

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Committee

BILL: CS/CS/SB 396

INTRODUCER: Regulated Industries Committee, Community Affairs Committee, and Senator Bennett

SUBJECT: Building Construction and Inspection

DATE: April 19, 2011

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	<b>Fav/CS</b>
2.	Oxamendi	Imhof	RI	<b>Fav/CS</b>
3.	Betta	Meyer, C.	BC	<b>Pre-meeting</b>
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes
- B. AMENDMENTS.....  Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

**I. Summary:**

This bill provides that the Florida Building Code (code) is no longer required to be submitted to the Legislature for ratification before becoming effective. It also provides for a Florida supplement to the International Code Council’s set of building codes containing Florida-specific codes.

The bill redefines the term “sustainable building rating” to include the International Green Construction Code (IGCC), makes conforming changes, and amends the membership composition requirements for the Florida Building Commission (commission). The bill also expands the categories of persons who may be certified as qualified for licensure by endorsement as a home inspector and requires at least 2 hours of hurricane mitigation training to be included as part of a home inspector’s continuing education requirements.

The bill repeals the exemption that permits Division I contractors to perform both the inspection and repairs on a home. It permits persons who are not licensed as a landscape architect to submit landscape design plans to government agencies for approval. It permits individuals to qualify for a home inspector license if they possesses a Division I contractor license, a Division II certified air-conditioning license, and an electrical contractor license.

This bill replaces one of the public lodging industry seats on the Department of Health’s advisory review board with a county or local building official and clarifies that the Habitat for Humanity exemption also applies to the rehabilitation of certain family residences. The bill creates a license classification for “glass and glazing contractor.”

The bill amends the accessibility for handicapped persons in part II of ch. 533, F.S., to revise references to the current 2010 ADA Standards for Accessible Design standards and to conform the Florida-specific provisions to those standards.

It provides for state agency compliance with the 2011 version of the National Fire Protection Association standard (NFPA 58) for LP gas tank separation. The bill also requires compliance with the Florida Building Code when a roof is “replaced or recovered” and replaces specific references to energy efficiency requirements with a reference to the Florida Energy Efficiency Code for Building Construction.

The bill requires products advertised as hurricane windstorm or impact protection from wind-borne debris to be approved as such under Florida’s product approval program and prohibits the commission from adopting rules that limit any of the statutory exceptions or exemptions to coastal construction control and erosion projection requirements.

This bill substantially amends the following sections of the Florida Statutes: 120.80, 161.053, 255.252, 255.253, 255.257, 255.2575, 468.8316, 468.8319, 468.8323, 468.8324, 468.841, 481.329, 489.103, 489.105, 489.107, 489.141, 514.028, 527.06, 527.21, 553.502, 553.503, 553.504, 553.5041, 553.505, 553.506, 553.507, 553.509, 553.73, 553.74, 553.842, 553.909, and 627.711.

The bill creates an unnumbered section of the Florida Statutes.

## **II. Present Situation:**

### **The Florida Building Code**

The purpose and intent of the Florida Building Codes Act located in part IV of ch. 553, F.S., is “to provide a mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of a single unified state building code,” known as the “Florida Building Code” (code).<sup>1</sup>

Section 553.72, F.S., defines the code as a “single set of documents that apply to the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities in this state” which establishes minimum standards that shall be enforced by authorized state and local government enforcement agencies.

### **Florida Building Commission**

The Florida Building Commission (commission) is established in ch. 553, F.S., within the Department of Community Affairs (DCA) and consists of 25 members that are appointed by the

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<sup>1</sup> Section 553.72(1), F.S.

Governor and confirmed by the Senate.<sup>2</sup> The Commission is responsible for adopting and enforcing the code as a single, unified state building code used to provide effective and reasonable protection for the public safety, health and welfare.<sup>3</sup> The commission is required to update the code triennially based upon the “code development cycle of the national model building codes, . . .”<sup>4</sup> Pursuant to s. 553.73, F.S., the commission is authorized to adopt internal administrative rules, impose fees for binding code interpretations and use the rule adoption procedures listed under ch. 120, F.S., to approve amendments to the building code.<sup>5</sup>

Section 553.79(9), F.S., allows state agencies whose enabling legislation authorizes the enforcement of the code, to enter into agreements with other governmental units in order to delegate their code enforcement powers, and to utilize public funds for permit and inspection fees so long as the fees are not greater than the fees charged to others.

### **Home Inspector License**

In 2007, the Legislature created the home inspection services licensing program under part XV, ch. 468, F.S.,<sup>6</sup> to provide, in part, for the licensure and regulation of private home inspectors by the Department of Business and Professional Regulation (department). The program provides licensing and continuing education requirements, including certificates of authorizations for corporations offering home inspection services to the public.

Section 468.8311(4), F.S., defines the term "home inspection services" to mean:

a limited visual examination of one or more of the following readily accessible installed systems and components of a home: the structure, electrical system, HVAC system, roof covering, plumbing system, interior components, exterior components, and site conditions that affect the structure, for the purposes of providing a written professional opinion of the condition of the home.<sup>7</sup>

Any person who wishes to be licensed as a home inspector must apply to the department for certification after he or she satisfies the statutory examination requirements provided in s. 468.8313, F.S.

Prior to practicing as a home inspector in Florida, s. 468.8313, F.S., requires an applicant to:

- Pass the required examination,
- Be of good moral character, and

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<sup>2</sup> See s. 553.74(1)(a)-(w), F.S.

<sup>3</sup> Sections 553.73 and 553.74, F.S.

<sup>4</sup> Florida Building Commission, *Report to the 2009 Legislature*, at 2 (January 2009) (on file with the Florida Senate Committee on Regulated Industries).

<sup>5</sup> See ss. 553.76, 553.775, and 553.73(7), F.S., respectively.

<sup>6</sup> Chapter 2007-235, s. 2, L.O.F.

<sup>7</sup> Section 468.8311(4), F.S.

- Complete a course study of at least 120 hours that covers all of the following components of the home: structure, electrical system, HVAC system, roof covering, plumbing system, interior components, exterior components, and site conditions that affect the structure.<sup>8</sup>

An applicant for licensure must also submit to a criminal background check and maintain a commercial general liability insurance policy in an amount of not less than \$300,000.<sup>9</sup>

Section 468.8314, F.S., provides that the department shall certify any applicant for licensure who satisfies the examination requirements of s. 468.8313, F.S., and who passes the licensing exam, unless he or she has engaged in disciplinary actions as prescribed in s. 468.832, F.S.<sup>10</sup> This section also allows the department to certify an applicant by endorsement if he or she:

- Is of good moral character.
- Holds a valid home inspector license in another state or territory of the United States, whose educational requirements are substantially equivalent to those required herein.
- Has passed a substantially similar national, regional, state, or territorial licensing examination.<sup>11</sup>

Florida home inspector licensees are required to complete at least 14 hours of continuing education every two years prior to his or her application for license renewal.<sup>12</sup>

### **Energy Efficiency**

The Florida Energy Conservation and Sustainable Buildings Act, located in ch. 255, F.S., declares that there is an important state interest in promoting the construction of energy-efficient and sustainable buildings.<sup>13</sup> To further this interest, s. 255.252, F.S., provides that it shall be the policy of the state that buildings constructed and financed by the state and the renovation of existing state facilities be designed and constructed to comply with:

- The U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) rating system,
- The Green Building Initiative's Green Globes rating system,
- The Florida Green Building Coalition standards, or
- A nationally recognized, high-performance green building rating system as approved by the Department of Management Services.<sup>14</sup>

These rating systems have been defined in s. 255.253(7), F.S., to mean “sustainable building rating.”

For buildings occupied by state agencies, section 255.257, F.S., requires all state agencies to adopt the United States Green Building Council (USGBC) Leadership in Energy and

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<sup>8</sup> See s. 468.8313(2), F.S.

<sup>9</sup> Sections 468.8313(6) and 468.8322, F.S.

<sup>10</sup> Section 468.8314(2), F.S.

<sup>11</sup> Section 468.8314(3), F.S.

<sup>12</sup> Section 468.8316(1), F.S.

<sup>13</sup> Section 255.2575(1), F.S.

<sup>14</sup> Section 255.252(3)-(4), F.S.

Environmental Design (LEED) rating system, the Green Building Initiative's Green Globes rating system, the Florida Green Building Coalition standards, or a nationally recognized, high-performance green building rating system as approved by the Department of Management Services for all new buildings and renovations to existing buildings.

Section 255.2575, F.S., further provides that:

all county, municipal, school district, water management district, state university, community college, and Florida state court buildings shall be constructed to meet the United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) rating system, the Green Building Initiative's Green Globes rating system, the Florida Green Building Coalition standards, or a nationally recognized, high-performance green building rating system as approved by the Department of Management Services.

### **International Green Construction Code (IGCC)**

The International Green Construction Code (IGCC) establishes baseline green and sustainability “regulations for new and existing traditional and high-performance buildings related to energy conservation, water efficiency, building owner responsibilities, site impacts, building waste, and materials and other considerations.”<sup>15</sup> The IGCC is sponsored and endorsed by the International Code Council (ICC), the American Institute of Architects, ASTM International, the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), the U.S. Green Building Council (USGBC), and the Illuminating Engineering Society (IES).<sup>16</sup>

The ICC recently revealed the latest version of the IGCC, Public Version 2.0, in December of 2010.<sup>17</sup> The ICC provides that the new code complements existing rating systems and guidelines by providing minimum baseline requirements along with a “jurisdictional electives” section of the code that allows jurisdictions to customize the codes beyond its baseline provisions.<sup>18</sup> The IGCC acts as a model code that becomes law after it is adopted by the state or local government entity that governs construction standards. To date, Rhode Island is the only state to adopt the ICGG as part of their Rhode Island Green Buildings Act in 2010.<sup>19</sup> The new Act “applies to any public project that is owned, leased or controlled by the State of Rhode Island.”<sup>20</sup>

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<sup>15</sup> The International Code Council (ICC), The International Green Construction Code (ICGG) Brochure, *IGCC: A New Approach for Safe & Sustainable Construction*, available online at [http://www.iccsafe.org/cs/IGCC/Documents/Media/IGCC\\_Flyer.pdf](http://www.iccsafe.org/cs/IGCC/Documents/Media/IGCC_Flyer.pdf) (last visited on Feb. 15, 2011).

<sup>16</sup> *Id.*

<sup>17</sup> News Release, The International Code Council (ICC), *Code Council Releases New IGCC Public Version 2.0* (Dec. 8, 2010) (on file with the Senate Committee on Community Affairs). Note that the initial public version of the code was released on March 15, 2010, after an eight month drafting period.

<sup>18</sup> The International Code Council (ICC) website, *see supra* fn. 14. *See also* News Release, The International Code Council (ICC), *New Construction Code Unveiled* (March. 15, 2010) (on file with the Senate Committee on Community Affairs).

<sup>19</sup> News Release, The International Code Council (ICC), *Rhode Island Recognized by International Code Council as First State to Adopt Green Construction Code* (Oct. 19, 2010) (on file with the Senate Committee on Community Affairs).

<sup>20</sup> *Id.*

## Product Evaluation and Approval

Section 553.842, F.S., provides the commission with the authority to adopt rules to develop a product evaluation and approval system that applies statewide to operate in coordination with the code. Rules relating to product approval are contained in ch. 9N-3.006, F.A.C.<sup>21</sup>

The commission is authorized to enter into contracts to provide for administration of the product evaluation and approval system. The system must rely on national and international consensus standards whenever such standards are adopted into the code, to demonstrate compliance with code standards. Other standards which meet or exceed state requirements must also be considered.<sup>22</sup>

Subsection (5) of section 553.842, F.S., provides the methods that must be used by the commission for statewide approval of products, methods, or systems of construction.<sup>23</sup> These methods must be used by the commission to approve “panel walls, exterior doors, roofing, skylights, windows, shutters, and structural components.”<sup>24</sup>

The commission is required to maintain a list of the state-approved products, product evaluation entities, testing laboratories, quality assurance agencies, certification agencies, and validation entities.<sup>25</sup> The commission is also authorized to adopt a rule that identifies standards that are equivalent to or more stringent than those specifically adopted by the code, thereby allowing the use in this state of the products that comply with the equivalent standard.<sup>26</sup>

Section 553.8425, F.S., provides the methodology to be used for local product approval for products or systems of construction in order to demonstrate compliance with the structural windload requirements prescribed in the code.<sup>27</sup>

## Uniform Mitigation Verification Form

Section 627.711, F.S., requires insurers to notify residential property insurance applicants or policyholders of premium insurance discounts, rates or credits that are available for windstorm mitigation fixtures or construction techniques located on the insured property. In factoring discounts for wind insurance, insurers must use the uniform mitigation verification inspection form adopted by the Financial Services Commission.<sup>28</sup>

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<sup>21</sup> Florida Administrative Weekly & Florida Administrative Code, Rule List *available online at* <https://www.flrules.org/gateway/result.asp> (last visited on Feb. 21, 2011).

<sup>22</sup> Equivalence of standards for product approval are standards for products which meet or exceed the standards referenced in the Florida Building Code, and which are certified as equivalent for purposes of determining code compliance (Chapter 9N-3.015, F.A.C.).

<sup>23</sup> *See* s. 553.842(5)(a)-(b), F.S.

<sup>24</sup> *Id.*

<sup>25</sup> Section 553.842(13), F.S.

<sup>26</sup> Section 553.842(16), F.S.

<sup>27</sup> *See* s. 553.8425(1)(a)-(f), F.S.

<sup>28</sup> Section 627.711(2), F.S.

Under current law, an insurer must accept as valid, a uniform mitigation verification form that is signed by certain certified individuals outlined in s. 627.711(2), F.S.<sup>29</sup> One of the certified individuals outlined in s. 627.711(2), F.S., is a home inspector that is licensed under s. 468.8314, F.S., and who has completed at least 3 hours of hurricane mitigation training, including hurricane mitigation techniques and compliance with the uniform mitigation verification form, and completion of a proficiency exam. Pursuant to this section, the home inspector must complete at least 2 hours related to mitigation inspection and the uniform mitigation form, as part of their continuing education requirements provided in s. 468.8316, F.S.

### **Mechanical Equipment**

The code requires roof-mounted equipment to be elevated from the roof surface. With respect to a roof-mounted air conditioner, the code requires that this equipment be elevated to a prescribed distance above the roof surface. The distance varies depending on the width of the air conditioning unit. For example, an 18 inch clearance is required for a roof-mounted air conditioning unit that is 24 to 36 inches in width.<sup>30</sup> According to the DCA, this requirement allows for maintenance of the roof surface beneath the equipment. Additionally, the code requires that all roof mounted mechanical equipment must be designed to withstand the forces exerted by wind. According to the DCA, this requirement originated with the model code that served as the foundation for the first edition of the code, the 2001 International Mechanical Code, and has been in effect in Florida since March 1, 2002.

During the 2010 Legislative Session, the Legislature created a new subsection (15) of s. 553.73, F.S., which provides that:

An agency or local government may not require that existing mechanical equipment on the surface of a roof be installed in compliance with the requirements of the Florida Building Code until the equipment is required to be removed or replaced.<sup>31</sup>

### **Thermal Efficiency Standards-Appliance Requirements**

Florida's Thermal Efficiency Code in s. 553.900, F.S., requires the DCA to provide a "statewide uniform standard for energy efficiency in thermal design and operation of all buildings statewide."<sup>32</sup> The standard is adopted into the code by the commission and is updated at least every three years to include "the most cost-effective energy-saving equipment and techniques available."<sup>33</sup> A schedule of increases in thermal efficiency is outlined in s. 553.9061, F.S. Subsection (2) of s. 553.9061, F.S., requires the commission to identify within the code the specified building options and elements that are available to meet energy efficiency goals.

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<sup>29</sup> See s. 627.711(2)(a)1.-6., F.S. (the additional certified individuals include: a building code inspector certified under s. 468.607, F.S.; a general building or residential contractor licensed under s. 489.111, F.S.; a professional engineer licensed under s. 471.015, F.S.; a professional architect licensed under s. 481.213, F.S.; or any other individual or entity recognized by the insurer as possessing the necessary qualifications to properly complete a uniform mitigation verification form).

<sup>30</sup> See Table 1509.7 in ch. 15, Florida Building Code (2007), including the 2009 supplements, relating to rooftop structures.

<sup>31</sup> Section 553.73(15), F.S. See also ch. 2010-176, s. 32, L.O.F..

<sup>32</sup> Section 553.900, F.S.

<sup>33</sup> Section 553.901, F.S.

Section 553.909, F.S., states that the Florida Energy Efficiency Code for Building Construction shall set the minimum energy requirements for commercial or residential swimming pool pumps, swimming pool water heaters, and water heaters used to heat portable water.

Section 553.909(3), F.S., currently provides minimum energy requirements for commercial and residential pool pumps and/or water motors that are manufactured on or after July 1, 2011. Subsection (4) of s. 553.909, F.S., requires residential pool pump motor controls that have a total horsepower of 1 HP or more to operate at a minimum of two speeds, with a low speed override capability being for a temporary period not to exceed one normal cycle or 24 hours, whichever is less. This subsection does not include the circulation speed for solar pool heating systems, which are permitted to run at higher speeds during periods of usable solar heat gain. Subsection (5) of s. 553.909, F.S., prohibits a portable electric spa standby power from being “greater than  $5(v/3)$  watts where V [equals] the total volume, in gallons, when spas are measured in accordance with the spa industry test protocol.”

### **Department of Health Advisory Board**

Chapter 514, F.S., provides statutory criteria pertaining to public swimming and bathing facilities. This chapter allows the Department of Health to adopt and enforce rules in order “to protect the health, safety, or welfare of persons using public swimming pools and bathing places.”<sup>34</sup>

Section 514.028, F.S., allows the Governor to appoint certain specified members to an established advisory review board which shall recommend agency action on variance request, rule and policy development, and other technical review problems. The advisory review board must meet as necessary or at least quarterly, and must be comprised of the following individuals:

- A representative from the office of licensure and certification of the department.
- A representative from the county health departments.
- Three representatives from the swimming pool construction industry.
- Two representatives from the public lodging industry.<sup>35</sup>

### **Landscape Design**

The Legislature added the regulation of landscape designers to part II of ch. 481, F.S., in 1998.<sup>36</sup> In general, part II, of ch. 481, F.S., provides for the regulation of landscape architects by the Board of Landscape Architecture within the Department of Business and Professional Regulation (DBPR). Prior to 1998, landscape designers were not regulated in Florida, except to the extent that they were not permitted to perform tasks of a landscape architect.<sup>37</sup> The Legislature in adopting ch. 1998-245, L.O.F., defined the term “landscape design” and provided an exemption from landscape architect license requirements for landscape designers.

Section 481.303(7), F.S., defines the term landscape design to mean:

<sup>34</sup> Section 514.021(1), F.S.

<sup>35</sup> Section 514.028(1)(a)-(d), F.S.

<sup>36</sup> Chapter 1998-245, s. 27, L.O.F.

<sup>37</sup> Fla. S. Comm. on Regulated Industries, CS/SB 1066 (1998) Staff Analysis 1 (on file with the Senate Committee on Community Affairs).



consultation for and preparation of planting plans drawn for compensation, including specifications and installation details for plant materials, soil amendments, mulches, edging, gravel, and other similar materials. Such plans may include only recommendations for the conceptual placement of tangible objects for landscape design projects. Construction documents, details, and specifications for tangible objects and irrigation systems shall be designed or approved by licensed professionals as required by law.

Section 481.329, F.S., provides exceptions and exemptions from landscape architect license requirements. Subsection (5) of s. 481.329, F.S., provides that “nothing in this part prohibits any person from engaging in the practice of landscape design, as defined in s. 481.303(7).”

### **The National Fire Protection Association (NFPA) 58, Liquefied Petroleum Gas Code**

The National Fire Protection Association (NFPA) is an international nonprofit organization that was established in 1896 to reduce the risks and effects of fires by establishing building consensus codes.<sup>38</sup> The NFPA 58, also known as the Liquefied Petroleum Gas Code, applies to “the storage, handling, transportation, and use of LP-Gas[es],” which is defined by the code to mean “gasses at normal room temperature and atmospheric pressure [that] liquefy under moderate pressure and readily vaporize upon release of the pressure.”<sup>39</sup>

Section 527.06(3), F.S., provides the Department of Agriculture and Consumer Services (DACS), with the authority to adopt rules that are in substantial conformity with NFPA’s published safety standards. Subsection (3), specifically provides that:

Rules in substantial conformity with the published standards of the National Fire Protection Association shall be deemed to be in substantial conformity with the generally accepted standards of safety concerning the same subject matter.

The NFPA has recently published the 2011 edition of the NFPA 58, Liquefied Petroleum Gas Code. As a result, DACS has filed a Notice of Rule Development (Rule 5F-11.002) to adopt the 2011 edition of the NFPA 58, Liquefied Petroleum Gas Code.<sup>40</sup>

State agencies that currently enforce the LP gas container separation distances, adopt changes in the NFPA safety codes as standards evolve and technology changes.

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<sup>38</sup> National Fire Protection Association Website, *Overview*, available online at <http://www.nfpa.org/categoryList.asp?categoryID=495&URL=About%20NFPA/Overview> (last visited on March 4, 2011).

<sup>39</sup> National Fire Protection Association Website, *Document Scope of NFPA 58* available online at <http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=58> (last visited on March 4, 2011).

<sup>40</sup> Florida Department of Agriculture & Consumer Services, *Senate Bill 960 Fiscal Analysis* (Feb. 14, 2011) (on file with the Senate Committee on Community Affairs).

## Coastal Construction and Excavation

Section 161.053, F.S., within the Beach and Shore Preservation Act, provides for the protection of Florida beaches and coastal barrier dunes against “imprudent construction which can jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, endanger adjacent properties, or interfere with public beach access.”<sup>41</sup>

Section 161.053(1), F.S., directs the Department of Environmental Protection (DEP) to establish coastal construction control lines on a county basis along the state beaches in order to enforce the provisions of this Beach and Shore Preservation Act. Pursuant to this statutory authority, DEP’s Coastal Construction Control Line Permitting Program establishes special siting and design criteria for construction and related activities occurring seaward of the coastal construction control lines adopted by the department.<sup>42</sup> The Department of Environmental Protection’s permit criterion is guided by the coastal construction control and erosion projection requirements in s. 161.053, F.S.

Florida Statutes also provides exemptions from these requirements, one of which is provided in paragraph (11)(a) of s. 161.053, F.S. This paragraph states that:

The coastal construction requirements defined in subsection (1) and the requirements of the erosion projections in subsection (5) do not apply to any modification, maintenance, or repair of any existing structure within the limits of the existing foundation which does not require, involve, or include any additions to, or repair or modification of, the existing foundation of that structure.

The commission is proposing to amend Rule 3109.1.1 of the Florida Building Code to limit the extent of the statutory exemption currently provided in paragraph (11)(a) of s. 161.053, F.S. Proposed through Modification # SP 4203, the commission’s amendment would state (indicated by underlined text):

Exception: The standards for buildings seaward of a CCL area do not apply to any modification, maintenance or repair of any existing structure within the limits of the existing foundation which does not require, involve, or include any additions to, or repair or modification of, the existing foundation of that structure, except for substantial improvement of or additions to existing habitable structures.<sup>43</sup>

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<sup>41</sup> Sections 161.011 and 161.053(1)(a), F.S.

<sup>42</sup> Florida Department of Environmental Protection website, *The Coastal Construction Control Line Permitting (CCCL)*, available online at [http://www.dep.state.fl.us/beaches/programs/ccclprog.htm#view\\_rules](http://www.dep.state.fl.us/beaches/programs/ccclprog.htm#view_rules) (last visited on March 8, 2011).

<sup>43</sup> Letter from David M. Levin, Attorney, Icard, Merrill, P.A., to Senator Michael Bennett, President Pro Tempore, the Florida Senate (Dec. 16, 2010) (on file with the Senate Committee on Community Affairs).

### **Statement of Estimated Regulatory Costs**

Section 120.541, F.S., requires an agency to prepare a statement of estimated regulatory costs (SERC) prior to the adopting, amendment, or repeal of any agency rule that has an adverse economic impact on small businesses or that is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate.

Paragraph (2)(a) of s. 120.541, F.S., also requires an economic analysis of whether the proposed rule directly or indirectly is likely to have an adverse impact in excess of \$1 million in the aggregate on economic growth, private-sector job creation or employment, private-sector investment, business competitiveness (including productivity, innovation, or ability of persons doing business in Florida to compete with out-of-state businesses or domestic markets). This paragraph also requires an economic analysis on whether the proposed rule directly or indirectly increases regulatory costs, including any transactional costs in excess of \$1 million in the aggregate.

Subsection (3), of s. 120.541, F.S., provides that if the adverse impact or regulatory costs of an agency rule exceed any of the criteria established in paragraph (2)(a), then the rule must be submitted to the President of the Senate and the Speaker of the House of Representatives 30 days before the next regular legislative session, and may not take effect until ratified by the Legislature.

### **Alternate Power Generators for Elevators**

During the 2006 Regular Session, s. 553.509(2)(a), F.S.,<sup>44</sup> was enacted to require that any person, firm, or corporation that owns, manages, or operates a residential multifamily dwelling, including a condominium, which is at least 75-foot high (high-rise residential buildings) and contains a public elevator, have at least one elevator capable of operating on alternate generated power. In the event of a general power outage, this elevator must ensure that residents have building access for an unspecified number of hours each day over a five-day period following a natural or manmade disaster, emergency, or other civil disturbance. The alternate generated power source must be capable of powering any connected fire alarm system in the building.

The alternate generated power requirements under current law do not apply to high-rise buildings that were in existence on October 1, 1997, or which were either under construction or under contract for construction on October 1, 1997.<sup>45</sup> Newly constructed residential multifamily dwellings meeting the criteria of this section must meet the engineering, installation, and verification requirements of s. 553.509(2), F.S., before occupancy.<sup>46</sup>

At a minimum, the elevator must be appropriately pre-wired and prepared to accept alternate generated power.<sup>47</sup> The power source must be capable of powering the elevator, a connected building fire alarm system, and emergency lighting in the internal lobbies, hallways, and other

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<sup>44</sup> Chapter 2006-71, s. 12, Laws of Fla.

<sup>45</sup> Section 553.507, F.S., exempts such buildings, structures, and facilities from the provisions of ss. 553.501-553.513, F.S., the "Florida Americans with Disabilities Implementation Act."

<sup>46</sup> Section 553.509(2)(c), F.S.

<sup>47</sup> Section 553.509(2)(b), F.S.

internal public portions of the building. The dwellings must either have a generator and fuel source on the property or proof of a current guaranteed service contract providing such equipment and fuel source within 24 hours of a request. Proof of a current service contract for such equipment and fuel must be posted in the elevator machine room or other place conspicuous to the elevator inspector.

A person, firm, or corporation that owns, manages, or operates a building affected by this requirement must provide to the local building inspection agency verification of engineering plans for alternate generated power capability by December 31, 2006.<sup>48</sup> The local building inspectors must verify the installation and operational capability of the alternate generated power source and report to the county emergency management director by December 31, 2007.

The owner, manager, or operator of the high-rise residential building must keep written records of any contracts for alternative power generation equipment and fuel source.<sup>49</sup> Quarterly inspection records must be maintained and posted.<sup>50</sup> A written emergency operations plan for before, during, and after a natural or manmade disaster or other emergency situation must also be maintained.<sup>51</sup>

Certified elevator inspectors must confirm that all installed generators are in working order, the elevators have current inspection records posted, and a generator key is located near the generator.<sup>52</sup> If there is no installed generator, the inspector is required to confirm that the appropriate pre-wiring and switching capabilities are present and that the guaranteed contingent service contract is posted.

The October 2008 interim report prepared by the professional staff of the Senate Regulated Industries Committee also studied the extent of compliance with s. 553.509(2), F.S., and reviewed the problems that citizens and governmental agencies have had in implementing these requirements.<sup>53</sup> Senate professional staff recommended that the Legislature consider the repeal of s. 553.509(2), F.S. The repeal recommendation was based upon the following findings and conclusions:

- The requirement may pose a threat to public safety, i.e., the availability of emergency power for elevators during the five days after a declared state of emergency may encourage persons to stay in high-rise buildings and areas that are not safe and do not have the necessary infrastructure for safe habitation.
- The requirement does not have a clearly defined state or local agency that is responsible for its on-going enforcement.
- Enforcement of the requirement by a state agency would carry a fiscal burden without a clearly defined benefit that may outweigh the public safety concerns.
- The requirement does not appear to have any clearly defined impact on elevator safety.

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<sup>48</sup> *Id.*

<sup>49</sup> Section 553.509(2)(b), F.S.

<sup>50</sup> Section 553.509(2)(d), F.S.

<sup>51</sup> *Id.*

<sup>52</sup> Section 553.509(2)(f), F.S.

<sup>53</sup> Comm. on Regulated Industries, The Florida Senate, *Review of Elevator Safety and Regulation* (Interim Report 2009-125) (Sept. 2008), available at [http://www.flsenate.gov/data/Publications/2009/Senate/reports/interim\\_reports/pdf/2009-125ri.pdf](http://www.flsenate.gov/data/Publications/2009/Senate/reports/interim_reports/pdf/2009-125ri.pdf).

- It is not clear what penalty, if any, should be imposed on building owners who cannot comply with the requirement because they cannot afford the expense.
- To the extent that an alternate emergency power for elevators provides a public benefit, the Florida Building Code currently requires emergency power for elevators in new high-rise residential construction.

Alternatively, the professional staff recommended that the Legislature could continue to require emergency generated power pursuant to s. 553.509(2), F.S., but, to ensure uniform compliance, provide funding for the Bureau of Elevator Safety within the Division of Hotels and Restaurants, Department of Business and Professional Regulation, for the enforcement of this provision.

### **Florida Accessibility Code Workgroup**

The Florida Conflict Resolution Consortium and the commission's Florida Accessibility Code Workgroup collaborated with stakeholders to develop recommendations for amending the Florida accessibility code for building construction to conform to the relevant standards in the most recent U.S. Department of Justice's Americans with Disability Act (ADA) accessibility standards (ADAAG). They were tasked with integrating the relevant Florida standards in ss. 553.501-553.513, F.S., into the 2004 ADAAG as adopted by 28 CFR 36 and further additions proposed by the Department of Justice (DOJ). The workgroup focused on integrating Florida-specific requirements into ADA standards, and identifying changes to Florida law that are necessary to update references to section numbers in the 2010 ADA Standards. It also focused on clarifying Florida requirements in order to conform Florida's code to ADAAG rules in 28 CFR 35 and 28 CFR 36 as Revised September 15, 2010. The workgroup and the commission have identified several provisions in ch. 553, F.S., which need to be updated to reflect the 2010 ADA Standards for Accessible Design and to revise current terminology to reflect those updated standards.

### **III. Effect of Proposed Changes:**

**Section 1** creates s. 120.80(16)(d), F.S., to exempt the code from the estimated regulatory costs provisions in ss. 120.54(3)(b) and 120.541(3), F.S., and from the requirement that the code be submitted to the Legislature for ratification before it becomes effective.

**Section 2** amends paragraph (11)(a) of s. 161.053, F.S., to prohibit the commission from adopting rules that limit any of the statutory exceptions or exemptions to coastal construction control and erosion projection requirements for the modification or repair of existing structures within the limits of an existing foundation.

**Sections 3 through 6** amend ss. 255.252(3), 255.253(7), 255.257(4), 255.2575(2), F.S., to delete references to the specified energy efficiency and sustainable materials rating standards, and to redefine the term "sustainable building rating" to include the International Green Construction Code (IGCC). Specifically, these sections substitute references to the individual green code ratings with the term "sustainable building rating."

**Sections 7 and 33** amend ss. 468.8316 and 627.711, F.S., respectively, to require at least two hours of hurricane mitigation training to be included as part of a home inspector's required 14

hours of continuing education. The hurricane mitigation training must be approved by the Construction Industry Licensing Board.

**Section 8** amends s. 468.8319, F.S., to remove an exemption that allows Division I contractors to do both the inspection and repairs to a home.

**Section 9** amends s. 468.8323, F.S., to clarify that if it is “not” self evident, the home inspector shall report a reason why the system or component is significantly deficient or near end of its service life.

**Section 10** creates s. 468.8324(1), F.S., to allow individuals with the following certifications and/or licenses to be licensed as a Florida home inspector, if the individual submits an application to the department postmarked on or before July 1, 2012. A person may qualify for a license if he or she:

- Possesses a one and two family dwelling inspector certification issued by the International Code Council or the Southern Building Code Congress International.
- Has been certified as a one and two family dwelling inspector by the Florida Building Code Administrators and Inspectors Board under part XII, of ch. 468, F.S.
- Possesses a Division I contractor license under part I, of ch. 489, F.S., a Division II certified air-conditioning license under part I of ch. 489, F.S., and an electrical contractor license under part II of ch. 489, F.S.

The bill also deletes the current qualifications for license as a home inspector to be submitted before March 1, 2011, in the current s. 468.8324(1), F.S., which includes the requirement of one of the following.

- A state or national certification with a proctored examination on home inspections, completion of at least 14 hours of verifiable education on home inspections.
- At least three years of experience verified through home inspection reports submitted by the applicant and completion of at least 14 hours of verifiable education on home inspections.

The bill also deletes s. 468.8324(1), F.S., which authorizes the DBPR to investigate the validity of the home inspection reports that are submitted to verify an applicant’s three years of experience.

**Section 11** amends s. 468.841(1), F.S., to provide that home inspectors licensed under part XV of ch. 468, F.S., are not required to comply with the license requirements for mold assessment in part XVI of ch. 468, F.S.

**Section 12** amends subsection (5) of s. 481.329, F.S., to provide that nothing in part II, of ch. 481, F.S., which provides for the regulation of the practice of landscape architecture, shall prohibit a person engaging in the practice of landscape design from submitting such plans to government agencies for approval.

**Section 13** amends s. 489.103(18), F.S., to clarify that Habitat for Humanity International, Inc., or its local affiliates are exempt from contracting licensing requirements for the rehabilitation of certain family residences.

**Section 14** creates s. 489.105(3)(q), F.S., to define the term “glass and glazing contractor.” Specifically, this section codifies the Construction Industry Licensing Board rule<sup>54</sup> for glass and glazing specialty contractors and allows licensed glass and glazing contractors to install hurricane shutters.

**Sections 15 and 16** amend ss. 489.107 and 489.141, F.S., to make conforming changes to cross-references as a result of the creation of s. 489.105(3)(q), F.S., in section 13 of this CS.

**Section 17** amends s. 514.028, F.S., to replace one of the two public lodging industry seats on the seven-member Department of Health advisory review board with a representative from county or local building department.

**Section 18** creates s. 527.06(3)(b), F.S., to prohibit the DACS and other state agencies from requiring compliance with certain national standards for LP gas tanks unless they are in compliance with the minimum LP gas container separation distances included in the 2011 version of NFPA 58. This subsection would be deemed repealed on the last effective date of rules adopted by the commission as part of the department, the code, and the Office of State Fire Marshal as part of the Florida Fire Prevention Code of these minimum separation distances as contained in the 2011 edition of NFPA 58.

**Section 19** amends s. 527.21(11), F.S., to specify that the definition for propane is defined by the NFPA 58, Liquefied Petroleum Gas Code.

**Sections 20 through 28** amend the provisions related to accessibility for handicapped persons in part II of ch. 533, F.S., which consists of ss. 553.501-553.513, F.S., to revise references to the current 2010 ADA Standards for Accessible Design (ADA standards) and to conform the Florida Specific provisions to those standards.

**Section 20** amends s. 553.502, F.S., to revise the statement of Legislative intent by updating the reference to the 2010 ADA Standards for Accessible Design (ADA standards). It also includes commercial facilities in the provision that part II of ch. 533, F.S., is not intended to diminish available defenses under the ADA.

**Section 21** amends s. 553.503, F.S., which relates to the adoption of the federal standards to update the reference to the ADA Standards for Accessible Design.

**Section 22** amends s. 553.504, F.S., which provides exceptions to the applicability of federal ADA standards, to update the reference to the ADA Standards for Accessible Design.

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<sup>54</sup> See 61G4-15.018, F.A.C. The Construction Industry Contracting Board is within the Department of Business and Professional Regulation.

The bill amends s. 553.504(3), F.S., to update the reference to the ADA standard for exterior hinged doors.

The bill amends s. 553.504(4), F.S., to update the reference to the ADA accessibility standards for motel and hotel rooms. This provision requires additional guest rooms with special accessibility features beyond those required by the ADA. It references the ADA standard and deletes the Florida-specific standards for accessible guest rooms that require 19 inch high accessible toilet seats using 15 inch high toilets with 4 inch booster seats.

The bill amends s. 553.504(5), F.S., to update the reference to the ADA standard for bathing rooms and toilet rooms.

The bill repeals the following accessibility standards in the current s. 553.504, F.S. According to the commission, each of these Florida-specific standards is adequately addressed through the current ADA standards.

- Section 553.504(3), F.S., relating to the requirement for 29 inch door opening, excluding single-family homes, duplexes, and triplexes not covered by the ADA of 1990 or the Fair Housing Act. According to the commission, this provision has no effect because it is limited to federal buildings which the state is preempted from regulating under its accessibility standards.
- Section 553.504(4), F.S., relating to the Florida-specific requirement that the bottom landing on ramps must provide 72 inches of straight and level clearance rather than the ADA standards 60 inches of clearance.
- Section 553.504(5), F.S., relating to the following Florida-specific requirements:
  - Handrail extensions at top and bottom of ramps shall be 18 inches.
  - Curb ramps that are part of a means of egress must be 44 inches wide.
  - Curb ramps not protected by handrails must have the sides be flared with a slope no greater than a ratio of 1 to 12. According to the commission, these standards exceed the ADA standards.
- Section 553.504(7), F.S., relating to the requirement for additional accessible seating spaces in assembly areas, public food service, and licensed beverage service establishments. According to the commission, studies indicate the number of wheelchair accessible areas provided under the current ADA standards amply address the demand for accessible seating.
- Section 553.504(8), F.S., relating to standards for designated aisle width between tables with end seating positions in restaurants. According to the commission, it cannot justify Florida-specific standards for aisle widths.
- Section 553.504(10), F.S., relating to the Florida-specific standards for detectable warning surfaces. According to the commission, use of the ADA standard should lead to the consistent application of the standard in the state.
- Section 553.504(11), F.S., to delete a cross-reference to Public Service Commission rules for placement of public telephones. According to the commission, the standards requirements for public telephones will be included in the code.
- Section 553.504(13), F.S., relating to the width of checkout aisles that are not required to be accessible. . According to the commission, it cannot justify Florida-specific standards for non-accessible checkout aisle widths.



- Section 553.504(14), F.S., relating to prohibition of turnstiles in locations that serve fewer than 100 persons. According to the commission, the ADA standards do not permit turnstiles in required accessible routes.

**Section 23** amends s. 553.5041, F.S., to update the reference to the ADA standards for parking spaces for persons with disabilities. The bill also revises this section to use the terminology of the ADA standards. It amends s. 553.5041(3), F.S., to reference “designated accessible spaces” in place of the reference to parking spaces in employee and visitor parking areas. According to the commission, the number and placement of accessible parking spaces provided in s. 553.5041(4), and in the ADA standards referenced in this section should apply.

The bill amends s. 553.5041(5)(a), F.S., to provide that the placement of access aisles for parking spaces may require a disabled driver to wheel behind their own parked vehicle. According to the commission, the general prohibition of requiring travel behind park vehicles is to prevent injury to wheel chair bound persons who may not be seen by the drivers of parked vehicles. The commission believes that this concern is not applicable when the driver of a vehicle is wheeling behind the vehicle that he or she just parked.

The bill amends s. 553.5041(5)(b), F.S., to delete the requirement that accessible spaces must be located on the shortest safely accessible route to an accessible building entrance. According to the commission, the ADA standards require placement on the shortest accessible route and the addition of the term “safely” may prohibit compliance with the ADA standards.

The bill amends s. 553.5041(5)(c)1., F.S., to delete the requirement for the placement of accessible aisles adjacent to accessible parking spaces. According to the commission, this provision is duplicative of the ADA standards.

The bill amends s. 553.5041(5)(d), F.S., to delete the requirement relating to proximity of parallel on-street parking to the beginning or end of a block or adjacent to alley entrances. According to the commission, this provision may unnecessarily limit the placement of parallel parking spaces and may violate the ADA requirement for accessible parking on the shortest accessible route to a building’s accessible entrances.

The bill deletes the current s. 553.5041(5)(e), F.S., which relates the slope and grade of the pavement where parallel parking is located. According to the commission, the slope and grade characteristics of parallel parking spaces on streets are dictated by the characteristics of the streets.

The bill deletes the current s. 553.5041(5)(f), F.S., which requires that curb ramps be placed outside parking spaces. According to the commission, this provision is addressed in the ADA standards.

The bill amends s. 553.5041(6), F.S., to provide that the parking space must be striped in a manner consistent with the standards of the controlling jurisdiction for other spaces. According to the commission, this provision would provide for the consistent application of the layout of parking spaces. The bill also decreases the height of parking signs for the disabled from a height

of at least 84 inches to a height of at least 60 inches. According to the commission, this provision is consistent with the ADA standards.

**Section 24** amends s. 553.505, F.S., which identifies the locations that are subject to the accessibility standards in ss. 553.501-553.513, F.S., and are not subject to the ADA standards. It deletes the reference to parking spaces, parking lots, and other parking facilities being governed by s. 553.5041, when that section provides increased accessibility. According to the commission, the deleted provision is affirmatively addressed in s. 553.5041, F.S., as amended by this bill.

**Section 25** amends s. 553.506, F.S., to update the reference to the ADA standards in regards to the powers of the commission.

**Section 26** amends s. 553.507, F.S., to revise the language that establishes the applicability of the accessibility requirements in part II of ch. 553, F.S. The bill deletes the provision that limited the application of the accessibility standards in part II of ch. 553, F.S., to buildings, structures, and facilities that were either under construction or under contract for construction on October 1, 1997. It also deletes the exception for buildings, structures, or facilities that were in existence on October 1, 1997, unless they are one of the listed types of structures.

**Section 27** amends s. 553.509, F.S., to update the reference to the ADA standards concerning the powers of the commission. It also creates ss. 553.509(1)(d)-(g), g., to expand the exception for locations that do not need to comply with the ADA standards for vertical accessibility to all levels of the location. The list is expanded to include:

- All play and recreation areas that meet the specified ADA standard.
- All employee areas that are exempted under the specified ADA standard.
- Facilities, sites, and spaces that are exempted by the specified ADA standards.

The bill also repeals the alternate power generators for elevators provisions in s. 553.509(2), F.S.

**Section 28** provides that any building or facility that is designed to conform with the 2010 ADA standards also complies with the Florida-specific requirements in part II of ch. 553, F.S., until the Florida Accessibility Code for Building Construction is updated to implement the changes to 2010 ADA standards to part II of ch. 553, F.S.

**Section 29** amends s. 553.73(1), F.S., to provide for a Florida supplement to the International Code Council's set of building codes, rather than being adopted by the commission as part of the code. This section also specifies the national codes to be used in forming the foundation for state building standards and codes, and allows the commission to approve technical amendments to the code once every three years rather than each year. The CS requires proposed amendments to base codes to provide a specific justification for why Florida is different from other areas that have adopted the base code.

This section also provides that a local government may not require mechanical equipment on the surface of a roof to meet code requirements until the "roof is replaced or recovered."

**Section 30** amends s. 553.74(1)(v), F.S., to revise the membership of the 25-member commission. It expands the qualifications for the participating member who is a representative of the green building industry, to include “a professional who is accredited under the International Green Construction Code (IGCC), or a professional who is accredited under Leadership in Energy and Environmental Design (LEED).”

**Section 31** amends s. 553.842, F.S., to require products advertised as hurricane, windstorm or impact protection from wind-borne debris during a hurricane or windstorm, actually be approved as such under Florida’s product approval program in s. 553.842, F.S., or s. 553.8425, F.S. It also provides that any person who advertises, sells, offers, provides, distributes, or markets a product as hurricane, windstorm, or impact protection from wind-borne debris without required approval is subject to the Florida Deceptive and Unfair Trade Practices Act under part II of ch. 501, F.S.

**Section 32** amends ss. 553.909(3), (4), and (5), F.S., to replace the specified energy efficiency requirements for commercial and residential pool pumps, motors, heaters and spas, with a reference to the Florida Energy Efficiency Code for Building Construction.

**Section 34** provides that this act shall take effect on July 1, 2011.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

According to the DBPR, there are a total of 1,022 licensed inspectors and contractors that could qualify for licensure by grandfathering on or before July 1, 2012, under this bill. Allowing additional certified inspectors and contractors to be licensed as home inspectors may result in between 500 and 1,000 new licensees that would pay the licensing fee. Based on the projection of 500 additional biennial licenses, the department estimates that this CS will generate \$165,000 in additional revenue for FY 2011-12 and \$100,000 in additional revenue for FY 2013-14.

**B. Private Sector Impact:**

As a result of this CS, Division I contractors will no longer be permitted to perform both the inspection and repairs on a home. The CS permits persons who are not licensed as a landscape architect to submit landscape design plans to government agencies for approval.

This CS will not allow local governments to require mechanical equipment on the surface of a roof to abide by the Florida Building Code until the roof is “replaced or recovered.”

This CS will also require that products advertised as hurricane, windstorm or impact protection actually be approved as such under Florida’s product approval program.

The Department of Business and Professional Regulation noted that the bill should result in more bulk investors getting into the business and that should improve the financial position of condominium associations in which a significant number of units are unsold and unoccupied. The department also stated that the purchase of unsold inventory would have a positive effect on the depressed condominium market.

The bill repeals the alternate emergency generated power requirement for elevators in high-rise residential dwellings in s. 553.509(2), F.S. The repeal of this provision may save the owners of such building the costs of compliance with the requirement. It is estimated by industry representatives that the cost to engineer and install the appropriate generator wiring, coupling, and transfer switch is approximately \$4,000 to \$6,000 per location. Options to power an elevator by portable generator include purchase and guaranteed services contracts in which a second party provides the generator, maintenance, and servicing for a fee. Costs for purchasing a generator are dependent on each individual application. As an approximate general rule, standby generators cost \$300 to \$500 per kilo-watt. Thus, a 20 KW standby generator would cost between \$6,000 and \$10,000. A 100 KW generator would cost between \$30,000 and \$50,000. The cost of a guaranteed services contract would be subject to many variables and is unknown. However, it is likely to be considerably less than the cost of a purchased generator.

**C. Government Sector Impact:**

State agencies will be required to adopt the International Green Construction Code (IGCC) as a sustainable building rating system for all new buildings and renovations to existing buildings. In addition, all county, municipal, school district, water management district, state university, community college, and state court buildings will be required to comply with the International Green Construction Code (IGCC) as part of the sustainable building rating system.

The Department of Business and Professional Regulation estimated that there will be between 500 and 1,000 new home inspector licenses as a result of this CS, generating an increase in licensing revenue. Based on the projection of 500 additional biennial licenses, the department estimates that this CS will generate \$165,000 in additional revenue for FY

2011-12 and \$100,000 in additional revenue for FY 2013-14.<sup>55</sup> The department also states that this CS will cause additional calls to the call center per year. According to the department, the additional workload can be handled within existing resources.

As a result of this CS, the commission will be required to provide a Florida supplement to the International Code Council's set of building codes instead of adopting the codes as part of the code. The commission will also be prohibited from adopting rules that limit any of the statutory exceptions or exemptions to coastal construction control and erosion projection requirements for the modification or repair of existing structures within the limits of an existing foundation.

The Department of Health will need to replace one of its public lodging industry seats on its advisory review board with a county or local building official.

This CS will require all state agencies to enforce the same LP gas container separation distances included in the 2011 version of NFPA 58.

The Department of Management Services estimates there will be an indeterminate positive impact on the cost of utilities as state facilities become more energy efficient. Conversely, the initial costs when renovations occur on state facilities will cost more to meet the energy efficiency standards.

#### **VI. Technical Deficiencies:**

None.

#### **VII. Related Issues:**

None.

#### **VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

##### **CS/CS by Regulated Industries on March 16, 2011:**

This committee substitute for committee substitute (CS/CS) differs from CS/SB 396 in that it:

- Amends s. 120.80(16)(d), F.S., to correct the cross-reference to s. 120.54(3)(b), F.S.;
- Amends s. 468.8324(1), F.S., to allow individuals to qualify for home inspector for individuals license if they possesses a Division I contractor license under part I of ch. 489, F.S., a Division II certified air-conditioning license under part I of ch. 489, F.S., and an electrical contractor license under part II of ch. 489, F.S. It also deletes the qualification provisions in the current ss. 468.8324(1), (2), and (3), F.S.;

<sup>55</sup> *Id.* at 3. The department states that applications cost \$125, new licenses cost \$200, and renewal licenses cost \$200 each.

- Amends the following provisions related to accessibility for handicapped persons in part II of ch. 533, F.S.: ss. 553.502, 553.503, 553.504, 553.5041, 553.505, 553.506, 553.507, and 553.509, F.S.;
- Creates an unnumbered section of the Florida Statutes to provide that compliance with 2010 ADA standards also complies with the Florida-specific requirements in part II of ch. 553, F.S.;
- Does not amend ss. 553.909(3), F.S., to delete the term “pool”; and
- Amends s. 553.842, F.S., to provide a person who fails to obtain the required approval for windstorm products is subject to the Florida Deceptive and Unfair Trade Practices Act under part II of ch. 501, F.S.

### **CS by Community Affairs on March 7, 2011:**

This CS makes the following changes:

- Exempts the adoption of the code from the requirements that the code go back to the Legislature for adoption before it becomes effective.
- Redefines the term “sustainable building rating” to also include the International Green Construction Code (IGCC) and substitutes references to the individual “green” codes with the term “sustainable building rating.”
- Allows Division I contractors and building officials to receive an endorsement to be a home inspector if they apply to the department before July 1, 2012.
- Requires specified hurricane mitigation training to be included as part of home inspectors’ required 14 hours of continuing education.
- Removes an exemption that allowed Division I contractors to do both the inspections and the repairs.
- Prohibits anything in part II of ch. 481, F.S., from precluding a landscape designer from submitting landscape design plans to government agencies for approval.
- Clarifies that Habitat for Humanity is exempt from the contracting licensing requirements for *rehabilitation* of residences.
- Moves the provisions of a glass and glazing specialty contractor from DBPR rule to the statute and allows them the ability to install hurricane shutters to their existing license permitted activities.
- Replaces one of the public lodging seats on the Department of Health’s advisory review board with a county or local building official.
- Prohibits the Department of Agriculture and Consumer services and other state agencies from requiring compliance with national LP gas tank standards unless they are in compliance with the minimum LP gas container separation distances included in the 2011 version of NFPA 58.
- Specifies that the definition for “propane” is as defined by the NFPA 58, Liquefied Petroleum Gas Code.
- Clarifies that a local government may not require that mechanical equipment on a roof meet the code requirements until the equipment or the roof is “removed, replaced or recovered.”
- Requires products advertised as hurricane, windstorm or impact protection *actually be approved as such* under Florida’s product approval program.
- Replaces the specific energy efficiency requirements for pool pumps, motors, heaters, and spas, with a reference to the Florida Energy Efficiency Code.

- Provides for a Florida supplement to the International Code Council's set of building codes that addresses provisions specific to Florida.
- Prohibits the commission from adopting rules that limit any of the exceptions or exemptions provided in paragraph (11)(a) of s. 161.053, F.S.
- Provides title amendments.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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