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2 An act relating to building code development  
3 and administration; amending s. 553.73, F.S.,  
4 relating to the Florida Building Code;  
5 exempting modular structures from the code;  
6 requiring the Florida Building Commission to  
7 develop building code provisions to facilitate  
8 the rehabilitation and use of existing  
9 structures; requiring the commission to  
10 identify legislative changes required to  
11 implement code provisions; requiring a report  
12 to the Legislature; amending s. 399.01, F.S.;  
13 revising and removing definitions; requiring  
14 that elevator service maintenance contracts be  
15 made available to the Department of Business  
16 and Professional Regulation upon request for  
17 oversight purposes; revising qualifications for  
18 an elevator certificate of competency; amending  
19 s. 399.02, F.S.; providing that each elevator  
20 owner is responsible for inspections and  
21 correction of code deficiencies; eliminating a  
22 requirement that the department review service  
23 maintenance contracts and determine whether  
24 they ensure safe operation; amending s. 399.03,  
25 F.S.; revising requirements relating to the  
26 design, installation, and alteration of  
27 conveyances; providing additional requirements  
28 for issuance of elevator permits; revising  
29 reporting requirements; providing requirements  
30 for temporary operation inspections; amending  
31 s. 399.049, F.S.; revising grounds for

1 suspension or revocation of certification or  
2 registration; amending s. 399.061, F.S.;  
3 eliminating the requirement that annual  
4 inspections be conducted through third-party  
5 inspection services; revising reporting  
6 requirements relating to service maintenance  
7 contracts; revising requirements relating to  
8 the correction of violations; amending s.  
9 399.07, F.S.; extending the period of validity  
10 of certificates of operation from 1 to 2 years;  
11 revising fee provisions to conform; amending s.  
12 399.105, F.S.; providing administrative fines  
13 for violations relating to reporting, operating  
14 a sealed elevator, and complying with  
15 correction orders; eliminating a restriction on  
16 the issuance of an administrative fine relating  
17 to commencing installation without a  
18 construction permit; amending s. 399.106, F.S.;  
19 correcting a reference; amending s. 399.125,  
20 F.S.; eliminating the requirement to report  
21 elevator incidents; amending s. 399.13, F.S.;  
22 allowing municipalities or counties that assume  
23 elevator inspection duties to hire private  
24 inspectors to conduct inspections; amending s.  
25 553.512, F.S.; requiring the granting of a  
26 waiver of certain requirements for  
27 accessibility purposes under certain  
28 circumstances; amending s. 553.73, F.S.;  
29 revising provisions governing local government  
30 amendments to the technical provisions of the  
31 Florida Building Code; amending s. 553.74,

1 F.S.; revising eligibility for membership on  
2 the Florida Building Commission; amending s.  
3 553.77, F.S.; providing additional specific  
4 powers, duties, and requirements of the  
5 commission; providing legislative intent;  
6 amending s. 553.791, F.S.; providing  
7 alternative procedures for building plans  
8 review and inspection; providing definitions;  
9 authorizing use of a private provider to review  
10 plans and make building code inspections under  
11 certain circumstances; providing a limitation;  
12 requiring notice to the local building  
13 official; specifying notice information;  
14 specifying requirements, duties, and  
15 responsibilities of a private provider;  
16 providing for a certificate of compliance;  
17 providing duties of the local building  
18 official; providing procedures for approval or  
19 denial of a certificate of compliance or a  
20 building permit; prohibiting local entities  
21 from adopting or enforcing certain laws, rules,  
22 procedures, or standards; requiring a private  
23 provider to maintain certain insurance;  
24 subjecting private providers to certain  
25 disciplinary provisions; limiting use of a  
26 private provider under certain circumstances;  
27 requiring local building code enforcement  
28 agencies to develop and maintain a process to  
29 audit the performance of building code  
30 inspection services; providing immunity from  
31 liability; requiring a report; amending s.

1           553.842, F.S.; providing certain equivalency  
2           with respect to product evaluation and approval  
3           under the Florida Building Code; amending s.  
4           604.50, F.S.; redefining the term  
5           "nonresidential farm building" for purposes of  
6           an exemption from the Florida Building Code;  
7           amending s. 627.0629, F.S.; revising timeframe  
8           for rate filing for residential property  
9           insurance; providing an effective date.

10

11 Be It Enacted by the Legislature of the State of Florida:

12

13           Section 1. Paragraph (e) of subsection (8) of section  
14 553.73, Florida Statutes, is amended to read:

15           553.73 Florida Building Code.--

16           (8) The following buildings, structures, and  
17 facilities are exempt from the Florida Building Code as  
18 provided by law, and any further exemptions shall be as  
19 determined by the Legislature and provided by law:20           (e) Mobile or modular structures ~~homes~~ used as  
21 temporary offices, except that the provisions of part V  
22 relating to accessibility by persons with disabilities shall  
23 apply to such mobile or modular structures ~~homes~~.

24

25 With the exception of paragraphs (a), (b), (c), and (f), in  
26 order to preserve the health, safety, and welfare of the  
27 public, the Florida Building Commission may, by rule adopted  
28 pursuant to chapter 120, provide for exceptions to the broad  
29 categories of buildings exempted in this section, including  
30 exceptions for application of specific sections of the code or  
31 standards adopted therein. The Department of Agriculture and

1 Consumer Services shall have exclusive authority to adopt by  
2 rule, pursuant to chapter 120, exceptions to nonresidential  
3 farm buildings exempted in paragraph (c) when reasonably  
4 necessary to preserve public health, safety, and welfare. The  
5 exceptions must be based upon specific criteria, such as  
6 under-roof floor area, aggregate electrical service capacity,  
7 HVAC system capacity, or other building requirements. Further,  
8 the commission may recommend to the Legislature additional  
9 categories of buildings, structures, or facilities which  
10 should be exempted from the Florida Building Code, to be  
11 provided by law.

12           Section 2. (1) The Legislature directs the Florida  
13 Building Commission to develop building code provisions that  
14 may be added to the Florida Building Code to facilitate the  
15 rehabilitation and use of existing structures. The commission  
16 shall select from available national or international model  
17 codes or the codes or code provisions adopted by another state  
18 to form the foundation for the code provisions required by  
19 this section.

20           (2) The commission shall seek consensus with  
21 firesafety professionals, advocates for persons with  
22 disabilities, representatives of the construction industry,  
23 land-use planners, building officials, and others identified  
24 by the commission as having an interest in building code  
25 provisions. The commission may modify the selected model codes  
26 and standards as needed to accommodate the specific needs of  
27 this state.

28           (3) In conjunction with its code development  
29 activities, the commission shall identify legislative changes  
30 required to implement the code provisions developed pursuant  
31 to subsections (1) and (2).

1           (4) The commission shall report the activities  
2 undertaken in response to the requirements of this section to  
3 the Legislature on or before January 1, 2003, as a part of the  
4 annual report required by s. 553.77(1)(b), Florida Statutes.  
5 Recommended code provisions and the legislative changes  
6 required for implementation shall be attached as appendices to  
7 the annual report.

8           Section 3. Section 399.01, Florida Statutes, is  
9 amended to read:

10           399.01 Definitions.--As used in this chapter, the  
11 term:

12           (1) "Alteration" means any change or addition to the  
13 vertical conveyance other than maintenance, repair, or  
14 replacement.

15           ~~(2) "Certificate of competency" means a document~~  
16 ~~issued by the division which evidences the competency of a~~  
17 ~~person to construct, install, inspect, maintain, or repair any~~  
18 ~~vertical conveyance.~~

19           (2)~~(3)~~ "Certificate of operation" means a document  
20 issued by the department which indicates that the conveyance  
21 has had the required safety inspection and tests and that fees  
22 have been paid as provided in this chapter.

23           (3)~~(4)~~ "Conveyance" means an elevator, dumbwaiter,  
24 escalator, moving sidewalk, platform lift, or ~~and~~ stairway  
25 chairlift.

26           (4)~~(5)~~ "Department" means the Department of Business  
27 and Professional Regulation.

28           (5)~~(6)~~ "Division" means the Division of Hotels and  
29 Restaurants of the Department of Business and Professional  
30 Regulation.

31

1           (6)~~(7)~~ "Elevator" means one of the following  
2 mechanical devices:

3           (a) A hoisting and lowering mechanism, equipped with a  
4 car and platform that moves in guide rails and serves two or  
5 more landings to transport material or passengers or both.

6           (b) An escalator, which is a power-driven, inclined  
7 continuous stairway used for raising or lowering passengers.

8           (c) A dumbwaiter, which is a hoisting and lowering  
9 mechanism equipped with a car of limited size which moves in  
10 guide rails and serves two or more landings.

11           (d) A moving walk, which is a type of  
12 passenger-carrying device on which passengers stand or walk  
13 and in which the passenger-carrying surface remains parallel  
14 to its direction of motion and is uninterrupted.

15           (e) An inclined stairway chairlift, which is a device  
16 used to transport physically handicapped persons over  
17 architectural barriers.

18           (f) An inclined or vertical wheelchair lift, which is  
19 a device used to transport wheelchair handicapped persons over  
20 architectural barriers.

21           ~~(8) "Escalator" means an installation defined as an  
22 escalator in the Florida Building Code.~~

23           (7)~~(9)~~ "Existing installation" means an installation  
24 defined as an "installation, existing" in the Florida Building  
25 Code.

26           (8)~~(10)~~ "Elevator Safety Technical Advisory Committee"  
27 means the committee appointed by the secretary of the  
28 Department of Business and Professional Regulation.

29           (9)~~(11)~~ "Private residence" means a separate dwelling  
30 or a separate apartment in a multiple dwelling which is  
31 occupied by members of a single-family unit.

1           ~~(10)(12)~~ "Service maintenance contract" means a  
2 contract that provides for routine examination, lubrication,  
3 cleaning, adjustment, replacement of parts, and performance of  
4 applicable code-required safety tests such as on a traction  
5 elevator and annual relief pressure test on a hydraulic  
6 elevator and any other service, repair, and maintenance  
7 sufficient to ensure the safe operation of the elevator. A  
8 service maintenance contract shall be made available upon  
9 request of the department for purposes of oversight and  
10 monitoring.

11           ~~(11)(13)~~ "Temporarily dormant conveyance" means a  
12 conveyance whose power supply has been disconnected by  
13 removing fuses and placing a padlock on the mainline  
14 disconnect switch in the "OFF" position. The car is parked,  
15 and the hoistway doors are in the closed and latched position.  
16 A wire seal is installed on the mainline disconnect switch by  
17 a certified ~~certificate of competency~~ elevator inspector. This  
18 conveyance installation may not be used again until it has  
19 been put in safe running order and is in condition for use.  
20 Annual inspections shall continue for the duration of the  
21 temporarily dormant status by a certified ~~certificate of~~  
22 ~~competency~~ elevator inspector. The temporarily dormant status  
23 is renewable on an annual basis and may not exceed a 5-year  
24 period. The inspector shall file a report with the department  
25 ~~chief elevator inspector~~ describing the current conditions.  
26 The wire seal and padlock may not be removed for any purpose  
27 without permission from the department ~~elevator inspector~~.

28           ~~(12)(14)~~ "Temporary operation inspection permit" means  
29 an inspection performed by a certified elevator inspector, the  
30 successful passage of a document issued by the department  
31

1 which permits the temporary use of a noncompliant vertical  
2 conveyance as provided by rule.

3 (13)~~(15)~~ "Registered elevator company" means an entity  
4 registered with and authorized by the division employing  
5 persons to construct, install, inspect, maintain, or repair  
6 any vertical conveyance. Each registered elevator company must  
7 annually register with the division and maintain general  
8 liability insurance coverage in the minimum amounts set by  
9 rule ~~the division~~.

10 (14)~~(16)~~ "Certified elevator inspector" is a natural  
11 person registered with and authorized by the division to  
12 construct, install, inspect, maintain, or repair any vertical  
13 conveyance, after having properly acquired the qualified  
14 elevator inspector credential as prescribed by the American  
15 Society of Mechanical Engineers. Each certified elevator  
16 inspector must annually register with the division and provide  
17 ~~from the National Association of Elevator Safety Authorities.~~  
18 ~~Such person shall remain so authorized by the division only~~  
19 ~~upon providing annual~~ proof of completion of 8 hours of  
20 continuing education, proof that ~~and~~ the qualified elevator  
21 inspector credential remains in good standing, and proof of  
22 ~~with the National Association of Elevator Safety Authorities.~~  
23 ~~A licensed mechanical engineer whose license is in good~~  
24 ~~standing may be authorized as a certified elevator inspector~~  
25 ~~by the division. Each certified elevator inspector must~~  
26 ~~annually register with the division and maintain general~~  
27 liability insurance coverage in the minimum amounts set by the  
28 division.

29 (15)~~(17)~~ "Certified elevator technician" means a  
30 natural person authorized by the division to construct,  
31 install, maintain, or repair any vertical conveyance, after

1 having been issued an elevator certificate of competency by  
2 the division. Each certified elevator technician must annually  
3 register with the division and be covered by ~~maintain~~ general  
4 liability insurance coverage in the minimum amounts set by the  
5 division.

6 ~~(16)(18)~~ "Elevator helper" means a natural person  
7 performing work under the direct supervision of an elevator  
8 certificate of competency holder ~~a certified elevator~~  
9 ~~inspector or an elevator technician~~ to construct, install,  
10 maintain, or repair any vertical conveyance.

11 ~~(17)(19)~~ "Elevator certificate of competency" means a  
12 credential issued by the division to any individual natural  
13 person successfully completing an examination as prescribed by  
14 rule and paying a nonrefundable fee of \$50. Such credential  
15 shall be valid for and expire at the end of 1 year, and may be  
16 renewed by the division when the division receives proof of  
17 the elevator certificate of competency holder's completion of  
18 8 hours of continuing education from a provider approved by  
19 the department and a nonrefundable renewal fee of \$50. The  
20 department shall adopt by rule criteria for providing approval  
21 and procedures for continuing education reporting.

22 (a) An elevator certificate of competency may be  
23 issued only if the applicant meets the following requirements:

24 1. Four years' work experience in the construction,  
25 maintenance, service, and repair of conveyances covered by  
26 this chapter. This experience shall be verified by current or  
27 previously registered elevator companies as required by the  
28 division.

29 2. One of the following:  
30  
31

1           a. Proof of completion and successful passage of a  
2 written examination administered by the division or a provider  
3 approved by the division under standards it adopted by rule.

4           b. Proof of completion of an apprenticeship program  
5 for elevator mechanics which has standards substantially  
6 equivalent to those found in a national training program for  
7 elevator mechanics and is registered with the Bureau of  
8 Apprenticeship and Training of the United States Department of  
9 Labor or a state apprenticeship authority.

10           c. Proof of licensure or certification by a state or  
11 local jurisdiction in the United States having standards  
12 substantially equal to or more stringent than those of this  
13 chapter.

14           (b) A licensed mechanical engineer whose license is in  
15 good standing may be granted an elevator certificate of  
16 competency.

17  
18 All other building transportation terms are defined in the  
19 current Florida Building Code.

20           Section 4. Subsections (1) and (5) of section 399.02,  
21 Florida Statutes, are amended to read:

22           399.02 General requirements.--

23           (1) The Elevator Safety Technical Advisory Committee  
24 shall develop and submit to the Director of Hotels and  
25 Restaurants proposed ~~regarding~~ revisions to the elevator  
26 safety code so that it is the same as or similar to the latest  
27 editions ~~versions~~ of ASME A17.1, ASME A17.3, and ASME A18.1.

28           (5)(a) The construction permitholder is responsible  
29 for the correction of violations and deficiencies until the  
30 elevator has been inspected and a certificate of operation has  
31 been issued by the department. The construction permitholder

1 is responsible for all tests of new and altered equipment  
2 until the elevator has been inspected and a certificate of  
3 operation has been issued by the department.

4 (b) The elevator owner is responsible for the safe  
5 operation, and proper maintenance, and inspection and  
6 correction of code deficiencies of the elevator after ~~it has~~  
7 ~~been inspected and~~ a certificate of operation has been issued  
8 by the department. The responsibilities of the elevator owner  
9 may be assigned by lease.

10 ~~(c) The elevator owner shall report to the department~~  
11 ~~60 days before the expiration of the certificate of operation~~  
12 ~~whether there exists a service maintenance contract, with whom~~  
13 ~~the contract exists, and the details concerning the provisions~~  
14 ~~and implementation of the contract which the department~~  
15 ~~requires. The department shall keep the names of companies~~  
16 ~~with whom the contract exists confidential pursuant to the~~  
17 ~~public records exemption provided in s. 119.14(4)(b)3. This~~  
18 ~~annual contract report must be made on forms supplied by the~~  
19 ~~department. The elevator owner must report any material~~  
20 ~~change in the service maintenance contract no fewer than 30~~  
21 ~~days before the effective date of the change. The department~~  
22 ~~shall determine whether the provisions of the service~~  
23 ~~maintenance contract and its implementation ensure the safe~~  
24 ~~operation of the elevator.~~

25 Section 5. Section 399.03, Florida Statutes, is  
26 amended to read:

27 399.03 Design, installation, and alteration of  
28 conveyances.--

29 (1) A conveyance covered by this chapter may not be  
30 erected, constructed, installed, or altered within buildings  
31 or structures until ~~unless~~ a permit has been obtained from the

1 department ~~before the work is commenced~~. Permits must be  
2 applied for by a registered elevator company and may only be  
3 granted upon receipt and approval of an application to be made  
4 on a form prescribed by the department, accompanied by proper  
5 fees and a sworn statement from an agent of the registered  
6 elevator company that the plans meet all applicable elevator  
7 safety and building codes. Permits may be granted only to  
8 registered elevator companies in good standing.When any  
9 material alteration is made, the alteration ~~device~~ must  
10 conform to applicable requirements of the Florida Building  
11 Code and the provisions of this chapter ~~for the alteration.~~ A  
12 ~~permit required hereunder may not be issued except to a~~  
13 ~~person, firm, or corporation holding a current elevator~~  
14 ~~contractor's license issued under this chapter.~~ A copy of the  
15 permit and plans must be kept at the construction site at all  
16 times while the work is in progress and until a certificate of  
17 operation is issued.

18 (2) The department shall provide by rule for permit  
19 application requirements and permit fees.

20 (3) Permits may be revoked for the following reasons:

21 (a) There are any false statements or  
22 misrepresentations as to the material facts in the  
23 application, plans, or specifications on which the permit was  
24 based.

25 (b) The permit was issued in error and not in  
26 accordance with the code or rules.

27 (c) The work detailed under the permit is not being  
28 performed in accordance with the provisions of the  
29 application, plans, or specifications or with the code or  
30 conditions of the permit.

31

1           (d) The construction permitholder to whom the permit  
2 was issued fails or refuses to comply with a stop-work order.

3           (4) A permit expires if:

4           (a) The work authorized by the permit is not commenced  
5 within 6 months after the date of issuance, or within a  
6 shorter period of time as the department may specify at the  
7 time the permit is issued.

8           (b) The work is suspended or abandoned for a period of  
9 60 days, or such shorter period of time as the department may  
10 specify at the time the permit is issued, after the work has  
11 been started. For good cause, the department may allow a  
12 discretionary extension for the foregoing period.

13           (5) All new conveyance installations must be performed  
14 by a registered elevator company ~~person to whom a license to~~  
15 ~~install or service a conveyance has been issued.~~ Subsequent to  
16 ~~installation, the licensed person, firm, or company must~~  
17 ~~certify compliance with the applicable sections of this~~  
18 ~~chapter and the Florida Building Code.~~ Before any vertical  
19 conveyance is used, except those in a private residence, it  
20 must be inspected by a certified elevator ~~licensed~~ inspector  
21 ~~not employed, or associated, or having a conflict of interest~~  
22 ~~with the elevator construction permitholder~~ or elevator owner  
23 and certified as meeting the safety provisions of the Florida  
24 Building Code, including the performance of all required  
25 safety tests. The certified elevator inspector shall provide  
26 the original copy of the inspection report to the department  
27 within 5 days after the inspection. A certificate of operation  
28 may not be issued until the permitholder provides an affidavit  
29 signed by the construction supervisor attesting that the  
30 supervisor directly supervised the construction or  
31 installation of the elevator. ~~Upon successful inspection, the~~

1 ~~owner or lessee must apply to the department for a certificate~~  
2 ~~of operation from the department. A fee as prescribed in this~~  
3 ~~chapter must be paid for the certificate of operation. It is~~  
4 ~~the responsibility of the licensed elevator construction~~  
5 ~~permitholder to complete and submit a first-time registration~~  
6 ~~for a new installation.~~ Vertical conveyances, including  
7 stairway chairlifts, and inclined or vertical wheelchair lifts  
8 located in private residences are not required to obtain a  
9 certificate of operation under this chapter.

10 ~~(6) A certificate of operation expires July 31 of each~~  
11 ~~year and must be renewed prior to continued use of the~~  
12 ~~conveyance. A certificate of operation must be clearly~~  
13 ~~displayed on or in each conveyance or in the machine room for~~  
14 ~~use by and for the benefit of inspectors and code enforcement~~  
15 ~~personnel. Certificates of operation may only be renewed for~~  
16 ~~vertical conveyances having a current satisfactory inspection.~~

17 (6)(7) At the department's request, and to facilitate  
18 oversight and monitoring, the permitholder shall notify the  
19 department of the scheduled final inspection date and time for  
20 purposes of acquiring a certificate of inspection, in writing,  
21 ~~at least 7 days before completion of the work and shall, in~~  
22 ~~the presence of a licensed elevator inspector not associated~~  
23 ~~with or employed by the installing company or contractor,~~  
24 ~~subject the newly installed, relocated, or altered portions of~~  
25 ~~the elevator to tests required to show that the elevator meets~~  
26 ~~the applicable provisions of the Florida Building Code.~~

27 (7)(8) Each elevator shall comply with the edition of  
28 the Florida Building Code or Elevator Safety Code that was in  
29 effect at the time of receipt of application for the  
30 construction permit for the elevator.

31

1           ~~(8)(9)~~ Each alteration to, or relocation of, an  
2 elevator shall comply with the edition of the Florida Building  
3 Code or Elevator Safety Code that was in effect at the time of  
4 receipt of the application for the construction permit for the  
5 alteration or relocation.

6           ~~(9)(10)~~ When any change is made in the classification  
7 of an elevator, the elevator shall comply with all of the  
8 requirements of the version of the Florida Building Code or  
9 Elevator Safety Code that were in effect at the time of  
10 receipt of the application for the construction permit for the  
11 change in classification.

12           (10)(a) The temporary use of an elevator during  
13 installation or alteration is authorized for a period of 30  
14 days after the completion of a satisfactory temporary  
15 operation inspection. An additional 30-day period of temporary  
16 use is authorized from the date of completion of each  
17 additional satisfactory temporary operation inspection. A  
18 satisfactory temporary operation inspection must satisfy the  
19 following criteria: the elevator is tested under contract  
20 load; the hoistway is fully enclosed; the hoistway doors and  
21 interlocks are installed; the car is completely enclosed,  
22 including door or gate and top; all electrical safety devices  
23 are installed and properly functioning; and terminal stopping  
24 equipment is in place for a safe runby and proper clearance.  
25 When a car is provided with a temporary enclosure, the  
26 operating means must be by constant pressure push-button or  
27 lever-type switch. The car may not exceed the minimum safe  
28 operating speed of the elevator, and the governor tripping  
29 speed must be set in accordance with the operating speed of  
30 the elevator.

31

1           (b) Temporary use is authorized only when a  
2 satisfactory temporary operation inspection report, completed  
3 within the last 30 days by a certified elevator inspector, and  
4 a notice prescribed by the department, bearing a statement  
5 that the elevator has not been finally approved by a certified  
6 elevator inspector, are conspicuously posted in the elevator.

7           Section 6. Section 399.049, Florida Statutes, is  
8 amended to read:

9           399.049 Disciplinary action ~~Certificate of~~  
10 ~~competency.--~~

11           (1) ~~SUSPENSION OR REVOCATION OF LICENSE OR CERTIFICATE~~  
12 ~~OF COMPETENCY.--~~The department may suspend or revoke an  
13 elevator inspector certification, an elevator company  
14 registration, an elevator a license or certificate of  
15 competency, or an elevator certificate of operation issued  
16 under this chapter or impose an administrative penalty of up  
17 to \$1,000 per violation upon any registered elevator company  
18 ~~licensee~~ or certificateholder who commits any one or more of  
19 the following violations:

20           (a) Any false statement as to a material matter in an  
21 the application for registration, certification, or any permit  
22 or certificate issued under this chapter.

23           (b) Fraud, misrepresentation, or bribery in the  
24 practice of the profession ~~securing a license or certificate~~  
25 ~~of competency.~~

26           (c) Failure by a certified elevator inspector to  
27 provide to notify the department and the certificate of  
28 operation holder with a copy of the inspection report within 5  
29 days after the date of any inspection performed after the  
30 initial certificate of operation is issued of a conveyance  
31 ~~covered by this chapter that is not in compliance with the~~

1 ~~provisions of the elevator safety code incorporated into the~~  
2 ~~Florida Building Code.~~

3 (d) Violation of any provision of this chapter.

4 (2) ~~DISCIPLINARY ACTION.~~--Any disciplinary action  
5 taken under this chapter must comply with chapter 120 and any  
6 rules adopted thereunder.

7 Section 7. Section 399.061, Florida Statutes, is  
8 amended to read:

9 399.061 Inspections; service maintenance contracts;  
10 correction of deficiencies.--

11 (1)(a) All elevators or other conveyances subject to  
12 this chapter must be annually inspected by a certified  
13 elevator inspector ~~through a third-party inspection service,~~  
14 or by a municipality or county under contract with the  
15 division, pursuant to s. 399.13. If the elevator ~~or other~~  
16 conveyance is maintained pursuant to a service maintenance  
17 contract continuously in force, it shall be inspected at least  
18 once every 2 years by a certified elevator inspector who is  
19 not employed by or otherwise associated with the maintenance  
20 company; however, if the elevator is not an escalator or a  
21 dumbwaiter, serves only two adjacent floors, and is covered by  
22 a service maintenance contract, an inspection is not required  
23 so long as the service contract remains in effect. ~~A statement~~  
24 ~~verifying the existence, performance, and cancellation of each~~  
25 ~~service maintenance contract must be filed annually with the~~  
26 ~~division as prescribed by rule.~~

27 (b) A statement verifying the existence and  
28 performance of each service maintenance contract must be filed  
29 at least annually with the division and as prescribed by rule.  
30 Cancellation of a service maintenance contract must be  
31 reported to the division as prescribed by rule.~~The division~~

1 ~~may inspect an elevator whenever necessary to ensure its safe~~  
2 ~~operation or when a third-party inspection service is not~~  
3 ~~available for a routine inspection.~~

4       (2) The division may employ state elevator inspectors  
5 to inspect an elevator whenever necessary to ensure its safe  
6 operation.The division may also employ state elevator  
7 inspectors to conduct any ~~the~~ inspections ~~as~~ required by this  
8 chapter subsection (1)and may charge a ~~an inspection~~ fee for  
9 each inspection in an amount sufficient to cover the costs of  
10 that inspection, as provided by rule, when a private certified  
11 elevator inspector is not available. Each state elevator  
12 inspector shall be properly qualified as a certified elevator  
13 inspector ~~hold a certificate of competency issued by the~~  
14 ~~division.~~

15       (3) Whenever the division determines from the results  
16 of any inspection that, in the interest of the public safety,  
17 an elevator is in an unsafe condition, the division may seal  
18 the elevator or order the discontinuance of the use of the  
19 elevator until the division determines by inspection that such  
20 elevator has been satisfactorily repaired or replaced so that  
21 the elevator may be operated in a safe manner.

22       (4) When the division determines that an elevator is  
23 in violation of this chapter or the Florida Building Code, the  
24 division may issue an order to the elevator owner requiring  
25 correction of the violation and reinspection of the elevator  
26 evidencing the correction.

27       Section 8. Section 399.07, Florida Statutes, is  
28 amended to read:

29       399.07 Certificates of operation; ~~temporary operation~~  
30 ~~permits; fees.--~~

31

1           ~~(1)(a) A certificate of operation may not be issued~~  
2 ~~until the elevator company supervisor signs an affidavit~~  
3 ~~stating that the elevator company supervisor directly~~  
4 ~~supervised construction or installation of the elevator.~~

5           (1)(b) The certificate of operation is valid for a  
6 period not to exceed 2 years and shall expire at the end of  
7 the period of 1 year unless sooner suspended or revoked. The  
8 department may adopt rules establishing a procedure for  
9 certificate renewal. Certificates of operation may be renewed  
10 only for vertical conveyances having a current satisfactory  
11 inspection. The owner of an elevator operating with an expired  
12 certificate of operation is in violation of this chapter.  
13 Certificate of operation renewal applications received by the  
14 department after the date of expiration of the last current  
15 certificate must be accompanied by a late fee of \$50 in  
16 addition to the renewal fee and any other fees required by  
17 law. The department shall adopt by rule a fee schedule for the  
18 renewal of certificates of operation. The fees must be  
19 deposited into the Hotel and Restaurant Trust Fund. The  
20 ~~department shall by rule adopt a fee schedule for the renewal~~  
21 ~~of certificates of operation. The renewal period commences on~~  
22 ~~August 1 of each year.~~

23           (2)(c) The certificate of operation must be posted in  
24 a conspicuous location on the elevator and must be framed with  
25 a transparent cover.

26           ~~(d) The department shall charge an annual fee for~~  
27 ~~issuance of a certificate of operation in an amount to be set~~  
28 ~~by rule. However, a renewal application for a certificate of~~  
29 ~~operation filed with the department after expiration date of~~  
30 ~~the certificate must be accompanied by a delinquency fee of~~  
31 ~~\$50 in addition to the annual renewal fee and any other fees~~

1 ~~required by law. The fees must be deposited into the Hotel and~~  
2 ~~Restaurant Trust Fund.~~

3 ~~(2)(a) The department may issue a temporary operation~~  
4 ~~permit authorizing the temporary use of an elevator during~~  
5 ~~installation or alteration to an elevator company or general~~  
6 ~~contractor acting as a general agent of an elevator company. A~~  
7 ~~temporary operation permit may not be issued until the~~  
8 ~~elevator has been inspected by a state elevator inspector and~~  
9 ~~tested under contract load; the hoistway is fully enclosed;~~  
10 ~~the hoistway doors and interlocks are installed; the car is~~  
11 ~~completely enclosed, including door or gate and top; all~~  
12 ~~electrical safety devices are installed and properly~~  
13 ~~functioning; and terminal stopping equipment is in place for a~~  
14 ~~safe runby and proper clearance. When a car is provided with a~~  
15 ~~temporary enclosure, the operating means must be by constant~~  
16 ~~pressure push-button or lever-type switch. The car may not~~  
17 ~~exceed the minimum safe operating speed of the elevator, and~~  
18 ~~the governor tripping speed must be set in accordance with the~~  
19 ~~operating speed of the elevator.~~

20 ~~(b) A temporary operation permit must be issued for a~~  
21 ~~period not to exceed 30 days. The permit may be renewed at~~  
22 ~~the discretion of the department.~~

23 ~~(c) When a temporary operation permit is issued, the~~  
24 ~~permit, together with a notice bearing a statement that the~~  
25 ~~elevator has not been finally approved by a state elevator~~  
26 ~~inspector, must be conspicuously posted in the elevator.~~

27 ~~(d) The department shall charge a fee, set by rule in~~  
28 ~~an amount not greater than \$100, for each temporary operation~~  
29 ~~permit. The fee must be deposited in the Hotel and Restaurant~~  
30 ~~Trust Fund.~~

31

1           (3) The certificate of operation shall contain the  
2 text of s. 823.12, relating to the prohibition against smoking  
3 in elevators.

4           (4) In addition to subsection (3), the designation "NO  
5 SMOKING" along with the international symbol for no smoking  
6 shall be conspicuously displayed within the interior of the  
7 elevator in the plain view of the public.

8           (5) Except for ~~as authorized by a~~ temporary use  
9 authorized by this chapter operation permit, the operation or  
10 use of any newly installed, relocated, or altered elevator is  
11 prohibited until the elevator has passed the tests and  
12 inspections required by this chapter and a certificate of  
13 operation has been issued.

14           (6) The department may suspend any certificate of  
15 operation if it finds that the elevator is not in compliance  
16 with this chapter or of rules adopted under this chapter. The  
17 suspension remains in effect until the department receives  
18 satisfactory results of an inspection performed by a certified  
19 elevator inspector indicating ~~determines, by inspection,~~ that  
20 the elevator has been brought into compliance.

21           Section 9. Section 399.105, Florida Statutes, is  
22 amended to read:

23           399.105 Administrative fines.--

24           (1) Any person who fails to comply with the reporting  
25 requirements of this chapter ~~s. 399.02~~ or with the reasonable  
26 requests of the department to determine whether the provisions  
27 of a service maintenance contract and its implementation  
28 ensure ~~assure~~ safe elevator operation is subject to an  
29 administrative fine not greater than \$1,000 in addition to any  
30 other penalty provided by law.

31

1           (2) Any person who commences the operation,  
2 installation, relocation, or alteration of any elevator for  
3 which a permit or certificate is required by this chapter  
4 without having obtained from the department the permit or  
5 certificate is subject to an administrative fine not greater  
6 than \$1,000 in addition to any other penalty provided by law.  
7 ~~No fine may be imposed under this subsection for commencing~~  
8 ~~installation without a construction permit if such permit is~~  
9 ~~issued within 60 days after the actual commencement of~~  
10 ~~installation.~~

11           (3) An elevator owner who continues to operate an  
12 elevator after notice to discontinue its use or after it has  
13 been sealed by the department is subject to an administrative  
14 fine not greater than \$1,000 for each day the elevator has  
15 been operated after the service of the notice or sealing by  
16 the department, in addition to any other penalty provided by  
17 law.

18           (4) An elevator owner who fails to comply with an  
19 order to correct issued under s. 399.061(4) within 30 ~~60~~ days  
20 after its issuance is subject, in addition to any other  
21 penalty provided by law, to an administrative fine ~~set by the~~  
22 ~~department~~ in an amount not to exceed \$1,000.

23           (5) All administrative fines collected shall be  
24 deposited into the Hotel and Restaurant Trust Fund.

25           Section 10. Subsection (2) of section 399.106, Florida  
26 Statutes, is amended to read:

27           399.106 Elevator Safety Technical Advisory  
28 Committee.--

29           (2) The committee members shall serve staggered terms  
30 of 4 years to be set by rule without salary, but may receive  
31

1 from the state expenses for per diem and travel. The committee  
2 ~~commission~~ shall appoint one of the members to serve as chair.

3 Section 11. Section 399.125, Florida Statutes, is  
4 amended to read:

5 399.125 Reporting of elevator accidents ~~or incidents~~;  
6 penalties.--Within 5 working days after any accident ~~or~~  
7 ~~incident~~ occurring in or upon any elevator, the certificate of  
8 operation holder shall report the accident ~~or incident~~ to the  
9 division on a form prescribed by the division. Failure to  
10 timely file this report is a violation of this chapter and  
11 will subject the certificate of operation holder to an  
12 administrative fine, to be imposed by the division, in an  
13 amount not to exceed \$1,000.

14 Section 12. Section 399.13, Florida Statutes, is  
15 amended to read:

16 399.13 Delegation of authority to municipalities or  
17 counties.--

18 (1) The department may enter into contracts with  
19 municipalities or counties under which such municipalities or  
20 counties will issue construction permits, ~~temporary operation~~  
21 ~~permits~~, and certificates of operation; will provide for  
22 inspection of elevators, including temporary operation  
23 inspections; and will enforce the applicable provisions of the  
24 Florida Building Code, as required by this chapter. The  
25 municipality or county may choose to require inspections to be  
26 performed by its own inspectors or by private certified  
27 elevator inspectors. Each such agreement shall include a  
28 provision that the municipality or county shall maintain for  
29 inspection by the department copies of all applications for  
30 permits issued, a copy of each inspection report issued, and  
31 proper records showing the number of certificates of operation

1 issued; shall include a provision that each required  
2 inspection be conducted by a certified elevator inspector ~~the~~  
3 ~~holder of a certificate of competency issued by the~~  
4 ~~department~~; and may include such other provisions as the  
5 department deems necessary.

6 (2) The department may make inspections of elevators  
7 in such municipality or county for the purpose of determining  
8 that the provisions of this chapter are being met and may  
9 cancel the contract with any municipality or county which the  
10 department finds has failed to comply with such contract or  
11 the provisions of this chapter. The amendments to chapter 399  
12 by this act shall apply only to the installation, relocation,  
13 or alteration of an elevator for which a permit has been  
14 issued after October 1, 1990.

15 Section 13. Subsection (1) of section 553.512, Florida  
16 Statutes, is amended to read:

17 553.512 Modifications and waivers; advisory council.--

18 (1) The Florida Building Commission shall provide by  
19 regulation criteria for granting individual modifications of,  
20 or exceptions from, the literal requirements of this part upon  
21 a determination of unnecessary, unreasonable, or extreme  
22 hardship, provided such waivers shall not violate federal  
23 accessibility laws and regulations and shall be reviewed by  
24 the Accessibility Advisory Council. Notwithstanding any other  
25 provision of this subsection, if an applicant for a waiver  
26 demonstrates economic hardship in accordance with 28 C.F.R.  
27 36.403(f)(1), a waiver shall be granted.The commission may  
28 not consider waiving any of the requirements of s. 553.5041  
29 unless the applicant first demonstrates that she or he has  
30 applied for and been denied waiver or variance from all local  
31 government zoning, subdivision regulations, or other

1 ordinances that prevent compliance therewith. Further, the  
2 commission may not waive the requirement of s. 553.5041(5)(a)  
3 and (c)1. governing the minimum width of accessible routes and  
4 minimum width of accessible parking spaces.

5 Section 14. Paragraph (b) of subsection (4) of section  
6 553.73, Florida Statutes, as amended by section 2 of chapter  
7 2001-372, Laws of Florida, is amended to read:

8 553.73 Florida Building Code.--

9 (4)

10 (b) Local governments may, subject to the limitations  
11 of this section, adopt amendments to the technical provisions  
12 of the Florida Building Code which apply solely within the  
13 jurisdiction of such government and which provide for more  
14 stringent requirements than those specified in the Florida  
15 Building Code, not more than once every 6 months. A local  
16 government may adopt technical amendments that address local  
17 needs if, ~~provided:~~

18 1. The local governing body determines, following a  
19 public hearing which has been advertised in a newspaper of  
20 general circulation at least 10 days before the hearing, that  
21 there is a need to strengthen the requirements of the Florida  
22 Building Code. The determination must be based upon a review  
23 of local conditions by the local governing body, which review  
24 demonstrates by evidence or data that the geographical  
25 jurisdiction governed by the local governing body exhibits a  
26 local need to strengthen the Florida Building Code beyond the  
27 needs or regional variation addressed by the Florida Building  
28 Code, that the local need is addressed by the proposed local  
29 amendment, and that the amendment is no more stringent than  
30 necessary to address the local need ~~that local conditions~~  
31 ~~justify more stringent requirements than those specified in~~

1 ~~the Florida Building Code for the protection of life and~~  
2 ~~property.~~

3           2. Such additional requirements are not discriminatory  
4 against materials, products, or construction techniques of  
5 demonstrated capabilities.

6           3. Such additional requirements may not introduce a  
7 new subject not addressed in the Florida Building Code.

8           4. The enforcing agency shall make readily available,  
9 in a usable format, all amendments adopted pursuant to this  
10 section.

11           5. Any amendment to the Florida Building Code shall be  
12 transmitted within 30 days by the adopting local government to  
13 the commission. The commission shall maintain copies of all  
14 such amendments in a format that is usable and obtainable by  
15 the public. Local technical amendments shall not become  
16 effective until 30 days after the amendment has been received  
17 and published by the commission.

18           6. Any amendment to the Florida Building Code adopted  
19 by a local government pursuant to this paragraph shall be  
20 effective only until the adoption by the commission of the new  
21 edition of the Florida Building Code every third year. At such  
22 time, the commission shall review such amendment for  
23 consistency with the criteria in paragraph (6)(a) and adopt  
24 such amendment as part of the Florida Building Code or rescind  
25 the amendment. The commission shall immediately notify the  
26 respective local government of the rescission of any  
27 amendment. After receiving such notice, the respective local  
28 government may readopt the rescinded amendment pursuant to the  
29 provisions of this paragraph.

30           7. Each county and municipality desiring to make local  
31 technical amendments to the Florida Building Code shall by

1 interlocal agreement establish a countywide compliance review  
2 board to review any amendment to the Florida Building Code,  
3 adopted by a local government within the county pursuant to  
4 this paragraph, that is challenged by any substantially  
5 affected party for purposes of determining the amendment's  
6 compliance with this paragraph. If challenged, the local  
7 technical amendments shall not become effective until time for  
8 filing an appeal pursuant to subparagraph 8 has expired or, if  
9 there is an appeal, until the commission issues its final  
10 order determining the adopted amendment is in compliance with  
11 this subsection.

12         8. If the compliance review board determines such  
13 amendment is not in compliance with this paragraph, the  
14 compliance review board shall notify such local government of  
15 the noncompliance and that the amendment is invalid and  
16 unenforceable until the local government corrects the  
17 amendment to bring it into compliance. The local government  
18 may appeal the decision of the compliance review board to the  
19 commission, ~~which shall conduct a hearing under chapter 120~~  
20 ~~and the uniform rules of procedure.~~ If the compliance review  
21 board determines such amendment to be in compliance with this  
22 paragraph, any substantially affected party may appeal such  
23 determination to the commission, ~~which shall conduct a hearing~~  
24 ~~under chapter 120 and the uniform rules of procedure.~~ Any such  
25 appeal shall be filed with the commission within 14 days of  
26 the board's written determination. The commission shall  
27 promptly refer the appeal to the Division of Administrative  
28 Hearings for the assignment of an administrative law judge.  
29 The administrative law judge shall conduct the required  
30 hearing within 30 days, and shall enter a recommended order  
31 within 30 days of the conclusion of such hearing. The

1 commission shall enter a final order within 30 days  
2 thereafter. The provisions of chapter 120 and the uniform  
3 rules of procedure shall apply to such proceedings. The local  
4 government adopting the amendment that is subject to challenge  
5 has the burden of proving that the amendment complies with  
6 this paragraph in proceedings before the compliance review  
7 board and the commission, as applicable.Actions of the  
8 commission are subject to judicial review pursuant to s.  
9 120.68. The compliance review board shall determine whether  
10 its decisions apply to a respective local jurisdiction or  
11 apply countywide.

12 9.8. An amendment adopted under this paragraph shall  
13 include a fiscal impact statement which documents the costs  
14 and benefits of the proposed amendment. Criteria for the  
15 fiscal impact statement shall include the impact to local  
16 government relative to enforcement, the impact to property and  
17 building owners, as well as to industry, relative to the cost  
18 of compliance. The fiscal impact statement may not be used as  
19 a basis for challenging the amendment for compliance.

20 10.9. In addition to subparagraphs 7. and 9. 8., the  
21 commission may review any amendments adopted pursuant to this  
22 subsection and make nonbinding recommendations related to  
23 compliance of such amendments with this subsection.

24 Section 15. Effective October 1, 2003, subsection (1)  
25 of section 553.74, Florida Statutes, is amended to read:

26 553.74 Florida Building Commission.--

27 (1) The Florida Building Commission is created and  
28 shall be located within the Department of Community Affairs  
29 for administrative purposes. Members shall be appointed by the  
30 Governor subject to confirmation by the Senate. The commission  
31 shall be composed of 23 members, consisting of the following:

- 1           (a) One architect registered to practice in this state  
2 and actively engaged in the profession.
- 3           (b) One structural engineer registered to practice in  
4 this state and actively engaged in the profession.
- 5           (c) One air-conditioning or mechanical contractor  
6 certified to do business in this state and actively engaged in  
7 the profession.
- 8           (d) One electrical contractor certified to do business  
9 in this state and actively engaged in the profession.
- 10          (e) One member from fire protection engineering or  
11 technology who is actively engaged in the profession.
- 12          (f) One general contractor certified to do business in  
13 this state and actively engaged in the profession.
- 14          (g) One plumbing contractor licensed to do business in  
15 this state and actively engaged in the profession.
- 16          (h) One roofing ~~or, sheet metal, or air-conditioning~~  
17 contractor certified to do business in this state and actively  
18 engaged in the profession.
- 19          (i) One residential contractor licensed to do business  
20 in this state and actively engaged in the profession.
- 21          (j) Three members who are municipal or district codes  
22 enforcement officials, one of whom is also a fire official.
- 23          (k) One member who represents the Department of  
24 Insurance.
- 25          (l) One member who is a county codes enforcement  
26 official.
- 27          (m) One member of a Florida-based organization of  
28 persons with disabilities or a nationally chartered  
29 organization of persons with disabilities with chapters in  
30 this state.
- 31

1           (n) One member of the manufactured buildings industry  
2 who is licensed to do business in this state and is actively  
3 engaged in the industry.

4           (o) One mechanical or electrical engineer registered  
5 to practice in this state and actively engaged in the  
6 profession.

7           (p) One member who is a representative of a  
8 municipality or a charter county.

9           (q) One member of the building products manufacturing  
10 industry who is authorized to do business in this state and is  
11 actively engaged in the industry.

12           (r) One member who is a representative of the building  
13 owners and managers industry who is actively engaged in  
14 commercial building ownership or management.

15           (s) One member who is a representative of the  
16 insurance industry.

17           (t) One member who is a representative of public  
18 education.

19           (u) One member who shall be the chair.  
20

21 Any person serving on the commission under paragraph (c) or  
22 paragraph (h) on October 1, 2003, and who has served less than  
23 two full terms is eligible for reappointment to the commission  
24 regardless of whether he or she meets the new qualification.

25           Section 16. Subsection (7) is added to section 553.77,  
26 Florida Statutes, to read:

27           553.77 Specific powers of the commission.--

28           (7) The commission shall by rule establish an informal  
29 process of rendering nonbinding interpretations of the Florida  
30 Building Code. The commission is specifically authorized to  
31 refer interpretive issues to organizations that represent

1 those engaged in the construction industry. The commission is  
2 directed to immediately implement the process prior to the  
3 completion of formal rulemaking. It is the intent of the  
4 Legislature that the commission create a process to refer  
5 questions to a small, rotating group of individuals licensed  
6 under part XII of chapter 468, to which a party can pose  
7 questions regarding the interpretation of code provisions. It  
8 is the intent of the Legislature that the process provide for  
9 the expeditious resolution of the issues presented and  
10 publication of the resulting interpretation on the Building  
11 Code Information System. Such interpretations are to be  
12 advisory only and nonbinding on the parties or the commission.

13 Section 17. Effective October 1, 2002, section  
14 553.791, Florida Statutes, is created to read:

15 553.791 Alternative plans review and inspection.--

16 (1) As used in this section, the term:

17 (a) "Applicable codes" means the Florida Building Code  
18 and any local technical amendments to the Florida Building  
19 Code but does not include the applicable minimum fire  
20 prevention and firesafety codes adopted pursuant to chapter  
21 633.

22 (b) "Building" means any construction, erection,  
23 alteration, demolition, or improvement of, or addition to, any  
24 structure for which permitting by a local enforcement agency  
25 is required.

26 (c) "Building code inspection services" means those  
27 services described in s. 468.603(6) and (7) involving the  
28 review of building plans to determine compliance with  
29 applicable codes and those inspections required by law of each  
30 phase of construction for which permitting by a local

31

1 enforcement agency is required to determine compliance with  
2 applicable codes.

3 (d) "Duly authorized representative" means an agent of  
4 the private provider identified in the permit application who  
5 reviews plans or performs inspections as provided by this  
6 section and who is licensed as an engineer under chapter 471  
7 or as an architect under chapter 481 or who holds a standard  
8 certificate under part XII of chapter 468.

9 (e) "Local building official" means the individual  
10 within the governing jurisdiction responsible for direct  
11 regulatory administration or supervision of plans review,  
12 enforcement, and inspection of any construction, erection,  
13 alteration, demolition, or substantial improvement of, or  
14 addition to, any structure for which permitting is required to  
15 indicate compliance with applicable codes and includes any  
16 duly authorized designee of such person.

17 (f) "Permit application" means a properly completed  
18 and submitted application for:

19 1. The requested building or construction permit.  
20 2. The plans reviewed by the private provider.  
21 3. The affidavit from the private provider required  
22 pursuant to subsection (5).

23 4. Any applicable fees.

24 5. Any documents required by the local building  
25 official to determine that the fee owner has secured all other  
26 government approvals required by law.

27 (g) "Private provider" means a person licensed as an  
28 engineer under chapter 471 or as an architect under chapter  
29 481. For purposes of performing inspections under this section  
30 for additions and alterations that are limited to 1000 square  
31 feet or less to residential buildings, the term "private

1 provider" also includes a person who holds a standard  
2 certificate under part XII of chapter 468.

3 (h) "Request for certificate of occupancy or  
4 certificate of completion" means a properly completed and  
5 executed application for:

6 1. A certificate of occupancy or certificate of  
7 completion.

8 2. A certificate of compliance from the private  
9 provider required pursuant to subsection (10).

10 3. Any applicable fees.

11 4. Any documents required by the local building  
12 official to determine that the fee owner has secured all other  
13 government approvals required by law.

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

28 (3) A private provider and any duly authorized  
29 representative may only perform building code inspection  
30 services that are within the disciplines covered by that  
31 person's licensure or certification under chapter 481, chapter

1 471, or chapter 468. A private provider may not provide  
2 building code inspection services pursuant to this section  
3 upon any building designed or constructed by the private  
4 provider or the private provider's firm.

5 (4) A fee owner using a private provider to provide  
6 building code inspection services shall notify the local  
7 building official at the time of permit application on a form  
8 to be adopted by the commission. This notice shall include the  
9 following information:

10 (a) The services to be performed by the private  
11 provider.

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

21 (c) An acknowledgment from the fee owner in  
22 substantially the following form:

23  
24 I have elected to use one or more private  
25 providers to provide building code plans review  
26 and/or inspection services on the building that  
27 is the subject of the enclosed permit  
28 application, as authorized by s. 553.791,  
29 Florida Statutes. I understand that the local  
30 building official may not review the plans  
31 submitted or perform the required building

1       inspections to determine compliance with the  
2       applicable codes, except to the extent  
3       specified in said law. Instead, plans review  
4       and/or required building inspections will be  
5       performed by licensed or certified personnel  
6       identified in the application. The law  
7       requires minimum insurance requirements for  
8       such personnel, but I understand that I may  
9       require more insurance to protect my interests.  
10       By executing this form, I acknowledge that I  
11       have made inquiry regarding the competence of  
12       the licensed or certified personnel and the  
13       level of their insurance and am satisfied that  
14       my interests are adequately protected. I agree  
15       to indemnify, defend, and hold harmless the  
16       local government, the local building official,  
17       and their building code enforcement personnel  
18       from any and all claims arising from my use of  
19       these licensed or certified personnel to  
20       perform building code inspection services with  
21       respect to the building that is the subject of  
22       the enclosed permit application.

23  
24       If the fee owner makes any changes to the listed private  
25       providers or the services to be provided by those private  
26       providers, the fee owner shall, within 1 business day after  
27       any change, update the notice to reflect such changes.

28       (5) A private provider performing plans review under  
29       this section shall review construction plans to determine  
30       compliance with the applicable codes. Upon determining that  
31       the plans reviewed comply with the applicable codes, the

1 private provider shall prepare an affidavit or affidavits on a  
2 form adopted by the commission certifying, under oath, that  
3 the following is true and correct to the best of the private  
4 provider's knowledge and belief:

5 (a) The plans were reviewed by the affiant, who is  
6 duly authorized to perform plans review pursuant to this  
7 section and holds the appropriate license or certificate.

8 (b) The plans comply with the applicable codes.

9 (6)(a) Within 30 business days after receipt of a  
10 permit application, the local building official shall issue  
11 the requested permit or provide a written notice to the permit  
12 applicant identifying the specific plan features that do not  
13 comply with the applicable codes, as well as the specific code  
14 chapters and sections. If the local building official does  
15 not provide a written notice of the plan deficiencies within  
16 the prescribed 30-day period, the permit application shall be  
17 deemed approved as a matter of law and the permit shall be  
18 issued by the local building official on the next business  
19 day.

20 (b) If the local building official provides a written  
21 notice of plan deficiencies to the permit applicant within the  
22 prescribed 30-day period, the 30-day period shall be tolled  
23 pending resolution of the matter. To resolve the plan  
24 deficiencies, the permit applicant may elect to dispute the  
25 deficiencies pursuant to subsection (12) or to submit  
26 revisions to correct the deficiencies.

27 (c) If the permit applicant submits revisions, the  
28 local building official has the remainder of the tolled 30-day  
29 period plus 5 business days to issue the requested permit or  
30 to provide a second written notice to the permit applicant  
31 stating which of the previously identified plan features

1 remain in noncompliance with the applicable codes, with  
2 specific reference to the relevant code chapters and sections.  
3 If the local building official does not provide the second  
4 written notice within the prescribed time period, the permit  
5 shall be issued by the local building official on the next  
6 business day.

7 (d) If the local building official provides a second  
8 written notice of plan deficiencies to the permit applicant  
9 within the prescribed time period, the permit applicant may  
10 elect to dispute the deficiencies pursuant to subsection (12)  
11 or to submit additional revisions to correct the deficiencies.  
12 For all revisions submitted after the first revision, the  
13 local building official has an additional 5 business days to  
14 issue the requested permit or to provide a written notice to  
15 the permit applicant stating which of the previously  
16 identified plan features remain in noncompliance with the  
17 applicable codes, with specific reference to the relevant code  
18 chapters and sections.

19 (7) A private provider performing required inspections  
20 under this section shall inspect each phase of construction as  
21 required by the applicable codes. The private provider shall  
22 be permitted to send a duly authorized representative to the  
23 building site to perform the required inspections, provided  
24 all required reports and certifications are prepared by and  
25 bear the signature of the private provider. The contractor's  
26 contractual or legal obligations are not relieved by any  
27 action of the private provider.

28 (8) A private provider performing required inspections  
29 under this section shall provide notice to the local building  
30 official of the date and approximate time of any such  
31 inspection no later than the prior business day by 2 p.m.

1 local time or by any later time permitted by the local  
2 building official in that jurisdiction. The local building  
3 official may visit the building site as often as necessary to  
4 verify that the private provider is performing all required  
5 inspections.

6 (9) Upon completing the required inspections at each  
7 applicable phase of construction, the private provider shall  
8 record such inspections on a form acceptable to the local  
9 building official. These inspection records shall reflect  
10 those inspections required by the applicable codes of each  
11 phase of construction for which permitting by a local  
12 enforcement agency is required. The private provider, before  
13 leaving the project site, shall post each completed inspection  
14 record, indicating pass or fail, at the site and provide the  
15 record to the local building official within 2 business days.  
16 Records of all required and completed inspections shall be  
17 maintained at the building site at all times and made  
18 available for review by the local building official. The  
19 private provider shall report to the local enforcement agency  
20 any condition that poses an immediate threat to public safety  
21 and welfare.

22 (10) Upon completion of all required inspections, the  
23 private provider shall prepare a certificate of compliance, on  
24 a form acceptable to the local building official, summarizing  
25 the inspections performed and including a written  
26 representation, under oath, that the stated inspections have  
27 been performed and that, to the best of the private provider's  
28 knowledge and belief, the building construction inspected  
29 complies with the approved plans and applicable codes. The  
30 statement required of the private provider shall be  
31 substantially in the following form:

1  
2       To the best of my knowledge and belief, the  
3       building components and site improvements  
4       outlined herein and inspected under my  
5       authority have been completed in conformance  
6       with the approved plans and the applicable  
7       codes.

8  
9       (11) Within 2 business days after receipt of a request  
10      for a certificate of occupancy or certificate of completion  
11      and the applicant's presentation of a certificate of  
12      compliance and approval of all other government approvals  
13      required by law, the local building official shall issue the  
14      certificate of occupancy or certificate of completion or  
15      provide a notice to the applicant identifying the specific  
16      deficiencies, as well as the specific code chapters and  
17      sections. If the local building official does not provide  
18      notice of the deficiencies within the prescribed 2-day period,  
19      the request for a certificate of occupancy or certificate of  
20      completion shall be deemed granted and the certificate of  
21      occupancy or certificate of completion shall be issued by the  
22      local building official on the next business day. To resolve  
23      any identified deficiencies, the applicant may elect to  
24      dispute the deficiencies pursuant to subsection (12) or to  
25      submit a corrected request for a certificate of occupancy or  
26      certificate of completion.

27      (12) If the local building official determines that  
28      the building construction or plans do not comply with the  
29      applicable codes, the official may deny the permit or request  
30      for a certificate of occupancy or certificate of completion,  
31      as appropriate, or may issue a stop-work order for the project

1 or any portion thereof, if the official determines that such  
2 noncompliance poses a threat to public safety and welfare,  
3 subject to the following:

4 (a) The local building official shall be available to  
5 meet with the private provider within 2 business days to  
6 resolve any dispute after issuing a stop-work order or  
7 providing notice to the applicant denying a permit or request  
8 for a certificate of occupancy or certificate of completion.

9 (b) If the local building official and private  
10 provider are unable to resolve the dispute, the matter shall  
11 be referred to the local enforcement agency's board of  
12 appeals, if one exists, which shall consider the matter at its  
13 next scheduled meeting or sooner. Any decisions by the local  
14 enforcement agency's board of appeals, or local building  
15 official if there is no board of appeals, may be appealed to  
16 the commission pursuant to s. 553.77(1)(h).

17 (c) Notwithstanding any provision of this section, any  
18 decisions regarding the issuance of a building permit,  
19 certificate of occupancy, or certificate of completion may be  
20 reviewed by the local enforcement agency's board of appeals,  
21 if one exists. Any decision by the local enforcement agency's  
22 board of appeals, or local building official if there is no  
23 board of appeals, may be appealed to the commission pursuant  
24 to s. 553.77(1)(h), which shall consider the matter at the  
25 commission's next scheduled meeting.

26 (13) For the purposes of this section, any notice to  
27 be provided by the local building official shall be deemed to  
28 be provided to the person or entity when successfully  
29 transmitted to the facsimile number listed for that person or  
30 entity in the permit application or revised permit

31

1 application, or, if no facsimile number is stated, when  
2 actually received by that person or entity.

3 (14) No local enforcement agency, local building  
4 official, or local government may adopt or enforce any laws,  
5 rules, procedures, or standards more stringent than those  
6 prescribed by this section.

7 (15) A private provider may perform building code  
8 inspection services under this section only if the private  
9 provider maintains insurance for professional and  
10 comprehensive general liability with minimum policy limits of  
11 \$1 million per occurrence relating to all services performed  
12 as a private provider, including tail coverage for a minimum  
13 of 5 years subsequent to the performance of building code  
14 inspection services.

15 (16) When performing building code inspection  
16 services, a private provider is subject to the disciplinary  
17 guidelines of the applicable professional board with  
18 jurisdiction over his or her license or certification under  
19 chapter 468, chapter 471, or chapter 481. All private  
20 providers shall be subject to the disciplinary guidelines of  
21 s. 468.621(1)(c)-(h). Any complaint processing,  
22 investigation, and discipline that arise out of a private  
23 provider's performance of building code inspection services  
24 shall be conducted by the applicable professional board.

25 (17) Each local building code enforcement agency shall  
26 develop and maintain a process to audit the performance of  
27 building code inspection services by private providers  
28 operating within the local jurisdiction.

29 (18) The local government, the local building  
30 official, and their building code enforcement personnel shall  
31 be immune from liability to any person or party for any action

1 or inaction by a fee owner of a building, or by a private  
2 provider or its duly authorized representative, in connection  
3 with building code inspection services as authorized in this  
4 act.

5 (19) The Florida Building Commission shall report on  
6 the implementation of this section to the Legislature on or  
7 before January 1, 2004, as part of the report required by s.  
8 553.77(1)(b).

9 Section 18. Paragraph (a) of subsection (6) of section  
10 553.842, Florida Statutes, is amended to read:

11 553.842 Product evaluation and approval.--

12 (6) Statewide or local approval of products, methods,  
13 or systems of construction may be achieved by one of the  
14 following methods. One of these methods must be used by local  
15 officials or the commission to approve the following  
16 categories of products: panel walls, exterior doors, roofing,  
17 skylights, windows, shutters, and structural components as  
18 established by the commission by rule.

19 (a) Products for which the code establishes  
20 standardized testing or comparative or rational analysis  
21 methods shall be approved by submittal and validation of one  
22 of the following reports or listings indicating that the  
23 product or method or system of construction was evaluated to  
24 be in compliance with the Florida Building Code and that the  
25 product or method or system of construction is, for the  
26 purpose intended, at least equivalent to that required by the  
27 Florida Building Code:

28 1. A certification mark or listing of an approved  
29 certification agency;

30 2. A test report from an approved testing laboratory;

31

1           3. A product evaluation report based upon testing or  
2 comparative or rational analysis, or a combination thereof,  
3 from an approved product evaluation entity; or

4           4. A product evaluation report based upon testing or  
5 comparative or rational analysis, or a combination thereof,  
6 developed and signed and sealed by a professional engineer or  
7 architect, licensed in this state.

8  
9 A product evaluation report or a certification mark or listing  
10 of an approved certification agency which demonstrates that  
11 the product or method or system of construction complies with  
12 the Florida Building Code for the purpose intended shall be  
13 equivalent to a test report and test procedure as referenced  
14 in the Florida Building Code.

15           Section 19. Section 604.50, Florida Statutes, is  
16 amended to read:

17           604.50 Nonresidential farm buildings.--Notwithstanding  
18 any other law to the contrary, any nonresidential farm  
19 building ~~located on a farm~~ is exempt from the Florida Building  
20 Code and any county or municipal building code. For purposes  
21 of this section, the term "nonresidential farm building" means  
22 any building or support structure that is used for  
23 agricultural purposes, is located on a farm that is not used  
24 as a residential dwelling, and is located on land that is an  
25 integral part of a farm operation or is classified as  
26 agricultural land under s. 193.461. The term "farm" is as  
27 defined in s. 823.14.

28           Section 20. Subsection (1) of section 627.0629,  
29 Florida Statutes, as amended by chapter 2001-372, Laws of  
30 Florida, is amended to read:

31

1           627.0629 Residential property insurance; rate  
2 filings.--  
3           (1) Effective June 1, 2002,a rate filing for  
4 residential property insurance must include actuarially  
5 reasonable discounts, credits, or other rate differentials, or  
6 appropriate reductions in deductibles, for properties on which  
7 fixtures or construction techniques demonstrated to reduce the  
8 amount of loss in a windstorm have been installed or  
9 implemented. The fixtures or construction techniques shall  
10 include, but not be limited to, fixtures or construction  
11 techniques which enhance roof strength, roof covering  
12 performance, roof-to-wall strength,  
13 wall-to-floor-to-foundation strength, opening protection, and  
14 window, door, and skylight strength. Credits, discounts, or  
15 other rate differentials for fixtures and construction  
16 techniques which meet the minimum requirements of the Florida  
17 Building Code must be included in the rate filing. All  
18 insurance companies must make a rate filing which includes the  
19 credits, discounts, or other rate differentials by February  
20 28, 2003.

21           Section 21. Except as otherwise expressly provided in  
22 this act, this act shall take effect upon becoming a law.  
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