

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 Regulated Industries Committee

BILL: CS/SB 396

INTRODUCER: Community Affairs Committee and Senator Bennett

SUBJECT: Building Construction and Inspection

DATE: March 11, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	Fav/CS
2.	Oxamendi	Imhof	RI	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This committee substitute (CS) 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 CS 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 CS 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 CS 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. This CS 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 CS creates a license classification for “glass and glazing contractor.”

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 CS 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 CS 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 CS 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, 481.329, 489.103, 489.105, 489.107, 489.141, 514.028, 527.06, 527.21, 553.73, 553.74, 553.842, 553.909, and 627.711.

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).¹

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 Governor and confirmed by the Senate.² 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.³ The commission is required to update the code triennially based upon the “code development cycle of the national model building codes, . . .”⁴ Pursuant to s. 553.73, F.S., the commission is authorized to adopt internal

¹ Section 553.72(1), F.S.

² See s. 553.74(1)(a)-(w), F.S.

³ Sections 553.73 and 553.74, F.S.

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

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.⁵

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.,⁶ 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.⁷

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
- 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.⁸

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 \$300,000.⁹

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,

⁵ See ss. 553.76, 553.775, and 553.73(7), F.S., respectively.

⁶ Chapter 2007-235, s. 2, L.O.F.

⁷ Section 468.8311(4), F.S.

⁸ See s. 468.8313(2), F.S.

⁹ Sections 468.8313(6) and 468.8322, F.S.

unless he or she has engaged in disciplinary actions as prescribed in s. 468.832, F.S.¹⁰ 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; and
- Has passed a substantially similar national, regional, state, or territorial licensing examination.¹¹

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.¹²

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.¹³ 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 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.¹⁴

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 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

¹⁰ Section 468.8314(2), F.S.

¹¹ Section 468.8314(3), F.S.

¹² Section 468.8316(1), F.S.

¹³ Section 255.2575(1), F.S.

¹⁴ Section 255.252(3)-(4), F.S.

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.”¹⁵ 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).¹⁶

The ICC recently revealed the latest version of the IGCC, Public Version 2.0, in December of 2010.¹⁷ 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.¹⁸ 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 2010.¹⁹ The new Act “applies to any public project that is owned, leased or controlled by the State of Rhode Island.”²⁰

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.²¹

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

¹⁵ 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 (last visited on Feb. 15, 2011).

¹⁶ *Id.*

¹⁷ 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.

¹⁸ 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).

¹⁹ 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).

²⁰ *Id.*

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

code standards. Other standards which meet or exceed state requirements must also be considered.²²

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.²³ These methods must be used by the commission to approve “panel walls, exterior doors, roofing, skylights, windows, shutters, and structural components.”²⁴

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.²⁵ 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.²⁶

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.²⁷

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.²⁸

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.²⁹ 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.

²² 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.).

²³ See s. 553.842(5)(a)-(b), F.S.

²⁴ *Id.*

²⁵ Section 553.842(13), F.S.

²⁶ Section 553.842(16), F.S.

²⁷ See s. 553.8425(1)(a)-(f), F.S.

²⁸ Section 627.711(2), F.S.

²⁹ 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).

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.³⁰ 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.³¹

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."³² 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."³³ 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.

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(v2/3)

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

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

³² Section 553.900, F.S.

³³ Section 553.901, F.S.

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.”³⁴

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.³⁵

Landscape Design

The Legislature added the regulation of landscape designers to part II of ch. 481, F.S., in 1998.³⁶ 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.³⁷ 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:

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.

³⁴ Section 514.021(1), F.S.

³⁵ Section 514.028(1)(a)-(d), F.S.

³⁶ Chapter 1998-245, s. 27, L.O.F.

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

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.³⁸ 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.”³⁹

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.⁴⁰

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

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.”⁴¹

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

³⁸ 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).

³⁹ 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).

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

⁴¹ Sections 161.011 and 161.053(1)(a), F.S.

criteria for construction and related activities occurring seaward of the coastal construction control lines adopted by the department.⁴² 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.⁴³

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

⁴² 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 (last visited on March 8, 2011).

⁴³ 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).

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.

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 s. 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 3-6 amends 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 23 amend ss. 468.8316 and 627.711, F.S., respectively, to require at least 2 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 clarifies s. 468.8323, F.S., to state 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(3), 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 this chapter; or
- Possesses a Division I contractor license under part I, of ch. 489, F.S.

Section 11 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 12 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 13 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 rule⁴⁴ for glass and glazing specialty contractors and allows licensed glass and glazing contractors to install hurricane shutters.

Sections 14 and 15 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 16 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 17 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 18 amends s. 527.21(11), F.S., to specify that the definition for propane is defined by the NFPA 58, Liquefied Petroleum Gas Code.

Section 19 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 3 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 20 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

⁴⁴ See 61G4-15.018, F.A.C. The Construction Industry Contracting Board is within the Department of Business and Professional Regulation.

Green Construction Code (IGCC), or a professional who is accredited under Leadership in Energy and Environmental Design (LEED).”

Section 21 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, to actually be approved as such under Florida’s product approval program in s. 553.842, F.S., or s. 553.8425, F.S.

Section 22 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 24 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:

None.

B. Private Sector Impact:

Division I contractors and one and two family dwelling inspectors will be permitted to be licensed as home inspectors by endorsement. The Department of Business and Professional Regulation estimates that there are currently over 40,000 Division I Contractors and over 1,000 one and two family dwelling inspectors certified and licensed in Florida.⁴⁵

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.

⁴⁵ Florida Department of Business and Professional Regulation, *SB 396 Legislative Analysis*, at 2 (Jan. 28, 2011) (on file with the Senate Committee on Community Affairs).

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.

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 8,000 and 10,000 new licenses as a result of this CS, generating an increase in licensing revenue. Based on the projection of 8,000 additional biennial licenses, the department estimates that this CS will generate \$2,640,000 in revenue for FY 2011-12 and \$1,640,000 in revenue for FY 2013-14.⁴⁶ The department also states that this CS will cause a projected 13,513 additional calls to the call center per year, resulting in the need for an additional FTE, Regulatory Specialist II. The FTE, Regulatory Specialist II is estimated to cost the department \$51,202 per year.⁴⁷

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.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁴⁶ *Id.* at 3. The department states that applications cost \$125, new licenses cost \$200, and renewal licenses cost \$200 each.

⁴⁷ *Id.*

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

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