

## CHAPTER 2013-193

### Committee Substitute for Committee Substitute for House Bill No. 269

An act relating to building construction; amending s. 125.022, F.S.; requiring counties to attach certain disclaimers and include certain permit conditions when issuing development permits; amending s. 162.12, F.S.; revising notice requirements in the Local Government Code Enforcement Boards Act; amending s. 166.033, F.S.; requiring municipalities to attach certain disclaimers and include certain permit conditions when issuing development permits; amending ss. 255.20 and 255.2575, F.S.; requiring governmental entities to specify certain products associated with public works projects; providing for applicability; amending s. 255.257, F.S.; requiring state agencies to use certain building rating systems and building codes for each new construction and renovation project; amending s. 381.0065, F.S.; specifying that certain actions relating to onsite sewage treatment and removal are not required if a bedroom is not added during a remodeling addition or modification to a single-family home; prohibiting a remodeling addition or modification from certain coverage or encroachment; authorizing a local health board to review specific plans; requiring a review to be completed within a specific time period after receipt of specific plans; providing that amendments to s. 489.113(2), F.S., enacted in s. 11, ch. 2012-13, Laws of Florida, are remedial and intended to clarify existing law; providing for retroactivity; amending s. 489.127, F.S.; revising civil penalties; authorizing a local building department to retain 75 percent of certain fines collected if it transmits 25 percent to the Department of Business and Professional Regulation; amending s. 489.131, F.S.; deleting legislative intent referring to a local agency's enforcement of regulatory laws; deleting the definitions of "minor violation" and "notice of noncompliance"; deleting provisions that provide for what a notice of noncompliance should or should not include; deleting a provision that provides for further disciplinary proceedings for certain licensees; amending s. 489.514, F.S.; extending the date by which an applicant must make application for a license to be grandfathered; amending s. 489.531, F.S.; revising maximum civil penalties for specified violations; amending s. 553.71, F.S.; providing a definition for the term "local technical amendment"; amending s. 553.73, F.S.; prohibiting any provision of the International Residential Code relating to mandated fire sprinklers from incorporation into the Florida Building Code; amending s. 553.74, F.S.; revising membership of the Florida Building Commission; amending s. 553.79, F.S.; conforming a cross-reference; authorizing a site plan to be maintained at the worksite as an electronic copy; requiring the copy to be open to inspection by certain officials; amending s. 553.842, F.S.; requiring an application for state approval of a certain product to be approved by the department after the application and related documentation are complete; amending ss. 553.901, 553.902, 553.903, 553.904, 553.905, and 553.906, F.S.; requiring the Florida Building Commission to adopt the Florida Building Code-

Energy Conservation; conforming subsequent sections of the thermal efficiency code; amending s. 553.912, F.S.; requiring replacement air conditioning systems in residential applications to use energy-saving quality installation procedures; providing that certain existing heating and cooling equipment is not required to meet the minimum equipment efficiencies; amending s. 553.991, F.S.; revising the purpose of the Florida Building Energy-Efficiency Rating Act; repealing s. 553.992, F.S., relating to the adoption of a rating system; amending s. 553.993, F.S.; providing definitions; amending s. 553.994, F.S.; providing for the applicability of building energy-efficiency rating systems; amending s. 553.995, F.S.; deleting a minimum requirement for the building energy-efficiency rating systems; revising language; deleting provisions relating to a certain interest group; deleting provisions relating to the Department of Business and Professional Regulation; amending s. 553.996, F.S.; requiring building energy-efficiency rating system providers to provide certain information; amending s. 553.997, F.S.; deleting a provision relating to the department; amending s. 553.998, F.S.; revising provisions relating to rating compliance; providing effective dates.

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

Section 1. Section 125.022, Florida Statutes, is amended to read:

125.022 Development permits.—When a county denies an application for a development permit, the county shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit. As used in this section, the term “development permit” has the same meaning as in s. 163.3164. For any development permit application filed with the county after July 1, 2012, a county may not require as a condition of processing or issuing a development permit that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the county action on the local development permit. Issuance of a development permit by a county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A county shall ~~may~~ attach such a disclaimer to the issuance of a development permit and shall ~~may~~ include a permit condition that all other applicable state or federal permits be obtained before commencement of the development. This section does not prohibit a county from providing information to an applicant regarding what other state or federal permits may apply.

Section 2. Section 162.12, Florida Statutes, is amended to read:

162.12 Notices.—

(1) All notices required by this part must be provided to the alleged violator by:

(a) Certified mail, ~~return receipt requested~~, to the address listed in the tax collector’s office for tax notices; or to the address listed in the county property appraiser’s database. The local government may also provide an additional notice to any other address it may find for provided by the property owner in writing to the local government for the purpose of receiving notices. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within 30 days after the postmarked date of mailing, notice may be provided by posting as described in subparagraphs (2)(b)1. and 2.;

(b) Hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body;

(c) Leaving the notice at the violator’s usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or

(d) In the case of commercial premises, leaving the notice with the manager or other person in charge.

(2) In addition to providing notice as set forth in subsection (1), at the option of the code enforcement board ~~or the local government~~, notice may also be served by publication or posting, as follows:

(a)1. Such notice shall be published once during each week for 4 consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the code enforcement board is located. The newspaper shall meet such requirements as are prescribed under chapter 50 for legal and official advertisements.

2. Proof of publication shall be made as provided in ss. 50.041 and 50.051.

(b)1. In lieu of publication as described in paragraph (a), such notice may be posted at least 10 days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be, in the case of municipalities, at the primary municipal government office, and in the case of counties, at the front door of the courthouse or the main county governmental center in said county.

2. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(c) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (1).

Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (1), together with proof of publication or posting as provided in subsection (2), shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.

Section 3. Section 166.033, Florida Statutes, is amended to read:

166.033 Development permits.—When a municipality denies an application for a development permit, the municipality shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit. As used in this section, the term “development permit” has the same meaning as in s. 163.3164. For any development permit application filed with the municipality after July 1, 2012, a municipality may not require as a condition of processing or issuing a development permit that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the municipal action on the local development permit. Issuance of a development permit by a municipality does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A municipality shall ~~may~~ attach such a disclaimer to the issuance of development permits and shall ~~may~~ include a permit condition that all other applicable state or federal permits be obtained before commencement of the development. This section does not prohibit a municipality from providing information to an applicant regarding what other state or federal permits may apply.

Section 4. Subsection (3) of section 255.20, Florida Statutes, is amended to read:

255.20 Local bids and contracts for public construction works; specification of state-produced lumber.—

(3)(a) All county officials, boards of county commissioners, school boards, city councils, city commissioners, and all other public officers of state boards or commissions that are charged with the letting of contracts for public work, for the construction of public bridges, buildings, and other structures must specify in the contract lumber, timber, and other forest products produced and manufactured in this state, if wood is a component of the public work, and if such products are available and their price, fitness, and quality are equal.

(b) This subsection does not apply:

1. To plywood specified for monolithic concrete forms;

2. If the structural or service requirements for timber for a particular job cannot be supplied by native species, ~~or~~

3. If the construction is financed in whole or in part from federal funds with the requirement that there be no restrictions as to species or place of manufacture.

4. To transportation projects for which federal aid funds are available.

Section 5. Subsection (4) is added to section 255.2575, Florida Statutes, to read:

255.2575 Energy-efficient and sustainable buildings.—

(4)(a) All state agencies, county officials, boards of county commissioners, school boards, city councils, city commissioners, and all other public officers of state boards or commissions that are charged with the letting of contracts for public work, for the construction of public bridges, buildings, and other structures must specify in the contract lumber, timber, and other forest products produced and manufactured in this state, if wood is a component of the public work, and if such products are available and their price, fitness, and quality are equal.

(b) This subsection does not apply:

1. To plywood specified for monolithic concrete forms.

2. If the structural or service requirements for timber for a particular job cannot be supplied by native species.

3. If the construction is financed in whole or in part from federal funds with the requirement that there be no restrictions as to species or place of manufacture.

4. To transportation projects for which federal aid funds are available.

Section 6. Paragraph (a) of subsection (4) of section 255.257, Florida Statutes, is amended to read:

255.257 Energy management; buildings occupied by state agencies.—

(4) ADOPTION OF STANDARDS.—

(a) Each All state agency ageneies shall use adopt a sustainable building rating system or use a national model green building code for each all new building buildings and renovation renovations to an existing building buildings.

Section 7. Paragraph (aa) of subsection (4) of section 381.0065, Florida Statutes, is amended to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the Department of Environmental Protection. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained prior to the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year from the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years from the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(aa) An existing-system inspection or evaluation and assessment, or a modification, replacement, or upgrade of an onsite sewage treatment and disposal system is not required for a remodeling addition or modification to a single-family home if a bedroom is not added. However, a remodeling addition or modification to a single-family home may not cover any part of the existing system or encroach upon a required setback or the unobstructed area. To determine if a setback or the unobstructed area is impacted, the local health department shall review and verify a floor plan and site plan of the proposed remodeling addition or modification to the home submitted by a remodeler which shows the location of the system, including the distance of the remodeling addition or modification to the home from the onsite sewage treatment and disposal system. The local health department may visit the site or otherwise determine the best means of verifying the information submitted. A verification of the location of a system is not an inspection or evaluation and assessment of the system. The review and verification must be completed within 7 business days after receipt by the local health department of a floor plan and site plan. If the review and verification is not completed within such time, the remodeling addition or modification to the single-family home, for the purposes of this paragraph, is approved.

Section 8. The amendments to s. 489.113(2), Florida Statutes, by section 11 of chapter 2012-13, Laws of Florida, are remedial in nature and intended to clarify existing law. This section applies retroactively to any action initiated or pending on or after March 23, 2012.

Section 9. Paragraphs (c) and (f) of subsection (5) and subsection (6) of section 489.127, Florida Statutes, are amended to read:

489.127 Prohibitions; penalties.—

(5) Each county or municipality may, at its option, designate one or more of its code enforcement officers, as defined in chapter 162, to enforce, as set out in this subsection, the provisions of subsection (1) and s. 489.132(1) against persons who engage in activity for which a county or municipal certificate of competency or license or state certification or registration is required.

(c) The local governing body of the county or municipality may ~~is authorized to~~ enforce codes and ordinances against unlicensed contractors under the provisions of this subsection and may enact an ordinance establishing procedures for implementing this subsection, including a schedule of penalties to be assessed by the code enforcement officer. The maximum civil penalty which may be levied may shall not exceed \$2,000 ~~\$500~~. Moneys collected pursuant to this subsection shall be retained locally, as provided for by local ordinance, and may be set aside in a specific fund to support future enforcement activities against unlicensed contractors.

(f) If the enforcement or licensing board or designated special magistrate finds that a violation exists, the enforcement or licensing board or designated special magistrate may order the violator to pay a civil penalty of not less

than the amount set forth on the citation but not more than ~~\$2,500~~ \$1,000 per day for each violation. In determining the amount of the penalty, the enforcement or licensing board or designated special magistrate shall consider the following factors:

1. The gravity of the violation.
2. Any actions taken by the violator to correct the violation.
3. Any previous violations committed by the violator.

(6) Local building departments may collect outstanding fines against registered or certified contractors issued by the Construction Industry Licensing Board and may retain 75 ~~25~~ percent of the fines they are able to collect, provided that they transmit 25 ~~75~~ percent of the fines they are able to collect to the department according to a procedure to be determined by the department.

Section 10. Paragraph (a) of subsection (7) of section 489.131, Florida Statutes, is amended to read:

489.131 Applicability.—

~~(7)(a) It is the policy of the state that the purpose of regulation is to protect the public by attaining compliance with the policies established in law. Fines and other penalties are provided in order to ensure compliance; however, the collection of fines and the imposition of penalties are intended to be secondary to the primary goal of attaining compliance with state laws and local jurisdiction ordinances. It is the intent of the Legislature that a local jurisdiction agency charged with enforcing regulatory laws shall issue a notice of noncompliance as its first response to a minor violation of a regulatory law in any instance in which it is reasonable to assume that the violator was unaware of such a law or unclear as to how to comply with it. A violation of a regulatory law is a “minor violation” if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm. A “notice of noncompliance” is a notification by the local jurisdiction agency charged with enforcing the ordinance, which is issued to the licensee that is subject to the ordinance. A notice of noncompliance should not be accompanied with a fine or other disciplinary penalty. It should identify the specific ordinance that is being violated, provide information on how to comply with the ordinance, and specify a reasonable time for the violator to comply with the ordinance. Failure of a licensee to take action correcting the violation within a set period of time would then result in the institution of further disciplinary proceedings.~~

Section 11. Section 489.514, Florida Statutes, is amended to read:

489.514 Certification for registered contractors; grandfathering provisions.—



(1) The board shall, upon receipt of a completed application, appropriate fee, and proof of compliance with the provisions of this section, issue:

(a) To an applying registered electrical contractor, a certificate as an electrical contractor, as defined in s. 489.505(12); ~~or~~

(b) To an applying registered alarm system contractor, a certificate in the matching alarm system contractor category, as defined in s. 489.505(2)(a) or (b); or

(c) To an applying registered electrical specialty contractor, a certificate in the matching electrical specialty contractor category, as defined in s. 489.505(19).

(2) Any contractor registered under this part who makes application under this section to the board shall meet each of the following requirements for certification:

(a) Currently holds a valid registered local license in the category of electrical contractor, alarm system contractor, or electrical specialty contractor.

(b) Has, for that category, passed a written, proctored examination that the board finds to be substantially similar to the examination required to be licensed as a certified contractor under this part. For purposes of this subsection, a written, proctored examination such as that produced by the National Assessment Institute, Block and Associates, NAI/Block, Experior Assessments, Professional Testing, Inc., or Assessment Systems, Inc., shall be considered to be substantially similar to the examination required to be licensed as a certified contractor. The board may not impose or make any requirements regarding the nature or content of these cited examinations.

(c) Has at least 5 years of experience as a contractor in that contracting category, or as an inspector or building administrator with oversight over that category, at the time of application. For contractors, only time periods in which the contractor license is active and the contractor is not on probation shall count toward the 5 years required under this subsection.

(d) Has not had his or her contractor's license revoked at any time, had his or her contractor's license suspended in the last 5 years, or been assessed a fine in excess of \$500 in the last 5 years.

(e) Is in compliance with the insurance and financial responsibility requirements in s. 489.515(1)(b).

(3) An applicant must make application by November 1, 2015 ~~2004~~, to be licensed pursuant to this section.

Section 12. Paragraph (c) and (f) of subsection (4) of section 489.531, Florida Statutes, are amended to read:

## 489.531 Prohibitions; penalties.—

(4) Each county or municipality may, at its option, designate one or more of its code enforcement officers, as defined in chapter 162, to enforce, as set out in this subsection, the provisions of subsection (1) against persons who engage in activity for which county or municipal certification is required.

(c) The local governing body of the county or municipality may is ~~authorized to enforce codes and ordinances against unlicensed contractors under the provisions of this section and may enact an ordinance establishing procedures for implementing this section, including a schedule of penalties to be assessed by the code enforcement officers. The maximum civil penalty which may be levied may shall not exceed \$2,000 ~~\$500~~. Moneys collected pursuant to this section shall be retained locally as provided for by local ordinance and may be set aside in a specific fund to support future enforcement activities against unlicensed contractors.~~

(f) If the enforcement or licensing board or designated special magistrate finds that a violation exists, the enforcement or licensing board or designated special magistrate may order the violator to pay a civil penalty of not less than the amount set forth on the citation but not more than \$2,500 ~~\$500~~ per day for each violation. In determining the amount of the penalty, the enforcement or licensing board or designated special magistrate shall consider the following factors:

1. The gravity of the violation.
2. Any actions taken by the violator to correct the violation.
3. Any previous violations committed by the violator.

Section 13. Present subsections (6) through (11) of section 553.71, Florida Statutes, are redesignated as subsections (7) through (12), respectively, and a new subsection (6) is added to that section, to read:

553.71 Definitions.—As used in this part, the term:

(6) “Local technical amendment” means an action by a local governing authority that results in a technical change to the Florida Building Code and its local enforcement.

Section 14. Subsection (17) of section 553.73, Florida Statutes, is amended to read:

553.73 Florida Building Code.—

(17) A provision ~~The provisions of section R313 of the most current version of the International Residential Code relating to mandated fire sprinklers may not be incorporated into the Florida Building Code as adopted by the Florida Building Commission and may not be adopted as a local amendment to the Florida Building Code. This subsection does not~~

prohibit the application of cost-saving incentives for residential fire sprinklers that are authorized in the International Residential Code upon a mutual agreement between the builder and the code official. This subsection does not apply to a local government that has a lawfully adopted ordinance relating to fire sprinklers which has been in effect since January 1, 2010.

Section 15. Subsection (1) of section 553.74, Florida Statutes, is amended to read:

553.74 Florida Building Commission.—

(1) The Florida Building Commission is created and located within the Department of Business and Professional Regulation for administrative purposes. Members are ~~shall be~~ appointed by the Governor subject to confirmation by the Senate. The commission is ~~shall be~~ composed of 26 ~~25~~ members, consisting of the following:

(a) One architect registered to practice in this state and actively engaged in the profession. The American Institute of Architects, Florida Section, is encouraged to recommend a list of candidates for consideration.

(b) One structural engineer registered to practice in this state and actively engaged in the profession. The Florida Engineering Society is encouraged to recommend a list of candidates for consideration.

(c) One air-conditioning or mechanical contractor certified to do business in this state and actively engaged in the profession. The Florida Air Conditioning Contractors Association, the Florida Refrigeration and Air Conditioning Contractors Association, and the Mechanical Contractors Association of Florida are encouraged to recommend a list of candidates for consideration.

(d) One electrical contractor certified to do business in this state and actively engaged in the profession. The Florida Electrical Contractors Association and the National Electrical Contractors Association, Florida Chapter, are encouraged to recommend a list of candidates for consideration.

(e) One member from fire protection engineering or technology who is actively engaged in the profession. The Florida Chapter of the Society of Fire Protection Engineers and the Florida Fire Marshals and Inspectors Association are encouraged to recommend a list of candidates for consideration.

(f) One general contractor certified to do business in this state and actively engaged in the profession. The Associated Builders and Contractors of Florida, the Florida Associated General Contractors Council, and the Union Contractors Association are encouraged to recommend a list of candidates for consideration.

(g) One plumbing contractor licensed to do business in this state and actively engaged in the profession. The Florida Association of Plumbing, Heating, and Cooling Contractors is encouraged to recommend a list of candidates for consideration.

(h) One roofing or sheet metal contractor certified to do business in this state and actively engaged in the profession. The Florida Roofing, Sheet Metal, and Air Conditioning Contractors Association and the Sheet Metal and Air Conditioning Contractors National Association are encouraged to recommend a list of candidates for consideration.

(i) One residential contractor licensed to do business in this state and actively engaged in the profession. The Florida Home Builders Association is encouraged to recommend a list of candidates for consideration.

(j) Three members who are municipal or district codes enforcement officials, one of whom is also a fire official. The Building Officials Association of Florida and the Florida Fire Marshals and Inspectors Association are encouraged to recommend a list of candidates for consideration.

(k) One member who represents the Department of Financial Services.

(l) One member who is a county codes enforcement official. The Building Officials Association of Florida is encouraged to recommend a list of candidates for consideration.

(m) One member of a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in this state.

(n) One member of the manufactured buildings industry who is licensed to do business in this state and is actively engaged in the industry. The Florida Manufactured Housing Association is encouraged to recommend a list of candidates for consideration.

(o) One mechanical or electrical engineer registered to practice in this state and actively engaged in the profession. The Florida Engineering Society is encouraged to recommend a list of candidates for consideration.

(p) One member who is a representative of a municipality or a charter county. The Florida League of Cities and the Florida Association of Counties are encouraged to recommend a list of candidates for consideration.

(q) One member of the building products manufacturing industry who is authorized to do business in this state and is actively engaged in the industry. The Florida Building Material Association, the Florida Concrete and Products Association, and the Fenestration Manufacturers Association are encouraged to recommend a list of candidates for consideration.

(r) One member who is a representative of the building owners and managers industry who is actively engaged in commercial building

ownership or management. The Building Owners and Managers Association is encouraged to recommend a list of candidates for consideration.

(s) One member who is a representative of the insurance industry. The Florida Insurance Council is encouraged to recommend a list of candidates for consideration.

(t) One member who is a representative of public education.

(u) One member who is a swimming pool contractor licensed to do business in this state and actively engaged in the profession. The Florida Swimming Pool Association and the United Pool and Spa Association are encouraged to recommend a list of candidates for consideration.

(v) One member who is a representative of the green building industry and who is a third-party commission agent, a Florida board member of the United States Green Building Council or Green Building Initiative, a professional who is accredited under the International Green Construction Code (IGCC), or a professional who is accredited under Leadership in Energy and Environmental Design (LEED).

(w) One member who is a representative of a natural gas distribution system and who is actively engaged in the distribution of natural gas in this state. The Florida Natural Gas Association is encouraged to recommend a list of candidates for consideration.

~~(x)~~(w) One member who shall be the chair.

Any person serving on the commission under paragraph (c) or paragraph (h) on October 1, 2003, and who has served less than two full terms is eligible for reappointment to the commission regardless of whether he or she meets the new qualification.

Section 16. Paragraph (a) of subsection (5) of section 553.79, Florida Statutes, is amended, and subsection (18) is added to that section, to read:

553.79 Permits; applications; issuance; inspections.—

(5)(a) The enforcing agency shall require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record. The structural inspection plan must be submitted to and approved by the enforcing agency before ~~prior to~~ the issuance of a building permit for the construction of a threshold building. The purpose of the structural inspection plan is to provide specific inspection procedures and schedules so that the building can be adequately inspected for compliance with the permitted documents. The special inspector may not serve as a surrogate in carrying out the responsibilities of the building official, the architect, or the engineer of record. The contractor’s contractual or statutory obligations are not relieved by any action of the special inspector. The special inspector shall determine that a professional engineer who specializes in shoring design has

inspected the shoring and reshoring for conformance with the shoring and reshoring plans submitted to the enforcing agency. A fee simple title owner of a building, which does not meet the minimum size, height, occupancy, occupancy classification, or number-of-stories criteria which would result in classification as a threshold building under s. 553.71(12) ~~553.71(11)~~, may designate such building as a threshold building, subject to more than the minimum number of inspections required by the Florida Building Code.

(18) For the purpose of inspection and record retention, site plans for a building may be maintained in the form of an electronic copy at the worksite. These plans must be open to inspection by the building official or a duly authorized representative, as required by the Florida Building Code.

Section 17. Paragraph (a) of subsection (5) of section 553.842, Florida Statutes, is amended to read:

553.842 Product evaluation and approval.—

(5) Statewide approval of products, methods, or systems of construction may be achieved by one of the following methods. One of these methods must be used by the commission to approve the following categories of products: panel walls, exterior doors, roofing, skylights, windows, shutters, impact protective systems, and structural components as established by the commission by rule. A product may not be advertised, sold, offered, provided, distributed, or marketed as hurricane, windstorm, or impact protection from wind-borne debris from a hurricane or windstorm unless it is approved pursuant to this section or s. 553.8425. Any person who advertises, sells, offers, provides, distributes, or markets a product as hurricane, windstorm, or impact protection from wind-borne debris without such approval is subject to the Florida Deceptive and Unfair Trade Practices Act under part II of chapter 501 brought by the enforcing authority as defined in s. 501.203.

(a) Products for which the code establishes standardized testing or comparative or rational analysis methods shall be approved by submittal and validation of one of the following reports or listings indicating that the product or method or system of construction was in compliance with the Florida Building Code and that the product or method or system of construction is, for the purpose intended, at least equivalent to that required by the Florida Building Code:

1. A certification mark or listing of an approved certification agency, which may be used only for products for which the code designates standardized testing;
2. A test report from an approved testing laboratory;
3. A product evaluation report based upon testing or comparative or rational analysis, or a combination thereof, from an approved product evaluation entity; or

4. A product evaluation report based upon testing or comparative or rational analysis, or a combination thereof, developed and signed and sealed by a professional engineer or architect, licensed in this state.

A product evaluation report or a certification mark or listing of an approved certification agency which demonstrates that the product or method or system of construction complies with the Florida Building Code for the purpose intended is equivalent to a test report and test procedure referenced in the Florida Building Code. An application for state approval of a product under subparagraph 1. ~~or 3.~~ must be approved by the department after the commission staff or a designee verifies that the application and related documentation are complete. This verification must be completed within 10 business days after receipt of the application. Upon approval by the department, the product shall be immediately added to the list of state-approved products maintained under subsection (13). Approvals by the department shall be reviewed and ratified by the commission's program oversight committee except for a showing of good cause that a review by the full commission is necessary. The commission shall adopt rules providing means to cure deficiencies identified within submittals for products approved under this paragraph.

Section 18. Section 553.901, Florida Statutes, is amended to read:

553.901 Purpose of thermal efficiency code.—The Department of Business and Professional Regulation shall prepare a thermal efficiency code to provide for a statewide uniform standard for energy efficiency in the thermal design and operation of all buildings statewide, consistent with energy conservation goals, and to best provide for public safety, health, and general welfare. The Florida Building Commission shall adopt the Florida Building Code-Energy Conservation ~~Florida Energy Efficiency Code for Building Construction within the Florida Building Code~~, and shall modify, revise, update, and maintain the code to implement the provisions of this thermal efficiency code and amendments thereto, in accordance with the procedures of chapter 120. The department shall, at least triennially, determine the most cost-effective energy-saving equipment and techniques available and report its determinations to the commission, which shall update the code to incorporate such equipment and techniques. The proposed changes shall be made available for public review and comment no later than 6 months before ~~prior to~~ code implementation. The term “cost-effective,” as used in ~~for the purposes of this part,~~ means ~~shall be construed to mean~~ cost-effective to the consumer.

Section 19. Section 553.902, Florida Statutes, is reordered and amended to read:

553.902 Definitions.—As used in ~~For the purposes of this part, the term:~~

(2)(1) “Exempted building” means:

(a) A Any building or portion thereof whose peak design rate of energy usage for all purposes is less than 1 watt (3.4 Btu per hour) per square foot of floor area for all purposes.

(b) A Any building ~~that~~ which is neither heated nor cooled by a mechanical system designed to control or modify the indoor temperature and powered by electricity or fossil fuels.

(c) A Any building for which federal mandatory standards preempt state energy codes.

(d) A Any historical building as described in s. 267.021(3).

The Florida Building Commission may recommend to the Legislature additional types of buildings which should be exempted from compliance with the Florida Building Code-Energy Conservation ~~Florida Energy Efficiency Code for Building Construction~~.

~~(4)(2)~~ “HVAC” means a system of heating, ventilating, and air-conditioning.

~~(6)(3)~~ “Renovated building” means a residential or nonresidential building undergoing alteration that varies or changes insulation, HVAC systems, water heating systems, or exterior envelope conditions, ~~if provided~~ the estimated cost of renovation exceeds 30 percent of the assessed value of the structure.

~~(5)(4)~~ “Local enforcement agency” means the agency of local government which has the authority to make inspections of buildings and to enforce the Florida Building Code. The term ~~It~~ includes any agency within the definition of s. 553.71(5).

~~(3)(5)~~ “Exterior envelope physical characteristics” means the physical nature of those elements of a building which enclose conditioned spaces through which energy may be transferred to or from the exterior.

~~(1)(6)~~ “Energy performance level” means the indicator of the energy-related performance of a building, including, but not limited to, the levels of insulation, the amount and type of glass, and the HVAC and water heating system efficiencies.

Section 20. Section 553.903, Florida Statutes, is amended to read:

553.903 Applicability.—This part applies ~~shall apply~~ to all new and renovated buildings in the state, except exempted buildings, for which building permits are obtained after March 15, 1979, and to the installation or replacement of building systems and components with new products for which thermal efficiency standards are set by the Florida Building Code-Energy Conservation ~~Florida Energy Efficiency Code for Building Construction~~. The provisions of this part shall constitute a statewide uniform code.



Section 21. Section 553.904, Florida Statutes, is amended to read:

553.904 Thermal efficiency standards for new nonresidential buildings. Thermal designs and operations for new nonresidential buildings for which building permits are obtained after March 15, 1979, must ~~shall~~ at a minimum take into account exterior envelope physical characteristics, including thermal mass; HVAC, service water heating, energy distribution, lighting, energy managing, and auxiliary systems design and selection; and HVAC, service water heating, energy distribution, lighting, energy managing, and auxiliary equipment performance, and are ~~shall~~ not be required to meet standards more stringent than the provisions of the Florida Building Code-Energy Conservation ~~Florida Energy Efficiency Code for Building Construction~~.

Section 22. Section 553.905, Florida Statutes, is amended to read:

553.905 Thermal efficiency standards for new residential buildings.—Thermal designs and operations for new residential buildings for which building permits are obtained after March 15, 1979, must ~~shall~~ at a minimum take into account exterior envelope physical characteristics, HVAC system selection and configuration, HVAC equipment performance, and service water heating design and equipment selection and are ~~shall~~ not be required to meet standards more stringent than the provisions of the Florida Building Code-Energy Conservation ~~Florida Energy Efficiency Code for Building Construction~~. HVAC equipment mounted in an attic or a garage ~~is~~ ~~shall~~ not be required to have supplemental insulation in addition to that installed by the manufacturer. All new residential buildings, except those herein exempted, must ~~shall~~ have insulation in ceilings rated at R-19 or more, space permitting. Thermal efficiency standards do not apply to a building of less than 1,000 square feet which is not primarily used as a principal residence and which is constructed and owned by a natural person for hunting or similar recreational purposes; however, ~~no~~ such person may not build more than one exempt building in any 12-month period.

Section 23. Section 553.906, Florida Statutes, is amended to read:

553.906 Thermal efficiency standards for renovated buildings.—Thermal designs and operations for renovated buildings for which building permits are obtained after March 15, 1979, must ~~shall~~ take into account insulation; windows; infiltration; and HVAC, service water heating, energy distribution, lighting, energy managing, and auxiliary systems design and equipment selection and performance. Such buildings are ~~shall~~ not be required to meet standards more stringent than the provisions of the Florida Building Code-Energy Conservation ~~Florida Energy Efficiency Code for Building Construction~~. These standards apply only to those portions of the structure which are actually renovated.

Section 24. Section 553.912, Florida Statutes, is amended to read:

553.912 Air conditioners.—All air conditioners that are sold or installed in the state must shall meet the minimum efficiency ratings of the Florida Building Code-Energy Conservation Energy Efficiency Code for Building Construction. These efficiency ratings must shall be minimums and may be updated in the Florida Building Code-Energy Conservation Florida Energy Efficiency Code for Building Construction by the department in accordance with s. 553.901, following its determination that more cost-effective energy-saving equipment and techniques are available. It is the intent of the Legislature that all replacement air-conditioning systems in residential applications be installed using energy-saving, quality installation procedures, including, but not limited to, equipment sizing analysis and duct inspection. Notwithstanding this section, existing heating and cooling equipment in residential applications need not meet the minimum equipment efficiencies, including system sizing and duct sealing.

Section 25. Section 553.991, Florida Statutes, is amended to read:

553.991 Purpose.—The purpose of this part is to identify systems provide for a statewide ~~uniform system~~ for rating the energy efficiency of buildings. It is in the interest of the state to encourage the consideration of the energy-efficiency rating systems ~~system~~ in the market so as to provide market rewards for energy-efficient buildings and to those persons or companies designing, building, or selling energy-efficient buildings.

Section 26. Section 553.992, Florida Statutes, is repealed.

Section 27. Section 553.993, Florida Statutes, is amended to read:

553.993 Definitions.—For purposes of this part:

(1) “Acquisition” means to gain the sole or partial use of a building through a purchase agreement.

(2) “Builder” means the primary contractor who possesses the requisite skill, knowledge, and experience, and has the responsibility, to supervise, direct, manage, and control the contracting activities of the business organization with which she or he is connected and who has the responsibility to supervise, direct, manage, and control the construction work on a job for which she or he has obtained the building permit. Construction work includes, but is not limited to, foundation, framing, wiring, plumbing, and finishing work.

(3) “Building energy-efficiency rating system” means a whole building energy evaluation system established by the Residential Energy Services Network, the Commercial Energy Services Network, the Building Performance Institute, or the Florida Solar Energy Center.

(4)(3) “Designer” means the architect, engineer, landscape architect, builder, interior designer, or other person who performs the actual design work or under whose direct supervision and responsible charge the construction documents are prepared.

(5) “Energy auditor” means a trained and certified professional who conducts energy evaluations of an existing building and uses tools to identify the building’s current energy usage and the condition of the building and equipment.

(6) “Energy-efficiency rating” means an unbiased indication of a building’s relative energy efficiency based on consistent inspection procedures, operating assumptions, climate data, and calculation methods.

(7) “Energy rater” means an individual certified by a building energy-efficiency rating system to perform building energy-efficiency ratings for the building type and in the rating class for which the rater is certified.

(8)(4) “New building” means commercial occupancy buildings permitted for construction after January 1, 1995, and residential occupancy buildings permitted for construction after January 1, 1994.

(9)(5) “Public building” means a building comfort-conditioned for occupancy that is owned or leased by the state, a state agency, or a governmental subdivision, including, but not limited to, a city, county, or school district.

Section 28. Section 553.994, Florida Statutes, is amended to read:

553.994 Applicability.—Building energy-efficiency ~~The rating systems system shall~~ apply to all public, commercial, and residential buildings in the state.

Section 29. Section 553.995, Florida Statutes, is amended to read:

553.995 Energy-efficiency ratings for buildings.—

(1) Building ~~The energy-efficiency rating systems must,~~ system shall at a minimum:

(a) ~~Provide a uniform rating scale of the efficiency of buildings based on annual energy usage.~~

(a)(b) Take into account local climate conditions, construction practices, and building use.

(b)(e) Be compatible with standard federal rating systems and state building codes and standards, where applicable, and shall satisfy the requirements of s. 553.9085 with respect to residential buildings and s. 255.256 with respect to state buildings.

(c)(2) ~~The energy-efficiency rating system adopted by the department shall~~ Provide a means of analyzing and comparing the relative energy efficiency of buildings upon the sale of new or existing residential, public, or commercial buildings.

(3) ~~The department shall establish a voluntary working group of persons interested in the energy-efficiency rating system or energy efficiency,~~

including, but not limited to, such persons as electrical engineers, mechanical engineers, architects, public utilities, and builders. The interest group shall advise the department in the development of the energy-efficiency rating system and shall assist the department in the implementation of the rating system by coordinating educational programs for designers, builders, businesses, and other interested persons to assist compliance and to facilitate incorporation of the rating system into existing practices.

(2)(a)(4) ~~The department shall develop a training and certification program to certify raters. In addition to the department, Ratings may be conducted by a any local government or private entity if, provided that the appropriate persons have completed the necessary training established by the applicable building energy-efficiency rating system and have been certified by the department.~~

(b) The Department of Management Services shall rate state-owned or state-leased buildings ~~if, provided that the appropriate persons have completed the necessary training established by the applicable building energy-efficiency rating system and have been certified by the Department of Business and Professional Regulation.~~

(c) A state agency ~~that which~~ has building construction regulation authority may rate its own buildings and those it is responsible for, if the appropriate persons have completed the necessary training established by the applicable building energy-efficiency rating system and have been certified by the Department of Business and Professional Regulation. The Department of Business and Professional Regulation may charge a fee not to exceed the costs for the training and certification of raters. ~~The department shall by rule set the appropriate charges for raters to charge for energy ratings, not to exceed the actual costs.~~

Section 30. Section 553.996, Florida Statutes, is amended to read:

553.996 Energy-efficiency information provided by building energy-efficiency rating systems providers brochure.—A prospective purchaser of real property with a building for occupancy located thereon shall be provided with a copy of an information brochure, at the time of or ~~before~~ prior to the purchaser's execution of the contract for sale and purchase which notifies, notifying the purchaser of the option for an energy-efficiency rating on the building. Building energy-efficiency rating system providers identified in this part shall prepare such information and make it available for distribution Such brochure shall be prepared, made available for distribution, and provided at no cost by the department. Such brochure shall contain information relevant to that class of building must include, including, but need not be limited to:

- (1) How to analyze the building's energy-efficiency rating.
- (2) Comparisons to statewide averages for new and existing construction of that class.

(3) Information concerning methods to improve the building’s energy-efficiency rating.

(4) A notice to residential purchasers that the energy-efficiency rating may qualify the purchaser for an energy-efficient mortgage from lending institutions.

Section 31. Subsection (2) of section 553.997, Florida Statutes, is amended to read:

553.997 Public buildings.—

(2) ~~The department, together with other State agencies having building construction and maintenance responsibilities,~~ shall make available energy-efficiency practices information to be used by individuals involved in the design, construction, retrofitting, and maintenance of buildings for state and local governments.

Section 32. Section 553.998, Florida Statutes, is amended to read:

553.998 Compliance.—All ratings must ~~shall~~ be determined using tools and procedures developed by the systems recognized under this part adopted by the department by rule in accordance with chapter 120 and must ~~shall~~ be certified by the rater as accurate and correct and in compliance with procedures of the system under which the rater is certified ~~adopted by the department by rule in accordance with chapter 120.~~

Section 33. Except as otherwise explicitly stated elsewhere, this act shall take effect July 1, 2013.

Approved by the Governor June 14, 2013.

Filed in Office Secretary of State June 14, 2013.