

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/CS/SB 1232

INTRODUCER: Community Affairs Committee; Health Policy Committee; and Senator Simpson

SUBJECT: Building Codes

DATE: April 14, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1232 amends various sections of the Florida Statutes related to building codes:

- Reduces the experience and training requirements to take the exam for certification as a building code inspector, or plans examiner, and adds a training requirement for certification as a building code administrator;
- Provides exemptions from licensure for certain activities by liquid petroleum gas installers, landscapers installing pre-wired low-voltage landscape lighting, and apartment complex employees;
- Permits claims under the Florida Homeowner's Recovery Fund against Division II contractors and caps payments from the fund for such injuries to \$15,000 per claim and \$150,000 per transaction;
- Exempts any portable pool used for educational programs established by county school districts from the regulatory requirements of a public pool;
- Requires the Department of Health to inspect public swimming pools for their compliance with the Florida Building Code and to deny an operating certificate, impose fines, or close a public pool for code violations;
- Creates the Calder Sloan Swimming Pool Electrical-Safety Task Force to study and report on standards for all electrical aspects for safety in and around public and private swimming pools to the Governor, President, and Speaker by October 1, 2015;
- Removes provisions regarding the development of advanced courses related to the Florida Building Code Compliance and Mitigation Program and accreditation of courses related to the code and instead authorizes the development of code-related training;

- Requires the Florida Building Code Compliance Mitigation Fund to fund, up to \$30,000 in Fiscal Year 2015-2016, the recommendations made by the Building Code System Uniform Implementation Evaluation Workshop and to fund, up to \$15,000 annually, the Florida Fire Code informal interpretations managed by the State Fire Marshal;
- Allows building officials to issue phased permits for the construction of parts of a building project;
- Requires the Florida Building Code Administrators and Inspectors Board to provide for appropriate levels of provisional certificates;
- Allows local boards created to address conflicts between the Florida Building Code and the Florida Fire Prevention Code to combine to create a single local board that must include at least one fire professional;
- Requires newly installed or replacement water heaters to have leak detection devices in buildings other than one- and two-family detached single-family dwellings;
- Restricts the Florida Building Code from requiring more than one fire service access elevator in residential buildings of a certain height and requires residential buildings of a certain height to meet specific requirements related to fire service access elevator lobbies and exit access corridors;
- Adds Underwriters Laboratories, LLC, to the list of entities that are authorized to produce information on which product approvals are based;
- Requires the local enforcement agencies to accept certain duct and air infiltration tests when inspecting for thermal efficiency standards; and
- Amends provisions related to fire prevention and control to:
 - Clarify who may request the State Fire Marshal to issue a declaratory statement relating to the Florida Fire Prevention Code;
 - Require new high-rise buildings to comply with minimum radio signal strength for fire department communications set by the local authority with jurisdiction. Existing high-rise buildings must comply by 2022 and existing apartment buildings must comply by 2025;
 - Require areas of refuge to be provided when required by the Florida Building Code-Accessibility; and
 - Require fire prevention plan reviewers to be certified at a minimum as a Plans Examiner Level II, or as the State Fire Marshal determines by rule.

The bill does not impact the expenditures of the Department of Health, and has various impacts on the Department of Business and Professional Regulation, including the Florida Building Commission, and the Department of Financial Services, including the State Fire Marshal. See Section V.

II. Present Situation:

Building Code Administrators, Plans Examiners, and Inspectors Certifications

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:

- 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.
- Demonstrates a combination of postsecondary education in the field of construction or a related field and experience totaling 4 years, with at least 1 year 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 totaling 4 years, with at least 1 year being experience in construction, building code inspection, or plans review.
- Currently holds a standard certificate as issued by the Florida Building Code Administrators and Inspectors Board (FBCAIB), or a fire safety inspector license issued pursuant to ch. 633, F.S., has a minimum of 5 years' verifiable full-time experience in inspection or plan review, and satisfactorily completes an approved building code inspector or plans examiner training program of not less than 200 hours in the certification category sought.
- Demonstrates a combination of a minimum of 2 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 and the completion of an approved training program in the field of building code inspection or plan review of not less than 300 hours 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 certificateholder.

Building Code Administrator

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:

- 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 experience in supervisory positions; or
- Demonstrates a combination of 10 years' experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least 5 years of experience in supervisory positions, and postsecondary education in the field of construction or related field, of which no more than 5 years may be applied.

Contractors and the Construction Industry Licensing Board

The Construction Industry Licensing Board (CILB), within the Department of Business and Professional Regulation (DBPR), is responsible for licensing and regulating the construction

industry in this state.¹ The CILB is divided into Division I and Division II members based on the definitions of Division I and Division II contractors.

Division I contractors are described under s. 489.105, F.S., as general contractors, building contractors, and residential contractors. Division II contractors are described as sheet metal contractors, roofing contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, pollutant storage systems contractors, and specialty contractors.

Section 489.129, F.S., grants the CILB the authority to take actions against any certificate holder or registrant if the contractor, or a related party, is found guilty of specific acts, including the acts that may qualify a claim to the Florida Homeowner's Construction Fund, which is discussed below.

Liquid Petroleum Gas Water Heater Installation

Currently, a person licensed as a liquid petroleum gas Installer C by the Department of Agriculture and Consumer Services (DACCS) is authorized to install, service, alter, or modify appliances, equipment, piping, or tubing to convey liquefied petroleum gas to appliances or equipment.² A person with such a license is authorized to service or replace a liquid petroleum gas water heater and to hook up the water heater to the source of the gas, however, he or she may not hook the water heater to the home's plumbing without being certified as a plumbing contractor.³ Currently, public and private natural gas utilities are exempt from the requirement to be certified as a plumbing contractor when servicing or replacing a water heater.

Water Heater Leak Detection Devices

Currently water heaters are not required to have leak detection devices with audible alarms attached to the drain pan area.

Low-Voltage Landscape Lighting

Part II of ch. 489, F.S., 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.⁴ Section 489.503, F.S., provides exemptions to licensure 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, and a lightning rod or related systems installer.

¹ Section 489.107, F.S. DBPR, *Construction Industry Licensing Board*, available at <http://www.myfloridalicense.com/DBPR/pro/cilb/index.html> (last visited 4/13/2015).

² Rule 5J-20.012, F.A.C. *See also* ch. 527, F.S.

³ Section 489.105(3)(m), F.S.

⁴ Section 489.501, F.S.

Florida Homeowner's Construction Recovery Fund

The Florida Homeowner's Construction Recovery Fund (fund) was created by the Legislature in 1993 after Hurricane Andrew. The fund is the last resort to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed general, building, and residential contractors. Covered losses include financial mismanagement or misconduct, project abandonment, or fraudulent statement of a contractor or related party.⁵ A claimant must be a homeowner and the damage must have been caused by a Division I contractor.⁶

A claim must involve an act by a contractor under s. 489.129(1)(g), (j), and (k), F.S., which relate to actions that give rise to disciplinary actions by CILB against a contractor.

- 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. Generally, financial mismanagement or misconduct occurs when the contractor fails to remove a valid lien after payment; the contractor has abandoned the job and has been paid for more than is completed; and the customer is made to pay more than the contract price.
- Section 489.129(1)(j), F.S., allows disciplinary proceedings for abandoning a construction project, under certain conditions.
- Section 489.129(1)(k), F.S., allows disciplinary proceedings for signing a false statement with respect to a project or contract indicating that the work is bonded, subcontractors have been paid, or workers' compensation and public liability insurance are provided.

Duty of Contractor to give Notice of Fund

Section 489.1425, F.S., creates a duty for a contractor to provide notice to a customer of rights under the recovery fund. Any agreement or contract for repair, restoration, improvement, or construction to residential real property must contain a written statement explaining the consumer's rights under the recovery fund, except where the value of all labor and materials does not exceed \$2,500. The written statement must be substantially in the form provided for in the statute.

Requirements to Make a Claim

The claimant must have obtained a final judgment, arbitration award, or CILB issued restitution order against the contractor for damages that are a direct result of a compensable violation. The statute of limitations to make a claim is 1 year after the conclusion of an action or award in arbitration that is based on the misconduct.⁷ Certain claimants may not make claims, including a claimant that contracted with a Division II contractor and a claimant that suffered damages as a result of making improper payments to a contractor under the Florida Construction Lien Law.⁸

⁵ Sections 489.140-489.144, F.S.

⁶ Section 489.1402, F.S.

⁷ Section 489.141(1)(f), F.S.

⁸ The term "contractor" is defined as a person other than a materialman or laborer who enters into a contract with the owner of real property for improving it, or who takes over from a contractor as so defined the entire remaining work under such contract. It includes an architect, landscape architect, or engineer who improves real property pursuant to a design-build contract authorized by s. 489.103(16), F.S. See s. 713.01(8), F.S.

Limits

Payment to a claimant from the recovery fund will be an amount equal to the judgment, award, or restitution order or \$25,000, whichever is less, or an amount equal to the unsatisfied portion of such person's judgment, award, or restitution order, but only to the extent and amount of actual damages suffered by the claimant.⁹ Each recovery claim is limited to both a per-claim maximum amount and a total lifetime per-contractor maximum.¹⁰ For contracts entered prior to July 1, 2004, the fund claims are limited to \$25,000 per claimant with a total lifetime aggregate limit of \$250,000 per licensee.¹¹ 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.¹²

Swimming Pools

The Department of Health (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 Rule 64E-9 of the Florida Administrative Code.

Swimming Pool Inspections

The Florida Building Commission (FBC) and local building entities have jurisdiction over permitting, plan reviews, and inspections of public swimming pools and public bathing places and the DOH has jurisdiction over the operating permits for public swimming pools and public bathing places.¹³ A "public swimming pool" or "public pool" includes recreational water attractions, conventional pools, and spa-type pools.¹⁴ A "public bathing place" can include bathing areas in lakes, ponds, rivers, and beaches and shores of the state.¹⁵

Currently the DOH does not have authority to cite violations of the Florida Building Code during routine inspections of public swimming pools and public bathing places. Local building officials do not perform routine inspections of public swimming pools but can respond to complaints received. The DOH conducts routine inspections to ensure the pools and bathing places continue to be operated and maintained in compliance with their original approval to protect public health and safety. The DOH notes that, from September 2013 through September 2014, the DOH conducted 75,478 inspections of 37,600 public pools in the state and found 127,413 code violations, of which 26,282 were Florida Building Code violations.¹⁶

⁹ Section 489.143(2), F.S.

¹⁰ DBPR, *2015 Legislative Bill Analysis: SB 1232* (March 17, 2015).

¹¹ Section 489.143(2) and (5), F.S.

¹² *Id.*

¹³ Section 514.021, F.S.

¹⁴ Section 514.011(2), F.S.

¹⁵ Section 514.011(4), F.S.

¹⁶ Department of Health, *House Bill 915 Analysis* (February 25, 2015), p. 2.

Swimming Pool Electrical Equipment

Current construction rules for public pools require that written approval must be received from the DOH before construction can begin.¹⁷ 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.¹⁸

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 Association 70, National Electrical Code (NEC), 2008 Edition, and with any applicable local code. Finally, as part of the plan approval, the electrical contractor or electrical inspector must certify as to a pool's compliance, on the form designated by the DOH.¹⁹

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.²⁰ The Safety Alert noted that pools older than 30 years may not have the proper GFCI protection. 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.²¹ During the same month in Miami, a 7 year-old boy, Calder Sloan, was electrocuted in his family's swimming pool from faulty wiring.²²

In October 2014, the Miami-Dade Board of County Commissioners passed the Swimming Pool Light Ordinance 14-95. The ordinance modifies two sections of the Florida Building Code to make requirements for underwater lighting in commercial pools applicable to residential pools.²³ Existing pools will be required to comply with the new low voltage requirements at the time of repair or alteration or to remove the underwater pool light. The county permit to change an

¹⁷ Section 514.03, F.S., and Rule 64E-9.005, F.A.C.

¹⁸ Rules 64E-9.006(1)(i)3. and 64E-9.006(2)(c)3., F.A.C.

¹⁹ Rule 64E-9.006(2)(d), F.A.C.

²⁰ U.S. Consumer Product Safety Commission, *Safety Alert: Install Ground-Fault Circuit-Interrupter Protection for Pools, Spas and Hot Tubs*, CPSC Document #5059, <http://www.cpsc.gov/PageFiles/118868/5039.pdf> (last visited 4/13/2015).

²¹ Roger Lohse, *Shoddy Electrical Work Lead to 3 Kids' Injuries at a Pool in Hialeah*, *Policy Say*, Local10.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 4/13/2015).

²² 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 4/13/2015).

²³ Miami-Dade County Regulatory and Economic Resources Department, *Is My Pool Safe?*, available at <http://www.miamidade.gov/permits/library/brochures/swimming-pool-light.pdf> (last visited 4/13/2015).

existing pool light to low voltage light or to remove a light without a replacement in unincorporated Miami-Dade County is \$65.

Building Code Compliance and Mitigation Program

The DBPR administers the Florida Building Code Compliance and Mitigation Program (program), which was created to develop, coordinate, and maintain education and outreach to people 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.²⁴ 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.²⁵ The FBC implemented the accreditation process required by statute through its standard process of gathering input from all affected stakeholders and has continued to regularly modify the process based on concerns identified by its users. To date, the FBC has accredited approximately 300 courses finding that the courses' content to be an accurate reflection of the Florida Building Code or related processes.²⁶

Florida Building

Currently, s. 553.73(11), F.S., requires local building code enforcement officials and local fire code enforcement officials to resolve conflicts between the Florida Building Code, the Florida Fire Prevention Code, and the Florida Life Safety Code by agreement as to the code that offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and equivalent method of construction. Additionally, decisions made by local fire officials and the local building officials may be appealed to local administrative boards having firesafety responsibilities. All such decisions are subject to review by a joint committee composed of members of the FBC and the Fire Code Advisory Council.

Building Plan Review

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 from the appropriate enforcing agency. Further, a permit may not be issued for any activity unless the applicant for the permit complies with the requirements for plan review established by the FBC within the Florida Building Code. However, the Florida Building 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.

Section 105.13 (phased permit approval), of the Florida Building 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

²⁴ Section 553.841(2), F.S.

²⁵ Section 553.841(3), F.S.

²⁶ DBPR, *2015 Legislative Bill Analysis: SB 1232* (March 17, 2015) (on file with Senate Committee on Health Policy).

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.

Product Approval

The State Product Approval System provides manufacturers an opportunity to have building products approved for use in Florida by the FBC rather than seeking approval in each local jurisdiction where the product is used. One method of obtaining a state approval uses product evaluation reports from an approved evaluation entity. Section 553.842(8)(a), F.S., explicitly names the National Evaluation Service, the International Association of Plumbing and Mechanical Officials Evaluation Service, the International Code Council Evaluation Services, and the Miami-Dade County Building Code Compliance Office Product Control as evaluation entities.

Underwriters Laboratories (UL) is a safety science company established in 1890 which certifies, validates, tests, inspects, audits, advises, and trains. According to their webpage, UL is "dedicated to promoting safe living and working environments, UL helps safeguard people, products and places in important ways, facilitating trade and providing peace of mind."²⁷

Duct and Air Infiltration Tests

On 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. 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 Florida Building 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.

Division of the State Fire Marshal

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

²⁷ Underwriters Laboratories, *About UL*, available at <http://ul.com/aboutul/> (last visited 4/14/2015).

Marshal.²⁸ 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.²⁹

III. Effect of Proposed Changes:

Building Code Administrators, Plans Examiners, and Inspectors Certifications

Section 1 amends s. 468.609, F.S., to modify the training requirements required for building code inspectors, plan examiners, and building code administrators to take the certification exams.

Related to certain training requirements for building code inspectors, the bill:

- For individuals with a standard certificate or firesafety inspector license, reduces the number of years' experience in inspection or plan review from 5 to 3 years and requires the training program to be between 100 and 200 hours;
- For individuals with 2 years' experience in the field, requires the training program to be between 200 and 300 hours and limits the required hours of instruction in state law to between 20 and 30 hours; and
- Creates a new option for individuals who currently hold a standard certificate or a firesafety inspector license to qualify to take the exam, if the person also:
 - Has at least 5 years' verifiable full-time experience under the certificate or license; and
 - Satisfactorily completes a building code inspector or plans examiner classroom training course or program that provides between 200 and 300 hours in the certification category sought, except for one-family and two-family dwelling training programs which are required to provide between 500 and 800 hours of training as prescribed by the FBCAIB.

Related to the training requirements for a building code administrator who is demonstrating a combination of years' experience and education, the bill adds a requirement that the individual must have also completed between 20 and 30 hours training in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificateholder.

Contractors

Section 6 amends s. 489.103, F.S., to exempt employees of apartment communities with 100 or more apartments from contractor licensing requirements when they make minor repairs under

²⁸ The head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of State Fire Marshal is located within the DFS. s. 633.104, F.S.

²⁹ Section 633.202, F.S.

\$1,000, and meet several criteria. Employees are exempt for minor repairs to existing water heaters or heating, venting, and air-conditioning systems that meet certain criteria.

Liquid Petroleum Gas Water Heater Installation

Section 7 amends s. 489.105, F.S., to clarify that the definition of a “plumbing contractor” does not require a person licensed for the sale of liquefied petroleum gas under ch. 527, F.S., to become certified or registered as a plumbing contractor in order to disconnect or reconnect water lines when servicing or replacing a hot water heater.

Low-Voltage Landscape Lighting

Section 14 amends s. 489.503, F.S., to exempt persons who install certain low-voltage landscape lighting from the requirement to be certified as an electrical contractor. The low-voltage landscape lighting must have a factory-installed electrical cord and plug and not require installation, wiring, or modification to the electrical wiring of a structure.

Florida Homeowner’s Construction Recovery Fund

Sections 9, 10, 11, 12, and 13 amend ss. 489.1401, 489.1402, 489.141, 489.1425, and 489.143, F.S., related to the Florida Homeowners’ Construction Recovery Fund to include Division II contractors within the parameters of the fund. The bill 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.

The bill also:

- Clarifies that a “residence” includes a single-family residence.
- Repeals the prohibition against paying claims where the damages resulted from payments made in violation of the Florida Construction Lien Law.
- Clarifies that the prohibition against paying claims against Division II contractors applies only to contracts entered into before July 1, 2015.
- Revises 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.

Swimming Pools

Sections 16 and 17 amend ss. 514.011 and 514.0115, F.S., to add portable pools used for educational programs established by county school districts to the definition of “private pool,” and exempt such pools from regulation as a public pool.

Sections 18 and 19 amend ss. 514.031 and 514.05, F.S., related to the operation and maintenance of public pools.

The bill requires the DOH to inspect permitted public swimming pools to ensure that they continue to be operated in compliance with DOH rules, the original plans and specifications for

the pool, and provisions in the Florida Building Code³⁰ applicable to public pools. The DOH is authorized to adopt rules for such inspections. The authority grant to the DOH to inspect extends to the pool, the pool deck, the pool barrier,³¹ and the bathroom facilities for pool patrons. Local enforcement agencies are required to permit and inspect repairs required as the result of DOH inspections and are authorized to take enforcement actions to ensure compliance. The DOH is required to ensure that rules enforced by the local enforcement agency are not inconsistent with the Florida Building Code.

The bill also authorizes the DOH to deny a permit, to impose administrative fines (up to \$500 per violation), or to close a public pool for noncompliance with applicable provisions in the Florida Building Code.

Section 22 amends s. 553.79, F.S., to provide that if the department determines that a public pool or swimming place is not operated in compliance with administrative rules, the original plans and specifications for the pool, and provisions in the Florida Building Code, the local enforcing agency must permit and inspect repairs or modifications done as a result of the inspections and may take enforcement action to ensure compliance.

Section 29 establishes the Calder Sloan Swimming Pool Electrical-Safety Task Force within the FBC. The purpose of the task force is to study and report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2015, on recommended revisions to the Florida Statutes concerning standards pertaining to grounding, bonding, lighting, wiring, and all electrical aspects for safety in and around public and private swimming pools. The task force is comprised of the Swimming Pool and Electrical Technical Advisory Committees of the FBC, and chaired by the Swimming Pool Contractor appointed to the FBC.

The bill requires the FBC to provide staff, information, and other assistance as reasonably necessary to assist the task force in carrying out its responsibilities. Members of the task force serve without compensation³² and are required to meet as often as necessary to fulfill the responsibilities of the task force. Meetings may be conducted by conference call, teleconferencing, or other similar technology. The section expires December 31, 2015.

Building Code Compliance and Mitigation Program

Section 23 amends s. 553.841, F.S, to repeal the requirement that the DBPR develop or update advanced modules designed for use by each profession. Instead the DBPR is authorized to develop or update code-related training for each profession. The bill also repeals the requirement that the FBC provide by rule for the accreditation of courses related to the Florida Building Code.

Sections 2, 3, 4, 5, 8, and 15 amend ss. 468.627, 471.0195, 481.215, 481.313, 489.115, and 489.517, F.S., to clarify that appropriate “code-related training” is required for issuance or renewal of specified licenses.

³⁰ Chapter 533, F.S.

³¹ As defined in s. 515.25, F.S.

³² Members may be reimbursed for per diem and travel expenses. s. 112.061, F.S.

Section 20 amends s. 553.721, F.S., to require the Florida Building Code Compliance Mitigation Fund to:

- Fund up to \$30,000 in Fiscal Year 2015-2016, from existing resources, the recommendations made by the Building Code System Uniform Implementation Evaluation Workshop; and
- Fund up to \$15,000 annually, from surcharge collections, the Florida Fire Code informal interpretations managed by the State Fire Marshal. The State Fire Marshal is provided with rule-making authority to implement these changes.

Current law allows a surcharge to be imposed of 1.5 percent of building permit fees, with a minimum of \$2 charged on each permit. Local governments remit the collections to the DBPR, less a 10 percent for specific local uses, for deposit in the Professional Regulation Trust Fund. These monies fund the FBC and the Florida Building Code Compliance Mitigation Program. Annually, the program must be allocated \$925,000 from collections.

Florida Building

Section 21 amends s. 553.73, F.S., related to the Florida Building Code, to:

- Allow local boards created to address conflicts between the Florida Building Code and the Florida Fire Prevention Code to combine to create a single local board to address both codes. The combined board must have representation by at least one fire official at every meeting of the local board. The board can grant alternatives, but may not waive provisions of the Florida Fire Prevention Code. Board decisions may still be reviewed by a joint committee of the FBC and the Fire Code Advisory Council.
- Require that newly installed and replaced water heaters, except those in one- and two-family single-family homes, have hard-wired or battery-operated water-level detection devices secured to the drain pan area at a level lower than the drain connection. The device must have an audible alarm and, if battery operated, a 10-year low-battery notification; and
- Provide that, in residential buildings:
 - With a residential occupiable floor less than 420 feet above the level of fire service access, the Florida Building Code cannot require more than one fire service access elevator; and
 - With a transient residential occupiable floor more than 420 feet above the level of fire service access, specific requirements related to fire service access elevator lobbies and exit access corridors apply.
 - The requirement for a second fire service access elevator is not considered part of the Florida Building Code, and does not take effect until July 1, 2016.

Section 22 amends s. 553.79, F.S., to allow the local building official to issue a phased permit after an applicant submits the appropriate construction documents. If the building official issues a phased permit, an outside agency may not require additional reviews or approvals because the project will need additional outside agency reviews and approvals before the issuance of a master building permit. The holder of a phased permit 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 Approval

Section 24 amends s. 553.842, F.S., to add Underwriters Laboratories, LLC, to the list of evaluation entities approved by the FBC.

Duct and Air Infiltration Tests

Section 25 amends s. 553.908, F.S., to require local enforcement agencies to accept duct and air infiltration tests conducted in accordance with the Florida Building Code-Energy Conservation by specified individuals including energy raters and HVAC contractors.

Division of the State Fire Marshal

Sections 26 - 28 amend ss. 633.104, 633.202, and 633.216, F.S, related to fire prevention and control, to:

- Specify that only people who will be or may be affected by the application of the Florida Fire Prevention Code to a property or building that the person owns, controls, or is considering purchasing, selling, designing, constructing, or altering may request the State Fire Marshal to issue a declaratory statement relating to the Florida Fire Prevention Code;
- Require new high-rise buildings to comply with minimum radio signal strength for fire department communications set by the local authority with jurisdiction. Existing high-rise buildings must comply by 2022 and existing apartment buildings must comply by 2025;
- Require areas of refuge to be provided when required by the Accessibility portion of the Florida Building Code; and
- Require fire prevention plan reviewers to be certified at a minimum as a Plans Examiner Level II, or alternative equivalents that the State Fire Marshal determines by rule.

Section 30 establishes an effective date of July 1, 2015.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Consumers who have their liquid petroleum gas water heaters serviced or replaced may see an indeterminate positive fiscal impact due to not being required to hire a plumbing contractor to hook the water heater to the water line. Additionally, liquid petroleum gas appliance installers may see an indeterminate positive fiscal impact due to not being required to be certified as a plumbing contractor to hook such water heaters to the water line. Plumbing contractors may see an indeterminate negative fiscal impact due to the loss of such hook-up business.

The requirement for hot water heaters to have leak detection devices may increase the costs when installing or replacing a water heater.

The exemption from the requirement to be certified as an electrical contractor may reduce the costs of installing low-voltage landscape lighting.

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

C. Government Sector Impact:

The DOH reports that, "As the violations will be cited during inspections already being done at public swimming pools, the bill does not have a significant fiscal impact on the Department."³³ There may be an indeterminate positive impact due to the ability for the DOH to issue fines for violations during inspections (up to \$500 per violation of original plan and specifications or variances and the Florida Building Code).

The DBPR reports that the fiscal impact on the FBC due to the requirement that the FBC support and assist the Calder Sloan Swimming Pool Electrical-Safety Task Force is negative \$39,000.

The DBPR also reports a negative fiscal impact of \$5,000 due to reduced applications and education courses from the various exempted persons under the bill, and an anticipated reduction in service charge transfers to the General Revenue Fund of approximately \$400 per year, due to the revenue reduction. Additionally, the DBPR anticipates a positive fiscal impact of \$22,000 due to reduced expenditures related to the repeal of the requirement of the DBPR to create advanced modules for training under the Building Code Compliance and Mitigation Program.

The impact of permitting claims related to Division II contractors from the Florida Homeowners' Construction Recovery Fund is indeterminate.

³³ Department of Health, *House Bill 915 Analysis* (February 25, 2015), p. 2.

The bill permits the following distributions of funds from the Florida Building Code Compliance Mitigation Program within the Professional Regulation Trust Fund:

- Up to \$30,000 in Fiscal Year 2015-2016, from existing resources, to fund the recommendations made by the Building Code System Uniform Implementation Evaluation Workshop; and
- Up to \$15,000 annually, from surcharge collections, to fund the Florida Fire Code informal interpretations managed by the State Fire Marshal.

The Department of Financial Services has indicated a need of 5 positions and \$388,425 to implement this bill. The fiscal impact is related to the expansion of current practice of who can request a declaratory statement. The department reviews and examines each request for a declaratory statement which must be issued within 90 days (45 days in expedited cases).

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DBPR, FBC, and the State Fire Marshal are granted rulemaking authority related to the various changes in the bill to the Florida Building Code and programs.

The DOH is authorized to adopt rules for inspections of pools.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 468.609, 468.627, 471.0195, 481.215, 481.313, 489.103, 489.105, 489.115, 489.1401, 489.1402, 489.141, 489.1425, 489.143, 489.503, 489.517, 514.011, 514.0115, 514.031, 514.05, 553.721, 553.73, 553.79, 553.841, 553.842, 553.908, 633.104, 633.202, and 633.216.

The bill creates an undesignated section of Florida law.

IX. Additional Information:

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

CS/CS by Community Affairs on April 7, 2015:

- Lowers the hour requirements for the building inspector training program from 300 to 200 hours;
- Removes a provision that would have added a firesafety inspector certified under s. 633.216, F.S., to the list of occupations that may satisfy the experience requirement to become a building code administrator;
- Provides the State Fire Marshal with rule-making authority to address changes made concerning Florida Fire Prevention Code informal interpretations;

- Exempts any portable pool used for certain educational programs established by county school districts from regulatory requirements of a public pool;
- Provides regulations related to fire service access elevators, access elevator lobbies, and exit access corridors, in residential buildings of certain heights, including a provision that would delay a requirement for residential buildings to include a second fire service access elevator until July 1, 2016;
- Requires new high-rise buildings to comply with minimum radio signal strength for fire department communications set by the local authority with jurisdiction;
- Removes a requirement that dead-end corridors have a maximum length of 50 feet in apartment buildings protected by automatic sprinklers;
- Removes a provision that State Fire Marshal declaratory statements relating to the Florida Fire Prevention Code are not intended to be an appeal of a decision made by a local fire official or local board;
- Removes a change made to the definition of “use” of real property, as it pertains to fire prevention and control;
- Requires all fire prevention plan reviewers to be certified at minimum as a Plans Examiner Level II, or as an alternative equivalent set in rule by the State Fire Marshal; and
- Provides that the Calder Sloan Electrical Safety Task Force is comprised of the Swimming Pool and Electrical Technical Advisory Committees of the FBC.

CS by Health Policy on March 23, 2015:

- Amends current provisions in the bill to:
 - Exempt one- and two-family homes from the requirement to have a hot water heater leak detection device installed when installing or replacing hot water heaters; and
 - Make conforming changes to provisions related to swimming pool inspections.
- Creates new provisions which:
 - Reduce the requirements for certification as a building code inspector, building code administrator, or a plans examiner and allows for a board certificate or a firesafety inspector license to qualify along with 5 years’ experience and required training.
 - Require the Florida Building Code Administrators and Inspectors Board to provide for appropriate levels of provisional certificates.
 - Apply the requirements of the Florida Homeowner’s Recovery Fund to Division II contractors and makes clarifying and technical changes to those sections related to the recovery fund.
 - Cap payments from the recovery fund for Division II contractors.
 - Exempt landscapers from being certified as an electrical contractor when installing pre-wired low-voltage landscape lighting.
 - Clarify the DOH’s authority to deny, revoke, or fine a public swimming pool permittee.
 - Require the Florida Building Code Compliance Mitigation Fund to fund, up to \$30,000, the recommendations made by the Building Code System Uniform Implementation Evaluation Workshop and to fund, up to \$15,000, for Florida Fire Code informal interpretations managed by the State Fire Marshal.

- Allow local boards created to address conflicts between the Florida Building Code and the Florida Fire Prevention Code to combine to create a single local board.
- Restrict appeals of decisions made by local fire officials or local building officials.
- Restrict the Florida Building Code from requiring more than one access elevator in buildings that are Occupancy Group R-2.
- Allow building officials to issue phased permits for the construction of parts of a building project.
- Require the local enforcement agencies to accept certain duct and air infiltration tests when inspecting for thermal efficiency standards.
- Amend provisions related to fire prevention and control to:
 - Revise definitions;
 - Clarify who may require the State Fire Marshal to issue a declaratory statement relating to the Florida Fire Prevention Code and clarify that such process is not intended to be an appeal of a decision made by a local fire official or local board;
 - Require new and, by certain dates, existing high-rise buildings to comply with minimum radio signal strength;
 - Require areas of refuge to be provided under certain circumstances and restrict certain dead-end corridors; and
 - Require fire prevention plan reviewers to be certified.
- Creates the Calder Sloan Swimming Pool Electrical-Safety Task Force.

B. Amendments:

None.