

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 663 Building Safety  
**SPONSOR(S):** General Government Policy Council, Military & Local Affairs Policy Committee, Insurance, Business & Financial Affairs Policy Committee; Aubuchon  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 648

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	<u>Insurance, Business &amp; Financial Affairs Policy Committee</u>	<u>11 Y, 1 N, As CS</u>	<u>Marra</u>	<u>Cooper</u>
2)	<u>Military &amp; Local Affairs Policy Committee</u>	<u>12 Y, 0 N, As CS</u>	<u>Rojas</u>	<u>Hoagland</u>
3)	<u>General Government Policy Council</u>	<u>12 Y, 1 N, As CS</u>	<u>Marra</u>	<u>Hamby</u>
4)	<u></u>	<u></u>	<u></u>	<u></u>
5)	<u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

The bill revises various laws regarding building safety, including:

- Circumstances that constitute abandonment of homestead property.
- As to elevator safety, requirements for retrofitting, regional emergency elevator access and emergency alternative power.
- Home inspector and mold assessor licensure and regulation requirements. The bill also delays implementation of licensure requirements and provides that licensed home inspectors who complete mitigation training may sign uniform mitigation verification inspection forms.
- Regarding the Florida Building Code, provisions related to manufactured buildings, nonbinding code interpretations, code amendments, alternative plans review and inspection process, exemptions from the code, requirements for carbon monoxide alarms, pool pump motors, air conditioner installation, roof-mounted equipment and windstorm mitigation.
- Relating to Fire Prevention and Safety, provisions relating to expedited declaratory statements; nonbinding interpretations of the Florida Fire Prevention Code; continuing education reciprocity; certification requirements for fire protection service contractors, fire equipment dealers and certain firefighters; continuing education licensure requirements; and public fire hydrants.
- As to condominiums, common element inspection requirements.
- The calculation, collection and distribution of surcharges applied to certain building permits.

The bill is expected to have a positive impact on state government of \$5.5 million in the first year, unless certain provisions are interpreted to require state expenditures on elevator master keys, which would create a significant fiscal impact. See Fiscal Analysis Statement for details.

The bill has an effective date of July 1, 2010, except where provided otherwise.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Abandonment of Property**

##### Current Situation

When homestead property is rendered uninhabitable by misfortune or calamity, the property owner may retain the homestead exemption by notifying the property appraiser of his or her intent to repair the property and to use it as his or her primary residence once repaired. Failure to initiate repair of the homestead property within 3 years of its damage or destruction constitutes abandonment of the property as a homestead.<sup>1</sup>

##### Proposed Changes

The bill provides that after the 3-year period provided for repair or rebuilding, the expiration, lapse, non-renewal, or revocation of a building permit issued to the property owner will also constitute abandonment of the property as homestead.

#### **Elevator Safety**

##### Current Situation

The Elevator Safety Act, chapter 399, F.S., provides minimum safety standards for elevators and minimum training and/or experience for elevator personnel working under the Florida Building Code. The Act is enforced by the Bureau of Elevator Safety (bureau) of the Division of Hotels and Restaurants within the Department of Business and Professional Regulation (DBPR).<sup>2</sup>

##### Proposed Changes

The bill grants the DBPR the authority to enter and gain access to all buildings and spaces housing elevators and equipment and to grant variances for undue hardship from the Elevator Safety Act.

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<sup>1</sup> Section 196.031(6), F.S.

<sup>2</sup> Section 399.02(6), F.S.

## Current Situation

The Elevator Safety Code contained within the Florida Building Code (Building Code) must be based on the minimum model standards of the American Society of Mechanical Engineers (ASME).<sup>3</sup> ASME provides standards for elevator installation, operation and maintenance. ASME A17 serves as the basis for the Florida Elevator Safety Act and the Florida Elevator Safety Code.<sup>4</sup> ASME A17.1 provides requirements applicable to the installation, alteration, maintenance, repair, inspection and safety testing of new and existing elevators. ASME A17.3 guides retroactive requirements for existing elevators.

Elevators must comply with the edition of the Building Code in effect when the application for elevator construction is submitted.<sup>5</sup> Likewise, alterations, relocations and reclassifications of existing elevators must be in compliance with the edition of the Building Code in effect when the application for such permit is submitted. Recently the Division of Administrative Hearings held that the bureau could require elevator owners to retrofit their elevators to meet revisions of the Building Code.<sup>6</sup>

The number of elevators that failed inspections and the number of variance and waiver requests has increased. It is unclear whether this is due to the burden of retrofitting elevators to meet new requirements or other factors, such as improved enforcement.<sup>7</sup>

Representatives for elevator owners, including condominium associations, and the City of Miami Beach have expressed concerns regarding the expense of requiring elevator owners to retrofit or modify elevators to meet code revisions. According to the bureau, it has granted several requests from elevator owners for variances and waivers related to the expense of complying with revisions to the code.

Firefighter Elevator Service – There are elevator systems designed with safety features for firefighters to use during an emergency:

**Phase I emergency recall systems** are designed to automatically or manually recall the elevator to the lobby of a high rise building to prevent use of the elevator during a fire.

**Phase II emergency in-call operation systems** are designed to allow a firefighter exclusive operation and control of the elevator during a fire.

According to the bureau, no injuries or deaths have been attributed to the lack of these systems.

## Proposed Changes

The bill amends s. 399.02, F.S., to prohibit enforcement of updates to the Elevator Safety Code (including A17.1 and A17.3) concerning modifications for Phase II Firefighter Services controls on existing elevators in condominiums or multifamily residential buildings until July 1, 2015, or until the elevator is replaced or requires major modification. The provision does not apply to buildings issued a building permit after July 1, 2008.

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<sup>3</sup> Section 399.02(1), F.S.

<sup>4</sup> See Rule 61C-5.001, F.A.C.; Ch. 30, Florida Building Code.

<sup>5</sup> Section 399.02(1), F.S.

<sup>6</sup> *City of Miami Beach v. Dept. Business and Professional Regulation*, DOAH Case No. 03-5188RU, Final Order issued February 27, 2009.

<sup>7</sup> See *Review of Elevator Safety and Regulation*, Interim Report 2010-128, Florida Senate Committee on Regulated Industries, October 2010.

## *Regional Emergency Elevator Access*

### Current Situation

In 2004, the Legislature provided for regional emergency elevator access, requiring public-access elevators (including service and freight elevators) in six-story or taller buildings constructed or substantially improved after June 2004 to be keyed, or retrofitted, with a master key to allow firefighters emergency access.<sup>8</sup> A master key for each of the Department of Law Enforcement's seven emergency response regions would allow emergency access to all elevators within that region. The act also required that all existing buildings come into compliance by July 1, 2007.

In 2006, the Legislature limited the requirement to buildings issued a building permit after September 2006, and extended the period for existing buildings to come into compliance until October 1, 2009. The act is enforced by Division of State Fire Marshal within the Department of Financial Services (DFS). Noncompliance subjects a property owner to administrative penalties. If it is technically, financially or physically impossible to bring a building into compliance, the local fire marshal may allow alternative measures to provide emergency access. The local fire marshal's decision may be appealed to the State Fire Marshal. The State Fire Marshal has determined by rule 69A-47.019, F.A.C., that a lock box that contains all elevator keys and is opened by the regional key is an acceptable alternative.

### Proposed Changes

The bill amends s. 399.15, F.S., to provide that a lock box containing all elevator keys and accessible by the master key of the relevant emergency response region may be an alternative to elevator emergency public access requirements. The DFS would select the provider of the uniform lock box installation.

Section 399.15(7), F.S., would permit only the fire department to be issued a master key to the lock box. This conflicts with s. 399.15(3), F.S., which permits elevator owners, owners' agents, elevator contractors, state-certified inspectors, and state agency representatives to be issued a master key. The bill lock box alternative differs from the rule 69A-47.019, F.A.C, provision in that the rule does not require the State Fire Marshal to select the provider, and master keys to existing lock boxes have been distributed to parties other than the local fire department.

## *Emergency Alternative Power Generators*

### Current Situation

Owners or operators of residential multi-family dwellings, including condominiums, reaching or exceeding 75 ft tall which contain a public elevator must have at least one elevator capable of operating on alternative generated power.<sup>9</sup> Specific requirements include:

- The elevator must ensure access for an unspecified number of hours each day over the five-day period following a natural or manmade disaster, emergency or other civil disturbance.
- The elevator must be prewired and prepared to accept alternative generated power.
- A dwelling must have a generator and fuel source or proof of a current guaranteed service contract providing such equipment and fuel within 24 hours of a request. Proof of such a contract must be posted conspicuously.
- The alternative generated power source must be capable of powering the elevator, any connected fire alarm system, and emergency lighting in interior hallways, lobbies, and other public areas.

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<sup>8</sup> Ch. 2004-12, L.O.F.

<sup>9</sup> Section 553.509(2)(a), F.S.

High-rise buildings existing or under construction before October 1, 1997, are exempt from the requirements, while new construction must meet the requirements before occupancy.

### Proposed Changes

The bill amends s. 553.509, F.S., to repeal the alternative power generator requirements for elevators in high-rise (75 ft or taller) residential multi-family dwellings.

## **DBPR Regulation of Professions**

### *Education Requirements*

#### Current Situation

Completion of education requirements is a prerequisite for licensure as several professions, including Community Association Managers,<sup>10</sup> Home Inspectors, Mold Assessors and Remediators, Real Estate professionals<sup>11</sup> and Appraisers.<sup>12</sup>

The education requirements may be satisfied by distance learning courses if the appropriate board, or the department in the absence of a board, approves such courses. However, current law requires distance learning courses to be approved for the following professions:

- Real Estate professionals, initial and continuing education requirements;
- Appraisers, continuing education requirements; and
- Land Surveyors and Mappers, continuing education requirements.<sup>13</sup>

#### Proposed Changes

The bill provides that distance learning courses must be approved as options for completing the following education requirements:

- Community Association Managers, initial and continuing education requirements;
- Real Estate professionals, initial and continuing education requirements;<sup>14</sup>
- Home Inspectors, continuing education requirements;
- Mold Assessors and Remediators, continuing education requirements; and
- Appraisers, continuing education requirements.<sup>15</sup>

The bill also prohibits the requirement of centralized examinations for the professions listed above.

### *Home Inspectors & Mold Services*

#### Current Situation

A home inspection is often confused with a building inspection. A building inspection is legally required under the permitting process to ensure a structure complies with established standards and is performed by a local governmental inspector. By contrast, a home inspection is typically conducted under the discretion of a potential or current homeowner and is performed by private individuals.

“Home inspection” is defined as a limited visual examination of the following readily accessible installed systems and components of a home: the structure, electrical system, HVAC system, roof covering,

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<sup>10</sup> Section 468.433, F.S.

<sup>11</sup> Section 475.17(2).

<sup>12</sup> Section 475.617, F.S.

<sup>13</sup> Section 472.018, F.S.

<sup>14</sup> This requirement duplicates current law.

<sup>15</sup> This requirement duplicates current law.

plumbing system, interior components, exterior components, and site conditions that affect the structure, for the purposes of providing an opinion of the condition of the home.<sup>16</sup>

"Mold assessment" includes the sampling and evaluation of data obtained from a building history and inspection to formulate an initial hypothesis about the origin, identity, location, and extent of mold growth.<sup>17</sup> "Mold remediation" is the removal, cleaning, sanitizing, or demolition of mold or mold-contaminated matter that was not purposely grown at that location.<sup>18</sup>

Under current law, beginning July 1, 2010, home inspectors, mold assessors and mold remediators must be licensed and will be regulated by the Department of Business and Professional Regulation (DBPR) pursuant to legislation passed in 2007 that becomes effective on that date.<sup>19</sup> Additional regulations, including continued education requirements and certificates of authorization for businesses offering home inspections or mold services to the public, will also go into effect on July 1, 2010.

### Proposed Changes

The bill delays enforcement of home inspector and mold service licensure and regulation until July 1, 2011.

The bill creates the home inspection services licensing program and the mold-related services licensing program within the DBPR.

The bill removes business licensure requirements home inspections and mold assessors and mediators. Rather than corporations obtaining certificates of authorization to offer such services, each professional will be licensed personally.

As to home inspector licensure, the bill requires applicants pass examination requirements and submit fingerprints for background checks conducted by the Department of Law Enforcement (FDLE). It also provides that failure to meet any standard of practice adopted by rule constitutes grounds for departmental disciplinary action.

Under the bill, mold assessor or remediator licensure requires applicants:

- Pass examination requirements and be of good moral character.
- Have at least an associate of arts or equivalent degree and have completed 30 semester hours in microbiology, engineering, architecture, industrial hygiene, occupational safety, or a related scientific field.
- Maintain liability insurance.

The bill provides standards under which a practicing home inspector may acquire a license through a grandfather clause. The applicant must:

- Submit an application by March 1, 2011.
- Either have been certified as a home inspector by a state or national association requiring successful completion of an examination and have completed 14 hours of education, or
- Have at least 3 years of experience and have completed 14 hours of education. Such applicants must submit 120 home inspection reports to establish the required experience.
- Have not, within 5 years *after* the application, had a license revoked, suspended or assessed a fine greater than \$500 in the past 5 years.
- Pass a background check and be of good moral character.

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<sup>16</sup> Section 468.8311(4), F.S.

<sup>17</sup> Section 468.8411(3), F.S.

<sup>18</sup> Section 468.8411(5), F.S.

<sup>19</sup> Part XV and XVI, Ch. 468, F.S.

- Maintain general liability insurance.

The bill provides standards under which a practicing mold assessor or remediator may acquire a license through a grandfather clause. The applicant must:

- Submit an application by March 1, 2011.
- Either have been certified as a home inspector by a state or national association requiring successful completion of an examination and have completed the requisite education (60 hours for assessors; 30 hours for remediators), or
- Have at least 3 years of experience. Such applicants must submit 40 invoices for mold assessments or remediations to establish the required experience.
- Have not, within 5 years *after* the application, had a license revoked, suspended or assessed a fine greater than \$500 in the past 5 years.
- Pass a background check and be of good moral character.
- Maintain general liability insurance.

The bill also provides licensed home inspectors who have completed at least 2 hours of mitigation training are eligible to validate uniform mitigation verification inspection forms.<sup>20</sup>

The bill grants rulemaking authority to the DBPR “to administer this part.”

## Florida Building Code

### *Florida Building Commission*

#### Current Situation

The Florida Building Commission (Commission) within the Department of Community Affairs (DCA) is comprised of 25 members, appointed by the Governor and confirmed by the Senate.<sup>21</sup> The Commission adopts and enforces the Building Code uniformly to provide effective and reasonable protection for the public safety, health and welfare throughout the state. The Commission updates the Building Code triennially based on the development cycle of national model building codes. The Commission is also authorized to adopt internal administrative rules, impose fees for binding code interpretations and adopt amendments to the building code.<sup>22</sup> The Commission may grant waivers from the Building Code’s requirements in cases where literal application is found to be unnecessary or unreasonable or to impose an extreme hardship.

State agencies, including the Commission, authorized to enforce the Building Code may do so through delegation to other governmental units by agreement and may use public funds to pay permit and inspection fees as long as these fees are no greater than fees charged to others.<sup>23</sup>

The National Flood Insurance Program (NFIP) was created in 1968 to make federally-backed flood insurance available to property owners in eligible communities. The Community Rating System, within NFIP, is a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements. It offers incentives, including discounts to flood insurance premiums, to reflect reduced flood risk resulting from community actions meeting the program’s goals of (1) Reducing flood losses; (2) Facilitating accurate insurance rating; and (3) Promoting the awareness of flood insurance.

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<sup>20</sup> See Discussion of Building Code Compliance and Mitigation Program, *infra* at p. 10.

<sup>21</sup> Ch. 553, F.S.

<sup>22</sup> See ss. 553.76, 553.775, and 553.73(7), F.S., respectively.

<sup>23</sup> Section 553.79(9), F.S.

## Proposed Changes

The bill amends s. 553.512, F.S., to require the Commission establish by rule a fee for requests for waivers from Building Code requirements.

The bill amends s. 553.74, F.S., to provide that a member of any of the Commission's advisory committees or workgroups may represent clients before the commission or the commission's committees or workgroups. The bill provides that to do so is not a conflict of interest, but that no member, acting in his capacity as a member, may take part in discussions or actions in any matter in which he or she has a direct financial interest.

The bill amends s. 553.73, F.S., to authorize the Commission to amend the Building Code using ch. 120, F.S., rule adoption procedures to address equivalency of standards, the needs of state agencies facing federal requirements on design criteria for public educational facilities, and inconsistencies with federal and state law. The bill also removes a requirement for model standards to have been available to the public for six months before adoption into the Building Code.

The bill authorizes local governments to adopt administrative or technical amendments to the Building Code by ordinance in order to implement the National Flood Insurance Program or incentives. Such amendments are not rendered void when the Building Code is updated if the amendment is adopted to participate in the Community Rating System, is adopted by July 1, 2010, or requires a design flood elevation above the base flood elevation.

The bill amends s. 553.76, F.S., to authorize the Commission to adopt rules regulating its consensus-based decisionmaking process, including the adopting of supermajority voting requirements for amending or adopting the Building Code.

The bill amends s. 553.775, F.S., to permit the Commission to offer nonbinding interpretations of the Building Code capped at \$125. The rate for binding interpretations is currently capped at \$250.

The bill amends s. 553.73, F.S., to exempt from the Building Code prefabricated family mausoleums not exceeding 250 square feet and temporary prisoner housing provided by the Department of Corrections.

The bill also provides that agencies and local governments may not require existing roof-mounted mechanical equipment to be installed in compliance with the Building Code until the mechanical equipment is removed or replaced.

The bill amends s. 553.912, F.S., to provide replacement air conditioning systems should be installed using energy-saving quality installation procedures, including equipment sizing analysis and duct inspection.

## *Building Permit Surcharges*

### Current Situation

Contractors are regulated by the Construction Industry Licensing Board (CILB) within the DBPR. Contractors are subdivided into Division 1 contractors, consisting of general, building and residential contractors, and Division 2 contractors, consisting of sheet metal, roofing, air-conditioning, mechanical, pool and spa, swimming pool, underground utility and excavation, solar, pollutant storage systems, and specialty contractors.<sup>24</sup>

Under s. 468.631, F.S., Division I contractors are assessed a surcharge on local building permits. It is collected and distributed as follows:

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<sup>24</sup> The class 'Specialty Contractors' encompasses certain contractors whose scope of work is limited to a particular phase of construction established in a category adopted by the CILB

1. The surcharge applies to all permits for new construction, renovations, alterations and additions.
2. The surcharge is calculated at one-half cent per square foot of the under-roof floor space covered by permits.
3. It is collected by local governments, which may retain up to 10% to fund projects intended to improve code enforcement.
4. The remaining funds are forwarded to the Florida Building Code Administrators and Inspectors Fund (BCAIF) within the DBPR.
  - The Building Code Administrators and Inspectors Board (board) disperses funds from the BCAIF to implement Chapter 468, Part XII, F.S., relating to the licensing and regulation of building code administrators and inspectors.
5. Funds that exceed the cost of regulation by the board are transferred to the Florida Homeowners' Construction Recovery Fund (Recovery Fund) within the DBPR.
  - Homeowners suffering monetary damages from improper actions by Division I contractors may seek redress from the recovery fund, if they meet the statutory criteria.
  - There is a current backlog of 409 completed claims totaling \$7,870,930.59.
6. If all recovery fund claims are met, remaining funds go to the CILB to cover the expenses of regulating contractors.

Under s. 553.721, F.S., an additional surcharge is applied to building permits. It is collected and distributed as follows:

1. The surcharge applies to all building permits.
  - There has been some confusion as to this and the statute is not explicit. For example, some localities have interpreted the requirement as applying only to permits for additions, alterations, or renovations.
2. The surcharge is calculated at one-half cent per square foot of the under-roof floor space covered by permits.
3. It is collected by local governments, which may retain up to 5% to cover the cost of collection and remittance of the surcharge.
4. The remaining funds are remitted to the Operating Trust Fund within the DCA to be disbursed pursuant to the General Appropriations Act.

DBPR and DCA report that local governments have been significantly underreporting and under-collecting the surcharges. Much of the problem appears to be with inconsistent interpretation and application of the surcharges. For example, it appears some localities are collecting the surcharges based on one of the two statutes and simply splitting the collections in half, sending half to DBPR and half to DCA. The actual formulas have also been inconsistently applied to multi-story buildings, with some localities applying the one-half cent surcharge per total square foot and others applying it per the square foot of the building's footprint.

### Proposed Changes

The bill revises the surcharge in s. 468.631, F.S., as follows:

1. The surcharge is expanded to apply to permits for repairs, including those issued for electrical, gas, mechanical, plumbing and roofing work. This change expands the application of the surcharge to Division II contractors, whose misconduct is not covered by the recovery fund.
2. The surcharge formula is revised to be calculated at 1.5% of the permit fees associated with code enforcement on any permit. A minimum surcharge is set at \$2 per permit.
3. The collecting local governments must retain 10% of the surcharge to fund participation in the national and state building code promulgation process and to provide code-enforcement education

4. The remaining funds are allocated equally between the Recovery Fund and “the functions of the board.”

The bill also revises the surcharge in s. 553.721, F.S., as follows:

1. The bill explicitly provides that the surcharge applies to permits for repairs, including those issued for electrical, gas, mechanical, plumbing and roofing work.
2. The surcharge formula is revised to be calculated at 1.5% of the permit fees associated with code enforcement on any permit. A minimum surcharge is set at \$2 per permit.
3. The collecting local governments must retain 10% of the surcharge to fund participation in the national and state building code promulgation process and to provide code-enforcement education
4. The remaining funds are electronically remitted to the Operating Trust Fund within the Department of Community Affairs to be used exclusively for the duties of the Florida Building Commission and the DCA.

### *Alternative Plans Review and Inspection*

#### Current Situation

Regardless of any provisions of law, local ordinance or local policy, owners of buildings and structures may use a private building inspector, and pay such inspector directly, as long as a service contract is executed.<sup>25</sup> Private providers are defined as licensed engineers or licensed architects. For residential additions or alterations of 1,000 square feet or less, private providers may also be a certified building code administrator, inspector or plans examiner.<sup>26</sup>

#### Proposed Changes

The bill amends s. 553.79, F.S., to provide that inspection services not requiring performance by a state agency, under federal delegation or the Building Code, must be performed under the alternative plans review and inspection process (private inspectors) or by a local governmental entity with authority to enforce the Building Code.

The bill re-enacts s. 553.80, F.S., to incorporate the change to s. 553.79, F.S. It also provides that intermediate care facilities for developmentally disabled persons and hospices shall have facility plans reviewed by AHCA, which currently performs this function.

The bill also provides that local building code enforcement agencies may not grant exemptions to single-family residences located in mapped flood hazard areas, unless the agency determines that the work does not constitute a substantial improvement.

### *Building Code Compliance and Mitigation Program*

#### Current Situation

The DCA is required to maintain, update and develop a core curriculum to serve as a prerequisite for advanced module coursework to administer ongoing education under the Building Code Compliance and Mitigation Program.<sup>27</sup> The core curriculum is designed to inform construction professionals of technical and administrative responsibilities under the Building Code.

In 2009, the Legislature deleted the requirement for completion of the core curriculum or the successful passing of an equivalency test as a condition for license renewal for building code administrators and

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<sup>25</sup> Section 553.791, F.S.

<sup>26</sup> Certification is under part XII of chapter 468, F.S.

<sup>27</sup> Section 553.841(4), F.S.

inspector certificateholders, engineer licensees, architects and interior designers, landscape architects and construction contractor certificateholders and registrants.<sup>28</sup>

Insurers are required to notify residential property insurance applicants or policyholders of premium insurance discounts, rates or credits available for windstorm mitigation fixtures or construction techniques.<sup>29</sup> In factoring such discounts, insurers must use the uniform mitigation verification inspection form adopted by the Financial Services Commission. Valid forms must either be certified by the DFS or signed by one of the enumerated certified individuals, including a licensed engineer who has completed the Building Code Compliance and Mitigation Program core curriculum or passed an equivalency test.

Professional boards have statutory authority for approval of continuing education courses, and the Commission has developed a voluntary accreditation system where courses submitted to the Commission are reviewed for consistency with the Building Code and related programs as appropriate. Section 553.841, F.S. mandates professional approval of advanced modules developed by the Commission, but the accreditation process has been voluntary for a few years.

### Proposed Changes

The bill amends s. 553.841, F.S., to eliminate the requirement for the DCA to develop a core curriculum to inform construction professionals of technical and administrative responsibilities under the Building Code. The bill also eliminates the requirement for professional board approval of advanced modules developed by the Commission.

The bill amends s. 627.711, F.S., to remove the requirement for a licensed engineer to complete the core curriculum in order to be eligible to validate the uniform mitigation verification inspection form adopted by the Financial Services Commission for the calculation of insurance discounts related to windstorm mitigation.

The bill also provides that home inspectors licensed under s. 468.9314, F.S., who have completed at least 2 hours of mitigation training, are eligible to validate the uniform mitigation verification inspection form.

### *Product Evaluation and Approval*

#### Current Situation

The Commission has the authority to adopt rules developing a statewide product evaluation and approval system (for products, methods or systems of construction) to operate in coordination with the Building Code.<sup>30</sup> Administration of the system may be provided by contract. The system must be based on national and international standards adopted by the Building Code, but may also include other standards that exceed state requirements.

As part of the system, the Commission maintains a list of state-approved evaluation entities. The Legislature has directed the Commission to add specified product evaluation entities created for the express purpose of evaluating products and their compliance with code to the list. The Commission has the authority to approve additional evaluation entities, but until recently had not used that authority. The Commission reports difficulty objectively creating criteria to approve the entities. Groups that seek to become evaluation entities are often approved as certification entities or test labs.

In 2008, the Legislature directed the Commission to review the list of product evaluation entities and recommend additions or report on the evaluation criteria to approve entities.<sup>31</sup> The Legislature also approved the International Association of Plumbing and Mechanical Officials Evaluation Services

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<sup>28</sup> Chapter 2009-195, L.O.F.

<sup>29</sup> Section 627.711, F.S.

<sup>30</sup> Section 553.842, F.S.; Rules are codified at ch. 9B-72, F.A.C.

<sup>31</sup> Chapter 2008-191, L.O.F.

(IAPMO-ES) until October 1, 2009, and provided that if the Commission had not permanently approved the IAPMO-ES by that date, products approved on the basis of an IAPMO-ES evaluation must be substituted by an alternative, approved entity by December 31, 2009. On January 1, 2010, any product approval issued by the commission based on an IAPMO-ES evaluation is void.

In the 2009 Regular Legislative Session, the Commission recommended permanent statutory approval of IAPMO-ES and the elimination of rulemaking authority to prescribe criteria for evaluation entities. This did not become law. The Commission subsequently adopted the applicable rule providing approval criteria and approved IAPMO-ES by rule to prevent its expiration. The Commission continues to seek elimination of the rulemaking authority and statutory approval of IAPMO-ES.

### Proposed Changes

The bill amends s. 553.842, F.S., to authorize the Commission to allow, by rule or contract, for the direct payment of product evaluation and approval fees to the contracted program administrator, who shall remit to the DCA any portion of the fee necessary to cover its costs. The bill also provides that the Commission may allow by rule editorial revisions to long-term product approvals and may charge a fee for such revisions.

The bill requires the DCA to approve applications for product approval after commission staff (or its designate) verifies, within 10 days of receipt, the application's completeness. Upon approval, the product must be immediately added to the state-approved products list. Department approvals may be reviewed and ratified by the Commission's program oversight committee, unless good cause is shown for review by the full Commission.

The bill amends the list of product evaluation entities the Commission must approve to remove the requirement that the Commission approve evaluation entities meeting rule criteria, to add the International Association of Plumbing and Mechanical Officials Evaluation Services (IAPMO-ES) and to remove entities that no longer exist. It also removes the Commission's authority to approve additional evaluation entities.

The bill removes a requirement for the Commission to complete an annual review of the approved evaluation entity list and to report, in its annual report to the Legislature, recommended entities to be added to the approved list or to report evaluation criteria used to approve the entities.

### *Windstorm Loss Mitigation*

### Current Situation

The Commission is required to implement windstorm loss mitigation techniques into the Building Code to combat property damage associated with hurricanes.<sup>32</sup> The Building Code requires buildings located in wind-borne debris regions be designed to withstand the minimum wind loads prescribed for that region. Wind-borne debris regions are those where the basic wind speed can reach 120 mph or greater or areas within a mile of the coast with a wind speed over 110 mph.<sup>33</sup> While the Commission may amend standards and criteria related to wind resistance or prevention of water intrusion to enhance the requirements, it may not amend such standards to diminish the requirements.<sup>34</sup>

### Proposed Changes

The bill amends s. 553.844, F.S., to provide, notwithstanding other provisions of law, exposed mechanical equipment or appliances fastened to rated stands, platforms, curbs, slabs or fastened to the roof are deemed to comply with wind resistance requirements of the 2007 Florida Building Code. This provision will expire on the effective date of the 2010 Florida Building Code.

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<sup>32</sup> Section 553.844, F.S.

<sup>33</sup> See s.1609.12, ch. 16, Florida Building Code.

<sup>34</sup> Section 553.73(7), F.S.

## *Manufactured Buildings*

### Current Situation

The Manufactured Building Act of 1979, s. 553.35, F.S., requires minimum construction standards for the “manufacture, design, construction, erection, alteration, modification, repair and demolition of manufactured buildings” to be adopted into the Florida Building Code (Building Code).<sup>35</sup> The DCA must adopt rules for the Act’s enforcement and administration.

According to the DCA, its jurisdiction over manufactured buildings has been limited to those which are to be repetitively built. One-of-a-kind prototype manufactured buildings were exempted from the DCA’s program in favor of local code enforcement,<sup>36</sup> but that exemption was inadvertently deleted in 2008.<sup>37</sup>

### Proposed Changes

The bill amends s. 553.37, F.S., to authorize the DCA to enter into contracts for the performance of administrative duties relating to the inspection and certification of manufactured buildings and to adopt a rule requiring that manufacturers pay fees directly to the administrator. The bill also reinstates local jurisdiction for one-of-a-kind prototype manufactured buildings inadvertently deleted in 2008.

The bill amends s. 553.375, F.S., to specify a relocated manufactured building previously approved by the DCA only requires recertification if the new location has a higher design wind speed than the previous location under the Building Code.

### *Carbon Monoxide Alarms*

### Current Situation

Buildings containing a fossil-fuel-burning<sup>38</sup> heater or appliance, a fireplace or a garage that were issued a permit for new construction on or after July 1, 2008, must also include an operational carbon monoxide alarm within 10 feet of each room used for sleeping.<sup>39</sup> The alarm must be approved by the Commission and meet all Building Code requirements.

According to the DCA, there is some uncertainty as to whether the requirement applies to existing buildings that undergo new construction activity. The DCA reports that it has reached consensus with stakeholders to exempt existing buildings undergoing construction, unless the construction was an addition extending or increasing the floor area, number of stories or height of the structure. An attempt to codify this in statute during the 2009 regular session failed.

### Proposed Changes

The bill amends s. 553.885, F.S., to extend the requirement for buildings to contain an operational carbon monoxide alarm to be applicable to both separate buildings and additions to existing buildings that contain any feature that emits carbon monoxide as a byproduct of combustion.

The bill also provides such alarms may be hard-wired or battery-operated, and the Building Code may require that alarms be placed in locations other than within 10 feet of the sleeping quarters in new buildings or additions.

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<sup>35</sup> Section 553.355, F.S.

<sup>36</sup> See s. 553.37(11), F.S. (2007)

<sup>37</sup> See s. 6, ch. 2008-191, L.O.F.

<sup>38</sup> Section 553.885(2)(b), F.S., defines ‘fossil fuel’ as “coal, kerosene, oil, fuel gases, or other petroleum or hydrocarbon products that emit carbon monoxide as a by-product of combustion.”

<sup>39</sup> Section 553.885, F.S.

The bill provides that the requirement does not apply to existing buildings undergoing alterations other than additions, defined as an extension or increase in floor area, number of stories or building height.

### *Thermal Efficiency Standards*

#### Current Situation

Florida's Thermal Efficiency Code, s. 553.900, F.S., requires the DCA to provide a statewide standard for buildings' energy efficiency in thermal design and operation. The Commission adopts the standard into the Code and updates it every three years to include the most cost-effective equipment and techniques available. Section 553.9061, F.S., provides a schedule of increases in thermal efficiency. The Commission is required to identify specific building options and elements available to meet the energy efficiency goals.

#### Proposed Changes

The bill amends s. 553.9061, F.S., to expand the list of building options for meeting thermal efficiency standards to include:

- Energy-efficient water heating systems;
- Energy-saving devices and features installed within duct systems;
- Energy-saving quality installation procedures for replacement of air conditioners;
- Shading devices, sunscreening materials and overhangs;
- Weatherstripping, caulking and sealing of exterior openings and penetrations; and
- Energy-efficient centralized computer data centers in office buildings.

### *Pool Pump Motors*

#### Current Situation

The Florida Energy Efficiency Code, s. 553.909, F.S., provides minimum energy requirements for appliances. Residential pool pumps and pool pump motors with a total horsepower of 1HP or more must operate at a minimum of two speeds, with a low speed operating at half the rotation rate of the motor's maximum rate. The default circulation speed of residential pool pumps must be the residential filtration speed, with override capability for a higher speed for periods not to exceed 120 minutes. Solar pool heating systems are permitted to run at higher speeds during periods of usable solar heat gain.

#### Proposed Changes

The bill amends s. 553.909, F.S., to provide that residential swimming pool filtration pumps and pump motors manufactured after July 1, 2011, must meet the statute's requirements. It also increases, from 120 minutes to 24 hours, the period that a residential filtration pool pump motor's speed may be set higher than the default residential filtration speed.

### **Fire Prevention**

The Chief Financial Officer is designated as the State Fire Marshal and carries out the duties of fire prevention, protection and control through the Division of State Fire Marshal.<sup>40</sup>

### *Florida Fire Prevention Code*

#### Current Situation

The State Fire Marshal adopts the Florida Fire Prevention Code (Fire Code), which is updated every three years and covers all firesafety regulations relating to the construction and modification of

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<sup>40</sup> Section 633.01(1), F.S.

buildings and structures.<sup>41</sup> The State Fire Marshal notifies local fire departments no later than 180 days before adopting the Fire Code to consider local amendments. The State Fire Marshal may either adopt internal procedures or contract with experienced nonprofit organizations to provide nonbinding interpretations of the Fire Code.

Current law defines a “preengineered system” as a fire suppression system which:

- (a) Uses any of a variety of extinguishing agents.
- (b) Is designed to protect specific hazards.
- (c) Must be installed according to pretested limitations and configurations specified by the manufacturer and applicable National Fire Protection Association (NFPA) standards.
- (d) Must be installed using components specified by the manufacturer or components that are listed as equal parts by a nationally recognized testing laboratory such as Underwriters Laboratories, Inc., or Factory Mutual Laboratories, Inc.
- (e) Must be listed by a nationally recognized testing laboratory.

Preengineered systems may incorporate special nozzles, flow rates, methods of application, pressurization levels, and quantities of agents designed by the manufacturer for specific hazards.

Section 633.061, F.S., regulates the licensure of fire equipment dealers and outlines four classes of licensure:

**Class A,** To service, recharge, repair, install, or inspect all types of fire extinguishers and to conduct hydrostatic tests on all types of fire extinguishers.

**Class B,** To service, recharge, repair, install, or inspect all types of fire extinguishers, including recharging carbon dioxide units and conducting hydrostatic tests on all types of fire extinguishers, except carbon dioxide units.

**Class C,** To service, recharge, repair, install, or inspect all types of fire extinguishers, except recharging carbon dioxide units, and to conduct hydrostatic tests on all types of fire extinguishers, except carbon dioxide units.

**Class D,** To service, repair, recharge, hydrotest, install, or inspect all types of preengineered fire extinguishing systems.

### Proposed Changes

The bill amends s. 633.021, F.S., to provide definitions of Class A, B, C, and D fire equipment dealers and make them applicable throughout the chapter. The definitions mirror the descriptions currently in s. 633.061, F.S.

The bill provides that a licensed fire equipment dealer may hold his or her license in an inactive status for 2 years, after which time the license is void. Biennial renewal of an inactive license is set at \$75 and reactivation would require the fulfillment of existing continuing education requirements. The bill also requires that applicants for a fire equipment dealer license submit proof of experience at the time of initial application.

The bill amends continuing education requirements to coincide with the licensure renewal period. Rather than reporting 32 credits within a 4 year period, licensees will be required to report 16 credits within a 2 year period.

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<sup>41</sup> Section 633.0215(1), F.S.

The bill also amends the definition of 'preengineered system' to require installation according to only those NFPA standards pertaining to servicing, recharging, repairing, installing, hydrotesting or inspecting.

The bill amends s. 633.0215, F.S., to provide a process by which the State Fire Marshal is to issue expedited declaratory statements interpreting the Fire Code, and provides the following guidelines:

- Petitions for a declaratory statement may only be filed by an owner (or his representative) of a disputed project.
- Petitions must be related to an active project under construction or submitted for a permit; cite a specific provision of the Fire Code in dispute; and be limited to a single question answerable by a 'yes' or 'no' response.
- Defective petitions must be denied without prejudice.
- A declaratory statement shall be issued in accordance with Florida's Administrative Procedures Act within 45 days of a petition's receipt.
- Notice is published in the next available Florida Administrative Weekly after the declaratory statement is issued.

The bill exempts one- or two-story condominium units with an exterior means of egress from requirements to install manual fire alarm systems.

The bill also amends s. 633.026, F.S., to provide a process for nonbinding interpretations of the Fire Code. The bill provides detailed guidelines, including the following:

- The Fire Code should be interpreted by fire officials and local enforcement agencies to protect public safety, health and welfare by ensuring uniform interpretation and expeditious dispute resolution.
- A Fire Code Interpretation Committee (Committee), comprised of seven members and seven alternates representing equal areas of the state, should offer nonbinding interpretations of the Fire Code.
- The Division may contract with a nonprofit organization to provide nonbinding interpretation.
- The Division of State Fire Marshal shall charge up to \$150 per interpretation request.
- The Committee must provide its interpretation to the petitioner within 10 business days of receiving a request for interpretation, unless the requesting party waives this requirement in writing.
- Interpretations shall be provided to the State Fire Marshal, and the Division shall publish them online and in the Florida Administrative Weekly.

### *Fire Hydrant Inspection*

#### Current Situation

The Florida Fire Prevention Code and the Life Safety Code are adopted by the State Fire Marshal and are deemed adopted by each municipality, county, and special district with firesafety responsibilities.<sup>42</sup> These localities enforce the Fire and Life Safety codes as a minimum firesafety code. Because, the Fire Code incorporates the National Fire Prevention Association annual inspection requirements for fire hydrants, the locality may enforce the annual inspection of fire hydrants.

The State Fire Marshal and his agents inspect buildings and structures and each locality with firesafety enforcement responsibilities must employ or contract with a firesafety inspector who has been certified

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<sup>42</sup> Section 633.025(1), F.S.

by the State Fire Marshall to conduct all required firesafety inspections.<sup>43</sup> Current law provides that restrictions on the inspection of fire protection systems are not intended to limit the inspection and enforcement authority of government entities.<sup>44</sup>

### Proposed Changes

The bill directs public fire hydrants owned by a governmental entity be inspected following standards adopted by the State Fire Marshal or equivalent standards. Additionally, the bill provides that county, municipal, and special district utilities may perform fire hydrant inspections with employees that have not been certified by the State Fire Marshal. However, the aforementioned utilities are responsible for ensuring that the designated employees are qualified to perform such inspections.

### *Fire Sprinklers*

#### Current Situation

The Life Safety Code does not apply to newly constructed one-family and two-family dwellings. However, local governments may require fire sprinklers in lieu of other fire protection-related development requirements for such structures. Any local government that wishes to impose such a requirement must prepare an economic cost and benefit report that analyzes the application of fire sprinklers to one- or two-family dwellings or any proposed residential subdivision.

Section 633.025, F.S., requires, as a prerequisite to requiring the installation of fire sprinklers, local governments provide the owner of a one- or two-family dwelling a letter documenting available tax or fee allowances and waivers and showing that the cost savings reasonably approximate the cost of the purchase and installation of the fire sprinkler system.

The National Fire Prevention Association (NFPA) Fire Code, as adopted by Florida's Fire Code provides that "Equipment requiring periodic testing or operation to ensure its maintenance shall be tested or operated as specified in the Fire Prevention Code, Life Safety Code, or as directed by the agency having jurisdiction." Some local governments have relied on this provision to require building owners to remove nonfunctional fire sprinkler systems that are not otherwise required to be installed.

#### Proposed Changes

The bill provides that notwithstanding any other provision of law or rule, a single family dwelling unit shall not be required to have fire sprinklers regardless of its use or occupancy category.

The bill provides that the agency having jurisdiction to enforce the codes cannot require a sprinkler system not required by the Fire Code, Life Safety Code or NFPA standards to be removed regardless of its condition.

### *Firesafety Inspectors*

#### Current Situation

Buildings and structures in violation of the Florida Statutes or the minimum provisions of state or local firesafety codes are subject to the inspection of all equipment, vehicles and chemicals within the premises of any such building or structure. To enforce this requirement, each county, municipality, and special district with firesafety enforcement authority is required to employ or contract with a DFS-certified firesafety inspector who has met training requirements set by the State Fire Marshall.<sup>45</sup>

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<sup>43</sup> Section 633.081, F.S.

<sup>44</sup> Section 633.082(3), F.S.

<sup>45</sup> Section 633.081, F.S.

## Proposed Changes

The bill amends s. 633.081, F.S., to clarify that the State Fire Marshal, or his or her agents, may conduct inspections when *the State Fire Marshal* has reasonable cause to suspect a fire code violation. Current law refers to the Department of Financial Affairs.

The bill directs the Division of State Fire Marshal (Division) and the Florida Building Code Administrators and Inspectors Board to enter into a reciprocity agreement jointly recognizing continuing education recertification hours for licensed building code inspectors, plan examiners or administrators and firesafety inspectors.

The bill requires the Division to establish minimum training, education and experience levels for firesafety inspectors with fire code management responsibilities and to develop by rule an advanced training and certification program consistent with specified national standards for those firesafety inspectors.

### *Firefighter Certification*

#### Current Situation

Firefighters must meet training and education requirements established by the Division of State Fire Marshal before receiving a certification of competency.<sup>46</sup> The current requirements<sup>47</sup> mandate firefighters receive 398 training hours in classroom and practical skills and achieve a passing score of 70 percent on written and practical examinations. At least twice a year, the State Fire Marshal administers the examinations, which are based on standards of the National Fire Protection Association and Florida and federal law.

Firefighter certificates must be renewed every two years by payment of a renewal fee. If a firefighter has been inactive for three or more years, he or she must retake the practical segment of the minimum standard course examination to be recertified.

Applicants for certification as a contractor of fire protection services must meet additional and are subject to additional qualifications. There are five classifications of fire protection system contractor:

- Contractor I** executes contracts requiring ability to lay out, fabricate, install, inspect, alter, repair, and service all types of fire protection systems.
- Contractor II** executes contracts requiring ability to lay out, fabricate, install, inspect, alter, repair, and service water systems (such as sprinklers).
- Contractor III** executes contracts requiring ability to fabricate, install, inspect, alter, repair, and service CO2 systems, foam extinguishing systems, dry chemical systems, and Halon and other chemical systems.
- Contractor IV** executes contracts requiring ability to lay out, fabricate, install, inspect, alter, repair, and service automatic fire sprinkler systems for detached one-family dwellings, detached two-family dwellings, and mobile homes, excluding pre-engineered systems and excluding single-family homes in cluster units, such as apartments, condominiums, and assisted living facilities or any building that is connected to other dwellings.
- Contractor V** executes contracts requiring ability to fabricate, install, inspect, alter, repair, and service the underground piping for a fire protection system using water as the extinguishing agent beginning at the point of service as defined in this act and ending no more than 1 foot above the finished floor.

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<sup>46</sup> Section 633.35, F.S.

<sup>47</sup> See s. 69A-37.055, F.A.C.

Applicants for contractor (I, II, and III) certification must have 4 years experience employed with a contractor at any of those levels or a combination of equivalent education and experience. Thus, an employee of a Contractor II could qualify to be certified as a Contractor I, II or III.

Contractor IV applicants must have 2 years experience employed with a Contractor I, II, III, or IV or a combination of equivalent education and experience.

Persons employed by a Contractor I or II who will be inspecting water-based fire protection systems must be issued a permit by the State Fire Marshal.<sup>48</sup>

### Proposed Changes

The bill amends s. 633.352, F.S., to provide that certified firefighters employed full-time as certified firesafety inspectors or firesafety instructors do not need to retake the practical examination to be recertified, regardless of whether they are active as firefighters. The bill also corrects a cross-reference.

The bill amends s. 633.521, F.S., regarding certification requirements for contractors of fire protection services, as follows:

- Applicants passing the required examination who do not complete the remaining qualifications within one year must reapply, pay the relevant fees, retake the examination and successfully complete prescribed training.
- Applicants for each of the Contractor levels I through III must have employment experience relevant to the level of certification sought:
  - Contractor I applicants must have worked for a Contractor I
  - Contractor II applicants must have worked for a Contractor I or II
  - Contractor III applicants must have worked for a Contractor I or II
  - Contractor I, II, III and IV applicants may substitute education and experience in water-based fire suppression systems for employment.
- Contractor IV applicants must be licensed as a certified plumbing contractor and successfully complete approved training of at least 40 contact hours in the applicable installation standard. The 2-year employment experience requirement is removed.
- Section 633.537, F.S., is amended to authorize the Division to develop an alternative training program for employees of certified contractors seeking a provisional permit. The program must be equivalent to the currently required National Institute for Certification in Engineering Technologies subfield of Inspection and Testing of Fire Protection Systems (NICET).

The bill amends s. 633.524, F.S., to authorize the Division to contract with any public entity or private company to provide any examination administered under the Division's jurisdiction. The bill also authorizes the Division to direct that applicant payments be made directly to such contracted entity or company.

*Florida Fire Code Advisory Council*

### Current Situation

The Florida Fire Code Advisory Council within the DFS is comprised of 11 members appointed by the State Fire Marshal for 4-year terms. Council members may not serve more than one term. The Council provides advice and recommendations to the State Fire Marshal on changes and interpretations of the Fire Code.

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<sup>48</sup> Section 633.521(8), F.S.

## Proposed Changes

The bill amends s. 633.72, F.S., to provide that members of the Florida Fire Code Advisory Council may serve no more than two consecutive terms.

## **Condominiums**

### *Maintenance of Common Elements*

#### Current Situation

Condominium buildings taller than three stories must be inspected every five years by an architect or engineer to assess the maintenance, useful life, and replacement costs of the common elements.<sup>49</sup> If a majority of the voting interests present at a condominium association meeting approves, the requirement may be waived. This waiver must be approved before the end of the five-year period and is only effective for that period.

#### Proposed Changes

The bill repeals s. 718.113(6), F.S., which requires condominium buildings taller than three stories to be inspected at least every five years.

The bill requires the Florida Building Commission to revise the Building Code to make it consistent with changes the bill makes to elevator requirements.

The bill provides an effective date of July 1, 2010, except as otherwise provided.

## **B. SECTION DIRECTORY:**

- Section 1 amends s. 196.031, F.S., revising limitations related to homestead property.
- Section 2 amends s. 399.02, F.S., to amend the DCA's authority and exempt certain elevators from certain retrofitting requirements.
- Section 3 amends s. 399.15, F.S., to provide an alternative method for emergency access to elevators.
- Section 4 amends s. 455.2122, F.S., to require distance learning be approved for certain licensure education requirements.
- Section 5 amends s. 455.2123, F.S., to require distance learning be approved for certain continuing education requirements.
- Section 6 amends s. 468.631, F.S., relating to the Building Code Administrators and Inspectors Fund.
- Sections 7 through 15 amends Chapter 468, Part XV, F.S., relating to the regulation and licensure of home inspectors.
- Sections 16 through 25 amends Chapter 468, Part XVI, F.S., relating to the regulation and licensure of mold inspectors and remediators.
- Section 26 amends s. 489.103, F.S., to correct a cross reference.
- Section 27 amends s. 553.37, F.S., relating to rules governing the Department of Community Affairs' regulation of manufactured buildings.
- Section 28 amends s. 553.375, F.S., to limit requirements for relocated manufactured buildings.

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<sup>49</sup> Section 718.113(6), F.S.

- Section 29 amends s. 553.509, F.S., to delete emergency alternative power requirements for elevators.
- Section 30 amends s. 553.512, F.S., to direct the Florida Building Commission to adopt a fee for waiver requests.
- Section 31 amends s. 553.721, F.S., relating to a construction surcharge.
- Section 32 amends s. 553.73, F.S., to modify the authority of the Florida Building Commission and local governments, exempt certain buildings from the Building Code, and modify requirements for roof-mounted equipment.
- Section 33 amends s. 553.74, F.S., to provide certain activities of members of Florida Building Commission committees are not conflicts of interest.
- Section 34 amends s. 553.76, F.S., regarding the Florida Building Commission's rulemaking authority.
- Section 35 amends s. 553.775, F.S., to authorize the Florida Building Commission to charge a fee for nonbinding interpretations.
- Section 36 amends s. 553.79, F.S., to require state agencies contract for inspection services under the alternative plans review and inspection process or with a local governmental entity.
- Section 37 reenacts and amends s. 553.80, F.S., to incorporate amendments made to s. 553.79, F.S., and to amend the authority of enforcement districts.
- Section 38 amends s. 553.841, F.S., to delete requirements for the Department of Community Affairs to develop a core curriculum for persons who enforce the Florida Building Code.
- Section 39 amends s. 553.842, F.S., relating to product evaluation and approval.
- Section 40 amends s. 553.844, F.S., to temporarily exempt certain equipment or appliances from windstorm requirements.
- Section 41 amends s. 553.885, F.S., to revise carbon monoxide alarm requirements.
- Section 42 amends s. 553.9061, F.S., to expand the list of energy efficiency options and elements.
- Section 43 amends s. 553.909, F.S., to modify energy efficiency requirements for pool pump motors.
- Section 44 amends s. 553.912, F.S., to add requirements for replacement air conditioner installation.
- Section 45 amends s. 627.711, F.S., to conform to changes to core curriculum requirements relating to the Florida Building Code.
- Section 46 amends s. 633.021, F.S., to provide definitions of certain fire equipment dealer licenses and pre-engineered systems.
- Section 47 amends s. 633.0215, F.S., to provide guidelines for the State Fire Marshal when issuing expedited declaratory statements and to exempt certain condominiums from manual fire alarm requirements.
- Section 48 amends s. 633.0245, F.S., to correct cross references.
- Section 49 amends s. 633.025, F.S., to prohibit the requiring of fire sprinklers in single family dwelling units.
- Section 50 amends s. 633.026, F.S., to establish the Fire Code Interpretation Committee to make nonbinding interpretations of the Florida Fire Prevention Code.
- Section 44 amends s. 633.061, F.S., to allow for inactive fire equipment dealer licenses and revises licensure renewal requirements.
- Section 45 amends s. 633.081, F.S., to require a reciprocity agreement to recertify code enforcers between the Division of State Fire Marshal and Building Code Administrators and Inspectors Board.

- Section 46 amends s. 633.082, F.S., to provide an exception for certain local government fire safety requirements.
- Section 47 amends s. 633.352, F.S., to exempt full-time certified firesafety inspectors or firesafety instructors from examination requirements for recertification as a firefighter.
- Section 48 amends s. 633.521, F.S., to revise certification requirements for certain contractors.
- Section 49 amends s. 633.524, F.S., to authorize the State Fire Marshal to contract for exam services.
- Section 50 amends s. 633.537, F.S., as to continuing education requirements for certain contractors.
- Section 51 amends s. 633.72, F.S., increasing the Fire Code Advisory Council term limit.
- Section 52 repeals s. 718.113(6), F.S., relating to required 5-year inspections of certain condominium improvements.
- Section 53 directs the Florida Building Commission to conform provisions of the Florida Building Code with revisions made by the act relating to the operation of elevators.
- Section 54 provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### Revenue Impact Summary CS/CS/CS SB 663

Low		Fee/Surcharge Amount	Revenue Basis/Transactions	FY 2010-11 Revenue	FY 2011-12 Revenue	FY 2012-13 Revenue	FY 2013-14 Revenue
F.S.	Description						
468.631 (1)	Surcharge - DBPR	1.5%	205,332,618	3,079,989	3,819,187	4,835,090	5,487,828
468.8312 (4)	Home Inspection Certificate of Authorization	(125)	1,500	(187,500)	(18,750)	(206,250)	(39,375)
468.8412 (6)	Mold-Related Services Certificate of Authorization	(400)	107	(42,800)	(4,280)	(47,080)	(8,988)
553.512	Request for Waiver	600	85	51,000	53,400	55,800	58,800
553.721	Surcharge - DCA	1.5%	205,332,618	3,079,989	3,819,187	4,835,090	5,487,828
553.775	Non-Binding Interpretations	125	317	39,625	41,625	43,750	46,000
553.842	Product Approval	-	-	-	-	-	-
633.061 (2)	Fire Equipment Dealer Inactive Status	75	18	1,339	-	-	-
	Fire Equipment Dealer That Would Have Renewed	(200)	9	(1,785)	-	-	-
	Permittees Lost With Inactive Dealers	(112.50)	35	(3,938)	-	-	-
633.061 (2)	Fire Equipment Dealer Inactive Status Net			(4,384)	(4,744)	(5,134)	(5,556)
	<b>Total Revenue</b>			<b>6,011,536</b>	<b>7,705,624</b>	<b>9,511,267</b>	<b>11,026,536</b>
	<b>Total TF</b>			<b>6.0</b>	<b>7.7</b>	<b>9.5</b>	<b>11.0</b>
	<b>GR Service Charge Amount @ .08</b>			<b>0.5</b>	<b>0.6</b>	<b>0.8</b>	<b>0.9</b>
	<b>Amount in TF after Payment of Service Charge</b>			<b>5.5</b>	<b>7.1</b>	<b>8.7</b>	<b>10.1</b>

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Revenue Estimating Conference met April 2, 2010, and adopted the following consensus estimate:

The bill revises building permit surcharges paid to DBPR and DCA to be based on permit fees, instead of the square footage of the projects.

The bill authorizes the Florida Building Commission to collect the following fees:

- Fees, capped at \$125, for nonbinding interpretations of the Florida Building Code.
- Fees, of an unspecified amount, for requests for waivers from Florida Building Code requirements.
- Fees, of an unspecified amount, for editorial revisions to long-term product approvals.

The bill authorizes a \$75 fee to biennially renew an inactive fire equipment dealer license, charged by the State Fire Marshal.

2. Expenditures:

The DBPR expects a fiscal impact from the requirement for continuing education reciprocity between the Division of the State Fire Marshall and the Building Code Administrators and Inspectors Board, but reports any such impact is indeterminate at this time.

The State Fire Marshal reports that if existing regional emergency elevator access lock boxes, approved under the State Fire Marshal rule, must be replaced with lock boxes meeting the bill's requirements, there could be a significant fiscal impact to state government, which could be required to buy back master keys already distributed. The State Fire Marshal suggests the following:

The State of Florida has addressed the fire fighter service issue through the adoption of a regional elevator key provision adopted into law in 2004. The statute s. 399.15, F.S., as it exists fully addresses this issue. This bill places in statute the alternative provision for a lock box which is similar to the provision that the State Fire Marshal has included within its rule chapter 69A-47, F.A.C. The role of the State Fire Marshal should be limited to the selection of a "key" and not a lock box as many local governments have programs for lock boxes which have already been implemented.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Under the bill, local governments collecting surcharges payable to DBPR and DCA will be required to retain 10% of the surcharge to fund participation in the national and state building code promulgation process and to provide code-enforcement education.

2. Expenditures:

Modifying current business practices for the collection and remittance of the surcharges payable to DBPR and DCA may create a temporary fiscal impact to local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Building owners will experience a decrease in the cost to comply with requirements concerning elevator alternate power, retrofitting, and emergency regional access. The industry estimates that complying with the emergency generated power requirement for elevators would entail approximately \$4,000 to \$6,000 in engineering costs per location and tens of thousands more for purchase of a generator. The Building Industry may benefit from expedited product approvals, possibly resulting in more available approved products.

The State Fire Marshal reports that if existing regional emergency elevator access lock boxes, approved under the State Fire Marshal rule, must be replaced with lock boxes meeting the bill's requirements, there could be a significant fiscal impact to building owners:

The Fire Marshal is not able to determine the actual fiscal impact. The State Fire Marshal's Office does not have any reliable data as to how many departments already have lock box agreements and how many of their buildings are in compliance with existing local ordinances, the exchange of existing lock boxes to revised standard lock boxes could estimates into the 10's of thousands. There is

a wide selection of lock box designs and types on the market. Prices vary from the basic at \$40 to several hundred for lock boxes electronically interconnected to fire alarm systems. Significant cost will be incurred to invalidate the continued use of these existing lock boxes.

Condominium associations may experience a cost savings associated with the repeal of a 5-year inspection requirement.

It is unclear how much the change in the surcharge formula will impact the total surcharges assessed. Proponents believe that the new formula closely correlates with the amounts collected in counties and municipalities correctly applying and collecting the surcharges. Contractors in counties and municipalities that are misapplying or under-collecting the surcharges may pay more in surcharges under the bill.

Division II contractors will now be assessed the surcharge due the DBPR, half of the proceeds of which will fund the Recovery Fund. Homeowners aggrieved by division II contractors are not eligible for relief under the Recovery Fund.

Homeowners who have claims waiting in the Recovery Fund's backlog will be more likely to be able to collect on those claims, as the bill would increase the amount of money available to the Recovery Fund.

**D. FISCAL COMMENTS:**

The bill is expected to have a positive fiscal impact of \$5.5 million in the first year, primarily attributable to changes in formulas for permit surcharges due DBPR and DCA. If provisions relating to emergency elevator access are interpreted to require the state buy back distributed master keys, there would be an associated negative fiscal impact.

### **III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

The Department of Community Affairs is authorized to adopt a rule requiring that manufacturers pay fees directly to the administrator through the Building Code Information System.

The Florida Building Commission is authorized to amend the Florida Building Code using only the rule adoption procedures in ch. 120, F.S., to permit amendments necessary to equivalency of standards, needs of state agencies facing federal mandates, and inconsistencies in federal and state law.

The Commission is also authorized to adopt rules related to its consensus-based decision-making process to permit super majority voting for actions related to the adoption of the code or amendments to the code; rules related to fees for nonbinding interpretations of the building code; and rules providing for the direct payment of fees to the commission's contract administrator.

The Division of the State Fire Marshal is required to adopt by rule a uniform petition for nonbinding interpretations of the Florida Fire Prevention Code; and to develop by rule an advanced training and certification program for fire-safety inspectors with fire code management responsibilities.

The Department of Business and Professional Regulation is given rulemaking authority to implement changes to background and examination requirements for home inspector and mold service license applicants, and to implement the licensure and regulation of home inspectors and mold service licensees.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 3, 2010, the Insurance, Business and Financial Affairs Policy Committee met, adopted a strike-all amendment, and passed the bill as a Committee Substitute. The strike-all altered the bill in the following areas:

- Corrected language in elevator retrofitting exception to mirror terms used in industry and rules.
- Conformed changes to home inspector licensure to the Senate companion.
  - Removed previously proposed fee increases
  - Required fingerprints and background checks
  - Removed a requirement, and associated fee, for certificates of authorization for business entities offering home inspector services
  - Amended the requirements for licensure under a grandfather provision for currently practicing home inspectors
  - Delayed the effective date of home inspector licensing enacted in 2007 until July 1, 2011 (currently effective July 1, 2010)
- Amended regulations and delays the effective date of regulation concerning mold assessors (current and proposed law parallels that of home inspectors).
- Removed a previously proposed requirement for fees paid by manufacturers to be used for funding the product approval system only.
- Required the Florida Building Commission establish a fee for waivers of Building Code requirements.
- Allowed localities to adopt by ordinance amendments to the Florida Building Code to implement the National Flood Insurance Program or other incentives.
- Defined conflicts of interest for members of the Florida Building Commission.
- Required new air conditioning systems be installed using energy-saving methods.
- Provided definitions for fire equipment dealer licenses and pre-engineered (fire suppression) systems.

On March 17, 2010, the Military and Local Affairs Policy Committee met and adopted a Proposed Committee Substitute. The PCS altered the bill in the following areas:

- Removed changes to classroom illumination requirements.
- Removed provisions providing for commission approval for amendments to address building code conflicts.
- Reduced the fee for non-binding interpretations of the Building Code from \$250 to \$125.
- Amended sections relevant to the Building Code Compliance and Mitigation Program.

- Added licensed home inspectors who have completed at least 2 hours of mitigation training to the list of persons eligible to validate the uniform mitigation verification inspection form.
- Removed requirements that certain roof-mounted equipment meet wind resistance requirements for wind-borne debris regions as defined in s.1609.2, Buildings Volume, Florida Building Code.
- Amended continuing education requirements to coincide with the licensure renewal period.
- Directed that public fire hydrants owned by a governmental entity to be inspected following standards adopted by the State Fire Marshal or equivalent standards.

On March 25, 2010, the General Government Policy Council met, adopted a strike-all amendment and two amendments, and passed the bill as a Committee Substitute. The CS altered the bill in the following areas:

- Amended home and mold inspector background screening provisions to remove requirements for Level II screening.
- Amended rooftop equipment exemption to provide it does not apply to equipment being replaced.
- Removed authority for Commission to approve additional evaluation entities meeting the commission's criteria.
- Exempted new state correctional institutions from carbon monoxide alarm requirements.
- Provided a firesafety inspector may not require the removal of a nonfunctioning sprinkler system if the sprinkler is not required by the code.
- Changed the surcharge formula for the Florida Homeowners' Construction Recovery Fund to a flat 1.5% of the permit fees (from ½ cent per square foot).
- Provided that a single family dwelling unit may not be required to have fire sprinklers, regardless of its use.
- Removed requirement for boards, or the DBPR, to approve distance learning courses to satisfy pre-licensure requirements for home and mold inspectors.