

**STORAGE NAME:** h0219.ted

**DATE:** April 24, 2000

**HOUSE OF REPRESENTATIVES  
AS FURTHER REVISED BY THE COMMITTEE ON  
TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS  
ANALYSIS**

**BILL #:** HB 219

**RELATING TO:** Florida Building Code

**SPONSOR(S):** Representative Constantine

**TIED BILL(S):** None

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

- (1) COMMUNITY AFFAIRS (PRC) YEAS 6 NAYS 1
  - (2) BUSINESS REGULATION & CONSUMER AFFAIRS (CAC)
  - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
  - (4)
  - (5)
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I. SUMMARY:

HB 219 is a "shell" bill stating the intent of the Legislature to review the proposed Florida Building Code adopted by the Florida Building Commission and the Commission's proposed recommendations of revisions to the Florida Statutes which would be necessitated by the Legislature's adoption of the Florida Building Code.

The "shell" bill has no fiscal impact on state or local governments.

**The Committee on Community Affairs adopted one strike-everything amendment that is traveling with the bill. See the "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES" section of the analysis for an analysis of the strike-everything amendment.**

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 codes primarily establish minimum safety standards for the design and construction of buildings by addressing such issues as structural integrity; mechanical, plumbing, electrical, lighting, heating, air conditioning, ventilation, fireproofing, and exit systems; safe materials; energy efficiency; and accessibility by persons with physical disabilities. In doing so, these regulations protect lives and property, promote innovation and new technology, and help ensure economic viability through the availability of safe and affordable buildings and structures.

**Code Development, Adoption, and Enforcement**

Prior to the 1970's, the promulgation and enforcement of Florida's building codes and standards were the sole responsibility of local jurisdictions. In 1974, the Legislature established a set of statewide standards known as the State Minimum Building Codes. For the first time, local governments in Florida were required to adopt building codes to govern the construction, erection, alteration, repair or demolition of any buildings in their jurisdictions, and these codes had to be at least as stringent as the state's minimum standards. The Legislature also created the Florida Board of Building Codes and Standards to establish and maintain the State Minimum Building Codes. The Board members, who were appointed by the Governor and confirmed by the Senate, represented the various stakeholders in the building codes system, including local building officials, contractors, and designers.

Chapter 553, F.S., currently provides the building construction standards for the state. These standards are incorporated in the Florida Plumbing Control Act; the Florida Electrical Code; the minimum standards for certain glass products; the Florida Manufactured Building Act of 1979; the Florida Americans With Disabilities Accessibility Implementation Act; the Trench Safety Act; the State Minimum Building Codes; the Florida Thermal Efficiency Code; the Florida Energy Conservation Standards Act; standards for radon-resistant buildings; and the Florida Building Energy-Efficiency Rating Act.

Part VII of chapter 553, F.S., establishes the state minimum building codes. Local governments and the 14 state agencies that have code enforcement authority are required to adopt one of the State Minimum Building Codes as their building code. However, a local jurisdiction may adopt, under certain conditions, more stringent requirements than are

imposed by the minimum code they adopted. The State Minimum Building Code consists of four model codes:

- The Standard Building Code, 1997 edition, which is published by the Southern Building Code Congress International (SBCCI);
- The Council of American Building Officials (CABO) One and Two Family Dwelling Code (OTFDW), 1986 edition;
- The South Florida Building Code, 1988 edition, which has been adopted by Dade County and Broward County; and
- The EPCOT Building Code, 1982 edition, which was developed and adopted by the Reedy Creek Improvement District, the local government which controls the property surrounding and including Walt Disney World in Orange and Osceola counties.

Dade and Broward Counties use amended versions of the South Florida Building Code. The Standard Building Code has been adopted by the remaining 65 Florida counties and most cities in those counties. Fourteen local jurisdictions use the One-and Two-Family Dwelling Code in lieu of the Standard Building Code for their residential construction only. Substantively, the minimum codes differ only slightly from one another. The most significant difference has been the wind-borne debris standards applied in the South Florida Building Code.

Each of these minimum codes is updated periodically by its promulgating organization. Typically, proposed code changes are submitted to these organizations for consideration during an annual code change cycle. Industry representatives, building department personnel and design professionals make presentations during hearings on the proposed changes. Final changes must be approved by a vote of the organization's members. New editions of the model codes are published every three years, with yearly amendments promulgated during the interim.

The national model code promulgation organizations have recently formed joint committees to draft the International Building Code (IBC), which is expected to be available for adoption in the year 2000. The intent is that the IBC and its family of codes will replace the multiple model codes currently promulgated by these model code organizations.

Florida's adoption of the updated versions of the various codes has been a two-tiered process. First, the Florida Board of Building Codes and Standards determined whether all or part of the updated code editions should be adopted and whether yearly amendments were crucial enough to adopt between new editions. After the Board has approved the latest versions for use, local jurisdictions have typically adopted ordinances reflecting the codes approved by the Board. It has been reported that many communities fail to update their codes quickly, and the local adoption process itself may take a year or more, not including time to implement the changes.

### **Building Code Reform**

The reform of Florida's building codes system has been an issue within the construction industry for many years prior. It was not until Florida endured back-to-back natural disasters – Hurricane Andrew in August 1992, the "Storm of the Century" in March 1993, Tropical Storms Alberto and Beryl in the Summer of 1994, and Hurricanes Erin and Opal during the 1995 Hurricane Season – that the building code system's effectiveness took on

statewide significance for the construction industry and all of the stakeholders in the building codes system, including local governments, the banking and real estate industries, the insurance industry, labor unions, state agencies, manufacturers, and Florida's citizens. While it was fortunate that these storms set no records with respect to loss of life, they (particularly Andrew) did break all records for insured losses. This loss was a direct cause of Florida's insurance crisis in the 1990's, which essentially affected every homeowner in the state.

In 1996, Governor Lawton Chiles established a Building Codes Study Commission to evaluate Florida's building codes system and develop recommendations to reform and improve it. The Governor appointed 28 members to the study commission, representing diverse stakeholders in the system, including building officials, local government officials, banking and real estate interests, the disabled, the design and construction industries, building owners, state agencies, and the general public.

In 1998, the study commission issued its findings and proposed a building codes system with the following characteristics:

- A single, statewide building code that would govern all technical requirements for Florida's public and private buildings and take into account appropriate local variations such as the following: climatic conditions, soil types, termites, weather-related events, and risks associated with coastal development;
- Local enforcement of the statewide building code, with updates and amendments accomplished by a newly constituted state-level entity;
- State review of decisions of local officials or boards of appeal, and state authority to issue binding interpretations to ensure statewide consistency;
- Strengthened enforcement and compliance to ensure accountability through expanded education and training of all participants involved in building construction, clear and precise definition of roles and responsibilities, and discipline; and
- A strong product evaluation and approval process which is responsible, streamlined, and affordable, and which promotes innovation and new technology.

The 1998 Legislature considered the findings and recommendations of the study commission and enacted major legislation reflecting a majority of its proposals. Chapter 98-287, L.O.F., implemented many of the Commission's recommendations, to include the development of a statewide unified building code. Generally, chapter 98-297, L.O.F., provides that:

- The Board of Building Codes and Standards is reconstituted as the Florida Building Commission;
- The newly created Florida Building Commission is required to submit to the Legislature, before the 2000 regular session, for review and approval or rejection, the Florida Building Code as adopted by the Commission;
- The Commission is required to prepare a list of recommendations of revision to the Florida Statutes necessitated by the adoption of the Florida Building Code, if the code is approved by the Legislature;

- The Department of Insurance is required to adopt the Florida Fire Prevention Code and the Life Safety Code;
- Upon initial adoption, the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code are deemed adopted by all local jurisdictions; with some restrictions, local governments may adopt more stringent requirements to the codes;
- Beginning January 1, 2001, local governments shall assume expanded responsibilities for permitting, plans review and inspection of facilities that are currently reviewed by state agencies;
- The Florida Building Commission may create and administer a statewide product evaluation system;
- There will be a building code training program developed which will become part of current continuing education requirements for occupations related to construction and construction regulation;
- There will be disciplinary consequences related to material code violations for state-certified and registered contractors;
- The Department of Business and Professional Regulation is required to implement an automated information system which tracks disciplinary actions taken against construction-related occupations on a statewide basis;
- There will be new continuing education requirements for registered engineers and registered landscape architects;
- The powers of the Department of Insurance and the Office of the State Fire Marshal are conformed with the reconstituted powers of the Florida Building Commission; and
- Similar processes for code adoption, update and promulgation of the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code are provided.

The act also repeals some of the current statutes applicable to building codes effective January 1, 2001. The effective date of repeal of the relevant sections of chapter 553, F.S., is subject to Legislative approval of the statewide unified building code as developed by the Florida Building Commission.

### **The Florida Building Commission Recommendations**

On February 14, 2000, the Florida Building Commission adopted the Florida Building Code as an administrative rule and submitted it, together with proposed conforming amendments to the Florida Statutes, to the 2000 Legislature for consideration. The Code was noticed for rule adoption on February 18, 2000, in the Florida Administrative Weekly, and is slated to take effect January 1, 2001.

In selecting the base code, the Florida Building Commission acknowledged that the Standard Family of Codes will not be maintained after 1999 and that the International Building Code will become the new national model code. The Commission adopted all portions of the International Code which were completed by 1998 when it began the process of tailoring the model to form a Florida-specific building code. The Standard Code was selected for structural and general building design requirements that will not be

addressed by the International Building Code until Spring 2000. The Florida Building Commission also adopted the South Florida Building Code for application in Miami-Dade and Broward Counties.

### **FBC Recommendations: Major Issues**

#### State Agency Code Development and Enforcement

Consistent with ch. 98-287, L.O.F., the Commission recommends that most code enforcement functions handled by state agencies be transferred to local governments, but recommends enforcement be maintained at the state level in a few circumstances. The Commission also recommends that the state agency authority to write and develop construction standards be transferred to the Commission, and recommends adoption of proposed statutory changes needed to complete this transfer.

Until January 1, 2001, Florida law grants building construction regulation responsibility to 14 state agencies. The codes or standards enforced and sometimes established or written by these state agencies include minimum codes for building, plumbing, mechanical, electrical, and fire safety. In addition, they include special occupancies and uses such as state-owned buildings, public schools, historic buildings, correctional facilities, restaurants, hospitals, nursing homes, day care centers, elevators and boilers. In addition, construction-related criteria are used in the issuance of a host of licenses provided by state agencies.

The 1998 Legislature assigned building code enforcement responsibilities, effective January 2001, to local government building departments, including for most state agency buildings. Only public school, community college, and state university facilities, as well as plans review for manufactured buildings and prototype buildings approved by the Florida Building Commission, were exempted from this requirement. In order to ensure consistent requirements among state agencies, the 1998 legislation also transferred state agency authority to write and develop construction standards to the Commission. Agencies will instead work within the new consolidated code development process to ensure their remaining regulatory standards are integrated into the overall system of construction standards.

To implement the direction of the Legislature, the Florida Building Commission examined all building-related requirements enforced by state agencies to determine which ones were essentially equivalent to building codes. These requirements were incorporated into the Florida Building Code. The corresponding statutory changes were included in the Commission's recommendations to the Legislature.

Sometimes agency licensure programs overlap with building codes in the area of construction and design standards. The Florida Building Commission determined that several state agencies which use building code requirements as criteria for licensure also inspect buildings to ensure compliance. The Commission clarified that while the local building departments will enforce the code through plans review and inspection, state agencies will continue to be able to use the requirements in the code as licensure criteria.

The Florida Building Commission also identified code-related state programs that should continue to be enforced by a state agency. This includes state correctional and other facilities where security is paramount, and elevators, where specialized enforcement expertise is required. It should be noted that a number of state agency programs are not included in the Florida Building Code (e.g., septic tanks, drinking water systems, community-based residential facilities, boilers, and amusement rides).

### Hurricane Protection

The Florida Building Commission established standards for hurricane protection in the Florida Building Code that are based on a national model building code, federal regulations, and standards evolving out of southeast Florida's experience with Hurricane Andrew. Specifically, for protection against hurricane waters, the Code incorporates the flood plain management standards of the Federal Emergency Management Agency's National Flood Insurance Program for the entire state. For coastal construction it incorporates the Florida "coastal building zone" storm surge protection standards for coastal construction.

For protection against hurricane winds, the Florida Building Code adopts the national model building code engineering standard and incorporates stronger wind standards than those currently found in the South Florida Building Code for use in Miami-Dade and Broward Counties. Buildings constructed in regions that are expected to experience hurricane winds of less than 120 mph must be designed to withstand external wind pressures identified for their location. Buildings constructed in regions that are expected to see hurricane winds of 120 mph or greater must not only be able to withstand external wind pressures but also internal pressures that may result inside a building when a window or door is broken or a hole is created in its walls or roof by large debris. Areas within one mile of the coast that experience at least 110 mph winds are also required to meet the 120 mph standards for external and internal pressures. Alternatively, approved window and door protections such as hurricane shutters can be installed in lieu of designing to withstand internal pressures, provided disclosures are made to the owner of the building regarding the risks associated with failing to install them during a hurricane.

Hurricanes have two catastrophic forces that destroy buildings: water and wind. Low-lying areas are subject to damage by rising waters due to heavy rainfall during hurricanes. The federal National Flood Insurance Program is the source of state-of-the-art standards for protecting buildings from rising waters. Approximately 90 percent of all Florida communities currently participate in this program, which requires the adoption of "flood plain management standards" as minimum requirements. These flood protections have been incorporated into the Florida Building Code for the entire state.

In addition to rising water due to heavy rainfall, hurricanes also subject coastal areas to "storm surge," the term for high tidal waves that slam into the coastline in advance of the approaching eye of the hurricane. The Florida Department of Environmental Protection has established standards for coastal construction on beach and dune systems to protect against hurricane storm surge. The Florida Building Code incorporates these standards for construction along Florida's coasts.

In addition to water destruction, there are two types of threats to building safety posed by hurricane winds. One is the pressure or force that winds exert on a building's external/outside surfaces and that walls and the roof must be able to resist. The other is the possibility that flying debris will penetrate a building's windows, walls, doors, or roof, creating internal pressures that will compound the dangerous effects of the external pressures. While hurricane experience indicates that the major source of flying debris is roof covering material torn off adjacent buildings, larger objects can be propelled into buildings in very high velocity hurricanes. Buildings not constructed to resist the internal wind pressures that can occur when penetrated by loose debris are more susceptible to failure and destruction in a hurricane, thereby endangering any occupants seeking shelter inside.

The Florida Building Code requires that new homes throughout the state be designed to resist external wind speeds that the American Society of Civil Engineers standard (ASCE 7-98) predicts these homes will experience sometime within a 50 to 100-year time period. In November 1999, the Commission agreed with the developers of ASCE 7-98 and applied additional requirements in what is called the "wind-borne debris region" to ensure that buildings inside this region will also be able to withstand internal wind pressure caused by the penetration of flying debris. This region includes areas expected to experience winds of 120 mph or greater as well as areas within one mile of the coast that experience at least 110 mph winds.

In lieu of designing to meet these internal pressures inside of the wind-borne debris region, the Commission allowed approved window and door protections to be installed, provided certain disclosures are made to the owner of the building. Approved, optional protections include shutters installed by homeowners immediately prior to a hurricane or break-resistant, laminated glass windows and doors. If homeowner-activated window or door protections are substituted, the Florida Building Code requires the owner to be notified that the building's design assumes the devices will be installed in advance of a storm. Also, owners must be warned that failure to install these devices exposes the building to a greater risk of failure. The disclosure was required because of the additional uncertainty and risk involved in such devices, and to encourage responsible behavior by owners who choose this option.

The Commission debated whether it was necessary to start the additional internal wind pressure requirements at the 120-mph level. In the end, the Commission concluded that these requirements would have marginal impact on current construction practices and the costs of affordable housing in the wind-borne debris region, especially given the option to build to internal pressures.

In later deliberations, the Commission considered applying the additional internal wind pressure requirements starting at a slightly higher wind speed. This option, which would affect a smaller portion of the state, included areas expected to experience winds of 130 mph or greater and all areas within one mile of the coast regardless of wind speed estimates. The vote on this option was taken at the Commission's February 2000, meeting. The proposal failed to reach the 75 percent super-majority vote required for adoption, with 16 in favor and 5 opposed.

The Florida Building Code incorporates additional hurricane-related requirements to apply in Miami-Dade and Broward Counties. (See Section below.) It is important to note that the Florida Building Code is a minimum code, and local communities are allowed to adopt local amendments that contain more stringent requirements if they can demonstrate a need.

#### Incorporation of South Florida's Standards

The Florida Building Commission incorporated into the proposed Florida Building Code the strong hurricane provisions adopted by South Florida in response to Hurricane Andrew.

In the aftermath of Hurricane Andrew, the South Florida Building Code, which is used in Miami-Dade and Broward Counties, was strengthened to provide additional protection from wind. Starting with the ASCE 7-88 sections for wind-resistant design as the basis for hurricane protection, the South Florida Building Code was strengthened even further to require buildings, particularly homes, to be more resistant to wind-borne debris in storms as severe as Andrew. The requirements for roofing, a particularly vulnerable building component, were also significantly tightened, and code enforcement was enhanced to



include additional inspections and plans reviews and other practices. The adoption of similarly stringent standards by national organizations responsible for developing model consensus engineering and product testing standards initially lagged behind Miami-Dade and Broward Counties' enhancement initiatives, but has since caught up.

Hurricane records and thousand-year computer simulations document that the southern tip of Florida has a greater risk than elsewhere in the State of being hit by high velocity hurricanes. The Florida Building Commission concluded that requirements adopted in Miami-Dade and Broward Counties in the wake of Hurricane Andrew that go beyond the Florida Building Code's minimum standards are warranted. The more stringent hurricane-related provisions of the South Florida Building Code have been incorporated into the Florida Building Code to apply only in Broward and Miami-Dade counties, which are referred to in the Code as the "high velocity hurricane zone." By including these more stringent requirements for these two counties, the Commission ensured that their current level of hurricane protection would not be diminished.

The more stringent provisions that will apply in the "high velocity hurricane zone" pertain to roof structures and structural loads, as well as to such things as foundations, retaining walls, and code administration and enforcement. In general, the additional provisions for structural loads:

- Require every building to be designated by an engineer or architect to be in compliance with Chapter 6 of ASCE 7-98 for wind load design;
- Require the protection offered for building envelope components by the Miami-Dade Product Approval program;
- Require wind-borne debris protection for walls and roofs as well as windows and doors.
- Include additional requirements for structural loading requested by Miami-Dade Building Code Compliance Office and Broward County Board of Rules and Appeals.

The Florida Building Commission is also working to integrate Miami-Dade's product approval system into the state's new product evaluation and approval program. (See discussion below)

#### Product Evaluation and Approval Program

The Florida Building Commission continues to develop and refine the Product Evaluation and Approval Program. A target date of June 30, 2001 was established for implementation, which also provides manufacturers time to modify their products to comply with the new Florida Building Code. The Commission recommends the current system of each local government approving products for use within its own jurisdiction, consistent with the Florida Building Code, be continued until a statewide program is established. The Commission also recommends it be authorized to establish a system of manufacturer-paid fees once implementation occurs. The revenue would fund the actual cost of contracting out any work involved in approving manufacturers' products for statewide use.

The 1998 Legislature authorized the Florida Building Commission to develop and implement a product evaluation and approval system to operate in coordination with the Florida Building Code. The system, if implemented by the Commission, is required to:

- promote innovative and new technologies;

- process submittals from manufacturers in a timely manner;
- use private sector, independent product testing facilities and evaluation entities;
- provide easy access to a list of approved products;
- develop stringent but reasonable testing criteria based on existing consensus standards, when available;
- issue long-term approvals, where feasible;
- provide for recall or revocation of product approval; and
- be cost-effective.

Under a state product evaluation and approval system, a product may be approved either by the Florida Building Commission for statewide use, or by a local government building department for use in the local jurisdiction only. Statewide approval would preclude a local government from requiring further testing, evaluation, or submission of other evidence as a condition of using the approved product in its jurisdiction.

When a statewide approval system is established, there are a number of other statutory requirements that must be met. For example, an accredited testing laboratory must test products and a registered engineer or architect or a Commission-accredited evaluation entity must conduct an evaluation for compliance with the Florida Building Code. Also, the Commission is required to maintain a list of approved products and approved product evaluation entities.

The Commission's task group recommended several program design features that gained the consensus of all stakeholders. Among them are: approved products must display a label indicating approval; accredited evaluation entities must have quality assurance programs and be private sector service companies independent of the product manufacturer; revocation of product approvals should follow the state's administrative procedures spelled out in chapter 120, F.S.; and the Florida Building Commission or Department of Community Affairs should perform the validation function necessary before final approval of a product application.

The Florida Building Commission has been trying to devise a system that will integrate the best aspects of the Miami-Dade product control system into the statewide approval process. South Florida counties expressed concerns that their experiences from Hurricane Andrew indicated that product approval must include effective government oversight to assure quality product testing and evaluation work performed by private sector service companies. A working group of manufacturers and representatives of Miami-Dade and Broward Counties has agreed on an accreditation process that offers needed quality assurance, but is still working out detailed roles, responsibilities, and related matters.

This conceptual approach to quality assurance, which has been agreed to by Miami-Dade and Broward Counties and product manufacturers, relies on a group of government representatives to make recommendations to the Florida Building Commission concerning the accreditation of product testing labs and evaluation entities. After accreditation, this same government group would monitor the processes and procedures used by these testing and evaluation entities and make recommendations regarding any revocation of accreditation. The Commission would issue all accreditations and make all revocation

decisions. The stakeholders agreed on this conceptual approach but are still working on implementation details for this and related issues.

The Commission states that the concerns raised by South Florida counties are close to being resolved. At the same time, some manufacturers will need a considerable amount of time to redesign their products to comply with the Florida Building Code before they can even be tested and evaluated for compliance. This practical consideration minimizes the effect of delaying implementation of a statewide product approval system. In addition, the Commission concludes that it does not think there is any reason to delay the adoption of the Florida Building Code while further study and program development is being conducted.

#### Code Interpretation Process

The Florida Building Commission recommends that the law be clarified regarding its ability to consider and incorporate its interpretations of the Florida Building Code into the code itself annually, rather than every three years, and that its authority to issue declaratory statements be clarified.

The declaratory statement is the administrative process by which the Commission may issue interpretations of the Florida Building Code, specific sections of chapter 553, F.S., and products, materials, and construction methods, other than those included in the product approval system, that have been found to meet the codes. On January 1, 2001, the Commission will also be able to hear appeals from the decisions of local boards of appeal, or building officials if no board exists, regarding interpretation of the Florida Building Code.

The Commission is primarily concerned with the limited application of both its declaratory statements and orders stemming from appeals of local code interpretation decisions. In both cases, Commission interpretations are binding only on the petitioners. Yet, to perform its role in providing consistency in code implementation, the declaratory statements and interpretation appeal orders need to have statewide application. Due to the nature of the questions asked about code provisions and the importance of uniform statewide application, these interpretations should immediately apply to other owners, designers, or building officials in Florida who find themselves in the same circumstances when attempting to comply with the code. Accordingly, the Commission recommends the Legislature grant it authority to consider and incorporate its interpretations into the code annually. Major updates to the code would continue to be limited to once every three years.

The Commission also has statutory authority to issue declaratory statements regarding new technologies, techniques, and materials, but a clarification is needed to specify that this applies only to types of products not required to be approved through the state's authorized product evaluation and approval process. When product approval is required, the Commission does not think that a declaratory statement should be considered an appropriate alternative method of product approval. A clarification is also needed to ensure that the Commission's authority to issue declaratory statements regarding the interpretation, enforcement, administration, or modification of the Florida Building Code applies to the actions of state agencies as well as local governments.

#### Improvements to the Threshold Inspection Program

The Florida Building Commission recommends that a specialty design engineer who is a professional engineer perform the shoring and reshoring inspections on threshold buildings. The local building department or enforcing agency should approve inspection

plans for these buildings. The Commission further recommends that the program that certifies individuals as qualified special inspectors should be transferred to the Department of Business and Professional Regulation. In addition, the Commission recommends that the appropriate Boards in that Department consider requiring minimum qualifications for a special inspector's "duly authorized representative."

In the aftermath of the collapse of the Harbor Cay condominium during construction in the early 1980s, Florida enacted special requirements for the inspection of certain structures. Currently, buildings taller than 50 feet or three stories and buildings over 5,000 sq. ft. designed for the assembly of more than 500 people are required to be inspected for structural integrity by special inspectors. A Threshold Inspection Plan containing procedures and schedules for inspections, which must be prepared by the engineer or architect of record, is submitted to the local building department or enforcement agency prior to the issuance of the permit to build the structure. A certified special inspector, who is hired and paid by the owner of the building, but is responsible to the enforcement agency, is required to attest that the construction of the structural load-bearing components comply with the permitted documents. A special inspector must be a licensed architect or registered engineer.

The Florida Building Commission concluded that the inspection plans that are submitted to the local building department also need to be approved by that agency to ensure that they are in sufficient detail to be effective. The Commission also found that the inspection of shoring and reshoring work is not within the expertise or scope of many structural engineers and many special inspectors are reluctant to perform such inspections for reasons of liability. The Commission determined that a specialty design engineer should perform these inspections.

Currently, the Florida Building Commission is responsible for certifying special inspectors and compiling a list of inspectors who may be hired by threshold building owners. The Commission determined that this qualification process was similar to the licensure processes used by the Department of Business and Professional Regulation, which already licenses all the other construction-related professionals, including local building officials. To ensure consistency and efficiency in licensure procedures, the Commission concluded that this function should be transferred to the appropriate Boards at the Department of Business and Professional Regulation.

A special inspector is allowed to send a duly authorized representative to the job site to perform the necessary inspections. Currently, there are no minimum qualifications for these authorized representatives. The Commission felt that the person actually conducting these structural inspections should have some minimal level of expertise, even though the special inspector prepares and places his or her seal on all required written reports that are submitted to the code enforcement agency. The Commission concluded that the appropriate Boards in the Department of Business and Professional Regulation should consider whether the person conducting the inspection should either be on a professional track to become a structural engineer and hold at least an engineering degree and an intern certificate, or be certified as a building plans examiner.

#### Prototype Building Program Design

The Florida Building Commission has decided to exercise its authority to develop a Prototype Plans Review and Approval Program for public buildings, and recommends that it be authorized to include private buildings. The Commission further recommends that the Department of Community Affairs, acting on behalf of the Commission, be authorized to

delegate or contract certain program duties to state agencies, third-party entities, and others.

The 1998 Legislature authorized the Florida Building Commission to provide for plans review and approval of prototype buildings owned by public entities. These state-approved prototype plans are exempt from further local plans review or local amendment to the Florida Building Code. Construction and erection of these prototype buildings are still subject to local permitting and inspections.

The Commission concluded that the rationale for state plans review and approval of public prototype buildings applies equally to some private buildings. That is, plans review does not always need to be performed by a local government each time a building built according to a prototype plan is constructed in the state. Local plans review in such situations would be redundant and unnecessarily costly.

While the Commission has decided to establish a prototype building program, the detailed process and procedures that are to be adopted by rule are still under development. The administration of the Program would be performed for the Commission by the Department of Community Affairs. To ensure efficient implementation of the prototype plans review and approval program by the Department, the Commission determined that further delegation of certain duties to state agencies, third-party entities, or others is necessary. Additional authority is needed to delegate these duties.

#### The Manufactured Building Program

The Florida Building Commission recommends requiring used manufactured buildings to be evaluated and modified where necessary to comply with applicable provisions of the Florida Building Code prior to relocation, modification, or change of occupancy. The Commission also recommends restoring to the Department of Community Affairs essential authority that has been jeopardized over the last few years by the repeal of several administrative rule provisions pertaining to its Manufactured Building Program. In addition, several clarifications related to program authority need to be provided and a few outmoded statutory definitions need to be updated.

Because manufactured buildings are assembled in a factory setting, often outside of Florida, and then transported to their intended site as a finished product, it is not feasible for local building officials to perform the type of code enforcement duties they are responsible for with site-built construction. Instead, manufacturers contract with third party plans review and inspection agencies authorized by the Department of Community Affairs to ensure compliance with building code requirements. These third-party agencies review proposed plans, conduct inspections of manufacturing facilities and processes, and spot check buildings under construction.

As part of the State's Manufactured Building Program, which the Department has administered since 1979, an insignia of approval is affixed to manufactured buildings once they are deemed to comply with all applicable building code requirements. Buildings bearing these insignia are not required to receive any additional approval by local building departments regarding code compliance, although installation of the buildings at the local site and the issuance of certificates of occupancy are subject to the authority of local building departments.

The Florida Building Commission is studying the Manufactured Building Program to identify ways to improve its effectiveness. While the Commission is not finished with this review, it

has discovered several changes it deems worth making immediately. One of those changes pertains to used manufactured buildings. Once manufactured buildings receive their insignia and are installed at the local site, the Department of Community Affairs and its third party entities have no authority to determine continued compliance with the codes, even when a building is relocated or modified. The Florida Building Commission recommends creating a procedure for re-certifying manufactured buildings prior to relocation, modification, or change of occupancy. Alternatively, the manufacturer or owner of the building could choose to go through the same permitting and a certificate of occupancy process the local jurisdiction requires of site-built structures under similar circumstances.

Several key administrative regulations pertaining to long-standing requirements of the Manufactured Building Program have recently been repealed. This has brought into question the authority of the Department of Community Affairs to perform adequate oversight and monitoring of manufacturers and third party plans review and inspection entities, as well as to require manufacturers to pay fees charged to fund the program. In addition to statutorily restoring authority lost as a result of repealed administrative rules, the Commission recommends clarifying and strengthening the authority of the Department to revoke a manufacturer's certification and require re-certification every three years. Also, to avoid possible improprieties, the Commission recommends clarifying that manufacturers may not make more than one plans review entity and one inspection entity at a time responsible for performing these functions for a manufactured building. And finally, a few outmoded and confusing terms like "factory-built housing" need to be updated in the statutes because the majority of these structures are commercial-use buildings.

The Florida Building Commission will continue its review of the Manufactured Building Program and submit any additional recommended changes to the 2001 Legislature.

#### Insurance Premium Mitigation Credits

The Florida Building Commission recommends expanding the types of wind-resistive features for which insurance companies must offer insurance premium credits, and that these benefits be available to policyholders as soon as possible.

The Department of Insurance is responsible for reviewing and approving property and casualty contracts and rates. The department reviews rates for actuarial soundness and compliance with insurance laws. Under the provisions of s. 627.0629, F.S., rates may not be inadequate, excessive, or unfairly discriminatory.

In general, rates for policyholders must be based on risks relative to other policyholders. Probable claims are forecast from accumulated loss experience adjusted for trends. Pursuant to s. 627.0629, F.S., insurers are required to include discounts, credits, or other rate differentials for the installation of fixtures or devices demonstrated to reduce the amount of loss in a windstorm. As approved by the department, these factors are :

- Wind Mitigation Devices (storm shutters) - The target premium credits range from a high of 24 percent to a low of 1 percent for insureds who have placed storm shutters on their homes and that meet certain requirements.
- Mobile Homes, Federal Standards - A premium credit of 9 percent must be offered for mobile homes which comply with certain construction standards.

- Ex-Wind Factors - The target premium credits range from a high of 88 percent to a low of 11 percent for policies excluding the wind peril.
- Hurricane Deductibles - The target premium credits range from a high of 13 percent to a low of 6 percent for policies whose hurricane deductibles rise from \$250 to \$500.
- Sprinkler Credits - The target premium credits range from a high of 7 percent to a low of 3 percent for insureds having fire sprinklers on their premises.
- Building Code Effectiveness Grading Schedule - The target premium credits range from 0 to 11 percent for risks located in municipalities that have certain minimum building code requirements and effective enforcement. Some insurers surcharge an insurer 1 percent if the risk is located in a municipality with non-existent building codes or ineffective enforcement.

The Department of Insurance provided the following summary of shutter and building code grading schedule credits for the top 10 voluntary insurers, the Florida Residential Property and Casualty Joint Underwriting Association, and the Florida Windstorm Underwriting Association:

Existing Shutter and Building Code Effectiveness Grading Schedule Credits for the Top 10 Voluntary Market Insurers, FRPCJUA, and FWUA (as of 12/5/99)

<u>Company</u>	<u>Building Code Effectiveness Grading Schedule Credits</u>	<u>WRD (Shutter) Credits</u>
State Farm Fire and Casualty	1% surcharge - 11% credit	2% - 12%
Allstate Floridian	1% surcharge - 11% credit	7% - 18%
Nationwide Mutual Fire	1% surcharge - 39% credit*	6% - 8%*
Florida Residential Property & Casualty Joint Underwriting Association	1% surcharge - 11% credit	2% - 13%
Florida Windstorm Underwriting Association	1% surcharge - 8% credit	16% - 24%*
USAA	0 - 11% credit	1% - 18%
Clarendon National	0 - 11% credit	7%-18%
Clarendon Select	0 - 11% credit	5% - 24%
Southern Family	0 - 11% credit	6% - 24%
Liberty Mutual Fire	0 - 11% credit	7% - 18%
Hartford Insurance Co. Of the Midwest	1% surcharge - 11% credit	8% - 27%
Bankers Security	none	8.4% - 19.6%

\* Proposed Credits apply to hurricane portion of the premium only.

The Florida Building Commission recommends that the Legislature expand the list of items that must be factored into rate differentials. This expansion would include fixtures or construction techniques that enhance roof strength; roof covering performance; roof to wall strength; wall to floor foundation strength; opening protection; window, door, and skylight strength; or other fixtures or techniques which meet the requirements of the Florida Building Code. The Commission also recommends that discounts and credits be based on a methodology acceptable to the Insurance Commissioner. All insurance companies should make rate filings that incorporate these new items by June 30, 2001, to coincide with implementation of the Florida Building Code. The lower rates should be effective for residences constructed or retrofitted under the new code, currently effective on January 1, 2001.

In deference to the Insurance Commissioner, who has pursued such legislation together with the insurance industry, the Florida Building Commission has not included the statutory changes needed to effect this recommendation in its proposed bill.

#### Accessibility Parking Waivers

The Florida Building Commission recommends that the standards for size, marking, and number of accessible parking spaces established in Chapter 316, F.S., be moved to chapter 553, F.S., and placed in the Florida Accessibility Code with some limitations on waivers.

Currently, the Florida Building Commission has the authority to grant waivers to the Florida Accessibility Code set forth in Part V, Chapter 553, F.S. In order to grant a waiver, the Commission must determine that the requirements are unnecessary, unreasonable, or present an extreme hardship. Also, state law specifies that waivers issued by the Commission cannot violate federal standards established by the federal Americans with Disabilities Act. So waivers are limited to state requirements in excess of federal standards. The Commission relies on recommendations from an advisory council consisting of people knowledgeable in the area of accessibility for persons with disabilities to help it in the waiver process.

Chapter 316, F.S., establishes parking requirements for places of public accommodation, including the number, size, signage, and location of accessible parking spaces. The basic requirements for these parking spaces are established in this state law either by referencing federal Americans with Disabilities Act standards or specifically modifying those standards. State, county, and municipal authorities enforce these requirements in their respective jurisdictions. Buildings or facilities in existence on October 1, 1997, that are being altered or renovated such that usability or accessibility is affected enough to invoke the provisions of the federal ADA must also comply with the accessible parking requirements to the maximum extent feasible. No statutory provisions currently exist for waiving any of these accessibility parking requirements.

Moving the parking requirements to Chapter 553, F.S., and placing them in the Florida Accessibility Code would provide the Florida Building Commission with the authority to consider waivers on parking for facilities in the same manner as it currently does for buildings covered by the building code. This authority, however, will be limited. First, s. 553.508, F.S., only allows waivers of state requirements that exceed federal Americans with Disabilities Act standards; therefore, the number of required accessible parking spaces cannot be waived because the state requirement is the same as the federal standard.



Waiver of the required size of these parking spaces will also be prohibited under the Commission's recommendation that the current minimum width of 12 feet be maintained under all circumstances. This leaves signage issues, which have spawned numerous waiver requests, and issues not covered by the federal Americans with Disabilities Act as eligible for waiver consideration.

The Commission also specified that it should not be able to entertain a parking waiver request until the appropriate local authority has had an opportunity to consider and act on a request to waive other applicable regulations, such as buffering and setbacks, that might enable the applicant to comply with the accessibility parking requirements.

### **Florida Hurricane Catastrophe Fund**

The Florida Hurricane Catastrophe Fund (Cat Fund) is administered by the State Board of Administration (SBA) which reimburses all residential property insurers in the state for 45, 75, or 90 percent of their hurricane losses, as selected by the insurer, above a certain retention that the insurer must pay before the Cat Fund begins reimbursement. All residential property insurers are required to pay a reinsurance premium to the Cat Fund for this coverage.

Section 215.555(7)(c), F.S., requires the Legislature to appropriate from the Cat Fund at least \$10 million and no more than 35 percent of investment income from the prior year for hurricane loss mitigation purposes, except that "monies in excess of the \$10 million specified in this paragraph shall not be available for appropriation under this paragraph if the SBA finds that an appropriation of investment income would jeopardize the actuarial soundness of the fund." The SBA generally builds in \$10 million for their annual premium. If the Legislature appropriates an amount in excess of \$10 million after the SBA has already approved the Cat Fund rates for any given contract year, the SBA would then need to approve another premium formula for that contract year to increase Cat Fund rates to cover the inadequacy. This would require insurers to pay a higher Cat Fund premium, which may then be recouped by insurers from their policyholders in higher rates. [See, s. 627.062(5), F.S.]

#### **C. EFFECT OF PROPOSED CHANGES:**

HB 219 is a "shell" bill stating the intent of the Legislature to review the proposed Florida Building Code adopted by the Florida Building Commission and the Commission's proposed recommendations of revisions to the Florida Statutes which would be necessitated by the Legislature's adoption of the Florida Building Code.

#### **D. SECTION-BY-SECTION ANALYSIS:**

This section need be completed only in the discretion of the Committee.

### **III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

This "shell" bill has no effect on state government revenues.

2. Expenditures:

This "shell" bill has no effect on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This "shell" bill has no effect on local government revenues.

2. Expenditures:

This "shell" bill has no effect on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This "shell" bill has no impact on the private sector.

D. FISCAL COMMENTS:

None.

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:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Community Affairs considered HB 219 on April 19, 2000, and adopted one strike-everything amendment that is traveling with the bill. The strike-everything amendment includes the following provisions:

**The Administrative Procedures Act**

**Section 1** amends s. 120.80, F.S., to create a new subsection (16) to prohibit the Florida Building Commission (Commission) from issuing waivers or variances from the Florida Building Code. Instead, the commission is required to adopt criteria and procedures for alternative means of compliance with and enforcement of the code. Appeals from the denial of the use of alternative means are to be heard by the local board and may be appealed to the commission.

**County Government Authority**

**Section 2** amends s. 125.01, F.S., effective July 1, 2001, to clarify counties' authority to provide fire protection; to delete counties' authority to adopt and enforce building codes; to grant specific authority for counties to enforce the Florida Building Code; and to adopt and enforce local amendments to the Florida Building Code.

**Section 3** amends s. 125.56, F.S., effective July 1, 2001, to delete counties' authority to adopt building codes and to grant specific authority for counties to enforce the Florida Building Code and Florida Fire Prevention Code and adopt and enforce local amendments thereto. It also replaces references to local building codes with the Florida Building Code and Florida Fire Prevention Code and provides for effectiveness of local amendments consistent with s. 553.73, F.S.

**Department of Environmental Protection (DEP)**

**Section 4** amends s. 161.0415, F.S., effective July 1, 2001, to authorize the permitting agency (either DEP or a local government) to cite to a specific provision of the Florida Building Code, in addition to a DEP rule, when requesting information for a coastal construction permit.

**Section 5** amends s. 161.052, F.S., effective July 1, 2001, to require that the applicant for a waiver or variance from the coastal construction setback requirements demonstrate that the project otherwise complies with the Florida Building Code in addition to DEP rules. This section is also amended to require that construction and design standards be provided in the Florida Building Code. This section also clarifies that these requirements do not limit DEP's authority to adopt or enforce standards on the protection of proposed or existing structures, or the natural environment.

**Section 6** amends s. 161.053, F.S., effective July 1, 2001, to require that construction and design standards be provided in the Florida Building Code. This section also clarifies that

these requirements do not limit DEP's authority to adopt or enforce standards on the protection of proposed or existing structures, or the natural environment.

**Section 7** amends s. 161.05301, F.S., effective July 1, 2001, to strike language that delegates coastal construction building codes review to local governments. In addition, a current provision requiring DEP positions supporting the coastal construction building codes be directed to support implementation of the beach management plan is amended to condition this action upon the effective date of the Florida Building Code.

**Section 8** amends s. 161.55, F.S., effective July 1, 2001, to delete all specific structural requirements for construction of major and minor coastal structures--which are addressed in the Florida Building Code. However, the environmental requirements enforced by DEP are retained, and citations to specific editions of the Standard Building Code are deleted.

**Section 9** amends s. 161.56, F.S., effective July 1, 2001, to delete language requiring local governments to enforce the code provisions established in s. 161.55, F.S., requiring such local governments to submit proof of adoption of a building code, and authorizing sanctions against those which have not submitted by a date certain. In addition, obsolete language is deleted.

### **Educational Facilities**

Section 10 creates s. 235.0141, F.S., to provide an alternative procedure for the construction and installation of factory-built school buildings designed and intended for use as a school buildings. The section defines "factory-built building for the purposes of this section, and directs the Commissioner of Education to adopt by rule regulations to implement this section. The section provides for a manufacturer to submit plans, specifications, alterations, and methods of construction to the Department of Education (DOE) for its approval, and requires manufacturers to reimburse DOE for the actual expenses incurred for the review of such plans and specifications. DOE is to approve or reject plans, specifications, and methods of construction. DOE is authorized to establish procedures for the inspection of facilities and manufacturing processes of the manufacturer to determine the manufacturer's ability to produce factory-built school buildings in accordance with the plans, specifications, and methods of construction submitted to DOE.

The section requires the school district or the community college for which a factory-built building is constructed or altered to provide for and require competent, adequate and continuous inspection during the construction or alteration. Inspectors are to act under the direction of the governing board for employment purposes. The section provides that from time to time, as the work of construction in the factory progresses and whenever DOE requires, the architect or structural engineer in responsible charge of the supervision of the work of construction in the factory, the inspector on the work, and the manufacturer shall each make to DOE a report, duly verified by him or her, upon a form prescribed by DOE, showing, of his or her own personal knowledge, that the work during the period covered by the report has been performed, and materials used and installed, in every particular, in accordance with the approved plans and specifications, setting forth such detailed statements of facts are required by the department.

The section provides that a standard plan approval may be obtained from DOE for new factory-built buildings and such DOE-approved plans shall be accepted by the enforcement agency as approved for the purpose of obtaining a construction permit for the structure itself.

The section provides that when amendment to the State Uniform Building Code For Public Educational Facilities Construction, and after July 1, 2001, the Florida Building Code, requires

changes to an approved plan, DOE must notify the manufacturer of such changes and must allow the manufacturer 180 days from the date of such notification in which to submit and obtain a revised approved plan. A revised plan submitted pursuant to this section must be processed as a renewal or revision with appropriate fees. A plan submitted after the period of time provided must be processed as a new application with appropriate fees.

DOE is directed to develop a unique identification label to be affixed to all factory-built buildings and may charge a fee for their issuance. Such label, bearing DOE's name and state seal shall at a minimum contain specified information. The section provides that as of July 1, 2001, all existing and newly constructed factory-built buildings must bear a label pursuant to this section. Existing factory-built buildings not bearing said label must not be used as a classroom, pursuant to Section 235.061, F.S.

**Section 11** revises s. 235.26, F.S., effective July 1, 2001, to conform to the adoption of the State Requirements for Educational Facilities (SREF) into the Florida Building Code. Specifically, this section is amended to:

- eliminate the authority of the Commissioner of Education to adopt a uniform statewide code for educational facilities, replacing it with a requirement to prepare such code and submit it to the Florida Building Commission for adoption within the Florida Building Code;
- move the requirements for inclusion of specific standards from subsection (2) to subsection (1) and delete obsolete provisions;
- add a requirement that relocatable facilities must be designed subject to missile impact criteria of section 424(24)(d)(1) of the Florida Building Code.
- replace references to the State Uniform Code for Public Educational Facilities and the Uniform Building Code with the Florida Building Code;
- authorize local school districts, community colleges, and the department to enforce the Florida Building Code and the Florida Fire Prevention Code;
- delete the authority of the commissioner to have final review of all questions, disputes or interpretations of the uniform code and replace it with direction to cooperate with the Florida Building Commission in addressing all questions, disputes or interpretations of the Florida Building Code governing construction of public educational and ancillary facilities;
- require the State Fire Marshal and the Florida Building Commission in cooperation with DCA to develop fire safety criteria relating to the safety of occupants of educational and ancillary plants;
- require the department to biennially review and recommend to the commission changes in the applicable provisions of the Florida Building Code;
- eliminate subsection (8) on the legal effect of the code, which is governed by chapter 553; and
- eliminate an obsolete requirement that public shelter design criteria be included in the Florida Building Code.

**State Lands & Public Owned Property**

**Section 12** amends s. 253.033, F.S., effective July 1, 2001, to change a reference to local building codes to the Florida Building Code.

**Section 13** amends s. 255.25, F.S., effective July 1, 2001, to eliminate the requirement that the Department of Management Services (DMS) approve the architectural design and preliminary construction plans prior to construction of a building for state use.

**Section 14** amends s. 255.31, F.S., effective July 1, 2001, to provide that construction of all public buildings is governed by the Florida Building Code and the Florida Fire Prevention Code and is to be enforced in accordance with s. 553.80, F.S., which provides for local enforcement, subject to specific exceptions. This section is further amended to delete from DMS' purview the authority to conduct plans review and building inspection services for state agencies, other than the Departments of Corrections and Juvenile Justice.

### **Parking for Persons with Disabilities (1)**

**Section 15** amends s. 316.1955, F.S., to delete the parking requirements for persons with disabilities in subsections (1) - (6), which are being transferred and renumbered as s. 553.5041, F.S. (**see section 62 of the bill**). This effectively transfers the parking requirements to chapter 553, Part V, the Florida Americans with Disabilities Act. The remaining subsection are renumbered and cross-references to the newly-created s. 553.5041, F.S., are created.

### **Department of Health (DOH)**

**Section 16** amends s. 381.006, F.S., effective July 1, 2001, to eliminate the authority of DOH to adopt minimum standards for the number, operation, design and maintenance of plumbing fixtures in places serving the public and places of employment. These standards are addressed in the Florida Building Code.

### **Agency for Health Care Administration (AHCA) (1)**

**Section 17** amends s. 383.301, F.S., effective July 1, 2001, to eliminate legislative intent language regarding the construction of birth centers.

**Section 18** amends s. 383.309, F.S., effective July 1, 2001, to delete requirements that the construction of birth centers is governed by AHCA rules and that such facilities are exempt from local construction standards in conflict with those rules; to provide that AHCA may not adopt rules governing the construction of birth centers, that such standards must be adopted by the Florida Building Commission within the Florida Building Code and the State Fire Marshal within the Florida Fire Prevention Code; to direct AHCA to provide technical assistance to the Commission and state Fire Marshal in updating those provisions of the code; and to authorize AHCA to enforce applicable provisions of the code for licensing purposes.

**Section 19** amends s. 394.879, F.S., effective July 1, 2001, to delete the authority of the Department of Children and Family Services (DCFS), in consultation with AHCA, to adopt rules governing the design and construction requirements for crisis stabilization units; to provide that the agency may not adopt rules governing the construction of crisis stabilization units, that such standards must be adopted by the Florida Building Commission within the Florida Building Code and the State Fire Marshal within the Florida Fire Prevention Code; to direct AHCA to provide technical assistance to the Commission and state Fire Marshal in updating those provisions of the code; and to authorize AHCA to enforce applicable provisions of the code for licensing purposes.

**Section 20** amends s. 395.0163, F.S., effective July 1, 2001, to provide that the design and construction of all public and private health care facilities is governed by the Florida Building Code and the Florida Fire Prevention Code, to be enforced consistent with s. 553.80, F.S., which provides for local enforcement, subject to specific exceptions. However, facilities licensed under this chapter will have facility plans reviewed and construction surveyed by ACHA. Plans review and inspection by AHCA are for compliance with the Florida Building Code.

**Section 21** amends s. 395.1055, F.S., effective July 1, 2001, to eliminate the authority of ACHA to adopt regulations governing the construction, maintenance, repair, life safety and renovation of licensed facilities; to prohibit AHCA from adopting rules governing the construction of hospitals, intermediate residential treatment facilities or ambulatory surgical centers, and to provide that such standards must be adopted by the Florida Building Commission within the Florida Building Code and the State Fire Marshal within the Florida Fire Prevention Code; to direct AHCA to provide technical assistance to the commission and State Fire Marshal in updating those provisions of the code; and to authorize AHCA to enforce applicable provisions of the code for licensing purposes.

**Section 22** amends s. 395.10973, F.S., effective July 1, 2001, to authorize ACHA to enforce the occupancy provisions of the Florida Building Code relating to hospitals, intermediate residential treatment facilities and ambulatory surgical centers.

### **Department of Business and Professional Regulation (DBPR)**

**Section 23** amends s. 399.02, F.S., effective July 1, 2001, to replace the authority of the Division of Elevator Safety (of DBPR) to adopt an elevator safety code with authority to develop said code and submit it to the Florida Building Commission for adoption within the Florida Building Code; to eliminate the authority of the division to grant exceptions to the Elevator Safety Code; to authorize the division to enforce provisions of the Florida Building Code relating to elevators and conveying systems; and to require the division to annually review national standards and model codes and recommend to the Florida Building Commission revisions to the code to protect the public health, safety and welfare.

**Section 24** amends s. 399.03, F.S., effective July 1, 2001, to replace references to the Elevator Safety Code with the Florida Building Code and authorize elevator inspections by a third-party inspection service certified as a Qualified Elevator Inspector.

**Section 25** amends s. 399.061, F.S., to allow a "certificate-of-competency holder," as opposed to only a "state elevator inspector," to inspect elevators in this state and to authorize inspection by a third-party inspection service certified as a Qualified Elevator Inspector.

**Section 26** amends s. 399.13, F.S., effective July 1, 2001, to replace references to the Elevator Safety Code with the Florida Building Code.

### **Agency for Health Care Administration (2)**

**Section 27** amends s. 400.011, F.S., effective July 1, 2001, to strike the word "construction" as within the purview of ACHA's standards for nursing homes.

**Section 28** amends s. 400.23, F.S., effective July 1, 2001, to eliminate the authority of AHCA to adopt and enforce standards governing the construction of nursing homes, including fire and life safety, plumbing, heating and cooling, lighting and ventilation; to delete an erroneous requirement; and to authorize AHCA to enforce, for licensing purposes, provisions of the

Florida Building Code and the Florida Fire Prevention Code governing nursing homes. This section is also amended to direct ACHA to provide assistance to the Commission in updating the provisions of the Florida Building Code relating to nursing homes.

**Section 29** amends s. 400.232, F.S., effective July 1, 2001, to provide that the design and construction of all public and private nursing home facilities is governed by the Florida Building Code and the Florida Fire Prevention Code, to be enforced consistent with s. 553.80, F.S., which provides for local enforcement, subject to specific exceptions. However, facilities licensed under this chapter will have facility plans reviewed and construction surveyed by AHCA. Plans review and inspection by the agency are for compliance with the Florida Building Code.

### **Department of Business and Professional Regulation**

**Section 30** amends s. 455.2286, F.S., to extend the deadline for the Department of Business and Professional Regulation to establish an automated information system from November 1, 1999 to November 1, 2001. The department was unable to establish the automated system by November 1, 1999.

### **Building Code Inspectors and Administrators**

**Section 31** amends s. 468.604, F.S., effective July 1, 2001, to update references from the locally adopted building codes to the Florida Building Code and local amendments thereto.

**Section 32** amends s. 468.607, F.S., to "grandfather in" the certification of uniform building code plans examiners and building inspectors until the natural expiration of their certification, pursuant to s. 235.26, F.S., after which they will be required to be certified by the Building Code Administrators and Inspectors Board.

**Section 33** amends s. 468.609, F.S., to clarify that completion of the building code training program is a prerequisite to sit for the examinations for inspector, plans examiner or building code administrator and that the requirement is not effective until the Building Code Training Program has been established.

**Section 34** amends s. 468.617, F.S., to add school boards, community colleges, state universities and state agencies as entities which may contract with local jurisdictions or educational boards to create and support joint inspection departments, which may contract with other persons certified by the Building Code Administrators and Inspectors Board to perform inspections and plans review, or may enter into contracts with other persons to provide these services.

### **Asbestos Abatement**

**Section 35** amends s. 469.002, F.S., effective July 1, 2001, to delete an asbestos disclosure statement form and require that such form be provided in the Florida Building Code.

### **Inspectors of Threshold Buildings**

**Section 36** creates a new subsection (7) of s. 471.015, F.S., to require the Board of Professional Engineers to certify licensees as special inspectors of threshold buildings (which is a building over three stories or 50 feet in height, or a building that exceeds 5,000 square feet and is designed for more than 500 persons); and to require the board to develop criteria for



"qualified representative" of the inspectors, who is authorized to inspect the buildings on the inspector's behalf.

**Section 37** creates a new subsection (7) of s. 481.213, F.S., to require the Board of Architecture and Interior Design to certify architecture licensees as "special inspectors" of threshold buildings; and to require the board to develop criteria for qualified representative of said inspectors.

### **Contractors**

**Section 38** amends s. 489.103, F.S., effective July 1, 2001, to replace a reference to locally adopted building codes with the Florida Building Code.

**Section 39** amends s. 489.107, F.S., effective July 1, 2000, to specify that the office of the Construction Industries Licensing Board be located in Leon County. It is currently located in Jacksonville.

**Section 40** amends s. 489.115, F.S., to replace references to the Florida Board of Building Codes and Standards with the Florida Building Commission.

**Section 41** reenacts s. 489.115(4)(b), F.S., effective July 1, 2001, to restate the changes made to this paragraph in ch. 98-287, s. 21, Laws of Florida. (It is necessary to reenact this provision because section 39 of this bill amended the version of s. 489.115(4)(b), F.S., in effect before July 1, 2001.)

### **Funeral and Cemetery Services**

**Section 42** amends s. 497.255, F.S., to replace references to the Board of Building Codes and Standards with the Florida Building Commission.

### **Department of Agriculture and Consumer Services (DACS)**

**Section 43** amends s. 500.09, F.S., effective July 1, 2001, to prohibit DACS from adopting rules governing the construction of food establishments; to preempt the adoption of such standards to the Florida Building Commission within the Florida Building Code; to direct the department to provide technical assistance to the Commission in updating those provisions of the code; and to authorize the department to enforce applicable provisions of the code for licensing purposes.

**Section 44** amends s. 500.12, F.S., effective July 1, 2001, to authorize DACS to enforce, for licensing purposes, special occupancy provisions of the Florida Building Code relating to food establishments. In addition, subsection (8) is created to require that persons renewing local occupational licenses for food establishments must exhibit a current food permit or active letter of exemption from DACS before a license can be issued or renewed.

**Section 45** amends s. 500.147, F.S., effective July 1, 2001, to authorize DACS to enforce special occupancy provisions of the Florida Building Code applicable to food establishments.

### **Department of Business and Professional Regulation (2)**

**Section 46** amends s. 509.032, F.S., effective July 1, 2001, to provide that the Division of Hotels and Restaurants (of DBPR) may not adopt rules governing the construction of public lodging and public food service establishments; to provide that such standards must be adopted by the Florida Building Commission within the Florida Building Code and the State Fire Marshal within the Florida Fire Prevention Code; to direct the division to provide technical assistance to the Commission and State Fire Marshal in updating those provisions of the code; and to authorize the division to enforce applicable provisions of the code for licensing purposes. This section also clarifies that the division's inspection authority applies to compliance with sanitation standards and preserves the authority of local governments and local enforcement districts to inspect for compliance with the Florida Building Code and the Florida Fire Prevention Code.

**Section 47** amends s. 509.221, F.S., effective July 1, 2001, to replace a reference to applicable state and local plumbing codes with the Florida Building Code.

### **Department of Health (DOH): Swimming Pools**

**Section 48** amends s. 514.021, F.S., effective July 1, 2001, to provide that DOH may not adopt rules governing the design, alteration, modification, or repair of pools and bathing places, except as it relates to public health and the safe operation and maintenance of pools; to provide that DOH may not adopt rules governing the construction of public swimming pools and bathing places; to require such standards be adopted by the Florida Building Commission within the Florida Building Code (chap. 4, section 4.24 and 4.25, Florida Building Code); to direct the department to provide technical assistance to the Commission in updating those provisions of the code; to authorize DOH to conduct plan review, issue approvals and to direct DOH to enforce the special-occupancy provisions of the Florida Building Code; to authorize the department to enforce applicable provisions of the code for licensing purposes; and to preserve the right of the department to adopt and enforce sanitary regulations and requirements.

**Section 49** amends s. 514.03, F.S., effective July 1, 2001, to clarify that local governments and local enforcement districts may conduct plan reviews and inspections for compliance with the construction standards of the Florida Building Code.

### **The Florida Building Code: Plumbing**

**Section 50** amends s. 553.06, F.S., to replace a reference to the former Board of Building Codes and Standards with the Florida Building Commission.

**Section 51** amends s. 553.141, F.S., effective July 1, 2001, to require that the Florida Building Commission incorporate into the Florida Building Code standards for a ratio of public restroom facilities for men and women and deletes these standards and direction to the former Board of Building Codes and Standards from the statute.

### **The Florida Building Code: Manufactured Buildings**

**Section 52** amends the title of chapter 553, part IV, F.S., to replace the term "Factory-Built Housing" with "Manufactured Buildings."

**Section 53** creates s. 553.355, F.S., effective July 1, 2001, to establish the Florida Building Code and the Florida Fire Prevention and Life safety Codes as the minimum construction standards for manufactured buildings.

**Section 54** amends s. 553.36, F.S., to require that components of manufactured buildings be approved through the statewide product approval system, once it is established, and revises the definition of "manufactured building" to exclude buildings of open construction made or assembled in facilities away from the building site. However, it includes certain "sheds" built offsite in the definition of "manufactured building." This section further defines the term "module" as a part of a manufactured building.

**Section 55** amends s. 553.36, F.S., effective July 1, 2001, to require that manufactured housing conform to the Florida Building Code, rather than rules of the DCA.

**Section 56** amends s. 553.37, F.S., to authorize DCA to adopt rules governing the procedures and qualifications for approval of plans review and inspection agencies, investigation of consumer complaints, and monitoring manufacturer's and plans review and inspection entities' compliance with the act; to exempt certain types of construction from review and approval under the act; to authorize DCA to delegate plans review, in addition to inspection; and to require that, in the event DCA delegates plans review or inspection authority, manufacturers shall have only one plans review or inspection agency responsible for plans review or inspection of a building, module or component at all times.

**Section 57** amends s. 553.37, F.S., effective July 1, 2001, to eliminate the authority of the DCA to adopt rules governing the manufactured buildings program; to authorize the Florida Building Commission to adopt these regulations within the Florida Building Code; and to require compliance with the Florida Building Code.

**Section 58** creates s. 553.375, F.S., to provide for recertification of relocated or modified manufactured buildings.

**Section 59** amends s. 553.38, F.S., effective July 1, 2001, to delete DCA's authority to adopt rules regarding manufactured building construction and to authorize the department to enforce provisions of the Florida Building Code applicable to manufactured buildings.

**Section 60** amends s. 553.381, F.S., to clarify that manufacturers of manufactured buildings must be certified by DCA; to provide requirements for certification; to provide for duration of certification; and to provide for revocation of certification.

**Section 61** amends s. 553.381, F.S., effective July 1, 2001, to replace references to the department to the Florida Building Commission, and references to rules of the department with the Florida Building Code.

**Section 62** amends s. 553.39, F.S., effective July 1, 2001, to replace references to rules of DCA with the Florida Building Code.

### **The Florida Building Code: Parking for Persons with Disabilities (2)**

**Section 63** amends s. 553.503, F.S., to replace references to the former Board of Building Codes and Standards with the Florida Building Commission.

**Section 64** creates s. 553.5041, F.S., to regulate parking requirements for persons with disabilities. These standards are transferred from s. 316.1955, F.S. (see section 14 of the bill).

**Section 65** amends s. 553.506, F.S., to replace references to the former Board of Building Codes and Standards with the Florida Building Commission.

**Section 66** amends s. 553.512, F.S., to require, as a prerequisite to application for waiver from the requirements for parking for persons with disabilities, that the applicant has applied for and been denied a waiver or variance from any applicable local government regulations; to prohibit the commission from issuing a waiver of the requirement that an accessible parking space be located less than 44 inches wide and be 12 feet in width; and to strike the term "Handicapped" from the name of the "Accessibility Advisory Council."

**State Building Code: Inspectors of Threshold Buildings/"Exposure Category C"**

**Section 67** amends s. 553.71, F.S., to create a definition for "special inspector" as one licensed by either the Board of Professional Engineers or the Board of Architecture and Interior Design to conduct inspections of threshold buildings.

A definition of "exposure category C" is provided to establish those areas of the state required to meet the most stringent wind protection requirements of the American Society of Civil Engineers, Standard 7, 1998 edition, as modified by the Commission (See section 96).

**State Building Code: Prototype Buildings**

**Section 68** amends s. 553.71, F.S., effective July 1, 2001, to replace a reference to the former State Minimum Building Code with the Florida Building Code, and to define the term "prototype building."

**The Florida Building Code**

**Section 69** amends s. 553.72, F.S., effective July 1, 2001, to expand intent language regarding the Florida Building Code, to specify that the code establish minimum standards "primarily for public health and life safety, and secondarily for protection of property as appropriate." In addition, subsection (6) is created to express that it is the intent of the Legislature that the nationally recognized private-sector third-party testing and evaluation system shall provide product evaluation for the product-approval system and that effective government oversight be established to ensure accountability to the state.

**Section 70** amends s. 553.73, F.S., effective July 1, 2001, to:

- require that the Florida Building Code contain the following additional construction regulations currently under the authority of specific state agencies: assisted living facilities, adult day care facilities, and control of radiation hazard;
- prohibit the Florida Building Commission from adopting a fire prevention or life safety code;
- clarify that local administrative amendments are subject only to requirements in paragraph (4)(a), not those in (4)(b) (which includes review and rescission by the commission on a three-year cycle);
- replace the Department of Insurance with the "State Fire Marshal" as the authority responsible for establishing standards and procedures in respect to the Florida Fire Prevention and Life Safety Code;
- clarify that both the initial adoption of the Florida Building Code, and its subsequent updates, are binding on local governments without requiring any local legislative action on their part;

- clarify that changes to standards adopted by reference within the Florida Building Code may only be enforced by amendment to the code;
- provide that the edition of the code in effect on the date of permit application governs the project;
- provide that certain amendments will become effective immediately;
- delete a provision assigning responsibility for code enforcement to local governments and state agencies; this provision is redundant – all enforcement provisions are being transferred to s. 553.80, F.S. (see section 75 of the bill);
- delete one of the limitations on the commission's authority to amend the code on a yearly basis;
- authorize the commission to approve technical amendments for statewide or regional application of the code;
- authorize the commission to amend the code yearly to incorporate its own interpretations thereof;
- qualify that the commission may not approve any proposed amendment that does not accurately and completely address all requirements for amendments as set in this section;
- add an exemption from the code for temporary sets, assemblies and structures used in commercial motion pictures or television production;
- authorize the commission to provide limited exceptions from exemptions specified in statute and provides criteria for said exceptions;
- authorize the commission to recommend to the Legislature further exemptions;
- provide a review procedure for conflicts between the building official's and the fire official's interpretations of the code; and
- delete language providing for plans review and inspection of certain facilities by the Agency for Health Care Administration; these exemptions are consolidated into s. 553.80, F.S. (section 75).

### **The Florida Building Commission**

**Section 71** amends s. 553.74, F.S., to replace references to the former Board of Building Codes and Standards with the Florida Building Commission.

**Section 72** amends s. 553.77, F.S., to authorize the commission to provide technical assistance and issue advisory opinions regarding the State Minimum Building Codes.

**Section 73** amends s. 553.77, F.S., effective July 1, 2001, to revise the authority of the commission. Specifically, to:

- require state agencies and local jurisdictions to recommend improvements to the code;

- require the commission to report the failure of the state agencies and local jurisdictions to provide information requested by the commission to the Legislature;
- provide that Commission declaratory statements do not apply to the types of products, materials, devices, or methods of construction required to be approved under the statewide product approval system;
- provide that the exclusive remedy from local government interpretations is the appeals process established in paragraph (h) of s. 553.77(1), F.S.;
- add "state agency" as a party that may request a declaratory statement;
- strike the phrase "which shall apply prospectively only" with regard to declaratory statements because such statements are, by law, binding only upon the parties which requested them;
- authorize the commission to establish a reasonable schedule of fees for the product evaluation and approval system;
- strike repetitive language regarding the commission's authority to issue declaratory statements regarding new technologies, techniques or materials; and
- authorize the commission to extend its plan review and approval of prototype buildings to include private, as well as public, buildings.

#### **The Florida Building Code: Professional Licensees**

**Section 74** amends s. 553.781, F.S., to add DBPR as an entity, as well as the appropriate professional licensing board, that conducts investigations and takes disciplinary action against licensees.

#### **The Florida Building Code: Permits & Inspections**

**Section 75** amends s. 553.79, F.S., to:

- replace the term "mobile" homes with the term "manufactured" homes;
- clarify the authority of the special inspector of threshold buildings by providing that the special inspector does not surrogate the responsibilities of the building official, the contractor, or the architect or engineer of record;
- require the special inspector to determine that buildings are inspected by an engineer with specific qualifications;
- eliminate the authority of the Commission to establish a qualification program for special inspectors of threshold buildings;
- provide that individuals may act as special inspectors if they are certified by either the Board of Professional Engineers or the Board of Architecture and Interior Design;
- conform a reference to manufactured buildings, rather than factory-built housing; and

- require the Commission to establish, by rule, standards for permitting residential buildings or structures moved into or within a county or municipality when such structures do not comply with the code;
- require a local building official to exclude the cost associated with moving a building in calculating the cost of remodeling for the purpose of determining whether a moved structure is substantially remodeled.

**Section 76** amends s. 553.79, F.S., effective July 1, 2001, to:

- clarify that plans review for compliance with the Florida Building Code is required regardless of whether a structure is exempt from plans review for compliance with fire and life safety codes;
- delete an exemption from local code enforcement for prototype and manufactured buildings, which exemptions are being moved to s. 553.80, F.S., (see section 75 of the bill);
- delete specific requirements for documents to be submitted for plans review and requires that such requirements be adopted by the Commission within the Florida Building Code; and
- reestablish the authority of state agency's to delegate their enforcement authority (this authority was deleted in chapter 98-287, L.O.F.), and clarifies that this authority applies only to those agencies with specific authority to enforce the Florida Building Code.

### **The Florida Building Code: Enforcement**

**Section 77** amends s. 553.80, F.S., effective July 1, 2001, to consolidate all exemptions to local enforcement of the Florida Building Code into this section. These exemptions include correctional facilities, elevator equipment, hospitals, nursing homes, prototype buildings, manufactured buildings, to include "sheds" built offsite, and public educational facilities.

School districts, community colleges and state universities are authorized to use contracted certified plans examiners and building inspectors. These entities are authorized to use annual facility maintenance permits for selected projects under certain conditions. In addition, school districts, community colleges and state universities are authorized to use certified contract plans examiners and building inspectors.

**Section 78** amends s. 553.83, F.S., effective July 1, 2001, to update references to the Florida Building Code and include all entities authorized to enforce the code as entities authorized to seek an injunction under this section.

**Section 79** amends s. 553.84, F.S., effective July 1, 2001, to replace a reference to the State Minimum Building Code with the Florida Building Code.

### **The Florida Building Code: Training Program**

**Section 80** amends s. 553.841, F.S., to establish the Office of Building Code Training within the Jacksonville Community College to provide research and training and to coordinate with DCA and the Florida Building Commission to promote awareness regarding construction.

### **Product Approval**

**Section 81** amend s. 553.842, F.S., to require rather than authorize the Florida Building Commission to adopt rules to develop and implement a product evaluation and approval system to operate in coordination with the Florida Building Code.

**The Florida Building Code: Liquefied Petroleum Gases**

**Section 82** amends s. 553.85, F.S., effective July 1, 2001, to replace references from the State Minimum Building Codes and other rules and regulations to the Florida Building Code.

**The Florida Building Code: Thermal Efficiency Standards**

**Section 83** amends s. 553.901, F.S., to eliminate the authority of DCA to adopt a thermal efficiency code. DCA is required to prepare the thermal code and submit it to the Florida Building Commission for adoption within the Florida Building Code. DCA is required to periodically recommend to the commission necessary revisions to the code.

**Section 84** amends s. 553.902, F.S., effective July 1, 2001, to change the definition of "exempted building" for the purposes of the Thermal Efficiency Standards; to authorize the Florida Building Commission to recommend to the Legislature further exemptions from compliance with the Energy Efficiency Code (EPI); to update a reference to the Florida Building Code; and to delete the definition of "energy performance index."

**Section 85** amends s. 553.903, F.S., to delete a specific criteria for compliance with the energy efficiency code.

**Section 86** amends s. 553.907, F.S., effective July 1, 2001, to delete requirements that owners or their agents certify compliance to the enforcing agency prior to receiving a permit and that the certification be amended to reflect changes in the construction plan.

**Section 87** amends s. 553.9085, F.S., to delete an obsolete date and delete a reference to the EPI, which is deleted in section 81.

**Section 88** amends s. 553.909, F.S.. to require that the Florida Energy Efficiency Code set specific minimum requirements for water heaters, and deletes such requirements from the statute.

**Insurance Credits**

**Section 89** amends s. 627.0629, F.S., effective July 1, 2001, to require rate filings to include actuarially reasonable, rather than appropriate, discounts, credits, or other rate differentials, or appropriate reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm have been installed or implemented. The fixtures and construction techniques include, but are not limited to, fixtures or techniques that enhance roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength. Credits or discounts for fixtures and construction techniques which meet the minimum requirements of the Florida Building Code must be included in the rate filing. The section also requires insurance companies to make a rate filing with includes credits or discounts by June 1, 2002.

**Department of Insurance (DOI)**



**Section 90** amends s. 633.01, F.S., effective July 1, 2001, to replace the DOI with the "State Fire Marshal" as the authority to issue declaratory statements, and deletes provisions requiring that declaratory statements apply prospectively.

**Section 91** amends s. 633.0215, F.S., effective July 1, 2001, to replace the word "department" with the "State Fire Marshal" as the authority to issue declaratory statements, interpret and enforce the Florida Fire Prevention Code. The section is amended to prohibit the State Fire Marshal from adopting a building, mechanical, or plumbing code. The qualifications and procedures for adopting local amendments to the firesafety code are specified, and the procedure for incorporating local amendments to the Florida Fire Prevention Code is further clarified. In the event a county or a municipality adopts an ordinance providing for a local amendment to the Florida Fire Prevention Code that is more restrictive than the Florida Fire Prevention Code, the local amendment would become effective without the approval of the Fire Marshall. Such a local amendment could not be rescinded provided that certain criteria are met, as specified in this section. Except as provided in s. 633.022, F.S., the local appeals process would be the venue for resolving disputes between parties impacted by this section.

**Section 92** amends s. 633.025, F.S., effective July 1, 2001, to replace the DOI with the "State Fire Marshal," and to provide that current subsection (4) gives local government authority to establish firesafety codes that exceed minimum firesafety codes and standards adopted by the State Fire Marshal. Legislative intent is provided that local governments give proper public notice and hold public hearings before adopting more stringent firesafety codes and standards. The section also is amended to clarify that electrically operated smoke detectors do not have to be interconnected within individual living units in buildings which provide direct access to the outside from each living unit.

**Section 93** amends s. 633.72, F.S., to revise the membership of the Florida Fire Code Advisory Council and provide that the Florida Building Commission and the council coordinate in the development of their respective codes to address conflicts therein.

## **Chapter 98-287, Laws of Florida**

**Section 94** amends s. 62 of chapter 98-287, Laws of Florida, to delete the requirement that the Legislature approve or reject the Florida Building Code submitted prior to the 2000 Legislative Session, but retain the requirement that the Legislature review the code; to provide a date certain for repeal of local amendments to the minimum building codes, rather than "upon approval of the Florida Building Code by the Legislature"; and to authorize local ordinances adopting administrative provisions to continue in effect after July 1, 2001.

**Section 95** amends s. 68 of chapter 98-287, Laws of Florida, to provide that effective July 1, 2001, certain sections of ch. 553, F.S., are repealed, rather than upon "approval by the Legislature of the adoption of the Florida Building Code by the Florida Building Commission." This section also deletes the repeal of s. 553.19, F.S., and transfers and renumbers that section as s. 553.87, F.S., thereby retaining the authority of the Florida Building Commission to adopt and maintain the statewide electrical standards.

## **The Florida Building Code: Further Action**

**Section 96** provides that the Legislature has reviewed the Florida Building Code adopted by the Florida Building Commission on February 15, 2000, and directs the commission to continue the process for rule adoption of the code. In addition, it provides for additional standards to be

adopted in the code and provides that specified amendments to the code are exempt from rule challenge.

Subsection (1) requires the commission to apply the criteria for approving technical amendments to the Florida Building Code that are specified in s. 553.73(7) (a) & (b), and s. 553.73(6)(c), F.S., as created by this act. This criteria include that:

The commission may approve technical amendments to the Florida Building Code once each year for statewide application upon a finding that delaying the application of the amendment would be contrary to the health, safety, and welfare of the public or the amendment provides an economic advantage to the consumer and that the amendment:

1. Has a reasonable and substantial connection with the health, safety, and welfare of the general public.
2. Strengthens or improves the Florida Building Code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction.
3. Does not discriminate against materials, products, methods, or systems of construction of demonstrated capabilities.
4. Does not degrade the effectiveness of the Florida Building Code.

In addition, proposed amendments must include a fiscal impact statement that documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement must be established by rule by the commission and shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance.

Finally, the commission may not approve any proposed amendment that does not accurately and completely address all requirements for amendments that are not set forth in s. 553.73, F.S.

Subsection (1) also requires the commission to review modifications to the base codes adopted by the commission on or before February 15, 2000, which are identified verbally or in writing during the public hearings on proposed rule 9B-3.047 held pursuant to chapter 120, F.S., except those integrating state agency construction regulations, south Florida hurricane protection provisions, and those necessary to harmonize the Florida Building Code with the Florida Fire Prevention Code, and to confirm that such amendments meet the requirements of s. 553.73(7), as amended by s. 40, chapter 98-287, Laws of Florida. Any modification which, after said criteria are applied is not approved for inclusion by an affirmative vote of three-fourths of the commission members present and voting, must be removed pursuant to the provisions of chapter 120, F.S.

Subsection (2) requires all amendments to the Florida Building Code must be published in legislative format, with underlining indicating where new language is added to the existing provisions, and strikeout indicating where existing language is deleted.

Subsection (3) directs the Commission to adopt for areas of the state not within the high velocity hurricane zone, pursuant to section 553.73, the wind protection requirements of the American Society of Civil Engineers, Standard 7, 1998 edition as implemented by the International Building Code, 2000 edition, and as modified by the Commission in its February

15, 2000, adoption of the Florida Building Code for rule adoption by reference in Rule 9B-3.047, F.A.C.

The subsection provides for the exact location of wind speed lines to be established by ordinance using specified physical landmarks, and provides that building constructed within the windborne debris region must be either designed for internal pressures resulting from a broken window or door or a hole in the walls or roof, or be designed with protected openings.

Subsection (4) requires the Commission to create a provision to allow installation of water treatment units that meet the standards developed by the Water Quality Association, as opposed to only NSF International, when the sellers claim such systems only affect aesthetic qualities of water.

**Section 97** requires a "sufficient" appropriation from the Florida Catastrophe Fund money to DCA to demonstrate the true cost and risk reduction of, and educate the stakeholders regarding the Florida Building Code. The project is contingent upon and subject to legislative appropriations as soon as budget authority is available following the 2000 session. An advisory group is to be established to be comprised of members representing the Department of Community Affairs, the Department of Insurance, the Florida Windstorm Underwriting Association, the Florida Building Commission, the Florida Home Builders Association, the Florida Insurance Council, and the Building Officials Association of Florida. Decisions regarding the demonstration project would be made by consensus of the advisory group.

This demonstration project is to include the construction of residential single-family homes in various regions in Florida to the standards of the proposed Florida Building Code. These project homes will be used to determine the cost differential between the Florida Building Code and current codes. The department must provide the resources to offset any increased cost of building to the Florida Building Code, and provide an analysis of such additional costs.

The Department of Insurance is required to use the results of the DCA demonstration project in determining the basis for property and casualty windstorm insurance rate reductions and rebates to consumers. The Department of Community Affairs is required to issue a preliminary report of its findings to the Legislature and the Governor before the 2001 Legislature session, and to issue a final report by July 1, 2001.

**Section 98** requires, prior to the beginning of the 2001 legislative session, the Commissioner of Insurance to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives addressing the following:

- The cost differential between the construction of a residential single-family home in the various regions of the state under Florida Building Code and the current state minimum building codes. In addition to other aspects of the Florida Building Code, this portion of the report must specifically address any costs associated with the wind protection requirements of the Florida Building Code.
- The reduction in risk of damage to life and property resulting from the wind protection requirements of the Florida Building Code.
- Proposed revisions to rate fillings for residential property insurance that will implement a 3-year cost-of-recovery formula for residences constructed to the standards of the Florida Building Code and for residences which have been retrofitted with construction techniques or fixtures intended to reduce the amount of loss resulting from windstorm damage. The report must address the potential use of discounts, credits, or other rate differentials

necessary to implement a 3-year cost-of-recovery formula. The 3-year cost-of-recovery formula must include, but is not limited to, construction techniques and fixtures that enhance roof strength; roof covering performance; roof-to-wall connection strength; foundation and floor-to-wall connection strength; opening protection; window, door, and skylight performance and strength; and any other construction techniques, materials, and fixtures that meet the requirements of the Florida Building Code

**Section 99** continues the select committee to investigate the feasibility of establishing performance-based criteria for the cost effective application of fire codes and fire code alternatives for existing educational facilities established by chapter 98-287, L.O.F. The section appropriates funds in the amount of \$35,000 to the State Fire Marshal from the Insurance Commissioner's Regulatory Trust Fund for the purposes of providing training and education to those impacted by its use on the application of the alternative fire safety standards for educational facilities. The Division of State Fire Marshal is required to review the alternative code for existing educational facilities and may adopt such alternative code by rule as part of the Florida Fire Prevention Code as an acceptable alternative for code compliance.

**Section 100** directs the Florida Building Commission to examine the applicability of the full proposed Florida Building Code to buildings manufactured and assembled offsite but not intended for human habitation, such as storage sheds and lawn storage buildings. The Commission must consider whether such buildings should be subject to the same standards applicable to buildings intended for human habitation; the additional financial costs associated with compliance with such standards; the risk reduction effects associated with such compliance; and the long term economic and practical consequences attendant to such compliance. The Commission must report its findings and recommendations for statutory changes, if any, to the President of the Senate and the Speaker of the House of Representatives prior to the beginning of the 2001 legislative session.

**Section 101** repeals s. 125.0106, F.S., which authorizes counties to adopt regulations governing construction of floating residential structures.

**Section 102** effective July 1, 2001, repeals s. 255.21(2), F.S., which authorizes the Department of Management Services to grant waivers and variances from codes and standards for state building design; and s. 553.79(11), F.S., which requires the enforcing agency to require an asbestos notification statement in permits for demolition or renovation of existing structures.

**Section 103** provides that nothing in this bill is intended to imply any repeal or sunset of existing general or special laws that are not specifically identified herein. This language is required by section 553.77(1)(b), F.S., as amended by section 46 of chapter 98-287, Laws of Florida.

**Section 104** delays the effective of those section of chapter 98-287, L.O.F., taking effect on January 1, 2001, to July 1, 2001, and the effective date of section 61 of chapter 98-419, L.O.F., until July 1, 21001.

**Section 105** provides that notwithstanding the effective date of any section of this act or chapter 98-287, L.O.F., any authority to adopt rules provided by this act or chapter 98-287, L.O.F., shall take effect upon this act becoming a law.

**Section 106** provides that the act takes effect upon becoming a law, except as otherwise provided.

**Government Sector Impact of the Amendment**

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Some state agencies will no longer be responsible for construction plans review and building inspections. Cost savings to the agencies will be offset by the elimination of corresponding fee revenue. Local Governments will be responsible for the construction plans review and building inspections previously done by the state agencies. The costs to complete these reviews and inspections will be offset by the corresponding fee revenue.

While state agencies are required to provide technical assistance to the Florida Building Commission and the State Fire Marshal in updating relevant provisions of the code, they will realize a cost savings because they will no longer have the responsibility for adopting those provisions into their respective codes.

DCA will incur costs providing for recertification of relocated or modified manufactured buildings.

The Florida Building Commission will assume additional code development responsibilities and will incur costs related to those responsibilities.

DBPR estimates that transferring the Construction Industry Licensing Board Office from Jacksonville to Tallahassee will result in an annual savings of \$95,851 to the department.

The Board of Professional Engineers and the Board of Architecture and Interior Design will incur costs related to certifying licensees as special inspectors of threshold buildings. These costs can be recovered through licensing fees.

The bill appropriates an unspecified amount from the Florida Catastrophe Fund (Cat Fund) to the Department of Community Affairs sufficient to demonstrate the true cost and risk reduction of, and educate the stakeholders regarding the proposed Florida Building Code. This demonstration project includes the construction of an estimated six residential single-family homes in various regions in Florida to the standards of the Florida Building Code. Since the costs of these homes are indeterminate at this time, the fiscal impact to the Cat Fund is unknown.

These project homes will be used to determine the cost differential between the Florida Building Code and the current code. The department will provide the resources to offset any increased cost of building to the Florida Building Code, and will provide an analysis of such additional costs. DCA estimates that the cost differential for the estimated six homes, an engineering study, an insurance rate study, and public education is in the range of \$86,000 - \$172,000.

The Department of Insurance is required to use the results of the DCA demonstration project in determining the basis for property and casualty windstorm insurance rate reductions and rebates to consumers.

The bill also appropriates \$35,000 from the Insurance Commissioner's Regulatory Trust Fund to the State Fire Marshal for the purpose of providing training and education to individuals affected by the application of alternative fire safety standards for educational facilities.

The Department of Education is required to establish the plans review process for factory-built buildings authorized in section 10 of the bill. The department also is required to develop a unique label system for factory-built buildings. School districts and community colleges are required to provide continuous inspection of factory-built buildings. Manufacturers are required to reimburse the Department for the expenses it incurs in implementing this program.

### **Private Economic Impact of the Amendment**

Building to the American Society of Civil Engineers ASCE Standard 7-98 (Minimum Design Loads for Buildings and Other Structures), which are standards for protection of buildings against windborne debris, will increase construction costs in the windborne debris regions across the state. To meet the new standards, buildings must be constructed in one of two ways:

OPTION (1): To withstand internal pressures that may result inside a building when a window or door is broken or a hole is created in the wall or roof by windborne debris; or

OPTION (2): To include window and door protections (such as plywood or hurricane shutters) to protect the inside of the building from being breached.

Estimates of these costs differ between options and wind regions. For example, Florida Building Commission consultants estimated it will cost \$69 to build to OPTION (1) in the 120 - 130 mph wind region for a single-family 1500 sq. ft. house. Consultants from the University of Florida found the average costs (materials and installation, over six Florida cities) to build to OPTION (2) for the same house as follows: plywood, \$457; steel storm panels, \$2,314; impact glass, \$3,665; and roll-down shutters, \$6,759. The North American Laminated Glass Information Center estimated the costs for three types of window protection for a 2,275 sq. ft. house to be as follows: plywood, \$1,000; steel storm panels, \$1,200; and impact glass, \$5,300.

While the cost to build to OPTION (1) standards in the 120 - 130 mph wind region are low, these costs increase when building in the 130 mph and higher wind regions. DCA staff indicated that recent building experiences in Palm Beach County indicate that it is typically more cost effective to build to OPTION (2) in the 130 mph and higher wind regions. The Florida Home Builders Association was unable to provide comparable estimates.

In addition to the costs of building to the ASCE 7-98 standards, additional requirements included in the proposed Florida Building Code will increase construction costs. No estimates of these costs are available. Subsection (1) of section 96 of the bill requires the Florida Building Commission to review modifications to the base codes adopted by the commission on or before February 15, 2000, which are identified verbally or in writing during the public hearings on proposed rule 9B-3.047 held pursuant to chapter 120, F.S., except those integrating state agency construction regulations, south Florida hurricane protection provisions, and those necessary to harmonize the Florida Building Code with the Florida Fire Prevention Code, and to confirm that such amendments meet the requirements of s. 553.73(7), as amended by s. 40, chapter 98-287, Laws of Florida. This section requires a fiscal impact statement. Any modification which, after said criteria are applied is not approved for inclusion by an affirmative vote of three-fourths of the commission members present and voting, must be removed pursuant to the provisions of chapter 120, F.S.

Homeowners will benefit from property insurance rate reductions and rebates mandated by this bill and from such reductions and rebates that might be mandated as a result of the Department of Insurance report to the Legislature and the demonstration project.

Homeowners living in windborne regions that build homes meeting the higher building code standards are expected to experience less losses attributable to windborne debris, in the event of a hurricane with winds of 120 mph or greater.

The bill appropriates an unspecified amount from the Florida Catastrophe Fund (Cat Fund) to the Department of Community Affairs sufficient to demonstrate the true cost and risk reduction of, and educate the stakeholders regarding the proposed Florida Building Code. If the

Legislature appropriates an amount in excess of \$10 million for the Cat Fund after the SBA has already approved the Cat Fund rates for any given contract year, the SBA would then need to approve another premium formula for that contract year to increase Cat Fund rates to cover the inadequacy. This would require insurers to pay a higher Cat Fund premium, which may then be recouped by insurers from their policyholders in higher rates.

**Technical Concerns**

The Department of Insurance is required to use the results of the DCA demonstration project in determining the basis for property and casualty windstorm insurance rate reductions and rebates to consumers. However, the incorporation of the results of the project into the rate making process may conflict with the statutory rate making provisions of chapter 627, F.S., relating to establishing actuarially based rates that are not excessive or inadequate.

It is unclear whether participants in the Advisory Group for the demonstration project on the Building Code impact will be eligible for per diem reimbursement from the State for expenses related to Advisory Group meetings.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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Staff Director:

Joan Highsmith-Smith

AS FURTHER REVISED BY THE COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS:

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