



by rule the criteria used to approve evaluation entities that use the commission's product evaluation process. A provision adding the International Association of Plumbing and Mechanical Officials Evaluation Services as an approved product evaluation entity is also deleted, and the bill repeals outdated requirements for a core curriculum course.

The bill provides that the State Fire Marshal may issue an expedited declaratory statement relating to interpretations of the provisions of the Florida Fire Prevention Code. The bill clarifies the process for informal interpretation of the Florida Fire Prevention Code. The bill creates a Fire Code Interpretation Committee and establishes requirements which must be met by members of the committee. The bill provides that nonbinding interpretations of code provisions must be issued within 10 business days after receipt of a request for interpretation and that the Division of State Fire Marshal is directed to charge a fee for nonbinding interpretations which may not exceed \$150 per request.

This bill amends the following sections of the Florida Statutes: 215.5586, 399.02, 399.15, 468.603, 468.83, 468.8311, 468.8312, 468.8319, 468.832, 468.8324, 471.0195, 489.115, 489.1455, 489.517, 553.37, 553.375, 553.73, 553.76, 553.775, 553.79, 553.841, 553.842, 553.844, 553.80, 553.885, 553.9061, 553.912, 627.351, 627.711, 633.0215, 633.026, 633.081, 633.352, 633.521, 633.524, 633.537, and 633.72.

This bill repeals the following sections of the Florida Statutes: 468.627(6), 481.215(5), 481.313(5), 553.509(2), and 718.113(6), and creates one undesignated section of law.

The bill reenacts the following sections of the Florida Statutes: 553.80(1).

## **II. Present Situation:**

### **Elevator Safety**

The "Elevator Safety Act" in ch. 399, F.S., provides the minimum standards for elevator personnel and provides that elevator personnel performing work covered by the Florida Building Code must possess documented training and experience or both, and be familiar with the operation and safety functions of the components and equipment. The Department of Business and Professional Regulation is empowered to carry out all of the provisions of the chapter relating to the inspection and regulation of elevators and to enforce the provisions of the Florida Building Code. These departmental responsibilities fall to the Division of Hotels and Restaurants.

Each elevator must comply with the edition of the Florida Building Code in effect at the time of receipt of application for the construction permit of the elevator. Each alteration to or relocation of an elevator must comply with the edition of the Florida Building Code in effect at the time of receipt of the application for the construction permit to alter or relocate the elevator. Each time an elevator is reclassified, the elevator must be in compliance with the provisions of the code in effect at the time of receipt of the application for the construction permit for the change in classification.

### **Regional Emergency Elevator Access**

In 2004, the Legislature enacted ch. 2004-12, L.O.F., to provide for regional emergency elevator access in response to recommendations from the Florida Building Commission which was directed to identify and research issues related to the universal key concept for primary elevators.<sup>2</sup> Section 339.15, F.S., provides that for each building in the state which is six or more stories in height on which construction was to begin after June 30, 2004, all of the keys for elevators that allow public access, including service and freight elevators, must be keyed so as to allow all elevators within each of the seven state emergency response regions to operate in a fire-emergency with one master elevator key. Each existing building in the state was required to comply by July 1, 2007. Master elevator keys could only be provided to the elevator owners, the owner's agents, elevator contractors, state-certified inspectors, state agency representatives, and the fire department. The Division of State Fire Marshal enforces these requirements.

### **Alternate Power Generators for Elevators**

During the 2006 Regular Session, s. 553.509(2)(a), F.S.,<sup>3</sup> was enacted to require that any person, firm, or corporation that owns, manages, or operates a residential multi-family dwelling, including a condominium, which is at least 75 feet high (high-rise residential buildings) and contains a public elevator, have at least one elevator capable of operating on alternate generated power. In the event of a general power outage, this elevator must ensure that residents have building access for an unspecified number of hours each day over a five-day period following a natural or manmade disaster, emergency, or other civil disturbance. The alternate generated power source must be capable of powering any connected fire alarm system in the building.

The alternate generated power requirements of s. 553.509(2), F.S., do not apply to high-rise buildings that were in existence on October 1, 1997, or which were either under construction or under contract for construction on October 1, 1997.<sup>4</sup> Newly constructed residential multi-family dwellings meeting the criteria of this section must meet the engineering, installation, and verification requirements of s. 553.509(2), F.S., before occupancy.<sup>5</sup>

Section 553.509(2)(b), F.S., provides that, at a minimum, the elevator must be appropriately pre-wired and prepared to accept alternate generated power. The power source must be capable of powering the elevator, a connected building fire alarm system, and emergency lighting in the internal lobbies, hallways, and other internal public portions of the building. The dwellings must either have a generator and fuel source on the property or proof of a current guaranteed service contract providing such equipment and fuel source within 24 hours of a request. Proof of a current service contract for such equipment and fuel must be posted in the elevator machine room or other place conspicuous to the elevator inspector.

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<sup>2</sup> Section 33 of chapter 2001-186, Laws of Florida.

<sup>3</sup> Section 12, ch. 2006-71, L.O.F.

<sup>4</sup> Section 553.507, F.S., exempts such buildings, structures, and facilities from the provisions of ss. 553.501-553.513, F.S., the "Florida Americans with Disabilities Implementation Act."

<sup>5</sup> Section 553.509(2)(c), F.S.

## **Home Inspectors**

In 2007, the Legislature enacted ch. 2007-235, L.O.F., to provide, in part, for the licensure and regulation of private home inspectors effective July 1, 2010. The Department of Business and Professional Regulation was authorized to adopt rules to establish fees to be paid for applications, examination, reexamination, licensing and renewals, and administrative services. The initial application and examination fee may not exceed \$125 plus the actual per applicant cost to the department to purchase an examination. The application fee is non-refundable. The initial license fee and the biennial renewal fee may not exceed \$200. Licensing and continuing education requirements are provided, as are certificates of authorizations for corporations offering home inspection services to the public. After July 1, 2010, a person who performs home inspection services must be licensed by the department.

## **Florida Building Commission**

The commission is established in ch. 553, F.S., and charged with adopting and maintaining the Florida Building Code as a single, unified state building code, and with enforcing requirements that provide effective and reasonable protection for the public safety, health and welfare. The commission consists of 24 members appointed by the governor to represent the various disciplines governed by the requirements of the building code, as well as local governments and code enforcement officials, the insurance industry, and the Department of Financial Services, and one member appointed by the governor to serve as chair of the commission.

## **Powers of the Florida Building Commission**

Pursuant to subsection (1)(f) of s. 553.77, F.S., the commission is provided with the authority to determine the types of products which may be approved for statewide use. The commission must provide for the evaluation and approval of such products, materials, devices, and method of construction for such statewide use, and may prescribe by rule a schedule of reasonable fees to provide for the evaluation and approval of products, materials, devices, and methods of construction. Evaluation and approval must be done by action of the commission or delegated under the provisions of s. 553.842, F.S.

## **Product Evaluation and Approval**

Section 553.842, F.S., provides the commission with the authority to adopt rules to develop a product evaluation and approval system that applies statewide to operate in coordination with the Florida Building Code. Rules relating to product approval are contained in ch. 9B-72, F.A.C.

The commission is authorized to enter into contracts to provide for administration of the product evaluation and approval system, and the system must rely on national and international consensus standards, whenever such standards are adopted into the Florida Building Code, to demonstrate compliance with code standards. Other standards which meet or exceed state

requirements must also be considered.<sup>6</sup> Methodology for statewide approval of products, methods, or systems of construction are provided.

The commission is required to maintain a list of the state-approved products, product evaluation entities, testing laboratories, quality assurance agencies, certification agencies, and validation entities. In addition, the commission is authorized to adopt a rule that identifies standards that are equivalent to or more stringent than those specifically adopted by the Florida Building Code, thereby allowing the use in this state of the products that comply with the equivalent standard. In 2008, the Legislature enacted ch. 2008-191, L.O.F., relating to building code standards. The commission was directed to review the list of product evaluation entities and recommend additions to the list, or report on the evaluation criteria used to approve the evaluation entities. Any rulemaking to adopt such criteria into rule is to be completed by July 1, 2009.

The legislation further provided that the International Association of Plumbing and Mechanical Officials Evaluation Services was approved as an evaluation entity until October 1, 2009. If the association was not permanently approved by the commission as an evaluation entity by that date, products approved on the basis of an association evaluation had to be substituted by an alternative, approved entity by December 31, 2009. Effective January 1, 2010, any product approval issued by the commission based on an association evaluation is void.

### **Citizens Shutter Requirements for Residential Property in the Wind Borne Debris Region**

Section 657.351 (6)(a), F.S., requires that all residential structures located in the wind borne debris region (WBDR) and with coverage amounts of \$750,000 or greater, meet the opening protection requirements of the Florida Building Code to be eligible for a Citizens policy. The wind-borne debris protection region is any area where the basic design wind speed is 120 mph or greater and any area within one mile of the coast where the wind speed is less than 120 mph but greater than 110 mph.

### **Condominiums**

Section 718.113(6), F.S., requires that any condominium building greater than three stories in height must be inspected at least every five years (and within five years if not available for inspection on October 1, 2008) to provide a report under seal of an architect or engineer authorized to practice in this state attesting to required maintenance, useful life, and replacement costs of the common elements. If approved by a majority of the voting interests present at an association meeting, this requirement may be waived. The meeting and approval must occur prior to the end of the five-year period and is effective only for that five-year period.

### **Carbon Monoxide Alarms**

Section 553.885, F.S., requires that certain buildings for which a building permit is issued for new construction on or after July 1, 2008 and having a fossil-fuel-burning heater or appliance, a

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<sup>6</sup> Equivalence of standards for product approval are standards for products which meet or exceed the standards referenced in the Florida Building Code, and which are certified as equivalent for purposes of determining code compliance. (Chapter 9B-72.180, F.A.C.)

fireplace or an attached garage must have an approved operational carbon monoxide alarm installed within 10 feet of each room used for sleeping purposes.

### **State Fire Marshal**

Pursuant to ch. 633, F.S., the Chief Financial Officer is designated as the State Fire Marshal and, as such, carries out the duties of fire prevention, protection and control through the Division of State Fire Marshal.<sup>7</sup> Under ch. 633, F.S., the Division is authorized to regulate, train and certify fire service personnel; investigate the causes of fires; enforce the arson laws; regulate the installation of fire equipment; conduct fire safety inspections of state property; develop fire safety standards; provide facilities for the analysis of fire debris; and operate the Florida State Fire College.

### **III. Effect of Proposed Changes:**

**Section 1.** Amends subsection (6) of s. 339.02, F.S., to provide that the Division of Hotels and Restaurants may not impose updates to the Florida Building Code requiring modifications of heat sensors and electronic controls on existing elevators, as amended into the Safety Code for Existing Elevators and Escalators, ANSI/ASME A17.1 and A17.3, until such time as the elevator is replaced. Provides that the exception does not apply to any building for which a building permit was issued after July 1, 2008.

**Section 2.** Creates a new subsection (7) in s. 339.15, F.S., to create an alternative method of providing regional emergency elevator access by allowing the installation of a uniform lock box to hold all elevator keys. The uniform lock box master key may be issued only to the fire department.

**Section 3.** Amends s. 468.8311, F.S., effective July 1, 2010, to revise the definition of “home inspection services” to include the inspection of windows, doors, walls, floors, and ceilings.

**Section 4.** Amends s. 468.8312, F.S., effective July 1, 2010, to provide the following fee increases pertaining to home inspectors:

- The maximum fee for an initial application and examination is raised from \$125 to \$250.
- The maximum fee for an initial home inspector license is raised from \$200 to \$400.
- The maximum biennial fee for renewal of a license is raised from \$200 to \$400.
- The maximum fee for licensure by endorsement is raised from \$200 to \$400.
- The maximum fee for application for inactive status is raised from \$200 to \$400.
- The maximum fee for providers of continuing education remains unchanged at a maximum of \$500.

**Section 5.** Amends s. 468.8319, F.S., effective July 1, 2010, to provide that no person may perform home inspections without meeting the requirements of part XV of ch. 468, F.S., relating to home inspections.

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<sup>7</sup> The head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of State Fire Marshal is located within the DFS.

**Section 6.** Amends s. 468.832, F.S., effective July 1, 2010, to correct a cross-reference.

**Section 7.** Amends s. 468.8324, F.S., to provide additional requirements which must be met by persons performing home inspection services in order to qualify for a license prior to the new licensing requirements taking effect July 1, 2010.

**Section 8.** Amends s. 215.5586, F.S., effective July 1, 2010, to provide that a licensed home inspector is an entity qualified for selection as a wind certification entity by the Department of Financial Services to provide hurricane mitigation inspections under the My Safe Florida Home Program.

**Section 9.** Amends s. 627.351, F.S., to repeal requirements that homes located in the “wind-borne debris region,” and having an insured value of \$750,000 or more, have opening protections as required under the Florida Building Code in order to be eligible for coverage by Citizens Property Insurance Corporation.

**Section 10.** Amends s. 627.711, F.S., effective July 1, 2010, to remove outdated language and to allow the Financial Services Commission, for the purposes of factoring discounts for insurance, to accept as valid uniform mitigation verification forms signed by a home inspector licensed under s. 468.83, F.S.

**Section 11.** Repeals subsection (6) of s. 718.113, F.S., relating to 5-year inspections of the common elements in condominiums.

**Section 12.** Amends s. 553.37, F.S., to authorize the Department of Community Affairs to provide by rule for manufacturers to pay fees to the administrator directly, including charges incurred for plans review and inspection services, via the Building Code Information System, and for the administration to disburse funds as necessary. The department is authorized to enter into contracts for the performance of administrative duties relating to the inspection and certification of manufactured buildings.

Reinstates local jurisdiction for custom or one-of-a-kind prototype manufactured buildings which was inadvertently deleted in 2008.

**Section 13.** Amends s. 553.375, F.S., to provide that manufactured buildings certified by the Department of Community Affairs restrict recertification due to relocation to those circumstances where the building is being relocated to a site with a higher design wind speed.

**Section 14.** Amends s. 553.73, F.S., to allow the Florida Building Commission to approve amendments to the code during the “glitch cycle” to address equivalence of standards and amendments necessary to accommodate the specific needs of state agencies when agency rules must be updated to reflect federal requirements relating to design criteria for public educational facilities and state licensed facilities. Provides an exemption to Florida Building Code requirements for temporary housing provided by the Department of Corrections to any prisoner in the state correctional system. An exemption is also provided for prefabricated family mausoleums which are assembled on site or which are pre-assembled and delivered on site;

which have the walls, roof, and floor constructed of granite, marble, or reinforced concrete; and which are not more than 250 square feet in area.

Provides that the code may not require that an existing air conditioning system installed on a roof be raised 18 inches up from the surface on which they are installed until such time as the system is replaced. Provides that another agency or local government with the authority to enforce the Florida Building Code may not require otherwise.

**Section 15.** Amends s. 553.76, F.S., to authorize the Florida Building Commission to adopt rules related to its consensus-based decision making process to provide for super majority voting requirements.

**Section 16.** Amends s. 553.775, F.S., to authorize the Florida Building Commission to adopt by rule and impose a fee for nonbinding interpretations of the code. The fee may not exceed \$250.

**Section 17.** Amends s. 553.79, F.S., to provide that inspection services performed by a state agency must be delegated to a local government or an alternative service provider unless such inspections are conducted under a federal delegation of responsibility or are required to be conducted by the agency under the Florida Building Code.

**Section 18.** Amends s. 553.841, F.S., to eliminate outdated requirements for the core curriculum course that is a prerequisite to the advanced module coursework for each profession as developed by the department to administer the Florida Building Code Compliance and Mitigation Program.

**Section 19.** Amends s. 553.842, F.S., to provide that the rules of the Florida Building Commission relating to product evaluation and approval may provide for the payment of fees directly to the commission's contract administrator, and the contract administrator shall remit the appropriate portion of the fee to the Department of Community Affairs.

Provides that an application for state approval of a product must be approved by the Department of Community Affairs after commission staff or a designee verifies within 10 days after receipt of the application, that the application and related documentation are complete. Once the product is approved, it must be immediately added to the list of state-approved products. Departmental approvals must be reviewed and ratified by the commission's program oversight committee except for a showing of good cause.

Adds the International Association of Plumbing and Mechanical Officials Evaluation Services to the list of product evaluation entities, and removes the International Conference of Building Officials Evaluation Services, the Building Officials and Code Administrators International Evaluation Services, and the Southern Building Code Congress International Evaluation Services as evaluation entities. Outdated review and reporting requirements relating to the list of approved entities are deleted.

**Section 20.** Creates subsection (4) in s. 553.844, FS., relating to windstorm loss mitigation; requirements for roofs and opening protections; to provide that notwithstanding the requirements of s. 553.844, F.S., exposed mechanical equipment or appliances fastened to rated stands, platforms, curbs, or slabs are deemed to comply with the wind resistance codes of the Florida

Building Code 2007, as amended, and no further support or enclosure may be required by a state or local official with authority to enforce the Florida Building Code.

**Section 21.** Amends s. 553.885, F.S., to clarify requirements for carbon monoxide alarms. With the exception of hospitals, inpatient hospice facilities, and nursing home facilities licensed by the Agency for Health Care Administration, every separate building or addition to an existing building constructed on or after July 1, 2008, must have an approved operational carbon monoxide alarm if the building or addition:

- Has a fossil-fuel burning heater or appliance,
- A fireplace,
- An attached garage, or
- Another feature, fixture, or element that emits carbon monoxide as a byproduct of combustion.

The alarm must be installed within 10 feet of each room used for sleeping purposes in the new building or addition, or installed at any other location required by the Florida Building Code. Requirements for the alarm may be satisfied with the installation of a battery-powered combination carbon monoxide alarm or battery-powered combination carbon monoxide or smoke alarm.

An exception is provided for existing buildings undergoing alterations or repairs unless that alteration is an addition that extends or increases the floor area, the number of stories, or the height of a building or structure.

**Section 22.** Amends s. 553.9061, F.S., to expand the list of energy efficiency options and elements for increasing thermal efficiency standards to include:

- Other energy efficient water heating systems, as well as solar water heating.
- Energy saving devices and features installed within duct systems.
- Energy saving quality installation procedures for replacement air conditioning systems, including but not limited to, equipment sizing analysis and duct testing.
- Shading devices, suncreening materials, and overhangs.
- Weatherstripping, caulking, and sealing of exterior openings and penetrations.

**Section 23.** Amends s. 553.912, F.S., to require that all replacement air conditioning systems be installed using energy saving quality installation procedures, including equipment siting analysis and duct testing.

**Sections 24 thru 31.** Amends or repeals various sections of statute relating to the repeal of the core curriculum course requirements in section 18 of the bill.

**Section 32.** Reenacts subsection (1) of s. 553.80, F.S., to incorporate amendments made to s. 553.79, F.S.

**Section 33.** Creates subsection (13) in s. 633.0215, F.S., to require that the State Fire Marshal issue an expedited declaratory statement relating to interpretations of the provisions of the Florida Fire Prevention Code, to establish the guidelines under which the expedited statement

may be requested by petition and rendered by the State Fire Marshal, and to provide that a petition for an expedited declaratory statement that does not meet all of the established guidelines must be denied without prejudice.

**Section 34.** Amends s. 633.026, F.S., to clarify the process for informal interpretation of the Florida Fire Prevention Code. Requires the creation of a Fire Code Interpretation Committee and establishes requirements which must be met by members of the committee. Nonbinding interpretations of code provisions must be issued within 10 business days after receipt of a request for interpretation. The Division of State Fire Marshal is directed to charge a fee for nonbinding interpretations which may not exceed \$150 per request. Nonbinding interpretations are advisory only. The process for requesting and issuing a nonbinding interpretation is established.

**Section 35.** Amends s. 633.081, F.S., to provide that the State Fire Marshal and the Florida Building Code Administrators and Inspectors Board must enter into a reciprocity agreement to implement joint recognition of continuing education recertification hours for building code inspectors, plan examiners, or administrators certified under s. 468.609, F.S., and firesafety inspectors certified under s. 633.081, F.S.

**Section 36.** Amends s. 633.352, F.S., to provide that regardless of employment status, state-certified firefighters who are certified and employed as full-time fire safety inspectors or fire safety instructors, are exempt from requirements that firefighters who have been inactive as a firefighter for a 3-year period retake the practical portion of the minimum standards state examination.

**Section 37.** Amends s. 633.521, F.S., to provide that an applicant for certification as a contractor who passes the exam but who does not meet additional requirements within 1 year after first applying must reapply, successfully complete the prescribed training, and retake and pass the written examination. Clarifies the minimum requirements for qualifying to take an examination for certification as a fire protection system Contractor I, Contractor II, Contractor III, Contractor IV, or Contractor V. Provides that the Division of State Fire Marshal may develop equivalent training programs to the required National Institute for Certification in Engineering Technologies (NICET) subfield of Inspection and Testing of Fire Protection Systems Level II

**Section 38.** Creates subsection (3) in s. 633.524, F.S., to provide the Division of State Fire Marshal with the authority to enter into a contract with qualified public entities or private companies to provide examination services for examinations administered under the jurisdiction of the State Fire Marshal. Authorizes the State Fire Marshal to direct payment from the applicant to the contracted entity or company.

**Section 39.** Amends s. 633.537, F.S., to provide that fire protection contractors must meet the continuing education requirements necessary to maintain NICET subfield Level II certification or equivalent training and education as required by the Division of State Fire Marshal, or a higher certification plus 9 contract hours of continuing education as approved by the State Fire Marshal.

**Section 40.** Amends s. 633.72, F.S., to provide that members of the Florida Fire Code Advisory Council may serve two consecutive terms, rather than one term only.

**Section 41.** Repeals s. 553.509, F.S., relating to elevator alternate power sources for emergency purposes.

**Section 42.** Directs the Florida Building Commission to adjust the Florida Building Code for consistency with the revisions to s. 339.02, F.S.

**Section 43.** Provides that except as otherwise provided, the act shall take effect July 1, 2009.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Members of the building industry may benefit from the product approval revisions because the bill provides that product approvals must take place within 10 days and that approved products must be immediately added to the list of state-approved products. This may result in more products being approved, making it easier for builders during the building and construction inspection process.

C. Government Sector Impact:

The fiscal impact of this bill on state and local government is indeterminate at this time, but the Florida Building Commission expects the impact to be minimal.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Community Affairs on March 24, 2009:**

The committee substitute revises every provision of the original bill and adds provisions relating to:

- Elevator safety.
- Opening protection requirements for homes in a “wind-borne debris region.”
- 5-year inspections of the common elements of a condominium.
- Amendments to the Florida Building Code.
- Revisions to home inspection services.
- Product evaluation and approval, and product evaluation and approval entities.
- Manufacture buildings.
- The repeal of core curriculum course requirements.
- Carbon monoxide alarms.

**CS by Regulated Industries on April 14, 2009:**

The committee substitute revises the following provisions of the original CS and adds provisions relating to:

- Elevator safety.
- Carbon monoxide alarms.
- Strikes outdated language regarding property insurance contracts.
- An exemption is created for pre-fabricated mausoleums.
- Provides that exposed mechanical equipment or appliances that are fastened to rated stands are deemed to comply with the wind resistance codes.
- Provides for an expanded list of energy efficiency options.
- Fire prevention and control.
- Repeals regulations for elevator alternate power sources.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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