

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 909 Building Code Administrators & Inspectors
SPONSOR(S): Careers & Competition Subcommittee, Goodson
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 860

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee	15 Y, 0 N, As CS	Brackett	Anstead
2) Oversight, Transparency & Administration Subcommittee	14 Y, 0 N	Whittaker	Harrington
3) Commerce Committee			

SUMMARY ANALYSIS

Building code inspectors, plans examiners, building officials, and home inspectors are licensed and regulated by the Department of Business and Professional Regulation (DBPR). In order to sit for the exam to become an inspector or plans examiner, a person must meet one of six different qualifications. The bill adds a seventh qualification an applicant can meet in order to sit for the plans examiner or inspector exam. The bill provides that a person may sit for the plans examiner or inspector exam by completing a four year internship with a building official, while being employed full time by the city, county, or local jurisdiction; passing an exam administered by the International Code Council (ICC), passing a principles and practice exam, and passing an approved 40 hour training course; and obtaining a favorable recommendation from the supervising building official after completion of the internship.

The bill also makes various other changes to the provisions that govern building code administrators and inspectors, plans examiners, and home inspections, including:

- Requiring the Florida Building Code Administrators and Inspectors Board to establish specified rules, including rules to allow:
 - Partial completion of the internship program to be transferred between jurisdictions.
 - An inspector or plans examiner to seek additional category certifications as an inspector or plans examiner by completing additional one year internship programs, passing an exam administered by the ICC, and passing a board approved 40 hour course.
 - Reciprocity with any other state that requires an examination administered by ICC.
 - An applicant for certification as a building code inspector or plans examiner to apply for a 1 year provisional certificate before completing the internship program if the applicant has not passed the principals and practice examination or the 40 hour code training courses.
- Providing that nothing in the law governing building inspectors and building officials will prohibit a local government, school board, state agency, university, or community college from contracting with any person or entity for building inspection or building official services.
- Authorizing DBPR to certify and approve home inspector examinations if the exams meet the standards of a national examination.
- Revising definitions to authorize any person contracted with local governments and state agencies to perform building inspections or supervise building code activities.

The bill also amends the definition of “private provider” to include building code administrators in the list of persons who may perform certain building code inspection services.

The bill may have an indeterminate fiscal impact on the state and does not appear to have a fiscal impact on local governments. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Building Code Administrators and Inspectors and Plans Examiners

Building officials, inspectors, and plans examiners are regulated by the Florida Building Code Administrators and Inspectors Board (board) within DBPR. DBPR licenses and regulates businesses and professionals in Florida. It is structured to include separate divisions and various professional boards responsible for carrying out DBPR's mission to license efficiently and regulate fairly. The board consists of nine members appointed by the Governor and subjected to confirmation by the Senate.¹

A building code administrator, otherwise known as a building official, is a local government employee who supervises building code activities, including plans review, enforcement, and inspection.²

A building code inspector (inspector) is a local government employee who inspects construction that requires permits to determine compliance with building codes and state accessibility laws. Building code inspectors are divided into several different categories. An inspector's ability to practice is limited to the category or categories the inspector received certificates in. The inspector categories are:

- Building inspector
- Coastal construction inspector
- Commercial electrical inspector
- Residential electrical inspector
- Mechanical inspector
- Plumbing inspector
- One and two family dwelling inspector
- Electrical inspector³

County or municipal governments, school boards, community college boards, state universities, or state agencies are not prohibited by the statutes governing building inspectors from entering into a contract with any person for building code inspections.⁴

A plans examiner reviews plans submitted for building permits to determine design compliance with construction codes. A plans examiner's ability to practice is limited to the category or categories the plans examiner is certified in. The plans examiner categories are:

- Building plans examiner
- Plumbing plans examiner
- Mechanical plans examiner
- Electrical plans examiner⁵

In order to sit for the plans examiner or inspector exam a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:

- Demonstrates 5 years' combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to the certification category sought.

¹ s. 468.605, F.S.

² s. 468.603(1), F.S.

³ See s. 468.603(6), F.S.

⁴ See s. 468.617(3), F.S.

⁵ See s. 468.603(7), F.S.

- Demonstrates a combination of postsecondary education in the field of construction or a related field and experience which totals 4 years, with at least 1 year of such total being experience in construction, building code inspection, or plans review.
- Demonstrates a combination of technical education in the field of construction or a related field and experience which totals 4 years, with at least 1 year of such total being experience in construction, building code inspection, or plans review.
- Currently holds a standard certificate issued by the board or a firesafety inspector license issued pursuant to ch. 633, F.S., has a minimum of 3 years' verifiable full-time experience in inspection or plan review, and has satisfactorily completed a building code inspector or plans examiner training program that provides at least 100 hours but not more than 200 hours of cross-training in the certification category sought.
- Currently holds a standard certificate issued by the board or a firesafety inspector license issued pursuant to ch. 633, F.S., has a minimum of 5 years' verifiable full-time experience in inspection or plans review, and satisfactorily completes a building code inspector or plans examiner training program of not less than 200 hours in the certification category sought.
- Demonstrates a combination of the completion of an approved training program in the field of building code inspection or plans review and a minimum of 2 years' experience in the field of building code inspection; plans 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 of not less than 300 hours which is approved by the board in the chosen category of building code inspection or plans 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.⁶

In order to sit for the examination for building official certification an applicant must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:

- Demonstrates 10 years' combined experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least 5 years of such experience in supervisory positions.
- Demonstrates a combination of postsecondary education in the field of construction or related field, no more than 5 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 5 years of such total being experience in supervisory positions.⁷

Although individuals have been able to meet the above requirements for a single certification; it is difficult to earn additional certifications while employed as an inspector or plans examiner.

A newly hired or promoted inspector and plans examiner who may sit for an exam but has not taken the exam is granted provisional certificates for one year by the board. A provisional certificate allows a person to engage in the duties of an inspector or plans examiner depending on the type of certificate.⁸ Once a newly hired or promoted inspector or plans examiner submits an application for a provisional certificate the person may perform the duties of an examiner or inspector for 120 days as long as they are under the direct supervision of a building official.⁹

⁶ s. 468.609(2), F.S.

⁷ s. 468.609(3), F.S.

⁸ s. 468.609(4), F.S.

⁹ s. 468.609(7), F.S.

Construction Industry Workforce Taskforce

After the recession in 2008, Florida experienced a shortage of inspectors, plans examiners, and building officials on account of many of them being laid off. In at least one county, the shortage forced the local building board to rehire retired inspectors.¹⁰

In 2016, the Legislature created the Construction Industry Workforce Taskforce (CIWT) in part to address the shortage of inspectors, plans examiners, and building officials in the state. The Legislature also created the CIWT to address related training issues for inspectors in order to increase the number of inspectors.¹¹

The CIWT is made up of 22 members representing various construction associations in Florida as well as members representing the Florida House of Representatives and the Florida Senate.¹²

The CIWT determined the shortage is caused in part by the requirements to obtain an inspector and plans examiner license.¹³ The CIWT proposed a list of recommendations to remediate the shortage of inspectors and plans examiners, and to encourage qualified people to become inspectors, plans examiners, and building code administrators. The CIWT recommended that:

- In addition to performing a plan or inspection review in the building official's jurisdiction, a building official should be able to perform plan reviews or inspections under an interagency service agreement with a jurisdiction with a population of 50,000 or less.
- Residential plans examiners and inspectors be added to the different categories of inspectors and plans examiners. A residential plans examiner is qualified to determine whether plans submitted for the purpose of obtaining permits for a residential building comply with code.
- Provisional certificates and the 120 day ability to practice after submitting an application for a provisional certificate not be limited to newly hired or promoted staff.
- Exams from any state administered by the International Code Council (ICC) be given reciprocity.¹⁴

The CIWT recommended a four year internship program as an inspector or plans examiner be added to the eligibility requirements to become an inspector or plans examiner. The internship program must meet the following requirements:

- The intern must pass an ICC administered examination prior to beginning the program.
- The intern must be employed full time in Florida with a city, county, or other local authority, and under the direct supervision of a building official.
- The intern must pass the state of Florida Principals & Practice Exam before completing the program.
- The intern must pass a board-approved 40 hour code training course in the certification category sought before completing the program.
- The intern must obtain a favorable recommendation from the supervising building official after completion of the program.
- The intern may show proof of graduation with a related vocational or college degree or verified work experience which may be exchanged for the four year experience requirement year-for-year. However, the experience requirement may be reduced to no less than one year.¹⁵

¹⁰ See James Sullivan, Charles Kibert, Andriel Fenner, Shirley Morque, *Florida Construction Workforce Taskforce: Address training issues among building code inspectors to increase the number qualified inspectors*, (March 9, 2017) <http://www.cce.ufl.edu/wp-content/uploads/2016/12/6-Florida-Construction-Workforce-Taskforce-Address-training-issues-among-building-code-inspectors-to-increase-the-number-qualified-1.pdf>

¹¹ Ch. 2016-129, Laws of Fla.

¹² *Id.*

¹³ See James Sullivan, Charles Kibert, Andriel Fenner, Shirley Morque, *Florida Construction Workforce Taskforce: Address training issues among building code inspectors to increase the number qualified inspectors*, (March 9, 2017) <http://www.cce.ufl.edu/wp-content/uploads/2016/12/6-Florida-Construction-Workforce-Taskforce-Address-training-issues-among-building-code-inspectors-to-increase-the-number-qualified-1.pdf>

¹⁴ *Id.*

Private Provider

A private provider is a licensed engineer or architect who may be hired to perform building code inspection services by a property owner or contractor. Private providers are able to provide building plans, perform building code inspections within the scope of the provider's license, and prepare certificates of compliance. Private providers also include building officials, inspectors, and plans examiners. However, they are limited to inspecting alterations or additions that are a 1,000 square feet or less in a residential building.¹⁶

Home Inspector Exam

A home inspector provides an inspection to a buyer just prior to the sale of the home. The home inspector looks for visually obvious problems with the home and reports any problems to the buyer who may consider having them corrected by the seller before closing the sale. Home inspectors are regulated by DBPR.¹⁷

A building inspection is often confused with a home inspection. A building inspection is a legally required act, performed by a local governmental entity through the permitting process for the purpose of determining whether a structure complies with the appropriate building code standards. By contrast, a home inspection is a discretionary endeavor.

In order to obtain licensure as a home inspector a person must:

- Have good moral character;
- Complete a course study of at least 120 hours; and
- Pass the required examination.¹⁸

DBPR may review and approve home inspector exams by a nationally recognized entity. In order for a home inspector exam provider to become a nationally recognized entity it must offer programs or set standards that ensure the competence as a home inspector. The standards for approval of an examination are:

- The examination is proctored; and
- The examination covers the following components of a home: structure, electrical system, HVAC system, roof covering, plumbing system, interior components, exterior components, and site conditions that affect the structure.¹⁹

Effect of the Bill

The bill provides that building officials and inspectors may also include any contracted person in addition to a local government employee.

The bill provides that county or municipal governments, school boards, community college boards, state universities, or state agencies are not prohibited by the statutes governing building officials and inspectors from entering into a contract with any person for building code inspections and building official services.

The bill includes a residential plans examiner in the categories of plans examiners. A residential plans examiner is a person who is qualified to determine that plans submitted for purposes of obtaining building and other permits comply with the applicable residential building, plumbing, mechanical, electrical, gas, energy, accessibility, and other applicable construction codes.

¹⁵ *Id.*

¹⁶ s. 553.791(1)(i), F.S.

¹⁷ s. 468.8314, F.S.

¹⁸ s. 468.8313, F.S.

¹⁹ *Id.* and Rule 61-30.103 of the F.A.C.

The bill provides for an internship certification as a qualification for the building inspector or plans examiner examination in addition to the other eligibility procedures. The requirements of the internship are:

- Passed an examination administered by the ICC in the license category sought before beginning the internship.
- A four year internship as a building code inspector or plans examiner while employed full-time by a city, county, or other governmental jurisdiction. Under the direct supervision of a building official. Proof of graduation with a related vocational or college degree or verified work experience may be exchanged for the internship experience requirement year-for-year. However, the internship experience requirement may not be reduced by less than one year.
- Passed the principles and practice examination before completing the internship program.
- Passed a board approved 40 hour code training course in the license category sought before completing the internship program.
- Obtained a favorable recommendation from the supervising building official after completion of the internship program.

The bill provides that the board shall establish by rule that:

- An applicant for certification as an inspector or plans examiner may apply for a 1 year provisional certificate before completing the internship program if the applicant has not passed the principals and practice examination or the 40 hour code training courses.
- Partial completion of the internship program may be transferred between jurisdictions.
- An applicant may apply for a standard certificate on a form prescribed by the board upon successful completion of an internship program.
- An applicant may apply for a standard certificate at least 30 days and no more than 60 days before completing the internship program.
- An inspector or plans examiner who has a standard certification may seek an additional certification in another category by completing an additional non-concurrent 1 year internship program in the category sought, and passing an exam administered by the ICC, and a board approved 40 hour code training course.

The bill provides that provisional certificates and the 120 day application period are not limited to newly hired or promoted inspectors or plans examiners. The bill provides the board to establish by rule that an applicant for certification as an inspector or plans examiner may perform related duties for the first 120 days after the applicant's initial application to the board.

The bill requires the board to establish by rule reciprocity of certification with any other state that requires an examination administered by the ICC.

The bill amends the definition of "private provider" to include building code administrators in the persons who may perform building code inspection services without being limited to inspections of alterations and additions limited to 1,000 square feet in a residential building.

The bill provides that home inspector examinations may be approved by DBPR if the exams meet the standards of a national examination as defined by rule and certified by DBPR.

B. SECTION DIRECTORY:

Section 1. Amending s. 468.603, F.S., defining terms.

Section 2. Amending s. 468.609, F.S., relating to qualifications for inspectors, plans examiner, provisional certificates, the 120 day application period, and reciprocity.

Section 3. Amending s. 468.617, F.S., adding building official to joint building code inspection department; other arrangements.

- Section 4.** Amending s. 468.8313, F.S., clarifying that DBPR may approve examinations meeting national standards.
- Section 5.** Amending s. 553.791, F.S., relating to definition of private providers.
- Section 6.** Amending s. 468.609, F.S., conforming terminology.
- Section 7.** Amending s. 471.045, F.S., conforming terminology.
- Section 8.** Amending s. 481.222, F.S., conforming terminology.
- Section 9.** Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
See Fiscal Comments.
2. Expenditures:
See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The fiscal impact on the private sector is indeterminate. The bill may result in more people being able to obtain a certification as a plans examiner and building inspector. However, certain home inspector exam providers may lose approval to administer exams if their exams do not meet national standards.

D. FISCAL COMMENTS:

The fiscal impact to the state is indeterminate. Inspectors and plans examiners pay a biennial fee of \$5 if they are not government employees to DBPR. An increase in inspectors and plans examiners would result in an increase in biennial fees received by DBPR. In addition, however, DBPR may have an indeterminate negative fiscal impact associated with the rulemaking associated with the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure 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 requires the board to create various rules and requires DBPR to create rules pertaining to home inspector exam certifications. The board and DBPR both appear to have sufficient rulemaking authority to adopt the rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 14, 2017, the Careers and Competition Subcommittee adopted two amendments and reported the bill favorably as a subcommittee substitute. The amendments add the following elements to the original bill:

- Amends the definition of “Building code inspector” to include any person contracted for construction regulation responsibilities who conducts inspections.
- Amends the definition of “Building code administrator” to include any person contracted for building construction regulation responsibilities who conducts supervision, and removing the inclusion of a person performing a plan review or inspection under an interagency agreement with a different jurisdiction.
- Clarifying that nothing in ch. 468, F.S., (Part 12) shall prohibit a local government, school, state agency, university, or community college from contracting with any person for construction regulation responsibilities.
- Clarifying that the DBPR may review and approve home inspector exams by a nationally recognized entity provided that only exams meeting standards of a national examination as defined by rule and certified by DBPR are approved.

The analysis is drafted to the committee substitute adopted by the subcommittee.