

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 663
SPONSOR(S): Aubuchon
TIED BILLS:

Building Safety

IDEN./SIM. BILLS: SB 648

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Insurance, Business & Financial Affairs Policy Committee		Marra	Cooper
2)	Military & Local Affairs Policy Committee			
3)	General Government Policy Council			
4)				
5)				

SUMMARY ANALYSIS

The bill revises various laws regarding building safety.

As to elevator safety, the bill

- Limits requirements to retrofit elevators to comply with changes to the Florida Building Code regarding heat sensors and electronic controls.
- Permits the use of a lock box to provide regional emergency elevator access.
- Repeals emergency alternative power requirements for high-rise residential multi-family dwellings.

The bill increases home inspector licensure fees and expands licensure eligibility under a grandfather provision, effective July 1, 2011.

Regarding the Florida Building Code, the bill

- Authorizes the Department of Community Affairs to contract for administration of the inspection and certification of manufactured buildings and reinstates local jurisdiction over prototype buildings.
- Amends authority of the Florida Building Commission to allow fees for nonbinding interpretations of the Building Code and amendments to the Florida Building Code addressing equivalency of standards, needs of state agencies facing federal mandates, and inconsistencies in federal and state law.
- Requires state agencies to contract for inspection services under the alternative plans review and inspection process or with a local governmental entity.
- Exempts certain mausoleums and prisoner housing from the Building Code.
- Revises requirements as to carbon monoxide alarms, pool pump motors, and windstorm mitigation.

Relating to Fire Prevention and Safety, the bill

- Provides guidelines for the State Fire Marshal to follow when issuing expedited declaratory statements.
- Establishes a process for nonbinding interpretations of the Florida Fire Prevention Code.
- Requires continuing education reciprocity between the Division of the State Fire Marshall and the Building Code Administrators and Inspectors Board.
- Amends certification requirements for fire protection service contractors and recertification requirements for certain firefighters.

As to condominiums, the bill repeals a 5-year inspection requirement concerning the maintenance, useful life, and replacement cost of common elements.

The bill increases home inspector licensure fees resulting in an estimated \$1.6 million positive impact. If provisions relating to emergency elevator regency access are interpreted to require the state buy back distributed master keys, there would be an associated negative fiscal impact.

Aside from amendments to home inspector regulations, the bill has an effective date of July 1, 2010.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Elevator Safety

The Elevator Safety Act, chapter 399, F.S., provides minimum safety standards for elevators and minimum training and/or experience for elevator personnel working under the Florida Building Code. The Act is enforced by the Bureau of Elevator Safety of the Division of Hotels and Restaurants within the Department of Business and Professional Regulation.¹

Florida Building Code Requirements

Current Situation

The Elevator Safety Code contained within the Florida Building Code (Building Code) must be based on the minimum model standards of the American Society of Mechanical Engineers (ASME).² ASME provides standards for elevator installation, operation and maintenance. ASME A17 serves as the basis for the Florida Elevator Safety Act and the Florida Elevator Safety Code.³ ASME A17.1 provides requirements applicable to the installation, alteration, maintenance, repair, inspection and safety testing of new and existing elevators. ASME A17.3 guides retroactive requirements for existing elevators.

Elevators must comply with the edition of the Building Code in effect at the time of the elevator construction permit application.⁴ Alterations, relocations and reclassifications of existing elevators must be in compliance with the edition of the Building Code in effect at the time of permit application. Elevators must also be retrofitted to comply with revisions or updates to the Building Code.

The number of elevators that failed inspections and the number of variance and waiver requests has increased. It is unclear whether this is due to the burden of retrofitting elevators to meet new requirements or other factors, such as improved enforcement.⁵

¹ Section 399.02(6), F.S.

² Section 399.02(1), F.S.

³ See Rule 61C-5.001, F.A.C.; Ch. 30, Florida Building Code.

⁴ Section 399.02(1), F.S.

⁵ See *Review of Elevator Safety and Regulation*, Interim Report 2010-128, Florida Senate Committee on Regulated Industries, October 2010.

Proposed Changes

The bill amends s. 399.02, F.S., to exempt elevators issued certificates of operation before July 1, 2009, from retroactive application of future updates to the Elevator Safety Code (including A17.1 and A17.3) concerning modifications for heat sensors and electronic controls on existing elevators. The exemption does not apply once the elevator is replaced. The exemption does not apply to buildings issued a building permit on or after July 1, 2009.

The terms 'heat sensors and electronic controls' do not reflect the terminology used in the codes or ASME provisions. For example, currently ASME A17.3 requires that all elevators have door restrictors and phase 1 and phase 2 fire fighter service, regardless of when they were constructed. Neither of these devices are called 'heat sensors' or 'electronic controls,' so would not fall under the bill's exemption.

Regional Emergency Elevator Access

Current Situation

In 2004, the Legislature provided for regional emergency elevator access, requiring public-access elevators (including service and freight elevators) in six-story or taller buildings constructed or substantially improved after June 2004 to be keyed, or retrofitted, with a master key to allow firefighters emergency access.⁶ A master key for each of the Department of Law Enforcement's seven emergency response regions would allow emergency access to all elevators within that region. The act also required that all existing buildings come into compliance by July 1, 2007.

In 2006, the Legislature limited the requirement to buildings issued a building permit after September 2006, and extended the period for existing buildings to come into compliance until October 1, 2009.

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

Proposed Changes

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

Section 399.15(7), F.S., would permit only the fire department to be issued a master key to the lock box. This conflicts with s. 399.15(3), which permits elevator owners, owners' agents, elevator contractors, state-certified inspectors, and state agency representatives to be issued a master key.

The bill's lock box alternative differs from the rule 69A-47.019, F.A.C, provision in that the rule does not require the State Fire Marshal to select the provider, and master keys to existing lock boxes have been distributed to parties other than the local fire department.

⁶ Ch. 2004-12, L.O.F.

Emergency Alternative Power Generators

Current Situation

Owners or operators of residential multi-family dwellings, including condominiums, reaching or exceeding 75 ft tall which contains a public elevator must have at least one elevator capable of operating on alternative generated power.⁷ Specific requirements include:

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

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

Proposed Changes

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

Home Inspectors

Current Situation

Beginning July 1, 2010, home inspectors must be licensed and will be regulated by the Department of Business and Professional Regulation (DBPR) pursuant to legislation passed in 2007 that becomes effective on that date.⁸ Additional regulations, including continued education requirements and certificates of authorization for corporations offering home inspections to the public, will also go into effect on July 1, 2010.

Proposed Changes

Effective, July 1, 2011, the bill amends s. 468.8319, F.S., to specify no ‘person’ may perform unlicensed home inspections, replacing a reference to “a home inspector, a company that employs a home inspector, or a company that is controlled by a company that also has a financial interest in a company employing a home inspector.”

Effective, July 1, 2011, the bill amends s. 468.8324, F.S., to extend (from July 1, 2010 to July 1, 2011) the time under which persons who have received compensation as a home inspector for one year or completed 50 home inspections for compensation are eligible to be grandfathered in as home inspectors by the department.

Effective, July 1, 2011, the bill amends s. 468.8311, F.S., to specify limited visual examinations of windows, doors, walls, floors and ceilings constitute ‘home inspection services,’ requiring home inspection licensure.

⁷ Section 553.509(2)(a), F.S.

⁸ Part XV, Ch. 468, F.S.

Effective, July 1, 2011, the bill amends s. 468.8312, F.S., to increase the caps on fees the department may collect associated with home inspector licensure as follows:

	Current Cap	Proposed Cap
Initial application and examination fee	\$125	\$250
Initial license fee	\$200	\$400
Certification of Authorization fee	\$125	\$250
Biennial Renewal Fee	\$200	\$400
Licensure by Endorsement Fee	\$200	\$400
Application for Inactive Status/Reactivation Fee	\$200	\$400
Continuing Education Application Fee	\$500	\$500

Under the bill, current regulations will go into effect July 1, 2010, as currently provided by law. The proposed changes would go into effect a year later.

Florida Building Code

Manufactured Buildings

Current Situation

The Manufactured Building Act of 1979, s. 553.35, F.S., requires minimum construction standards for the “manufacture, design, construction, erection, alteration, modification, repair and demolition of manufactured buildings” to be adopted into the Florida Building Code (Building Code).⁹ The Department of Community Affairs (DCA) must adopt rules for the Act’s enforcement and administration.

According to the DCA, its jurisdiction over manufactured buildings has been limited to those which are to be repetitively built. One-of-a-kind prototype manufactured buildings were exempted from the DCA’s program in favor of local code enforcement,¹⁰ but that exemption was inadvertently deleted in 2008.¹¹

Proposed Changes

The bill amends s. 553.37, F.S., to authorize the DCA to enter into contracts for the performance of administrative duties relating to the inspection and certification of manufactured buildings and reinstates local jurisdiction for one-of-a-kind prototype manufactured buildings inadvertently deleted in 2008.

The bill authorizes the DCA to adopt a rule requiring that manufacturers pay fees to the administrator directly and restricts the use of product approval fees received by the DCA to fund the state product approval system.

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

⁹ Section 553.355, F.S.

¹⁰ See s. 553.37(11), F.S. (2007)

¹¹ See s. 6, ch. 2008-191, L.O.F.

Current Situation

The Florida Building Commission (Commission) within the DCA is comprised of 25 members, appointed by the Governor and confirmed by the Senate.¹² The Commission adopts and enforces the Building Code uniformly to provide effective and reasonable protection for the public safety, health and welfare throughout the state. The Commission updates the Building Code triennially based on the development cycle of national model building codes. The Commission is also authorized to adopt internal administrative rules, impose fees for binding code interpretations and adopt amendments to the building code.¹³

State agencies, including the Commission, authorized to enforce the Building Code may do so through delegation to other governmental units by agreement and may use public funds to pay permit and inspection fees as long as these fees are no greater than fees charged to others.¹⁴

Proposed Changes

The bill amends s. 553.73, F.S., to authorize the Commission to amend the Building Code using Ch. 120, F.S., rule adoption procedures to address equivalency of standards, the needs of state agencies facing federal requirements on design criteria for public educational facilities, and inconsistencies with federal and state law.

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

The bill amends s. 553.775, F.S., to permit the Commission to offer nonbinding interpretations of the Building Code capped at the same rate currently governing binding interpretations (\$250).

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

Placement of Rooftop Air Conditioning Systems

Current Situation

The Building Code requires roof-mounted equipment to be elevated from the roof's surface. According to the DCA, this is so the roof may be accessed for maintenance. Roof-mounted air conditioners must be elevated a prescribed distance, which varies based on the width of the air conditioning unit. Current code requirements are set out in Table 1509.7, reproduced below.

WIDTH OF MECHANICAL UNIT (inches)	SURFACES (inches)
<24	14
24 < 36	18
36 < 48	24
48 < 60	30
> 60	48

¹² Ch. 553, F.S.

¹³ See ss. 553.76, 553.775, and 553.73(7), F.S., respectively.

¹⁴ Section 553.79(9), F.S.

Proposed Changes

The bill amends s. 553.73, F.S., to provide that the Building Code may not require roof-mounted air conditioners installed before July 1, 2010 to be elevated to 18 inches above the roof surface until the air conditioner is replaced. The bill provides that no agency or local government may enforce the state or local building code to require otherwise. Air conditioners could still be required to be elevated more than, or less than, 18 inches from the roof's surface.

Classroom Illumination

Current Situation

The Building Code requires artificial illumination in classrooms to provide an average maintained illumination of 50 foot-candles of light at each desk.¹⁵

Proposed Changes

The bill amends s. 553.73, F.S., to decrease the required artificial illumination in classrooms to provide an average maintained illumination of 40 foot-candles of light at each desk and require public educational facilities to give priority to the use of light-emitting diode lighting.

Alternative Plans Review and Inspection

Current Situation

Regardless of any provisions of law, local ordinance or local policy, owners of buildings and structures may use a private building inspector, and pay such inspector directly, as long as a service contract is executed.¹⁶ Private providers are defined as licensed engineers or licensed architects. For residential additions or alterations of 1,000 square feet or less, private providers may also be a certified building code administrator, inspector or plans examiner.¹⁷

Proposed Changes

The bill amends s. 553.79, F.S., to provide that inspection services not requiring performance by a state agency, under federal delegation or the Building Code must be performed under the alternative plans review and inspection process (private inspectors) or by a local governmental entity with authority to enforce the Building Code. The bill re-enacts s. 553.80, F.S., to incorporate this change.

If a state agency is authorized to perform inspection services by statute, it would not be able to perform those services under this provision. The Agency for Health Care Administration conducts plans reviews and construction inspections of intermediate care facilities for developmentally disabled persons under s. 400.967(4) and (5), and has reported it would lose this authority under the proposed language.

Other agencies that may be similarly affected include, the Department of Health and its regulation of public swimming pools and some interaction with potable water supply and plumbing requirements; Department of Business and Professional Regulation and its regulation of hotels, restaurants and elevators; and possibly water management districts and/or the Department of Environmental Protection on water issues including reuse systems.

¹⁵ See s. 423.27.15, ch. 4, Florida Building Code (2007).

¹⁶ Section 553.791, F.S.

¹⁷ Certification is under part XII of chapter 468, F.S.

Building Code Compliance and Mitigation Program

Current Situation

The DCA is required to maintain, update and develop a core curriculum to serve as a prerequisite for advanced module coursework to administer ongoing education under the Building Code Compliance and Mitigation Program.¹⁸ The core curriculum is designed to inform construction professionals of technical and administrative responsibilities under the Building Code.

In 2009, the Legislature deleted the requirement for completion of the core curriculum or the successful passing of an equivalency test as a condition for license renewal for building code administrators and inspector certificateholders, engineer licensees, architects and interior designers, landscape architects and construction contractor certificateholders and registrants.¹⁹

Insurers are required to notify residential property insurance applicants or policyholders of premium insurance discounts, rates or credits available for windstorm mitigation fixtures or construction techniques.²⁰ In factoring such discounts, insurers must use the uniform mitigation verification inspection form adopted by the Financial Services Commission. Valid forms must either be certified by the DFS or signed by one of the enumerated certified individuals, including a licensed engineer who has completed the Building Code Compliance and Mitigation Program core curriculum or passed an equivalency test.

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

Proposed Changes

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

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

Product Evaluation and Approval

Current Situation

The Commission has the authority to adopt rules developing a statewide product evaluation and approval system (for products, methods or systems of construction) to operate in coordination with the Building Code.²¹ Administration of the system may be provided by contract. The system must be based on national and international standards adopted by the Building Code, but may also include other standards that exceed state requirements.

As part of the system, the Commission maintains a list of state-approved evaluation entities. The Legislature has directed the Commission to add specified product evaluation entities created for the express purpose of evaluating products and their compliance with code to the list. The Commission has

¹⁸ Section 553.841(4), F.S.

¹⁹ Chapter 2009-195, L.O.F.

²⁰ Section 627.711, F.S.

²¹ Section 553.842, F.S.; Rules are codified at ch. 9B-72, F.A.C.

the authority to approve additional evaluation entities, but until recently had not used that authority. The Commission reports difficulty objectively creating criteria to approve the entities. Groups that seek to become evaluation entities are often approved as certification entities or test labs.

In 2008, the Legislature directed the Commission to review the list of product evaluation entities and recommend additions or report on the evaluation criteria to approve entities.²² The Legislature also approved the International Association of Plumbing and Mechanical Officials Evaluation Services (IAPMO-ES) until October 1, 2009, and provided that if the Commission had not permanently approved the IAPMO-ES by that date, products approved on the basis of an IAPMO-ES evaluation must be substituted by an alternative, approved entity by December 31, 2009. On January 1, 2010, any product approval issued by the commission based on an IAPMO-ES evaluation is void.

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

Proposed Changes

The bill amends s. 553.842, F.S., to authorize the Commission to allow, by rule or contract, for the direct payment of product evaluation and approval fees to the contracted program administrator, who shall remit to the DCA any portion of the fee necessary to cover its costs.

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

The bill amends the list of product evaluation entities the Commission must approve to add the International Association of Plumbing and Mechanical Officials Evaluation Services (IAPMO-ES) and remove entities that no longer exist

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

Windstorm Loss Mitigation

Current Situation

The Commission is required to implement windstorm loss mitigation techniques into the Building Code to combat property damage associated with hurricanes.²³ The Building Code requires buildings located in wind-borne debris regions be designed to withstand the minimum wind loads prescribed for that region. Wind-borne debris regions are those where the basic wind speed can reach 120 mph or greater or areas within a mile of the coast with a wind speed over 110 mph.²⁴ While the Commission may amend standards and criteria related to wind resistance or prevention of water intrusion to enhance the requirements, it may not amend such standards to diminish the requirements.²⁵

²² Chapter 2008-191, L.O.F.

²³ Section 553.844, F.S.

²⁴ See s.1609.12, ch. 16, Florida Building Code.

²⁵ Section 553.73(7), F.S.

Proposed Changes

The bill amends s. 553.844, F.S., to provide, notwithstanding other provisions of law, exposed mechanical equipment or appliances fastened to rated stands, platforms, curbs, or slabs are deemed to comply with wind resistance requirements for wind-borne debris regions and do not require additional supports or enclosures. This provision will expire December 31, 2012.

Carbon Monoxide Alarms

Current Situation

Buildings containing a fossil-fuel-burning²⁶ heater or appliance, a fireplace or a garage that were issued a permit for new construction on or after July 1, 2008 must also include an operational carbon monoxide alarm within 10 feet of each room used for sleeping.²⁷ The alarm must be approved by the Commission and meet all Building Code requirements.

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

Proposed Changes

The bill amends s. 553.885, F.S., to extend the requirement for buildings to contain an operational carbon monoxide alarm to be applicable to both separate buildings and additions to existing buildings that contain any feature that emits carbon monoxide as a byproduct of combustion. The bill provides the requirement does not apply to existing buildings undergoing alterations other than additions, defined as an extension or increase in floor area, number of stories or building height. The bill also provides such alarms may be battery-operated, and the Building Code may require alarms be placed in locations other than within 10 feet of the sleeping quarters in new buildings or additions.

Thermal Efficiency Standards

Current Situation

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

Proposed Changes

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

- Energy-efficient water heating systems
- Energy-saving devices and features installed within duct systems
- Energy-saving quality installation procedures for replacement of air conditioners
- Shading devices, suncreening materials and overhangs
- Weatherstripping, caulking and sealing of exterior openings and penetrations.

²⁶ Section 553.885(2)(b), F.S., defines 'fossil fuel' as "coal, kerosene, oil, fuel gases, or other petroleum or hydrocarbon products that emit carbon monoxide as a by-product of combustion."

²⁷ Section 553.885, F.S.

Pool Pump Motors

Current Situation

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

Proposed Changes

The bill amends s. 553.909, F.S., to increase, from 120 minutes to 24 hours, the period that a residential pool pump motor's speed may be set higher than the default residential filtration speed.

Fire Prevention

The Chief Financial Officer is designated as the State Fire Marshal and carries out the duties of fire prevention, protection and control through the Division of State Fire Marshal.²⁸

Florida Fire Prevention Code

Current Situation

The State Fire Marshal adopts the Florida Fire Prevention Code (Fire Code), which is updated every three years and covers all firesafety regulations relating to the construction and modification of buildings and structures.²⁹ The State Fire Marshal notifies local fire departments no later than 180 days before adopting the Fire Code to consider local amendments. The State Fire Marshal may either adopt internal procedures or contract with experienced nonprofit organizations to provide nonbinding interpretations of the Fire Code.

Proposed Changes

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

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

²⁸ Section 633.01(1), F.S.

²⁹ Section 633.0215(1), F.S.

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

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

Firesafety Inspectors

Current Situation

Buildings and structures in violation of the Florida Statutes or the minimum provisions of state or local firesafety codes are subject to the inspection of all equipment, vehicles and chemicals within the premises of any such building or structure. To enforce this requirement, each county, municipality, and special district with firesafety enforcement authority is required to employ or contract with a DFS-certified firesafety inspector who has met training requirements set by the State Fire Marshall.³⁰

Proposed Changes

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

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

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

³⁰ Section 633.081, F.S.

Current Situation

Firefighters must meet training and education requirements established by the Division of State Fire Marshal before receiving a certification of competency.³¹ The current requirements³² mandate firefighters receive 398 training hours in classroom and practical skills and achieve a passing score of 70 percent on written and practical examinations. At least twice a year, the State Fire Marshal administers the examinations, which are based on standards of the National Fire Protection Association and Florida and federal law.

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

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

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

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

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

Persons employed by a Contractor I or II who will be inspecting water-based fire protection systems must be issued a permit by the State Fire Marshal.³³

³¹ Section 633.35, F.S.

³² See s. 69A-37.055, F.A.C.

³³ Section 633.521(8), F.S.

Proposed Changes

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

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

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

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

Florida Fire Code Advisory Council

Current Situation

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

Proposed Changes

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

Condominiums

Maintenance of Common Elements

Current Situation

Condominium buildings taller than three stories must be inspected every five years by an architect or engineer to assess the maintenance, useful life, and replacement costs of the common elements.³⁴ If a majority of the voting interests present at a condominium association meeting approves, the requirement may be waived. This waiver must be approved before the end of the five-year period and is only effective for that period.

Proposed Changes

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

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

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

B. SECTION DIRECTORY:

Section 1 amends s. 399.02, F.S., to exempt certain elevators from certain retrofitting requirements.

Section 2 amends s. 399.15, F.S., to provide an alternative method for emergency access to elevators.

Section 3 amends s. 468.8311, F.S., to redefine 'home inspection services', effective July 1, 2011.

Section 4 amends s. 468.8312, F.S., to increase home inspection license fees, effective July 1, 2011.

Section 5 amends s. 468.8319, F.S., to prohibit unlicensed home inspection services.

Section 6 amends s. 468.832, F.S., to authorize the Department of Business and Professional Regulation to impose penalties against a licensee found guilty of certain violations.

Section 7 amends s. 468.8324, F.S., provides a grandfather clause to allow for certain unlicensed home inspectors to be gain licensure.

Section 8 amends s. 553.37, F.S., relating to rules governing the Department of Community Affairs' regulation of manufactured buildings.

Section 9 amends s. 553.375, F.S., to limit requirements for relocated manufactured buildings.

Section 10 amends s. 553.509, F.S., to delete emergency alternative power requirements for elevators.

Section 11 amends s. 553.73, F.S., to modify the authority of the Florida Building Commission, exempt certain buildings from the Building Code, and modify requirements for roof-mounted air conditioners and classroom lighting.

Section 12 amends s. 553.76, F.S., regarding the Florida Building Commission's rulemaking authority.

Section 13 amends s. 553.775, F.S., to authorize the Florida Building Commission to charge a fee for nonbinding interpretations.

³⁴ Section 718.113(6), F.S.

Section 14 amends s. 553.79, F.S., to require state agencies contract for inspection services under the alternative plans review and inspection process or with a local governmental entity.

Section 15 reenacts s. 553.80(1), F.S., to incorporate amendments made to s. 553.79, F.S.

Section 16 amends s. 553.841, F.S., to delete requirements for the Department of Community Affairs to develop a core curriculum for persons who enforce the Florida Building Code.

Section 17 amends s. 553.842, F.S., to allow product evaluation fees to be paid directly to a contracted administrator, provide a product approval application process, and modify the list of approved evaluation entities.

Section 18 amends s. 553.844, F.S., to temporarily exempt certain equipment or appliances from windstorm requirements.

Section 19 amends s. 553.885, F.S., to revise carbon monoxide alarm requirements.

Section 20 amends s. 553.9061, F.S., to expand the list of energy efficiency options and elements.

Section 21 amends s. 553.909, F.S., to modify energy efficiency requirements for pool pump motors.

Section 22 amends s. 627.711, F.S., to conform to changes to core curriculum requirements relating to the Florida Building Code.

Section 23 amends s. 633.0215, F.S., to provide guidelines for the State Fire Marshal when issuing expedited declaratory statements.

Section 24 amends s. 633.026, F.S., to establish the Fire Code Interpretation Committee to make nonbinding interpretations of the Florida Fire Prevention Code.

Section 25 amends s. 633.081, F.S., to require a reciprocity agreement to recertify code enforcers between the Division of State Fire Marshal and Building Code Administrators and Inspectors Board.

Section 26 amends s. 633.352, F.S., to exempt full-time certified firesafety inspectors or firesafety instructors from examination requirements for recertification as a firefighter.

Section 27 amends s. 633.521, F.S., to revise certification requirements for certain contractors.

Section 28 amends s. 633.524, F.S., to authorize the State Fire Marshal to contract for exam services.

Section 29 amends s. 633.537, F.S., as to continuing education requirements for certain contractors.

Section 30 amends s. 633.72, F.S., increasing the Fire Code Advisory Council term limit.

Section 31 repeals s. 718.113(6), F.S., relating to required 5-year inspections of certain condominium improvements.

Section 32 directs the Florida Building Commission to conform provisions of the Florida Building Code with revisions made by the act relating to the operation of elevators.

Section 33 provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Department of Business and Professional Regulation (DBPR) expects a likely positive fiscal impact from the increases to home inspector license fee limits. While the DBPR has not been able to determine specific fee requirements, it has offered an estimate of the revenue impact:

	FY 2010-11	FY 2011-12	FY 2012-13
License Fees:	787,500	157,500	1,957,500
Application Fees:	937,500	187,500	187,500
Other (identify): Unlicensed Activity Fees	22,500	2,250	24,750
Service Charge to GR (8% of revenue)	(139,800)	(27,780)	(173,580)
TOTAL:	1,607,700	319,470	1,996,170

2. Expenditures:

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

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

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

Home inspectors will experience an increase in costs, through increased licensure fees. Home inspectors do not currently pay licensure fees and will begin to do so in July 2010; the bill increases the amount they will pay beginning July 2011.

The Building Industry may benefit from expedited product approvals, possibly resulting in more available approved products.

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

The Fire Marshal is not able to determine the actual fiscal impact. The State Fire Marshal's Office does not have any reliable data as to how many departments already have lock box agreements and how many of their buildings are in compliance with existing local ordinances, the exchange of existing lock boxes to revised standard lock boxes could estimates into the 10's of thousands. There is a wide selection of lock box designs and types on the market. Prices vary from the basic at \$40 to several hundred for lock boxes electronically interconnected to fire alarm systems. Significant cost will be incurred to invalidate the continued use of these existing lock boxes.

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

D. FISCAL COMMENTS:

Increases in the fees associated with home inspector licensure would result in an estimated \$1.6 million positive impact to state government. If provisions relating to emergency elevator regency access are interpreted to require the state buy back distributed master keys, there would be an associated negative fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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

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

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

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

The term "court" on line 1490 should read "course."

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES