

House Bill No. 129

An act relating to emergency elevator access; providing requirements relating to regional emergency elevator access; requiring elevators in certain newly constructed or certain substantially improved buildings to be keyed alike within each of the state emergency response regions; providing for these requirements to be phased in for certain existing buildings; restricting the duplication and issuance of master elevator keys; requiring the labeling of master elevator keys; allowing local fire marshals to allow substitute emergency measures for elevator access in certain circumstances; providing for appeal of the local fire marshal's decision; providing for the State Fire Marshal to enforce the act; encouraging builders to use applicable new technology to provide regional emergency elevator access; providing penalties for violations; authorizing the Department of Financial Services to adopt rules; amending s. 399.03, F.S.; providing for waiver of a permit under certain circumstances; creating s. 399.1061, F.S.; creating the Elevator Safety Technical Advisory Council within the Division of Hotels and Restaurants of the Department of Business and Professional Regulation; providing for the membership of the council; requiring the council to provide technical assistance to the division; providing for appointments and terms of office; providing for payment of per diem and travel expenses; amending s. 399.13, F.S.; authorizing a county or municipality to assess a reasonable fee for inspections performed by its inspectors; requiring counties to enforce the Florida Building Code as it relates to elevators; authorizing a county to impose certain fees and fines; prohibiting a county or municipality from taking disciplinary action against certain certifications or registrations; authorizing the Department of Business and Professional Regulation to initiate disciplinary action against a registration or certification at the request of a county or municipality; repealing s. 399.106, F.S., relating to the former Elevator Safety Technical Advisory Committee; providing a finding of important state interest; providing effective dates.

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

Section 1. Regional emergency elevator access.—

(1) In order to provide emergency access to elevators:

(a) For each building in this state which is six or more stories in height, including, but not limited to, hotels and condominiums, on which construction is begun after June 30, 2004, all of the keys for elevators that allow public access, including, but not limited to, service and freight elevators, must be keyed so as to allow all elevators within each of the seven state emergency response regions to operate in fire emergency situations with one master elevator key.

(b) Any building in this state which is six or more stories in height and has undergone “substantial improvement” as defined in section 161.54(12), Florida Statutes, must also comply with paragraph (a).

(2) Each existing building in this state which is six or more stories in height must comply with subsection (1) before July 1, 2007.

(3) In addition to elevator owners, owners’ agents, elevator contractors, state-certified inspectors, and state agency representatives, master elevator keys may be issued only to the fire department and may not be issued to any other emergency response agency. A person may not duplicate a master elevator key for issuance to, or issue such a key to, anyone other than authorized fire department personnel. Each master elevator key must be marked “DO NOT DUPLICATE.”

(4) If it is technically, financially, or physically impossible to bring a building into compliance with this section, the local fire marshal may allow substitute emergency measures that will provide reasonable emergency elevator access. The local fire marshal’s decision regarding substitute measures may be appealed to the State Fire Marshal.

(5) The Division of State Fire Marshal of the Department of Financial Services shall enforce this section. Any person who fails to comply with the requirements of this section is subject to an administrative fine of not more than \$1,000, in addition to any other penalty provided by law. All administrative fines shall be deposited into the Insurance Regulatory Trust Fund.

(6) Builders should make every effort to use new technology and developments in keying systems which make it possible to convert existing equipment so as to provide efficient regional emergency elevator access.

(7) The Department of Financial Services shall adopt rules to implement this section, including rules to determine the master elevator key to be used within each of the emergency response regions.

Section 2. Subsection (1) of section 399.03, Florida Statutes, is amended to read:

399.03 Design, installation, and alteration of conveyances.—

(1) A conveyance covered by this chapter may not be erected, constructed, installed, or altered within buildings or structures until a permit has been obtained from the department. Permits must be applied for by a registered elevator company and may only be granted upon receipt and approval of an application to be made on a form prescribed by the department, accompanied by proper fees and a sworn statement from an agent of the registered elevator company that the plans meet all applicable elevator safety and building codes. Permits may be granted only to registered elevator companies in good standing. When any material alteration is made, the alteration must conform to applicable requirements of the Florida Building Code and the provisions of this chapter. A copy of the permit and plans must be kept at the construction site at all times while the work is in progress and until a certificate of operation is issued. A permit shall not be required for con-

struction or repair of elevators in seeking to attain compliance with emergency elevator access requirements. Elevator owners shall forward to the department, in an electronic format approved by the department, an emergency access notification that compliance measures are either not required or are being implemented. The emergency access notification must also contain specific compliance information, including the current compliance status, specific measures required to attain compliance, and certification by a state-certified inspector. Fees may not be assessed for the filing of the emergency access notification. The department shall maintain an emergency elevator access registry that is available to the State Fire Marshal of the Department of Financial Services for enforcement purposes. The Department of Business and Professional Regulation shall adopt rules to administer this section.

Section 3. Section 399.1061, Florida Statutes, is created to read:

399.1061 Elevator Safety Technical Advisory Council.—

(1) The Elevator Safety Technical Advisory Council is created within the division and shall consist of eight members appointed by the secretary of the department who meet the following criteria: one representative from a major elevator manufacturing company or its authorized representative; one representative from an elevator servicing company; one representative from a building design profession; one representative of the general public; one representative of a local government in this state; one representative of a building owner or manager; one representative of labor involved in the installation, maintenance, and repair of elevators; and one representative who is a certified elevator inspector from a private inspection service. The council shall provide technical assistance to the division in support of protecting the health, safety, and welfare of the public and shall give the division the benefit of the council members' knowledge and experience concerning the industries and individual businesses affected by the laws and rules administered by the division.

(2)(a) The council members shall serve 4-year terms, except that to provide for staggered terms four of the initial appointees, as specified by rule, shall serve 2-year terms. All subsequent appointments shall be for 4-year terms. The council shall appoint one of the members to serve as chair.

(b) The council members shall serve without compensation, except that the members may be reimbursed for per diem and travel expenses as provided in s. 112.061.

(3) The council may consult with engineering authorities and organizations concerned with standard safety codes for recommendations to the department regarding rules for the operation, maintenance, servicing, construction, alteration, installation, or inspection of vertical conveyances subject to this chapter.

Section 4. Section 399.13, Florida Statutes, is amended to read:

399.13 Delegation of authority to municipalities or counties.—

(1) The department may enter into contracts with municipalities or counties under which ~~the such~~ municipalities or counties will issue construction permits and certificates of operation; will provide for inspection of elevators, including temporary operation inspections; and will enforce the applicable provisions of the Florida Building Code, as required by this chapter. The municipality or county may choose to require inspections to be performed by its own inspectors or by private certified elevator inspectors. The municipality or county may assess a reasonable fee for inspections performed by its inspectors. Each such agreement shall include a provision that the municipality or county shall maintain for inspection by the department copies of all applications for permits issued, a copy of each inspection report issued, and proper records showing the number of certificates of operation issued; shall include a provision that each required inspection be conducted by a certified elevator inspector; and may include such other provisions as the department deems necessary. The county shall enforce the Florida Building Code as it applies to this chapter and may impose fees and assess and collect fines as part of its enforcement activities. A county or municipality may not issue or take disciplinary action against a certificate of competency, an elevator inspector certification, an elevator technician certification, or an elevator company registration. However, the department may initiate disciplinary action against a registration or certification at the request of a county or municipality.

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

Section 5. Section 399.106, Florida Statutes, is repealed.

Section 6. The Legislature finds that the provisions of this act fulfill an important state interest.

Section 7. This act shall take effect upon becoming a law, except that section 1 of this act, which provides for regional emergency elevator access, shall take effect October 1, 2004.

Approved by the Governor April 6, 2004.

Filed in Office Secretary of State April 6, 2004.