

STORAGE NAME: h1109z.ca
DATE: May 16, 2000

****FAILED TO PASS THE LEGISLATURE****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
FINAL ANALYSIS**

BILL #: HB 1109
RELATING TO: Building Code Administrators
SPONSOR(S): Representative Stansel and other
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS (PRC) YEAS 10 NAYS 0
 - (2) BUSINESS REGULATION AND CONSUMER AFFAIRS (CAC) YEAS 8 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The provisions of HB 1109, as amended by the Committee on Community Affairs, are included in CS/SB 220, 1st Eng., which passed the Legislature.

Provisional licenses allow newly employed or promoted building code administrators, building code inspectors, and plans examiners to serve without having passed the examination, or having met the experience or training requirements necessary to sit for the examination. This bill increases the amount of time, from 1-3 years to 3-5 years, a person can serve while holding a provisional license. It also requires that persons who obtain the provisional license must meet the training or experience requirements necessary to sit for the licensure examination. The bill makes a number of other clarifying and technical changes.

See "effect of proposed changes" and "section-by-section" portions of this document for more details.

The bill has no significant fiscal impact on state government. This bill may reduce some local governments' expenditures required to recruit and retain necessary building code personnel.

The Committee on Community Affairs adopted one amendment that is traveling with the bill. As discussed in the "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES" section of the analysis, the amendment provides that direct supervision and the determination of qualifications may be provided by a building code administrator who holds a limited or provisional certificate in any county with a population of less than 75,000 and in any municipality located within such county.

The Committee on Business Regulation & Consumer Affairs adopted an amendment that moves the Construction Industry Licensing Board from Jacksonville to Leon County. That amendment is also traveling with the bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|-----------------------------------------|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Building Officials Certification

Part XII of chapter 468, F.S., provides for the regulation of building code administrators and inspectors by the Board of Building Code Administrators and Inspectors (Board) within the Department of Business and Professional Regulation (DBPR). The statute provides for various types and levels of mandatory certification of building code administrators and inspection personnel. The program is funded by license fees and one-half of 1% surcharge on every building permit (local governments retain up to 10% of the surcharge, then the DBPR-projected funding needs of the board are subtracted, and the remainder goes to the Construction Industries Recovery Fund, established under part I of ch. 489, Florida Statutes).

A building code administrator supervises building code activities, including plans review, enforcement, and inspection. A building code inspector inspects construction that requires permits to determine compliance with building codes and state accessibility laws. A plans examiner reviews plans submitted for building permits to determine compliance with construction codes.

There are several categories of inspector and plans examiners certificates, relating to the scope of the activities the licensee may perform (e.g., building inspector, commercial or residential electrical inspector, mechanical inspector, building plans examiner, plumbing plans examiner, etc.). Part XII sets forth the requirements for licensure for the various types and categories of certificate holders, including credentials from specified private organizations or specified experience (or a combination of education and experience) and an examination.

Section 468.607, F.S., provides that no person may be employed by a state agency or local government to perform the duties of building code administrator, plans examiner, or inspector after October 1, 1993, without possessing a proper valid certificate issued in accordance with the provisions of part XII of chapter 468, F.S. Subsection (4) of s. 468.609, F.S., provides no person may engage in the duties of a building code administrator, plans examiner, or inspector pursuant after October 1, 1993, unless such person possesses one of the following types of certificates, currently valid, issued by the board attesting to the person's qualifications to hold such position:

- A standard certificate;
- A limited certificate (allows an individual to continue to work only in the position held on July 1, 1993);
- A provisional certificate (allows an individual to work for 1 to 3 years pending qualification for a standard certificate).

Standard Certificate

Subsection (5) of s. 468.609, F.S., provides that to obtain a standard certificate, an individual must pass an examination approved by the board which demonstrates the applicant has fundamental knowledge of the state laws and codes relating to the construction of buildings for which the applicant has code administration, plans examining, or inspection responsibilities. The subsection provides legislative intent that such examinations be substantially equivalent to the examinations administered by the Southern Building Code Congress International, the Building Officials Association of Florida, the South Florida Building Code (Dade and Broward), and the Council of American Building Officials.

Subsection (2) of s. 468.609, F.S., provides eligibility requirements to take the examination for certification as an inspector or plans examiner. Applicants must meet criteria relating to experience and/or education to take an examination. An applicant who holds a standard certificate as issued by the board and satisfactorily completes an inspector or plans examiner training program of not less than 200 hours in the certification category sought is also eligible to take an examination. All applicants must demonstrate successful completion of the core curriculum and specialized or advanced module course work approved by the Florida Building Commission, as part of the Building Code Training Program established pursuant to s. 553.841, F.S., appropriate to the licensing category sought or, pursuant to authorization by the certifying authority, provides proof of completion of such curriculum or course work within 6 months after such certification.

Subsection (3) of s. 468.609, F. S., provides eligibility requirements to take the examination for certification as a building code administrator. Applicants must meet criteria relating to experience and/or education to take an examination. All applicants must demonstrate successful completion of the core curriculum and specialized or advanced module course work approved by the Florida Building Commission, as part of the Building Code Training Program established pursuant to s. 553.841, F.S., appropriate to the licensing category sought or, pursuant to authorization by the certifying authority, provides proof of completion of such curriculum or course work within 6 months after such certification.

Limited Certification

Subsection (6) of s. 468.609, F.S., provides a building code administrator, plans examiner, or inspector holding office on July 1, 1993, is not required to possess a standard certificate as a condition of tenure or continued employment, but must be required to obtain a limited certificate. The subsection provides that by October 1, 1993, individuals who were employed on July 1, 1993, as building code administrators, plans examiners, or inspectors, who are not eligible for a standard certificate, but who wish to continue in such employment, must submit to the board an application and certification fees and shall receive a limited certificate qualifying them to engage in building code administration, plans examination, or inspection in the class, at the performance level, and within the governmental jurisdiction in which such person is employed. The limited certificate is valid

only as an authorization for the building code administrator, plans examiner, or inspector to continue in the position held, and to continue performing all functions assigned to that position, on July 1, 1993. A building code administrator, plans examiner, or inspector holding a limited certificate can be promoted to a position requiring a higher level certificate only upon issuance of a standard certificate or provisional certificate appropriate for such new position.

Provisional Certification

Subsection (7) of s. 468.609, F.S., authorizes the Board to provide for the issuance of provisional certificates valid for such period, not less than 1 year nor more than 3 years, as specified by board rule, to any newly employed or promoted building code administrator, plans examiner, or inspector.

Exceptions

Subsection (8) of s. 468.609, F.S., provides that any individual who holds a valid certificate under the provisions of s. 553.795, F.S., (which was repealed by chapter 93-166, L.O.F.) or who has successfully completed all requirements for certification pursuant to such section, shall be deemed to have satisfied the requirements for receiving a standard certificate prescribed by this part. In addition, the subsection provides that any individual who holds a valid certificate issued by the Southern Building Code Congress International, the Building Officials Association of Florida, the South Florida Building Code (Dade and Broward), or the Council of American Building Officials certification programs, or who has been approved for certification under one of those programs not later than October 1, 1995, shall be deemed to have satisfied the requirements for receiving a standard certificate in the corresponding category prescribed by this part. Employees of counties with a population of less than 50,000, or employees of municipalities with a population of less than 3,500, shall be deemed to have satisfied the requirements for standard certification where such employee is approved for certification under one of the programs set forth in this paragraph not later than October 1, 1998.

Statutory References to Building Inspectors and Inspections

Section 468.603(2), F.S., provides a definition of "building code inspector" or "inspector." The terms "inspector," "building inspector," and "building inspection" are used throughout part XII of chapter 468, F.S., as well as in other chapters of the Florida Statutes.

C. EFFECT OF PROPOSED CHANGES:

This bill deletes language stating legislative intent that examinations required for certification as a building code administrator or building code inspector or plans examiner be substantially similar to examinations administered by the Building Officials Association of Florida and the South Florida Building Code. According to DBPR, these organizations do not offer examinations. The bill increases the period the Board may provide for the issuance of provisional certificates from a minimum of 1 year and a maximum of 3 years to a minimum of 3 years and a maximum of 5 years. Eligibility requirements for provisional certificates are added to limit provisional certificates to newly employed or promoted building code inspectors or plans examiners who meet training or experience eligibility requirements to take the certification examination and newly employed or promoted building code administrators who meet eligibility requirements to take the certification examination.

The bill deletes obsolete standard certificate equivalency provisions, and revises various statutory provisions to provide for consistency in terminology relating to building code inspector and building code inspection.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Subsections (2) and (6) of s. 468.603, F.S., relating to definitions of “building code inspector” and “categories of building inspectors” are amended to replace references to “inspector” with “building code inspector.”

Section 2. Section 468.604, F.S., relating to responsibilities of building code administrators, plans examiners, and inspectors, is amended to replace references to “inspector” with “building code inspector.”

Section 3. Paragraph (c) of subsection (2) of s. 468.605, F.S., relating to membership of the Florida Building Code Administrators and Inspectors Board, is amended to replace references to “inspector” with “building code inspector.”

Section 4. Section 468.607, F.S., relating to certification of building code administration and inspection personnel, is amended to replace references to “inspector” with “building code inspector.”

Section 5. Section 468.609, F.S., relating to standards for certification, is amended to replace references to “inspector” with “building code inspector.”

Subsection (5) is amended to revise language providing legislative intent that examinations used for certification under this part be substantially equivalent to examinations administered by the Southern Building Code Congress International, the Building Officials Association of Florida, the South Florida Building Code, and the Council of American Building Officials. References to the Building Officials Association of Florida and the South Florida Building Code are deleted.

Subsection (7) is amended to expand the period the board may provide for the issuance of provisional certificates from a minimum of 1 year and a maximum of 3 years to a minimum of 3 years and a maximum of 5 years. Eligibility requirements for provisional certificates are added to limit provisional certificates to newly employed or promoted building code inspectors or plans examiners who meet eligibility requirements specified in subsection (2) and newly employed or promoted building code administrators who meet eligibility requirements specified in subsection (3).

Subsection (8) is deleted to: remove obsolete provisions and remove language providing that any individual who holds a valid certificate issued by the Southern Building Code Congresses International, the Building Officials Association of Florida, the South Florida Building Code, or the Council of American Building Officials certification program, or who has been approved for certification under such programs not later than October 1, 1995, shall be deemed to satisfy requirements for certification.

Section 6. Section 468.617, F.S., relating to joint inspection departments, is amended to replace references to “inspector” and “inspection” with “building code inspector” or “building code inspection.”

Section 7. Subsection (3) of s. 468.621, F.S., relating to disciplinary proceedings, is amended to replace a reference to “inspector” with “building code Inspector.”

Section 8. Subsection (2), (3), and (4) of s. 468.627, F.S., relating to application, examination, and fees, is amended to replace references to “inspector” and “inspection” with “building code inspector” or “building code inspection” and clarify “regulation” refers to “construction regulation.”

Section 9. Section 468.631, F.S., relating to the Building Code Administrators and Inspectors Fund, is amended to replace references to “inspector” and “inspection” with “building code inspector” or “building code inspection.”

Section 10. Subsection (1) of s. 468.633, F.S., relating to authority of local government, is amended to replace a reference to building “inspector” with “building code inspector.”

Section 11. Paragraph (a) of subsection (1) of s. 112.3145, F.S., relating to disclosure of financial interests and clients represented before agencies, is amended to replace a reference to “building inspector” with “building code inspector.”

Section 12. Subsection (3) of s. 125.56, F.S., relating to the adoption of amendments of building codes, is amended to replace a reference to “building inspector” with “building code inspector.”

Section 13. Paragraph (g) of subsection (5) of s. 212.08, F.S., relating to sales tax exemption for building materials used in an enterprise zone, is amended to replace a reference to “building inspector” with “building code inspector.”

Section 14. Paragraph (a) of subsection (2) of s. 252.924, F.S., relating to party state responsibilities, is amended to replace a reference to “building inspection” with “building code inspection.”

Section 15. Paragraph (j) of subsection (3) of s. 404.056, F.S., relating to environmental radiation standards and programs, is amended to replace a reference to “building inspections” with “building code inspections.”

Section 16. Section 471.045, F.S., relating to professional engineers performing building code inspector duties, is amended to replace a reference to “building inspection” with “building code inspection.”

Section 17. Section 481.222, F.S., relating to architects performing building code inspector duties, is amended to replace a reference to “building inspection” with “building code inspection.”

Section 18. Paragraph (b) of subsection (18) of s. 489.103, F.S., relating to exemptions from regulation of construction contracting, is amended to replace a reference to “building inspections” with “building code inspections.”

Section 19. An effective date of July 1, 2000, is provided.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill has no impact on state revenues.

2. Expenditures:

This bill has no impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill has no impact on local government revenues.

2. Expenditures:

This bill may reduce some local government expenditures required to recruit and retain necessary building code personnel. The expansion of the validity period of provisional certificates should be particularly beneficial to small and medium size local governments that have experienced difficulties in recruiting and retaining certified building code staff.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent this bill assists small and medium size local governments that have experienced difficulties in recruiting and retaining certified building code staff, the bill may benefit the private sector in obtaining appropriate approvals and permits in a timely fashion.

D. FISCAL COMMENTS:

See the AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES section of the analysis for a discussion of the fiscal impact of the amendment traveling with the bill.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill does not necessitate additional rulemaking authority.

C. OTHER COMMENTS:

Florida Department of Business and Professional Regulation

DBPR submitted an analysis of HB 1109 stating the bill has no fiscal impact on the department. In reference to the changes to provisional certificates and the addition of experience requirements, the analysis states experience is very important and will better protect the public by requiring experience for all provisional licensees.

Florida Association of Counties

A representative of the Florida Association of Counties indicates the Association strongly supports HB 1109.

Florida League of Cities

A representative of the Florida League of Cities indicates the League supports HB 1109.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Committee on Community Affairs

The **Committee on Community Affairs** adopted one amendment on March 23, 2000, that is traveling with the bill. The amendment inserts language on page 10, line 31, after the period, that provides that direct supervision and the determination of qualifications may be provided by a building code administrator who holds a limited or provisional certificate in any county with a population of less than 75,000 and in any municipality located within such county.

The **Committee on Business Regulation & Consumer Affairs** adopted an amendment that is traveling with the bill. It moves the Construction Industry Licensing Board from Jacksonville to Leon County.

The department states that it intends to house the board staff in space it currently leases in its Northwood Mall facility. Currently, the CILB has 25 full time employees (FTE's) and six OPS employees. The department has indicated that it intends to maintain the CILB as a separate entity within the Division of Professions. However, it also intends to move some of the FTE positions currently dedicated to the CILB to staff the DBPR Call Center. The DBPR Call Center is intended to receive all of the DBPR "800 number" information inquiries and complaint intake. The department states that all of current CILB staff will be given an opportunity to fill vacant positions in DBPR's Jacksonville office (Real Estate, Regulation, and Alcohol Beverage and Tobacco divisions) if they do not want to relocate to Tallahassee.

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The department indicates that there will be an annual savings to the department of \$95,851 (the annual lease on the Jacksonville facility). They also indicate that there will be a number of other savings, and that server costs for computers, phone costs, and postage savings will total approximately \$10,000 per year.

The current rent per square foot in Jacksonville is lower than will be billed back to the CILB trust fund account for staff space in the Northwood Mall facility. However, since some of the current CILB staff positions will be allocated to the Call Center, and since duplication of some technical support space (e.g., copying, printing, etc.) will be eliminated, it appears likely that the overall cost charged back to the CILB will not rise. The department states that the expenses for moving equipment and furniture are expected to total \$7,500.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Thomas L. Hamby

Staff Director:

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON BUSINESS REGULATION AND CONSUMER AFFAIRS:

Prepared by:

Gip Arthur

Staff Director:

Rebecca R. Everhart

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Thomas L. Hamby

Staff Director:

Joan Highsmith-Smith