

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 915 Building Codes

SPONSOR(S): Regulatory Affairs Committee; Government Operations Appropriations Subcommittee; Business & Professions Subcommittee; Eagle and others

TIED BILLS: None **IDEN./SIM. BILLS:** CS/CS/CS/SB 1232

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	13 Y, 0 N, As CS	Whittier	Luczynski
2) Government Operations Appropriations Subcommittee	12 Y, 0 N, As CS	White	Topp
3) Regulatory Affairs Committee	16 Y, 0 N, As CS	Whittier	Hamon

SUMMARY ANALYSIS

The bill makes the following changes to law:

- Makes several adjustments to the training and experience required to take the certification exam for building code inspector, plans examiner, and building code administrator;
- Allows Category I liquefied petroleum gas dealers, LP gas installers, and specialty installers to disconnect and reconnect water lines in the servicing or replacement of an existing water heater;
- Exempts employees of apartment communities with 100 or more units from contractor licensing requirements if making minor repairs to existing electric water heaters or existing electric HVAC systems, if they meet certain training and experience criteria and the repair involves parts costing under \$1,000;
- Adds Division II contractors to the Florida Homeowners' Construction Recovery Fund section, which would allow homeowners to make a claim and receive restitution from the fund when they have been harmed by a Division II contractor, subject to certain requirements and financial caps;
- Exempts low-voltage landscape lighting with a cord and a plug from having to be installed by a licensed electrical contractor;
- Clarifies that a portable pool used for swimming lessons that are sponsored or provided by school districts is a private pool and not subject to regulation;
- Provides funding for the recommendations made by the Building Code System Uniform Implementation Evaluation Workgroup and provides funding for Florida Fire Code informal interpretations;
- Allows the creation of local boards to address conflicts between the Florida Building Code and the Florida Fire Prevention Code;
- Restricts the code from requiring more than one fire service access elevator in residential buildings of a certain height, and adds new provisions to the Florida Fire Prevention Code;
- Authorizes local building officials to issue phased permits for construction;
- Replaces advanced course provisions for code training with code-related training regarding the Florida Building Code Compliance and Mitigation Program and accreditation of courses related to the code;
- Adds Underwriters Laboratories, LLC, to the list of entities that are authorized to produce information on which product approvals are based, related to the code;
- Exempts wi-fi smoke alarms and those that contain multiple sensors, such as those combined with carbon monoxide alarms, from the 10-year, nonremovable, nonreplaceable battery provision;
- Prohibits adopting duct and air infiltration testing requirements of the newest edition of the building code;
- Creates the Calder Sloan Swimming Pool Electrical-Safety Task Force to study and report on specific standards, especially with regard to minimizing risks of electrocutions linked to swimming pools.

The bill has an insignificant negative fiscal impact on state government and does not appear to have a fiscal impact on local governments. The bill provides an effective date of July 1, 2015.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0915e.RAC

DATE: 4/16/2015

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Building Code Administrators, Plans Examiners, and Inspectors Certifications (Section 1)

Present Situation

As the housing market and construction industry in the state slowed down in recent years, local building code departments began trimming their staffs. Now, as the economy is beginning to recover, local building code departments are struggling to find individuals to fill Florida Building Code (code) inspector positions because the municipalities rely on inspectors with multiple inspection certifications to complete several inspections on a single trip. The current rules and statutes related to obtaining certifications, however, makes acquiring multiple certifications difficult.

Building Code Inspector and Plans Examiner

In order to take the examination for building code inspector or plans examiner certification, s. 468.609(2), F.S., provides that a person must be at least 18, be of good moral character, and meet eligibility requirements of one of the following criteria:

No.	Requirements
Option 1.	Demonstrates five years' combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to the certification category sought.
Option 2.	Demonstrates a combination of postsecondary education in the field of construction or a related field and experience which totals four years, with at least one year of such total being experience in construction, building code inspection, or plans review.
Option 3.	Demonstrates a combination of technical education in the field of construction or a related field and experience which totals four years, with at least one year of such total being experience in construction, building code inspection, or plans review.
Option 4.	Currently holds a standard certificate as issued by the Florida Building Code Administrators and Inspectors Board (Board) or a firesafety inspector license issued pursuant to chapter 633, has a minimum of five years' verifiable full-time experience in inspection or plan review, and satisfactorily completes a building code inspector or plans examiner training program of not less than 200 hours in the certification category sought. The Board shall establish by rule criteria for the development and implementation of the training programs.
Option 5.	Demonstrates a combination of the completion of an approved training program in the field of building code inspection or plan review and a minimum of two years' experience in the field of building code inspection; plan review; fire code inspections and fire plans review of new buildings as a firesafety inspector; or construction. The approved training portion of this requirement shall include proof of satisfactory completion of a training program ¹ of not less than 300 hours which is approved by the Board in the chosen category of building code inspection or plan review in the certification category sought with not less than 20 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificate holder.

Individuals are able to meet the above requirements for a single certification; however, it is difficult to earn additional certifications while employed as an inspector or plans examiner.

Building Code Administrator

¹ The Board shall coordinate with the Building Officials Association of Florida, Inc., to establish by rule the development and implementation of the training program.

In order to take the examination for building code administrator certification, s. 468.609(3), F.S., provides that a person must be at least 18, be of good moral character, and meet eligibility requirements of one of the following criteria:

No.	Requirements
Option 1.	Demonstrates 10 years' combined experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least five years of such experience in supervisory positions.
Option 2.	Demonstrates a combination of postsecondary education in the field of construction or related field, no more than five years of which may be applied, and experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent which totals 10 years, with at least five years of such total being experience in supervisory positions.

Effects of Proposed Changes

The bill makes several adjustments to the training and experience required to take the certification exam for building code inspector, plans examiner, and building code administrator. Specifically, the bill makes the following major changes to the certification requirements:

Building Code Inspector and Plans Examiner

For Option 4 above, under *Building Code Inspector and Plans Examiner*, the bill reduces the number of years' experience in inspection or plan review from five to three years and lowers the hour requirements for the training program from 200 to 100 hours.

For Option 5 above, under *Building Code Inspector and Plans Examiner*, the bill lowers the hour requirements for the training program from 300 to 200 hours and limits the required hours of instruction from not less than 20 hours to at least 20 hours but not more than 30 hours.

The bill adds a sixth option for eligibility requirements to take the building code inspector or plans examiner certification exam. The bill provides:

No.	Requirements
Option 6.	Currently holds a standard certificate issued by the Board or a firesafety inspector license issued pursuant to chapter 633 and: <ul style="list-style-type: none"> • Has at least five years of verifiable full-time experience as an inspector or plans examiner in a standard certification category currently held or has a minimum of five years' verifiable full-time experience as a firesafety inspector licensed pursuant to chapter 633; and • Satisfactorily completes a building code inspector or plans examiner classroom training course or program that provides at least 200 but not more than 300 hours in the certification category sought, except for one-family and two-family dwelling training programs which are required to provide at least 500 but not more than 800 hours of training as prescribed by the Board. The Board shall establish by rule criteria for the development and implementation of classroom training courses and programs in each certification category.

For Option 2 above, under *Building Code Administrator*, the bill adds a requirement of at least 20 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificateholder, in board-approved courses not to exceed 30 hours.

Apartment Maintenance Employees (Section 6)

Present Situation

Part I of ch. 489, F.S., regulates licensed construction contractors and provides that this regulation is necessary in the “interest of the public health, safety, and welfare.”² Section 489.103, F.S., provides exemptions to Part I.

Section 489.103(9), F.S. (also referred to as the “Handyman Exemption”) provides an exemption to Part I for any work or operation of a casual, minor, or inconsequential nature in which the aggregate contract price for labor, materials, and all other items is less than \$1,000. The exemption does not apply:

- If the construction, repair, remodeling, or improvement is a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than \$1,000 for the purpose of evading Part I; or
- To a person who advertises that he or she is a contractor or otherwise represents that he or she is qualified to engage in contracting.

Effects of Proposed Changes

The bill adds an exemption to Part I for an employee of an apartment community or apartment community management company who makes minor repairs to existing electric water heaters or to existing electric heating, venting, and air-conditioning systems. There are four conditions that must be met if utilizing this exemption:

- The employee:
 - Does not hold himself or herself or his or her employer out to be licensed or qualified by a licensee;
 - Does not perform any acts other than acts authorized by this exemption that constitute contracting;
 - Receives compensation from and is under the supervision and control of an employer who deducts the FICA and withholding tax and who provides workers' compensation, as prescribed by law; and
 - Holds a current certificate for apartment maintenance technicians issued by the National Apartment Association and accredited by the American National Standards Institute.
- Requirements for obtaining such certificate must include at least:
- One year of apartment or rental housing maintenance experience;
 - Successful completion of at least 90 hours of courses or online content that covers electrical maintenance and repair; plumbing maintenance and repair; heating, venting, or air-conditioning system maintenance and repair; appliance maintenance and repair; and interior and exterior maintenance and repair; and
 - Completion of all examination requirements.
- The equipment:
 - Is already installed on the property owned by the apartment community or managed by the apartment community management company;
 - Is not being modified except to replace components necessary to return the equipment to its original condition, and the partial disassembly associated with the replacement;

² s. 489.101, F.S.

- Is a type of equipment commonly installed in similar locations; and
- Is repaired with new parts that are functionally identical to the parts being replaced.
- An individual repair does not involve replacement parts that cost more than \$1,000. An individual repair may not be so extensive as to be a functional replacement of the electric water heater or the existing electric heating, venting, or air-conditioning system being repaired.
- The property owned by the apartment community or managed by the apartment community management company includes at least 100 apartments.

Propane Gas Water Heater Installations (Section 7)

Present Situation

Currently, natural gas utility employees have the authority under s. 489.105, F.S., to disconnect and reconnect water lines when servicing and replacing “existing” water heaters. Although natural gas and propane are piped in the same manner and have the same properties and pressures inside homes, the propane industry does not have the authority to disconnect and reconnect water lines and must contract with plumbers to start and complete this task. This creates additional costs for propane water heater customers. According to the Florida Natural Gas Association, the installers of each of these gases have the same capabilities for their job duties. For example, currently there are three companies within the state that have natural gas and propane sides to their operations. Their employees can disconnect and reconnect water lines when servicing natural gas water heaters, but the same employees cannot do this when servicing propane water heaters.³

Effects of Proposed Changes

The bill extends the authority to disconnect and reconnect water lines in the servicing or replacement of an existing water heater to licensed Category I liquefied petroleum gas dealers, LP gas installers, and specialty installers.

Florida Homeowners’ Construction Recovery Fund (Sections 9-13)

Present Situation

The Florida Homeowners’ Construction Recovery Fund (fund) is created in s. 489.140, F.S., as a separate account in the Professional Regulation Trust Fund.

According to the Department of Business and Professional Regulation (DBPR), the fund was created in 1993, after Hurricane Andrew, as a fund of last resort to compensate consumers who contracted for construction, repair, or improvement of their Florida residence and who suffered monetary damages due to the financial misconduct, abandonment, or fraudulent statement of the licensed contractor,⁴ financially responsible officer, or business organization licensed under ch. 489, F.S.⁵

The fund is financed by a 1.5 percent surcharge on all building permit fees associated with the enforcement of the Florida Building Code.⁶ The proceeds from the surcharge are allocated equally to the fund and support the operations of the Building Code Administrators and Inspectors Board.^{7, 8} A claimant must be a homeowner and the damage must have been caused by a Division I contractor.⁹

³ Email from a representative of the Florida Natural Gas Association, RE: propane tank installations (Mar. 13, 2015).

⁴ Florida Department of Business and Professional Regulation, Agency Analysis of 2014 Senate Bill 1098 (Mar. 11, 2014).

⁵ s. 489.1402(1)(g), F.S.

⁶ s. 468.631(1), F.S.

⁷ *Id.*

⁸ In 2013, the Legislature gave DBPR the authority to transfer excess cash to the fund if it determines it is not needed to support the operation of the Building Code Administrators and Inspectors Board; however, DBPR may not transfer excess cash that would exceed the amount appropriated in the General Appropriations Act and any amount approved by the Legislative Budget Commission pursuant to s. 216.181, F.S. See sect. 2, ch. 2013-187, Laws of Fla.

⁹ s. 489.1402(1)(c), (d), and (f), F.S.

The fund is not permitted to compensate consumers who contracted with Division II contractors or to compensate consumers who suffered damages as a result of payments made in violation of the Florida Construction Lien Law under part I of ch. 713, F.S.

Division I contractors are listed in s. 489.105(3)(a)-(c), F.S., as the following:

- General contractors
- Building contractors
- Residential contractors

Division II contractors are listed in s. 489.105(3)(d)-(q), F.S., as the following:

• Sheet metal contractors	• Residential pool/spa contractors
• Roofing contractors	• Swimming pool/spa servicing contractors
• Class A air-conditioning contractors	• Plumbing contractors
• Class B air-conditioning contractors	• Underground utility and excavation contractors
• Class C air-conditioning contractors	• Solar contractors
• Mechanical contractors	• Pollutant storage systems contractors
• Commercial pool/spa contractors	• Specialty contractors

Decisions regarding the fund are made by the Construction Industry Licensing Board which is housed within DBPR.

Construction Industry Licensing Board

The Construction Industry Licensing Board (CILB) consists of 18 members who are responsible for licensing and regulating the construction industry in this state.¹⁰ The CILB is divided into Division I and Division II members following the definitions of Division I and Division II contractors respectively, jurisdiction falling to each division relative to their scope.¹¹ Five members constitute a quorum for each division.

The CILB meets regularly to consider applications for licensure, to review disciplinary cases, and to conduct informal hearings related to licensure and discipline.¹² It engages in rulemaking to implement the provisions set forth in its statutes and conducts other general business, as necessary.¹³

The CILB, with respect to actions for recovery from the fund, may “intervene, enter an appearance, file an answer, defend the action, or take any action it deems appropriate and may take recourse through any appropriate method of review” on behalf of the state.¹⁴ In accordance with DBPR rules, “The Board shall either authorize payment of the claim in full or in part, or deny the claim in full, by entry of a Final Order in accordance with Section 489.143, F.S. Action by the Board shall be considered final agency action.”¹⁵

Section 489.129, F.S., grants the CILB the authority to take actions against any certificateholder or registrant if the contractor, financially responsible officer, or business organization for which the contractor is a primary qualifying agent, a financially responsible officer, or a secondary qualifying agent responsible under s. 489.1195, F.S., is found guilty of certain acts, including the acts that may qualify a claim to the fund. Specifically, the acts that may qualify a claim to the fund are financial

¹⁰ s. 489.107, F.S.

¹¹ s. 489.107(4)(c), F.S.

¹² Florida Department of Business and Professional Regulation, Construction Industry Licensing Board, *available at* <http://www.myfloridalicense.com/DBPR/pro/cilb/index.html> (Last visited Mar. 18, 2015).

¹³ s. 489.108, F.S.

¹⁴ s. 489.142(1), F.S.

¹⁵ Rule 61G4-21.004(7), F.A.C.

misconduct, abandonment, or fraudulent statement of the contractor¹⁶ and are described in s. 489.129(1)(g), (j), or (k), F.S. If the violation is not expressly based on s. 489.129(1)(g), (j), or (k), F.S., the claimant must demonstrate that the contractor engaged in activity that is described in those subsections.¹⁷

Financial Misconduct

Section 489.129(1)(g), F.S., allows disciplinary proceedings for committing mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when:

- Valid liens have been recorded against the customer's property by the contractor for supplies or services ordered by the contractor for which the customer has paid the contractor, but the contractor has not removed the liens within 75 days of such liens;
- The contractor has abandoned a job and the percentage of completion is less than the percentage of the contract price received by the contractor, unless the contractor is entitled to retain such funds under the terms of the contract or refunds the excess funds within 30 days after abandonment; or
- The contractor's job has been completed, and the customer has been made to pay more than the original contract price, as adjusted for subsequent change orders, unless such increase in cost was the result of circumstances beyond the contractor's control, was caused by the customer, or was otherwise permitted by the terms of the contract between the contractor and the customer.

Abandonment of the Project

Section 489.129(1)(j), F.S., allows disciplinary proceedings for abandoning a construction project, which is presumed after 90 days if the contractor terminates the project without just cause or without proper notification to the owner, including the reason for termination, or fails to perform work without just cause for 90 consecutive days.

Fraudulent Statement by the Contractor

Section 489.129(1)(k), F.S., allows disciplinary proceedings for signing a statement with respect to a project or contract:

- Falsely indicating that the work is bonded;
- Falsely indicating that payment has been made for all subcontracted work, labor, and materials which results in a financial loss to the owner, purchaser, or contractor; or
- Falsely indicating that workers' compensation and public liability insurance are provided.

¹⁶ Florida Department of Business and Professional Regulation, Agency Analysis of 2014 Senate Bill 1098 (Mar. 11, 2014).

¹⁷ Rule 61G4-21.003(3), F.A.C.

Discipline

Section 489.129, F.S., allows the Board to take the following actions given the circumstances above:

- Place on probation or reprimand the licensee;
- Revoke, suspend, or deny the issuance or renewal of the certificate or registration;
- Require financial restitution to a consumer for financial harm directly related to a violation of a provision of part 1 of ch. 489, F.S.;
- Impose an administrative fine not to exceed \$10,000 per violation;
- Require continuing education; or
- Assess costs associated with investigation and prosecution.

Claims Process

The claimant must have obtained a final judgment, arbitration award, or Board-issued restitution order against the contractor for damages that are a direct result of a compensable violation. A claim for recovery must be made within one year after the conclusion of any civil, criminal, administrative action, or award in arbitration based on the act.¹⁸

Completed claim forms must be submitted with:

- A copy of the complaint that initiated action against the contractor, a certified copy of the underlying judgment, order of restitution, or award in arbitration, together with the judgment;
- A copy of any contract between the claimant and the contractor, including change orders;
- Proof of payment to the contractor and/or subcontractors;
- Copies of any liens and releases filed against the property, together with the Notice of Claim and Notice to Owner; copies of applicable bonds, sureties, guarantees, warranties, letters of credit and/or policies of insurance; and
- Certified copies of levy and execution documents and proof of all efforts and inability to collect the judgment or restitution order, and other documentation as may be required by the Board to determine causation of injury or specific actual damages.¹⁹

Pursuant to s. 489.143, F.S., each recovery claim is limited to both a per-claim maximum amount and a total lifetime per-contractor maximum. For contracts entered prior to July 1, 2004, the fund claims are limited to \$25,000 per claim with a total life time aggregate limit of \$250,000 per licensee.²⁰ For contracts entered after July 1, 2004, the per-claim payment limits are increased to \$50,000 with a total lifetime aggregate of \$500,000 per licensee.²¹ Claims are paid in the order that they are filed.²²

The Board will not compensate claimants from the recovery fund for any of the following reasons.

- The claimant is a licensee who acted as the contractor;
- The claimant is the spouse of the judgment debtor or licensee or a personal representative of such spouse;
- The claim is based upon a construction contract in which the licensee was acting with respect to the property owned or controlled by the licensee;
- The claim is based upon a construction contract in which the contractor did not hold a valid and current license at the time of the construction contract;
- The claimant was associated in a business relationship with the licensee other than the contract at issue;
- When, after notice, the claimant has failed to provide documentation in support of the claims required by rule;

¹⁸ Rule 61G4-21.003(5), F.A.C.

¹⁹ Rule 61G4-21.003(2), F.A.C.

²⁰ s. 489.143(2) and (5), F.S.

²¹ *Id.*

²² s. 489.143(6), F.S.

- Where the licensee has reached the aggregate limit; or
- The claimant has contracted for scope of work described in s. 489.105(3)(d)-(q), F.S. [Division II contractors].²³

The fund is also not permitted to compensate consumers who suffered damages as a result of payments made in violation of Florida Construction Lien Law under part I of ch. 713, F.S.

Duty of Contractor to Give Notice of Fund

Any agreement or contract for the repair, restoration, improvement, or construction to residential real property must contain a statutorily mandated notification statement informing the consumer of their rights under the recovery fund, unless the total contract price is less than \$2,500.²⁴

Effects of Proposed Changes

The bill revises the law to include Division II contractors within the parameters of the fund. Specifically, it revises the statutory limits on recovery payments to include Division II contracts beginning January 1, 2016, for any contract entered into after July 1, 2015. The bill limits Division II claims to \$15,000 per claim with a \$150,000 lifetime maximum per licensee.

The bill removes the prohibition against paying consumer claims where the damages resulted from payments made in violation of the Florida Construction Lien Law for contracts entered into after July 1, 2015.

The bill revises language for the notice that contractors must give to homeowners informing them of their rights under the recovery fund to advise that payments from the fund are up to a limited amount.

Low-Voltage Landscape Lighting (Section 14)

Present Situation

Chapter 489, Part II, regulates electrical and alarm system contractors. This regulation seeks to enable qualified persons to obtain licensure, while ensuring that applicants have sufficient technical experience in the applicable trade prior to licensure, are tested on technical and business matters, and upon licensure are made subject to disciplinary procedures and effective policing of the profession.²⁵

Section 489.503, F.S., provides exemptions to Part II for persons performing various tasks such as someone licensed as a fire protection system contractor while engaged in work as a fire protection system contractor, an employee monitoring an alarm system of a business, a lightning rod or related systems installer, etc.

Effects of Proposed Changes

The bill creates an exemption from the requirement to be a licensed electrical contractor for a person who installs low-voltage landscape lighting that contains a factory-installed electrical cord with a plug and does not require installation, wiring, or other modification to the electrical wiring of a structure.

Public Portable Swimming Pools (Sections 16 through 18)

Present Situation

The Florida Building Commission (Commission) has included standards for the construction of public swimming pools in the code which are enforced by local building departments throughout the state. In

²³ Rule 61G4-21.004(3), F.A.C.

²⁴ s. 489.1425, F.S.

²⁵ s. 489.501, F.S.

2012, the Legislature determined that local building entities would have jurisdiction over permitting, plan reviews, and inspections of public swimming pools and public bathing places and that the Department of Health (DOH) would continue to have jurisdiction over the operating permits for public swimming pools and public bathing places.²⁶

The Miami-Dade school district has operated a learn-to-swim program for over 20 years. One of the ways they provide swimming lessons is through the use of portable pools. The DOH recently advised the school district that using portable pools to provide swimming lessons do not meet DOH's criteria and the school district cannot use them for that purpose.²⁷

Effects of Proposed Changes

The bill amends the definition of a private pool in s. 514.011, F.S., to include portable pools used exclusively for the purpose of providing swimming lessons or related instruction in support of an established "Learn to Swim" educational program sponsored or provided by a county school district as a private pool and shall not be regulated as a public pool.

Florida Accessibility Code for Building Construction (Sections 19 and 22)

Present Situation

The 1993 Legislature created the Florida Americans with Disability Accessibility Implementation Act which incorporated the architectural accessibility requirements of the Americans with Disabilities Act of 1990.²⁸ The Florida Accessibility Code for Building Construction contains scoping and technical requirements for accessibility to sites, facilities, buildings, and elements by individuals with disabilities. The requirements are to be applied during the design, construction, additions to, and alteration of sites, facilities, buildings, and elements.²⁹

Section 553.512, F.S., provides that the "Florida Building Commission shall provide by regulation criteria for granting individual modifications of, or exceptions from, the literal requirements of this part upon a determination of unnecessary, unreasonable, or extreme hardship, provided such waivers shall not violate federal accessibility laws and regulations and shall be reviewed by the Accessibility Advisory Council."

The Accessibility Advisory Council consists of seven members, who are to be knowledgeable in the area of accessibility for persons with disabilities. The Secretary of DBPR is to appoint the following for the membership:

- A representative from the Advocacy Center for Persons with Disabilities, Inc.;
- A representative from the Division of Blind Services;
- A representative from the Division of Vocational Rehabilitation;
- A representative from a statewide organization representing the physically handicapped;
- A representative from the hearing impaired;
- A representative from the President, Florida Council of Handicapped Organizations; and
- A representative of the Paralyzed Veterans of America.

According to DBPR, the Florida Council of Handicapped Organizations no longer exists.³⁰

All council member are limited to two four-year terms and any member may be replaced by the Secretary if he or she has three unexcused absences from meetings. The members serve without

²⁶ Ch. 2012-184, Laws of Fla.

²⁷ March 24, 2015, email on file with the Government Operations Appropriations Subcommittee.

²⁸ Preface to the 2010 Florida Building Code, Accessibility.

²⁹ Section 101.1, of the 2012 Florida Accessibility Code for Building Construction.

³⁰ Correspondence from Department of Business and Professional Regulation to Mr. Warren H. Jernigan, President, Pensacola Pen Wheels Inc. Employ the Handicapped Council, Feb. 19, 2014.

compensation, but are entitled to reimbursement for per diem and travel expenses as provided by s. 112.061, F.S.

Section 553.775, F.S., provides procedures that may be invoked regarding interpretations of the Florida Accessibility Code for Building Construction, which include requiring the Commission to coordinate with the Building Officials Association of Florida, Inc., to designate panels of five members each to hear requests to review decisions of local building officials.

Effects of Proposed Changes

The bill replaces the defunct Florida Council of Handicapped Organizations appointee category with Pensacola Pen Wheels Inc. Employ the Handicapped Council, which is

An advocacy group that strives to aid the disabled through improving quality of life, work placement, and community involvement. For over forty years the Pensacola-based group has led the disabled community by working together, growing together, and winning together. The organization focuses on ensuring accessibility for the disabled (ADA compliance, encouraging businesses and government organizations to improve their facilities to better accommodate the disabled).³¹

The bill also reduces the review panels of five members each to one panel of seven members. Five of the members must be licensed as building code administrators, one member must be a licensed architect, and one member must be licensed as an engineer.

Building Code Compliance and Mitigation Program (Sections 20 and 24) and Code-Related Training (Sections 2, 3, 4, 5, 8 and 15)

Present Situation

Education and Training Requirements

The DBPR administers the Florida Building Code Compliance and Mitigation Program (program), which was created to develop, coordinate, and maintain education and outreach to persons who are required to comply with the code and ensure consistent education, training, and communication of the code's requirements, including, but not limited to, methods for mitigation of storm-related damage.³² The program is geared toward persons licensed and employed in the design and construction industries. The services and materials under the program must be provided by a private, nonprofit corporation under contract with DBPR.³³

The education and training requirements of the program include maintaining a thorough knowledge of the code, a thorough knowledge of code compliance and enforcement, duties related to consumers, project completion, and compliance of design and construction to protect against consumer harm, storm damage, and other damage. The Commission establishes, via rules, the qualifications of accreditors and criteria for the accreditation of courses. Currently, the program requires advanced code courses for each profession referenced in the code.

Proponents of the bill state the following:

The advanced code course(s) was initiated when we first adopted a statewide uniform building code. It was mandated that all contractors and design professionals take the "advanced" code course. The various boards adopted the mandate as part of their rules and it became synonymous with any course that was "approved" by the Florida Building Commission. It is now just a duplicative process in that you have to get a course approved

³¹ Email correspondence from staff of Representative Clay Ingram, Apr. 16, 2015.

³² s. 553.841(2), F.S.

³³ s. 553.841(3), F.S.

by the FBC as an “advanced” course to access any of the training dollars through the Building A Safer Florida program. The same courses are approved individually by the various professional boards. It is a duplicative, costly process—you have to pay an accreditor to accredit the course, take it to the FBC Education POC and then take it to the full Commission for approval. The courses are the same whether they get a stamp of “advanced” or not.³⁴

Surcharge

Section 553.721, F.S., provides for the DBPR to collect a surcharge that is 1.5 percent of the permit fees associated with enforcement of the code as defined by the uniform account criteria and specifically the uniform account code for building permits adopted for local government financial reporting. The minimum amount to be collected on any permit issued is \$2. The proceeds that are collected from the surcharge are remitted to DBPR and deposited in the Professional Regulation Trust Fund quarterly. These monies fund the Florida Building Code Compliance and Mitigation Program and the Commission.³⁵ Section 553.721, F.S., provides that the Florida Building Code Compliance and Mitigation Program is allocated \$925,000 from this fund each fiscal year.³⁶

Building Code System Uniform Implementation Evaluation Workgroup

The Building Code System Uniform Implementation Evaluation Workgroup was created on January 31, 2012, by the Commission and is composed of building industry stakeholders. Its objective was to evaluate the success of the Commission to implement a unified building code throughout the state.³⁷

Fire Code Interpretation Committee

Section 633.212, F.S., provides legislative intent that the “Florida Fire Prevention Code be interpreted by fire officials and local enforcement agencies in a manner that reasonably and cost-effectively protects the public safety, health, and welfare; ensures uniform interpretations throughout this state; and provides just and expeditious processes for resolving disputes regarding such interpretations.” Further, it is the intent of the Legislature that the Division of State Fire Marshal establish a Fire Code Interpretation Committee composed of seven members and seven alternates, equally representing each area of the state, to which a person can pose questions regarding the interpretation of the Florida Fire Prevention Code provisions.³⁸

Each nonbinding interpretation of Florida Fire Prevention Code provisions must be provided within 15 business days after receipt of a request for interpretation. The response period may be waived with the written consent of the party requesting the nonbinding interpretation and the State Fire Marshal. The interpretations are advisory only and nonbinding on the parties or the State Fire Marshal.^{39, 40}

Effects of Proposed Changes

Education and Training Requirements

The bill authorizes, rather than directs, DBPR to develop code-related training, in place of advanced modules, for each profession when administering the Florida Building Code Compliance and Mitigation

³⁴ Email from a representative of the Building Industry, RE: advanced courses in Florida Building Code Compliance and Mitigation Program (Mar. 8, 2015).

³⁵ The Florida Building Code Compliance and Mitigation Program is established in s. 553.841, F.S.

³⁶ Funds used by DBPR as well as funds to be transferred to DOH shall be as prescribed in the annual General Appropriations Act.

³⁷ Jeff A. Blair, *Building Code System Uniform Implementation Evaluation Workgroup Report to the Florida Building Commission*, p. 19 (Apr. 8, 2013).

³⁸ s. 633.212(1), F.S.

³⁹ s. 633.212(3), F.S.

⁴⁰ The Division of State Fire Marshal may charge a fee, not to exceed \$150, for each request for a review or nonbinding interpretation.

Program. The bill also removes the requirement that the Commission provide for the accreditation of courses related to the code. When this requirement is removed, the Florida Building Code Compliance and Mitigation Program course providers will still be required to have their course reviewed and approved under the appropriate board that would be reviewing and approving the course for continuing education purposes.

Surcharge; Building Code System Uniform Implementation Evaluation Workgroup; and Fire Code Interpretation Committee

The bill provides funding from the existing funds of the Florida Building Code Compliance and Mitigation Program, not to exceed \$30,000 in Fiscal Year 2015-2016, for the recommendations made by the Building Code System Uniform Implementation Evaluation Workgroup. It also provides funding for Florida Fire Code Committee for nonbinding interpretations, not to exceed \$15,000 each fiscal year Florida Building Code and Florida Fire Prevention Code.

The bill provides the State Fire Marshal with rule-making authority to address changes made concerning Florida Fire Prevention Code informal interpretations.

Florida Building Code and the Florida Fire Prevention Code (Sections 21 and 22)

Present Situation

Section 553.73(11)(a), F.S., provides that,

In the event of a conflict between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code as applied to a specific project, the conflict shall be resolved by agreement between the local building code enforcement official and the local fire code enforcement official in favor of the requirement of the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and an equivalent method of construction.

Any decision made by the local fire official and the local building official may be appealed to a local administrative board designated by the municipality, county, or special district having firesafety responsibilities. If the decision of the local fire official and the local building official is to apply the provisions of either the Florida Building Code or the Florida Fire Prevention Code and the Life Safety Code, the board may not alter the decision unless the board determines that the application of such code is not reasonable.⁴¹

If the decision of the local fire official and the local building official is to adopt an alternative to the codes, the local administrative board shall give due regard to the decision rendered by the local officials and may modify that decision if the administrative board adopts a better alternative, taking into consideration all relevant circumstances. In any case in which the local administrative board adopts alternatives to the decision rendered by the local fire official and the local building official, such alternatives shall provide an equivalent degree of lifesafety and an equivalent method of construction as the decision rendered by the local officials.⁴²

If the local building official and the local fire official are unable to agree on a resolution of the conflict between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code, the local administrative board shall resolve the conflict in favor of the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and an equivalent method of construction.⁴³

Effects of Proposed Changes

⁴¹ s. 553.73(11)(b), F.S.

⁴² *Id.*

⁴³ s. 553.73(11)(c), F.S.

The bill authorizes local boards that are created to address issues arising under the Florida Building Code and the Florida Fire Prevention Code to combine the appeals boards to create a single, local board having jurisdiction over matters arising under either or both codes. This combined board has the authority to grant alternatives or modifications but doesn't have the authority to waive the requirements of the Fire Prevention Code. The bill provides that in order to meet the quorum requirement, there must be at least one member of the board who is a fire protection contractor, a fire protection design professional, a fire department operations professional, or a fire code enforcement professional.

The bill prohibits the code from requiring more than one fire service access elevator in residential occupancies where the highest occupiable floor is less than 420 feet above the level of fire service access. The remaining elevators must be provided with specified emergency operations.

The bill gives specific requirements for situations where fire service access elevators are required and where transient residential occupancies occur at floor levels above 420 feet above the level of fire service access.

Phased Permitting (Section 23)

Present Situation

Section 553.79, F.S., prohibits any person, firm, corporation, or governmental entity to construct, erect, alter, modify, repair, or demolish any building within the state without first obtaining a permit therefor from the appropriate enforcing agency.⁴⁴ Further, a permit may not be issued for any building construction, erection, alteration, modification, repair, or addition unless the applicant for such permit complies with the requirements for plan review established by the Commission within the code. However, the code shall set standards and criteria to authorize preliminary construction before completion of all building plans review, including, but not limited to, special permits for the foundation only.⁴⁵

Section 105.13 (phased permit approval), of the code provides the following:

After submittal of the appropriate construction documents, the building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted. Corrections may be required to meet the requirements of the technical codes.

Effects of Proposed Changes

The bill provides that after an applicant submits the appropriate construction documents, the local building official may issue a phased permit. The holder of a phased permit for the foundation or other parts of a building or structure may proceed with permitted activities at the holder's own risk and without assurance that a master building permit for the entire structure will be granted. The building official may require corrections to the phased permit to meet the requirements of the technical codes.

Product Evaluation and Approval (Section 25)

Present Situation

The State Product Approval System provides manufacturers an opportunity to have building products approved for use in Florida by the Commission rather than seeking approval in each local jurisdiction

⁴⁴ s. 553.79(1), F.S.

⁴⁵ s. 553.79(6), F.S.

where the product is used.⁴⁶ Section 553.842, F.S., directs the Commission to adopt rules to develop and implement a product evaluation and approval system that applies statewide to operate in coordination with the code. The Commission may enter into contracts to provide for administration of the product evaluation and approval system. The product evaluation and approval system is to rely on national and international consensus standards, whenever adopted by the code, for demonstrating compliance with code standards. Other standards which meet or exceed established state requirements are also to be considered.

Section 553.842(8), F.S., authorizes the Commission to adopt rules to approve the following types of entities that produce information on which product approvals are based. The entities must comply with a nationally recognized standard demonstrating independence or no conflict of interest. The Commission is directed to specifically approve the following evaluation entities:⁴⁷

- The National Evaluation Service;
- The International Association of Plumbing and Mechanical Officials Evaluation Service;
- International Code Council Evaluation Services; and
- The Miami-Dade County Building Code Compliance Office Product Control Division.

Effects of Proposed Changes

The bill adds Underwriters Laboratories, LLC (UL), an independent safety consulting and certification company,⁴⁸ to the list of entities that are authorized to produce information on which product approvals are based.

Smoke Alarms in One-Family and Two-Family Homes (Section 26)

Present Situation

In relation to smoke alarms in one-family and two-family dwellings and townhomes, the code provides that, "When alterations, repairs or additions requiring a permit occur, or when one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be equipped with smoke alarms located as required for new dwellings."⁴⁹

Section 553.883, F.S., requires owners of one-family and two-family dwellings and townhomes undergoing a repair, or a level 1 alteration as defined in the code, to use a smoke alarm powered by a 10-year non-removable, non-replaceable battery in lieu of retrofitting the dwelling with a smoke alarm powered by the electrical system.

Effective January 1, 2015, each battery-powered smoke alarm that is installed or that replaces an existing battery-powered smoke alarm must be powered by a non-removable, non-replaceable battery that powers the alarm for a minimum of 10 years. These battery requirements do not apply to a fire alarm, smoke detector, smoke alarm, or ancillary component that is electronically connected as a part of a centrally monitored or supervised alarm system.

Effects of Proposed Changes

The bill adds the following exceptions to the smoke alarm battery requirement:

- An alarm that uses a low-power or radio frequency wireless communication signal; or

⁴⁶ Florida Department of Business and Professional Regulation, Agency Analysis of 2015 House Bill 915, p. 2 (Mar. 9, 2015).

⁴⁷ Architects and engineers licensed in this state are also approved to conduct product evaluations, as provided in s. 553.842(5), F.S.

⁴⁸ According to Underwriters Laboratories, LLC, "UL is a global independent safety science company with more than a century of expertise innovating safety solutions from the public adoption of electricity to new breakthroughs in sustainability, renewable energy and nanotechnology." <http://UL.com>, (last visited Mar. 5, 2015).

⁴⁹ Section R314.3.1 of the 2010 Florida Building Code, Residential.

- An alarm that contains multiple sensors, such as a smoke alarm combined with a carbon monoxide alarm or other devices as the State Fire Marshal designates by rule.

Duct and Air Infiltration Tests (Section 27)

Present Situation

As of June 30, 2015, the new 5th Edition (2014) Florida Building Code, Energy Conservation, will go into effect. Part of this new code is section R402.4.1.2 (see below). According to this section, a home constructed to this code will be required to be tested via a blower door test/air infiltration test to demonstrate specific air infiltration levels.

Section R402.4.1.2 (testing), of the code provides the following:

The building or dwelling unit shall be tested and verified as having an air leakage rate of not exceeding 5 air changes per hour in Climate Zones 1 and 2, and 3 air changes per hour in Climate Zones 3 through 8. Testing shall be conducted with a blower door at a pressure of 0.2 inches w.g. (50 Pascals). Where required by the *code official*, testing shall be conducted by an *approved* third party. A written report of the results of the test shall be signed by the party conducting the test and provided to the *code official*. Testing shall be performed at any time after creation of all penetrations of the *building thermal envelope*.

Effects of Proposed Changes

The bill prohibits section R402.4.1, relating to building thermal envelopes, of the new 5th Edition (2014) of the Florida Building Code, Energy Conservation, from being adopted or becoming effective in Florida. Instead, section 402.4.2, relating to air sealing and insulation, of the 2010 Florida Building Code, Energy Conservation, shall govern and remain applicable and in effect in Florida after June 30, 2015.

The bill also provides that no state or local enforcement agency or code official, shall require any type of mandatory blower door test or air infiltration test to determine specific air infiltration levels or air leakage rates in a residential building or dwelling unit and no state or local enforcement agency or code official shall require the installation of any mechanical ventilation devices designed to filter outside air through an HVAC system as a condition of a permit or to determine compliance with the code.

Florida Fire Prevention Code (Sections 28, 29, 30, and 31)

Present Situation

State law on fire prevention and control is provided in ch. 633, F.S. The Chief Financial Officer is designated as the State Fire Marshal, operating through the Division of the State Fire Marshal (division) within the Department of Financial Services.⁵⁰ Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts firesafety inspections of state property; develops firesafety standards; provides facilities for the analysis of fire debris; and operates the Florida State Fire College.

The State Fire Marshal is required to adopt the Florida Fire Prevention Code by rule every 3 years. The code contains or references all firesafety laws and rules regarding public and private buildings that pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules.⁵¹

⁵⁰ s. 633.104, F.S.

⁵¹ s. 633.202, F.S.

Effects of Proposed Changes

The bill adds the following provisions to the Florida Fire Prevention Code:

- In all new high-rise and existing high-rise buildings, minimum radio signal strength for fire department communications shall be maintained at a level determined by the authority having jurisdiction.
 - Existing buildings may not be required to comply with minimum radio strength for fire department communications and two-way radio system enhancement communications as required by the Florida Fire Prevention Code until January 1, 2022. However, by December 31, 2019, an existing building that is not in compliance with the requirements for minimum radio strength for fire department communications must initiate an application for an appropriate permit for the required installation with the local government agency having jurisdiction and must demonstrate that the building will become compliant by January 1, 2022.
 - Existing apartment buildings may not be required to comply until January 1, 2025. However, existing apartment buildings are required to initiate the appropriate permit for the required communications installation by December 31, 2022.
- Areas of refuge shall be provided when required by the Florida Building Code-Accessibility. Required portions of an area of refuge shall be accessible from the space they serve by an accessible means of egress.
- The home environment provisions enumerated in the most current edition of the codes adopted by the division may be applied to existing assisted living facilities, at the option of each facility, notwithstanding the edition of the codes applied at the time of construction.
- The fire official may consider the Fire Safety Evaluation System⁵² as an acceptable tool to identify low cost alternatives. It is acceptable to use the Fire Safety Evaluation System for Board and Care Facilities using "prompt" evacuation capabilities parameter values on existing residential high-rise buildings.
- It is acceptable for a fire protection contractor licensed under ch. 633, F.S., to subcontract with companies providing advanced technical services for installing, servicing and maintaining fire pump control panels and fire pump drivers. To ensure that integrity of the system and protecting the interests of the property owner, those providing technical support services for fire pump control panels and drivers must be under contract with a licensed fire protection contractor.

Calder Sloan Swimming Pool Electrical-Safety Task Force (Section 32)

Present Situation

DOH is responsible for the oversight and regulation of water quality and safety of certain swimming pools in Florida under ch. 514, F.S. Inspections and permitting for swimming pools are conducted by the county health departments. Sanitation and safety standards for public pools have been adopted by rule under Chapter 64E-9 of the Florida Administrative Code.

Current construction rules for public pools require that written approval must be received from DOH before construction can begin.⁵³ Plans are required that show the pool layout, tile markings, size of the pool ladder, gutter heights and, if night swimming is permitted, an engineer in Florida must provide certification that the underwater lighting meets the requirements of Rule 64E-9.006(2)(c)3 of the Florida Administrative Code, which sets the maximum lighting at 15 volts. The rule also permits all underwater lighting requirements to be waived if overhead lighting provides at least 15 foot candles of illumination at the pool water surface and wet pool deck.⁵⁴

Electrical equipment and wiring must meet national standards relating to the grounding of pool components. The standards that are incorporated into the rule are those of the National Fire Protection

⁵² This system is in NFPA 101A, Alternative Solutions to Life Safety, current edition, adopted by the State Fire Marshal.

⁵³ Rule 64E-9.005, F.A.C.

⁵⁴ Rule 64E-9.006(2)(c)3, F.A.C.

Association 70, National Electrical Code (NEC), 2008 Edition, and with any applicable local code. As a part of the plan approval, the electrical contractor or electrical inspector must certify a pool's compliance, on a form designated by DOH.⁵⁵

The United States Consumer Product Union issued a Safety Alert in August 2012 recommending the installation of ground-fault circuit interrupter (GFCI) protections for pools, spas, and hot tubs for protection against electrocution hazards involving electrical circuits and underwater lighting circuits in and around pools, spas, and hot tubs.⁵⁶ The Safety Alert noted that pools older than 30 years may not have the proper GFCI protection as the NEC provisions for spas only became effective in 1981. Underwater pool lighting electrical incidents happened more frequently than any other consumer product used in or around pools, spas, or hot tubs.

Several news stories in South Florida in the past year have also highlighted the issue. Three children were shocked in a Hialeah condominium community pool in April 2014. The building inspector's report found that the pool pump was not properly grounded.⁵⁷ During the same month in North Miami, a 7-year-old boy, Calder Sloan, was electrocuted in his family's North Miami swimming from faulty wiring.⁵⁸

Effects of Proposed Changes

The bill establishes within the Florida Building Commission the Calder Sloan Swimming Pool Electrical-Safety Task Force (Task Force), the purpose of which is to study standards on grounding, bonding, lighting, wiring, and all electrical aspects for safety in and around public and private swimming pools, especially with regard to minimizing risks of electrocutions linked to swimming pools.

The task force is to be composed of the Swimming Pool Committee and Electrical Technical Advisory Committee (both within the Commission) and is to be chaired by the Swimming Pool Contractor appointed to the Florida Building Commission. The Commission will provide such staff, information, and other assistance as is reasonably necessary to assist the task force in carrying out its responsibilities.

The task force is directed to meet as often as necessary to fulfill its responsibilities, and meetings may be conducted by conference call, teleconferencing, or similar technology. The Task Force members are to serve without compensation.

The task force must submit a report on its findings, including recommended revisions to state law, if any, to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2015. The Task Force expires on December 31, 2015.

B. SECTION DIRECTORY:

Section 1. Amends s. 468.609, F.S., relating to certification examination requirements for building code inspectors, plans examiners, and building code administrators.

Section 2. Amends s. 468.627, F.S., conforming terminology.

Section 3. Amends s. 471.0195, F.S., conforming terminology.

Section 4. Amends s. 481.215, F.S., conforming terminology.

Section 5. Amends s. 481.313, F.S., conforming terminology.

⁵⁵ Rule 64E-9.006(2)(d), F.A.C.

⁵⁶ U.S. Product Safety Commission, *Safety Alert, CPSC Document #5059* (Aug. 14, 2012), available at <http://www.cpsc.gov/PageFiles/118868/5039.pdf> (last visited: Mar. 19, 2015).

⁵⁷ Roger Lohse, *Shoddy Electrical Work Lead to 3 Kids' Injuries at a Pool in Hialeah, Policy Say*, LOCAL 10.COM, May 8, 2014, available at <http://www.local10.com/news/police-photos-show-shoddy-electrical-work-at-pool-that-caused-three-kids-to-be-shocked/25861796>. (last visited Mar. 19, 2015).

⁵⁸ Roger Lohse, *South Fla. Boy Electrocuted by Pool Light While Swimming*, LOCAL10.COM, April 17, 2014, available at <http://www.local10.com/news/south-fla-boy-electrocuted-by-pool-light-while-swimming/25538944> (last visited Mar. 19, 2015).

- Section 6.** Amends s. 489.103, F.S., relating to exemptions from contracting requirements.
- Section 7.** Amends s. 489.105, F.S., relating to plumbing contractors.
- Section 8.** Amends s. 489.115, F.S., conforming terminology.
- Section 9.** Amends s. 489.1401, F.S., relating to the Florida Homeowners' Construction Recovery Fund.
- Section 10.** Amends s. 489.1402, F.S., amending definitions relating to the Florida Homeowners' Construction Recovery Fund.
- Section 11.** Amends s. 489.141, F.S., relating to claims against the Florida Homeowners' Construction Recovery Fund.
- Section 12.** Amends s. 489.1425, F.S., relating to notification provided by contractors regarding the recovery fund.
- Section 13.** Amends s. 489.143, F.S., relating to payments from the Florida Homeowners' Construction Recovery Fund.
- Section 14.** Amends s. 489.503, F.S., relating to an exemption for certain types of low-voltage landscape lighting.
- Section 15.** Amends s. 489.517, F.S., conforming terminology.
- Section 16.** Amends s. 514.011, F.S., relating to a definition of "private pool."
- Section 17.** Amends s. 514.0115, F.S., relating to exemptions from supervision or regulation of public swimming pools and public bathing facilities.
- Section 18.** Amends s. 514.031, F.S., relating to permit necessary to operate public swimming pool.
- Section 19.** Amends s. 553.512, F.S., relating to the Accessibility Advisory Council.
- Section 20.** Amends s. 553.721, F.S., relating to the Florida Building Code Compliance and Mitigation Program.
- Section 21.** Amends s. 553.73, F.S., relating to the Florida Building Code.
- Section 22.** Amends s. 553.775, F.S., relating to interpretations of the Florida Building Code and the Florida Accessibility Code for Building Construction.
- Section 23.** Amends s. 553.79, F.S., relating to phased permitting for construction.
- Section 24.** Amends s. 553.841, F.S., relating to the Florida Building Code Compliance and Mitigation Program.
- Section 25.** Amends s. 553.842, F.S., relating to Florida Building Code related product evaluation and approval.
- Section 26.** Amends s. 553.883, F.S., relating to smoke alarms in one-and two-family dwellings and townhomes.
- Section 27.** Amends s. 553.908, F.S., relating to duct and air infiltration tests.

Section 28. Amends s. 633.202, F.S., relating to the Florida Fire Prevention Code.

Section 29. Amends s. 633.206, F.S., relating to uniform firesafety standards.

Section 30. Amends s. 633.208, F.S., relating to minimum firesafety standards.

Section 31. Amends s. 633.336, F.S., relating to fire protection contracting.

Section 32. Creates the Calder Sloan Swimming Pool Electrical-Safety Task Force.

Section 33. Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The DBPR reports that under the bill, the Florida Building Commission will no longer charge continuing education providers \$100 per application for accreditation of building code related education courses. This will result in an approximate \$5,000 annual revenue reduction related to application fees ($\$100 \times 50 = \$5,000$).

2. Expenditures:

See *Fiscal Comments*.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None anticipated.

2. Expenditures:

None anticipated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Homeowners who have been harmed by Division II contractors and receive restitution from the Florida Homeowners' Construction Recovery Fund will benefit from the bill.

Apartment owners with communities of 100 or more apartments who have employees make minor repairs to existing electric water heaters or existing electric HVAC systems may experience savings from the contractor licensing requirements exemption if they meet the requirements of the exemption.

D. FISCAL COMMENTS:

The DBPR reports that there will be an anticipated reduction in service charge transfers to general revenue of approximately \$400 per year, due to the revenue reduction. Additionally, the Florida Building Commission will no longer need a continuing education course accreditation program administrator resulting in an approximately \$22,000 in reduced expenditures.⁵⁹

⁵⁹ Florida Department of Business and Professional Regulation, Agency Analysis of 2015 CS/HB 915 (Mar. 24, 2015).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the State Fire Marshal with rule-making authority to address changes made concerning Florida Fire Prevention Code informal interpretations.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On Tuesday, March 10, 2015, the Business & Professions Subcommittee adopted amendments and reported the bill favorably as a committee substitute. The committee substitute differs from the filed bill by:

- Making several adjustments to the training and experience required to take the certification exam for building code inspector, plans examiner, and building code administrator;
- Amending the definition of “contractor” to allow licensed Category I liquefied petroleum gas dealers, LP gas installers, and specialty installers to disconnect and reconnect water lines in the servicing or replacement of an existing water heater;
- Adding Division II contractors to the Florida Homeowners’ Construction Recovery Fund section, which would allow homeowners to make a claim and receive restitution from the fund when they have been harmed by a Division II contractor, subject to certain requirements and financial caps;
- Exempting low-voltage landscape lighting with a cord and a plug from having to be installed by a licensed electrical contractor;
- Amending list of documents that local enforcement agencies must abide by in order to obtain or retain a swimming pool operating permit to be consistent with a similar section that is being amended in the bill;
- Providing funding for the recommendations made by the Building Code System Uniform Implementation Evaluation Workgroup and provides funding for Florida Fire Code informal interpretations;
- Clarifying that water heater installation requires a water leak detection device if it is being installed or replaced in a conditioned space or attic;
- Authorizing local building officials to issue phased permits for the construction of the foundation or any other part of a building or structure before the construction documents for the whole building or structure have been submitted; and
- Requiring local enforcement agencies to accept duct and air infiltration tests conducted by specified individuals, which includes energy raters and HVAC contractors.

On Tuesday, April 7, 2015, the Government Operations Appropriations Subcommittee adopted three amendments and reported the bill favorably as a committee substitute. The committee substitute:

- Removes language from the bill relating to the Department of Health’s regulation of public pools.

- Adds a portable pool sponsored or provided by school districts used for swimming lessons shall be considered a private pool and not be regulated as a public pool.
- Removes language relating to water heater leak detection devices.

On Tuesday, April 14, 2015, the Regulatory Affairs Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Removes a provision that would have added a firesafety inspector to the list of occupations that may satisfy the experience requirement to become a building code administrator and returns required hours and years of experience necessary for certification of building code administrators to those required in statute;
- Exempts employees of apartment communities with 100 or more apartments from contractor licensing requirements when they make minor repairs to existing electric water heaters or existing electric HVAC systems, if they meet certain training and experience criteria and the repair involves parts costing under \$1,000;
- Replaces a defunct organization on the Accessibility Advisory Council;
- Provides the State Fire Marshal with rule-making authority to address changes made concerning Florida Fire Prevention Code informal interpretations;
- Allows the creation of local boards to address conflicts between the Florida Building Code and the Florida Fire Prevention Code;
- Restricts the code from requiring more than one fire service access elevator in residential buildings of a certain height and requires other residential buildings of a certain height to meet specific requirements related to fire service access elevator lobbies and exit access corridors;
- Adds two members (an architect and an engineer) to the panel that hears requests to review decisions of local building officials;
- Authorizes DBPR to develop code-related training and education, rather requiring the development of advanced modules;
- Exempts wi-fi smoke alarms and those that contain multiple sensors, such as those combined with carbon monoxide alarms, from the 10-year, nonremovable, nonreplaceable battery provision;
- Provides that duct and air infiltration testing requirements in the newest edition of the Florida Building Code shall not be adopted as part of the code and prohibits local enforcement agencies from requiring certain tests or installation of certain ventilation devices as a condition of a permit or compliance with the code;
- Clarifies who may require the State Fire Marshal to issue a declaratory statement relating to the Florida Fire Prevention Code and clarifies that such statements are not intended to be an appeal of a decision made by a local fire official or local board;
- Requires new high-rise buildings to comply with minimum radio signal strength for fire department communications set by the local authority with jurisdiction and provides that existing high-rise buildings must comply by 2022 and existing apartment buildings must comply by 2025;
- Requires areas of refuge to be provided when required by the Florida Building Code-Accessibility;
- Gives assisted living facilities the option to use the new home environment provisions in current editions of the fire code;
- Provides a performance-based fire safety evaluation system aiding code officials in identifying reasonable and cost effective code requirements for existing buildings;
- Allows a licensed fire protection contractor to subcontract for advanced technical services related to fire pump control panels and fire pump drivers in lieu of employing such experts full-time; and
- Creates the Calder Sloan Swimming Pool Electrical-Safety Task Force to study and report by November 1, 2015, on standards for grounding, bonding, lighting, wiring, and all electrical aspects for safety in and around public and private swimming pools, especially with regard to especially with regard to minimizing risks of electrocutions linked to swimming pools.

This analysis is drafted to the committee substitute as passed by the Regulatory Affairs Committee.