans and verification of operational~~  
260 ~~capability must be provided by the local building inspector to~~  
261 ~~the county emergency management agency before occupancy of the~~

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262 newly constructed building.

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

285 ~~(e) Multistory affordable residential dwellings for persons~~  
286 ~~age 62 and older that are financed or insured by the United~~  
287 ~~States Department of Housing and Urban Development must make~~  
288 ~~every effort to obtain grant funding from the Federal Government~~  
289 ~~or the Florida Housing Finance Corporation to comply with this~~  
290 ~~subsection. If an owner of such a residential dwelling cannot~~

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291 ~~comply with the requirements of this subsection, the owner must~~  
292 ~~develop a plan with the local emergency management agency to~~  
293 ~~ensure that residents are evacuated to a place of safety in the~~  
294 ~~event of a power outage resulting from a natural or manmade~~  
295 ~~disaster or other emergency situation that disrupts the normal~~  
296 ~~supply of electricity for an extended period of time. A place of~~  
297 ~~safety may include, but is not limited to, relocation to an~~  
298 ~~alternative site within the building or evacuation to a local~~  
299 ~~shelter.~~

300 ~~(f) As a part of the annual elevator inspection required~~  
301 ~~under s. 399.061, certified elevator inspectors shall confirm~~  
302 ~~that all installed generators required by this chapter are in~~  
303 ~~working order, have current inspection records posted in the~~  
304 ~~elevator machine room or other place conspicuous to the elevator~~  
305 ~~inspector, and that the required generator key is present in the~~  
306 ~~lockbox posted at or near the installed generator. If a building~~  
307 ~~does not have an installed generator, the inspector shall~~  
308 ~~confirm that the appropriate prewiring and switching~~  
309 ~~capabilities are present and that a statement is posted in the~~  
310 ~~elevator machine room or other place conspicuous to the elevator~~  
311 ~~inspector affirming a current guaranteed contract exists for~~  
312 ~~contingent services for alternate power is current for the~~  
313 ~~operating period.~~

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

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