

By the Committee on Regulated Industries; and Senator
Constantine

315-2166-03

1 A bill to be entitled
2 An act relating to the Florida Building Code;
3 amending s. 553.73, F.S.; providing code
4 amendment criteria and review requirements;
5 providing requirements relating to regional
6 emergency elevator access; requiring elevators
7 in certain newly constructed or substantially
8 renovated buildings to be keyed alike within
9 each of the state emergency response regions;
10 providing for these requirements to be phased
11 in for certain existing buildings; restricting
12 the duplication and issuance of master elevator
13 keys; requiring the labeling of master elevator
14 keys; allowing local fire marshals to allow
15 substitute emergency measures for elevator
16 access in certain circumstances; providing for
17 appeal of the local fire marshal's decision;
18 providing for the State Fire Marshal to enforce
19 these provisions; encouraging builders to use
20 applicable new technology to provide regional
21 emergency elevator access; amending s. 553.77,
22 F.S.; revising duties of the Florida Building
23 Commission; deleting requirements that the
24 commission hear certain appeals and issue
25 declaratory statements; creating s. 553.775,
26 F.S.; providing legislative intent with respect
27 to the interpretation of the Florida Building
28 Code; providing for the commission to resolve
29 disputes regarding interpretations of the code;
30 requiring the commission to review decisions of
31 local building officials and local enforcement

1 agencies; providing for publication of an
2 interpretation on the Building Code Information
3 System and in the Florida Administrative
4 Weekly; amending s. 553.79, F.S.; exempting
5 truss placement plans from certain
6 requirements; amending ss. 553.791 and 553.80,
7 F.S.; authorizing local governments to impose
8 certain fees for code enforcement; providing
9 requirements and limitations; amending s.
10 553.842, F.S.; revising requirements,
11 procedures, and limitations relating to a
12 product evaluation and approval system;
13 deleting Florida Building Commission authority
14 to adopt certain rules and enter into certain
15 contracts to administer the product evaluation
16 and approval system; deleting system criteria;
17 deleting provisions relating to local or
18 statewide approval of products or methods or
19 systems of construction; deleting provisions
20 relating to certifications by approved product
21 evaluation entities, testing laboratories, or
22 certification agencies; revising commission
23 rulemaking authority; revising commission
24 responsibilities; authorizing the commission to
25 expedite adoption and implementation of the
26 existing state building code as part of the
27 Florida Building Code pursuant to limited
28 procedures; authorizing local governments to
29 readopt certain amendments that were repealed
30 from the prior Florida Building Code; amending
31 s. 120.80, F.S.; authorizing the Florida

1 Building Commission to conduct proceedings to
2 review decisions of local officials; creating
3 the Florida Construction Council as a nonprofit
4 corporation; requiring the council to provide
5 administrative, technical, and code-development
6 services to the Florida Building Commission;
7 providing for staff for the council to be
8 provided by Florida State University; providing
9 for a board of directors; providing terms of
10 office; providing requirements for operations;
11 providing rulemaking authority; amending s.
12 399.106, F.S.; revising the membership of the
13 Elevator Safety Technical Advisory Committee;
14 removing provisions terminating the committee;
15 providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Subsections (2) and (6) and paragraphs (a)
20 and (c) of subsection (7) of section 553.73, Florida Statutes,
21 are amended to read:

22 553.73 Florida Building Code.--

23 (2) The Florida Building Code shall contain provisions
24 or requirements for public and private buildings, structures,
25 and facilities relative to structural, mechanical, electrical,
26 plumbing, energy, and gas systems, existing buildings,
27 historical buildings, manufactured buildings, elevators,
28 coastal construction, lodging facilities, food sales and food
29 service facilities, health care facilities, including assisted
30 living facilities, adult day care facilities, hospice
31 residential facilities, inpatient facilities, and facilities

1 for the control of radiation hazards, public or private
2 educational facilities, swimming pools, and correctional
3 facilities and enforcement of and compliance with such
4 provisions or requirements. Further, the Florida Building Code
5 must provide for uniform implementation of ss. 515.25, 515.27,
6 and 515.29 by including standards and criteria for residential
7 swimming pool barriers, pool covers, latching devices, door
8 and window exit alarms, and other equipment required therein,
9 which are consistent with the intent of s. 515.23. Technical
10 provisions to be contained within the Florida Building Code
11 are restricted to requirements related to the types of
12 materials used and construction methods and standards employed
13 in order to meet criteria specified in the Florida Building
14 Code. Provisions relating to the personnel, supervision or
15 training of personnel, or any other professional qualification
16 requirements relating to contractors or their workforce may
17 not be included within the Florida Building Code, and
18 subsections (4), (5), (6), and (7) are not to be construed to
19 allow the inclusion of such provisions within the Florida
20 Building Code by amendment. This restriction applies to both
21 initial development and amendment of the Florida Building
22 Code.

23 (6) The commission, by rule adopted pursuant to ss.
24 120.536(1) and 120.54, shall update the Florida Building Code
25 every 3 years. When updating the Florida Building Code, the
26 commission shall consider changes made by the adopting entity
27 of any selected model code for any model code incorporated
28 into the Florida Building Code, and may subsequently adopt ~~the~~
29 ~~new edition or successor of the model code or any part of such~~
30 code, no sooner than 6 months after it ~~such model code~~ has
31 been adopted by the adopting organization, which may then be

1 modified for this state as provided in this section, and shall
2 further consider the commission's own interpretations,
3 declaratory statements, appellate decisions, and approved
4 statewide and local technical amendments. A change made by an
5 institute or standards organization to any standard or
6 criterion that is adopted by reference in the Florida Building
7 Code does not become effective statewide until it has been
8 adopted by the commission. Furthermore, the edition of the
9 Florida Building Code which is in effect on the date of
10 application for any permit authorized by the code governs the
11 permitted work for the life of the permit and any extension
12 granted to the permit. Any amendment to the Florida Building
13 Code which is adopted upon a finding by the commission that
14 the amendment is necessary to protect the public from
15 immediate threat of harm takes effect immediately.

16 (7)(a) The commission may approve technical amendments
17 to the Florida Building Code once each year for statewide or
18 regional application upon a finding that the amendment:

19 1. Has a reasonable and substantial connection with
20 the health, safety, and welfare of the general public.

21 2. Strengthens or improves the Florida Building Code,
22 or in the case of innovation or new technology, will provide
23 equivalent or better products or methods or systems of
24 construction.

25 3. Does not discriminate against materials, products,
26 methods, or systems of construction of demonstrated
27 capabilities.

28 4. Does not degrade the effectiveness of the Florida
29 Building Code.

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1 Furthermore, the Florida Building Commission may approve
2 technical amendments to the code once each year to incorporate
3 into the Florida Building Code its own interpretations of the
4 code which are embodied in its opinions, final orders, ~~and~~
5 declaratory statements, and in interpretations of hearing
6 officer panels under s. 553.775(3)(c). Amendments approved
7 under this paragraph shall be adopted by rule pursuant to ss.
8 120.536(1) and 120.54, after the amendments have been
9 subjected to the provisions of subsection (3).

10 (c) The commission may not approve any proposed
11 amendment that does not accurately and completely address all
12 requirements for amendment which are set forth in this
13 section. The commission shall require all proposed amendments
14 and information submitted with proposed amendments to be
15 reviewed by commission staff prior to consideration by any
16 technical advisory committee. These reviews shall be for
17 sufficiency only and are not intended to be qualitative in
18 nature. Staff members shall reject any proposed amendment that
19 fails to include a fiscal impact statement providing
20 information responsive to all criteria identified. Proposed
21 amendments rejected by members of the staff may not be
22 considered by the commission or any technical advisory
23 committee.

24 Section 2. Regional emergency elevator access.--

25 (1) In order to provide emergency access to elevators:

26 (a) For each building in this state which is six or
27 more stories in height, including, but not limited to, hotels
28 and condominiums, and on which construction is begun after
29 June 30, 2003, all of the keys for elevators that allow public
30 access, including, but not limited to, service and freight
31 elevators, must be keyed so as to allow all elevators within

1 each of the seven state emergency response regions to be
2 opened with one master elevator key.

3 (b) Any building in this state which is six or more
4 stories in height and is "substantially renovated" as defined
5 in the Americans with Disabilities Act, as amended, after June
6 30, 2003, must also comply with paragraph (a).

7 (2) Each existing building in this state which is six
8 or more stories in height must comply with subsection (1)
9 before July 1, 2006.

10 (3) In addition to elevator owners, owners' agents,
11 elevator contractors, state certified inspectors, and state
12 agency representatives, master elevator keys may be issued
13 only to the fire department and may not be issued to any other
14 emergency-response agency. A person may not duplicate a master
15 elevator key for issuance to, or issue such a key to, anyone
16 other than authorized fire-department personnel. Each master
17 elevator key must be marked "DO NOT DUPLICATE."

18 (4) If it is technically impossible to bring a
19 building into compliance with this section, the local fire
20 marshal may allow substitute emergency measures that will
21 provide reasonable emergency elevator access. The local fire
22 marshal's decision regarding substitute measures may be
23 appealed to the State Fire Marshal.

24 (5) The Division of State Fire Marshal of the
25 Department of Financial Services shall enforce this section.

26 (6) Builders should make every effort to use new
27 technology and developments in keying systems which make it
28 possible to convert existing equipment so as to provide
29 efficient regional emergency elevator access.

30 Section 3. Section 553.77, Florida Statutes, is
31 amended to read:

1 553.77 Specific powers of the commission.--
2 (1) The commission shall:
3 (a) Adopt and update the Florida Building Code or
4 amendments thereto, pursuant to ss. 120.536(1) and 120.54.
5 (b) Make a continual study of the operation of the
6 Florida Building Code and other laws relating to the design,
7 construction, erection, alteration, modification, repair, or
8 demolition of public or private buildings, structures, and
9 facilities, including manufactured buildings, and code
10 enforcement, to ascertain their effect upon the cost of
11 building construction and determine the effectiveness of their
12 provisions. Upon updating the Florida Building Code every 3
13 years, the commission shall review existing provisions of law
14 and make recommendations to the Legislature for the next
15 regular session of the Legislature regarding provisions of law
16 that should be revised or repealed to ensure consistency with
17 the Florida Building Code at the point the update goes into
18 effect. State agencies and local jurisdictions shall provide
19 such information as requested by the commission for evaluation
20 of and recommendations for improving the effectiveness of the
21 system of building code laws for reporting to the Legislature
22 annually. Failure to comply with this or other requirements of
23 this act must be reported to the Legislature for further
24 action. Any proposed legislation providing for the revision or
25 repeal of existing laws and rules relating to technical
26 requirements applicable to building structures or facilities
27 should expressly state that such legislation is not intended
28 to imply any repeal or sunset of existing general or special
29 laws governing any special district that are not specifically
30 identified in the legislation.
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1 (c) Upon written application by any substantially
2 affected person or a local enforcement agency, issue
3 declaratory statements pursuant to s. 120.565 relating to new
4 technologies, techniques, and materials which have been tested
5 where necessary and found to meet the objectives of the
6 Florida Building Code. This paragraph does not apply to the
7 types of products, materials, devices, or methods of
8 construction required to be approved under paragraph (f) ~~(i)~~.

9 ~~(d) Upon written application by any substantially~~
10 ~~affected person, state agency, or a local enforcement agency,~~
11 ~~issue declaratory statements pursuant to s. 120.565 relating~~
12 ~~to the enforcement or administration by local governments of~~
13 ~~the Florida Building Code. Paragraph (h) provides the~~
14 ~~exclusive remedy for addressing local interpretations of the~~
15 ~~code.~~

16 ~~(e) When requested in writing by any substantially~~
17 ~~affected person, state agency, or a local enforcing agency,~~
18 ~~shall issue declaratory statements pursuant to s. 120.565~~
19 ~~relating to this part and ss. 515.25, 515.27, 515.29, and~~
20 ~~515.37. Actions of the commission are subject to judicial~~
21 ~~review pursuant to s. 120.68.~~

22 (d)~~(f)~~ Make recommendations to, and provide assistance
23 upon the request of, the Florida Commission on Human Relations
24 regarding rules relating to accessibility for persons with
25 disabilities.

26 (e)~~(g)~~ Participate with the Florida Fire Code Advisory
27 Council created under s. 633.72, to provide assistance and
28 recommendations relating to firesafety code interpretations.
29 The administrative staff of the commission shall attend
30 meetings of the Florida Fire Code Advisory Council and
31 coordinate efforts to provide consistency between the Florida

1 Building Code and the Florida Fire Prevention Code and the
2 Life Safety Code.

3 ~~(h) Hear appeals of the decisions of local boards of~~
4 ~~appeal regarding interpretation decisions of local building~~
5 ~~officials, or if no local board exists, hear appeals of~~
6 ~~decisions of the building officials regarding interpretations~~
7 ~~of the code. For such appeals:~~

8 1. ~~Local decisions declaring structures to be unsafe~~
9 ~~and subject to repair or demolition shall not be appealable to~~
10 ~~the commission if the local governing body finds there is an~~
11 ~~immediate danger to the health and safety of its citizens.~~

12 2. ~~All appeals shall be heard in the county of the~~
13 ~~jurisdiction defending the appeal.~~

14 3. ~~Hearings shall be conducted pursuant to chapter 120~~
15 ~~and the uniform rules of procedure, and decisions of the~~
16 ~~commission are subject to judicial review pursuant to s.~~
17 ~~120.68.~~

18 (f)(i) ~~Determine the types of products requiring~~
19 ~~approval for local or statewide use and shall provide for the~~
20 ~~evaluation and approval of such products, materials, devices,~~
21 ~~and method of construction for statewide use. The commission~~
22 ~~may~~ Prescribe by rule a schedule of reasonable fees to provide
23 for evaluation and approval of product evaluation entities,
24 testing laboratories, certification agencies, and quality
25 assurance agencies ~~products, materials, devices, and methods~~
26 ~~of construction.~~ Evaluation and approval shall be by action of
27 the commission or delegated pursuant to s. 553.842. This
28 paragraph does not apply to products approved by the State
29 Fire Marshal.

30 (g)(j) Appoint experts, consultants, technical
31 advisers, and advisory committees for assistance and

1 recommendations relating to the major areas addressed in the
2 Florida Building Code.

3 (h)~~(k)~~ Establish and maintain a mutual aid program,
4 organized through the department, to provide an efficient
5 supply of various levels of code enforcement personnel, design
6 professionals, commercial property owners, and construction
7 industry individuals, to assist in the rebuilding effort in an
8 area which has been hit with disaster. The program shall
9 include provisions for:

10 1. Minimum postdisaster structural, electrical, and
11 plumbing inspections and procedures.

12 2. Emergency permitting and inspection procedures.

13 3. Establishing contact with emergency management
14 personnel and other state and federal agencies.

15 (i)~~(l)~~ Maintain a list of interested parties for
16 noticing rulemaking workshops and hearings, disseminating
17 information on code adoption, revisions, amendments, and all
18 other such actions which are the responsibility of the
19 commission.

20 (j)~~(m)~~ Coordinate with the state and local
21 governments, industry, and other affected stakeholders in the
22 examination of legislative provisions and make recommendations
23 to fulfill the responsibility to develop a consistent, single
24 code.

25 (k)~~(n)~~ Provide technical assistance to local building
26 departments in order to implement policies, procedures, and
27 practices which would produce the most cost-effective property
28 insurance ratings.

29 (l)~~(o)~~ Develop recommendations for local governments
30 to use when pursuing partial or full privatization of building
31 department functions. The recommendations shall include, but

1 not be limited to, provisions relating to equivalency of
2 service, conflict of interest, requirements for competency,
3 liability, insurance, and long-term accountability.

4 ~~(2) Upon written application by any substantially~~
5 ~~affected person, the commission shall issue a declaratory~~
6 ~~statement pursuant to s. 120.565 relating to a state agency's~~
7 ~~interpretation and enforcement of the specific provisions of~~
8 ~~the Florida Building Code the agency is authorized to enforce.~~
9 ~~The provisions of this subsection shall not be construed to~~
10 ~~provide any powers, other than advisory, to the commission~~
11 ~~with respect to any decision of the State Fire Marshal made~~
12 ~~pursuant to the provisions of chapter 633.~~

13 ~~(3) The commission may designate a commission member~~
14 ~~with demonstrated expertise in interpreting building plans to~~
15 ~~attend each meeting of the advisory council created in s.~~
16 ~~553.512. The commission member may vary from meeting to~~
17 ~~meeting, shall serve on the council in a nonvoting capacity,~~
18 ~~and shall receive per diem and expenses as provided in s.~~
19 ~~553.74(3).~~

20 (2)~~(4)~~ For educational and public information
21 purposes, the commission shall develop and publish an
22 informational and explanatory document which contains
23 descriptions of the roles and responsibilities of the licensed
24 design professional, residential designer, contractor, and
25 local building and fire code officials. The State Fire Marshal
26 shall be responsible for developing and specifying roles and
27 responsibilities for fire code officials. Such document may
28 also contain descriptions of roles and responsibilities of
29 other participants involved in the building codes system.

30 (3)~~(5)~~ The commission may provide by rule for plans
31 review and approval of prototype buildings owned by public and

1 private entities to be replicated throughout the state. The
2 rule must allow for review and approval of plans for prototype
3 buildings to be performed by a public or private entity with
4 oversight by the commission. The department may charge
5 reasonable fees to cover the administrative costs of the
6 program. Such approved plans or prototype buildings shall be
7 exempt from further review required by s. 553.79(2), except
8 changes to the prototype design, site plans, and other
9 site-related items. As provided in s. 553.73, prototype
10 buildings are exempt from any locally adopted amendment to any
11 part of the Florida Building Code. Construction or erection of
12 such prototype buildings is subject to local permitting and
13 inspections pursuant to this part.

14 (4)~~(6)~~ The commission may produce and distribute a
15 commentary document to accompany the Florida Building Code.
16 The commentary must be limited in effect to providing
17 technical assistance and must not have the effect of binding
18 interpretations of the code document itself.

19 ~~(7) The commission shall by rule establish an informal
20 process of rendering nonbinding interpretations of the Florida
21 Building Code. The commission is specifically authorized to
22 refer interpretive issues to organizations that represent
23 those engaged in the construction industry. The commission is
24 directed to immediately implement the process prior to the
25 completion of formal rulemaking. It is the intent of the
26 Legislature that the commission create a process to refer
27 questions to a small, rotating group of individuals licensed
28 under part XII of chapter 468, to which a party can pose
29 questions regarding the interpretation of code provisions. It
30 is the intent of the Legislature that the process provide for
31 the expeditious resolution of the issues presented and~~

1 ~~publication of the resulting interpretation on the Building~~
2 ~~Code Information System. Such interpretations are to be~~
3 ~~advisory only and nonbinding on the parties or the commission.~~

4 Section 4. Section 553.775, Florida Statutes, is
5 created to read:

6 553.775 Interpretations.--

7 (1) It is the intent of the Legislature that the
8 Florida Building Code be interpreted by building officials,
9 local enforcement agencies, and the commission in a manner
10 that protects the public safety, health, and welfare at the
11 most reasonable cost to the consumer by ensuring uniform
12 interpretations throughout the state and by providing
13 processes for resolving disputes regarding interpretations of
14 the Florida Building Code which are just and expeditious.

15 (2) Local enforcement agencies, local building
16 officials, state agencies, and the commission shall interpret
17 provisions of the Florida Building Code in a manner that is
18 consistent with declaratory statements and interpretations
19 entered by the commission, except that conflicts between the
20 Florida Fire Prevention Code and the Florida Building Code
21 shall be resolved in accordance with s. 553.73(9)(c) and (d).

22 (3) The following procedures may be invoked to resolve
23 disputes regarding interpretations of the Florida Building
24 Code:

25 (a) Upon written application by any substantially
26 affected person, state agency, or a local enforcement agency,
27 the commission shall issue declaratory statements pursuant to
28 s. 120.565 relating to the enforcement or administration by
29 local governments of the Florida Building Code. Paragraph (c)
30 provides the exclusive remedy for addressing requests to
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1 review local interpretations of the code and appeals from
2 review proceedings.

3 (b) When requested in writing by any substantially
4 affected person, state agency, or a local enforcing agency,
5 the commission shall issue a declaratory statement pursuant to
6 s. 120.565 relating to this part and ss. 515.25, 515.27,
7 515.29, and 515.37. Actions of the commission are subject to
8 judicial review under s. 120.68.

9 (c) The commission shall review decisions of local
10 building officials and local enforcement agencies regarding
11 interpretations of the Florida Building Code as follows:

12 1. The commission shall coordinate with a statewide
13 organization of municipal and county codes enforcement
14 officials to designate panels composed of three hearing
15 officers to hear requests to review decisions of local
16 building officials. The hearing officers must be members of a
17 statewide organization of codes enforcement officials, must be
18 licensed as building code administrators or building officials
19 under part XII of chapter 468, and must have experience
20 interpreting and enforcing provisions of the Florida Building
21 Code.

22 2. Requests to review a decision of a local building
23 official interpreting provisions of the Florida Building Code
24 may be initiated by any substantially affected person,
25 including an owner or builder subject to a decision of a local
26 building official, or an association of owners or builders
27 with members who are subject to a decision of a local building
28 official. In order to initiate review, the substantially
29 affected person must file a petition with the commission. Each
30 petition must contain:

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1 a. The name and address of the county or municipality
2 in which provisions of the Florida Building Code are being
3 interpreted.

4 b. The name and address of the local building official
5 who has made the interpretation being appealed.

6 c. The name, address, and telephone number of the
7 petitioner; the name, address, and telephone number of the
8 petitioner's representative, if any; and an explanation of how
9 the petitioner's substantial interests are being affected by
10 the local interpretation of the Florida Building Code.

11 d. A statement of the provisions of the Florida
12 Building Code which are being interpreted by the local
13 building official.

14 e. A statement of the interpretation given to
15 provisions of the Florida Building Code by the local building
16 official and the manner in which the interpretation was
17 rendered.

18 f. A statement of the interpretation that the
19 petitioner contends should be given to the provisions of the
20 Florida Building Code and a statement supporting the
21 petitioner's interpretation.

22 3. Upon receipt of a petition that meets the
23 requirements of subparagraph 2., the commission shall
24 immediately provide copies of the petition to a panel of three
25 designated hearing officers, to the county or municipality,
26 and to the local building official, and shall publish a copy
27 of the petition on the Building Code Information System.

28 4. Within 5 days after receipt of a petition, the
29 local building official shall respond in writing. The written
30 response must contain:

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1 a. A statement admitting or denying the statements
2 contained in the petition.

3 b. A statement of the interpretation of the provisions
4 of the Florida Building Code which the local jurisdiction or
5 the local building official contends is correct, and a
6 statement supporting the local jurisdiction or local building
7 official's interpretation.

8
9 If no response is filed, the review proceeding shall proceed
10 immediately as provided in subparagraph 7.

11 5. Within 3 days after receipt of the response, the
12 petitioner shall file a written reply addressing the matters
13 raised in the response.

14 6. The response and the reply shall be published on
15 the Building Code Information System in a manner that allows
16 interested persons to address the issues by posting comments.
17 If a response is not filed in accordance with paragraph 4.,
18 the commission shall publish notice that no response has been
19 filed on the Building Code Information System in a manner that
20 allows interested persons to address the issues by posting
21 comments.

22 7. The hearing officer panel shall conduct proceedings
23 as necessary to resolve the issues; shall give due regard to
24 the petition, the response, the reply, and to comments posed
25 on the Building Code Information System; and shall issue an
26 interpretation regarding the provisions of the Florida
27 Building Code within 5 days after the filing of the reply by
28 the petitioner. The hearing officer panel shall render a
29 determination based upon the intent of the code. The hearing
30 officer panel's interpretation shall be provided to the
31 commission, which shall publish the interpretation on the

1 Building Code Information System and in the Florida
2 Administrative Weekly. The interpretation shall be considered
3 an interpretation entered by the commission, and shall be
4 binding upon the parties and upon all jurisdictions subject to
5 the Florida Building Code, unless it is superseded by a
6 declaratory statement issued by the Florida Building
7 Commission or by a final order entered after an appeal
8 proceeding conducted in accordance with subparagraph 9.

9 8. It is the intent of the Legislature that review
10 proceedings be completed within 15 days after the date that a
11 petition seeking review is filed with the commission, and the
12 time periods set forth in this paragraph may be waived only
13 upon consent of all parties.

14 9. Any substantially affected person may appeal an
15 interpretation rendered by a hearing officer panel by filing a
16 petition with the commission. Such appeals shall be initiated
17 in accordance with chapter 120 and the uniform rules of
18 procedure, and must be filed within 30 days after publication
19 of the interpretation on the Building Code Information System
20 or in the Florida Administrative Weekly. Hearings shall be
21 conducted pursuant to chapter 120 and the uniform rules of
22 procedure. Decisions of the commission are subject to judicial
23 review pursuant to s. 120.68. The final order of the
24 commission is binding upon the parties and upon all
25 jurisdictions subject to the Florida Building Code.

26 10. The burden of proof in any proceeding initiated in
27 accordance with subparagraph 9. shall be on the party who
28 initiated the appeal.

29 11. In any review proceeding initiated in accordance
30 with this paragraph, including any proceeding initiated in
31 accordance with subparagraph 9., the fact that an owner or

1 builder has proceeded with construction shall not be grounds
2 for determining the issues to be moot, if the issue is one
3 that is likely to arise in the future.

4 12. In any proceeding initiated in accordance with
5 subparagraph 9., the commission shall award costs, including
6 reasonable attorney's fees, to the prevailing party if it is
7 determined that the interpretation given to provisions of the
8 Florida Building Code by the nonprevailing party was
9 unreasonable. An interpretation shall be deemed unreasonable
10 if it is contrary to a prior declaratory statement issued by
11 the commission or to a final order issued under a prior appeal
12 initiated under subparagraph 9.

13 (d) Local decisions declaring structures to be unsafe
14 and subject to repair or demolition are not subject to review
15 under this subsection and may not be appealed to the
16 commission if the local governing body finds that there is an
17 immediate danger to the health and safety of the public.

18 (e) Upon written application by any substantially
19 affected person, the commission shall issue a declaratory
20 statement pursuant to s. 120.565 relating to an agency's
21 interpretation and enforcement of the specific provisions of
22 the Florida Building Code which the agency is authorized to
23 enforce. This subsection does not provide any powers, other
24 than advisory, to the commission with respect to any decision
25 of the State Fire Marshal made pursuant to chapter 633.

26 (f) The commission may designate a commission member
27 with demonstrated expertise in interpreting building plans to
28 attend each meeting of the advisory council created in s.
29 553.512. The commission member may vary from meeting to
30 meeting, shall serve on the council in a nonvoting capacity,
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1 and shall receive per diem and expenses as provided in s.
2 553.74(3).

3 (g) The commission shall by rule establish an informal
4 process of rendering nonbinding interpretations of the Florida
5 Building Code. The commission is specifically authorized to
6 refer interpretive issues to organizations that represent
7 those engaged in the construction industry. The commission
8 shall immediately implement the process prior to the
9 completion of formal rulemaking. It is the intent of the
10 Legislature that the commission create a process to refer
11 questions to a small, rotating group of individuals licensed
12 under part XII of chapter 468, to which a party may pose
13 questions regarding the interpretation of code provisions. It
14 is the intent of the Legislature that the process provide for
15 the expeditious resolution of the issues presented and
16 publication of the resulting interpretation on the Building
17 Code Information System. Such interpretations shall be
18 advisory only and nonbinding on the parties and the
19 commission.

20 Section 5. Subsection (14) of section 553.79, Florida
21 Statutes, is amended to read:

22 553.79 Permits; applications; issuance; inspections.--

23 (14) Certifications by contractors authorized under
24 the provisions of s. 489.115(4)(b) shall be considered
25 equivalent to sealed plans and specifications by a person
26 licensed under chapter 471 or chapter 481 by local enforcement
27 agencies for plans review for permitting purposes relating to
28 compliance with the wind resistance provisions of the code or
29 alternate methodologies approved by the commission for one and
30 two family dwellings. Local enforcement agencies may rely upon
31 such certification by contractors that the plans and

1 specifications submitted conform to the requirements of the
2 code for wind resistance. Upon good cause shown, local
3 government code enforcement agencies may accept or reject
4 plans sealed by persons licensed under chapter 471, chapter
5 481, or chapter 489. A truss placement plan is not required to
6 be signed and sealed by an engineer or architect unless
7 specifically required by the Florida Building Code.

8 Section 6. Subsections (2) and (4) of section 553.791,
9 Florida Statutes, are amended to read:

10 553.791 Alternative plans review and inspection.--

11 (2) Notwithstanding any other provision of law or
12 local government ordinance or local policy to the contrary,
13 the fee owner of a building, or the fee owner's contractor
14 upon written authorization from the fee owner, may choose to
15 use a private provider to provide building code inspection
16 services with regard to such building and may make payment
17 directly to the private provider for the provision of such
18 services. All such services shall be the subject of a written
19 contract between the private provider, or the private
20 provider's firm, and the fee owner. The fee owner may elect to
21 use a private provider to provide either plans review or
22 required building inspections. The local building official, in
23 his or her discretion and pursuant to duly adopted policies of
24 the local enforcement agency, may require the fee owner who
25 desires to use a private provider to use the private provider
26 to provide both plans review and required building inspection
27 services.

28 (4) A fee owner or the fee owner's contractor using a
29 private provider to provide building code inspection services
30 shall notify the local building official at the time of permit
31 application or prior to a private provider providing building

1 code inspection services on a form to be adopted by the
2 commission. This notice shall include the following
3 information:

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

6 (b) The name, firm, address, telephone number, and
7 facsimile number of each private provider who is performing or
8 will perform such services, his or her professional license or
9 certification number, qualification statements or resumes,
10 and, if required by the local building official, a certificate
11 of insurance demonstrating that professional liability
12 insurance coverage is in place for the private provider's
13 firm, the private provider, and any duly authorized
14 representative in the amounts required by this section.

15 (c) An acknowledgment from the fee owner in
16 substantially the following form:

17
18 I have elected to use one or more private
19 providers to provide building code plans review
20 and/or inspection services on the building that
21 is the subject of the enclosed permit
22 application, as authorized by s. 553.791,
23 Florida Statutes. I understand that the local
24 building official may not review the plans
25 submitted or perform the required building
26 inspections to determine compliance with the
27 applicable codes, except to the extent
28 specified in said law. Instead, plans review
29 and/or required building inspections will be
30 performed by licensed or certified personnel
31 identified in the application. The law requires

1 minimum insurance requirements for such
2 personnel, but I understand that I may require
3 more insurance to protect my interests. By
4 executing this form, I acknowledge that I have
5 made inquiry regarding the competence of the
6 licensed or certified personnel and the level
7 of their insurance and am satisfied that my
8 interests are adequately protected. I agree to
9 indemnify, defend, and hold harmless the local
10 government, the local building official, and
11 their building code enforcement personnel from
12 any and all claims arising from my use of these
13 licensed or certified personnel to perform
14 building code inspection services with respect
15 to the building that is the subject of the
16 enclosed permit application.

17

18 If the fee owner makes any changes to the listed private
19 providers or the services to be provided by those private
20 providers, the fee owner shall, within 1 business day after
21 any change, update the notice to reflect such changes.

22 Section 7. Subsection (7) is added to section 553.80,
23 Florida Statutes, to read:

24 553.80 Enforcement.--

25 (7) The governing bodies of local governments may
26 provide a schedule of reasonable fees, as authorized by s.
27 125.56(2) or s. 166.222 and this section, for the enforcement
28 of this part. Such fees, and any fines or investment earnings
29 related to such fees, shall be used solely for carrying out
30 the local government's responsibilities in enforcing the
31 Florida Building Code. When providing a schedule of reasonable

1 fees, the total estimated annual revenue derived from fees and
2 the fines and investment earnings related to such fees may not
3 exceed the total estimated annual costs of allowable
4 activities. Any unexpended balances must be carried forward to
5 future years for allowable activities or shall be refunded.

6 The basis for a fee structure for allowable activities shall
7 relate to the level of service provided by the local
8 government. Fees charged shall be consistently applied.

9 (a) As used in this subsection, the term "enforcing
10 the Florida Building Code" includes the direct costs and
11 reasonable indirect costs associated with review of building
12 plans, building inspections, reinspections, building permit
13 processing, and building code enforcement. The term may also
14 include enforcement against unlicensed contractor activity to
15 the extent not funded with other user fees. Enforcing the
16 Florida Building Code specifically excludes any
17 land-use-related activities, including, but not limited to,
18 reviews and enforcement associated with comprehensive
19 planning, zoning, site planning, and concurrency; address
20 assignment; inspections of rights-of-way; inspections of
21 utility hookups outside a building, unless the work is covered
22 by a building permit; arbor compliance;
23 nonconstruction-related fire prevention inspections of
24 existing units; demolition, unless associated with a building
25 permit; debris cleanup; landscaping; environmental regulation
26 and enforcement; the enforcement of any other state or federal
27 requirement; the enforcement of any other local ordinance or
28 local requirement; and any other building or general
29 government activity that does not directly pertain to such
30 activities in enforcing the Florida Building Code. Costs of
31 inspections of public buildings for a reduced fee or no fee,

1 and costs incurred in connection with public information
2 requests, community functions, boards, and programs that are
3 not directly related to enforcement of the Florida Building
4 Code, may not be financed with fees adopted under this
5 section.

6 (b) A local government shall use recognized
7 management, accounting, and oversight practices to ensure that
8 fees, fines, and investment earnings generated under this
9 subsection are maintained and used solely for the purposes
10 described in paragraph (a).

11 (c) Local governments shall, to the greatest extent
12 possible or practicable, work with local building industries
13 to create a review process to assist in implementing and
14 overseeing budgetary procedures and reports for revenue and
15 expenditures relating to building permit fees and assist in
16 offering suggestions or recommendations on the use and amount
17 of building permit fees and the level and type of service
18 provided to the local building industry.

19 Section 8. Section 553.842, Florida Statutes, is
20 amended to read:

21 553.842 Product evaluation and approval.--

22 (1) ~~The commission shall adopt rules under ss.~~
23 ~~120.536(1) and 120.54 to develop and implement a product~~
24 ~~evaluation and approval system~~ described in this section shall
25 apply that applies statewide to operate in coordination with
26 the Florida Building Code. ~~The commission may enter into~~
27 ~~contracts to provide for administration of the product~~
28 ~~evaluation and approval system. The product evaluation and~~
29 ~~approval system shall provide+~~

30 ~~(a) Appropriate promotion of innovation and new~~
31 ~~technologies.~~

1 ~~(b) Processing submittals of products from~~
2 ~~manufacturers in a timely manner.~~

3 ~~(c) Independent, third-party qualified and accredited~~
4 ~~testing and laboratory facilities, product evaluation~~
5 ~~entities, quality assurance agencies, certification agencies,~~
6 ~~and validation entities.~~

7 ~~(d) An easily accessible product acceptance list to~~
8 ~~entities subject to the Florida Building Code.~~

9 ~~(e) Development of stringent but reasonable testing~~
10 ~~criteria based upon existing consensus standards, when~~
11 ~~available, for products.~~

12 ~~(f) Long-term approvals, where feasible. State and~~
13 ~~local approvals will be valid until the requirements of the~~
14 ~~code on which the approval is based change, the product~~
15 ~~changes in a manner affecting its performance as required by~~
16 ~~the code, or the approval is revoked.~~

17 ~~(g) Criteria for revocation of a product approval.~~

18 ~~(h) Cost-effectiveness.~~

19 (2) The product evaluation and approval system shall
20 rely on demonstration of compliance with national and
21 international consensus standards, as whenever adopted by the
22 Florida Building Code, ~~for demonstrating compliance with code~~
23 ~~standards~~. Other standards that which meet or exceed the
24 intent of the Florida Building Code established state
25 requirements shall also be acceptable considered.

26 (3) Such statewide product evaluation and approval
27 system shall grant approvals for use. The local building
28 official, or with respect to manufactured buildings, the
29 third-party plan review entity as referred to in part I of
30 this chapter, through the plans review and inspection process,
31 shall determine whether the product, method, or system of

1 construction is used in accordance with its limitations and
2 conditions of use.

3 (4)(3) Products or methods or systems of construction
4 for which there are specific that require approval under s.
5 553.77, that have standardized testing or comparative or
6 rational analysis methods established in by the Florida
7 Building Code, and that are certified by an approved product
8 evaluation entity, testing laboratory, or certification agency
9 as complying with the standards specified by the code shall be
10 approved for local or statewide use, by one of the methods
11 established in subsection (6) without further evaluation, by
12 demonstrating compliance with their applicable standards
13 listed in the Florida Building Code through one of the
14 following methods:-

15 (4) By October 1, 2003, products or methods or systems
16 of construction requiring approval under s. 553.77 must be
17 approved by one of the methods established in subsection (5)
18 or subsection (6) before their use in construction in this
19 state. Products may be approved either by the commission for
20 statewide use, or by a local building department for use in
21 that department's jurisdiction only. Notwithstanding a local
22 government's authority to amend the Florida Building Code as
23 provided in this act, statewide approval shall preclude local
24 jurisdictions from requiring further testing, evaluation, or
25 submission of other evidence as a condition of using the
26 product so long as the product is being used consistent with
27 the conditions of its approval.

28 (5) Local approval of products or methods or systems
29 of construction may be achieved by the local building official
30 through building plans review and inspection to determine that
31 the product, method, or system of construction complies with

1 ~~the prescriptive standards established in the code.~~

2 ~~Alternatively, local approval may be achieved by one of the~~
3 ~~methods established in subsection (6).~~

4 ~~(6) Statewide or local approval of products, methods,~~
5 ~~or systems of construction may be achieved by one of the~~
6 ~~following methods. One of these methods must be used by local~~
7 ~~officials or the commission to approve the following~~
8 ~~categories of products: panel walls, exterior doors, roofing,~~
9 ~~skylights, windows, shutters, and structural components as~~
10 ~~established by the commission by rule.~~

11 ~~(a) Products for which the code establishes~~
12 ~~standardized testing or comparative or rational analysis~~
13 ~~methods shall be approved by submittal and validation of one~~
14 ~~of the following reports or listings indicating that the~~
15 ~~product or method or system of construction was evaluated to~~
16 ~~be in compliance with the Florida Building Code and that the~~
17 ~~product or method or system of construction is, for the~~
18 ~~purpose intended, at least equivalent to that required by the~~
19 ~~Florida Building Code:~~

20 ~~(a)1.~~ A certification mark, label, or listing of an
21 approved certification agency;

22 ~~(b)2.~~ A test report from an approved testing
23 laboratory;

24 ~~(c)3.~~ A product evaluation report based upon testing
25 or comparative or rational analysis, or a combination thereof,
26 from an approved product evaluation entity; or

27 ~~(d)4.~~ A product evaluation report based upon testing
28 or comparative or rational analysis, or a combination thereof,
29 developed and signed and sealed by a professional engineer or
30 architect, licensed in this state and qualified in this work.

31

1 A product evaluation report or a certification mark or listing
2 of an approved certification agency which demonstrates that
3 the product or method or system of construction complies with
4 the Florida Building Code for the purpose intended shall be
5 equivalent to a test report and test procedure as referenced
6 in the Florida Building Code.

7 (5)~~(b)~~ Products, methods, or systems of construction
8 for which there are no specific standardized testing or
9 comparative or rational analysis methods established in the
10 Florida Building Code shall demonstrate compliance with the
11 intent of the code through ~~may be approved by submittal and~~
12 ~~validation of~~ one of the following:

13 (a)~~1.~~ A product evaluation report based upon testing
14 or comparative or rational analysis, or a combination thereof,
15 from an approved product evaluation entity indicating that the
16 product or method or system of construction was evaluated to
17 be in compliance with the intent of the Florida Building Code
18 and that the product or method or system of construction is,
19 for the purpose intended, at least equivalent to that required
20 by the Florida Building Code; or

21 2. A product evaluation report based upon testing or
22 comparative or rational analysis, or a combination thereof,
23 developed and signed and sealed by a professional engineer or
24 architect, licensed in this state and qualified in this work,
25 who certifies that the product or method or system of
26 construction was evaluated to be in compliance with the intent
27 of the Florida Building Code and that the product, method, or
28 system of construction is, for the purpose intended, at least
29 equivalent to that required by the Florida Building Code.

30 (6) Products that are specifically addressed in the
31 code through prescriptive provisions may be approved for use

1 in accordance with the building plan review and inspection
2 process.

3 (7) Structural components comprised of materials or
4 products that are assembled or placed in the field and are
5 subject to standardized field testing procedures contained
6 within nationally recognized standards adopted by the Florida
7 Building Code may demonstrate compliance by a batch ticket or
8 bill of lading made available at the site of assembly or
9 placement. Any structural component covered by the United
10 States Department of Commerce Products Standards is approved
11 for use in accordance with its conditions and limitations of
12 use.

13 (8)(7) The commission shall ensure that product
14 manufacturers operate quality assurance programs for all
15 approved products. The commission shall adopt by rule criteria
16 for operation of the quality assurance programs.

17 ~~(8) For local approvals, validation shall be performed~~
18 ~~by the local building official. The commission shall adopt by~~
19 ~~rule criteria constituting complete validation by the local~~
20 ~~official, including, but not limited to, criteria governing~~
21 ~~verification of a quality assurance program. For state~~
22 ~~approvals, validation shall be performed by validation~~
23 ~~entities approved by the commission. The commission shall~~
24 ~~adopt by rule criteria for approval of validation entities,~~
25 ~~which shall be third-party entities independent of the~~
26 ~~product's manufacturer and which shall certify to the~~
27 ~~commission the product's compliance with the code.~~

28 (9) The commission shall ~~may~~ adopt rules to approve
29 product evaluation entities, testing laboratories,
30 certification agencies, and quality assurance agencies ~~the~~
31 ~~following types of entities that produce information on which~~

1 ~~product approvals are based.~~ All of the following entities,
2 including engineers and architects, must comply with a
3 nationally recognized standard demonstrating independence or
4 no conflict of interest.⁺

5 (a) ~~Evaluation entities that meet the criteria for~~
6 ~~approval adopted by the commission by rule.~~The commission
7 shall specifically approve the National Evaluation Service,
8 the International Conference of Building Officials Evaluation
9 Services, the Building Officials and Code Administrators
10 International Evaluation Services, the Southern Building Code
11 Congress International Evaluation Services, the International
12 Code Council Evaluation Service, and the Miami-Dade County
13 Building Code Compliance Office Product Control. Architects
14 and engineers licensed in this state and qualified in this
15 work are also approved to conduct product evaluations ~~as~~
16 ~~provided in subsection (6).~~

17 (b) The commission shall approve testing laboratories
18 accredited by national organizations, such as A2LA and the
19 National Voluntary Laboratory Accreditation Program,
20 laboratories accredited by evaluation entities approved under
21 paragraph (a), and laboratories that comply with other
22 guidelines for testing laboratories selected by the commission
23 and adopted by rule.

24 (c) The commission shall approve quality assurance
25 entities approved by evaluation entities approved under
26 paragraph (a) and by certification agencies approved under
27 paragraph (d) and other quality assurance entities that comply
28 with guidelines selected by the commission and adopted by
29 rule.

30 (d) The commission shall approve certification
31 agencies accredited by nationally recognized accreditors and

1 other certification agencies that comply with guidelines
2 selected by the commission and adopted by rule.

3 ~~(e) Validation entities that comply with accreditation~~
4 ~~standards established by the commission by rule.~~

5 (10) A building official may deny the local use
6 application of a product or method or system of construction
7 which has been approved ~~received statewide approval~~, based
8 upon a written report signed by the official that concludes
9 the product application is inconsistent with the ~~statewide~~
10 approval and that states the reasons the application is
11 inconsistent. The building official must submit a copy of the
12 written report to the product manufacturer and must notify the
13 certification agency, testing laboratory, product evaluation
14 entity, or quality assurance agency that approved the product
15 that the product's use has been denied. Such denial is subject
16 to the provisions of s. 553.77 governing appeal of the
17 building official's interpretation of the code.

18 (11) Products, other than manufactured buildings,
19 which are custom fabricated or assembled shall not require
20 separate approval under this section provided the component
21 parts have been approved for the fabricated or assembled
22 product's use and the components meet the standards and
23 requirements of the Florida Building Code which apply ~~applies~~
24 to the product's intended use. Notwithstanding a local
25 government's authority to amend the Florida Building Code as
26 provided in this section, local jurisdictions are precluded
27 from requiring further testing, test reports, evaluation, or
28 submission of other evidence as a condition of using the
29 product if the product is being used in a manner consistent
30 with the conditions of its approval.

31

1 (12) A building official may appeal the required
2 approval for local use of a product or method or system of
3 construction to the commission. The commission shall conduct a
4 hearing under chapter 120 and the uniform rules of procedure
5 and shall handle such appeals in an expedited manner. The
6 commission shall notify the certification agency, testing
7 laboratory, product evaluation entity, or quality assurance
8 agency that approved the product of the appeal.

9 (13) The decisions of local building officials shall
10 be appealable to the local board of appeals, if such board
11 exists, and then to the commission, which shall conduct a
12 hearing under chapter 120 and the uniform rules of procedure.
13 Decisions of the commission regarding ~~statewide~~ product
14 approvals and appeals of local product approval shall be
15 subject to judicial review pursuant to s. 120.68.

16 (14) The commission shall maintain on its website a
17 list of the approved ~~state-approved~~ products, product
18 evaluation entities, testing laboratories, quality assurance
19 agencies, and certification agencies, ~~and validation entities~~
20 and shall provide website links to its directory databases
21 ~~make such lists available in the most cost-effective manner.~~
22 ~~The commission shall establish reasonable timeframes~~
23 ~~associated with the product approval process and availability~~
24 ~~of the lists.~~

25 (15) The commission shall by rule establish criteria
26 for revocation and suspension ~~of product approvals as well as~~
27 ~~revocation~~ of approvals of product evaluation entities,
28 testing laboratories, quality assurance entities, and
29 certification agencies, ~~and validation entities~~. Revocation is
30 governed by s. 120.60 and the uniform rules of procedure.

31

1 (16) The product evaluation approval system shall take
2 effect October 1, 2003.

3 ~~(16) The commission shall establish a schedule for~~
4 ~~adoption of the rules required in this section to ensure that~~
5 ~~the product manufacturing industry has sufficient time to~~
6 ~~revise products to meet the requirements for approval and~~
7 ~~submit them for testing or evaluation before the system takes~~
8 ~~effect on October 1, 2003, and to ensure that the availability~~
9 ~~of statewide approval is not delayed.~~

10 Section 9. The Florida Building Commission may
11 expedite the adoption and implementation of the State Existing
12 Building Code as part of the Florida Building Code pursuant
13 only to the provisions of chapter 120, Florida Statutes. The
14 special update and amendment requirements of section 553.73,
15 Florida Statutes, and the administrative rule requiring
16 additional delay time between adoption and implementation of
17 such code are waived.

18 Section 10. Upon approval of the Florida Building Code
19 by the Legislature during the 2000 Legislative session, all
20 existing local technical amendments to any building code
21 adopted by any local government were repealed. Each local
22 government may readopt such amendments pursuant to section
23 553.73, Florida Statutes, if such amendments comply with
24 applicable provisions of this act.

25 Section 11. Paragraph (c) is added to subsection (17)
26 of section 120.80, Florida Statutes, to read:

27 120.80 Exceptions and special requirements;
28 agencies.--

29 (17) FLORIDA BUILDING COMMISSION.--

30 (c) Notwithstanding the provisions of s. 120.565,
31 120.569, and 120.57, the Florida Building Commission and

1 hearing officer panels appointed by the commission in
2 accordance with s. 553.775(3)(c)1., may conduct proceedings to
3 review decisions of local building code officials in
4 accordance with s. 553.77(3)(c).

5 Section 12. Florida Construction Council.--

6 (1) This section may be cited as the "Florida
7 Construction Council Act."

8 (2) The purpose of this section is to create a
9 public-private partnership by providing that a single
10 nonprofit corporation be established to provide
11 administrative, technical, interpretive, and code-development
12 services to the Florida Building Commission and that no
13 additional nonprofit corporation be created for these
14 purposes.

15 (3) The Florida Construction Council is created to
16 provide administrative, technical, and code-development
17 services to the Florida Building Commission in accordance with
18 the provisions of chapter 553, Florida Statutes. The council
19 may hire staff members as necessary to carry out its
20 functions. Such staff members are not public employees for the
21 purposes of chapter 110 or chapter 112, Florida Statutes,
22 except that the board of directors and the staff are subject
23 to the provisions of section 112.061, Florida Statutes.
24 However, the council may also use staff members provided by
25 the Florida State University who may be public employees for
26 the purposes of chapter 110 or chapter 112, Florida Statutes.
27 The provisions of section 768.28, Florida Statutes, apply to
28 the Florida Construction Council, which is deemed to be a
29 corporation primarily acting as an instrumentality of the
30 state, but which is not an agency within the meaning of
31 section 20.03(11), Florida Statutes. The council shall:

1 (a) Be a Florida corporation not for profit,
2 incorporated under the provisions of chapter 617, Florida
3 Statutes.

4 (b) Provide administrative, technical, and
5 code-development services to the Florida Building Commission
6 in accordance with the provisions of chapter 553, Florida
7 Statutes, and the contract required by this section. For the
8 administrative purposes of this act, the Florida Construction
9 Council shall be administratively attached to Florida State
10 University and shall be provided the administrative services
11 that the council and Florida State University find necessary.

12 (c) Receive, hold, and administer property and make
13 only prudent expenditures directly related to the
14 responsibilities of the Florida Building Commission, and in
15 accordance with the contract required by this section.

16 (d) Operate under a fiscal year that begins on July 1
17 of each year and ends on June 30 of the following year.

18 (e) Have a five-member board of directors, which shall
19 consist of the Secretary of Community Affairs or his or her
20 designee, two members appointed by the Florida Building
21 Commission, one member appointed by the Department of
22 Community Affairs who is a layperson not performing work
23 within the construction industry, and one member appointed by
24 Florida State University. Members shall be appointed to terms
25 of 4 years each. All initial appointments shall expire on
26 October 31, 2007. A member may not serve more than two
27 consecutive terms. Failure to attend three consecutive
28 meetings shall be deemed a resignation from the council and
29 the vacancy shall be filled by a new appointment.

30 (f) Select its officers in accordance with its bylaws.
31

1 (g) Operate under an annual written contract with the
2 Department of Community Affairs or the responsible budgeting
3 entity. The contract must provide for, but need not be limited
4 to:
5 1. Approval of the articles of incorporation and
6 bylaws of the council by the Florida Building Commission.
7 2. Submission by the council of an annual budget.
8 3. Annual certification by the Department of Community
9 Affairs or the responsible budgeting entity that the council
10 is complying with the terms of the contract in a manner
11 consistent with the goals and purposes of the Florida Building
12 Commission and in the best interest of the state. The contract
13 must also provide for methods and mechanisms to resolve any
14 situation in which the certification process determines
15 noncompliance.
16 4. Employment by the Florida Building Council of an
17 administrator to actively supervise the administrative,
18 technical, and code-development services of the council to
19 ensure compliance with the contract and the provisions of
20 chapter 553, Florida Statutes, and to act as a liaison for the
21 Florida Building Commission and the council to ensure the
22 effective operation of the council.
23 5. Funding of the council through appropriations and
24 private sources.
25 6. The reversion to the state if the commission ceases
26 to exist, of moneys, records, data, and property held in trust
27 by the council for the benefit of the commission, or if the
28 council is no longer approved to operate for the commission.
29 All records and data in a computerized database shall be
30 returned to the state in a form that is compatible with the
31 computerized database of the commission.

1 7. The securing and maintaining by the council, during
2 the term of the contract and for all acts performed during the
3 term of the contract, of all liability insurance coverage in
4 an amount to be approved by the Florida Construction Council
5 to defend, indemnify, and hold harmless the council and its
6 officers and employees, the Florida Building Commission and
7 its commissioners and employees, and the state against all
8 claims arising from state and federal laws. Such insurance
9 coverage must be with insurers qualified and doing business in
10 the state.

11 8. Payment by the council, out of its allocated
12 budget, to the Florida Building Commission of all costs of
13 representation by the commission counsel, including salary and
14 benefits, travel, and any other compensation traditionally
15 paid by the commission to other commission counsels.

16 9. Payment by the council, out of its allocated
17 budget, of all costs incurred by the council or the commission
18 for the Division of Administrative Hearings of the Department
19 of Management Services and any other costs for use of these
20 state services.

21 10. Payment by the council, out of its allocated
22 budget, of all costs associated with the contract
23 administrator of the commission, including salary and
24 benefits, travel, and other related costs traditionally paid
25 to state employees.

26 11. Provide for an annual financial audit of its
27 financial accounts and records by an independent certified
28 public accountant. The annual audit report must include a
29 management letter in accordance with section 11.45, Florida
30 Statutes, and a detailed supplemental schedule of expenditures
31

1 for each expenditure category. The annual audit report must be
2 submitted to the Auditor General for review.

3 12. Provide for persons charged with the
4 responsibility of receiving and depositing fee and fine
5 revenues to have a faithful performance bond in an amount and
6 according to the terms specified in the contract.

7 13. Submit to the Legislature, on or before January 1
8 of each year, a report on the status of the council which
9 includes, but is not limited to, information concerning the
10 programs and funds that have been transferred to the council.
11 The report must include the number of inquiries received, the
12 number of technical issues or questions addressed, the number
13 of code or other interpretations provided, and the number of
14 instances of code development undertaken by the council.

15 14. Develop, with the Florida Building Commission,
16 performance standards and measurable outcomes for the
17 commission to adopt by rule in order to facilitate efficient
18 and cost-effective services and regulation.

19 (4) The Florida Construction Council shall provide by
20 rule the procedures the council must follow to ensure that all
21 product and proprietary information is secure while under the
22 responsibility of the council and that there is an appropriate
23 level of protection and monitoring during any review or
24 code-development activities.

25 Section 13. Section 399.106, Florida Statutes, is
26 amended to read:

27 399.106 Elevator Safety Technical Advisory
28 Committee.--

29 (1) The Elevator Safety Technical Advisory Committee
30 is created within the Department of Business and Professional
31 Regulation, Division of Hotels and Restaurants, consisting of

1 eight ~~seven~~ members to be appointed by the secretary of the
2 Department of Business and Professional Regulation as follows:
3 one representative from a major elevator manufacturing company
4 or its authorized representative; one representative from an
5 elevator servicing company; one representative from a building
6 design profession; one representative of the general public;
7 one representative of a local government in this state; one
8 representative of a building owner or manager; one
9 representative of labor involved in the installation,
10 maintenance, and repair of elevators; and one representative
11 who is a certified elevator inspector from a private
12 inspection service. The purpose of the committee is to provide
13 technical assistance to the division in support of protecting
14 the health, safety, and welfare of the public; to give the
15 division the benefit of the committee members' knowledge and
16 experience concerning the industries and individual businesses
17 affected by the laws and rules administered by the division.

18 (2) The committee members shall serve staggered terms
19 of 4 years to be set by rule without salary, but may receive
20 from the state expenses for per diem and travel. The committee
21 shall appoint one of the members to serve as chair.

22 ~~(3) The committee shall meet and organize not later~~
23 ~~than 45 days prior to the convening of the 2002 Legislature.~~
24 ~~This committee terminates December 31, 2003.~~

25 (3)~~(4)~~ The committee may consult with engineering
26 authorities and organizations concerned with standard safety
27 codes for recommendations to the department regarding rules
28 and regulations governing the operation, maintenance,
29 servicing, construction, alteration, installation, or
30 inspection of vertical conveyances subject to this chapter.

31

1 Section 14. This act shall take effect upon becoming a
2 law.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 518

4 Includes hospice residential facilities and inpatient
5 facilities in the Florida Building Code.

6 Specifies that the Florida Building Commission (commission)
7 shall consider changes made by the adopting entity of any
8 selected model code for any model code incorporated into the
9 Florida Building Code(code) and may subsequently adopt any
10 part of such code, which may then be modified for the state.

11 Includes final orders and interpretations of hearing officer
12 panels in the types of technical amendments the Commission may
13 adopt and incorporate into the Code.

14 Provides that the commission shall require all proposed
15 amendments and information submitted with proposed amendments
16 to be reviewed by staff for sufficiency only. Rejected
17 proposed amendments by staff may not be considered by the
18 commission or any technical advisory committee.

19 Provides for elevators in buildings in the state that are 6 or
20 more stories be keyed with a master key to allow for emergency
21 elevator access. The key would be issued to the fire
22 department as well as elevator owners, owners' agents,
23 elevator contractors, state certified inspectors, and state
24 agency representatives.

25 Provides for binding and nonbinding interpretation of the
26 Code.

27 Excludes the requirement of an engineer or architect signature
28 and seal for truss placement plans.

29 Provides for a fee owner's contractor, rather than only the
30 fee owner, to use a private provider for building code
31 inspection services.

Provides for a schedule of reasonable fees for governing
bodies of local governments. It specifies that the fees are
to be used solely for carrying out the local government's
responsibilities in enforcing the Code.

Provides for product evaluation process that would have the
commission approve the evaluation entities, testing labs,
certification agencies and quality assurance agencies. The
local building officials are then given the authority to
decide which products on the approved list that they will use.

Provides an expedited adoption and implementation of the State
Existing Building Code as part of the Code as provided under
ch. 120, F.S.

Provides for readoption of any technical amendment that were
repealed by the legislature during the 2000 legislative
session.

Creates a public-private partnership called the Florida

1 Construction Council. The Council provides administrative,
2 technical, and code-development services to the commission.
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