

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS for SBs 336 & 190

SPONSOR: Senators Constantine and Clary

SUBJECT: Building Codes

DATE: March 21, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cooper	Yeatman	CA	Favorable/CS
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____
4.	_____	_____	RC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill implements the recommendations of the Florida Building Commission providing for a state product approval system, the applicability of the Florida Building Code to storage sheds, plan review of prototype buildings, license fees to fund research and education relating to the construction industry, construction permits, Code Commentary on the Florida Building Code, exemptions from fire safety provisions, the effective date of the code, and other issues relating to the Florida Building Code.

The bill also contains provisions relating to water well contractors, inspection of factory-built school buildings, construction of swimming pools, technical amendments to the Florida Building Code, the Building Code Training Program, development of a rehabilitation code, a study of the necessity for universal elevator keys for emergency personnel, and appointments to the Education Technical Advisory Committee of the Florida Building Commission.

This bill amends the following sections of the Florida Statutes: 373.232, 489.509, 553.415, 553.505, 553.507, 553.73, 553.77, 553.79, 553.841, 553.842, and 553.895.

This bill creates two unspecified section of Florida Law.

II. Present Situation:

Building codes establish minimum safety standards for the design and construction of buildings by addressing such issues as structural integrity; mechanical, plumbing, electrical, lighting, heating, air conditioning, ventilation, fireproofing, and exit systems; safe materials; energy efficiency; and accessibility by persons with physical disabilities. In doing so, these regulations

protect lives and property, promote innovation and new technology, and help ensure economic viability through the availability of safe and affordable buildings and structures.

The reform of Florida's building codes system has been an issue within the construction industry for many years. It was not until Florida endured back-to-back natural disasters - Hurricane Andrew in August 1992, the "Storm of the Century" in March 1993, Tropical Storms Alberto and Beryl in the Summer of 1994, and Hurricanes Erin and Opal during the 1995 Hurricane Season - that the building code system's effectiveness took on statewide significance for the construction industry and all of the stakeholders in the building codes system, including local governments, the banking and real estate industries, the insurance industry, labor unions, state agencies, manufacturers, and Florida's citizens. While it was fortunate that these storms set no records with respect to loss of life, they (particularly Andrew) did break all records for insured losses. This was a direct cause of Florida's insurance crisis in the 1990's, which essentially affected every homeowner in the state.

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

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

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

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

On February 14, 2000 the Florida Building Commission (commission) adopted the Florida Building Code as an administrative rule and submitted it, together with proposed conforming amendments to the Florida Statutes, to the 2000 Legislature for consideration. The commission

also adopted the South Florida Building Code for application in Miami-Dade and Broward Counties.

In 2000 session, the Legislature adopted many of the recommended statutory changes submitted by the commission, directed the commission to incorporate specific changes to the adopted Florida Building Code, and directed the commission to study the applicability of the Florida Building Code to utility buildings and to recommend a statewide product approval system to the Legislature by February, 2001. [Chapter 2000-141, L.O.F.]

In its Report to the 2001 Legislature, the commission reported its progress in implementing the requirements of ch. 2000-141, L.O.F., and its required recommendations to the Legislature. In addition, the commission submitted additional recommendations to address existing statutory inconsistencies, changes to the code amendment process and plan permitting processes, and other related issues.

The following overview of the product approval and storage shed issues and summary of the commission's recommendations was reproduced, to a great extent, from the commission's report. (The entire report may be viewed at www.dca.state.fl.us/fhcd/fbc/legislative/Report/leg2001)

ISSUES ADDRESSED IN THE COMMISSION'S REPORT

Product Approval

Product performance standards are integral to the scheme used by building codes to establish minimum building safety and performance standards. The reforms to the building code system enacted by 98-287, L.O.F., specifically address how products' compliance with the Code are to be established and approved for use in Florida. The commission was given the authority to complete the product approval system by administrative rule but was unable to achieve consensus on system specifics prior to the 2000 Legislative session. Consequently, the commission recommended delaying implementation of the new state system, the continuation of the current system of local approvals until a consensus system is adopted by rule, and that a transition period be provided for implementation of the system after the rules are established.

The 2000 Legislature reviewed the commission's recommendations and through ch. 2000-141, L.O.F., suspended rule adoption authority and directed the commission to make consensus recommendations to the 2001 Legislature for their review and action. In addition, ch. 2000-141, L.O.F., enhanced the existing intent language of the law by requiring the system to use private sector evaluations that indicate compliance with the Code and ensure that there is an effective government oversight, prior to approving a product's acceptance in Florida.

Product Evaluation and Approval, s. 553.842, F.S.

Section 553.842, F.S., was created by 98-287, LOF, to establish the framework governing the product approval system and s. 553.77, F.S., directs the Commission to determine which products must have either state or local approval. The product approval system framework establishes the following requirements:

- Custom fabricated products, using state or locally approved components, are exempt.
- The system allows manufacturers to have their products approved for use either at the local jurisdiction level, for specific local use, or by the state for statewide use.

- State approval constitutes a determination that the tests and evaluations required to demonstrate compliance with standards established by the Code have been conducted and are adequate. As always, local code enforcement officials must determine that the products are being utilized in specific buildings according to the limitations of use established by the evaluations and according to the manufacturer's installation instructions.
- Statewide approval shall preclude local jurisdictions from requiring further testing, evaluation or submission of other evidence as a condition of using the product so long as the product is being used consistent with the conditions of its approval.
- The commission must keep a list of approved products accessible to local code enforcement officials and the public.
- When approval is local, the local official must determine that both the testing and evaluation is adequate, and that the product is being used in accordance with the limitations and instructions established by the evaluation.
- Decisions of local officials regarding local approvals may be appealed first to local boards and then to the Commission. Decisions of the commission regarding both local and state approval are subject to judicial review for any final determination.
- The system requires long-term approvals where feasible, but also provides for recall or revocation of approvals for due cause.
- Approval is based on validation of the reports on the evaluation by testing or rational analysis of product compliance with the standards set by the Code or the intent of the Code. Product testing shall be done by independent, third party, qualified, and accredited testing and laboratory facilities.
- Evaluation shall be conducted by: nationally accredited entities; commission approved evaluation entities; or Florida registered engineers or architects who have no conflict of interest associated with the manufacturer of the product.
- Products approved based on evaluations and certifications by Florida registered engineers or architects must be manufactured under a quality assurance program certified by an approved product evaluation entity.
- To ensure a smooth transition from the current system to the new system, products certified or approved for statewide or local use by an approved product evaluation entity prior to the effective date of the law establishing the statewide product approval system are deemed approved.
- The law provides additional general guidance for developing the state product approval system by specifying that the system must be cost effective, must appropriately promote innovation and new technologies, and must ensure applications for product approval are processed in a timely manner.

Current Product Approval Process

Approval of products is a multi-step process. First, manufacturers have samples of their products evaluated for compliance by approved testing laboratories, evaluation entities or Florida registered engineers or architects. The evaluation is based on testing and/or rational analysis. Next, manufacturers submit reports on the evaluation to the approving authority for validation and approval. The approving entity issues an approval subject to conditions established by the evaluation. Typically, manufacturers have quality assurance programs that monitor production to ensure continued compliance and in some instances these programs are required as a condition of

approval. The final step in approval is the determination that the product is being used consistent with the conditions of approval. This final step is always performed by the code enforcement official. The most extensive private sector programs for verifying product compliance with standards are administered by "certification agencies." These organizations test products to evaluate compliance, conduct production monitoring programs to ensure continued compliance, and certify compliance to specific standards. The most widely recognized of these is Underwriters Laboratories (UL) which certifies and labels electrical products. The product approval system established by s. 553.842, F.S., stipulates that validation is not required where compliance is certified by recognized entities.

Commission Recommendation

The commission recommends that either state or local approval be required for all products for which the Code establishes standards. Approval of a product by the State would be voluntary and at the manufacturer's discretion. Approval is based on the evaluation of a product's compliance with the standards established by the Code and validation of the information supporting compliance presented to the approving entity. The commission recommends that approval also require manufacturers operate quality assurance programs to ensure that approved products continue to comply. The commission's recommendations for implementing the system incorporate specified evaluation methods and recognize the differences between local approval processes and State/commission approval processes.

Storage Sheds

Historically, portable buildings not designed for human habitation have been regulated in a bifurcated manner, allowing the manufacturer to choose regulation by local governments or the Department of Community Affairs' Manufactured Buildings Program. Generally, manufacturers delivering units to Miami-Dade and Broward counties opted to be regulated under the Manufactured Buildings Program, while manufacturers delivering units to the rest of the state opted to be governed by local regulations. The 2000 Florida Legislature removed the manufacturers' option to choose the regulating entity and determined that all portable buildings manufactured offsite would be regulated under the Florida Building Code.

The Legislature recognized that portable buildings not designed for human habitation were different from buildings where people live or work. Section 112 of ch. 2000-141, L.O.F., directed the commission to review the applicability of the full proposed Florida Building Code to buildings manufactured and assembled offsite but not intended for human habitation, including, but not limited to, storage sheds and lawn storage buildings. The commission was directed to consider whether these buildings should be subject to the same standards applicable to buildings intended for human habitation, the additional financial costs associated with compliance, the risk reduction effects associated with compliance, and the long-term economic and practical consequences of compliance.

The commission appointed an ad hoc committee to review portable buildings in the context of the Florida Building Code. Committee participants included members of the commission, representatives of the manufactured buildings industry, and the Florida Portable Building Manufacturers Association, a trade group consisting of companies that manufacture portable storage buildings for use in the State of Florida.

The buildings are usually constructed of light-weight aluminum with walls measuring .019 inches in thickness. The buildings are designed to store lawn mowers, garden equipment, and other personal property from the weather and are not meant to shelter or protect people. Industry groups expressed concern that the buildings as currently constructed do not meet the impact standards required in the Florida Building Code. The Florida Building Code will require the buildings to be constructed to withstand internal pressure to prevent additional wind-borne debris resulting in the penetration of the envelope of another building. Complying with the impact standards would require a substantial change in the way these buildings are constructed and the benefits gained would not warrant the increased cost that consumers would incur.

The long-term consequence of requiring the buildings to comply with the impact standards would be a surge in the number of Do-It-Yourself kits used in Florida. The issue becomes how these kits can be held to the same standards and equivalent permitting requirements as those structures manufactured offsite subject to the Florida Building Code. Do-It-Yourself kits and conventionally-constructed buildings should be subject to the same requirements as those manufactured under the Manufactured Buildings Program. Further, the consumer should be notified that the unit may require permitting by the local enforcement agency, constructed in accordance with applicable provisions of the Florida Building Code, and installed and anchored in accordance with regulations.

Section 553.37(7), F.S., grants the Department of Community Affairs the authority to establish fees to pay the cost incurred for work related to administration and enforcement of the Manufactured Building Program. These buildings are included in the Manufactured Building Program and fee authority is available.

Commission Recommendation

The commission recommended to exempt buildings not designed for human habitation with floor areas of 720 square feet or less, from mandatory impact standards of the Florida Building Code, and to exempt all types of construction. In addition, the commission recommended that a warning be placed on the panel of lawn/storage kits sold in retail stores stating:

“This structure may not meet Code requirements. Consult with your local building department or jurisdiction prior to construction for applicability of permitting and Code requirements.”

Code Implementation Date

The commission recommends that implementation of the Florida Building Code be delayed until October 1, 2001. This will allow an additional three months for training of building officials, contractors, architects and engineers in the differences between the existing state minimum building codes and the new Florida Building Code. The date for printing of the new Code, which is an integral part of training on the Code, was tied to finalizing the Code for rule adoption. Rule adoption was delayed several months last year to resolve rule challenges by affected construction interests.

Prototype Buildings

The commission recommends that the plan review of prototype buildings be privatized, recognizing the option of contracting with an alternative public entity or a private entity as the

service provider, allowing for an administrator to perform such duties as monitoring and record keeping. The commission requests specific legislative authority to establish the method of compensation to the entity providing plan review service and fees for providing administration functions provided by the commission such as record keeping and monitoring. The commission requests specific legislative authority for exemption to public record and sunshine laws to ensure the safety and security of buildings designated as essential facilities in the building code, such as schools, correctional institutions, and hospitals.

Miscellaneous Statutory Changes

The commission requests:

- amending of s. 489.509(3), F.S., to transfer \$4 from each electrical contractor's license to the Department of Community Affairs, rather than the Department of Education, for research and education relating to construction industry issues and the Code.
- clarification of the exemption of Prototype Buildings from local technical amendments to the Florida Building Code in s. 553.73(3)(c), F.S., by amending that section and eliminating potentially inconsistent revisions in s. 553.77(6), F.S.
- amending s. 553.79, F.S., to authorize the commission to establish standards for preliminary construction prior to completion of plans review (e.g., foundation-only permits, etc.) and to authorize the commission to establish the minimum requirements for plans review. As existing practice conflicts with legislative provisions, the commission recommends that the statute be amended to eliminate conflicts.
- statutory authority to produce explanatory text to accompany the Florida Building Code similar to the Code Commentary produced by the publisher of the Standard Building Code. This text would provide explanatory comments for compliance rather than mandatory direction, and the Commission recommends exemption from chapter 120, F.S.
- that the federal disproportionate cost exception from path of travel upgrades to renovation of existing buildings apply to Florida's vertical accessibility standards (s. 553.509, F.S.). The commission recommends that local officials determine cost-prohibition rather than the State.
- correction of cross-references to s. 316.1955, F.S., contained in s. 553.507, F.S., and s. 553.5041, F.S. The referenced provisions relating to accessible parking have been relocated to s. 553.5041(4), F.S.
- revising s. 553.895, F.S., to exempt telecommunications spaces located in telecommunications buildings from the requirements of s. 553.895(2), F.S., provided that those spaces are equipped with an equivalent fire prevention standard approved by both the Florida Building Commission and the State Fire Marshal.
- delegation of authority from the Legislature to determine transition issues such as the status of pending building permit applications on the date that the new Code takes effect. The issue is at what point building plans have to be resubmitted under the new Code, or whether they continue to comply with the older codes (i.e., this is a "grandfathering" issue). The commission recommends that this determination be made through the Chapter 120, F.S., rulemaking procedures in which all affected parties will participate, be heard and develop a consensus product.

ISSUES NOT ADDRESSED IN THE COMMISSION'S REPORT

Water Well Contractors

Section 373.323, F.S., provides for the licensure of water well contractors. Persons wanting to become water well contractors must obtain a license from the water management district where the person's principal place of business is located. Licensure qualifications, examination requirements, and disciplinary procedures are specified in this section.

Factory-Built School Buildings

Section 533.415, F.S., provides an alternative procedure for the construction and alteration of factory-built school buildings. Subsection (9) requires school and community college districts to provide for periodic inspections of such buildings during each phase of construction or alteration. Subsection (13) requires that, by July 1, 2000, all existing and newly constructed factory-built school buildings bear an identification label signifying that the structure has been brought into compliance with chapter 5 of the Uniform Code for Public Educational Facilities, and after July 1, 2001, the Florida Building Code. After this date, existing buildings without this label may not be used as classrooms.

The Florida Building Code

Section 553.73, F.S., requires the commission to adopt, by rule, the Florida Building Code, which must contain or incorporate by reference all laws and rules which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and enforcement of such laws and rules. This section also provides for amendments to the Code.

The Residential Swimming Pool Safety Act

Chapter 2000-143, L.O.F., created ch. 515, F.S., The Residential Swimming Pool Safety Act. This act requires all new residential swimming pools to be equipped with at least one of four pool safety features; a pool barrier; an exit alarm on doors with pool access; an approved safety cover; or self-closing or self-latching doors providing access to the pool. In order to pass a building inspection and receive a certificate of completion from the local building official, the pool must comply with the safety requirements of the bill. The bill creates a second degree misdemeanor for violating the terms of the bill. The Department of Health is required to develop or adopt a nationally recognized drowning prevention education program and develop or adopt and make available to the public a drowning prevention pamphlet. Certain public pools, drainage and agricultural ponds and canals are exempt from the law.

Chapter 36, section 315.2 of the Florida Building Code, provides standards for the construction of residential swimming pools. This provision is largely derived from The Standard Swimming Pool Code, 1997 Edition, published as a supplement to the Standard Building Code. In addition, some local governments have ordinances requiring that outdoor residential pools be enclosed or fenced. Violations of such ordinances are generally enforced as code enforcement matters.

Building Code Training Program

Section 553.841, F.S., requires the commission, by rule, to establish the Building Code Training Program to develop and provide a core curriculum and advance module courses relating to the Florida Building Code and a system of administering and enforcing the Florida Building Code.

The program must be developed, implemented, and administered by the commission in consultation with the Department of Education, the Department of Community Affairs, the Department of Business and Professional Regulation, the State Fire Marshal, the State University System, and the Division of Community Colleges.

III. Effect of Proposed Changes:

Section 1 amends s. 373.323, F.S., to provide that water well contractors are authorized to install, repair, and modify pumps and tanks in accordance with applicable provisions of the Florida Building Code. In addition, licensees are authorized to install pumps, tanks and water conditioning equipment of all water well systems.

Section 2 amends s. 489.509, F.S., to require \$4 from the application or renewal fee paid by electrical contractors and alarm system contractors be transferred to the Department of Community Affairs, rather than the Department of Education, to fund research projects relating to the building construction industry or continuing education programs to persons engaged in the building industry in Florida. It is further amended to eliminate specifications for the use of those funds – 50% to a graduate program at a Florida University and 50% to all accredited private and state universities offering courses in building construction. This change is consistent with changes made in section 40 of ch. 2000-141, L.O.F. to s. 489.109(3), which applies to application and renewal fees paid by other contractors in the construction industry.

Section 3 amends 533.415(9), F.S., to allow an approved inspection agency, certified by DCA, to conduct periodic inspections of factory built school buildings and allows the school or community college districts to charge the manufacturer for such inspections. Subsection (13) is amended to delay, from July 1, 2000 to January 1, 2002, the deadline for inspecting factory-built school buildings currently in use.

Sections 4 and 5 correct cross-references to s. 316.1955, F.S., which was renumbered by ch. 2000-141, F.S., L.O.F., as s. 553.5041, F.S. This law transferred the accessible parking requirements from the Department of Transportation statutes (ch. 316, F.S.) to the Florida statute governing accessibility by handicapped persons (Part V of ch. 553, F.S.).

Section 6 amends s. 553.73, F.S., to address provisions relating to the State Minimum Building Code. Subsection (2) is amended to require the Florida Building Code to provide for uniform implementation of the standards and criteria for residential swimming pool barriers, pool covers, latching devices, door and window exit alarms, and other equipment required by chapter 515, F.S., the Residential Swimming Pool Safety Act, consistent with the intent of s. 515.23, F.S.

Currently, subsection (3), F.S., requires the Florida Building Commission to modify the model codes used in the development of the Florida Building Code. The commission is authorized to modify the code as needed to accommodate the specific need of this state. This subsection is amended to clarify that “specific needs” means “needs identifies as a unique physical characteristic that relate to Florida’s geography, climatic condition, soil, topography or other conditions that are measurably different form other areas of the nation and where the commission

determines that model code does not adequately provide a standard of safety or protection for the state.”

This subsection is also amended to incorporate procedural changes agreed to in a settlement agreement between the Florida Building Commission and the Florida Home Builders Association, resulting from a rule challenge by the association. The commission is authorized to approve technical amendments to the Florida Building Code provided the following conditions are met:

- The amendment is published on the commission’s website for at least 45 days and all associated documentation is made available to any interested party by any Technical Advisory Committee (TAC) of the commission;
- The amendment receives a $\frac{3}{4}$ vote of approval by members of the TAC, with at least $\frac{1}{2}$ of the regular members present;
- Subsequent to TAC approval, the amendment is published on the commission’s website for at least 45 days; and
- Any subsequent modification of the amendment by the commission is based on public testimony and evidence from a public hearing held in accordance with chapter 120, F.S.

Subsection (4) is amended to provide a specific cross-reference to chapter 120 and the uniform rules of procedure, specifically requiring that the commission conduct hearings pursuant to the Administrative Procedure Act and its implementing rules. This provision informs all affected interests of the rules and procedures that will apply to appeals of local government actions on the code.

Subsection (5) of s. 553.73, F.S., is amended to separate the subsection into two separate subsections, thereby clarifying that subsection (5) relates to the adoption of the code and its effectiveness, and new subsection (6) relates to the commission's duty to update and amend the code on a three-year cycle. Language is added to subsection (5) authorizing the commission to provide, by rule, for the status of projects in plan review on the date the new code takes effect. Subsection (6) is amended to specify that the commission may incorporate changes made to any selected model code into the Florida Building Code “no sooner than six months after such model code has been adopted by the promulgating organization ...”

Paragraph (a) of subsection (7) is amended to clarify that annual technical amendments to the Florida Building Code are subject to the provisions added in subsection (3), which require such amendments meet new criteria for adoption.

Subsections (6), (7), (8), (9) and (10) are renumbered, and subsection (8) is amended to specifically exempt storage sheds that are manufactured and assembled offsite, that are not designed for human habitation and have a floor area of 720 square feet or less, from the mandatory wind impact standards of the code, which are additional standards applicable in the High Velocity Hazard Zone in Miami-Dade and Broward counties.

Section 7 amends s. 553.77(1), F.S., to clarify that the commission is authorized to issue declaratory statements relating to construction provisions in the Residential Swimming Pool Safety Act in chapter 515, F.S. In addition, paragraph (h) is amended to clarify that all

commission hearings relating to appeals of decisions of local boards of appeal will be conducted pursuant to the Administrative Procedures Act and the uniform rules of procedure.

Subsection (2), which authorized the Commission to charge fees for the certification of Special Inspectors of Threshold Buildings, is deleted. The licensing provisions for Special Inspectors of Threshold Buildings were transferred to the appropriate licensing boards by sections 37 and 38 of ch. 2000-141, L.O.F.

Subsection (6) is amended to implement the commission's recommendations on a prototype buildings program. The commission is authorized to provide by rule for the review and approval of plans for prototype buildings, either by a public or private entity, and to charge reasonable fees to cover the costs of administration. This section is further amended to correct a conflict between 553.73, F.S., and this section, to clarify that prototype buildings are exempt from locally adopted amendments to the code.

Subsection (7) is added to authorize the commission to produce a commentary document to accompany the code and to provide that the commentary does not constitute binding interpretations of the code.

Section 8 amends s. 553.79(2), F.S., to cross-reference the plan review requirements of the Florida Building Code and a new provision in subsection (6), which provides that the statutory requirement for complete plans review prior to permit issuance is not absolute, but is governed by the commission through the code itself. This addresses the issue of varying plans and specifications for residential versus commercial construction. The commission determined that for residential construction, the applicant is not required to submit detailed electrical, mechanical and plumbing documents, as they are for commercial construction, prior to the issuance of any permit. The administrative requirements of the code reflect the different requirements for different types of construction. This amendment directs code users to the plan review requirements of the code and clarifies the commission's authority to establish those requirements.

Subsection (6) is amended to authorize the commission to establish standards and criteria for issuance of permits for preliminary construction prior to the completion of plan review, including specific authority for permits for building foundations. These standards are to take effect concurrent with the effective date of the Florida Building Code.

Section 9 amends s. 553.841, F.S., which authorizes the commission, by rule, to develop, implement and administer a building code training program. Subsection (12) is created to direct the commission and the Department of Community Affairs, or its designee, to contract annually with the Building Officials Association of Florida (BOAF) to deliver this training through a private partnership composed of the various construction trade associations. At least 15% of the funds allocated from the Hurricane Loss Mitigation Program, pursuant to s. 215.559(2)(a), F.S., not to exceed \$500,000, must be provided to this program.

Section 10 significantly rewrites the product approval provisions in s. 553.842, F.S., consistent with the Florida Building Commission's recommendations, as presented in its February, 2001 report to the Legislature. These changes provide for either state or local approval for all products for which the code establishes standards. Approval of a product by the State would be voluntary

and at the manufacturer's discretion. Approval is based on the evaluation of a product's compliance with the standards established by the code and validation of the information supporting compliance presented to the approving entity. Manufacturers are also required to operate quality assurance programs to ensure approved products continue to comply with the requirements of the code.

Subsection (1) is amended to require the commission adopt by rule a product evaluation and approval system. Paragraph (c) is amended to require the system provide or recognize "product evaluation entities, quality assurance agencies, certification agencies, and validation entities . . .," as well as independent, third-party qualified and accredited testing and laboratory facilities, as required in current law. Paragraph (f) is amended to stipulate that state and local approvals of products are valid until the requirements of the code on which the approval is based change, the product changes, or the approval is revoked.

Subsection (3) is amended to clarify that products or methods or systems of construction "that require approval under s. 553.77," which relates to the general powers of the commission, and that are certified by an approved product evaluation entity be permitted to be used statewide, without further evaluation or approval.

Subsection (4) is amended to establish an effective date of October 1, 2003, for the new product approval system established by this act.

Subsection (5) is amended to establish the first method in which local officials approve products or methods or systems of construction. Through building plans review and inspection, local building officials may determine whether such products or methods or systems of construction comply with the prescriptive standard established in the code. However, this method does not apply to the following categories of products: structural components as established by the commission by rule, panel walls, exterior doors, roofing, skylights, windows and shutters. In addition, local building officials may approve products or methods or systems of construction under the same methods required to be used by the state as specified in proposed subsection (6).

Subsection (6) is created to establish the second and third method of approving products by the state or local building officials. One of these methods must be used in the approval of the following categories of products: panel walls, exterior doors, roofing, skylights, windows, shutters and structural components.

Products for which the code establishes performance measures must be approved by submission and validation of one of the following reports indicating the product or method or system of construction was evaluated to be in compliance with the Florida Building Code and the product or method or system of construction is, for the purpose intended, at least equivalent of that required by the Florida Building Code:

- A certification mark or listing of an approved certification agency;
- A test report from an approved testing laboratory;
- A product evaluation report based upon testing or rational analysis, or a combination thereof, from an approved product evaluation entity; or

- A product evaluation report based upon testing or rational analysis, or a combination thereof, developed and signed and sealed by a professional engineer or architect, licensed in this state, who has no conflict of interest, as established by commission rule.

Products, methods or systems of construction for which there are no specific standards established in the code may be approved by submittal and validation of one a product evaluation report based upon testing or rational analysis, or a combination thereof, from an approved product evaluation entity indicating the product or method or system of construction was evaluated to be in compliance with the intent of the Florida Building Code and the product or method or system of construction is, for the purpose intended, at least equivalent of that required by the Florida Building Code. This product evaluation report may also be from a professional engineer or architect, licensed in this state, who has no conflict of interest.

Subsection (7) is created to require the commission ensure that product manufacturers operate quality assurance programs for all approved products. The commission is required to adopt by rule criteria for operation of such quality assurance programs.

Subsection (8) is created to specify that for local approvals, validation is to be performed by the local building official. The commission is directed to adopt by rule criteria constituting complete validation by the local official. For state approvals, validation is to be performed by validation entities approved by the commission. The commission is directed to adopt by rule criteria for approval of validation entities. Furthermore, such validation entities must be third party entities independent of the product's manufacturer.

Subsection (9) is created to direct the commission to adopt rules to approve the following types of entities that produce information on which product approvals are based:

- Evaluation entities that meet the criteria for approval adopted by the commission by rule. The commission is directed to specifically approve the National Evaluation Service, the International Conference of Building Officials Evaluation Services, the Building Officials and Code Administrators International Evaluation Services, the Southern Building Code Congress International Evaluation Services, and the Miami-Dade County Product Control Division.
- Testing laboratories accredited by national organizations such as A2LA and National Voluntary Laboratory Accreditation Program that are accredited by evaluation entities approved by rule, and laboratories that comply with other guidelines for testing laboratories selected by the commission and adopted by rule.
- Quality assurance entities approved by evaluation entities approved by rule, and by certification agencies approved by rule, and other quality assurance entities that comply with guidelines selected by the commission and adopted by rule.
- Certification agencies accredited by nationally recognized accreditors and other certification agencies that comply with guidelines selected by the commission and adopted by rule.
- Validation entities that comply with accreditation standards established by the commission by rule.

Subsection (6) is renumbered as subsection (10), and is amended to clarify that denials by building officials are subject to the provisions of s. 553.77, F.S., governing appeal of the building official's interpretation of the code.

Subsection (8) is renumbered as subsection (12), and is amended to specify that the commission conduct hearing of appeals of required approvals of a product or method or system of construction "pursuant to chapter 120 and the uniform rules of procedure" and that such appeals be handled "in an expedited manner."

Subsection (9) is renumbered as subsection (13), and is amended to require that hearing of appeals of decisions by local building officials to the commission be conducted "pursuant to chapter 120 and the uniform rules of procedure."

Subsection (10) is renumbered as subsection (14), and is amended to require the commission to maintain a list of the state-approved products, testing laboratories, quality assurance agencies, certification agencies and validation entities.

Subsection (15) is created to require the commission by rule establish criteria for revocation of product approvals as well as approvals of product evaluation entities, testing laboratories, quality assurance entities, certification agencies and validation entities. Revocation is to be governed by section 120.60, F.S., and the uniform rules of procedure.

Subsection (16) is created to require the commission establish a schedule for adoption of the rules required by this part to ensure that the product manufacturing industry has sufficient time to revise products to meet the requirements for approval and submit them for testing or evaluation prior to the system taking effect on October 1, 2003, and to ensure that the availability of statewide approval is not delayed.

Section 11 amends s. 553.895(2), F.S., which provides for the installation of automatic sprinkler systems and smoke detectors. Telecommunications spaces within telecommunications buildings are exempted from the sprinkler requirements of that subsection, if those facilities are equipped to meet an equivalent fire prevention standard approved by both the commission and the State Fire Marshal.

Section 12 addresses the issue of a construction rehabilitation code. Currently, reconstruction of existing buildings is subject to the requirements of the various building codes adopted by the respective jurisdictions in Florida. Upon the effective date of the Florida Building Code, such structures will be subject to the new statewide building code. This section requires the commission to research the issue of adopting a rehabilitation code for the state, and to report its recommendation to the Legislature before the 2002 session.

Section 13 addresses the issue of emergency elevator access. The Department of Business and Professional Regulation estimates that there are approximately 50,000 to 55,000 elevators in the state. Currently, all elevators must have a key available to emergency personnel. This key is either in a lock-box or in the elevator machine room. In addition, some emergency personnel have keys to the most common elevators in use. This section requires the commission to research the issue of requiring all primary elevators in buildings with more than five levels to operate with

a universal key, which allows access and operation of elevators by emergency personnel. The commission is directed to report its recommendations to the Legislature before the 2002 session.

Section 14 changes the effective date of the Florida Building Code to October 1, 2001, notwithstanding the dates on which all of the statutory sections change to implement the code. The commission recommended this delay to allow an additional three months for training of building officials, contractors, architects and engineers in the differences between the existing codes and the new Florida Building Code.

Section 15 requires the Florida Building Commission to appoint the current members of the Building Construction Industry Advisory Committee, as established by Rule 6A-10.029, F.A.C., to the Education Technical Advisory Committee of the Florida Building Commission. The committee membership must be broadly representative of the building construction industry and must consist of not less than ten members. The committee has the following duties:

- To advise the commission on any policies or procedures needed to implement the provisions of sections 489.109 (3), 489.509(3), F.S., which relate to the \$4 fee contractors pay upon application and renewal for certification and registration that is used to fund projects relating to the building construction industry or continuing education programs offered to persons engaged in the construction industry;
- To advise the commission on implementing section 553.841, F.S., which relates to the building code training program administered by the commission;
- To advise the commission areas of priority for which research and continuing education funds should be expended; and
- To review all proposed research and continuing education projects and recommend to the commission those projects which should be funded and the amount of funds to be provided for each.

The commission is also directed, upon receipt of funds by DCA from the Construction Industry Licensing Board and the Electrical Contractors Licensing Board, to determine the amount of funds available for research projects from contractor license fees; and to identify, solicit, and accept funds from other sources for construction and building code issues.

Section 16 provides an effective date of October 1, 2001, unless otherwise provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

Section 2 amends s. 489.509, F.S., to require \$4 from the application or renewal fee paid by electrical contractors and alarm system contractors be transferred to the Department of Community Affairs, rather than the Department of Education, to fund research projects relating to the building construction industry or continuing education programs to persons engaged in the building industry in Florida.

B. Private Sector Impact:

This bill contains several provisions that clarify the code amendment, plans review and permitting processes. To the extent this changes eliminate confusion and redundancies, building industry professionals will benefit.

Implementation of the state product approval system is likely to allow better access to product approval for manufacturers of construction industry related products.

Delaying of the effective date of the code will allow contractors more time to become familiar with the new Florida Building Code.

Manufacturers of lawn-storage sheds will not be required to meet the impact standards of the South-Florida Building Code, which should result in a cost savings to both the manufacturers and consumers.

C. Government Sector Impact:

Section 3 delays, from July 1, 2000 to January 1, 2002, the deadline for inspecting factory-built school buildings currently in use.

Provisions relating to the implementation of a state product approval system will require additional resources for the commission. Estimates of the impact are not available at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 13 changes the effective date of the Florida Building Code to October 1, notwithstanding the dates on which all of the statutory sections change to implement the code. Chapter 2000-141, L.O.F., appears to repeal the rule-making authority for the Department of Environmental Protection and the Department of Management Services to enforce building codes for their respective areas of responsibility on July 1, 2001. Consequently, there will be a gap of three months from the time state agencies cease to enforce their respective codes and when the local

governments assume these responsibilities under the new code. At this time, it is not clear how significant this predicament is. Furthermore, simply extending the responsibility to the state agencies for three additional months may be a problem for these agencies, as they have not budgeted these costs into their operating budgets.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
