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LEGISLATIVE ACTION

Senate

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House

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Floor: 1d/RE/2R

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05/02/2019 02:18 PM

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Senator Lee moved the following:

1 **Senate Amendment to Amendment (155860) (with title**
2 **amendment)**

3
4 Between lines 413 and 414
5 insert:

6 Section 9. Subsection (1), paragraph (b) of subsection (2),
7 and subsections (4) through (7) and (18) of section 553.791,
8 Florida Statutes, are amended to read:

9 553.791 Alternative plans review and inspection.—

10 (1) As used in this section, the term:

11 (a) "Applicable codes" means the Florida Building Code and



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12 any local technical amendments to the Florida Building Code but
13 does not include the applicable minimum fire prevention and
14 firesafety codes adopted pursuant to chapter 633.

15 (b) "Audit" means the process to confirm that the building
16 code inspection services have been performed by the private
17 provider, including ensuring that the required affidavit for the
18 plan review has been properly completed and affixed to the
19 permit documents and that the minimum mandatory inspections
20 required under the building code have been performed and
21 properly recorded. ~~The term does not mean that the local~~
22 building official may not is required to replicate the plan
23 review or inspection being performed by the private provider,
24 unless expressly authorized by this section.

25 (c) "Building" means any construction, erection,
26 alteration, demolition, or improvement of, or addition to, any
27 structure or site work for which permitting by a local
28 enforcement agency is required.

29 (d) "Building code inspection services" means those
30 services described in s. 468.603(5) and (8) involving the review
31 of building plans as well as those services involving the review
32 of site plans and site work engineering plans or their
33 functional equivalent, to determine compliance with applicable
34 codes and those inspections required by law of each phase of
35 construction for which permitting by a local enforcement agency
36 is required to determine compliance with applicable codes.

37 (e) "Duly authorized representative" means an agent of the
38 private provider identified in the permit application who
39 reviews plans or performs inspections as provided by this
40 section and who is licensed as an engineer under chapter 471 or



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41 as an architect under chapter 481 or who holds a standard
42 certificate under part XII of chapter 468.

43 (f) "Immediate threat to public safety and welfare" means a
44 building code violation that, if allowed to persist, constitutes
45 an immediate hazard that could result in death, serious bodily
46 injury, or significant property damage. This paragraph does not
47 limit the authority of the local building official to issue a
48 Notice of Corrective Action at any time during the construction
49 of a building project or any portion of such project if the
50 official determines that a condition of the building or portion
51 thereof may constitute a hazard when the building is put into
52 use following completion as long as the condition cited is shown
53 to be in violation of the building code or approved plans.

54 (g) "Local building official" means the individual within
55 the governing jurisdiction responsible for direct regulatory
56 administration or supervision of plans review, enforcement, and
57 inspection of any construction, erection, alteration,
58 demolition, or substantial improvement of, or addition to, any
59 structure for which permitting is required to indicate
60 compliance with applicable codes and includes any duly
61 authorized designee of such person.

62 (h) "Permit application" means a properly completed and
63 submitted application for the requested building or construction
64 permit, including:

- 65 1. The plans reviewed by the private provider.
- 66 2. The affidavit from the private provider required under
67 subsection (6).
- 68 3. Any applicable fees.
- 69 4. Any documents required by the local building official to



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70 determine that the fee owner has secured all other government
71 approvals required by law.

72 (i) "Plans" means building plans, site engineering plans,
73 or site plans, or their functional equivalent, submitted by a
74 fee owner or fee owner's contractor to a private provider or
75 duly authorized representative for review.

76 (j)-~~i~~ "Private provider" means a person licensed as a
77 building code administrator under part XII of chapter 468, as an
78 engineer under chapter 471, or as an architect under chapter
79 481. For purposes of performing inspections under this section
80 for additions and alterations that are limited to 1,000 square
81 feet or less to residential buildings, the term "private
82 provider" also includes a person who holds a standard
83 certificate under part XII of chapter 468.

84 (k)-~~j~~ "Request for certificate of occupancy or certificate
85 of completion" means a properly completed and executed
86 application for:

- 87 1. A certificate of occupancy or certificate of completion.
- 88 2. A certificate of compliance from the private provider
89 required under subsection (11).
- 90 3. Any applicable fees.
- 91 4. Any documents required by the local building official to
92 determine that the fee owner has secured all other government
93 approvals required by law.

94 (l) "Site work" means the portion of a construction project
95 that is not part of the building structure, including, but not
96 limited to, grading, excavation, landscape irrigation, and
97 installation of driveways.

98 (m)-~~k~~ "Stop-work order" means the issuance of any written



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99 statement, written directive, or written order which states the
100 reason for the order and the conditions under which the cited
101 work will be permitted to resume.

102 (2)

103 (b) It is the intent of the Legislature that owners and
104 contractors pay reduced fees ~~not be required to pay extra costs~~
105 related to building permitting requirements when hiring a
106 private provider for plans review and building inspections. A
107 local jurisdiction must calculate the cost savings to the local
108 enforcement agency, based on a fee owner or contractor hiring a
109 private provider to perform plans reviews and building
110 inspections in lieu of the local building official, and reduce
111 the permit fees accordingly. The local jurisdiction may not
112 charge fees for building inspections if the fee owner or
113 contractor hires a private provider; however, the local
114 jurisdiction may charge a reasonable administrative fee.

115 (4) A fee owner or the fee owner's contractor using a
116 private provider to provide building code inspection services
117 shall notify the local building official at the time of permit
118 application, or by 2 p.m. local time, 2 ~~no less than 7~~ business
119 days before ~~prior to~~ the first scheduled inspection by the local
120 building official or building code enforcement agency for a
121 private provider performing required inspections of construction
122 under this section, on a form to be adopted by the commission.
123 This notice shall include the following information:

124 (a) The services to be performed by the private provider.

125 (b) The name, firm, address, telephone number, and
126 facsimile number of each private provider who is performing or
127 will perform such services, his or her professional license or



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128 certification number, qualification statements or resumes, and,
129 if required by the local building official, a certificate of
130 insurance demonstrating that professional liability insurance
131 coverage is in place for the private provider's firm, the
132 private provider, and any duly authorized representative in the
133 amounts required by this section.

134 (c) An acknowledgment from the fee owner in substantially
135 the following form:

136

137 I have elected to use one or more private providers to
138 provide building code plans review and/or inspection
139 services on the building or structure that is the
140 subject of the enclosed permit application, as
141 authorized by s. 553.791, Florida Statutes. I
142 understand that the local building official may not
143 review the plans submitted or perform the required
144 building inspections to determine compliance with the
145 applicable codes, except to the extent specified in
146 said law. Instead, plans review and/or required
147 building inspections will be performed by licensed or
148 certified personnel identified in the application. The
149 law requires minimum insurance requirements for such
150 personnel, but I understand that I may require more
151 insurance to protect my interests. By executing this
152 form, I acknowledge that I have made inquiry regarding
153 the competence of the licensed or certified personnel
154 and the level of their insurance and am satisfied that
155 my interests are adequately protected. I agree to
156 indemnify, defend, and hold harmless the local



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157 government, the local building official, and their
158 building code enforcement personnel from any and all
159 claims arising from my use of these licensed or
160 certified personnel to perform building code
161 inspection services with respect to the building or
162 structure that is the subject of the enclosed permit
163 application.

164
165 If the fee owner or the fee owner's contractor makes any changes
166 to the listed private providers or the services to be provided
167 by those private providers, the fee owner or the fee owner's
168 contractor shall, within 1 business day after any change, update
169 the notice to reflect such changes. A change of a duly
170 authorized representative named in the permit application does
171 not require a revision of the permit, and the building code
172 enforcement agency shall not charge a fee for making the change.
173 In addition, the fee owner or the fee owner's contractor shall
174 post at the project site, before ~~prior to~~ the commencement of
175 construction and updated within 1 business day after any change,
176 on a form to be adopted by the commission, the name, firm,
177 address, telephone number, and facsimile number of each private
178 provider who is performing or will perform building code
179 inspection services, the type of service being performed, and
180 similar information for the primary contact of the private
181 provider on the project.

182 (5) After construction has commenced and if the local
183 building official is unable to provide inspection services in a
184 timely manner, the fee owner or the fee owner's contractor may
185 elect to use a private provider to provide inspection services



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186 by notifying the local building official of the owner's or
187 contractor's intention to do so by 2 p.m. local time, 2 no less
188 ~~than 7~~ business days before ~~prior to~~ the next scheduled
189 inspection using the notice provided for in paragraphs (4) (a)-
190 (c).

191 (6) A private provider performing plans review under this
192 section shall review the ~~construction~~ plans to determine
193 compliance with the applicable codes. Upon determining that the
194 plans reviewed comply with the applicable codes, the private
195 provider shall prepare an affidavit or affidavits on a form
196 reasonably acceptable to ~~adopted by~~ the commission certifying,
197 under oath, that the following is true and correct to the best
198 of the private provider's knowledge and belief:

199 (a) The plans were reviewed by the affiant, who is duly
200 authorized to perform plans review pursuant to this section and
201 holds the appropriate license or certificate.

202 (b) The plans comply with the applicable codes.

203 (7) (a) No more than 20 ~~30~~ business days after receipt of a
204 permit application and the affidavit from the private provider
205 required pursuant to subsection (6), the local building official
206 shall issue the requested permit or provide a written notice to
207 the permit applicant identifying the specific plan features that
208 do not comply with the applicable codes, as well as the specific
209 code chapters and sections. If the local building official does
210 not provide a written notice of the plan deficiencies within the
211 prescribed 20-day ~~30-day~~ period, the permit application shall be
212 deemed approved as a matter of law, and the permit shall be
213 issued by the local building official on the next business day.

214 (b) If the local building official provides a written



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215 notice of plan deficiencies to the permit applicant within the
216 prescribed 20-day ~~30-day~~ period, the 20-day ~~30-day~~ period shall
217 be tolled pending resolution of the matter. To resolve the plan
218 deficiencies, the permit applicant may elect to dispute the
219 deficiencies pursuant to subsection (13) or to submit revisions
220 to correct the deficiencies.

221 (c) If the permit applicant submits revisions, the local
222 building official has the remainder of the tolled 20-day ~~30-day~~
223 period plus 5 business days from the date of resubmittal to
224 issue the requested permit or to provide a second written notice
225 to the permit applicant stating which of the previously
226 identified plan features remain in noncompliance with the
227 applicable codes, with specific reference to the relevant code
228 chapters and sections. Any subsequent review by the local
229 building official is limited to the deficiencies cited in the
230 written notice. If the local building official does not provide
231 the second written notice within the prescribed time period, the
232 permit shall be deemed approved as a matter of law, and issued
233 ~~by~~ the local building official must issue the permit on the next
234 business day.

235 (d) If the local building official provides a second
236 written notice of plan deficiencies to the permit applicant
237 within the prescribed time period, the permit applicant may
238 elect to dispute the deficiencies pursuant to subsection (13) or
239 to submit additional revisions to correct the deficiencies. For
240 all revisions submitted after the first revision, the local
241 building official has an additional 5 business days from the
242 date of resubmittal to issue the requested permit or to provide
243 a written notice to the permit applicant stating which of the



244 previously identified plan features remain in noncompliance with
245 the applicable codes, with specific reference to the relevant
246 code chapters and sections.

247 (18) Each local building code enforcement agency may audit
248 the performance of building code inspection services by private
249 providers operating within the local jurisdiction. However, the
250 same private provider may not be audited more than four times in
251 a calendar year unless the local building official determines a
252 condition of a building constitutes an immediate threat to
253 public safety and welfare. Work on a building or structure may
254 proceed after inspection and approval by a private provider if
255 the provider has given notice of the inspection pursuant to
256 subsection (9) and, subsequent to such inspection and approval,
257 the work shall not be delayed for completion of an inspection
258 audit by the local building code enforcement agency.

259
260 ===== T I T L E A M E N D M E N T =====

261 And the title is amended as follows:

262 Between lines 493 and 494

263 insert:

264 amending s. 553.791, F.S.; providing and revising
265 definitions; revising legislative intent; prohibiting
266 a local jurisdiction from charging fees for building
267 inspections if the fee owner or contractor hires a
268 private provider; authorizing the local jurisdiction
269 to charge a reasonable administrative fee; revising
270 the timeframe within which an owner or contractor must
271 notify the building official that he or she is using a
272 certain private provider; revising the type of



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273 affidavit form to be used by certain private providers
274 under certain circumstances; revising the timeframe
275 within which a building official must approve or deny
276 a permit application; specifying the timeframe within
277 which the local building official must issue a certain
278 permit or notice of noncompliance if the permit
279 applicant submits revisions; limiting a building
280 official's review of a resubmitted permit application
281 to previously identified deficiencies; limiting the
282 number of times a building official may audit a
283 private provider, with exceptions;