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# **Business & Professions Subcommittee**

**Wednesday, December 2, 2015  
4:00 PM  
12 HOB**

## **MEETING PACKET**

**Steve Crisafulli  
Speaker**

**Halsey Beshears  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Business & Professions Subcommittee

**Start Date and Time:** Wednesday, December 02, 2015 04:00 pm  
**End Date and Time:** Wednesday, December 02, 2015 06:00 pm  
**Location:** 12 HOB  
**Duration:** 2.00 hrs

**Consideration of the following bill(s):**

HB 303 Unlicensed Activity Fees by Burton  
HB 535 Building Codes by Eagle  
HB 559 Self-Service Storage Facilities by La Rosa  
HB 633 Public Food Service Establishments by Raulerson

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Tuesday, December 1, 2015.

By request of the Chair, all Business & Professions Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Tuesday, December 1, 2015.

**NOTICE FINALIZED on 11/24/2015 4:01PM by Ellinor.Martha**



# The Florida House of Representatives

Regulatory Affairs Committee

Business & Professions Subcommittee

Steve Crisafulli  
Speaker

Halsey Beshears  
Chair

## AGENDA

December 2, 2015

12 HOB

4:00 PM – 6:00 PM

- I. **Call to Order & Roll Call**
  
- II. HB 303 by *Rep. Burton*  
Unlicensed Activity Fees
  
- III. HB 535 by *Rep. Eagle*  
Building Codes
  
- IV. HB 559 by *Rep. La Rosa*  
Self-Service Storage Facilities
  
- V. HB 633 by *Rep. Raulerson*  
Public Food Service Establishments
  
- VI. **Adjournment**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 303 Unlicensed Activity Fees  
**SPONSOR(S):** Burton  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 394

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee		Brown-Blake	Anstead
2) Government Operations Appropriations Subcommittee			
3) Regulatory Affairs Committee			

### SUMMARY ANALYSIS

The Department of Business and Professional Regulation (Department) licenses and regulates businesses and professionals in Florida. The Department's mission is to license efficiently and regulate fairly.

The Department is required to investigate persons practicing a profession without being licensed to do so. The costs of investigation of unlicensed activity is covered with an unlicensed activity fee of \$5 per licensee upon initial licensure and biennial renewal. The funds are collected by the Department and placed in a fund for each specified profession.

The bill would require the Department to waive the \$5-per-licensee unlicensed activity fee under certain circumstances.

The bill prohibits the Department from requiring payment of the unlicensed activity fee if, at the beginning of the fiscal year, the profession's unlicensed activity account balance totals more than twice the cost of that profession's expenses for unlicensed activity investigations from the preceding two fiscal years combined. If a professional board meets these requirements, all of the licensees licensed by that board are exempt from paying the unlicensed activity fee for that renewal period. A profession that has a deficit in its operating account or is projected to have such a deficit within the next 5 years must continue to obtain the unlicensed activity fee from its licensees for each renewal cycle.

The bill is expected to have no adverse impact on the Department of Business and Professional Regulation.

The bill has an effective date of July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

The Department licenses and regulates businesses and professionals in Florida. The Department includes separate divisions and various professional boards that are responsible for carrying out the Department's mission to license efficiently and regulate fairly.

The Department is required to investigate persons practicing a profession without being licensed to do so.<sup>1</sup> Section 455.01(6), F.S., defines "professions" as "any activity, occupation, profession, or vocation regulated by the [D]epartment in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation." The Division of Professions houses the:

- Board of Architecture and Interior Design;
- Florida Board of Auctioneers;
- Barbers' Board;
- Florida Building Code Administrators and Inspectors Board;
- Construction Industry Licensing Board;
- Board of Cosmetology;
- Electrical Contractors' Licensing Board;
- Board of Employee Leasing Companies;
- Board of Landscape Architecture;
- Board of Pilot Commissioners;
- Board of Professional Engineers;
- Board of Professional Geologists;
- Board of Veterinary Medicine;
- Home inspection services licensing program; and
- Mold-related services licensing program.

Each individual profession is required to cover the costs of investigation and enforcement.<sup>2</sup> The Department imposes an unlicensed activity fee of \$5 per licensee upon initial licensure and biennial renewal to fund efforts to combat unlicensed activity.<sup>3</sup>

The Department has indicated that some professions have enough funds to cover the costs of unlicensed activity investigation and enforcement without collecting unlicensed activity fees every renewal cycle. The following chart illustrates that some boards collect more in unlicensed activity fees than is used to cover the costs, while maintaining a large board account balance:

	ULA Fee Revenue 2014 and 2015 Total	ULA Expenditures 2014 and 2015 Total	ULA Account Balance July 1, 2014
Barber's Board	\$103,407	\$103,486	\$270,739
Board of Cosmetology	\$1,242,594	\$427,937	\$2,352,799

<sup>1</sup> s. 455.2281, F.S.

<sup>2</sup> s. 455.2281, F.S.

<sup>3</sup> s. 455.2281, F.S.

## Effect of the Bill

The bill prohibits the Department from requiring payment of the unlicensed activity fee during a license renewal for a profession if, at the beginning of the fiscal year prior to the renewal, the profession's unlicensed activity account balance totals more than twice the cost of that profession's unlicensed activity enforcement from the preceding two fiscal years combined. If a professional board meets these requirements, all of the licensees licensed by that board are exempt from paying the unlicensed activity fee for that renewal period.

A profession that has a deficit in its operating account or is projected to have a deficit within the next 5 years must continue to obtain the unlicensed activity fee from its licensees for each renewal cycle.

### B. SECTION DIRECTORY:

**Section 1** amends s. 455.2281, F.S., prohibiting the Department of Business and Professional Regulation from imposing an unlicensed activity fee in certain circumstances.

**Section 2** provides an effective date of July 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Department indicates that they will have a reduction in unlicensed activity fee revenue of approximately \$1,624,715 in Fiscal Year 2015-2016, \$1,568,735 in Fiscal Year 2016-2017, and \$1,624,715 in Fiscal Year 2017-2018. There will be a corresponding reduction in the 8% service charge sent to General Revenue of approximately \$129,977 in Fiscal Year 2015-2016, \$125,499 in Fiscal Year 2016-2017, and \$129,977 in Fiscal Year 2017-2018.

However, there is no adverse impact on the operating accounts of any profession as the proposed fee waiver targets those professions with a specified surplus balance in their unlicensed activity accounts.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce licensee expenditures for renewal of licenses for certain professions by \$5 per license renewal.

### D. FISCAL COMMENTS:

None.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not Applicable. This bill does not appear to affect county or municipal governments.

##### **2. Other:**

N/A

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

N/A

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



1                   A bill to be entitled  
 2           An act relating to unlicensed activity fees; amending  
 3           s. 455.2281, F.S.; prohibiting the Department of  
 4           Business and Professional Regulation from imposing a  
 5           specified fee in certain circumstances; providing for  
 6           applicability of the waiver; providing an effective  
 7           date.

8  
 9   Be It Enacted by the Legislature of the State of Florida:

10  
 11           Section 1. Section 455.2281, Florida Statutes, is amended  
 12           to read:

13           455.2281 Unlicensed activities; fees; disposition.— In  
 14           order to protect the public and to ensure a consumer-oriented  
 15           department, it is the intent of the Legislature that vigorous  
 16           enforcement of regulation for all professional activities is a  
 17           state priority. All enforcement costs should be covered by  
 18           professions regulated by the department. Therefore, the  
 19           department shall impose, upon initial licensure and each  
 20           subsequent renewal thereof, a special fee of \$5 per licensee,  
 21           ~~Such fee shall be~~ in addition to all other fees imposed,  
 22           ~~collected from each licensee to and shall~~ fund efforts to combat  
 23           unlicensed activity. However, the department may not impose this  
 24           special fee on a license renewal for any profession whose  
 25           unlicensed activity account balance, at the beginning of the  
 26           fiscal year before the renewal, totals more than twice the total

27 of the expenditures for unlicensed activity enforcement efforts  
 28 in the preceding 2 fiscal years. This waiver applies to all  
 29 licensees within the profession, and assessment of the special  
 30 fee may not begin or resume until the renewal cycle subject to  
 31 the waiver has ended for all of the licensees in that  
 32 profession. This waiver does not apply to a profession that has  
 33 a deficit in its operating account or that is projected to have  
 34 such a deficit in the next 5 fiscal years. Any profession  
 35 regulated by the department which offers services that are not  
 36 subject to regulation when provided by an unlicensed person may  
 37 use funds in its unlicensed activity account to inform the  
 38 public of such situation. The board with concurrence of the  
 39 department, or the department when there is no board, may  
 40 earmark \$5 of the current licensure fee for this purpose, if  
 41 such board, or profession regulated by the department, is not in  
 42 a deficit and has a reasonable cash balance. A board or  
 43 profession regulated by the department may authorize the  
 44 transfer of funds from the operating fund account to the  
 45 unlicensed activity account of that profession if the operating  
 46 fund account is not in a deficit and has a reasonable cash  
 47 balance. The department shall make direct charges to this fund  
 48 by profession and may ~~shall~~ not allocate indirect overhead. The  
 49 department shall seek board advice regarding enforcement methods  
 50 and strategies prior to expenditure of funds; however, the  
 51 department may, without board advice, allocate funds to cover  
 52 the costs of continuing education compliance monitoring under s.

53 455.2177. The department shall directly credit, by profession,  
 54 revenues received from the department's efforts to enforce  
 55 licensure provisions. The department shall include all financial  
 56 and statistical data resulting from unlicensed activity  
 57 enforcement and from continuing education compliance monitoring  
 58 as separate categories in the quarterly management report  
 59 provided for in s. 455.219. The department may ~~shall~~ not charge  
 60 the account of any profession for the costs incurred on behalf  
 61 of any other profession. With the concurrence of the applicable  
 62 board and the department, any balance that remains in ~~For~~ an  
 63 unlicensed activity account, ~~a balance which remains~~ at the end  
 64 of a renewal cycle may, ~~with concurrence of the applicable board~~  
 65 ~~and the department,~~ be transferred to the operating fund account  
 66 of that profession.

67 Section 2. This act shall take effect July 1, 2016.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 535 Building Codes  
**SPONSOR(S):** Eagle  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 704

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee		Whittier <i>SW</i>	Anstead <i>JA</i>
2) Government Operations Appropriations Subcommittee			
3) Regulatory Affairs Committee			

### SUMMARY ANALYSIS

The bill makes the following changes to law:

- Makes several adjustments to the training and experience required to take the certification examinations for building code inspector, plans examiner, and building code administrator;
- Allows Category I liquefied petroleum gas dealers, liquefied petroleum gas installers, and specialty installers to disconnect and reconnect water lines in the servicing or replacement of existing water heaters;
- Exempts employees of apartment communities with 100 or more units from contractor licensing requirements if making minor repairs to existing electric water heaters or existing electric HVAC systems, if they meet certain training and experience criteria and the repair involves parts costing under \$1,000;
- Adds Division II contractors to the Florida Homeowners' Construction Recovery Fund section, which would allow homeowners to make a claim and receive restitution from the fund when they have been harmed by a Division II contractor, subject to certain requirements and financial caps;
- Exempts low-voltage landscape lighting with a cord and a plug from having to be installed by a licensed electrical contractor;
- Clarifies that a portable pool used for swimming lessons that are sponsored or provided by school districts is a private pool and not subject to regulation;
- Provides funding for the recommendations made by the Building Code System Uniform Implementation Evaluation Workgroup and provides funding for Florida Fire Prevention Code informal interpretations;
- Allows the creation of local boards to address conflicts between the Florida Building Code (code) and the Florida Fire Prevention Code;
- Restricts the code from requiring more than one fire service access elevator in residential buildings of a certain height, and adds new provisions to the Florida Fire Prevention Code;
- Authorizes local building officials to issue phased permits for construction;
- Replaces advanced course provisions for code training with code-related training regarding the Florida Building Code Compliance and Mitigation Program and accreditation of courses related to the code;
- Adds Underwriters Laboratories, LLC, to the list of entities that are authorized to produce information on which product approvals are based, related to the code;
- Exempts wi-fi smoke alarms and those that contain multiple sensors, such as those combined with carbon monoxide alarms, from the 10-year, nonremovable, nonreplaceable battery provision;
- Prohibits adopting blower door and air infiltration testing and mechanical ventilation device requirements into the 2014 code;
- Removes exemption of triennial updates of the code and the Florida Fire Prevention Code from legislative ratification;
- Creates the Calder Sloan Swimming Pool Electrical-Safety Task Force to study and report on specific standards, especially with regard to minimizing risks of electrocutions linked to swimming pools.

The bill has an insignificant negative fiscal impact on state government and does not appear to have a fiscal impact on local governments. The bill provides an effective date of July 1, 2016.

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

STORAGE NAME: h0535.BPS.DOCX

DATE: 11/30/2015

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **The Florida Building Code and the Florida Building Commission**

In 1974, Florida adopted a state minimum building code law requiring all local governments to adopt and enforce a building code that would ensure minimum standards for the public's health and safety. Four separate model codes were available that local governments could consider and adopt. In that system, the state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes as they desired.<sup>1</sup>

In 1996, a study commission was appointed to review the system of local codes created by the 1974 law and to make recommendations for modernizing the entire system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and an enhanced oversight role for the state in local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (code), and that 1<sup>st</sup> edition replaced all local codes on March 1, 2002. In 2004, for the 2<sup>nd</sup> edition of the code, the state adopted the International Code Council's I-Codes.<sup>2</sup> All subsequent codes have been adopted utilizing the International Code Council I-Codes as the base code. The most recent code is the 5<sup>th</sup> edition which is referred to as the 2014 code. The 2014 code went into effect June 30, 2015.<sup>3</sup>

The Florida Building Commission (FBC) was statutorily created to implement the code. The FBC, which is housed within the Department of Business and Professional Regulation (DBPR), is a 27-member technical body responsible for the development, maintenance, and interpretation of the code. The FBC also approves products for statewide acceptance. Members are appointed by the Governor and confirmed by the Senate and include design professionals, contractors, and government experts in the various disciplines covered by the code.<sup>4</sup>

Most substantive issues before the FBC are vetted through a workgroup process where consensus recommendations are developed and submitted by appointed representative stakeholder groups in an open process with several opportunities for public input.

According to the FBC,

General consensus is a participatory process whereby, on matters of substance, the members strive for agreements which all of the members can accept, support, live with or agree not to oppose. In instances where, after vigorously exploring possible ways to enhance the members' support for the final decision on substantive decisions, and the Commission finds that 100 percent acceptance or support is not achievable, final decisions require at least 75 percent favorable vote of all members present and voting.<sup>5</sup>

<sup>1</sup> <http://www.myfloridalicense.com/dbpr/bcs/buildingcomm.html> (last visited Nov. 25, 2015).

<sup>2</sup> The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." The ICC publishes I-Codes: a complete set of model comprehensive, coordinated building safety and fire prevention codes, for all aspects of construction, that have been developed by ICC members. All fifty states have adopted the I-Codes.

<sup>3</sup> <http://www.myfloridalicense.com/dbpr/bcs/buildingcomm.html> (last visited Nov. 25, 2015).

<sup>4</sup> s. 553.74, F.S.

<sup>5</sup> <http://www.myfloridalicense.com/dbpr/bcs/buildingcomm.html> (last visited Nov. 25, 2015).

## Building Code Administrators, Plans Examiners, and Inspectors Certifications (Section 1)

### Present Situation

#### *Building Code Inspector and Plans Examiner*

In order to take the examination for building code inspector or plans examiner certifications, s. 468.609(2), F.S., provides that a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:

<b>No.</b>	<b>Requirements</b>
Option 1.	Demonstrates five years' combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to the certification category sought.
Option 2.	Demonstrates a combination of postsecondary education in the field of construction or a related field and experience which totals four years, with at least one year of such total being experience in construction, building code inspection, or plans review.
Option 3.	Demonstrates a combination of technical education in the field of construction or a related field and experience which totals four years, with at least one year of such total being experience in construction, building code inspection, or plans review.
Option 4.	Currently holds a standard certificate as issued by the Florida Building Code Administrators and Inspectors Board (Board) or a firesafety inspector license issued pursuant to chapter 633, has a minimum of five years' verifiable full-time experience in inspection or plans review, and satisfactorily completes a building code inspector or plans examiner training program of not less than 200 hours in the certification category sought. The Board shall establish, by rule, criteria for the development and implementation of the training programs.
Option 5.	Demonstrates a combination of the completion of an approved training program in the field of building code inspection or plans review and a minimum of two years' experience in the field of building code inspection; plans review; fire code inspections and fire plans review of new buildings as a firesafety inspector; or construction. The approved training portion of this requirement shall include proof of satisfactory completion of a training program <sup>6</sup> of not less than 300 hours which is approved by the Board in the chosen category of building code inspection or plans review in the certification category sought with not less than 20 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificate holder.

Although individuals have been able to meet the above requirements for a single certification; it is difficult to earn additional certifications while employed as an inspector or plans examiner.

### Effects of Proposed Changes

The bill makes the following major changes to the training and experience required to take the examination for building code inspector and plans examiner certification:

For Option 4, the bill reduces the number of years' experience in inspection or plans review from five to three years and lowers the hours requirement for the training program from 200 to 100 hours.

For Option 5, the bill lowers the hour requirements for the training program from 300 to 200 hours and limits the required hours of instruction from not less than 20 hours to at least 20 hours but not more than 30 hours.

<sup>6</sup> The Board shall coordinate with the Building Officials Association of Florida, Inc., to establish, by rule, the development and implementation of the training program.

The bill adds the following sixth option for eligibility requirements to take the building code inspector or plans examiner certification examination:

No.	Requirements
Option 6.	<p>Currently holds a standard certificate issued by the Board or a firesafety inspector license issued pursuant to chapter 633 and:</p> <ul style="list-style-type: none"> <li>• Has at least five years of verifiable full-time experience as an inspector or plans examiner in a standard certification category currently held or has a minimum of five years' verifiable full-time experience as a firesafety inspector licensed pursuant to chapter 633; and</li> <li>• Satisfactorily completes a building code inspector or plans examiner classroom training course or program that provides at least 200 but not more than 300 hours of training in the certification category sought, except for one-family and two-family dwelling training programs which are required to provide at least 500 but not more than 800 hours of training as prescribed by the Board. The Board shall establish, by rule, criteria for the development and implementation of classroom training courses and programs in each certification category.</li> </ul>

Present Situation

*Building Code Administrator*

In order to take the examination for building code administrator certification, s. 468.609(3), F.S., provides that a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:

No.	Requirements
Option 1.	Demonstrates 10 years' combined experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least five years of such experience in supervisory positions.
Option 2.	Demonstrates a combination of postsecondary education in the field of construction or related field, no more than five years of which may be applied, and experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent which totals 10 years, with at least five years of such total being experience in supervisory positions.

Effects of Proposed Changes

The bill makes the following adjustment to the training and experience required to take the examination for building code administrator certification:

For Option 2, the bill adds a requirement of at least 20 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificateholder, in Board-approved courses not to exceed 30 hours.



## Apartment Maintenance Employees (Section 6)

### Present Situation

Part I of ch. 489, F.S., regulates licensed construction contractors and provides that it is "necessary in the interest of the public health, safety, and welfare to regulate the construction industry."<sup>7</sup> Section 489.103, F.S., provides exemptions to Part I.

Section 489.103(9), F.S. (also referred to as the "Handyman Exemption"), provides an exemption to Part I for any work or operation of a casual, minor, or inconsequential nature in which the aggregate contract price for labor, materials, and all other items is less than \$1,000. The exemption does not apply:

- If the construction, repair, remodeling, or improvement is a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than \$1,000 for the purpose of evading Part I; or
- To a person who advertises that he or she is a contractor or otherwise represents that he or she is qualified to engage in contracting.

### Effects of Proposed Changes

The bill adds an exemption to Part I for an employee of an apartment community or apartment community management company who makes minor repairs to existing electric water heaters or to existing electric heating, venting, and air-conditioning systems.

The following four conditions must be met if utilizing this exemption:

- The employee:
  - Does not hold himself or herself or his or her employer out to be licensed or qualified by a licensee;
  - Does not perform any acts, other than acts authorized by this exemption, that constitute contracting;
  - Receives compensation from and is under the supervision and control of an employer who deducts the FICA and withholding tax and who provides workers' compensation, as prescribed by law; and
  - Holds a current certificate for apartment maintenance technicians issued by the National Apartment Association and accredited by the American National Standards Institute. Requirements for obtaining a certificate for apartment maintenance technician must include at least:
    - One year of apartment or rental housing maintenance experience;
    - Successful completion of at least 90 hours of courses or online content that cover electrical maintenance and repair; plumbing maintenance and repair; heating, venting, or air-conditioning system maintenance and repair; appliance maintenance and repair; and interior and exterior maintenance and repair; and
    - Completion of all examination requirements.
- The equipment:
  - Is already installed on the property owned by the apartment community or managed by the apartment community management company;
  - Is not being modified except to replace components necessary to return the equipment to its original condition and the partial disassembly associated with the replacement;
  - Is a type of equipment commonly installed in similar locations; and
  - Is repaired with new parts that are functionally identical to the parts being replaced.

- An individual repair does not involve replacement parts that cost more than \$1,000. An individual repair may not be so extensive as to be a functional replacement of the electric water heater or the existing electric heating, venting, or air-conditioning system being repaired.
- The property owned by the apartment community or managed by the apartment community management company includes at least 100 apartments.

## **Propane Gas Water Heater Installations (Section 7)**

### Present Situation

Currently, natural gas utility employees have the authority under s. 489.105, F.S., to disconnect and reconnect water lines when servicing and replacing "existing" water heaters. Although natural gas and propane are piped in the same manner and have the same properties and pressures inside homes, the propane industry does not have the authority to disconnect and reconnect water lines and must contract with plumbers to start and complete this task. This creates additional costs for propane water heater customers. According to the Florida Natural Gas Association, the installers of natural gas and propane appliances have the same capabilities for their job duties. For example, currently there are three companies within the state that have natural gas and propane sides to their operations. Their employees can disconnect and reconnect water lines when servicing natural gas water heaters, but the same employees cannot do this when servicing propane water heaters.<sup>8</sup>

### Effects of Proposed Changes

The bill extends the authority to disconnect and reconnect water lines in the servicing or replacement of an existing water heater to licensed Category I liquefied petroleum gas dealers, liquefied petroleum gas installers, and specialty installers.

## **Florida Homeowners' Construction Recovery Fund (Sections 9-13)**

### Present Situation

#### *Florida Homeowners' Construction Recovery Fund and the Construction Industry Licensing Board*

The Florida Homeowners' Construction Recovery Fund (fund) is created in s. 489.140, F.S., as a separate account in the Professional Regulation Trust Fund.

According to DBPR, the fund was created in 1993, after Hurricane Andrew, as a fund of last resort to compensate consumers who contracted for construction, repair, or improvement of their Florida residence and who suffered monetary damages due to the financial misconduct, abandonment, or fraudulent statement of the licensed contractor,<sup>9</sup> financially responsible officer, or business organization licensed under ch. 489, F.S.<sup>10</sup>

The fund is financed by a 1.5 percent surcharge on all building permit fees associated with the enforcement of the code.<sup>11</sup> The proceeds from the surcharge are allocated equally to the fund and support the operations of the Building Code Administrators and Inspectors Board.<sup>12, 13</sup>

<sup>8</sup> Email from Dale Calhoun, President of the Florida Natural Gas Association, RE: propane tank installations (Mar. 13, 2015).

<sup>9</sup> Florida Department of Business and Professional Regulation, Agency Analysis of 2014 Senate Bill 1098 (Mar. 11, 2014).

<sup>10</sup> s. 489.1402(1)(g), F.S.

<sup>11</sup> s. 468.631(1), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> In 2013, the Legislature gave DBPR the authority to transfer excess cash to the fund if it determines it is not needed to support the operation of the Building Code Administrators and Inspectors Board; however, DBPR may not transfer excess cash that would exceed the amount appropriated in the General Appropriations Act and any amount approved by the Legislative Budget Commission pursuant to s. 216.181, F.S. See sect. 2, ch. 2013-187, Laws of Fla.

A claimant must be a homeowner and the damage must have been caused by a Division I contractor.<sup>14</sup> The fund is not permitted to compensate consumers who contracted with Division II contractors or to compensate consumers who suffered damages as a result of payments made in violation of the Florida Construction Lien Law under part I of ch. 713, F.S.

Division I contractors are listed in s. 489.105(3)(a)-(c), F.S., as the following:

<ul style="list-style-type: none"> <li>• General contractors</li> </ul>	<ul style="list-style-type: none"> <li>• Residential contractors</li> </ul>
<ul style="list-style-type: none"> <li>• Building contractors</li> </ul>	

Division II contractors are listed in s. 489.105(3)(d)-(q), F.S., as the following:

<ul style="list-style-type: none"> <li>• Sheet metal contractors</li> </ul>	<ul style="list-style-type: none"> <li>• Residential pool/spa contractors</li> </ul>
<ul style="list-style-type: none"> <li>• Roofing contractors</li> </ul>	<ul style="list-style-type: none"> <li>• Swimming pool/spa servicing contractors</li> </ul>
<ul style="list-style-type: none"> <li>• Class A air-conditioning contractors</li> </ul>	<ul style="list-style-type: none"> <li>• Plumbing contractors</li> </ul>
<ul style="list-style-type: none"> <li>• Class B air-conditioning contractors</li> </ul>	<ul style="list-style-type: none"> <li>• Underground utility and excavation contractors</li> </ul>
<ul style="list-style-type: none"> <li>• Class C air-conditioning contractors</li> </ul>	<ul style="list-style-type: none"> <li>• Solar contractors</li> </ul>
<ul style="list-style-type: none"> <li>• Mechanical contractors</li> </ul>	<ul style="list-style-type: none"> <li>• Pollutant storage systems contractors</li> </ul>
<ul style="list-style-type: none"> <li>• Commercial pool/spa contractors</li> </ul>	<ul style="list-style-type: none"> <li>• Specialty contractors</li> </ul>

Decisions regarding the fund are made by the Construction Industry Licensing Board which is housed within DBPR.

The Construction Industry Licensing Board (CILB) consists of 18 members who are responsible for licensing and regulating the construction industry in the state.<sup>15</sup> The CILB is divided into Division I and Division II members following the definitions of Division I and Division II contractors respectively, with the jurisdiction falling to each division relative to their scope.<sup>16</sup> Five members constitute a quorum for each division.

The CILB meets regularly to consider applications for licensure, to review disciplinary cases, and to conduct informal hearings related to licensure and discipline.<sup>17</sup> It engages in rulemaking to implement the provisions set forth in the statutes and conducts other general business, as necessary.<sup>18</sup>

The CILB, with respect to actions for recovery from the fund, may "intervene, enter an appearance, file an answer, defend the action, or take any action it deems appropriate and may take recourse through any appropriate method of review" on behalf of the state.<sup>19</sup> In accordance with DBPR rules, "The Board shall either authorize payment of the claim in full or in part, or deny the claim in full, by entry of a Final Order in accordance with s. 489.143, F.S. Action by the Board shall be considered final agency action."<sup>20</sup>

Section 489.129, F.S., grants the CILB the authority to take actions against any certificateholder or registrant if the contractor, financially responsible officer, or business organization for which the contractor is a primary qualifying agent, a financially responsible officer, or a secondary qualifying agent responsible under s. 489.1195, F.S., is found guilty of certain acts, including the acts that may

<sup>14</sup> s. 489.1402(1)(c), (d), and (f), F.S.

<sup>15</sup> s. 489.107, F.S.

<sup>16</sup> s. 489.107(4)(c), F.S.

<sup>17</sup> Florida Department of Business and Professional Regulation, Construction Industry Licensing Board, available at <http://www.myfloridalicense.com/DBPR/pro/cilb/index.html> (Last visited Nov. 23, 2015).

<sup>18</sup> s. 489.108, F.S.

<sup>19</sup> s. 489.142(1), F.S.

<sup>20</sup> Rule 61G4-21.004(7), F.A.C.

qualify a claim to the fund. Specifically, the acts that may qualify a claim to the fund are financial misconduct, abandonment of the project, or fraudulent statement of the contractor<sup>21</sup> and are described in s. 489.129(1)(g), (j), or (k), F.S. If the violation is not expressly based on s. 489.129(1)(g), (j), or (k), F.S., the claimant must demonstrate that the contractor engaged in activity that is described in those subsections.<sup>22</sup>

### *Claims*

The claimant must have obtained a final judgment, arbitration award, or Board-issued restitution order against the contractor for damages that are a direct result of a compensable violation. A claim for recovery must be made within one year after the conclusion of any civil, criminal, administrative action, or award in arbitration based on the act.<sup>23</sup>

Pursuant to s. 489.143, F.S., each recovery claim is limited to both a per-claim maximum amount and a total lifetime per-contractor maximum. For contracts entered prior to July 1, 2004, the fund claims are limited to \$25,000 per claim with a total life time aggregate limit of \$250,000 per licensee.<sup>24</sup> For contracts entered after July 1, 2004, the per-claim payment limits are increased to \$50,000 with a total lifetime aggregate of \$500,000 per licensee.<sup>25</sup> Claims are paid in the order that they are filed.<sup>26</sup>

The Board will not compensate claimants from the recovery fund for any of the following reasons.

- The claimant is a licensee who acted as the contractor;
- The claimant is the spouse of the judgment debtor or licensee or a personal representative of such spouse;
- The claim is based upon a construction contract in which the licensee was acting with respect to the property owned or controlled by the licensee;
- The claim is based upon a construction contract in which the contractor did not hold a valid and current license at the time of the construction contract;
- The claimant was associated in a business relationship with the licensee other than the contract at issue;
- When, after notice, the claimant has failed to provide documentation in support of the claims required by rule;
- Where the licensee has reached the aggregate limit; or
- The claimant has contracted for scope of work described in s. 489.105(3)(d)-(q), F.S. [Division II contractors].<sup>27</sup>

The fund is also not permitted to compensate consumers who suffered damages as a result of payments made in violation of the Florida Construction Lien Law under part I of ch. 713, F.S.

### *Duty of Contractor to Give Notice of Fund*

Any agreement or contract for the repair, restoration, improvement, or construction to residential real property must contain a statutorily mandated notification statement informing the consumer of their rights under the recovery fund, unless the total contract price is less than \$2,500.<sup>28</sup>

<sup>21</sup> Florida Department of Business and Professional Regulation, Agency Analysis of 2014 Senate Bill 1098 (Mar. 11, 2014).

<sup>22</sup> Rule 61G4-21.003(3), F.A.C.

<sup>23</sup> Rule 61G4-21.003(5), F.A.C.

<sup>24</sup> s. 489.143(2) and (5), F.S.

<sup>25</sup> *Id.*

<sup>26</sup> s. 489.143(6), F.S.

<sup>27</sup> Rule 61G4-21.004(3), F.A.C.

<sup>28</sup> s. 489.1425, F.S.

## Effects of Proposed Changes

### *Claims*

The bill revises the law to include Division II contractors within the parameters of the fund. Specifically, it revises the statutory limits on recovery payments to include Division II contracts beginning January 1, 2017, for any contract entered into after July 1, 2016. The bill limits Division II claims to \$15,000 per claim with a \$150,000 lifetime maximum per licensee.

The bill removes the prohibition against paying consumer claims where the damages resulted from payments made in violation of the Florida Construction Lien Law for contracts entered into after July 1, 2016.

### *Duty of Contractor to Give Notice of Fund*

The bill revises language for the notice that contractors must give to homeowners informing them of their rights under the recovery fund to advise that payments from the fund are up to a limited amount.

## **Low-Voltage Landscape Lighting (Section 14)**

### Present Situation

Chapter 489, Part II, regulates electrical and alarm system contractors. This regulation seeks to enable qualified persons to obtain licensure, while ensuring that applicants have sufficient technical experience in the applicable trade prior to licensure, are tested on technical and business matters, and upon licensure are made subject to disciplinary procedures and effective policing of the profession.<sup>29</sup>

Section 489.503, F.S., provides exemptions to Part II for persons performing various tasks such as someone licensed as a fire protection system contractor while engaged in work as a fire protection system contractor, an employee monitoring an alarm system of a business, a lightning rod or related systems installer, etc.

### Effects of Proposed Changes

The bill creates an exemption from the requirement to be a licensed electrical contractor for a person who installs low-voltage landscape lighting that contains a factory-installed electrical cord with a plug and does not require installation, wiring, or other modification to the electrical wiring of a structure.

## **Public Portable Swimming Pools (Sections 16 through 18)**

### Present Situation

The Florida Building Commission (FBC) has included standards for the construction of public swimming pools in the code which are enforced by local building departments throughout the state. In 2012, the Legislature determined that local building entities would have jurisdiction over permitting, plan reviews, and inspections of public swimming pools and public bathing places and that the Department of Health (DOH) would continue to have jurisdiction over the operating permits for public swimming pools and public bathing places.<sup>30</sup>

The Miami-Dade school district has operated a learn-to-swim program for over 20 years. One of the ways they provide swimming lessons is through the use of portable pools. The DOH recently advised

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<sup>29</sup> s. 489.501, F.S.

<sup>30</sup> Ch. 2012-184, Laws of Fla.

the school district that using portable pools to provide swimming lessons do not meet DOH's operating criteria and the school district cannot use them for that purpose.<sup>31</sup>

### Effects of Proposed Changes

The bill amends the definition of a private pool in s. 514.011, F.S., to include portable pools used exclusively for the purpose of providing swimming lessons or related instruction in support of an established "Learn to Swim" educational program sponsored or provided by a county school district as a private pool and provides that these pools shall not be regulated as public pools.

## **Florida Accessibility Code for Building Construction (Sections 19 and 22)**

### Present Situation

The 1993 Legislature created the Florida Americans with Disability Accessibility Implementation Act which incorporated the architectural accessibility requirements of the Americans with Disabilities Act of 1990.<sup>32</sup> The Florida Accessibility Code for Building Construction contains scoping and technical requirements for accessibility to sites, facilities, buildings, and elements by individuals with disabilities. The requirements are to be applied during the design, construction, additions to, and alteration of sites, facilities, buildings, and elements.<sup>33</sup>

Section 553.512, F.S., directs the FBC to provide criteria for granting individual modifications of, or exceptions from, the "literal requirements of this part upon a determination of unnecessary, unreasonable, or extreme hardship, provided such waivers shall not violate federal accessibility laws and regulations and shall be reviewed by the Accessibility Advisory Council."

The Accessibility Advisory Council consists of seven members, who are to be knowledgeable in the area of accessibility for persons with disabilities. The Secretary of DBPR is to appoint the following for the membership:

- A representative from the Advocacy Center for Persons with Disabilities, Inc.;
- A representative from the Division of Blind Services;
- A representative from the Division of Vocational Rehabilitation;
- A representative from a statewide organization representing the physically handicapped;
- A representative from the hearing impaired;
- A representative from the Florida Council of Handicapped Organizations; and
- A representative from the Paralyzed Veterans of America.

According to DBPR, the Florida Council of Handicapped Organizations no longer exists.<sup>34</sup>

All Accessibility Advisory Council members are limited to two four-year terms and any member may be replaced by the Secretary if he or she has three unexcused absences from meetings. The members serve without compensation, but are entitled to reimbursement for per diem and travel expenses as provided by s. 112.061, F.S.

Section 553.775, F.S., provides procedures that may be invoked regarding interpretations of the Florida Accessibility Code for Building Construction, which include requiring the FBC to coordinate with the Building Officials Association of Florida, Inc., to designate panels of five members each to hear requests to review decisions of local building officials.

<sup>31</sup> March 24, 2015, email on file with the Government Operations Appropriations Subcommittee.

<sup>32</sup> Preface to the 2010 Florida Building Code, Accessibility.

<sup>33</sup> Section 101.1, of the 2012 Florida Accessibility Code for Building Construction.

<sup>34</sup> Correspondence from Department of Business and Professional Regulation to Mr. Warren H. Jernigan, President, Pensacola Pen Wheels Inc. Employ the Handicapped Council, Feb. 19, 2014.

## Effects of Proposed Changes

The bill replaces the defunct Florida Council of Handicapped Organizations appointee category with Pensacola Pen Wheels Inc. Employ the Handicapped Council, which is

An advocacy group that strives to aid the disabled through improving quality of life, work placement, and community involvement. For over forty years the Pensacola-based group has led the disabled community by working together, growing together, and winning together. The organization focuses on ensuring accessibility for the disabled (ADA compliance, encouraging businesses and government organizations to improve their facilities to better accommodate the disabled).<sup>35</sup>

The bill also reduces the review panels of five members each to one panel of seven members. Five of the members must be licensed as building code administrators, one member must be a licensed architect, and one member must be licensed as an engineer.

## **Building Code Compliance and Mitigation Program (Sections 20 and 24) and Code-Related Training (Sections 2, 3, 4, 5, 8 and 15)**

### Present Situation

#### *Education and Training Requirements*

The DBPR administers the Florida Building Code Compliance and Mitigation Program (program), which was created to develop, coordinate, and maintain education and outreach to persons who are required to comply with the code and ensure consistent education, training, and communication of the code's requirements, including, but not limited to, methods for mitigation of storm-related damage.<sup>36</sup> The program is geared toward persons licensed and employed in the design and construction industries. The services and materials under the program must be provided by a private, nonprofit corporation under contract with DBPR.<sup>37</sup>

The education and training requirements of the program include maintaining a thorough knowledge of the code, a thorough knowledge of code compliance and enforcement, duties related to consumers, project completion, and compliance of design and construction to protect against consumer harm, storm damage, and other damage. The FBC establishes, via rules, the qualifications of accreditors and criteria for the accreditation of courses. Currently, the program requires advanced code courses for each profession referenced in the code.

Proponents of the bill state the following:

The advanced code course(s) was initiated when we first adopted a statewide uniform building code. It was mandated that all contractors and design professionals take the "advanced" code course. The various boards adopted the mandate as part of their rules and it became synonymous with any course that was "approved" by the FBC. It is now just a duplicative process in that you have to get a course approved by the FBC as an "advanced" course to access any of the training dollars through the Building A Safer Florida program. The same courses are approved individually by the various professional boards. It is a duplicative, costly process - you have to pay an accreditor to accredit the course, take

<sup>35</sup> Email correspondence from staff of Representative Clay Ingram, Apr. 16, 2015.

<sup>36</sup> s. 553.841(2), F.S.

<sup>37</sup> s. 553.841(3), F.S.

it to the FBC Education Program Oversight Committee and then take it to the full FBC for approval. The courses are the same whether they get a stamp of "advanced" or not.<sup>38</sup>

### *Surcharge*

Section 553.721, F.S., provides for the DBPR to collect a surcharge that is 1.5 percent of the permit fees associated with enforcement of the code as defined by the uniform account criteria and specifically the uniform account code for building permits adopted for local government financial reporting. The minimum amount to be collected on any permit issued is \$2. The proceeds that are collected from the surcharge are remitted to DBPR and deposited in the Professional Regulation Trust Fund quarterly. These monies fund the Florida Building Code Compliance and Mitigation Program and the FBC.<sup>39</sup> Section 553.721, F.S., provides that the Florida Building Code Compliance and Mitigation Program is allocated \$925,000 from this fund each fiscal year.<sup>40</sup>

### *Building Code System Uniform Implementation Evaluation Workgroup*

The Building Code System Uniform Implementation Evaluation Workgroup was created on January 31, 2012, by the FBC and is composed of building industry stakeholders. Its objective was to evaluate the success of the FBC to implement a unified building code throughout the state.<sup>41</sup>

### *Fire Code Interpretation Committee*

Section 633.212, F.S., provides legislative intent that the "Florida Fire Prevention Code be interpreted by fire officials and local enforcement agencies in a manner that reasonably and cost-effectively protects the public safety, health, and welfare; ensures uniform interpretations throughout this state; and provides just and expeditious processes for resolving disputes regarding such interpretations." Further, it is the intent of the Legislature that the Division of State Fire Marshal establish a Fire Code Interpretation Committee composed of seven members and seven alternates, equally representing each area of the state, to which a person can pose questions regarding the interpretation of the Florida Fire Prevention Code provisions.<sup>42</sup>

Each nonbinding interpretation of Florida Fire Prevention Code provisions must be provided within 15 business days after receipt of a request for interpretation. The response period may be waived with the written consent of the party requesting the nonbinding interpretation and the State Fire Marshal. The interpretations are advisory only and nonbinding on the parties or the State Fire Marshal.<sup>43, 44</sup>

### Effects of Proposed Changes

#### *Education and Training Requirements*

The bill authorizes, rather than directs, DBPR to develop code-related training, in place of advanced modules, for each profession when administering the Florida Building Code Compliance and Mitigation Program. The bill also removes the requirement that the FBC provide for the accreditation of courses related to the code. When this requirement is removed, the Florida Building Code Compliance and

<sup>38</sup> Email from Kari Roth, representing the Building Industry, RE: advanced courses in Florida Building Code Compliance and Mitigation Program (Mar. 8, 2015).

<sup>39</sup> The Florida Building Code Compliance and Mitigation Program is established in s. 553.841, F.S.

<sup>40</sup> Funds used by DBPR as well as funds to be transferred to DOH shall be as prescribed in the annual General Appropriations Act.

<sup>41</sup> Jeff A. Blair, *Building Code System Uniform Implementation Evaluation Workgroup Report to the Florida Building Commission*, p. 19 (Apr. 8, 2013).

<sup>42</sup> s. 633.212(1), F.S.

<sup>43</sup> s. 633.212(3), F.S.

<sup>44</sup> The Division of State Fire Marshal may charge a fee, not to exceed \$150, for each request for a review or nonbinding interpretation.



Mitigation Program course providers will still be required to have their course reviewed and approved under the appropriate board that would be reviewing and approving the course for continuing education purposes.

*Surcharge; Building Code System Uniform Implementation Evaluation Workgroup; and Fire Code Interpretation Committee*

The bill provides funding from the existing funds of the Florida Building Code Compliance and Mitigation Program, not to exceed \$30,000 in Fiscal Year 2016-2017, for the recommendations made by the Building Code System Uniform Implementation Evaluation Workgroup. It also provides that funds collected from the surcharge also be used to fund Florida Fire Prevention Code informal (nonbinding) interpretations, not to exceed \$15,000 each fiscal year.

The bill provides the State Fire Marshal with rule-making authority to address changes made concerning Florida Fire Prevention Code informal interpretations.

**Florida Building Code and the Florida Fire Prevention Code (Sections 21 and 22)**

Present Situation

Section 553.73(11)(a), F.S., provides that,

In the event of a conflict between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code as applied to a specific project, the conflict shall be resolved by agreement between the local building code enforcement official and the local fire code enforcement official in favor of the requirement of the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and an equivalent method of construction.

Any decision made by the local fire official and the local building official may be appealed to a local administrative board designated by the municipality, county, or special district having firesafety responsibilities. If the decision of the local fire official and the local building official is to apply the provisions of either the Florida Building Code or the Florida Fire Prevention Code and the Life Safety Code, the board may not alter the decision unless the board determines that the application of such code is not reasonable.<sup>45</sup>

If the decision of the local fire official and the local building official is to adopt an alternative to the codes, the local administrative board shall give due regard to the decision rendered by the local officials and may modify that decision if the administrative board adopts a better alternative, taking into consideration all relevant circumstances. In any case in which the local administrative board adopts alternatives to the decision rendered by the local fire official and the local building official, such alternatives shall provide an equivalent degree of lifesafety and an equivalent method of construction as the decision rendered by the local officials.<sup>46</sup>

If the local building official and the local fire official are unable to agree on a resolution of the conflict between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code, the local administrative board shall resolve the conflict in favor of the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and an equivalent method of construction.<sup>47</sup>

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<sup>45</sup> s. 553.73(11)(b), F.S.

<sup>46</sup> *Id.*

<sup>47</sup> s. 553.73(11)(c), F.S.

Prior to June 30, 2015, the code required that high-rise buildings with occupied floors in excess of 120 feet above the lowest level of fire department vehicle access have at least one fire service access elevator.<sup>48</sup>

On June 30, 2015, the 2014 code went into effect. Included in the 2014 code was the following requirement (including bolded, italicized emphasis):

**403.6.1 Fire service access elevator.** In buildings with an occupied floor more than 120 feet (36,576 mm) above the lowest level of fire department vehicle access, no fewer than two fire service access elevators, or all elevators, whichever is less, shall be provided in accordance with Section 3007. Each fire service access elevator shall have a capacity of not less than 3500 pounds (1588 kg).<sup>49</sup>

In Special Session 2015-A, prior to the code going into effect, the Legislature delayed the effective date of this provision until June 30, 2016.<sup>50</sup> See **Statement of Estimated Regulatory Costs and Ratification** discussion on Page 18 of this analysis for further discussion of the Special Session provision.

### Effects of Proposed Changes

The bill authorizes local boards that are created to address issues arising under the Florida Building Code and the Florida Fire Prevention Code to combine the appeals boards to create a single, local board having jurisdiction over matters arising under either or both codes. This combined board has the authority to grant alternatives or modifications but doesn't have the authority to waive the requirements of the Fire Prevention Code. The bill provides that in order to meet the quorum requirement, there must be at least one member of the board who is a fire protection contractor, a fire protection design professional, a fire department operations professional, or a fire code enforcement professional.

The bill prohibits the code from requiring more than one fire service access elevator in residential occupancies where the highest occupiable floor is less than 420 feet above the level of fire service access. The remaining elevators must be provided with specified emergency operations.

The bill gives specific requirements for situations where fire service access elevators are required and where transient residential occupancies occur at floor levels above 420 feet above the level of fire service access.

### **Phased Permitting (Section 23)**

#### Present Situation

Section 553.79, F.S., prohibits any person, firm, corporation, or governmental entity to construct, erect, alter, modify, repair, or demolish any building within the state without first obtaining a permit from the appropriate enforcing agency.<sup>51</sup> Further, a permit may not be issued for any building construction, erection, alteration, modification, repair, or addition unless the applicant for such permit complies with the requirements for plan review established by the FBC within the code. However, the code shall set standards and criteria to authorize preliminary construction before completion of all building plans review, including, but not limited to, special permits for the foundation only.<sup>52</sup>

Section 105.13, F.S. (phased permit approval), of the code provides the following:

<sup>48</sup> Section 403.6.1 of the 2010 Florida Building Code, Building.

<sup>49</sup> Section 403.6.1, of the 2014 Florida Building Code, Building.

<sup>50</sup> See 2015 SB 2502-A (Implementing Bill for General Appropriations Act).

<sup>51</sup> s. 553.79(1), F.S.

<sup>52</sup> s. 553.79(6), F.S.

After submittal of the appropriate construction documents, the building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted. Corrections may be required to meet the requirements of the technical codes.

### Effects of Proposed Changes

The bill provides that after an applicant submits the appropriate construction documents, the local building official may issue a phased permit. The holder of a phased permit for the foundation or other parts of a building or structure may proceed with permitted activities at the holder's own risk and without assurance that a master building permit for the entire structure will be granted. The building official may require corrections to the phased permit to meet the requirements of the technical codes.

### **Product Evaluation and Approval (Section 25)**

#### Present Situation

The State Product Approval System provides manufacturers an opportunity to have building products approved for use in Florida by the FBC rather than seeking approval in each local jurisdiction where the product is used.<sup>53</sup> Section 553.842, F.S., directs the FBC to adopt rules to develop and implement a product evaluation and approval system that applies statewide to operate in coordination with the code. The FBC may enter into contracts to provide for administration of the product evaluation and approval system. The product evaluation and approval system is to rely on national and international consensus standards, whenever adopted by the code, for demonstrating compliance with code standards. Other standards which meet or exceed established state requirements are also to be considered.

Section 553.842(8), F.S., authorizes the FBC to adopt rules to approve the following types of entities that produce information on which product approvals are based. The entities must comply with a nationally recognized standard demonstrating independence or no conflict of interest. The FBC is directed to specifically approve the following evaluation entities:<sup>54</sup>

- The National Evaluation Service;
- The International Association of Plumbing and Mechanical Officials Evaluation Service;
- International Code Council Evaluation Services; and
- The Miami-Dade County Building Code Compliance Office Product Control Division.

### Effects of Proposed Changes

The bill adds Underwriters Laboratories, LLC (commonly known as "UL"), an independent safety consulting and certification company,<sup>55</sup> to the list of entities that are authorized to produce information on which product approvals are based.

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<sup>53</sup> Florida Department of Business and Professional Regulation, Agency Analysis of 2016 SB 704 (Nov. 19, 2015).

<sup>54</sup> Architects and engineers licensed in this state are also approved to conduct product evaluations, as provided in s. 553.842(5), F.S.

<sup>55</sup> According to Underwriters Laboratories, LLC, "UL is a global independent safety science company with more than a century of expertise innovating safety solutions from the public adoption of electricity to new breakthroughs in sustainability, renewable energy and nanotechnology." <http://UL.com>, (last visited Nov. 23, 2015).

## Smoke Alarms in One-Family and Two-Family Homes (Section 26)

### Present Situation

In relation to smoke alarms in one-family and two-family dwellings and townhomes, the code provides that, "When alterations, repairs, or additions requiring a permit occur, or when one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be equipped with smoke alarms located as required for new dwellings."<sup>56</sup>

Section 553.883, F.S., requires owners of one-family and two-family dwellings and townhomes undergoing a repair, or a level 1 alteration as defined in the code, to use a smoke alarm powered by a 10-year non-removable, non-replaceable battery in lieu of retrofitting the dwelling with a smoke alarm powered by the electrical system.

Effective January 1, 2015, each battery-powered smoke alarm that is installed or that replaces an existing battery-powered smoke alarm must be powered by a non-removable, non-replaceable battery that powers the alarm for a minimum of 10 years. These battery requirements do not apply to a fire alarm, smoke detector, smoke alarm, or ancillary component that is electronically connected as a part of a centrally monitored or supervised alarm system.

### Effects of Proposed Changes

The bill adds the following exceptions to the smoke alarm battery requirement:

- An alarm that uses a low-power or radio frequency wireless communication signal; or
- An alarm that contains multiple sensors, such as a smoke alarm combined with a carbon monoxide alarm or other devices as the State Fire Marshal designates by rule.

## Blower Door/Air Infiltration Tests and Mechanical Ventilation Devices (Section 27)

### Present Situation

Building contractors install certain features to intentionally ventilate and exhaust unwanted odors or combustion byproducts from a home—such as exhaust fans in the bathroom and above the stove. Unintentional air leakage can occur because of the construction techniques used and/or lack of attention to proper air sealing during construction. Air leakage can cause homes to be less energy efficient.<sup>57</sup>

To identify and measure the cracks and holes present in a building's envelope, a "blower door test" or an air infiltration test is used which measures the airtightness of a building by changing the building's static pressure with respect to the outdoors and recording the amount of air flow required for that change. Results of the blower door test provide a standard measure of the leakage of a home, measured in cubic feet per minute of airflow which is then converted to air changes per hour so a home's leakage can be compared to standard recommendations for healthy and energy-efficient homes. While less leakage is typically considered better, a home that has very little leakage can also cause poor indoor air quality. In order to prevent poor indoor air quality caused by a house that does not have proper ventilation or is sealed too tight, contractors use mechanical ventilation devices to filter outside air through the house's HVAC system.<sup>58</sup>

<sup>56</sup> Section R314.3.1 of the 2010 Florida Building Code, Residential.

<sup>57</sup> Florida Department of Agriculture and Consumer Services, *available at* <http://www.myfloridahomeenergy.com/help/library/contractors-certifications/testing-for-air-leakage/#sthash.CdEAt1HA.dpbs> (last visited Nov. 30, 2015).

<sup>58</sup> *Id.*

On June 30, 2015, the 2014 code went into effect. Included in the 2014 code was the requirement that a home be tested via a blower door/air infiltration test to demonstrate specific air infiltration levels. Also part of the 2014 code was required installation of a mechanical ventilation device designed to filter outside air through an HVAC system under certain circumstances.

In Special Session 2015-A, prior to the code going into effect, the Legislature delayed the effective date of these two provisions until June 30, 2016.<sup>59</sup> See **Statement of Estimated Regulatory Costs and Ratification** discussion on Page 18 of this analysis for further discussion of the Special Session provision.

### Effects of Proposed Changes

The bill prohibits adopting mandatory blower door/air infiltration testing and mechanical ventilation device requirements into the 2014 code and reverts to the 2010 code.

## **Florida Fire Prevention Code (Sections 28, 29, 30, and 31)**

### Present Situation

State law on fire prevention and control is provided in ch. 633, F.S. The Chief Financial Officer is designated as the State Fire Marshal, operating through the Division of the State Fire Marshal (division) within the Department of Financial Services.<sup>60</sup> Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts firesafety inspections of state property; develops firesafety standards; provides facilities for the analysis of fire debris; and operates the Florida State Fire College.

The State Fire Marshal is required to adopt the Florida Fire Prevention Code by rule every three years. The code contains or references all firesafety laws and rules regarding public and private buildings that pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules.<sup>61</sup>

### Effects of Proposed Changes

The bill adds the following provisions to the Florida Fire Prevention Code:

- In all new high-rise and existing high-rise buildings, minimum radio signal strength for fire department communications shall be maintained at a level determined by the authority having jurisdiction.
  - Existing buildings may not be required to comply with minimum radio strength for fire department communications and two-way radio system enhancement communications as required by the Florida Fire Prevention Code until January 1, 2022. However, by December 31, 2019, an existing building that is not in compliance with the requirements for minimum radio strength for fire department communications must initiate an application for an appropriate permit for the required installation with the local government agency having jurisdiction and must demonstrate that the building will become compliant by January 1, 2022.

<sup>59</sup> See 2015 SB 2502-A (Implementing Bill for General Appropriations Act).

<sup>60</sup> s. 633.104, F.S.

<sup>61</sup> s. 633.202, F.S.

- Existing apartment buildings may not be required to comply until January 1, 2025. However, existing apartment buildings are required to initiate the appropriate permit for the required communications installation by December 31, 2022.
- Areas of refuge shall be provided when required by the Florida Building Code-Accessibility. Required portions of an area of refuge shall be accessible from the space they serve by an accessible means of egress.
- The home environment provisions enumerated in the most current edition of the codes adopted by the division may be applied to existing assisted living facilities, at the option of each facility, notwithstanding the edition of the codes applied at the time of construction.
- The fire official may consider the Fire Safety Evaluation System<sup>62</sup> as an acceptable tool to identify low cost alternatives. It is acceptable to use the Fire Safety Evaluation System for Board and Care Facilities using prompt evacuation capabilities parameter values on existing residential high-rise buildings.
- It is acceptable for a fire protection contractor licensed under ch. 633, F.S., to subcontract with companies providing advanced technical services for installing, servicing, and maintaining fire pump control panels and fire pump drivers. To ensure the integrity of the system and to protect the interests of the property owner, those providing technical support services for fire pump control panels and drivers must be under contract with a licensed fire protection contractor.

### **Statement of Estimated Regulatory Costs and Ratification (Sections 32 and 33)**

#### Present Situation

Section 553.73(7)(a), F.S., requires that the FBC update, by rule, the code every three years. Section 633.202(4), F.S., requires the State Fire Marshal to update, by rule, the Florida Fire Prevention Code every three years.

Section 120.541, F.S., requires a statement of estimated regulatory costs under certain circumstances when a department is proposing a rule and provides criteria for which these statements are necessary. Section 120.541(3), F.S., provides that if the adverse impact or regulatory costs of the rule exceed any of the criteria established in the section, the rule must be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the next regular legislative session, and the rule may not take effect until it is ratified by the Legislature.

Exceptions to this requirement include the adopting of the following:

- Federal standards pursuant to s. 120.54(6), F.S.;
- Triennial updates of and amendments to the code; and
- Triennial updates of and amendments to the Florida Fire Prevention Code.

The 2015 General Appropriations Act, SB 2500-A, provided appropriations of \$35,000 to the Department of Economic Opportunity to conduct a study on the "regulatory compliance cost impact upon the effected elements of the construction of certain provisions" of the code. The proviso language required that, at a minimum, the analysis should include estimates of the minimum and maximum:

- Incremental cost of compliance to the construction industry;
- Number of construction projects impacted; and
- Resulting increase in cost to the final purchaser of such construction projects.

The report was to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2015.

<sup>62</sup> This system is in NFPA 101A, Alternative Solutions to Life Safety, current edition, adopted by the State Fire Marshal.

The funding for this report was vetoed by Governor Scott on June 23, 2015. Although the Department of Economic Opportunity was directed by the vetoed language to perform the analysis, in accordance with s. 553.77(1)(b), F.S., the FBC has contracted with the University of Florida to conduct the study, the results of which should be released by December 31, 2015.

### Effects of Proposed Changes

The bill removes provisions that exempt the triennial updates of the code and the Florida Fire Prevention Code from potential legislative ratification. Further, a statement of estimated regulatory costs must be prepared for each section of these two codes if the section was not incorporated in the previous version of the code and such provision is expected to increase construction costs of more than \$1 million in the aggregate within five years.

### **Calder Sloan Swimming Pool Electrical-Safety Task Force (Section 34)**

#### Present Situation

DOH is responsible for the oversight and regulation of water quality and safety of certain swimming pools in Florida under ch. 514, F.S. Inspections and permitting for swimming pools are conducted by the county health departments. Sanitation and safety standards for public pools have been adopted by rule under Chapter 64E-9 of the Florida Administrative Code.

Current construction rules for public pools require that written approval must be received from DOH before construction can begin.<sup>63</sup> Plans are required to show the pool layout, tile markings, size of the pool ladder, gutter heights and, if night swimming is permitted, an engineer in Florida must provide certification that the underwater lighting meets the requirements of Rule 64E-9.006(2)(c)3 of the Florida Administrative Code, which sets the maximum lighting at 15 volts. The rule also permits all underwater lighting requirements to be waived if overhead lighting provides at least 15 foot candles of illumination at the pool water surface and wet pool deck.<sup>64</sup>

Electrical equipment and wiring must meet national standards relating to the grounding of pool components. The standards that are incorporated into the rule are those of the National Fire Protection Association 70, National Electrical Code (NEC), 2008 Edition, and with any applicable local code. As a part of the plan approval, the electrical contractor or electrical inspector must certify a pool's compliance, on a form designated by DOH.<sup>65</sup>

The United States Consumer Product Union issued a Safety Alert in August 2012 recommending the installation of ground-fault circuit interrupter (GFCI) protections for pools, spas, and hot tubs for protection against electrocution hazards involving electrical circuits and underwater lighting circuits in and around pools, spas, and hot tubs.<sup>66</sup> The Safety Alert noted that pools older than 30 years may not have the proper GFCI protection as the NEC provisions for spas only became effective in 1981 and that "electrical incidents involving underwater pool lighting were more numerous than those involving any other consumer product used in or around pools, spas, and hot tubs."<sup>67</sup>

Several news stories in South Florida in the past two years have also highlighted the issue. Three children were injured by electrical shocks in a Hialeah condominium community pool in April 2014. The

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<sup>63</sup> Rule 64E-9.005, F.A.C.

<sup>64</sup> Rule 64E-9.006(2)(c)3, F.A.C.

<sup>65</sup> Rule 64E-9.006(2)(d), F.A.C.

<sup>66</sup> U.S. Product Safety Commission, *Safety Alert, CPSC Document #5039* (Aug. 14, 2012), available at <http://www.cpsc.gov/PageFiles/118868/5039.pdf> (last visited: Nov. 23, 2015).

<sup>67</sup> *Id.*

building inspector's report found that the pool pump was not properly grounded.<sup>68</sup> During the same month in North Miami, a 7-year-old boy, Calder Sloan, died from electrocution in his family's North Miami swimming pool due to faulty wiring.<sup>69</sup>

### Effects of Proposed Changes

The bill establishes within the FBC the Calder Sloan Swimming Pool Electrical-Safety Task Force (Task Force), the purpose of which is to study standards on grounding, bonding, lighting, wiring, and all electrical aspects for safety in and around public and private swimming pools, especially with regard to minimizing risks of electrocutions linked to swimming pools.

The task force is to be composed of the Swimming Pool Committee and Electrical Technical Advisory Committee (both within the FBC) and is to be chaired by the Swimming Pool Contractor appointed to the FBC. The FBC will provide such staff, information, and other assistance as is reasonably necessary to assist the task force in carrying out its responsibilities.

The task force is directed to meet as often as necessary to fulfill its responsibilities, and meetings may be conducted by conference call, teleconferencing, or similar technology. The Task Force members are to serve without compensation.

The task force must submit a report on its findings, including recommended revisions to state law, if any, to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2016. The Task Force expires on December 31, 2016.

#### B. SECTION DIRECTORY:

**Section 1.** Amends s. 468.609, F.S., relating to certification examination requirements for building code inspectors, plans examiners, and building code administrators.

**Section 2.** Amends s. 468.627, F.S., conforming terminology.

**Section 3.** Amends s. 471.0195, F.S., conforming terminology.

**Section 4.** Amends s. 481.215, F.S., conforming terminology.

**Section 5.** Amends s. 481.313, F.S., conforming terminology.

**Section 6.** Amends s. 489.103, F.S., relating to exemptions from contracting requirements.

**Section 7.** Amends s. 489.105, F.S., relating to plumbing contractors.

**Section 8.** Amends s. 489.115, F.S., conforming terminology.

**Section 9.** Amends s. 489.1401, F.S., relating to the Florida Homeowners' Construction Recovery Fund.

**Section 10.** Amends s. 489.1402, F.S., amending definitions relating to the Florida Homeowners' Construction Recovery Fund.

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<sup>68</sup> Roger Lohse, *Shoddy Electrical Work Lead to 3 Kids' Injuries at a Pool in Hialeah*, Policy Say, LOCAL 10.COM, May 8, 2014, available at <http://www.local10.com/news/police-photos-show-shoddy-electrical-work-at-pool-that-caused-three-kids-to-be-shocked/25861796>. (last visited Nov. 23, 2015).

<sup>69</sup> Roger Lohse, *South Fla. Boy Electrocuted by Pool Light While Swimming*, LOCAL10.COM, April 17, 2014, available at <http://www.local10.com/news/south-fla-boy-electrocuted-by-pool-light-while-swimming/25538944> (last visited Nov. 23, 2015).



**Section 11.** Amends s. 489.141, F.S., relating to claims against the Florida Homeowners' Construction Recovery Fund.

**Section 12.** Amends s. 489.1425, F.S., relating to notification provided by contractors regarding the recovery fund.

**Section 13.** Amends s. 489.143, F.S., relating to payments from the Florida Homeowners' Construction Recovery Fund.

**Section 14.** Amends s. 489.503, F.S., relating to an exemption for certain types of low-voltage landscape lighting.

**Section 15.** Amends s. 489.517, F.S., conforming terminology.

**Section 16.** Amends s. 514.011, F.S., relating to a definition of "private pool."

**Section 17.** Amends s. 514.0115, F.S., relating to exemptions from supervision or regulation of public swimming pools and public bathing facilities.

**Section 18.** Amends s. 514.031, F.S., relating to permits necessary to operate public swimming pool.

**Section 19.** Amends s. 553.512, F.S., relating to the Accessibility Advisory Council.

**Section 20.** Amends s. 553.721, F.S., relating to the Florida Building Code Compliance and Mitigation Program.

**Section 21.** Amends s. 553.73, F.S., relating to the Florida Building Code.

**Section 22.** Amends s. 553.775, F.S., relating to interpretations of the Florida Building Code and the Florida Accessibility Code for Building Construction.

**Section 23.** Amends s. 553.79, F.S., relating to phased permitting for construction.

**Section 24.** Amends s. 553.841, F.S., relating to the Florida Building Code Compliance and Mitigation Program.

**Section 25.** Amends s. 553.842, F.S., relating to Florida Building Code-related product evaluation and approval.

**Section 26.** Amends s. 553.883, F.S., relating to smoke alarms in one- and two-family dwellings and townhomes.

**Section 27.** Amends s. 553.908, F.S., relating to blower door and air infiltration tests and mechanical ventilation devices.

**Section 28.** Amends s. 633.202, F.S., relating to the Florida Fire Prevention Code.

**Section 29.** Amends s. 633.206, F.S., relating to uniform firesafety standards.

**Section 30.** Amends s. 633.208, F.S., relating to minimum firesafety standards.

**Section 31.** Amends s. 633.336, F.S., relating to fire protection contracting.

**Section 32.** Amends s. 120.541, F.S., relating to statements of estimated regulatory costs.

**Section 33.** Amends s. 137 120.80, F.S., relating to legislative ratification for certain provisions of the Florida Building Code and the Florida Fire Prevention Code.

**Section 34.** Creates the Calder Sloan Swimming Pool Electrical-Safety Task Force.

**Section 35.** Provides an effective date of July 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

The Department of Financial Services estimates the following fiscal impacts:<sup>70</sup>

	<u>FY 16-17</u> <u>Amt / FTE</u>	<u>FY17-18</u> <u>Amt / FTE</u>	<u>FY18-19</u> <u>Amt / FTE</u>
1. Revenues:			
Recurring	\$15,000	\$15,000	\$15,000
Non-Recurring	Unknown	Unknown	Unknown
2. Expenditures:			
Recurring <sup>71</sup>	\$750,000	\$750,000	\$750,000
Non-Recurring	\$0	\$0	\$0

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Unknown.

2. Expenditures:

Unknown.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Homeowners who have been harmed by Division II contractors and receive restitution from the Florida Homeowners' Construction Recovery Fund will benefit from the bill.

Apartment owners with communities of 100 or more apartments who have employees make minor repairs to existing electric water heaters or existing electric HVAC systems may experience savings if they meet the requirements of and utilize the contractor licensing requirements exemption.

### D. FISCAL COMMENTS:

None.

<sup>70</sup> Florida Department of Financial Services, Agency Analysis of 2016 SB 704 (Nov. 19, 2015).

<sup>71</sup> The Department of Financial Services estimates that more staff will be needed by the department to implement the provisions that require statements of estimated costs (Section 32 of the bill) and fire code adoptions to be ratified by the Legislature (Section 33 of the bill).

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

The bill provides the State Fire Marshal with rule-making authority to address changes made concerning Florida Fire Prevention Code informal interpretations.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

Line 709 needs to have the year updated from July 1, 2015, to July 1, 2016.

Regulatory cost data relating to blower door and air infiltration testing, mechanical ventilation device, and fire service access elevator requirements is being studied by DBPR and should be released by December 31, 2015.

Sections 32 (lines 1344-1358) and 33 (lines 1359-1413) of the bill, relating to statements of estimated regulatory costs and ratification of rules, may result in a very large, but indeterminate, number of rules coming before the Legislature for ratification. It could also result in piecemeal implementation of the triennial code updates and confusion within the construction industry and local enforcement agencies.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1                                   A bill to be entitled  
 2       An act relating to building codes; amending s.  
 3       468.609, F.S.; revising the certification examination  
 4       requirements for building code inspectors, plans  
 5       examiners, and building code administrators; requiring  
 6       the Florida Building Code Administrators and  
 7       Inspectors Board to provide for issuance of certain  
 8       provisional certificates; amending ss. 468.627,  
 9       471.0195, 481.215, and 481.313, F.S.; requiring a  
 10      licensee or certificateholder to undergo code-related  
 11      training as part of his or her continuing education  
 12      courses; amending s. 489.103, F.S.; providing an  
 13      exemption for certain employees who make minor repairs  
 14      to existing electric water heaters and to existing  
 15      electric heating, venting, and air-conditioning  
 16      systems under specified circumstances; amending s.  
 17      489.105, F.S.; revising the definition of the term  
 18      "plumbing contractor"; amending s. 489.115, F.S.;  
 19      requiring a certificateholder or registrant to undergo  
 20      code-related training as part of his or her continuing  
 21      education requirements; amending s. 489.1401, F.S.;  
 22      revising legislative intent with respect to the  
 23      purpose of the Florida Homeowners' Construction  
 24      Recovery Fund; providing legislative intent that  
 25      Division II contractors set apart funds to participate  
 26      in the fund; amending s. 489.1402, F.S.; revising

27 | definitions; amending s. 489.141, F.S.; authorizing  
 28 | certain claimants to make a claim against the recovery  
 29 | fund for certain contracts entered into before a  
 30 | specified date; amending s. 489.1425, F.S.; revising a  
 31 | notification provided by contractors to certain  
 32 | residential property owners to state that payment from  
 33 | the recovery fund is limited; amending s. 489.143,  
 34 | F.S.; revising provisions concerning payments from the  
 35 | recovery fund; specifying claim amounts for certain  
 36 | contracts entered into before or after specified  
 37 | dates; providing aggregate caps for payments; amending  
 38 | s. 489.503, F.S.; exempting certain low-voltage  
 39 | landscape lighting from licensed electrical contractor  
 40 | installation requirements; amending s. 489.517, F.S.;  
 41 | requiring a certificateholder or registrant to undergo  
 42 | code-related training as part of his or her continuing  
 43 | education requirements; amending s. 514.011, F.S.;  
 44 | revising the definition of the term "private pool";  
 45 | amending s. 514.0115, F.S.; prohibiting a portable  
 46 | pool from being regulated as a public pool in certain  
 47 | circumstances; amending s. 514.031, F.S.; providing  
 48 | that a portable pool may not be used as a public pool  
 49 | unless it is exempt under s. 514.0115, F.S.; amending  
 50 | s. 553.512, F.S.; revising the membership of the  
 51 | Accessibility Advisory Council; amending s. 553.721,  
 52 | F.S.; directing the Florida Building Code Compliance

53 and Mitigation Program to fund, from existing  
 54 resources, the recommendations made by the Building  
 55 Code System Uniform Implementation Evaluation  
 56 Workgroup; providing a limitation; requiring that a  
 57 specified amount of funds from the surcharge be used  
 58 to fund certain Florida Fire Prevention Code informal  
 59 interpretations; requiring the State Fire Marshal to  
 60 adopt specified rules; amending s. 553.73, F.S.;

61 authorizing local boards created to address specified  
 62 issues to combine the appeals boards to create a  
 63 single, local board; authorizing the local board to  
 64 grant alternatives or modifications through specified  
 65 procedures; requiring at least one member of a board  
 66 to be a fire protection contractor, a fire protection  
 67 design professional, a fire department operations  
 68 professional, or a fire code enforcement professional  
 69 in order to meet a specified quorum requirement;

70 authorizing the appeal to a local administrative board  
 71 of specified decisions made by a local fire official;  
 72 specifying the decisions of the local building  
 73 official and the local fire official which are subject  
 74 to review; prohibiting an agency or local government  
 75 from requiring that existing mechanical equipment  
 76 located on or above the surface of a roof be installed  
 77 in compliance with the Florida Building Code under  
 78 certain circumstances; prohibiting the Florida

79 Building Code from requiring more than one fire access  
 80 elevator in certain buildings; prohibiting a 1-hour  
 81 fire-rated fire service access elevator lobby from  
 82 being required in certain circumstances; requiring a  
 83 1-hour fire-related fire service access elevator lobby  
 84 in certain circumstances; providing that the  
 85 requirement for a second fire service access elevator  
 86 is not considered a part of the Florida Building Code;  
 87 amending s. 553.775, F.S.; revising membership on a  
 88 panel that hears requests to review decisions of local  
 89 building officials; amending s. 553.79, F.S.;

90 authorizing a building official to issue a permit for  
 91 the construction of the foundation or any other part  
 92 of a building or structure before the construction  
 93 documents for the whole building or structure have  
 94 been submitted; providing that the holder of such  
 95 permit shall begin building at the holder's own risk  
 96 with the building operation and without assurance that  
 97 a permit for the entire structure will be granted;  
 98 amending s. 553.841, F.S.; authorizing the Department  
 99 of Business and Professional Regulation to maintain,  
 100 update, develop, or cause to be developed code-related  
 101 training and education; removing provisions related to  
 102 the development of advanced courses with respect to  
 103 the Florida Building Code Compliance and Mitigation  
 104 Program and the accreditation of courses related to

105 | the Florida Building Code; amending s. 553.842, F.S.;

106 | providing that Underwriters Laboratories, LLC, is an

107 | approved evaluation entity; amending s. 553.883, F.S.;

108 | exempting certain devices from certain smoke alarm

109 | battery requirements; amending s. 553.908, F.S.;

110 | restricting certain provisions of the Florida Building

111 | Code or law relating to air sealing and insulation

112 | from becoming effective; prohibiting certain

113 | governmental entities from requiring certain HVAC type

114 | tests in specific buildings; amending s. 633.202,

115 | F.S.; requiring all new high-rise and existing high-

116 | rise buildings to maintain a minimum radio signal

117 | strength for fire department communications; providing

118 | a transitory period for compliance; requiring existing

119 | buildings and existing apartment buildings that are

120 | not in compliance to initiate an application for an

121 | appropriate permit by a specified date; requiring

122 | areas of refuge to be required as determined by the

123 | Florida Building Code-Accessibility; amending s.

124 | 633.206, F.S.; providing that certain provisions may

125 | be applied to existing assisted living facilities

126 | notwithstanding the edition of the codes applied at

127 | the time of construction; amending s. 633.208, F.S.;

128 | authorizing fire officials to consider certain systems

129 | as acceptable systems when identifying low-cost

130 | alternatives; amending s. 633.336, F.S.; authorizing a



131 licensed fire protection contractor to subcontract for  
 132 advanced technical services under certain  
 133 circumstances; amending s. 120.541, F.S., relating to  
 134 statements of estimated regulatory costs; deleting  
 135 exemptions from legislative ratification for certain  
 136 updates and amendments to the Florida Building Code  
 137 and the Florida Fire Prevention Code; amending s.  
 138 120.80, F.S.; revising the exemption from legislative  
 139 ratification for certain provisions of the Florida  
 140 Building Code and the Florida Fire Prevention Code;  
 141 requiring a statement of estimated regulatory costs to  
 142 evaluate each new section of certain codes under  
 143 certain circumstances; creating the Calder Sloan  
 144 Swimming Pool Electrical-Safety Task Force within the  
 145 Florida Building Commission; specifying the purpose of  
 146 the task force; requiring a report to the Governor and  
 147 the Legislature by a specified date; providing for  
 148 membership; requiring the Florida Building Commission  
 149 to provide staff, information, and other assistance to  
 150 the task force; providing that members of the task  
 151 force serve without compensation; authorizing the task  
 152 force to meet as often as necessary; providing for  
 153 future repeal of the task force; providing an  
 154 effective date.

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

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Section 1. Subsections (2), (3), and (7) of section 468.609, Florida Statutes, are amended to read:

468.609 Administration of this part; standards for certification; additional categories of certification.—

(2) A person may take the examination for certification as a building code inspector or plans examiner pursuant to this part if the person:

(a) Is at least 18 years of age.

(b) Is of good moral character.

(c) Meets eligibility requirements according to one of the following criteria:

1. Demonstrates 5 years' combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to the certification category sought;

2. Demonstrates a combination of postsecondary education in the field of construction or a related field and experience which totals 4 years, with at least 1 year of such total being experience in construction, building code inspection, or plans review;

3. Demonstrates a combination of technical education in the field of construction or a related field and experience which totals 4 years, with at least 1 year of such total being experience in construction, building code inspection, or plans review;

4. Currently holds a standard certificate ~~as~~ issued by the

183 | board, or a firesafety ~~fire safety~~ inspector license issued  
 184 | pursuant to chapter 633, has a minimum of 3 ~~5~~ years' verifiable  
 185 | full-time experience in inspection or plan review, and has  
 186 | satisfactorily completed ~~completes~~ a building code inspector or  
 187 | plans examiner training program that provides at least 100 hours  
 188 | but not more ~~of not less~~ than 200 hours of cross-training in the  
 189 | certification category sought. The board shall establish by rule  
 190 | criteria for the development and implementation of the training  
 191 | programs. The board shall accept all classroom training offered  
 192 | by an approved provider if the content substantially meets the  
 193 | intent of the classroom component of the training program; ~~or~~

194 |         5. Demonstrates a combination of the completion of an  
 195 | approved training program in the field of building code  
 196 | inspection or plan review and a minimum of 2 years' experience  
 197 | in the field of building code inspection, plan review, fire code  
 198 | inspections and fire plans review of new buildings as a  
 199 | firesafety inspector certified under s. 633.216, or  
 200 | construction. The approved training portion of this requirement  
 201 | shall include proof of satisfactory completion of a training  
 202 | program that provides at least 200 hours but not more ~~of not~~  
 203 | ~~less~~ than 300 hours of cross-training that ~~which~~ is approved by  
 204 | the board in the chosen category of building code inspection or  
 205 | plan review in the certification category sought with at least  
 206 | ~~not less than~~ 20 hours but not more than 30 hours of instruction  
 207 | in state laws, rules, and ethics relating to professional  
 208 | standards of practice, duties, and responsibilities of a

209 certificateholder. The board shall coordinate with the Building  
 210 Officials Association of Florida, Inc., to establish by rule the  
 211 development and implementation of the training program. However,  
 212 the board shall accept all classroom training offered by an  
 213 approved provider if the content substantially meets the intent  
 214 of the classroom component of the training program; or

215 6. Currently holds a standard certificate issued by the  
 216 board or a firesafety inspector license issued pursuant to  
 217 chapter 633 and:

218 a. Has at least 5 years' verifiable full-time experience  
 219 as an inspector or plans examiner in a standard certification  
 220 category currently held or has a minimum of 5 years' verifiable  
 221 full-time experience as a firesafety inspector licensed pursuant  
 222 to chapter 633.

223 b. Has satisfactorily completed a building code inspector  
 224 or plans examiner classroom training course or program that  
 225 provides at least 200 but not more than 300 hours in the  
 226 certification category sought, except for one-family and two-  
 227 family dwelling training programs, which are required to provide  
 228 at least 500 but not more than 800 hours of training as  
 229 prescribed by the board. The board shall establish by rule  
 230 criteria for the development and implementation of classroom  
 231 training courses and programs in each certification category.

232 (3) A person may take the examination for certification as  
 233 a building code administrator pursuant to this part if the  
 234 person:

235 (a) Is at least 18 years of age.  
 236 (b) Is of good moral character.  
 237 (c) Meets eligibility requirements according to one of the  
 238 following criteria:

239 1. Demonstrates 10 years' combined experience as an  
 240 architect, engineer, plans examiner, building code inspector,  
 241 registered or certified contractor, or construction  
 242 superintendent, with at least 5 years of such experience in  
 243 supervisory positions; or

244 2. Demonstrates a combination of postsecondary education  
 245 in the field of construction or related field, no more than 5  
 246 years of which may be applied, and experience as an architect,  
 247 engineer, plans examiner, building code inspector, registered or  
 248 certified contractor, or construction superintendent which  
 249 totals 10 years, with at least 5 years of such total being  
 250 experience in supervisory positions. In addition, the applicant  
 251 must have completed training consisting of at least 20 hours,  
 252 but not more than 30 hours, of instruction in state laws, rules,  
 253 and ethics relating to the professional standards of practice,  
 254 duties, and responsibilities of a certificateholder.

255 (7)(a) The board shall ~~may~~ provide for the issuance of  
 256 provisional certificates valid for 1 year, as specified by board  
 257 rule, to any newly employed or promoted building code inspector  
 258 or plans examiner who meets the eligibility requirements  
 259 described in subsection (2) and any newly employed or promoted  
 260 building code administrator who meets the eligibility

261 requirements described in subsection (3). The provisional  
 262 license may be renewed by the board for just cause; however, a  
 263 provisional license is not valid for a period longer than 3  
 264 years.

265 (b) A ~~no~~ building code administrator, plans examiner, or  
 266 building code inspector may not have a provisional certificate  
 267 extended beyond the specified period by renewal or otherwise.

268 (c) The board shall ~~may~~ provide for appropriate levels of  
 269 provisional certificates and may issue these certificates with  
 270 such special conditions or requirements relating to the place of  
 271 employment of the person holding the certificate, the  
 272 supervision of such person on a consulting or advisory basis, or  
 273 other matters as the board may deem necessary to protect the  
 274 public safety and health.

275 (d) A newly employed or hired person may perform the  
 276 duties of a plans examiner or building code inspector for 120  
 277 days if a provisional certificate application has been submitted  
 278 if such person is under the direct supervision of a certified  
 279 building code administrator who holds a standard certification  
 280 and who has found such person qualified for a provisional  
 281 certificate. Direct supervision and the determination of  
 282 qualifications may also be provided by a building code  
 283 administrator who holds a limited or provisional certificate in  
 284 a county having a population of fewer than 75,000 and in a  
 285 municipality located within such county.

286 Section 2. Subsection (5) of section 468.627, Florida

287 Statutes, is amended to read:

288 468.627 Application; examination; renewal; fees.—

289 (5) The certificateholder shall provide proof, in a form  
 290 established by board rule, that the certificateholder has  
 291 completed at least 14 classroom hours of at least 50 minutes  
 292 each of continuing education courses during each biennium since  
 293 the issuance or renewal of the certificate, including code-  
 294 related training ~~the specialized or advanced coursework approved~~  
 295 ~~by the Florida Building Commission~~, as part of the building code  
 296 training program established pursuant to s. 553.841, appropriate  
 297 to the licensing category sought. A minimum of 3 of the required  
 298 14 classroom hours must be on state law, rules, and ethics  
 299 relating to professional standards of practice, duties, and  
 300 responsibilities of the certificateholder. The board shall by  
 301 rule establish criteria for approval of continuing education  
 302 courses and providers, and may by rule establish criteria for  
 303 accepting alternative nonclassroom continuing education on an  
 304 hour-for-hour basis.

305 Section 3. Section 471.0195, Florida Statutes, is amended  
 306 to read:

307 471.0195 Florida Building Code training for engineers.—All  
 308 licensees actively participating in the design of engineering  
 309 works or systems in connection with buildings, structures, or  
 310 facilities and systems covered by the Florida Building Code  
 311 shall take continuing education courses and submit proof to the  
 312 board, at such times and in such manner as established by the

313 board by rule, that the licensee has completed any specialized  
 314 or code-related training ~~advanced courses~~ on any portion of the  
 315 Florida Building Code applicable to the licensee's area of  
 316 practice. The board shall record reported continuing education  
 317 courses on a system easily accessed by code enforcement  
 318 jurisdictions for evaluation when determining license status for  
 319 purposes of processing design documents. Local jurisdictions  
 320 shall be responsible for notifying the board when design  
 321 documents are submitted for building construction permits by  
 322 persons who are not in compliance with this section. The board  
 323 shall take appropriate action as provided by its rules when such  
 324 noncompliance is determined to exist.

325 Section 4. Subsection (5) of section 481.215, Florida  
 326 Statutes, is amended to read:

327 481.215 Renewal of license.—

328 (5) The board shall require, by rule adopted pursuant to  
 329 ss. 120.536(1) and 120.54, a specified number of hours in  
 330 specialized or code-related training ~~advanced courses, approved~~  
 331 ~~by the Florida Building Commission,~~ on any portion of the  
 332 Florida Building Code, adopted pursuant to part IV of chapter  
 333 553, relating to the licensee's respective area of practice.

334 Section 5. Subsection (5) of section 481.313, Florida  
 335 Statutes, is amended to read:

336 481.313 Renewal of license.—

337 (5) The board shall require, by rule adopted pursuant to  
 338 ss. 120.536(1) and 120.54, a specified number of hours in



339 specialized or code-related training ~~advanced courses, approved~~  
 340 ~~by the Florida Building Commission,~~ on any portion of the  
 341 Florida Building Code, adopted pursuant to part IV of chapter  
 342 553, relating to the licensee's respective area of practice.

343 Section 6. Subsection (23) is added to section 489.103,  
 344 Florida Statutes, to read:

345 489.103 Exemptions.—This part does not apply to:

346 (23) An employee of an apartment community or apartment  
 347 community management company who makes minor repairs to existing  
 348 electric water heaters or to existing electric heating, venting,  
 349 and air-conditioning systems if:

350 (a) The employee:

351 1. Does not hold himself or herself or his or her employer  
 352 out to be licensed or qualified by a licensee.

353 2. Does not perform any acts, other than acts authorized  
 354 by this exemption, that constitute contracting.

355 3. Receives compensation from and is under the supervision  
 356 and control of an employer who deducts the FICA and withholding  
 357 tax and who provides workers' compensation, as prescribed by  
 358 law.

359 4. Holds a current certificate for apartment maintenance  
 360 technicians issued by the National Apartment Association and  
 361 accredited by the American National Standards Institute.

362 Requirements for obtaining such certificate must include at  
 363 least:

364 a. One year of apartment or rental housing maintenance

365 experience.

366 b. Successful completion of at least 90 hours of courses  
 367 or online content that covers electrical maintenance and repair;  
 368 plumbing maintenance and repair; heating, venting, or air-  
 369 conditioning system maintenance and repair; appliance  
 370 maintenance and repair; and interior and exterior maintenance  
 371 and repair.

372 c. Completion of all examination requirements.

373 (b) The equipment:

374 1. Is already installed on the property owned by the  
 375 apartment community or managed by the apartment community  
 376 management company.

377 2. Is not being modified except to replace components  
 378 necessary to return the equipment to its original condition and  
 379 the partial disassembly associated with the replacement.

380 3. Is a type of equipment commonly installed in similar  
 381 locations.

382 4. Is repaired with new parts that are functionally  
 383 identical to the parts being replaced.

384 (c) An individual repair does not involve replacement  
 385 parts that cost more than \$1,000. An individual repair may not  
 386 be so extensive as to be a functional replacement of the  
 387 electric water heater or the existing electric heating, venting,  
 388 or air-conditioning system being repaired.

389 (d) The property owned by the apartment community or  
 390 managed by the apartment community management company includes

391 | at least 100 apartments.

392 | Section 7. Paragraph (m) of subsection (3) of section  
 393 | 489.105, Florida Statutes, is amended to read:

394 | 489.105 Definitions.—As used in this part:

395 | (3) "Contractor" means the person who is qualified for,  
 396 | and is only responsible for, the project contracted for and  
 397 | means, except as exempted in this part, the person who, for  
 398 | compensation, undertakes to, submits a bid to, or does himself  
 399 | or herself or by others construct, repair, alter, remodel, add  
 400 | to, demolish, subtract from, or improve any building or  
 401 | structure, including related improvements to real estate, for  
 402 | others or for resale to others; and whose job scope is  
 403 | substantially similar to the job scope described in one of the  
 404 | paragraphs of this subsection. For the purposes of regulation  
 405 | under this part, the term "demolish" applies only to demolition  
 406 | of steel tanks more than 50 feet in height; towers more than 50  
 407 | feet in height; other structures more than 50 feet in height;  
 408 | and all buildings or residences. Contractors are subdivided into  
 409 | two divisions, Division I, consisting of those contractors  
 410 | defined in paragraphs (a)-(c), and Division II, consisting of  
 411 | those contractors defined in paragraphs (d)-(q):

412 | (m) "Plumbing contractor" means a contractor whose  
 413 | services are unlimited in the plumbing trade and includes  
 414 | contracting business consisting of the execution of contracts  
 415 | requiring the experience, financial means, knowledge, and skill  
 416 | to install, maintain, repair, alter, extend, or, if not

417 prohibited by law, design plumbing. A plumbing contractor may  
 418 install, maintain, repair, alter, extend, or, if not prohibited  
 419 by law, design the following without obtaining an additional  
 420 local regulatory license, certificate, or registration: sanitary  
 421 drainage or storm drainage facilities, water and sewer plants  
 422 and substations, venting systems, public or private water supply  
 423 systems, septic tanks, drainage and supply wells, swimming pool  
 424 piping, irrigation systems, and solar heating water systems and  
 425 all appurtenances, apparatus, or equipment used in connection  
 426 therewith, including boilers and pressure process piping and  
 427 including the installation of water, natural gas, liquefied  
 428 petroleum gas and related venting, and storm and sanitary sewer  
 429 lines. The scope of work of the plumbing contractor also  
 430 includes the design, if not prohibited by law, and installation,  
 431 maintenance, repair, alteration, or extension of air-piping,  
 432 vacuum line piping, oxygen line piping, nitrous oxide piping,  
 433 and all related medical gas systems; fire line standpipes and  
 434 fire sprinklers if authorized by law; ink and chemical lines;  
 435 fuel oil and gasoline piping and tank and pump installation,  
 436 except bulk storage plants; and pneumatic control piping  
 437 systems, all in a manner that complies with all plans,  
 438 specifications, codes, laws, and regulations applicable. The  
 439 scope of work of the plumbing contractor applies to private  
 440 property and public property, including any excavation work  
 441 incidental thereto, and includes the work of the specialty  
 442 plumbing contractor. Such contractor shall subcontract, with a

443 | qualified contractor in the field concerned, all other work  
 444 | incidental to the work but which is specified as being the work  
 445 | of a trade other than that of a plumbing contractor. This  
 446 | definition does not limit the scope of work of any specialty  
 447 | contractor certified pursuant to s. 489.113(6), and does not  
 448 | require certification or registration under this part as a  
 449 | category I liquefied petroleum gas dealer, LP gas installer, or  
 450 | specialty installer who is licensed under chapter 527 or an ~~of~~  
 451 | ~~any~~ authorized employee of a public natural gas utility or of a  
 452 | private natural gas utility regulated by the Public Service  
 453 | Commission when disconnecting and reconnecting water lines in  
 454 | the servicing or replacement of an existing water heater. A  
 455 | plumbing contractor may perform drain cleaning and clearing and  
 456 | install or repair rainwater catchment systems; however, a  
 457 | mandatory licensing requirement is not established for the  
 458 | performance of these specific services.

459 | Section 8. Paragraph (b) of subsection (4) of section  
 460 | 489.115, Florida Statutes, is amended to read:

461 | 489.115 Certification and registration; endorsement;  
 462 | reciprocity; renewals; continuing education.—

463 | (4)

464 | (b)1. Each certificateholder or registrant shall provide  
 465 | proof, in a form established by rule of the board, that the  
 466 | certificateholder or registrant has completed at least 14  
 467 | classroom hours of at least 50 minutes each of continuing  
 468 | education courses during each biennium since the issuance or

469 renewal of the certificate or registration. The board shall  
470 establish by rule that a portion of the required 14 hours must  
471 deal with the subject of workers' compensation, business  
472 practices, workplace safety, and, for applicable licensure  
473 categories, wind mitigation methodologies, and 1 hour of which  
474 must deal with laws and rules. The board shall by rule establish  
475 criteria for the approval of continuing education courses and  
476 providers, including requirements relating to the content of  
477 courses and standards for approval of providers, and may by rule  
478 establish criteria for accepting alternative nonclassroom  
479 continuing education on an hour-for-hour basis. The board shall  
480 prescribe by rule the continuing education, if any, which is  
481 required during the first biennium of initial licensure. A  
482 person who has been licensed for less than an entire biennium  
483 must not be required to complete the full 14 hours of continuing  
484 education.

485       2. In addition, the board may approve specialized  
486 continuing education courses on compliance with the wind  
487 resistance provisions for one and two family dwellings contained  
488 in the Florida Building Code and any alternate methodologies for  
489 providing such wind resistance which have been approved for use  
490 by the Florida Building Commission. Division I  
491 certificateholders or registrants who demonstrate proficiency  
492 upon completion of such specialized courses may certify plans  
493 and specifications for one and two family dwellings to be in  
494 compliance with the code or alternate methodologies, as

495 appropriate, except for dwellings located in floodways or  
 496 coastal hazard areas as defined in ss. 60.3D and E of the  
 497 National Flood Insurance Program.

498 3. The board shall require, by rule adopted pursuant to  
 499 ss. 120.536(1) and 120.54, a specified number of hours in  
 500 specialized or code-related training ~~advanced module courses,~~  
 501 ~~approved by the Florida Building Commission,~~ on any portion of  
 502 the Florida Building Code, adopted pursuant to part IV of  
 503 chapter 553, relating to the contractor's respective discipline.

504 Section 9. Subsections (2) and (3) of section 489.1401,  
 505 Florida Statutes, are amended to read:

506 489.1401 Legislative intent.—

507 (2) It is the intent of the Legislature that the sole  
 508 purpose of the Florida Homeowners' Construction Recovery Fund is  
 509 to compensate an ~~any~~ aggrieved claimant who contracted for the  
 510 construction or improvement of the homeowner's residence located  
 511 within this state and who has obtained a final judgment in a ~~any~~  
 512 court of competent jurisdiction, was awarded restitution by the  
 513 Construction Industry Licensing Board, or received an award in  
 514 arbitration against a licensee on grounds of financial  
 515 mismanagement or misconduct, abandoning a construction project,  
 516 or making a false statement with respect to a project. Such  
 517 grievance must arise ~~and arising~~ directly out of a ~~any~~  
 518 transaction conducted when the judgment debtor was licensed and  
 519 must involve an act performed ~~any of the activities~~ enumerated  
 520 under s. 489.129(1)(g), (j) or (k) ~~on the homeowner's residence.~~

521 (3) It is the intent of the Legislature that Division I  
 522 and Division II contractors set apart funds for the specific  
 523 objective of participating in the fund.

524 Section 10. Paragraphs (d), (i), (k), and (l) of  
 525 subsection (1) of section 489.1402, Florida Statutes, are  
 526 amended to read:

527 489.1402 Homeowners' Construction Recovery Fund;  
 528 definitions.—

529 (1) The following definitions apply to ss. 489.140-  
 530 489.144:

531 (d) "Contractor" means a Division I or Division II  
 532 contractor performing his or her respective services described  
 533 in s. 489.105(3)(a)-(q) ~~489.105(3)(a)-(e)~~.

534 (i) "Residence" means a single-family residence, an  
 535 individual residential condominium or cooperative unit, or a  
 536 residential building containing not more than two residential  
 537 units in which the owner contracting for the improvement is  
 538 residing or will reside 6 months or more each calendar year upon  
 539 completion of the improvement.

540 (k) "Same transaction" means a contract, or a ~~any~~ series  
 541 of contracts, between a claimant and a contractor or qualified  
 542 business, when such contract or contracts involve the same  
 543 property or contiguous properties and are entered into either at  
 544 one time or serially.

545 (l) "Valid and current license," for the purpose of s.  
 546 489.141(2)(d), means a ~~any~~ license issued pursuant to this part



547 | to a licensee, including a license in an active, inactive,  
 548 | delinquent, or suspended status.

549 | Section 11. Subsections (1) and (2) of section 489.141,  
 550 | Florida Statutes, are amended to read:

551 | 489.141 Conditions for recovery; eligibility.-

552 | (1) A ~~Any~~ claimant is eligible to seek recovery from the  
 553 | recovery fund after making ~~having made~~ a claim and exhausting  
 554 | the limits of any available bond, cash bond, surety, guarantee,  
 555 | warranty, letter of credit, or policy of insurance if, ~~provided~~  
 556 | ~~that~~ each of the following conditions is satisfied:

557 | (a) The claimant has received a final judgment in a court  
 558 | of competent jurisdiction in this state or has received an award  
 559 | in arbitration or the Construction Industry Licensing Board has  
 560 | issued a final order directing the licensee to pay restitution  
 561 | to the claimant. The board may waive this requirement if:

562 | 1. The claimant is unable to secure a final judgment  
 563 | against the licensee due to the death of the licensee; or

564 | 2. The claimant has sought to have assets involving the  
 565 | transaction that gave rise to the claim removed from the  
 566 | bankruptcy proceedings so that the matter might be heard in a  
 567 | court of competent jurisdiction in this state and, after due  
 568 | diligence, the claimant is precluded by action of the bankruptcy  
 569 | court from securing a final judgment against the licensee.

570 | (b) The judgment, award, or restitution is based upon a  
 571 | violation of s. 489.129(1)(g), (j), or (k) or s. 713.35.

572 | (c) The violation was committed by a licensee.

573 (d) The judgment, award, or restitution order specifies  
 574 the actual damages suffered as a consequence of such violation.

575 (e) The contract was executed and the violation occurred  
 576 on or after July 1, 1993, and provided that:

577 1. The claimant has caused to be issued a writ of  
 578 execution upon such judgment, and the officer executing the writ  
 579 has made a return showing that no personal or real property of  
 580 the judgment debtor or licensee liable to be levied upon in  
 581 satisfaction of the judgment can be found or that the amount  
 582 realized on the sale of the judgment debtor's or licensee's  
 583 property pursuant to such execution was insufficient to satisfy  
 584 the judgment;

585 2. If the claimant is unable to comply with subparagraph  
 586 1. for a valid reason to be determined by the board, the  
 587 claimant has made all reasonable searches and inquiries to  
 588 ascertain whether the judgment debtor or licensee is possessed  
 589 of real or personal property or other assets subject to being  
 590 sold or applied in satisfaction of the judgment and by his or  
 591 her search has discovered no property or assets or has  
 592 discovered property and assets and has taken all necessary  
 593 action and proceedings for the application thereof to the  
 594 judgment but the amount thereby realized was insufficient to  
 595 satisfy the judgment; and

596 3. The claimant has made a diligent attempt, as defined by  
 597 board rule, to collect the restitution awarded by the board.

598 (f) A claim for recovery is made within 1 year after the

599 conclusion of any civil, criminal, or administrative action or  
 600 award in arbitration based on the act. This paragraph applies to  
 601 any claim filed with the board after October 1, 1998.

602 (g) Any amounts recovered by the claimant from the  
 603 judgment debtor or licensee, or from any other source, have been  
 604 applied to the damages awarded by the court or the amount of  
 605 restitution ordered by the board.

606 (h) The claimant is not a person who is precluded by this  
 607 act from making a claim for recovery.

608 (2) A claimant is not qualified to make a claim for  
 609 recovery from the recovery fund, if:

610 (a) The claimant is the spouse of the judgment debtor or  
 611 licensee or a personal representative of such spouse;

612 (b) The claimant is a licensee who acted as the contractor  
 613 in the transaction that ~~which~~ is the subject of the claim;

614 (c) The claim is based upon a construction contract in  
 615 which the licensee was acting with respect to the property owned  
 616 or controlled by the licensee;

617 (d) The claim is based upon a construction contract in  
 618 which the contractor did not hold a valid and current license at  
 619 the time of the construction contract;

620 (e) The claimant was associated in a business relationship  
 621 with the licensee other than the contract at issue; or

622 ~~(f) The claimant has suffered damages as the result of~~  
 623 ~~making improper payments to a contractor as defined in part I of~~  
 624 ~~chapter 713; or~~

625 (f)~~(g)~~ The claimant had entered into a contract ~~has~~  
 626 ~~contracted~~ with a licensee to perform a scope of work described  
 627 in s. 489.105(3)(d)-(q) before July 1, 2016 ~~489.105(3)(d)-(p)~~.

628 Section 12. Subsection (1) of section 489.1425, Florida  
 629 Statutes, is amended to read:

630 489.1425 Duty of contractor to notify residential property  
 631 owner of recovery fund.-

632 (1) Each ~~Any~~ agreement or contract for repair,  
 633 restoration, improvement, or construction to residential real  
 634 property must contain a written statement explaining the  
 635 consumer's rights under the recovery fund, except where the  
 636 value of all labor and materials does not exceed \$2,500. The  
 637 written statement must be substantially in the following form:

638  
 639 FLORIDA HOMEOWNERS' CONSTRUCTION  
 640 RECOVERY FUND

641  
 642 PAYMENT, UP TO A LIMITED AMOUNT, MAY BE AVAILABLE FROM THE  
 643 FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND IF YOU LOSE MONEY  
 644 ON A PROJECT PERFORMED UNDER CONTRACT, WHERE THE LOSS RESULTS  
 645 FROM SPECIFIED VIOLATIONS OF FLORIDA LAW BY A LICENSED  
 646 CONTRACTOR. FOR INFORMATION ABOUT THE RECOVERY FUND AND FILING A  
 647 CLAIM, CONTACT THE FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD  
 648 AT THE FOLLOWING TELEPHONE NUMBER AND ADDRESS:

649  
 650 The statement must ~~shall~~ be immediately followed by the board's

651 address and telephone number as established by board rule.

652 Section 13. Section 489.143, Florida Statutes, is amended  
 653 to read:

654 489.143 Payment from the fund.—

655 (1) The fund shall be disbursed as provided in s. 489.141  
 656 on a final order of the board.

657 (2) A ~~Any~~ claimant who meets all of the conditions  
 658 prescribed in s. 489.141 may apply to the board to cause payment  
 659 to be made to a claimant from the recovery fund in an amount  
 660 equal to the judgment, award, or restitution order or \$25,000,  
 661 whichever is less, or an amount equal to the unsatisfied portion  
 662 of such person's judgment, award, or restitution order, but only  
 663 to the extent and amount of actual damages suffered by the  
 664 claimant, and only up to the maximum payment allowed for each  
 665 respective Division I and Division II claim. Payment from the  
 666 fund for other costs related to or pursuant to civil proceedings  
 667 such as postjudgment interest, attorney ~~attorney's~~ fees, court  
 668 costs, medical damages, and punitive damages is prohibited. The  
 669 recovery fund is not obligated to pay a ~~any~~ judgment, an award,  
 670 or a restitution order, or any portion thereof, which is not  
 671 expressly based on one of the grounds for recovery set forth in  
 672 s. 489.141.

673 (3) Beginning January 1, 2005, for each Division I  
 674 contract entered into after July 1, 2004, payment from the  
 675 recovery fund is ~~shall be~~ subject to a \$50,000 maximum payment  
 676 for each Division I claim. Beginning January 1, 2017, for each

677 | Division II contract entered into on or after July 1, 2016,  
 678 | payment from the recovery fund is subject to a \$15,000 maximum  
 679 | payment for each Division II claim.

680 | (4)~~(3)~~ Upon receipt by a claimant under subsection (2) of  
 681 | payment from the recovery fund, the claimant shall assign his or  
 682 | her additional right, title, and interest in the judgment,  
 683 | award, or restitution order, to the extent of such payment, to  
 684 | the board, and thereupon the board shall be subrogated to the  
 685 | right, title, and interest of the claimant; and any amount  
 686 | subsequently recovered on the judgment, award, or restitution  
 687 | order, to the extent of the right, title, and interest of the  
 688 | board therein, shall be for the purpose of reimbursing the  
 689 | recovery fund.

690 | (5)~~(4)~~ Payments for claims arising out of the same  
 691 | transaction shall be limited, in the aggregate, to the lesser of  
 692 | the judgment, award, or restitution order or the maximum payment  
 693 | allowed for a Division I or Division II claim, regardless of the  
 694 | number of claimants involved in the transaction.

695 | (6)~~(5)~~ For contracts entered into before July 1, 2004,  
 696 | payments for claims against any one licensee may ~~shall~~ not  
 697 | exceed, in the aggregate, \$100,000 annually, up to a total  
 698 | aggregate of \$250,000. For any claim approved by the board which  
 699 | is in excess of the annual cap, the amount in excess of \$100,000  
 700 | up to the total aggregate cap of \$250,000 is eligible for  
 701 | payment in the next and succeeding fiscal years, but only after  
 702 | all claims for the then-current calendar year have been paid.

703 Payments may not exceed the aggregate annual or per claimant  
704 limits under law. Beginning January 1, 2005, for each Division I  
705 contract entered into after July 1, 2004, payment from the  
706 recovery fund is subject only to a total aggregate cap of  
707 \$500,000 for each Division I licensee. Beginning January 1,  
708 2017, for each Division II contract entered into on or after  
709 July 1, 2015, payment from the recovery fund is subject only to  
710 a total aggregate cap of \$150,000 for each Division II licensee.

711 (7)(6) Claims shall be paid in the order filed, up to the  
712 aggregate limits for each transaction and licensee and to the  
713 limits of the amount appropriated to pay claims against the fund  
714 for the fiscal year in which the claims were filed. Payments may  
715 not exceed the total aggregate cap per license or per claimant  
716 limits under this section.

717 (8)(7) If the annual appropriation is exhausted with  
718 claims pending, such claims shall be carried forward to the next  
719 fiscal year. Any moneys in excess of pending claims remaining in  
720 the recovery fund at the end of the fiscal year shall be paid as  
721 provided in s. 468.631.

722 (9)(8) Upon the payment of any amount from the recovery  
723 fund in settlement of a claim in satisfaction of a judgment,  
724 award, or restitution order against a licensee as described in  
725 s. 489.141, the license of such licensee shall be automatically  
726 suspended, without further administrative action, upon the date  
727 of payment from the fund. The license of such licensee may ~~shall~~  
728 not be reinstated until he or she has repaid in full, plus

729 interest, the amount paid from the fund. A discharge of  
 730 bankruptcy does not relieve a person from the penalties and  
 731 disabilities provided in this section.

732 (10)~~(9)~~ A ~~Any~~ firm, a corporation, a partnership, or an  
 733 association, or a ~~any~~ person acting in his or her individual  
 734 capacity, who aids, abets, solicits, or conspires with another  
 735 ~~any~~ person to knowingly present or cause to be presented a ~~any~~  
 736 false or fraudulent claim for the payment of a loss under this  
 737 act commits ~~is guilty of~~ a third-degree felony, punishable as  
 738 provided in s. 775.082 or s. 775.084 and by a fine of up to ~~not~~  
 739 ~~exceeding~~ \$30,000, unless the value of the fraud exceeds that  
 740 amount, ~~\$30,000~~ in which event the fine may not exceed double  
 741 the value of the fraud.

742 (11)~~(10)~~ Each payment ~~All payments~~ and disbursement  
 743 ~~disbursements~~ from the recovery fund shall be made by the Chief  
 744 Financial Officer upon a voucher signed by the secretary of the  
 745 department or the secretary's designee.

746 Section 14. Subsection (24) is added to section 489.503,  
 747 Florida Statutes, to read:

748 489.503 Exemptions.—This part does not apply to:

749 (24) A person who installs low-voltage landscape lighting  
 750 that contains a factory-installed electrical cord with plug that  
 751 does not require installation, wiring, or other modification to  
 752 the electrical wiring of a structure.

753 Section 15. Subsection (6) of section 489.517, Florida  
 754 Statutes, is amended to read:



755 489.517 Renewal of certificate or registration; continuing  
 756 education.-

757 (6) The board shall require, by rule adopted pursuant to  
 758 ss. 120.536(1) and 120.54, a specialized number of hours in  
 759 specialized or code-related training ~~advanced module courses,~~  
 760 ~~approved by the Florida Building Commission,~~ on any portion of  
 761 the Florida Building Code, adopted pursuant to part IV of  
 762 chapter 553, relating to the contractor's respective discipline.

763 Section 16. Subsection (3) of section 514.011, Florida  
 764 Statutes, is amended to read:

765 514.011 Definitions.-As used in this chapter:

766 (3) "Private pool" means a facility used only by an  
 767 individual, family, or living unit members and their guests  
 768 which does not serve any type of cooperative housing or joint  
 769 tenancy of five or more living units. For purposes of the  
 770 exemptions provided under s. 514.0115, the term includes a  
 771 portable pool used exclusively for providing swimming lessons or  
 772 related instruction in support of an established educational  
 773 program sponsored or provided by a county school district.

774 Section 17. Subsection (3) of section 514.0115, Florida  
 775 Statutes, is amended to read:

776 514.0115 Exemptions from supervision or regulation;  
 777 variances.-

778 (3) A private pool used for instructional purposes in  
 779 swimming may ~~shall~~ not be regulated as a public pool. A portable  
 780 pool used for instructional purposes or to further an approved

781 educational program may not be regulated as a public pool.

782 Section 18. Subsection (5) of section 514.031, Florida  
783 Statutes, is amended to read:

784 514.031 Permit necessary to operate public swimming pool.—

785 (5) An owner or operator of a public swimming pool,  
786 including, but not limited to, a spa, wading, or special purpose  
787 pool, to which admittance is obtained by membership for a fee  
788 shall post in a prominent location within the facility the most  
789 recent pool inspection report issued by the department  
790 pertaining to the health and safety conditions of such facility.  
791 The report shall be legible and readily accessible to members or  
792 potential members. The department shall adopt rules to enforce  
793 this subsection. A portable pool may not be used as a public  
794 pool unless it is exempt under s. 514.0115.

795 Section 19. Subsection (2) of section 553.512, Florida  
796 Statutes, is amended to read:

797 553.512 Modifications and waivers; advisory council.—

798 (2) The Accessibility Advisory Council shall consist of  
799 the following seven members, who shall be knowledgeable in the  
800 area of accessibility for persons with disabilities. The  
801 Secretary of Business and Professional Regulation shall appoint  
802 the following: a representative from the Advocacy Center for  
803 Persons with Disabilities, Inc.; a representative from the  
804 Division of Blind Services; a representative from the Division  
805 of Vocational Rehabilitation; a representative from a statewide  
806 organization representing the physically handicapped; a

807 representative from the hearing impaired; a representative from  
 808 the Pensacola Pen Wheels Inc. Employ the Handicapped Council  
 809 ~~President, Florida Council of Handicapped Organizations~~; and a  
 810 representative of the Paralyzed Veterans of America. The terms  
 811 for the first three council members appointed subsequent to  
 812 October 1, 1991, shall be for 4 years, the terms for the next  
 813 two council members appointed shall be for 3 years, and the  
 814 terms for the next two members shall be for 2 years. Thereafter,  
 815 all council member appointments shall be for terms of 4 years.  
 816 No council member shall serve more than two 4-year terms  
 817 subsequent to October 1, 1991. Any member of the council may be  
 818 replaced by the secretary upon three unexcused absences. Upon  
 819 application made in the form provided, an individual waiver or  
 820 modification may be granted by the commission so long as such  
 821 modification or waiver is not in conflict with more stringent  
 822 standards provided in another chapter.

823 Section 20. Section 553.721, Florida Statutes, is amended  
 824 to read:

825 553.721 Surcharge.—In order for the Department of Business  
 826 and Professional Regulation to administer and carry out the  
 827 purposes of this part and related activities, there is created a  
 828 surcharge, to be assessed at the rate of 1.5 percent of the  
 829 permit fees associated with enforcement of the Florida Building  
 830 Code as defined by the uniform account criteria and specifically  
 831 the uniform account code for building permits adopted for local  
 832 government financial reporting pursuant to s. 218.32. The

833 | minimum amount collected on any permit issued shall be \$2. The  
 834 | unit of government responsible for collecting a permit fee  
 835 | pursuant to s. 125.56(4) or s. 166.201 shall collect the  
 836 | surcharge and electronically remit the funds collected to the  
 837 | department on a quarterly calendar basis for the preceding  
 838 | quarter and continuing each third month thereafter. The unit of  
 839 | government shall retain 10 percent of the surcharge collected to  
 840 | fund the participation of building departments in the national  
 841 | and state building code adoption processes and to provide  
 842 | education related to enforcement of the Florida Building Code.  
 843 | All funds remitted to the department pursuant to this section  
 844 | shall be deposited in the Professional Regulation Trust Fund.  
 845 | Funds collected from the surcharge shall be allocated to fund  
 846 | the Florida Building Commission and the Florida Building Code  
 847 | Compliance and Mitigation Program under s. 553.841. Funds  
 848 | allocated to the Florida Building Code Compliance and Mitigation  
 849 | Program shall be \$925,000 each fiscal year. The Florida Building  
 850 | Code Compliance and Mitigation Program shall fund the  
 851 | recommendations made by the Building Code System Uniform  
 852 | Implementation Evaluation Workgroup, dated April 8, 2013, from  
 853 | existing resources, not to exceed \$30,000 in the 2016-2017  
 854 | fiscal year. Funds collected from the surcharge shall also be  
 855 | used to fund Florida Fire Prevention Code informal  
 856 | interpretations managed by the State Fire Marshal and shall be  
 857 | limited to \$15,000 each fiscal year. The State Fire Marshal  
 858 | shall adopt rules to address the implementation and expenditure

859 of the funds allocated to fund the Florida Fire Prevention Code  
 860 informal interpretations under this section. The funds collected  
 861 from the surcharge may not be used to fund research on  
 862 techniques for mitigation of radon in existing buildings. Funds  
 863 used by the department as well as funds to be transferred to the  
 864 Department of Health and the State Fire Marshal shall be as  
 865 prescribed in the annual General Appropriations Act. The  
 866 department shall adopt rules governing the collection and  
 867 remittance of surcharges pursuant to chapter 120.

868 Section 21. Subsections (11) and (15) of section 553.73,  
 869 Florida Statutes, are amended, and subsection (19) is added to  
 870 that section, to read:

871 553.73 Florida Building Code.—

872 (11) (a) In the event of a conflict between the Florida  
 873 Building Code and the Florida Fire Prevention Code and the Life  
 874 Safety Code as applied to a specific project, the conflict shall  
 875 be resolved by agreement between the local building code  
 876 enforcement official and the local fire code enforcement  
 877 official in favor of the requirement of the code which offers  
 878 the greatest degree of lifesafety or alternatives which would  
 879 provide an equivalent degree of lifesafety and an equivalent  
 880 method of construction. Local boards created to address issues  
 881 arising under the Florida Building Code or the Florida Fire  
 882 Prevention Code may combine the appeals boards to create a  
 883 single, local board having jurisdiction over matters arising  
 884 under either code or both codes. The combined local appeals

885 board may grant alternatives or modifications through procedures  
 886 outlined in NFPA 1, Section 1.4, but may not waive the  
 887 requirements of the Florida Fire Prevention Code. To meet the  
 888 quorum requirement for convening the combined local appeals  
 889 board, at least one member of the board who is a fire protection  
 890 contractor, a fire protection design professional, a fire  
 891 department operations professional, or a fire code enforcement  
 892 professional must be present.

893 (b) Any decision made by the local fire official regarding  
 894 application, interpretation, or enforcement of the Florida Fire  
 895 Prevention Code, by ~~and~~ the local building official regarding  
 896 application, interpretation, or enforcement of the Florida  
 897 Building Code, or the appropriate application of either code or  
 898 both codes in the case of a conflict between the codes may be  
 899 appealed to a local administrative board designated by the  
 900 municipality, county, or special district having firesafety  
 901 responsibilities. If the decision of the local fire official and  
 902 the local building official is to apply the provisions of either  
 903 the Florida Building Code or the Florida Fire Prevention Code  
 904 and the Life Safety Code, the board may not alter the decision  
 905 unless the board determines that the application of such code is  
 906 not reasonable. If the decision of the local fire official and  
 907 the local building official is to adopt an alternative to the  
 908 codes, the local administrative board shall give due regard to  
 909 the decision rendered by the local officials and may modify that  
 910 decision if the administrative board adopts a better

911 alternative, taking into consideration all relevant  
912 circumstances. In any case in which the local administrative  
913 board adopts alternatives to the decision rendered by the local  
914 fire official and the local building official, such alternatives  
915 shall provide an equivalent degree of lifesafety and an  
916 equivalent method of construction as the decision rendered by  
917 the local officials.

918 (c) If the local building official and the local fire  
919 official are unable to agree on a resolution of the conflict  
920 between the Florida Building Code and the Florida Fire  
921 Prevention Code and the Life Safety Code, the local  
922 administrative board shall resolve the conflict in favor of the  
923 code which offers the greatest degree of lifesafety or  
924 alternatives which would provide an equivalent degree of  
925 lifesafety and an equivalent method of construction.

926 (d) All decisions of the local administrative board~~7~~ or,  
927 if none exists, ~~the decisions of~~ the local building official and  
928 the local fire official in regard to the application,  
929 enforcement, or interpretation of the Florida Fire Prevention  
930 Code, or conflicts between the Florida Fire Prevention Code and  
931 the Florida Building Code, are subject to review by a joint  
932 committee composed of members of the Florida Building Commission  
933 and the Fire Code Advisory Council. If the joint committee is  
934 unable to resolve conflicts between the codes as applied to a  
935 specific project, the matter shall be resolved pursuant to ~~the~~  
936 provisions of paragraph (1)(d). Decisions of the local

937 | administrative board related solely to the Florida Building Code  
 938 | are subject to review as set forth in s. 553.775.

939 | (e) The local administrative board shall, to the greatest  
 940 | extent possible, be composed of members with expertise in  
 941 | building construction and firesafety standards.

942 | (f) All decisions of the local building official and local  
 943 | fire official and all decisions of the administrative board  
 944 | shall be in writing and shall be binding upon a person but do  
 945 | not limit the authority of the State Fire Marshal or the Florida  
 946 | Building Commission pursuant to paragraph (1)(d) and ss. 633.104  
 947 | and 633.228. Decisions of general application shall be indexed  
 948 | by building and fire code sections and shall be available for  
 949 | inspection during normal business hours.

950 | (15) An agency or local government may not require that  
 951 | existing mechanical equipment located on or above the surface of  
 952 | a roof be installed in compliance with the requirements of the  
 953 | Florida Building Code except during reroofing when the equipment  
 954 | is being replaced or moved ~~during reroofing~~ and is not in  
 955 | compliance with the provisions of the Florida Building Code  
 956 | relating to roof-mounted mechanical units.

957 | (19) The Florida Building Code may not require more than  
 958 | one fire service access elevator in a residential occupancy  
 959 | where the highest occupiable floor is less than 420 feet above  
 960 | the level of fire service access and all remaining elevators are  
 961 | provided with Phase I and II emergency operations. Where fire  
 962 | service access elevators are required, the code may not require



963 a 1-hour fire-rated fire service access elevator lobby with  
 964 direct access from the fire service access elevators if the fire  
 965 service access elevators open into an exit access corridor that  
 966 is at least 150 square feet with the exception of door openings;  
 967 is no less than 6 feet wide for its entire length; and has a  
 968 minimum 1-hour fire rating with three-quarter hour fire and  
 969 smoke rated openings and if, and during a fire event, the fire  
 970 service access elevators are pressurized and floor-to-floor  
 971 smoke control is provided. However, where transient residential  
 972 occupancies occur at floor levels above 420 feet above the level  
 973 of fire service access, a 1-hour fire-rated fire service access  
 974 elevator lobby with direct access from the fire service access  
 975 elevators is required. The requirement for a second fire service  
 976 access elevator is not considered a part of the Florida Building  
 977 Code and therefore does take effect until July 1, 2017.

978 Section 22. Paragraph (c) of subsection (3) of section  
 979 553.775, Florida Statutes, is amended to read:

980 553.775 Interpretations.—

981 (3) The following procedures may be invoked regarding  
 982 interpretations of the Florida Building Code or the Florida  
 983 Accessibility Code for Building Construction:

984 (c) The commission shall review decisions of local  
 985 building officials and local enforcement agencies regarding  
 986 interpretations of the Florida Building Code or the Florida  
 987 Accessibility Code for Building Construction after the local  
 988 board of appeals has considered the decision, if such board

989 exists, and if such appeals process is concluded within 25  
 990 business days.

991       1. The commission shall coordinate with the Building  
 992 Officials Association of Florida, Inc., to designate a panel  
 993 ~~panels~~ composed of seven ~~five~~ members to hear requests to review  
 994 decisions of local building officials. Five ~~The~~ members must be  
 995 licensed as building code administrators under part XII of  
 996 chapter 468, one member must be licensed as an architect under  
 997 chapter 481, and one member must be licensed as an engineer  
 998 under chapter 471. Each member ~~and~~ must have experience  
 999 interpreting or ~~and~~ enforcing provisions of the Florida Building  
 1000 Code and the Florida Accessibility Code for Building  
 1001 Construction.

1002       2. Requests to review a decision of a local building  
 1003 official interpreting provisions of the Florida Building Code or  
 1004 the Florida Accessibility Code for Building Construction may be  
 1005 initiated by any substantially affected person, including an  
 1006 owner or builder subject to a decision of a local building  
 1007 official or an association of owners or builders having members  
 1008 who are subject to a decision of a local building official. In  
 1009 order to initiate review, the substantially affected person must  
 1010 file a petition with the commission. The commission shall adopt  
 1011 a form for the petition, which shall be published on the  
 1012 Building Code Information System. The form shall, at a minimum,  
 1013 require the following:

1014       a. The name and address of the county or municipality in

1015 | which provisions of the Florida Building Code or the Florida  
 1016 | Accessibility Code for Building Construction are being  
 1017 | interpreted.

1018 |       b. The name and address of the local building official who  
 1019 | has made the interpretation being appealed.

1020 |       c. The name, address, and telephone number of the  
 1021 | petitioner; the name, address, and telephone number of the  
 1022 | petitioner's representative, if any; and an explanation of how  
 1023 | the petitioner's substantial interests are being affected by the  
 1024 | local interpretation of the Florida Building Code or the Florida  
 1025 | Accessibility Code for Building Construction.

1026 |       d. A statement of the provisions of the Florida Building  
 1027 | Code or the Florida Accessibility Code for Building Construction  
 1028 | which are being interpreted by the local building official.

1029 |       e. A statement of the interpretation given to provisions  
 1030 | of the Florida Building Code or the Florida Accessibility Code  
 1031 | for Building Construction by the local building official and the  
 1032 | manner in which the interpretation was rendered.

1033 |       f. A statement of the interpretation that the petitioner  
 1034 | contends should be given to the provisions of the Florida  
 1035 | Building Code or the Florida Accessibility Code for Building  
 1036 | Construction and a statement supporting the petitioner's  
 1037 | interpretation.

1038 |       g. Space for the local building official to respond in  
 1039 | writing. The space shall, at a minimum, require the local  
 1040 | building official to respond by providing a statement admitting

1041 or denying the statements contained in the petition and a  
 1042 statement of the interpretation of the provisions of the Florida  
 1043 Building Code or the Florida Accessibility Code for Building  
 1044 Construction which the local jurisdiction or the local building  
 1045 official contends is correct, including the basis for the  
 1046 interpretation.

1047 3. The petitioner shall submit the petition to the local  
 1048 building official, who shall place the date of receipt on the  
 1049 petition. The local building official shall respond to the  
 1050 petition in accordance with the form and shall return the  
 1051 petition along with his or her response to the petitioner within  
 1052 5 days after receipt, exclusive of Saturdays, Sundays, and legal  
 1053 holidays. The petitioner may file the petition with the  
 1054 commission at any time after the local building official  
 1055 provides a response. If no response is provided by the local  
 1056 building official, the petitioner may file the petition with the  
 1057 commission 10 days after submission of the petition to the local  
 1058 building official and shall note that the local building  
 1059 official did not respond.

1060 4. Upon receipt of a petition that meets the requirements  
 1061 of subparagraph 2., the commission shall immediately provide  
 1062 copies of the petition to the a panel, and the commission shall  
 1063 publish the petition, including any response submitted by the  
 1064 local building official, on the Building Code Information System  
 1065 in a manner that allows interested persons to address the issues  
 1066 by posting comments.

1067           5. The panel shall conduct proceedings as necessary to  
 1068 resolve the issues; shall give due regard to the petitions, the  
 1069 response, and to comments posed on the Building Code Information  
 1070 System; and shall issue an interpretation regarding the  
 1071 provisions of the Florida Building Code or the Florida  
 1072 Accessibility Code for Building Construction within 21 days  
 1073 after the filing of the petition. The panel shall render a  
 1074 determination based upon the Florida Building Code or the  
 1075 Florida Accessibility Code for Building Construction or, if the  
 1076 code is ambiguous, the intent of the code. The panel's  
 1077 interpretation shall be provided to the commission, which shall  
 1078 publish the interpretation on the Building Code Information  
 1079 System and in the Florida Administrative Register. The  
 1080 interpretation shall be considered an interpretation entered by  
 1081 the commission, and shall be binding upon the parties and upon  
 1082 all jurisdictions subject to the Florida Building Code or the  
 1083 Florida Accessibility Code for Building Construction, unless it  
 1084 is superseded by a declaratory statement issued by the Florida  
 1085 Building Commission or by a final order entered after an appeal  
 1086 proceeding conducted in accordance with subparagraph 7.

1087           6. It is the intent of the Legislature that review  
 1088 proceedings be completed within 21 days after the date that a  
 1089 petition seeking review is filed with the commission, and the  
 1090 time periods set forth in this paragraph may be waived only upon  
 1091 consent of all parties.

1092           7. Any substantially affected person may appeal an

1093 interpretation rendered by the ~~a hearing officer~~ panel by filing  
1094 a petition with the commission. Such appeals shall be initiated  
1095 in accordance with chapter 120 and the uniform rules of  
1096 procedure and must be filed within 30 days after publication of  
1097 the interpretation on the Building Code Information System or in  
1098 the Florida Administrative Register. Hearings shall be conducted  
1099 pursuant to chapter 120 and the uniform rules of procedure.  
1100 Decisions of the commission are subject to judicial review  
1101 pursuant to s. 120.68. The final order of the commission is  
1102 binding upon the parties and upon all jurisdictions subject to  
1103 the Florida Building Code or the Florida Accessibility Code for  
1104 Building Construction.

1105 8. The burden of proof in any proceeding initiated in  
1106 accordance with subparagraph 7. is on the party who initiated  
1107 the appeal.

1108 9. In any review proceeding initiated in accordance with  
1109 this paragraph, including any proceeding initiated in accordance  
1110 with subparagraph 7., the fact that an owner or builder has  
1111 proceeded with construction may not be grounds for determining  
1112 an issue to be moot if the issue is one that is likely to arise  
1113 in the future.

1114  
1115 This paragraph provides the exclusive remedy for addressing  
1116 requests to review local interpretations of the Florida Building  
1117 Code or the Florida Accessibility Code for Building Construction  
1118 and appeals from review proceedings.

1119 Section 23. Subsection (6) of section 553.79, Florida  
 1120 Statutes, is amended to read:  
 1121 553.79 Permits; applications; issuance; inspections.—  
 1122 (6) A permit may not be issued for any building  
 1123 construction, erection, alteration, modification, repair, or  
 1124 addition unless the applicant for such permit complies with the  
 1125 requirements for plan review established by the Florida Building  
 1126 Commission within the Florida Building Code. However, the code  
 1127 shall set standards and criteria to authorize preliminary  
 1128 construction before completion of all building plans review,  
 1129 including, but not limited to, special permits for the  
 1130 foundation only, and such standards shall take effect concurrent  
 1131 with the first effective date of the Florida Building Code.  
 1132 After submittal of the appropriate construction documents, the  
 1133 building official may issue a permit for the construction of  
 1134 foundations or any other part of a building or structure before  
 1135 the construction documents for the whole building or structure  
 1136 have been submitted. The holder of such permit for the  
 1137 foundation or other parts of a building or structure shall  
 1138 proceed at the holder's own risk and without assurance that a  
 1139 permit for the entire structure will be granted. Corrections may  
 1140 be required to meet the requirements of the technical codes.

1141 Section 24. Subsections (4) and (7) of section 553.841,  
 1142 Florida Statutes, are amended to read:  
 1143 553.841 Building code compliance and mitigation program.—  
 1144 (4) In administering the Florida Building Code Compliance

1145 and Mitigation Program, the department may ~~shall~~ maintain,  
 1146 update, develop, or cause to be developed code-related training  
 1147 and education ~~advanced modules designed~~ for use by each  
 1148 profession.

1149 ~~(7) The Florida Building Commission shall provide by rule~~  
 1150 ~~for the accreditation of courses related to the Florida Building~~  
 1151 ~~Code by accreditors approved by the commission. The commission~~  
 1152 ~~shall establish qualifications of accreditors and criteria for~~  
 1153 ~~the accreditation of courses by rule. The commission may revoke~~  
 1154 ~~the accreditation of a course by an accreditor if the~~  
 1155 ~~accreditation is demonstrated to violate this part or the rules~~  
 1156 ~~of the commission.~~

1157 Section 25. Paragraph (a) of subsection (8) of section  
 1158 553.842, Florida Statutes, is amended to read:

1159 553.842 Product evaluation and approval.—

1160 (8) The commission may adopt rules to approve the  
 1161 following types of entities that produce information on which  
 1162 product approvals are based. All of the following entities,  
 1163 including engineers and architects, must comply with a  
 1164 nationally recognized standard demonstrating independence or no  
 1165 conflict of interest:

1166 (a) Evaluation entities approved pursuant to this  
 1167 paragraph. The commission shall specifically approve the  
 1168 National Evaluation Service, the International Association of  
 1169 Plumbing and Mechanical Officials Evaluation Service, the  
 1170 International Code Council Evaluation Services, Underwriters



1171 Laboratories, LLC, and the Miami-Dade County Building Code  
 1172 Compliance Office Product Control Division. Architects and  
 1173 engineers licensed in this state are also approved to conduct  
 1174 product evaluations as provided in subsection (5).

1175 Section 26. Section 553.883, Florida Statutes, is amended  
 1176 to read:

1177 553.883 Smoke alarms in one-family and two-family  
 1178 dwellings and townhomes.—One-family and two-family dwellings and  
 1179 townhomes undergoing a repair, or a level 1 alteration as  
 1180 defined in the Florida Building Code, may use smoke alarms  
 1181 powered by 10-year nonremovable, nonreplaceable batteries in  
 1182 lieu of retrofitting such dwelling with smoke alarms powered by  
 1183 the dwelling's electrical system. Effective January 1, 2015, a  
 1184 battery-powered smoke alarm that is newly installed or replaces  
 1185 an existing battery-powered smoke alarm must be powered by a  
 1186 nonremovable, nonreplaceable battery that powers the alarm for  
 1187 at least 10 years. The battery requirements of this section do  
 1188 not apply to a fire alarm, smoke detector, smoke alarm, or  
 1189 ancillary component that is electronically connected as a part  
 1190 of a centrally monitored or supervised alarm system; or that  
 1191 uses a low-power, radio frequency wireless communication signal;  
 1192 or that contains multiple sensors, such as a smoke alarm  
 1193 combined with a carbon monoxide alarm or other devices as the  
 1194 State Fire Marshal designates by rule.

1195 Section 27. Section 553.908, Florida Statutes, is amended  
 1196 to read:

1197           553.908 Inspection.—Before construction or renovation is  
 1198 completed, the local enforcement agency shall inspect buildings  
 1199 for compliance with the standards of this part. Notwithstanding  
 1200 any other provision of the code or law, effective July 1, 2016,  
 1201 section R402.4.1 of the 5th Edition (2014) of the Florida  
 1202 Building Code, Energy Conservation, which became effective on  
 1203 June 30, 2015, shall cease to be effective. Instead, section  
 1204 402.4.2 of the 2010 Florida Building Code, Energy Conservation,  
 1205 relating to air sealing and insulation, in effect before June  
 1206 30, 2015, shall govern and become applicable and effective on  
 1207 June 30, 2016, and thereafter. Additionally, a state or local  
 1208 enforcement agency or code official may not require any type of  
 1209 mandatory blower door test or air infiltration test to determine  
 1210 specific air infiltration levels or air leakage rates in a  
 1211 residential building or dwelling unit and may not require the  
 1212 installation of any mechanical ventilation devices designed to  
 1213 filter outside air through an HVAC system as a condition of a  
 1214 permit or to determine compliance with the code. However, if  
 1215 section R402.4.1 of the 5th Edition (2014) of the Florida  
 1216 Building Code-Energy Conservation is voluntarily used, the local  
 1217 enforcement agency shall inspect the construction or renovation  
 1218 for compliance with that section.

1219           Section 28. Subsections (17) and (18) are added to section  
 1220 633.202, Florida Statutes, to read:

1221           633.202 Florida Fire Prevention Code.—

1222           (17) The authority having jurisdiction shall determine the

1223 minimum radio signal strength for fire department communications  
 1224 in all new high-rise and existing high-rise buildings. Existing  
 1225 buildings are not required to comply with minimum radio strength  
 1226 for fire department communications and two-way radio system  
 1227 enhancement communications as required by the Florida Fire  
 1228 Prevention Code until January 1, 2022. However, by December 31,  
 1229 2019, an existing building that is not in compliance with the  
 1230 requirements for minimum radio strength for fire department  
 1231 communications must apply for an appropriate permit for the  
 1232 required installation with the local government agency having  
 1233 jurisdiction and must demonstrate that the building will become  
 1234 compliant by January 1, 2022. Existing apartment buildings are  
 1235 not required to comply until January 1, 2025. However, existing  
 1236 apartment buildings are required to apply for the appropriate  
 1237 permit for the required communications installation by December  
 1238 31, 2022.

1239 (18) Areas of refuge shall be provided if required by the  
 1240 Florida Building Code, Accessibility. Required portions of an  
 1241 area of refuge shall be accessible from the space they serve by  
 1242 an accessible means of egress.

1243 Section 29. Subsection (5) is added to section 633.206,  
 1244 Florida Statutes, to read:

1245 633.206 Uniform firesafety standards—The Legislature  
 1246 hereby determines that to protect the public health, safety, and  
 1247 welfare it is necessary to provide for firesafety standards  
 1248 governing the construction and utilization of certain buildings

1249 and structures. The Legislature further determines that certain  
 1250 buildings or structures, due to their specialized use or to the  
 1251 special characteristics of the person utilizing or occupying  
 1252 these buildings or structures, should be subject to firesafety  
 1253 standards reflecting these special needs as may be appropriate.

1254 (5) The home environment provisions in the most current  
 1255 edition of the codes adopted by the division may be applied to  
 1256 existing assisted living facilities, at the option of each  
 1257 facility, notwithstanding the edition of the codes applied at  
 1258 the time of construction.

1259 Section 30. Subsection (5) of section 633.208, Florida  
 1260 Statutes, is amended to read:

1261 633.208 Minimum firesafety standards.—

1262 (5) With regard to existing buildings, the Legislature  
 1263 recognizes that it is not always practical to apply any or all  
 1264 of the provisions of the Florida Fire Prevention Code and that  
 1265 physical limitations may require disproportionate effort or  
 1266 expense with little increase in fire or life safety. Before  
 1267 ~~Prior to~~ applying the minimum firesafety code to an existing  
 1268 building, the local fire official shall determine whether ~~that~~ a  
 1269 threat to lifesafety or property exists. If a threat to  
 1270 lifesafety or property exists, the fire official shall apply the  
 1271 applicable firesafety code for existing buildings to the extent  
 1272 practical to ensure ~~assure~~ a reasonable degree of lifesafety and  
 1273 safety of property or the fire official shall fashion a  
 1274 reasonable alternative that ~~which~~ affords an equivalent degree

1275 of lifesafety and safety of property. The local fire official  
 1276 may consider the fire safety evaluation systems found in NFPA  
 1277 101A, Guide on Alternative Solutions to Life Safety, adopted by  
 1278 the State Fire Marshal, as acceptable systems for the  
 1279 identification of low-cost, reasonable alternatives. It is  
 1280 acceptable to use the Fire Safety Evaluation System for Board  
 1281 and Care Facilities using prompt evacuation capabilities  
 1282 parameter values on existing residential high-rise buildings.  
 1283 The decision of the local fire official may be appealed to the  
 1284 local administrative board described in s. 553.73.

1285 Section 31. Section 633.336, Florida Statutes, is amended  
 1286 to read:

1287 633.336 Contracting without certificate prohibited;  
 1288 violations; penalty.—

1289 (1) It is unlawful for any organization or individual to  
 1290 engage in the business of layout, fabrication, installation,  
 1291 inspection, alteration, repair, or service of a fire protection  
 1292 system, other than a preengineered system, act in the capacity  
 1293 of a fire protection contractor, or advertise itself as being a  
 1294 fire protection contractor without having been duly certified  
 1295 and holding a valid and existing certificate, except as  
 1296 hereinafter provided. The holder of a certificate used to  
 1297 qualify an organization must be a full-time employee of the  
 1298 qualified organization or business. A certificateholder who is  
 1299 employed by more than one fire protection contractor during the  
 1300 same time is deemed not to be a full-time employee of either

1301 contractor. The State Fire Marshal shall revoke, for a period  
 1302 determined by the State Fire Marshal, the certificate of a  
 1303 certificateholder who allows the use of the certificate to  
 1304 qualify a company of which the certificateholder is not a full-  
 1305 time employee. A contractor who maintains more than one place of  
 1306 business must employ a certificateholder at each location. This  
 1307 subsection does not prohibit an employee acting on behalf of  
 1308 governmental entities from inspecting and enforcing firesafety  
 1309 codes, provided such employee is certified under s. 633.216.

1310 (2) A fire protection contractor certified under this  
 1311 chapter may not:

1312 (a) Enter into a written or oral agreement to authorize,  
 1313 or otherwise knowingly allow, a contractor who is not certified  
 1314 under this chapter to engage in the business of, or act in the  
 1315 capacity of, a fire protection contractor.

1316 (b) Apply for or obtain a construction permit for fire  
 1317 protection work unless the fire protection contractor or the  
 1318 business organization qualified by the fire protection  
 1319 contractor has contracted to conduct the work specified in the  
 1320 application for the permit.

1321 (3) The Legislature recognizes that special expertise is  
 1322 required for fire pump control panels and maintenance of  
 1323 electric and diesel pump drivers and that it is not economically  
 1324 feasible for all contractors to employ these experts full-time  
 1325 whose work may be limited. It is therefore deemed acceptable for  
 1326 a fire protection contractor licensed under chapter 633 to

1327 subcontract with companies providing advanced technical services  
 1328 for the installation, servicing, and maintenance of fire pump  
 1329 control panels and pump drivers. To ensure the integrity of the  
 1330 system and to protect the interests of the property owner, those  
 1331 providing technical support services for fire pump control  
 1332 panels and pump drivers must be under contract with a licensed  
 1333 fire protection contractor.

1334 ~~(4)~~~~(3)~~ A person who violates any provision of this act or  
 1335 commits any of the acts constituting cause for disciplinary  
 1336 action as herein set forth commits a misdemeanor of the second  
 1337 degree, punishable as provided in s. 775.082 or s. 775.083.

1338 ~~(5)~~~~(4)~~ In addition to the penalties provided in subsection  
 1339 ~~(4)~~ ~~(3)~~, a fire protection contractor certified under this  
 1340 chapter who violates any provision of this section or who  
 1341 commits any act constituting cause for disciplinary action is  
 1342 subject to suspension or revocation of the certificate and  
 1343 administrative fines pursuant to s. 633.338.

1344 Section 32. Paragraphs (b) and (c) of subsection (4) of  
 1345 section 120.541, Florida Statutes, are amended to read:

1346 120.541 Statement of estimated regulatory costs.—

1347 (3) If the adverse impact or regulatory costs of the rule  
 1348 exceed any of the criteria established in paragraph (2)(a), the  
 1349 rule shall be submitted to the President of the Senate and  
 1350 Speaker of the House of Representatives no later than 30 days  
 1351 prior to the next regular legislative session, and the rule may  
 1352 not take effect until it is ratified by the Legislature.

1353 (4) Subsection (3) does not apply to the adoption of:  
 1354 ~~(b) Triennial updates of and amendments to the Florida~~  
 1355 ~~Building Code which are expressly authorized by s. 553.73.~~

1356 ~~(c) Triennial updates of and amendments to the Florida~~  
 1357 ~~Fire Prevention Code which are expressly authorized by s.~~  
 1358 ~~633.202.~~

1359 Section 33. Subsections (16) and (17) of section 120.80,  
 1360 Florida Statutes, are amended to read:

1361 120.80 Exceptions and special requirements; agencies.-

1362 (16) FLORIDA BUILDING COMMISSION.-

1363 (a) Notwithstanding the provisions of s. 120.542, the  
 1364 Florida Building Commission may not accept a petition for waiver  
 1365 or variance and may not grant any waiver or variance from the  
 1366 requirements of the Florida Building Code.

1367 (b) The Florida Building Commission shall adopt within the  
 1368 Florida Building Code criteria and procedures for alternative  
 1369 means of compliance with the code or local amendments thereto,  
 1370 for enforcement by local governments, local enforcement  
 1371 districts, or other entities authorized by law to enforce the  
 1372 Florida Building Code. Appeals from the denial of the use of  
 1373 alternative means shall be heard by the local board, if one  
 1374 exists, and may be appealed to the Florida Building Commission.

1375 (c) Notwithstanding ss. 120.565, 120.569, and 120.57, the  
 1376 Florida Building Commission and hearing officer panels appointed  
 1377 by the commission in accordance with s. 553.775(3)(c)1. may  
 1378 conduct proceedings to review decisions of local building code



1379 officials in accordance with s. 553.775(3)(c).

1380 (d) Effective July 1, 2016, section 120.541(3) does not  
 1381 apply to the adoption of any section of the Florida Building  
 1382 Code, adopted pursuant to s. 553.73, if the section would not be  
 1383 subject to ratification as a discrete rule or if the substance  
 1384 of the section was incorporated in a prior adopted and effective  
 1385 rule amendments and the triennial update to the Florida Building  
 1386 Code expressly authorized by s. 553.73.

1387 (e) In adopting the Florida Building Code, a statement of  
 1388 estimated regulatory costs prepared under s. 120.541 must  
 1389 evaluate each section of the underlying code developed to form  
 1390 the foundation of the Florida Building Code pursuant to s.  
 1391 553.73(3) if the section was not incorporated in the previous  
 1392 version of the Florida Building Code and the section is expected  
 1393 to increase construction costs in excess of \$1 million in the  
 1394 aggregate within 5 years after the implementation of the  
 1395 section.

1396 (17) STATE FIRE MARSHAL.—

1397 (a) Effective July 1, 2016, section 120.541(3) does not  
 1398 apply to the adoption of any section of the Florida Fire  
 1399 Prevention Code adopted pursuant to s. 633.202 if the section  
 1400 would not be subject to ratification as a discrete rule or if  
 1401 the substance of the section was incorporated in a prior adopted  
 1402 and effective rule amendments and the triennial update to the  
 1403 Florida Fire Prevention Code expressly authorized by s. 633.202.

1404 (b) In adopting the Florida Fire Prevention Code, a

1405 statement of estimated regulatory costs prepared under s.  
 1406 120.541 must evaluate each section of the National Fire  
 1407 Protection Association's Standard 1, Fire Prevention Code and  
 1408 each section of the Life Safety Code, NFPA 101, adopted by  
 1409 reference in the Florida Fire Prevention Code, if the section  
 1410 was not incorporated in the previous version of the Florida Fire  
 1411 Prevention Code and the section is expected to increase  
 1412 construction costs in excess of \$1 million in the aggregate  
 1413 within 5 years after the implementation of the section.

1414 Section 34. The Calder Sloan Swimming Pool Electrical-  
 1415 Safety Task Force.-There is established within the Florida  
 1416 Building Commission the Calder Sloan Swimming Pool Electrical-  
 1417 Safety Task Force.

1418 (1) The purpose of the task force is to study standards on  
 1419 grounding, bonding, lighting, wiring, and all electrical aspects  
 1420 for safety in and around public and private swimming pools,  
 1421 especially with regard to minimizing risks of electrocutions  
 1422 linked to swimming pools. The task force shall submit a report  
 1423 of its findings, including recommended revisions to state law,  
 1424 if any, to the Governor, the President of the Senate, and the  
 1425 Speaker of the House of Representatives by November 1, 2016.

1426 (2) The task force shall consist of the swimming pool and  
 1427 electrical technical advisory committees of the Florida Building  
 1428 Commission.

1429 (3) The task force shall be chaired by the swimming pool  
 1430 contractor appointed to the Florida Building Commission pursuant

1431 to s. 553.74, Florida Statutes.

1432 (4) The Florida Building Commission shall provide such  
 1433 staff, information, and other assistance as is reasonably  
 1434 necessary to assist the task force in carrying out its  
 1435 responsibilities.

1436 (5) Members of the task force shall serve without  
 1437 compensation.

1438 (6) The task force shall meet as often as necessary to  
 1439 fulfill its responsibilities. Meetings may be conducted by  
 1440 conference call, teleconferencing, or similar technology.

1441 (7) This section expires December 31, 2016.

1442 Section 35. This act shall take effect July 1, 2016.

## BUSINESS AND PROFESSIONS SUBCOMMITTEE

### HB 535 by Rep. Eagle Building Codes

#### AMENDMENT SUMMARY December 2, 2015

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**Amendment 1 by Rep. Eagle (line 385):** Exempts from contracting licensure requirements any employee of an apartment community or apartment community management company who makes minor repairs where the parts to make the repairs do not cost more than \$500. Additionally, the amendment requires that an individual repair may not be a part of a larger or major project that is divided for the purpose of evading this part or otherwise.

**Amendment 2 by Rep. Eagle (line 709):** Technical amendment that corrects a typographical error.

**Amendment 3 by Rep. Eagle (line 977):** Technical amendment that corrects a typographical error.

**Amendment 4 by Rep. Eagle (line 1140):** Prohibits local governments from requiring payment of any additional fees, charges, or expenses associated with providing proof of licensure as a contractor, recording a contractor license, or providing or recording evidence of worker's compensation insurance coverage by a contractor.

**Amendment 5 by Rep. Eagle (line 1174):** Reinstates the wind mitigation exemption for professional engineer certification of HVAC units being installed.

**Amendment 6 by Rep. Eagle (line 1344):** Removes from the bill the requirement that building code and fire prevention code changes that are identified in triennial studies be ratified by the Legislature.

**Amendment 7 by Rep. Eagle (line 1441):** Requires the Florida Building Commission to amend the Florida Building Code to provide a definition for Fire Separation Distance.

**Amendment 8 by Rep. Eagle (line 1441a):** Directs the Florida Building Commission to adopt a specific energy rating index as an option for compliance with the energy code.

**Amendment 9 by Rep. Eagle (line 1441b):** Requires the Florida Building Commission to amend the Florida Building Code to provide that openings and roof overhang projections on zero lot lines are permitted when the exterior walls of adjacent buildings are 6 feet or more apart and the overhang projection is 4 feet or more from an adjacent building overhang, as provided in the 2010 building code.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

---

1 Committee/Subcommittee hearing bill: Business & Professions  
 2 Subcommittee

3 Representative Eagle offered the following:

4  
 5 **Amendment**

6 Remove lines 385-388 and insert:

7 parts that cost more than \$500. An individual repair may not be  
 8 so extensive as to be a functional replacement of the electric  
 9 water heater or the existing electric heating, venting, or air-  
 10 conditioning system being repaired. For purposes of this  
 11 section, an individual repair may not be a part of a larger or  
 12 major project that is divided for the purpose of evading this  
 13 part or otherwise.



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED                                    \_\_\_ (Y/N)  
ADOPTED AS AMENDED                    \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION                \_\_\_ (Y/N)  
FAILED TO ADOPT                        \_\_\_ (Y/N)  
WITHDRAWN                               \_\_\_ (Y/N)  
OTHER                                     \_\_\_\_\_

---

1 Committee/Subcommittee hearing bill: Business & Professions  
2 Subcommittee

3 Representative Eagle offered the following:

4  
5           **Amendment**

6           Remove line 709 and insert:

7           July 1, 2016, payment from the recovery fund is subject only to



Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

---

1 Committee/Subcommittee hearing bill: Business & Professions  
2 Subcommittee

3 Representative Eagle offered the following:

4

5 **Amendment**

6 Remove line 977 and insert:

7 Code and therefore does not take effect until July 1, 2017.



Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Business & Professions  
 2 Subcommittee

3 Representative Eagle offered the following:

4  
5 **Amendment (with title amendment)**

6 Between lines 1140 and 1141, insert:

7 Section 24. Paragraph (d) is added to subsection (7) of  
8 section 553.80, Florida Statutes, to read:

9 553.80 Enforcement.—

10 (7) The governing bodies of local governments may provide  
 11 a schedule of reasonable fees, as authorized by s. 125.56(2) or  
 12 s. 166.222 and this section, for enforcing this part. These  
 13 fees, and any fines or investment earnings related to the fees,  
 14 shall be used solely for carrying out the local government's  
 15 responsibilities in enforcing the Florida Building Code. When  
 16 providing a schedule of reasonable fees, the total estimated  
 17 annual revenue derived from fees, and the fines and investment





Amendment No. 4

18 earnings related to the fees, may not exceed the total estimated  
19 annual costs of allowable activities. Any unexpended balances  
20 shall be carried forward to future years for allowable  
21 activities or shall be refunded at the discretion of the local  
22 government. The basis for a fee structure for allowable  
23 activities shall relate to the level of service provided by the  
24 local government and shall include consideration for refunding  
25 fees due to reduced services based on services provided as  
26 prescribed by s. 553.791, but not provided by the local  
27 government. Fees charged shall be consistently applied.

28 (d) The local enforcement agency, as defined in s.  
29 553.71(5), may not require the payment of any additional fees,  
30 charges, or expenses associated with:

31 1. Providing proof of licensure pursuant to this chapter,

32 2. Recording or filing of a license issued pursuant to  
33 this chapter,

34 3. Providing evidence of workers' compensation coverage  
35 required by chapter 440, or

36 4. Recording or filing evidence of workers' compensation  
37 coverage required by chapter 440.

38

39

40

41

-----  
T I T L E A M E N D M E N T

42

Between lines 97 and 98, insert:



Amendment No. 4

43 amending s. 553.80, F.S.; prohibiting a local enforcement agency  
44 from charging additional fees related to the recording of a  
45 contractor's license or workers' compensation insurance;



Amendment No. 5

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED  (Y/N)

ADOPTED AS AMENDED  (Y/N)

ADOPTED W/O OBJECTION  (Y/N)

FAILED TO ADOPT  (Y/N)

WITHDRAWN  (Y/N)

OTHER \_\_\_\_\_

---

1 Committee/Subcommittee hearing bill: Business & Professions  
2 Subcommittee

3 Representative Eagle offered the following:  
4

5 **Amendment (with title amendment)**

6 Between lines 1174 and 1175, insert:

7 Section 26. Subsection (4) of section 553.844, Florida  
8 Statutes, is amended to read:

9 553.844 Windstorm loss mitigation; requirements for roofs  
10 and opening protection.—

11 (4) Notwithstanding the provisions of this section,  
12 exposed mechanical equipment or appliances fastened to a roof or  
13 installed on the ground in compliance with the code using rated  
14 stands, platforms, curbs, slabs, walls, or other means are  
15 deemed to comply with the wind resistance requirements of the  
16 2007 Florida Building Code, as amended. Further support or  
17 enclosure of such mechanical equipment or appliances is not



Amendment No. 5

18 required by a state or local official having authority to  
19 enforce the Florida Building Code. ~~This subsection expires on~~  
20 ~~the effective date of the 2013 Florida Building Code.~~

21

22

23

-----

24

T I T L E A M E N D M E N T

25

Remove line 107 and insert:

26

approved evaluation entity; amending s. 553.844, F.S.; revising

27

provisions requiring the adoption of certain mitigation

28

techniques by the Florida Building Commission within the Florida

29

Building Code for certain structures; removing the expiration

30

date of the provision; amending s. 553.883, F.S.;



Amendment No. 6

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

---

1 Committee/Subcommittee hearing bill: Business & Professions  
2 Subcommittee

3 Representative Eagle offered the following:

4  
5 **Amendment (with title amendment)**

6 Remove lines 1344-1413

7  
8  
9 -----

10 **T I T L E A M E N D M E N T**

11 Remove lines 133-143 and insert:

12 circumstances; creating the Calder Sloan



Amendment No. 7

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Business & Professions  
 2 Subcommittee

3 Representative Eagle offered the following:

4  
5 **Amendment (with title amendment)**

6 Between lines 1441 and 1442, insert:

7 Section 35. The Florida Building Commission shall define  
 8 the following term in Florida Building Code Residential  
 9 Definitions:

10 FIRE SEPARATION DISTANCE. The distance measured from the  
 11 building face to one of the following:

- 12 1. To the closest interior lot line;
- 13 2. To the centerline of a street, an alley or public way;
- 14 3. To an imaginary line between two buildings on the lot;

15 or

- 16 4. To an imaginary line between two buildings when the  
 17 exterior wall of one building is located on a zero lot line.



Amendment No. 7

18        The distance shall be measured at a right angle from the  
19 face of the wall.

20

21        -----

22

T I T L E   A M E N D M E N T

23

Remove line 153 and insert:

24

future repeal of the task force; requiring that the Florida

25

Building Commission amend the Florida Building Code to provide a

26

definition for Fire Separation Distance; providing an



Amendment No. 8

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Business & Professions  
 2 Subcommittee

3 Representative Eagle offered the following:

4  
 5 **Amendment (with title amendment)**

6 Between lines 1441 and 1442, insert:

7 Section 35. The Florida Building Commission shall adopt  
 8 into the Florida Building Code the following:

9 Section 406 relating to the Alternative Performance Path, Energy  
 10 Rating Index of the 2015 International Energy Conservation Code  
 11 (IECC) may be used as an option for chapter 553 and Florida  
 12 Building Code compliance. TABLE R406.4 MAXIMUM RATING ENERGY  
 13 INDEX shall reflect the following rating index: for Climate Zone  
 14 1, an index of 65; for Climate Zone 2, an index of 65.

15  
 16 -----

17 **T I T L E A M E N D M E N T**





Amendment No. 8

18           Remove line 153 and insert:  
19   future repeal of the task force; directing the Florida Building  
20   Commission to adopt a specific energy rating index as an option  
21   for compliance; providing for Climate Zone indices; providing an



Amendment No. 9

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Business & Professions  
 2 Subcommittee

3 Representative Eagle offered the following:

4  
5 **Amendment (with title amendment)**

6 Between lines 1441 and 1442, insert:

7 Section 35. The Florida Building Commission shall provide  
8 for the following in Florida Building Code Residential:

9 Openings and roof overhang projections shall be permitted  
 10 on the exterior wall of a building located on a zero lot line  
 11 when the building exterior wall is separated from an adjacent  
 12 building exterior wall by a distance of 6 feet or more, and the  
 13 roof overhang projection is separated from an adjacent building  
 14 projection by a distance of 4 feet or more, with 1 hour fire  
 15 resistive construction on the underside of the overhang  
 16 required, unless the separation between projections is 6 feet or  
 17 more.



Amendment No. 9

18  
19  
20  
21  
22  
23  
24

-----

T I T L E A M E N D M E N T

Remove line 153 and insert:  
future repeal of the task force; requiring that the Florida  
Building Commission amend the Florida Building Code to provide  
openings and roof overhang projection requirements; providing an



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 559 Self-Service Storage Facilities

**SPONSOR(S):** La Rosa

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 720

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee		Anderson	ODA Anstead <i>La</i>
2) Regulatory Affairs Committee			

### SUMMARY ANALYSIS

The Florida Self-storage Facility Act (the Act) controls the relationship between the owner of a self-service storage facility and a tenant with whom the owner has entered into an agreement. The act controls the enforcement of an owner's lien upon all personal property located at the self-service storage facility for failure to pay rent.

Self-service storage facility owners are currently permitted to sell personal property in a tenant's storage unit if the tenant fails to pay rent. The facility owner is required to give notice to the tenant of the intent to sell the property before the sale. After the time provided in the notice expires, the facility owner must publish an advertisement of the sale in a newspaper of general circulation prior to the sale or disposition of the contents of the unit. If there is no newspaper of general circulation in the region, the owner can post the advertisement in at least three conspicuous places in the neighborhood.

The bill provides an alternative method for publishing advertisements for the sale of a tenant's property. The bill allows the advertisement to be published in any "commercially reasonable" manner. An advertisement is considered to be "commercially reasonable" if three independent bidders attend the sale or register to bid at an online sale. The bill defines "independent bidder" to mean "a bidder who is not related to and who has no controlling interest in, or common pecuniary interest with, the owner or any other bidder." The bill eliminates the option of posting notice of the sale in three conspicuous places in the neighborhood.

The bill provides that a lien sale may be conducted on a public website that typically conducts personal property auctions. The facility owner does not have to be licensed as an auctioneer to post property on such a website.

The bill limits the value of property contained in a storage unit if the value was limited in the rental agreement. This provision appears to be a restatement of current case law.

The bill authorizes a facility owner to have a motor vehicle or watercraft towed, without liability for damages, if a lien is claimed and if the tenant has failed to pay rent or other charges. The bill authorizes a facility owner to contact the Department of Highway Safety and Motor Vehicles for information regarding the property owner and any lienholders and requires the facility owner to send written notice to such persons. The facility owner is authorized to sell the motor vehicle or watercraft if the property owner or lienholder receives notice and does not satisfy the lien.

This bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

Sections 83.801-83.809, F.S., comprise Florida's "Self-storage Facility Act" (the Act). The Act provides remedies for the owner of a self-service storage facility<sup>1</sup> in the event that a tenant does not pay rent. The Act gives the facility owner the ability to deny a tenant access to his or her property if the tenant is more than five days delinquent in paying rent.<sup>2</sup>

The Act provides that the owner of a self-service storage facility has a lien upon all personal property located at a self-service storage facility for rent, labor charges, or other charges in relation to the personal property and for the expenses necessary to preserve or dispose of the property.<sup>3</sup> The facility owner is required to take certain steps before satisfying the lien.

First, the tenant must be provided written notice prior to the sale of the property. The notice must be delivered in person or by certified mail to the tenant's last known address and conspicuously posted at the self-service storage facility. The notice must contain a statement showing the amount due, the date it became due, a description of the property, a demand for payment within 14 days, and a conspicuous statement that, unless the claim is paid within the time stated in the notice, the personal property will be advertised for sale or other disposition and will be sold or otherwise disposed of at a specified time and place.

If the owner has not become current on the payments after the expiration of the time provided by the notice, the facility owner may advertise for a sale of the property. An advertisement of the sale must be published once a week for 2 consecutive weeks in a newspaper of general circulation in the area where the self-service storage facility is located. If there is no such newspaper of general circulation, the advertisement must be posted at least 10 days before the sale in at least three conspicuous places in the neighborhood where the self-service storage facility is located.<sup>4</sup> The advertisement must include a brief and general description of the property believed to be contained in the storage unit, the address of the facility, the name of the tenant, and the time, place, and manner of the sale or other disposition, which may not be sooner than 15 days after the first publication.<sup>5</sup>

The facility owner may then satisfy the lien from the proceeds of the sale. The balance, if any, is held by the facility owner for delivery on demand to the tenant. A notice of any balance must be delivered by the facility owner to the tenant in person or by certified mail. The balance is considered abandoned if the tenant does not claim it within two years.<sup>6</sup>

Current law also requires the facility owner to hold the sale proceeds for holders of liens against the property whose liens have priority over the facility owner's lien. The facility owner must provide notice of the amount of sale proceeds to such lienholders by either personal delivery or certified mail.<sup>7</sup>

---

<sup>1</sup> "Self-service storage facility" is defined by s. 83.803(1), F.S. as any real property designed and used for the purpose of renting or leasing individual storage space to tenants who are to have access to such space for the purpose of storing and removing personal property.

<sup>2</sup> Section 83.8055, F.S.

<sup>3</sup> Section 83.805, F.S.

<sup>4</sup> Section 83.806, F.S.

<sup>5</sup> Section 83.806(4)(a), F.S.

<sup>6</sup> Section 83.806(8), F.S.

<sup>7</sup> *Id.*

## Effect of the Bill

The bill provides an alternative method for publishing advertisements for the sale or disposition of the contents of a storage unit after proper notice to the unit owner. The facility owner is permitted to advertise the sale in any "commercially reasonable" manner. An advertisement is considered to have been advertised in a "commercially reasonable" manner if three independent bidders attend the sale or register to bid at an online sale. The bill defines "independent bidder" to mean "a bidder who is not related to and who has no controlling interest in, or common pecuniary interest with, the owner or any other bidder." The bill eliminates the method of advertising a sale by posting the advertisement in three conspicuous locations in the neighborhood.

The bill creates s. 83.806(9), F.S., to limit the value of property that may be stored in a storage unit if the value is limited in the rental agreement. This limits the liability of the facility to the amount stated in the contract if the contents of the unit are damaged or stolen or if the facility owner wrongfully sells the tenant's property. This provision appears to be a restatement of current case law.<sup>8</sup>

The bill creates s. 83.806(10), F.S., to allow a facility owner to have the motor vehicle or watercraft towed without liability for damage to the vehicle or watercraft after it is towed. Alternatively, the facility owner may sell the motor vehicle or watercraft in a commercially reasonable manner. The facility owner is authorized to contact the Department of Highway Safety and Motor Vehicles to determine whether there are any lienholders and for contact information for the motor vehicle or watercraft owner. Within 10 days of receiving such information, the facility owner must send written notice to the lienholder and property owner by first class mail. The notice must state that: 1) the facility owner is holding the motor vehicle or watercraft, 2) a lien has attached, 3) payment is required within 30 days, and 4) the property may be sold if the lien is not satisfied.

### B. SECTION DIRECTORY:

Section 1 amends s. 83.806, F.S., revising requirements for the advertisement of the sale or disposition of property held in a self-service storage facility and providing options and notice requirements for the disposition of motor vehicles or watercraft claimed to be subject to a lien.

Section 2 provides an effective date of July 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

<sup>8</sup> See *Muns v. Shurgard Income Properties Fund 16-Limited Partnership*, 682 So.2d 166 (Fla. 4<sup>th</sup> DCA 1996).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Self-service storage facility owners may be able to more easily recoup losses from tenants who lapse on rent payments and may be able to recover more of the debt owed if they are able to use alternative and less expensive advertising methods. Newspapers of general circulation may experience a reduction in advertising revenue.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

There appears to be no rulemaking authority added or amended.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The standard of "commercially reasonable" may be vague and could be clarified.

The limitation of the liability of the facility owner for the value of the tenant's property, as agreed to in the rental agreement, may have the affect of allowing for an actionable claim for damages by the tenant if the facility owner sells the property for less than the amount indicated in the contract. This provision could be clarified to indicate that the agreed upon limitation in the contract does not reflect fair market value and is not a determination of the value of the property.

The provisions of paragraph (10) may need clarification. The facility owner is permitted but is not required to contact the Department of Highway Safety and Motor Vehicles under paragraph (10)(b). However, under paragraph (10)(c), if a property owner or lienholder receives notice under paragraph (10)(b) and does not satisfy the lien, the facility owner may sell the motor vehicle or watercraft. The language indicates that the facility owner is obligated to provide notice to the property owner or lienholder prior to selling the motor vehicle or watercraft. To reflect this, the language should state that prior to the sale of a motor vehicle or watercraft, the facility owner shall contact the Department of Highway Safety and Motor Vehicles for information concerning a property owner or lienholder.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES



1                   A bill to be entitled  
 2           An act relating to self-storage facilities; amending  
 3           s. 83.806, F.S.; providing that advertisement of a  
 4           sale or disposition of property may be in any  
 5           commercially reasonable manner; specifying when  
 6           advertising may be considered to have been conducted  
 7           in a commercially reasonable manner; defining the term  
 8           "independent bidder"; providing that a lien sale may  
 9           be conducted on certain websites; providing that a  
 10          self-storage facility owner is not required to have a  
 11          license to post property for online sale; deleting a  
 12          required alternative form of advertisement; providing  
 13          limits for the maximum valuation of property under  
 14          certain circumstances; providing options for the  
 15          disposition of motor vehicles or watercraft claimed to  
 16          be subject to a lien; requiring specified notice to  
 17          lienholders and owners of motor vehicles or watercraft  
 18          subject to a lien; providing an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22           Section 1. Subsection (4) of section 83.806, Florida  
 23           Statutes, is amended, and subsections (9) and (10) are added to  
 24           that section, to read:

25           83.806 Enforcement of lien.—An owner's lien as provided in  
 26           s. 83.805 may be satisfied as follows:

27 (4) After the expiration of the time given in the notice,  
28 an advertisement of the sale or other disposition shall be  
29 published once a week for 2 consecutive weeks in a newspaper of  
30 general circulation in the area where the self-service storage  
31 facility or self-contained storage unit is located or advertised  
32 in any other commercially reasonable manner. As used in this  
33 subsection, an advertisement is considered to have been  
34 advertised in a "commercially reasonable" manner if at least  
35 three independent bidders attend the sale at the time and place  
36 advertised or register to bid at an online sale. As used in this  
37 subsection, the term "independent bidder" means a bidder who is  
38 not related to and who has no controlling interest in, or common  
39 pecuniary interest with, the owner or any other bidder.

40 (a) A lien sale may be conducted on a public website that  
41 customarily conducts personal property auctions. The facility or  
42 unit owner is not required to be licensed to post property  
43 online for sale pursuant to this subsection. Inasmuch as any  
44 sale may involve property of more than one tenant, a single  
45 advertisement may be used to dispose of property at any one  
46 sale.

47 (b)(a) The advertisement shall include:

48 1. A brief and general description of what is believed to  
49 constitute the personal property contained in the storage unit,  
50 as provided in paragraph (2) (b).

51 2. The address of the self-service storage facility or the  
52 address where the self-contained storage unit is located and the

53 name of the tenant.

54 3. The time, place, and manner of the sale or other  
 55 disposition. The sale or other disposition shall take place not  
 56 sooner than 15 days after the first publication or  
 57 advertisement.

58 ~~(b) If there is no newspaper of general circulation in the~~  
 59 ~~area where the self-service storage facility or self-contained~~  
 60 ~~storage unit is located, the advertisement shall be posted at~~  
 61 ~~least 10 days before the date of the sale or other disposition~~  
 62 ~~in not fewer than three conspicuous places in the neighborhood~~  
 63 ~~where the self-service storage facility or self-contained~~  
 64 ~~storage unit is located.~~

65 (9) If the rental agreement contains a limit on the value  
 66 of property stored in the tenant's storage space, the limit is  
 67 deemed to be the maximum value of the property stored in that  
 68 space.

69 (10) If a lien is claimed on property that is a motor  
 70 vehicle or a watercraft and rent and other charges related to  
 71 the property remain unpaid or unsatisfied for 60 days after the  
 72 maturity of the obligation to pay the rent and other charges,  
 73 the facility or unit owner may do one of the following:

74 (a) The facility or unit owner may have the property  
 75 towed. If a motor vehicle or watercraft is towed, the facility  
 76 or unit owner is not liable for the motor vehicle or watercraft  
 77 or any damages to the motor vehicle or watercraft once a tower  
 78 takes possession of the property.

79 (b) The facility or unit owner may contact the Department  
 80 of Highway Safety and Motor Vehicles to determine the existence  
 81 and identity of any lienholder and the name and address of the  
 82 owner of the motor vehicle or watercraft. Within 10 days after  
 83 receipt of such information concerning a lienholder and the  
 84 owner of such motor vehicle or watercraft, the facility or unit  
 85 owner must send written notice to the lienholder and to the  
 86 owner by first-class mail stating that:

87 1. Such motor vehicle or watercraft is being held by the  
 88 facility or unit owner;

89 2. A lien has attached;

90 3. Payment must be made within 30 days after notification  
 91 to satisfy the lien and take possession of the motor vehicle or  
 92 watercraft; and

93 4. The facility or unit owner may sell the motor vehicle  
 94 or watercraft in any commercially reasonable manner, including  
 95 by public auction, if the lien is not satisfied.

96 (c) If an owner or a lienholder who receives notice under  
 97 paragraph (b) does not satisfy the lien, the facility or unit  
 98 owner may sell the motor vehicle or watercraft in any  
 99 commercially reasonable manner, including by public auction.

100 Section 2. This act shall take effect July 1, 2016.

**BUSINESS AND PROFESSIONS SUBCOMMITTEE**

**HB 559 by Rep. La Rosa  
Self-Service Storage Facilities**

**AMENDMENT SUMMARY  
December 2, 2015**

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**Amendment 1 by Rep. La Rosa (Strike-all):** The bill currently requires that the sale of a tenant's property be advertised in a "commercially reasonable" manner. The amendment instead provides that the sale be advertised on an Internet website for 2 consecutive weeks. The amendment also clarifies subsection (10) and requires a facility or unit owner to contact DHSMV for information regarding the property owner and lienholders before selling a motor vehicle or watercraft.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

---

1 Committee/Subcommittee hearing bill: Business & Professions  
 2 Subcommittee

3 Representative La Rosa offered the following:

4  
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (4) of section 83.806, Florida  
 8 Statutes, is amended, and subsections (9) and (10) are added to  
 9 that section, to read:

10 83.806 Enforcement of lien.—An owner's lien as provided in  
 11 s. 83.805 may be satisfied as follows:

12 (4) After the expiration of the time given in the notice,  
 13 an advertisement of the sale or other disposition shall be  
 14 published once a week for 2 consecutive weeks in a newspaper of  
 15 general circulation in the area where the self-service storage  
 16 facility or self-contained storage unit is located or advertised



Amendment No. 1

17 for 2 consecutive weeks on an Internet website accessible to the  
18 public.

19 (a) A lien sale may be conducted on a public website that  
20 customarily conducts personal property auctions. The facility or  
21 unit owner is not required to be licensed to post property  
22 online for sale pursuant to this subsection. Inasmuch as any  
23 sale may involve property of more than one tenant, a single  
24 advertisement may be used to dispose of property at any one  
25 sale.

26 (b) (a) The advertisement shall include:

27 1. A brief and general description of what is believed to  
28 constitute the personal property contained in the storage unit,  
29 as provided in paragraph (2) (b) .

30 2. The address of the self-service storage facility or the  
31 address where the self-contained storage unit is located and the  
32 name of the tenant.

33 3. The time, place, and manner of the sale or other  
34 disposition. The sale or other disposition shall take place not  
35 sooner than 15 days after the first publication or  
36 advertisement.

37 ~~(b) If there is no newspaper of general circulation in the~~  
38 ~~area where the self-service storage facility or self-contained~~  
39 ~~storage unit is located, the advertisement shall be posted at~~  
40 ~~least 10 days before the date of the sale or other disposition~~  
41 ~~in not fewer than three conspicuous places in the neighborhood~~



Amendment No. 1

42 ~~where the self-service storage facility or self-contained~~  
43 ~~storage unit is located.~~

44 (9) If the rental agreement contains a limit on the value  
45 of property stored in the tenant's storage space, the limit is  
46 deemed to be the maximum value of the property stored in that  
47 space.

48 (10) If a lien is claimed on property that is a motor  
49 vehicle or a watercraft and rent and other charges related to  
50 the property remain unpaid or unsatisfied for 60 days after the  
51 maturity of the obligation to pay the rent and other charges,  
52 the facility or unit owner may do one of the following:

53 (a) The facility or unit owner may have the property  
54 towed. If a motor vehicle or watercraft is towed, the facility  
55 or unit owner is not liable for the motor vehicle or watercraft  
56 or any damages to the motor vehicle or watercraft once a tower  
57 takes possession of the property.

58 (b) The facility or unit owner may sell the motor vehicle  
59 or watercraft by public auction if an owner or lienholder who  
60 receives notice pursuant to this paragraph does not satisfy the  
61 lien. Prior to such a sale, the facility or unit owner shall  
62 contact the Department of Highway Safety and Motor Vehicles to  
63 determine the existence and identity of any lienholder and the  
64 name and address of the owner of the motor vehicle or  
65 watercraft. Within 10 days after receipt of such information  
66 concerning a lienholder and the owner of such motor vehicle or  
67 watercraft, the facility or unit owner must send written notice





Amendment No. 1

68 to the lienholder and to the owner by first-class mail stating  
69 that:

70 1. Such motor vehicle or watercraft is being held by the  
71 facility or unit owner;

72 2. A lien has attached;

73 3. Payment must be made within 30 days after notification  
74 to satisfy the lien and take possession of the motor vehicle or  
75 watercraft; and

76 4. The facility or unit owner may sell the motor vehicle  
77 or watercraft by public auction, if the lien is not satisfied.

78 Section 2. This act shall take effect July 1, 2016.

79

80 -----

81 **T I T L E A M E N D M E N T**

82 Remove everything before the enacting clause and insert:

83 A bill to be entitled

84 An act relating to self-service storage facilities;  
85 amending s. 83.806, F.S.; providing that advertisement  
86 of a sale or disposition of property may be advertised  
87 on certain websites; providing that a lien sale may be  
88 conducted on certain websites; providing that a self-  
89 service storage facility owner is not required to have  
90 a license to post property for online sale; deleting a  
91 required alternative form of advertisement; providing  
92 limits for the maximum valuation of property under  
93 certain circumstances; providing options for the



Amendment No. 1

94 disposition of motor vehicles or watercraft claimed to  
95 be subject to a lien; requiring specified notice to  
96 lienholders and owners of motor vehicles or watercraft  
97 subject to a lien; providing an effective date.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 633 Public Food Service Establishments

**SPONSOR(S):** Raulerson

**TIED BILLS:** IDEN./SIM. BILLS: SB 764

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee		Butler <i>BSB</i>	Anstead <i>Ja</i>
2) Government Operations Appropriations Subcommittee			
3) Regulatory Affairs Committee			

### SUMMARY ANALYSIS

The Division of Hotels and Restaurants (Division) of the Department of Business and Professional Regulation (Department) licenses and inspects public food service establishments, which are defined as places where food is prepared, served, or sold for immediate consumption by the general public.

Current law excludes certain places from the definition of "public food service establishment," including any food service establishment maintained and operated by a public or private school, college, university, or a church or religious, nonprofit fraternal or nonprofit civic organization if used only by members and associates or students and faculty, or if used temporarily to serve such events as fairs, carnivals, or athletic contests.

Such exclusion from the definition of "public food service establishment" removes regulatory oversight. Places that fall within the exclusion are not required to comply with state health and safety standards. The Division does not collect a licensing fee and does not conduct inspections of places that qualify for the exclusion.

The bill adds "food contests" and "cook-offs" to the list of temporary events that are excluded from the definition of "public food service establishment" when maintained and operated by a public or private school, college, university, or a church or a religious, nonprofit fraternal or nonprofit civic organization.

A new exclusion is created for "any eating place maintained and operated by an individual or entity at a food contest, cook-off, or a temporary event lasting from 1 to 3 days which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization."

The bill provides that the Division may request documentation from individuals claiming to be excluded from the definition of public food service establishment that indicate "its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization."

The bill is expected to have a significant negative fiscal impact on state funds by reducing revenues to the Hotels and Restaurants Trust Fund. An analysis by the Department, done in 2015 for a prior version of this bill, estimated the impact may be up to up to \$228,410 annually. However, the Department estimated that the fiscal year-end balance of the Trust Fund would still maintain a positive surplus cash balance.

The bill has an effective date of July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Public Food Service Establishments

The Division is charged with enforcing the provisions of part I of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public food service establishments, to protect the public health, safety, and welfare of Florida citizens.

The Division licenses and inspects public food service establishments, defined by s. 509.013(5)(a), F.S., to mean:

any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.

A "temporary food service event" means any event of 30 days or less in duration where food is prepared, served, or sold to the general public.<sup>1</sup>

At the end of fiscal year 2014-2015, there were 90,158 licensed public food service establishments, including seating, permanent non-seating, hotdog carts, and mobile food dispensing vehicles.<sup>2</sup>

The number of temporary event license applications processed during the last four fiscal years is as follows:

<b>Fiscal Year</b>	<b>Temporary Event License Applications</b>
2014-15	7,849
2013-14	7,718
2012-13	7,292
2011-12	7,125

In Fiscal Year 2014-15, the Division licensed and inspected 7,849 public food service establishments and food vendors at temporary food service events.<sup>3</sup>

Since 1998,<sup>4</sup> there have been a total of 2,382 outbreaks of foodborne illness in Florida.<sup>5</sup> For the last three years on record (2012-2014), the Center for Disease Control (CDC) reports there have been 58 outbreaks of foodborne illness in Florida, of which, 1 was confirmed to have originated at a fair, 3 were confirmed to have originated from a catered event, and 22 were confirmed to originate from a Restaurant.<sup>6</sup> Of these Florida cases, 1023 persons contracted an illness during an outbreak and 87

<sup>1</sup> s. 509.13(8), F.S.

<sup>2</sup> Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, *Annual Report, Fiscal Year 2014-2015*, available at [http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2014\\_15.pdf](http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2014_15.pdf).

<sup>3</sup> Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, *Annual Report, Fiscal Year 2014-2015*, available at [http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2014\\_15.pdf](http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2014_15.pdf).

<sup>4</sup> The Center for Disease Control (CDC) Foodborne Outbreak Online Database (FOOD) was developed to allow foodborne outbreak data to be more publicly available and contains information on outbreaks of foodborne illnesses dating back to 1998. CDC, *Foodborne Outbreak Tracking and Reporting*, <http://www.cdc.gov/foodborneoutbreaks/> (last visited Nov. 23, 2015).

<sup>5</sup> CDC, *Outbreaks per State*, <http://www.cdc.gov/foodborneoutbreaks/> (last visited Nov. 23, 2015).

<sup>6</sup> CDC, *FOOD Tool Data*, available at <http://www.cdc.gov/foodborneoutbreaks/> (last visited Nov. 23, 2015).

persons were hospitalized; though, there were no deaths reported due to a foodborne illness outbreak within 2012-2014.<sup>7</sup>

### Exclusions from the Definition of Public Food Service Establishments

The definition of “public food service establishment” in s. 509.013(5)(b), F.S., excludes certain places, including:

- Any place maintained and operated by a public or private school, college, or university:
  - For the use of students and faculty; or
  - Temporarily to serve such events as fairs, carnivals, and athletic contests.
- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization:
  - For the use of members and associates; or
  - Temporarily to serve such events as fairs, carnivals, or athletic contests.

The Division does not license or inspect temporary food service events when the food is prepared and served by an excluded entity.

### Sponsors of Temporary Food Service Events

Sponsors of temporary food service events<sup>8</sup> are required at least three days before the event to provide the Division with event details, including the type of food service proposed, the time and location of the event, a complete list of food service vendors participating in the event. Sponsors are also required to provide the Division with the number of individual food service facilities each vendor will operate at the event, and the identification number of each food service vendor’s current license as a public food service establishment or temporary food service event licensee.

This notification may be completed orally, by telephone, in person, or in writing and the process may not be used to circumvent the license requirements.<sup>9</sup>

The Division uses this information to prepare and send inspectors to efficiently inspect each temporary food service establishment before the event begins or soon after the event begins. Generally the Division sends enough inspectors to temporary food service events to inspect every vendor within an hour of arrival.

### **Effect of the Bill**

The bill amends the current exclusion of certain temporary eating places operated and maintained by a public or private school, college, university, or a church, a religious, nonprofit fraternal, or nonprofit civic organization to also exclude eating places at “food contests” and “cook-offs” operated and maintained by these organizations.

The bill creates a new exclusion for any “eating place maintained and operated by an individual or entity at a food contest, cook-off, or a temporary event lasting from 1 to 3 days which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization.”

The bill provides that the Division may request documentation from a church, or a religious, nonprofit fraternal, or nonprofit civic organization claiming to be excluded. The Division may also request

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<sup>7</sup> *Id.*

<sup>8</sup> s. 509.032(3)(c), F.S.

<sup>9</sup> s. 509.032(3)(c), F.S.

documentation from an event host, when an individual or entity claims to be excluded from licensure and inspection while maintaining and operating an eating place at the host's event.

Because this exclusion could be applied to any food vendor at an event hosted by a nonprofit organization, and many such events are hosted by nonprofit organizations, the Division estimates a loss of up to 100 percent of temporary event permit fee revenue for events that last less than three days.<sup>10</sup> Sponsors and nonprofit hosts will still be required to submit certain event information, pursuant to s. 509.032(c)(3), F.S., even if every vendor at an event is excluded.

An eating place that is excluded from the definition of "public food service establishment," is removed from the regulatory oversight of the Division. The Division will not be able to charge a permit fee, conduct inspections, require compliance with health, safety, and sanitary requirements, or pursue administrative remedies or fines against an excluded eating place.

The bill provides an effective date of July 1, 2016.

**B. SECTION DIRECTORY:**

**Section 1** amends s. 509.013, F.S., revising the definition of the term "public food service establishment" to exclude certain entities and individuals; providing the Division with the authority to request documentation of individuals or entities claiming to be excluded.

**Section 2** amends s. 509.032, F.S., to make conforming clarifications for licensure requirements.

**Section 3** provides an effective date of July 1, 2016.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

The loss of license fees would decrease revenues to the Hotels and Restaurants Trust Fund. In an evaluation of a similar bill last year by the Department, the loss was estimated to be up to \$228,410 annually.<sup>11</sup> This estimate considers the worst case scenario of a 100% reduction in licensing revenue from temporary food service establishment permits for events that last three days or fewer. The Department estimated in 2015 that the fiscal year-end balance of the Trust Fund would still maintain a positive cash balance.<sup>12</sup>

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

<sup>10</sup> Florida Department of Business and Professional Regulation, Agency Analysis of 2015 Senate Bill 1390, p. 2 (Mar. 16, 2015) (This analysis is to the original version of SB 1390 (2015), which is substantially similar to HB 663 (2016)).

<sup>11</sup> Florida Department of Business and Professional Regulation, Agency Analysis of 2015 Senate Bill 1390, p. 4 (Mar. 16, 2015).

<sup>12</sup> Florida Department of Business and Professional Regulation, *Operating Account Forecast of Hotels and Restaurants Trust Fund* (March 2, 2015) (on file with the Government Operations Appropriations Subcommittee).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill decreases permit fees and regulatory oversight for temporary food contests and for persons who operate eating places at events hosted by a church, religious organization, or nonprofit fraternal or civic organization.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



1                   A bill to be entitled  
 2       An act relating to public food service establishments;  
 3       amending s. 509.013, F.S.; revising the definition of  
 4       the term "public food service establishment" to  
 5       exclude certain events; amending s. 509.032, F.S.;  
 6       clarifying that a food service license is not required  
 7       to be obtained if an event is excluded under the  
 8       definition of the term "public food service  
 9       establishment"; providing an effective date.

10  
 11   Be It Enacted by the Legislature of the State of Florida:

12  
 13       Section 1. Subsection (5) of section 509.013, Florida  
 14       Statutes, is amended to read:

15           509.013 Definitions.—As used in this chapter, the term:

16           (5) (a) "Public food service establishment" means any  
 17       building, vehicle, place, or structure, or any room or division  
 18       in a building, vehicle, place, or structure where food is  
 19       prepared, served, or sold for immediate consumption on or in the  
 20       vicinity of the premises; called for or taken out by customers;  
 21       or prepared prior to being delivered to another location for  
 22       consumption.

23           (b) The following are excluded from the definition in  
 24       paragraph (a):

25           1. Any place maintained and operated by a public or  
 26       private school, college, or university:

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27 a. For the use of students and faculty; or

28 b. Temporarily to serve such events as fairs, carnivals,  
29 food contests, cook-offs, and athletic contests.

30 2. Any eating place maintained and operated by a church or  
31 a religious, nonprofit fraternal, or nonprofit civic  
32 organization:

33 a. For the use of members and associates; or

34 b. Temporarily to serve such events as fairs, carnivals,  
35 food contests, cook-offs, or athletic contests.

36  
37 Upon request by the division, a church or a religious, nonprofit  
38 fraternal, or nonprofit civic organization claiming an exclusion  
39 under this subparagraph must provide the division documentation  
40 of its status as a church or a religious, nonprofit fraternal,  
41 or nonprofit civic organization.

42 3. Any eating place maintained and operated by an  
43 individual or entity at a food contest, cook-off, or a temporary  
44 event lasting from 1 to 3 days which is hosted by a church or a  
45 religious, nonprofit fraternal, or nonprofit civic organization.

46 Upon request by the division, the event host must provide the  
47 division documentation of its status as a church or a religious,  
48 nonprofit fraternal, or nonprofit civic organization.

49 ~~4.3.~~ Any eating place located on an airplane, train, bus,  
50 or watercraft which is a common carrier.

51 ~~5.4.~~ Any eating place maintained by a facility certified  
52 or licensed and regulated by the Agency for Health Care

53 Administration or the Department of Children and Families or  
 54 other similar place that is regulated under s. 381.0072.

55 ~~6.5.~~ Any place of business issued a permit or inspected by  
 56 the Department of Agriculture and Consumer Services under s.  
 57 500.12.

58 ~~7.6.~~ Any place of business where the food available for  
 59 consumption is limited to ice, beverages with or without  
 60 garnishment, popcorn, or prepackaged items sold without  
 61 additions or preparation.

62 ~~8.7.~~ Any theater, if the primary use is as a theater and  
 63 if patron service is limited to food items customarily served to  
 64 the admittees of theaters.

65 ~~9.8.~~ Any vending machine that dispenses any food or  
 66 beverages other than potentially hazardous foods, as defined by  
 67 division rule.

68 ~~10.9.~~ Any vending machine that dispenses potentially  
 69 hazardous food and which is located in a facility regulated  
 70 under s. 381.0072.

71 ~~11.10.~~ Any research and development test kitchen limited  
 72 to the use of employees and which is not open to the general  
 73 public.

74 Section 2. Paragraph (c) of subsection (3) of section  
 75 509.032, Florida Statutes, is amended to read:

76 509.032 Duties.—

77 (3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD  
 78 SERVICE EVENTS.—The division shall:

79 (c) Administer a public notification process for temporary  
 80 food service events and distribute educational materials that  
 81 address safe food storage, preparation, and service procedures.

82 1. Sponsors of temporary food service events shall notify  
 83 the division not less than 3 days before the scheduled event of  
 84 the type of food service proposed, the time and location of the  
 85 event, a complete list of food service vendors participating in  
 86 the event, the number of individual food service facilities each  
 87 vendor will operate at the event, and the identification number  
 88 of each food service vendor's current license as a public food  
 89 service establishment or temporary food service event licensee.  
 90 Notification may be completed orally, by telephone, in person,  
 91 or in writing. A public food service establishment or food  
 92 service vendor may not use this notification process to  
 93 circumvent the license requirements of this chapter.

94 2. The division shall keep a record of all notifications  
 95 received for proposed temporary food service events and shall  
 96 provide appropriate educational materials to the event sponsors  
 97 and notify the event sponsors of the availability of the food-  
 98 recovery brochure developed under s. 595.420.

99 3.a. Unless excluded under s. 509.013(5)(b), a public food  
 100 service establishment or other food service vendor must obtain  
 101 one of the following classes of license from the division: an  
 102 individual license, for a fee of no more than \$105, for each  
 103 temporary food service event in which it participates; or an  
 104 annual license, for a fee of no more than \$1,000, that entitles

105 the licensee to participate in an unlimited number of food  
106 service events during the license period. The division shall  
107 establish license fees, by rule, and may limit the number of  
108 food service facilities a licensee may operate at a particular  
109 temporary food service event under a single license.

110 b. Public food service establishments holding current  
111 licenses from the division may operate under the regulations of  
112 such a license at temporary food service events.

113 Section 3. This act shall take effect July 1, 2016.