

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/CS/SB 860

INTRODUCER: Appropriations Committee; Regulated Industries Committee; Community Affairs Committee; and Senator Brandes and others

SUBJECT: Florida Building Code

DATE: May 2, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Kraemer</u>	<u>McSwain</u>	<u>RI</u>	<u>Fav/CS</u>
3.	<u>Davis</u>	<u>Hansen</u>	<u>AP</u>	<u>Fav/CS</u>
4.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 860 makes numerous changes to ch. 468, F.S., to address the shortage of building code inspectors and plans examiners.

Specifically, the bill creates an internship path for certification as a building code inspector or plans examiner.

The bill also requires the Florida Building Code Administrators and Inspectors Board to issue a provisional certificate to any building code inspector or plans examiner who meets certain eligibility requirements. Furthermore, a person may perform the duties of a plan examiner or building code inspector for 120 days if he or she submits a provisional certificate application and is under the direct supervision of a certified building code administrator. Under current law, the provisional certificate and the authorization to perform plan examiner and building code inspector duties may be issued only to newly employed or promoted building code inspectors and plans examiners.

The bill has an insignificant fiscal impact to the Department of Business and Professional Regulation (DBPR), which can be handled with existing resources. *See* Section V, Fiscal Impact Statement.

The bill provides for an effective date of July 1, 2017.

II. Present Situation:

Building Code Administrators, Plans Examiners, and Inspectors Certifications

Building officials, inspectors, and plans examiners are regulated by the Florida Building Code Administrators and Inspectors Board (FBCAIB) within the Department of Business and Professional Regulation (DBPR). The DBPR licenses and regulates businesses and professionals in Florida. The DBPR is structured to include separate divisions and various professional boards responsible for carrying out the DBPR's mission to license efficiently and regulate fairly. The FBCAIB consists of nine members appointed by the Governor and subjected to confirmation by the Senate.¹

A building code administrator, otherwise known as a building official, is a local government employee who supervises building code activities, including plans review, enforcement, and inspection.²

A building code inspector (inspector) is a local government employee who inspects construction that requires permits to determine compliance with building codes and state accessibility laws. Building code inspectors are divided into several different categories. An inspector's ability to practice is limited to the category or categories the inspector has been certified. The inspector categories are:

- Building inspector;
- Coastal construction inspector;
- Commercial electrical inspector;
- Residential electrical inspector;
- Mechanical inspector;
- Plumbing inspector;
- One and two family dwelling inspector; and
- Electrical inspector³

County or municipal governments, school boards, community college boards, state universities, or state agencies are not prohibited by the statutes governing building inspectors from entering into a contract with any person for building code inspections.⁴

A plans examiner reviews plans submitted for building permits to determine design compliance with construction codes. A plans examiner's ability to practice is limited to the category or categories the plans examiner is certified in. The plans examiner categories are:

- Building plans examiner;
- Plumbing plans examiner;
- Mechanical plans examiner; and

¹ Section 468.605, F.S.

² Section 468.603(1), F.S.

³ See s. 468.603(6), F.S.

⁴ See s. 468.617(3), F.S.

- Electrical plans examiner.⁵

Building Code Inspector and Plans Examiner

In order to take the examination for building code inspector or plans examiner certification, a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:

- **Option 1:** Demonstrate five years of combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to the certification category sought.
- **Option 2:** Demonstrate four years of a combination of postsecondary education in the field of construction or a related field and experience, with at least one year of experience in construction, building code inspection, or plans review.
- **Option 3:** Demonstrate four years of a combination of technical education in the field of construction or a related field and experience, with at least one year of experience in construction, building code inspection, or plans review.
- **Option 4:** Currently hold a standard certificate as issued by the FBCAIB, or a fire safety inspector license issued pursuant to ch. 633, F.S.; have a minimum of three years of verifiable full-time experience in inspection or plan review; and satisfactorily complete an approved building code inspector or plans examiner training program of at least 100 hours but not more than 200 hours in the certification category sought.
- **Option 5:** Demonstrate a minimum of two years combined experience in the field of building code inspection, plan review, fire code inspections and fire plans review of new buildings as a firesafety inspector, or construction; and the completion of an approved training program in the field of building code inspection or plan review of at least 200 hours but not more than 300 hours in the certification category sought, with at least 20 hours but not more than 30 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificate holder.
- **Option 6:** Currently hold a standard certificate issued by the FBCAIB or a firesafety inspector license if the person also:
 - Has at least five years of verifiable full-time experience as a building code inspector, plans examiner, or licensed firesafety inspector; and
 - Satisfactorily completes a building code inspector or plans examiner classroom training course or program that provides between 200 and 300 hours in the certification category sought, except for one-family and two-family dwelling training programs which are required to provide between 500 and 800 hours of training as prescribed by the FBCAIB.⁶

The FBCAIB must accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom component of the training program.⁷

⁵ See s. 468.603(7), F.S.

⁶ Section 468.609(2), F.S.

⁷ *Id.*

Under s. 468.609(7), F.S., the FBCAIB is required to provide for the issuance of provisional one-year certificate for certain newly employed or promoted building code inspectors or plans examiners; and to provide appropriate levels of such provisional certificates.

Additionally, a newly employed or hired person may perform the duties of the plans examiner or building code inspector for 120 days if a provisional certificate application has been submitted and the newly employed or hired person is under the direct supervision of a certified building code administrator who holds a standard certification and who has found the person qualified for a provisional certificate.⁸

Building Code Administrator

In order to take the examination for building code administrator certification, a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:

- Option 1: Demonstrate 10 years of combined experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least five years of experience in supervisory positions; or
- Option 2: Demonstrate 10 years of a combination of experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least five years of supervisory experience, and postsecondary education in the field of construction or related field, of which no more than five years may be applied. The individual must have also completed between 20 and 30 hours training in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificate holder.⁹

Private Providers

Section 553.791(1)(i), F.S., defines “private provider” as a licensed engineer or a licensed architect who performs inspections on residential buildings in certain circumstances and, for additions and alterations under 1,000 square feet, the term also applies to individuals who hold a standard license under part XII of Chapter 468, F.S.

Private providers are authorized to contract with property owners and local building departments to conduct plans review and building code inspections.¹⁰

Construction Industry Workforce Task Force

Single-family building permit activity, an indicator of new construction, reached its peak in Florida in 2005. During the recent recession, new construction declined significantly, bottoming out in 2009. New construction has increased in recent years, but there are anecdotal reports that contractors are having a hard time finding skilled labor.

⁸ Section 468.609(7)(d), F.S.

⁹ Section 468.609(3), F.S.

¹⁰ DBPR, Legislative Bill Analysis for SB 860, pp. 2-3, (March 9, 2017)

Because of the skilled labor shortage, the Legislature created the Construction Industry Workforce Task Force within the University of Florida M.E. Rinker, Sr., School of Construction Management in 2016.¹¹ The goals of the task force were to:

- Address the critical shortage of individuals trained in building construction and inspection.
- Develop a consensus path for training the next generation of construction workers in the state.
- Determine the causes for the current shortage of a trained construction industry work force and address the impact of the shortages on the recovery of the real estate market.
- Review current methods and resources available for construction training.
- Review the state of construction training available in K-12 schools.
- Address training issues relating to building code inspectors to increase the number of qualified inspectors.

The task force consisted of 23 members, representing various construction industries and the Legislature. The task force elected a chair from among its members. The University of Florida M.E. Rinker, Sr., School of Construction Management was required to provide assistance to the task force in carrying out its responsibilities.

The task force submitted a final report to the Governor, the President of the Senate, and the Speaker of the House of Representatives in January 2017, which states that the construction and building profession is attracting fewer construction related workers.¹² Florida requires five years of construction trade experience in order to obtain an inspector license.¹³ Given the stringent educational requirements, contractors often prefer working in the construction trades rather than becoming inspectors.

In its final report, the taskforce recommended the development of the following initiatives:

- Creating an Alternative Internship Certification Program to the current standard qualifications;
- Adding residential inspector and plan examiner categories for all trades;
- Expanding the provisional and 120-day periods beyond newly hired or promoted staff;
- Authorizing interagency service agreement inspections and plan examination for standard certified building officials across jurisdictions with populations 50,000 or fewer;
- Having the FBCAIB streamline the application for certification process by providing for an electronic application process and combining the examination registration with the provisional application;
- Providing high school education guidance material for construction related careers;
- Supporting higher education code curriculum in engineering, architecture, and construction management degrees; and
- Comprehensively studying the compensation for building code compliance personnel.¹⁴

¹¹ Chapter 2016-129, s. 31, Laws of Fla.

¹² Florida Workforce Taskforce Report, prepared by the University of Florida, p. 12, available at <http://www.cce.ufl.edu/wp-content/uploads/2016/12/6-Florida-Construction-Workforce-Taskforce-Address-training-issues-among-building-code-inspectors-to-increase-the-number-qualified-1.pdf> (Taskforce Report)(last visited Mar. 24, 2017).

¹³ Section 468.609(2)(c)1., F.S.

¹⁴ See the Taskforce Report, *supra* note 17 at page 14.

Construction Contracting

The Construction Industry Licensing Board (CILB) within the DBPR is responsible for licensing and regulating the construction industry in this state.¹⁵ The CILB is divided into two divisions with separate jurisdictions:

- Division I is comprised of the general contractor, building contractor, and residential contractor members of the CILB. Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.
- Division II is comprised of the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the CILB. Division II has jurisdiction over the regulation of roofing contractors, sheet metal contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, and pollutant storage systems contractors.

A specialty contractor is one whose scope of work and responsibility is limited to a particular phase of construction as detailed in an administrative rule adopted by the CILB. Jurisdiction is dependent on the scope of work and whether Division I or Division II has jurisdiction over such work in accordance with the applicable administrative rule.¹⁶

The CILB is authorized to:

- Reprimand or place licensees on probation;
- Revoke, suspend, or deny the issuance or renewal of a certificate or registration;
- Require financial restitution to a consumer for financial harm directly related to a violation;
- Impose an administrative fine not to exceed \$10,000 per violation;
- Require continuing education; or
- Assess costs associated with investigation and prosecution.¹⁷

III. Effect of Proposed Changes:

Section 1 reorders and amends s. 468.603, F.S. to revise the terms “building code administrator” or “building official” to include any person under contract with a municipal or county government with specified building construction regulation responsibilities. One person employed or contracted by each municipal or county government as a certified building code administrator or building official may be authorized to perform any plan review or inspection, including performing any plan review or inspection as a currently designated standard certified building official under an interagency service agreement with a jurisdiction having a population of 50,000 or less.

¹⁵ See s. 489.107, F.S.

¹⁶ For example, specialty swimming pool contractors have limited scopes of work for the construction of pools, spas, hot tub, and decorative or interactive water displays. See Fla. Admin. Code R. 61G4-15.032 (2016).

¹⁷ See s. 489.129(1)(a) - (q), F.S., for the acts that may result in the imposition of discipline by the CILB.

The term “building code inspector” is revised to include any person contracted with a local government or state agency with specified building construction responsibilities.

The term “plans examiner” is revised to include a residential plans examiner who is qualified to determine that plans submitted for purposes of obtaining building and other permits comply with the applicable residential building, plumbing, mechanical, electrical, gas, energy, accessibility, and other applicable construction codes.

Section 2 amends s. 468.609, F.S., to provide an additional internship path for persons to become eligible to take the examination for certification as a building code inspector or plans examiner.

A person may take the examination for certification as a building code inspector or plans examiner if the person:

- Has completed a four-year internship as a building code inspector or plans examiner while employed full-time by a city, county, or other governmental jurisdiction, under the direct supervision of a building official. Proof of graduation with a related vocational or college degree or verified work experience may be exchanged for the internship experience requirement year-for-year. However, the internship experience requirement may not be reduced by less than one year;
- Has passed an examination administered by the International Code Council (ICC) in the license category sought before beginning the internship;
- Has passed the principles and practice examination before completing the internship program;
- Has passed a Florida Building Code Administrators and Inspectors Board (FBCAIB)-approved 40-hour code training course in the license category sought before completing the internship program; and
- Has obtained a favorable recommendation from the supervising building official after completion of the internship program.

The bill provides that provisional certificates and the 120-day application period are not limited to newly hired or promoted inspectors or plans examiners.

The bill provides that the FBCAIB shall establish by rule:

- Reciprocity of certification with any other state that requires an examination administered by the ICC;
- That an applicant for certification as an inspector or plans examiner may apply for a provisional certificate that is valid for the duration of the internship;
- That partial completion of the internship program may be transferred between jurisdictions;
- That an applicant may apply for a standard certificate on a form prescribed by the Board upon successful completion of an internship program;
- That an applicant may apply for a standard certificate at least 30 days and no more than 60 days before completing the internship program; and
- That an inspector or plans examiner who has a standard certification may seek an additional certification in another category by completing an additional non-concurrent one-year

internship program in the category sought, and passing an exam administered by the ICC, and a FBCAIB-approved 40-hour code training course.

Section 3 amends s. 468.617, F.S., to provide that a county or municipal government, school board, community college board, state university, or state agency is not prohibited from entering into a contract with any person or entity for the provision of building code administrator or building code official services. Under current law, such local governments were authorized to enter into a contract for building code inspection services only.

Section 4 amends s. 553.791, F.S., to expand the definition of the term “private provider” to include a person licensed as a building code administrator under part XII of ch. 468, F.S. As a result, building code administrators are now authorized to contract with property owners and local building departments to conduct plans review and building code inspections.

Sections 5 and 6 amend ss. 471.045 and 481.222, F.S., respectively, to conform cross-references.

Section 7 provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may result in more people being able to obtain a certification as a plans examiner and building examiner.

C. Government Sector Impact:

The bill will require the DBPR to make several modifications to its Versa: Regulation and Versa: Online systems in order to implement the internship programs for building

code inspectors and plans examiners.¹⁸ The bill may also require changes to OnBase routing. However, the DBPR states that these changes can be made using existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 468.603, 468.609, 468.617, 553.791, 471.045, and 481.222.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS/CS by Appropriations on May 1, 2017:

The committee substitute:

- Revises the definition of “Building code administrator” to include a building official performing a plan review or inspection under an interagency agreement with a different jurisdiction with a population of 50,000 or less;
- Revises the term “plans examiner” to include a residential plans examiner rather than separately defining the term “residential plans examiner”;
- Removes the provision that the Department of Business and Professional Regulation (DBPR) may only approve home inspector exams that meet national standards, thereby maintaining current law;
- Removes a provision that authorized a pool/spa contractor to do specified load side electrical work;
- Removes several provisions that changed the process by which revisions are made to the Florida Building Code and adopted by the Florida Building Commission;
- Changes the effective date from October 1, 2017 to July 1, 2017; and
- Makes several other stylistic and conforming changes.

CS/CS by Regulated Industries on March 28, 2017:

The committee substitute amends s. 489.113(3), F.S., to:

- Remove the requirement for pool/spa contractors to subcontract electrical work for the installation, replacement, disconnection, or reconnection of power wiring in certain circumstances;

¹⁸ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for CS/CS/SB 860, dated April 17, 2017 (on file with Senate Appropriations Subcommittee on General Government) at page 8.

- Require pool/spa contractors to subcontract all electrical work that requires the installation, removal, replacement, or upgrading of a circuit breaker; and
- Provide that the revised subcontracting requirement for pool/spa contractors does not apply to other contractor classifications or professions.

CS by Community Affairs on March 14, 2017:

- Revises the terms “building code administrator,” “building official” and “building code inspector” to include persons under contract with the local government or state agency, in addition to employees of the local government or state agency. Current law states that these positions had to be employees of the government or agency.
- Removes a provision which authorized certain municipal or county employees to perform plan review or inspection as a certified building official under an interagency service agreement with a jurisdiction of population 50,000 or fewer.
- Requires the FBCAIB to establish minimum standards for, and a procedure to determine the eligibility of, internships for specified candidates.
- Clarifies that the DBPR may review and approve home inspector examinations by a nationally recognized entity only if those examinations meet the rule and certification standards of the DBPR.
- Changes the effective date of the bill from July 1, 2017, to October 1, 2017.
- Adds a provision that changes the process by which revisions are made to the Florida Building Code and requires the Commission to adopt the Florida Building Code by a three-fourth vote of the members present.

B. Amendments:

None.