

Council Substitute for House Bill No. 697

An act relating to building code standards; amending s. 163.04, F.S.; revising provisions authorizing the use of solar collectors and other energy devices; amending s. 163.3177, F.S.; revising requirements for the future land use element of a local comprehensive plan to include energy-efficient land use patterns and greenhouse gas reduction strategies; requiring that the traffic-circulation element of a local comprehensive plan incorporate transportation strategies to reduce greenhouse gas emissions; requiring that the land use map or map series contained in the future land use element of a local comprehensive plan identify and depict energy conservation; requiring that the home element of a local comprehensive plan include energy efficiency in the design and construction of new housing and use of renewable energy resources; providing that certain counties may not receive state affordable housing funds under certain circumstances; requiring each unit of local government within an urbanized area to amend the transportation element of a local comprehensive plan to incorporate transportation strategies addressing reduction in greenhouse gas emissions; amending s. 377.806, F.S.; revising eligibility requirements for rebates under the Solar Energy System Incentives Program; amending s. 489.105, F.S.; expanding the scope of the definition of “roofing contractor” to include contractors performing required roof-deck attachments and any repair or replacement of wood roof sheathing or fascia as needed during roof repair or replacement; amending s. 553.36, F.S.; redefining the term “manufactured building” for purposes of the Florida Manufactured Building Act to include modular and factory-built buildings; amending s. 553.37, F.S.; requiring the Department of Community Affairs to adopt rules related to the inspection, construction, and modification of manufactured buildings; requiring the department to develop an insignia to be affixed to newly constructed manufactured buildings; authorizing the department to charge a fee for the insignia; providing requirements for the insignia; requiring the department to develop minimum criteria for a manufacturer’s data plate; amending s. 553.381, F.S.; conforming provisions; amending s. 553.415, F.S.; requiring the department to require that an insignia be affixed to all newly constructed factory-built school buildings; providing requirements for the manufacturer’s data plate; amending s. 553.71, F.S.; providing a definition; amending s. 553.73, F.S.; expanding required codes to be included in Florida Building Code updates; expanding the list of reasons the commission may amend the Florida Building Code; providing requirements for the retroactive application of parts of the Florida Building Code to commercial wireless communications towers; amending s. 553.74, F.S.; revising requirements for selecting members of the Florida Building Commission; revising membership of the commission; deleting obsolete provisions; amending s. 553.75, F.S.; authorizing the Florida Building Commission to use communications media technology in conducting its meetings or meetings held in conjunction with commis-

sion meetings; providing for public comment at meetings of the commission; amending s. 553.77, F.S.; authorizing the commission to implement recommendations relating to energy efficiency in residential and commercial buildings; amending s. 553.775, F.S.; authorizing the commission to render declaratory statements; amending s. 553.80, F.S.; providing that the enforcement of construction regulations relating to secure mental health treatment facilities under the jurisdiction of the Department of Children and Family Services shall be enforced exclusively by the department in conjunction with the review authority of the Agency for Health Care Administration; requiring that the basis for a fee structure for allowable activities include consideration for refunding fees due to reduced services based on certain services; amending s. 553.842, F.S.; requiring the commission to review the list of product evaluation entities; providing reporting requirements; providing for rulemaking; designating an entity as an approved production evaluation entity until October 1, 2009; providing criteria for substitution of approved products under certain conditions; providing for the expiration of certain product approvals; amending s. 553.844, F.S.; revising provisions requiring the adoption of certain mitigation techniques by the Florida Building Commission within the Florida Building Code for certain structures; amending s. 553.885, F.S.; requiring the installation of carbon monoxide detectors in certain new hospitals, hospice and nursing homes facilities; creating s. 553.886, F.S.; requiring that the Florida Building Code facilitate and promote the use of certain renewable energy technologies in buildings; creating s. 553.9061, F.S.; establishing a schedule of required increases in the energy performance of buildings subject to the Florida Building Code; providing a process for implementing goals to increase energy-efficiency performance in new buildings; providing a schedule for the implementation of such goals; identifying energy-efficiency performance options and elements available to meet energy-efficiency performance requirements; requiring the commission to adopt by rule a definition of the term “cost-effectiveness test”; providing that the commission implement a cost-effectiveness test; providing requirements for the test; directing the Department of Community Affairs, in conjunction with the Florida Energy Affordability Council, to identify and review issues relating to the Low-Income Home Energy Assistance Program and the Weatherization Assistance Program; requiring the submission of a report to the President of the Senate and the Speaker of the House of Representatives on or before a specified date; providing for the expiration of certain study requirements; repealing s. 553.731, F.S., relating to wind-borne debris protection requirements; providing for construction and interpretation of the repeal; repealing s. 627.351(6)(a)6., F.S.; providing requirements for certain properties to meet building code plus requirements as a condition of eligibility for coverage by Citizens Property Insurance Corporation; amending s. 336.41, F.S.; providing that a county, municipality, or special district may not own or operate an asphalt plant or a portable or stationary concrete batch plant having an independent mixer; amending s. 718.113, F.S.; authorizing the board of a condominium

or a multicondominium to install solar collectors, clotheslines, or other energy-efficient devices on association property; requiring the Florida Building Commission to include certain information in its report to the Legislature; providing an effective date.

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

Section 1. Subsection (2) of section 163.04, Florida Statutes, is amended to read:

163.04 Energy devices based on renewable resources.—

(2) A deed restriction, covenant, declaration, or similar binding agreement may not ~~No deed restrictions, covenants, or similar binding agreements running with the land shall prohibit or have the effect of prohibiting solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on the lots or parcels covered by the deed restriction, covenant, declaration, or binding agreement restrictions, covenants, or binding agreements.~~ A property owner may not be denied permission to install solar collectors or other energy devices based on renewable resources by any entity granted the power or right in any deed restriction, covenant, declaration, or similar binding agreement to approve, forbid, control, or direct alteration of property with respect to residential dwellings and within the boundaries of a condominium unit ~~not exceeding three stories in height.~~ For purposes of this subsection, Such entity may determine the specific location where solar collectors may be installed on the roof within an orientation to the south or within 45° east or west of due south ~~if provided that~~ such determination does not impair the effective operation of the solar collectors.

Section 2. Paragraphs (a), (b), (d), (f), and (j) of subsection (6) of section 163.3177, Florida Statutes, are amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. Counties are encouraged to designate rural land stewardship areas, pursuant to the provisions of paragraph (11)(d), as overlays on the future land use map. Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. The future land use plan shall be based upon surveys,

studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of water supplies, public facilities, and services; the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community; the compatibility of uses on lands adjacent to or closely proximate to military installations; the discouragement of urban sprawl; energy-efficient land use patterns accounting for existing and future electric power generation and transmission systems; greenhouse gas reduction strategies; and, in rural communities, the need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act. The future land use plan element shall include criteria to be used to achieve the compatibility of adjacent or closely proximate lands with military installations. In addition, for rural communities, the amount of land designated for future planned industrial use shall be based upon surveys and studies that reflect the need for job creation, capital investment, and the necessity to strengthen and diversify the local economies, and shall not be limited solely by the projected population of the rural community. The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. For coastal counties, the future land use element must include, without limitation, regulatory incentives and criteria that encourage the preservation of recreational and commercial working waterfronts as defined in s. 342.07. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. The failure by a local government to comply with these school siting requirements will result in the prohibition of the local government's ability to amend the local comprehensive plan, except for plan amendments described in s. 163.3187(1)(b), until the school siting requirements are met. Amendments proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use are exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. The future land use element shall include criteria that encourage the location of schools proximate to urban residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible and to encourage the use of elementary schools as focal points for neighborhoods. For schools serving predominantly rural counties, defined as a county with

a population of 100,000 or fewer, an agricultural land use category shall be eligible for the location of public school facilities if the local comprehensive plan contains school siting criteria and the location is consistent with such criteria. Local governments required to update or amend their comprehensive plan to include criteria and address compatibility of adjacent or closely proximate lands with existing military installations in their future land use plan element shall transmit the update or amendment to the department by June 30, 2006.

(b) A traffic circulation element consisting of the types, locations, and extent of existing and proposed major thoroughfares and transportation routes, including bicycle and pedestrian ways. Transportation corridors, as defined in s. 334.03, may be designated in the traffic circulation element pursuant to s. 337.273. If the transportation corridors are designated, the local government may adopt a transportation corridor management ordinance. The traffic circulation element shall incorporate transportation strategies to address reduction in greenhouse gas emissions from the transportation sector.

(d) A conservation element for the conservation, use, and protection of natural resources in the area, including air, water, water recharge areas, wetlands, waterwells, estuarine marshes, soils, beaches, shores, flood plains, rivers, bays, lakes, harbors, forests, fisheries and wildlife, marine habitat, minerals, and other natural and environmental resources, including factors that affect energy conservation. Local governments shall assess their current, as well as projected, water needs and sources for at least a 10-year period, considering the appropriate regional water supply plan approved pursuant to s. 373.0361, or, in the absence of an approved regional water supply plan, the district water management plan approved pursuant to s. 373.036(2). This information shall be submitted to the appropriate agencies. The land use map or map series contained in the future land use element shall generally identify and depict the following:

1. Existing and planned waterwells and cones of influence where applicable.
2. Beaches and shores, including estuarine systems.
3. Rivers, bays, lakes, flood plains, and harbors.
4. Wetlands.
5. Minerals and soils.
6. Energy conservation.

The land uses identified on such maps shall be consistent with applicable state law and rules.

(f)1. A housing element consisting of standards, plans, and principles to be followed in:

- a. The provision of housing for all current and anticipated future residents of the jurisdiction.

- b. The elimination of substandard dwelling conditions.
- c. The structural and aesthetic improvement of existing housing.
- d. The provision of adequate sites for future housing, including affordable workforce housing as defined in s. 380.0651(3)(j), housing for low-income, very low-income, and moderate-income families, mobile homes, and group home facilities and foster care facilities, with supporting infrastructure and public facilities.
- e. Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation, or replacement.
- f. The formulation of housing implementation programs.
- g. The creation or preservation of affordable housing to minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas of the jurisdiction.
- h. Energy efficiency in the design and construction of new housing.
- i. Use of renewable energy resources.

~~j.h.~~—By July 1, 2008, Each county in which the gap between the buying power of a family of four and the median county home sale price exceeds \$170,000, as determined by the Florida Housing Finance Corporation, and which is not designated as an area of critical state concern shall adopt a plan for ensuring affordable workforce housing. At a minimum, the plan shall identify adequate sites for such housing. For purposes of this sub-subparagraph, the term “workforce housing” means housing that is affordable to natural persons or families whose total household income does not exceed 140 percent of the area median income, adjusted for household size.

k. As a precondition to receiving any state affordable housing funding or allocation for any project or program within the jurisdiction of a county that is subject to sub-subparagraph j., a county must, by July 1 of each year, provide certification that the county has complied with the requirements of sub-subparagraph j.

~~i. Failure by a local government to comply with the requirement in sub-subparagraph h. will result in the local government being ineligible to receive any state housing assistance grants until the requirement of sub-subparagraph h. is met.~~

The goals, objectives, and policies of the housing element must be based on the data and analysis prepared on housing needs, including the affordable housing needs assessment. State and federal housing plans prepared on behalf of the local government must be consistent with the goals, objectives, and policies of the housing element. Local governments are encouraged to use ~~utilize~~ job training, job creation, and economic solutions to address a portion of their affordable housing concerns.

2. To assist local governments in housing data collection and analysis and assure uniform and consistent information regarding the state's housing needs, the state land planning agency shall conduct an affordable housing needs assessment for all local jurisdictions on a schedule that coordinates the implementation of the needs assessment with the evaluation and appraisal reports required by s. 163.3191. Each local government shall utilize the data and analysis from the needs assessment as one basis for the housing element of its local comprehensive plan. The agency shall allow a local government the option to perform its own needs assessment, if it uses the methodology established by the agency by rule.

(j) For each unit of local government within an urbanized area designated for purposes of s. 339.175, a transportation element, which shall be prepared and adopted in lieu of the requirements of paragraph (b) and paragraphs (7)(a), (b), (c), and (d) and which shall address the following issues:

1. Traffic circulation, including major thoroughfares and other routes, including bicycle and pedestrian ways.

2. All alternative modes of travel, such as public transportation, pedestrian, and bicycle travel.

3. Parking facilities.

4. Aviation, rail, seaport facilities, access to those facilities, and intermodal terminals.

5. The availability of facilities and services to serve existing land uses and the compatibility between future land use and transportation elements.

6. The capability to evacuate the coastal population prior to an impending natural disaster.

7. Airports, projected airport and aviation development, and land use compatibility around airports.

8. An identification of land use densities, building intensities, and transportation management programs to promote public transportation systems in designated public transportation corridors so as to encourage population densities sufficient to support such systems.

9. May include transportation corridors, as defined in s. 334.03, intended for future transportation facilities designated pursuant to s. 337.273. If transportation corridors are designated, the local government may adopt a transportation corridor management ordinance.

10. The incorporation of transportation strategies to address reduction in greenhouse gas emissions from the transportation sector.

Section 3. Paragraph (a) of subsection (3) of section 377.806, Florida Statutes, is amended to read:

377.806 Solar Energy System Incentives Program.—

(3) SOLAR THERMAL SYSTEM INCENTIVE.—

(a) Eligibility requirements.—A solar thermal system qualifies for a rebate if:

1. The system is installed by a state-licensed solar or plumbing contractor or a roofing contractor installing standing seam hybrid thermal roofs.

2. The system complies with all applicable building codes as defined by the local jurisdictional authority.

Section 4. Paragraph (e) of subsection (3) of section 489.105, Florida Statutes, is amended to read:

489.105 Definitions.—As used in this part:

(3) “Contractor” means the person who is qualified for, and shall only be responsible for, the project contracted for and means, except as exempted in this part, the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others; and whose job scope is substantially similar to the job scope described in one of the subsequent paragraphs of this subsection. For the purposes of regulation under this part, “demolish” applies only to demolition of steel tanks over 50 feet in height; towers over 50 feet in height; other structures over 50 feet in height, other than buildings or residences over three stories tall; and buildings or residences over three stories tall. Contractors are subdivided into two divisions, Division I, consisting of those contractors defined in paragraphs (a)-(c), and Division II, consisting of those contractors defined in paragraphs (d)-(q):

(e) “Roofing contractor” means a contractor whose services are unlimited in the roofing trade and who has the experience, knowledge, and skill to install, maintain, repair, alter, extend, or design, when not prohibited by law, and use materials and items used in the installation, maintenance, extension, and alteration of all kinds of roofing, waterproofing, and coating, except when coating is not represented to protect, repair, waterproof, stop leaks, or extend the life of the roof. The scope of work of a roofing contractor also includes required roof-deck attachments and any repair or replacement of wood roof sheathing or fascia as needed during roof repair or replacement.

Section 5. Subsection (13) of section 553.36, Florida Statutes, is amended to read:

553.36 Definitions.—The definitions contained in this section govern the construction of this part unless the context otherwise requires.

(13) “Manufactured building”, “modular building,” or “factory-built building” means a closed structure, building assembly, or system of sub-assemblies, which may include structural, electrical, plumbing, heating,

ventilating, or other service systems manufactured in manufacturing facilities for installation or erection as a finished building or as part of a finished building, which shall include, but not be limited to, residential, commercial, institutional, storage, and industrial structures. The term includes buildings not intended for human habitation such as lawn storage buildings and storage sheds manufactured and assembled offsite by a manufacturer certified in conformance with this part. This part does not apply to mobile homes.

Section 6. Section 553.37, Florida Statutes, is amended to read:

553.37 Rules; inspections; and insignia.—

(1) The Florida Building Commission shall adopt within the Florida Building Code requirements for construction or modification of manufactured buildings and building modules, to address:

(a) Submittal to and approval by the department of manufacturers' drawings and specifications, including any amendments.

(b) Submittal to and approval by the department of manufacturers' internal quality control procedures and manuals, including any amendments.

(c) Minimum inspection criteria. ~~Procedures and qualifications for approval of third-party plan review and inspection entities and of those who perform inspections and plan reviews.~~

(2) The department shall adopt rules to address:

(a) Procedures and qualifications for approval of third-party plan review and inspection agencies and of those who perform inspections and plan reviews.

(b)(d) Investigation of consumer complaints of noncompliance of manufactured buildings with the Florida Building Code and the Florida Fire Prevention Code.

(c)(e) Issuance, cancellation, and revocation of any insignia issued by the department and procedures for auditing and accounting for disposition of them.

(d)(f) Monitoring the manufacturers', inspection agencies' ~~entities'~~, and plan review agencies' ~~entities'~~ compliance with this part and the Florida Building Code. Monitoring may include, but is not limited to, performing audits of plans, inspections of manufacturing facilities and observation of the manufacturing and inspection process, and onsite inspections of buildings.

(e)(g) The performance by the department of any other functions required by this part.

(3)(2) After the effective date of the Florida Building Code, no manufactured building, except as provided in subsection (12) ~~(11)~~, may be installed in this state unless it is approved and bears the insignia of approval of the

department and a manufacturer's data plate. Approvals issued by the department under the provisions of the prior part shall be deemed to comply with the requirements of this part.

~~(4)~~(3) All manufactured buildings issued and bearing insignia of approval pursuant to subsection ~~(3)~~ ~~(2)~~ shall be deemed to comply with the Florida Building Code and are exempt from local amendments enacted by any local government.

~~(5)~~(4) No manufactured building bearing department insignia of approval pursuant to subsection ~~(3)~~ ~~(2)~~ shall be in any way modified prior to installation, except in conformance with the Florida Building Code.

~~(6)~~(5) Manufactured buildings which have been issued and bear the insignia of approval pursuant to this part upon manufacture or first sale shall not require an additional approval or insignia by a local government in which they are subsequently sold or installed. Buildings or structures that meet the definition of "open construction" are subject to permitting by the local jurisdiction and are not required to bear insignia.

~~(7)~~(6) If the ~~department Florida Building Commission~~ determines that the standards for construction and inspection of manufactured buildings prescribed by statute or rule of another state are at least equal to the Florida Building Code and that such standards are actually enforced by such other state, it may provide by rule that the manufactured building which has been inspected and approved by such other state shall be deemed to have been approved by the department and shall authorize the affixing of the appropriate insignia of approval.

~~(8)~~(7) The ~~department Florida Building Commission~~, by rule, shall establish a schedule of fees to pay the cost of incurred by the department for the work related to administration and enforcement of this part.

~~(9)~~(8) The department may delegate its enforcement authority to a state department having building construction responsibilities or a local government. The department may delegate its plan review and inspection authority to one or more of the following in any combination:

- ~~(a)~~ A state department having building construction responsibilities;
- ~~(b)~~ A local government;
- ~~(c)~~ An approved inspection agency;
- ~~(d)~~ An approved plan review agency; or
- ~~(e)~~ An agency of another state.

~~(9)~~ If the ~~commission delegates its inspection authority to third-party approved inspection agencies, manufacturers must have one, and only one, inspection agency responsible for inspection of a manufactured building, module, or component at all times.~~

(10) The department shall develop an insignia to be affixed to all newly constructed buildings by the manufacturer or the inspection agency prior to the building leaving the plant. The department may charge a fee for issuing such insignias. Such insignias shall bear the department's name, the state seal, an identification number unique to that insignia, and such other information as the department may require by rule. If the commission delegates its inspection authority to third-party approved plan review agencies, manufacturers must have one, and only one, plan review agency responsible for review of plans of a manufactured building, module, or component at all times.

(11) The department shall by rule develop minimum criteria for manufacturer's data that must be affixed to all newly constructed buildings by the manufacturer prior to the building leaving the plant. Custom or one-of-a-kind prototype manufactured buildings shall not be required to have state approval but must comply with all local requirements of the governmental agency having jurisdiction at the installation site.

Section 7. Subsections (1) and (3) of section 553.381, Florida Statutes, are amended to read:

553.381 Manufacturer certification.—

(1) Before manufacturing buildings to be located within this state or selling manufactured buildings within this state, whichever occurs later, a manufacturer must be certified by the department. The department shall certify a manufacturer upon receipt from the manufacturer and approval and verification by the department of the following:

(a) The manufacturer's internal quality control procedures and manuals, including any amendments;

(b) Evidence that the manufacturer has product liability insurance for the safety and welfare of the public in amounts determined by rule of the department commission; and

(c) The fee established by the department commission under s. 553.37(8) ~~s. 553.37(7)~~.

(3) Certification of manufacturers under this section shall be for a period of 3 years, subject to renewal by the manufacturer. Upon application for renewal, the manufacturer must submit the information described in subsection (1) or a sworn statement that there has been no change in the status or content of that information since the manufacturer's last submittal. Fees for renewal of manufacturers' certification shall be established by the department commission by rule.

Section 8. Subsections (11) and (12) of section 553.415, Florida Statutes, are amended to read:

553.415 Factory-built school buildings.—

(11) The department shall require that an insignia bearing the department's name and state seal and a manufacturer's data plate develop a

~~unique identification label to be affixed to all newly constructed factory-built school buildings and existing factory-built school buildings which have been brought into compliance with the standards for existing “satisfactory” buildings pursuant to chapter 5 of the Uniform Code for Public Educational Facilities, and after March 1, 2002, the Florida Building Code. The department may charge a fee for issuing such insignias labels. The manufacturer’s data plate~~ Such labels, bearing the department’s name and state seal, shall, at a minimum, contain:

- (a) The name of the manufacturer.
- (b) The standard plan approval number or alteration number.
- (c) The date of manufacture or alteration.
- (d) The serial or other identification number.
- (e) The following designed-for loads: lbs. per square foot live load; lbs. per square foot floor live load; lbs. per square foot horizontal wind load; and lbs. per square foot wind uplift load.
- (f) The designed-for flood zone usage.
- (g) The designed-for wind zone usage.
- (h) The designed-for enhanced hurricane protection zone usage: yes or no.

(12) ~~Such insignia and data plate identification label~~ shall be permanently affixed by the manufacturer in the case of newly constructed factory-built school buildings, or by the department or its designee in the case of an existing factory-built building altered to comply with provisions of s. 1013.20.

Section 9. Subsection (11) is added to section 553.71, Florida Statutes, to read:

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

(11) “Temporary” includes, but is not limited to, buildings identified by, but not designated as permanent structures on, an approved development order.

Section 10. Paragraph (a) of subsection (6) and subsection (7) of section 553.73, Florida Statutes, are amended, and subsection (13) is added to that section, to read:

553.73 Florida Building Code.—

(6)(a) The commission, by rule adopted pursuant to ss. 120.536(1) and 120.54, shall update the Florida Building Code every 3 years. When updating the Florida Building Code, the commission shall select the most current version of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, and

the International Residential Code, all of which are adopted by the International Code Council, and the National Electrical Code, which is adopted by the National Fire Protection Association, to form the foundation codes of the updated Florida Building Code, if the version has been adopted by the applicable model code entity and made available to the public at least 6 months prior to its selection by the commission. The commission shall select the most current version of the International Energy Conservation Code (IECC) as a foundation code; however, the IECC shall be modified by the commission to maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction adopted and amended pursuant to s. 553.901.

(7) Notwithstanding the provisions of subsection (3) or subsection (6), the commission may address issues identified in this subsection by amending the code pursuant only to the rule adoption procedures contained in chapter 120. Provisions of the Florida Building Code, including those contained in referenced standards and criteria, relating to wind resistance or the prevention of water intrusion may not be amended pursuant to this subsection to diminish those construction requirements; however, the commission may, subject to conditions in this subsection, amend the provisions to enhance those construction requirements. Following the approval of any amendments to the Florida Building Code by the commission and publication of the amendments on the commission's website, authorities having jurisdiction to enforce the Florida Building Code may enforce the amendments. The commission may approve amendments that are needed to address:

- (a) Conflicts within the updated code;
- (b) Conflicts between the updated code and the Florida Fire Prevention Code adopted pursuant to chapter 633;
- (c) The omission of previously adopted Florida-specific amendments to the updated code if such omission is not supported by a specific recommendation of a technical advisory committee or particular action by the commission;
- (d) Unintended results from the integration of previously adopted Florida-specific amendments with the model code; ~~or~~
- (e) Changes to federal or state law; ~~or~~
- (f) Adoption of an updated edition of the National Electrical Code if the commission finds that delay of implementing the updated edition causes undue hardship to stakeholders or otherwise threatens the public health, safety, and welfare.

(13) The general provisions of the Florida Building Code for buildings and other structures shall not apply to commercial wireless communication towers when such general provisions are inconsistent with the provisions of the code controlling radio and television towers. This subsection is intended to be remedial in nature and to clarify existing law.

Section 11. Subsections (1) and (2) of section 553.74, Florida Statutes, are amended to read:

553.74 Florida Building Commission.—

(1) The Florida Building Commission is created and shall be located within the Department of Community Affairs for administrative purposes. Members shall be appointed by the Governor subject to confirmation by the Senate. The commission shall be composed of 25 ~~23~~ 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 ~~shall be the chair.~~

(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, or a LEED-accredited professional.

(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.

(2) All appointments shall be for terms of 4 years, ~~except that of the chair who shall serve at the pleasure of the Governor.~~ Each person who is a member of the Board of Building Codes and Standards on the effective date of this act shall serve the remainder of their term as a member of the Florida Building Commission. ~~Except for the chair, newly created positions on the Florida Building Commission shall be appointed after February 1, 1999. A vacancy shall be filled for the remainder of the unexpired term.~~ Any member who shall, during his or her term, cease to meet the qualifications for original appointment, through ceasing to be a practicing member of the profession indicated or otherwise, shall thereby forfeit membership on the commission.

Section 12. Section 553.75, Florida Statutes, is amended to read:

553.75 Organization of commission; rules and regulations; meetings; staff; fiscal affairs; public comment.—

(1) The commission shall meet on call of the secretary. The commission shall annually elect from its appointive members such officers as it may choose.

(2) The commission shall meet at the call of its chair, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules. The members shall be notified in writing of the time and place of a regular or special meeting at least 7 days in advance of the meeting. A majority of members of the commission shall constitute a quorum.

(3) The department shall be responsible for the provision of administrative and staff support services relating to the functions of the commission. With respect to matters within the jurisdiction of the commission, the department shall be responsible for the implementation and faithful discharge of all decisions of the commission made pursuant to its authority under the provisions of this part. The department is specifically authorized to use communications media technology in conducting meetings of the commission or any meetings held in conjunction with meetings of the commission.

(4) Meetings of the commission shall be conducted so as to encourage participation by interested persons in attendance. At a minimum, the commission shall provide one opportunity for interested members of the public in attendance at a meeting to comment on each proposed action of the commission before a final vote is taken on any motion.

Section 13. Present subsection (5) of section 553.77, Florida Statutes, is renumbered as subsection (6), and a new subsection (5) is added to that section, to read:

553.77 Specific powers of the commission.—

(5) The commission may implement its recommendations delivered pursuant to subsection (2) of section 48 of chapter 2007-73, Laws of Florida, by amending the Florida Energy Efficiency Code for Building Construction as provided in s. 553.901.

Section 14. Subsection (5) of section 553.775, Florida Statutes, is amended to read:

553.775 Interpretations.—

(5) The commission may render declaratory statements in accordance with s. 120.565 relating to the provisions of the Florida Accessibility Code for Building Construction not attributable to the Americans with Disabilities Act Accessibility Guidelines. Notwithstanding the other provisions of this section, the Florida Accessibility Code for Building Construction and chapter 11 of the Florida Building Code may not be interpreted by, and are not subject to review under, any of the procedures specified in this section. This subsection has no effect upon the commission's authority to waive the Florida Accessibility Code for Building Construction as provided by s. 553.512.

Section 15. Paragraph (g) is added to subsection (1) of section 553.80, Florida Statutes, and subsection (7) of that section is amended, to read:

553.80 Enforcement.—

(1) Except as provided in paragraphs ~~(a)-(g)~~ ~~(a)-(f)~~, each local government and each legally constituted enforcement district with statutory authority shall regulate building construction and, where authorized in the state agency's enabling legislation, each state agency shall enforce the Florida Building Code required by this part on all public or private buildings, structures, and facilities, unless such responsibility has been delegated to another unit of government pursuant to s. 553.79(9).

(g) Construction regulations relating to secure mental health treatment facilities under the jurisdiction of the Department of Children and Family Services shall be enforced exclusively by the department in conjunction with the Agency for Health Care Administration's review authority under paragraph (c).

The governing bodies of local governments may provide a schedule of fees, as authorized by s. 125.56(2) or s. 166.222 and this section, for the enforcement of the provisions of this part. Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code. The authority of state enforcing agencies to set fees for enforcement shall be derived from authority existing on July 1, 1998. However, nothing contained in this subsection shall operate to limit such agencies from adjusting their fee schedule in conformance with existing authority.

(7) The governing bodies of local governments may provide a schedule of reasonable fees, as authorized by s. 125.56(2) or s. 166.222 and this section,

for enforcing this part. These fees, and any fines or investment earnings related to the fees, shall be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code. When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. Any unexpended balances shall be carried forward to future years for allowable activities or shall be refunded at the discretion of the local government. The basis for a fee structure for allowable activities shall relate to the level of service provided by the local government and shall include consideration for refunding fees due to reduced services based on services provided as prescribed by s. 553.791, but not provided by the local government. Fees charged shall be consistently applied.

(a) As used in this subsection, the phrase "enforcing the Florida Building Code" includes the direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing; building code enforcement; and fire inspections associated with new construction. The phrase may also include training costs associated with the enforcement of the Florida Building Code and enforcement action pertaining to unlicensed contractor activity to the extent not funded by other user fees.

(b) The following activities may not be funded with fees adopted for enforcing the Florida Building Code:

1. Planning and zoning or other general government activities.
2. Inspections of public buildings for a reduced fee or no fee.
3. Public information requests, community functions, boards, and any program not directly related to enforcement of the Florida Building Code.
4. Enforcement and implementation of any other local ordinance, excluding validly adopted local amendments to the Florida Building Code and excluding any local ordinance directly related to enforcing the Florida Building Code as defined in paragraph (a).

(c) A local government shall use recognized management, accounting, and oversight practices to ensure that fees, fines, and investment earnings generated under this subsection are maintained and allocated or used solely for the purposes described in paragraph (a).

Section 16. Subsection (17) is added to section 553.842, Florida Statutes, to read:

553.842 Product evaluation and approval.—

(17)(a) The Florida Building Commission shall review the list of evaluation entities in subsection (8) and, in the annual report required under s. 553.77, shall either recommend amendments to the list to add evaluation entities the commission determines should be authorized to perform product evaluations or shall report on the criteria adopted by rule or to be adopted

by rule allowing the commission to approve evaluation entities that use the commission's product evaluation process. If the commission adopts criteria by rule, the rulemaking process must be completed by July 1, 2009.

(b) Notwithstanding paragraph (8)(a), the International Association of Plumbing and Mechanical Officials Evaluation Services is approved as an evaluation entity until October 1, 2009. If the association does not obtain permanent approval by the commission as an evaluation entity by October 1, 2009, products approved on the basis of an association evaluation must be substituted by an alternative, approved entity by December 31, 2009, and on January 1, 2010, any product approval issued by the commission based on an association evaluation is void.

Section 17. Paragraph (b) of subsection (2) of section 553.844, Florida Statutes, is amended to read:

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

(2) The Florida Building Commission shall:

(b) Develop and adopt within the Florida Building Code a means to incorporate recognized mitigation techniques for site-built, single-family residential structures constructed ~~before~~ prior to the implementation of the Florida Building Code, including, but not limited to:

1. Prescriptive techniques for the installation of gable-end bracing;
2. Secondary water barriers for roofs and standards relating to secondary water barriers. The criteria may include, but need not be limited to, roof shape, slope, and composition of all elements of the roof system. The criteria may not be limited to one method or material for a secondary water barrier;
3. Prescriptive techniques for improvement of roof-to-wall connections. The Legislature recognizes that the cost of retrofitting existing buildings to meet the code requirements for new construction in this regard may exceed the practical benefit to be attained. The Legislature intends for the commission to provide for the integration of alternate, lower-cost means that may be employed to retrofit existing buildings that are not otherwise required to comply with the requirements of the Florida Building Code for new construction so that the cost of such improvements does not exceed approximately 15 percent of the cost of reroofing. Roof-to-wall connections shall not be required unless evaluation and installation of connections at gable ends or all corners can be completed for 15 percent of the cost of roof replacement. For houses that have both hip and gable roof ends, the priority shall be to retrofit the gable end roof-to-wall connections unless the width of the hip is more than 1.5 times greater than the width of the gable end. Priority shall be given to connecting the corners of roofs to walls below the locations at which the spans of the roofing members are greatest;
4. Strengthening or correcting roof-decking attachments and fasteners during reroofing; and

5. Adding or strengthening opening protections.

Section 18. Subsection (1) of section 553.885, Florida Statutes, is amended to read:

553.885 Carbon monoxide alarm required.—

(1) Every building, other than a hospital, an inpatient hospice facility, or a nursing home facility licensed by the Agency for Health Care Administration, for which a building permit is issued for new construction on or after July 1, 2008, and having a fossil-fuel-burning heater or appliance, a fire-place, or an attached garage shall have an approved operational carbon monoxide alarm installed within 10 feet of each room used for sleeping purposes. For a new hospital, an inpatient hospice facility, or a nursing home facility licensed by the Agency for Health Care Administration, an approved operational carbon monoxide detector shall be installed inside or directly outside of each room or area within the hospital or facility were a fossil-fuel burning heater, engine, or appliance is located. This detector shall be connected to the fire-alarm system of the hospital or facility as a supervisory signal.

Section 19. Section 553.886, Florida Statutes, is created to read:

553.886 Energy-efficiency technologies.—The provisions of the Florida Building Code must facilitate and promote the use of cost-effective energy conservation, energy-demand management, and renewable energy technologies in buildings.

Section 20. Section 553.9061, Florida Statutes, is created to read:

553.9061 Scheduled increases in thermal efficiency standards.—

(1) The purpose of this section is to establish a schedule of increases in the energy performance of buildings subject to the Florida Energy Efficiency Code for Building Construction. The Florida Building Commission shall:

(a) Include the necessary provisions by the 2010 edition of the Florida Energy Efficiency Code for Building Construction to increase the energy performance of new buildings by at least 20 percent as compared to the energy efficiency provisions of the 2007 Florida Building Code adopted October 31, 2007.

(b) Increase energy efficiency requirements by the 2013 edition of the Florida Energy Efficiency Code for Building Construction by at least 30 percent as compared to the energy efficiency provisions of the 2007 Florida Building Code adopted October 31, 2007.

(c) Increase energy efficiency requirements by the 2016 edition of the Florida Energy Efficiency Code for Building Construction by at least 40 percent as compared to the energy efficiency provisions of the 2007 Florida Building Code adopted October 31, 2007.

(d) Increase energy efficiency requirements by the 2019 edition of the Florida Energy Efficiency Code for Building Construction by at least 50

percent as compared to the energy efficiency provisions of the 2007 Florida Building Code adopted October 31, 2007.

(2) The Florida Building Commission shall identify within code support and compliance documentation the specific building options and elements available to meet the energy performance goals established in subsection (1). Energy-efficiency performance options and elements include, but are not limited to:

- (a) Solar water heating.
- (b) Energy-efficient appliances.
- (c) Energy-efficient windows, doors, and skylights.
- (d) Low solar-absorption roofs, also known as “cool roofs.”
- (e) Enhanced ceiling and wall insulation.
- (f) Reduced-leak duct systems.
- (g) Programmable thermostats.
- (h) Energy-efficient lighting systems.

(3) The Florida Building Commission shall, prior to implementing the goals established in subsection (1), adopt by rule and implement a cost-effectiveness test for proposed increases in energy efficiency. The cost-effectiveness test shall measure cost-effectiveness and shall ensure that energy efficiency increases result in a positive net financial impact.

Section 21. (1) The Department of Community Affairs, in conjunction with the Florida Energy Affordability Coalition, shall identify and review issues relating to the Low-Income Home Energy Assistance Program and the Weatherization Assistance Program, and identify recommendations that:

- (a) Support customer health, safety, and well-being;
- (b) Maximize available financial and energy-conservation assistance;
- (c) Improve the quality of service to customers seeking assistance; and
- (d) Educate customers to make informed decisions regarding energy use and conservation.

(2) On or before January 1, 2009, the department shall report its findings and any recommended statutory changes required to implement such findings to the President of the Senate and the Speaker of the House of Representatives.

(3) The provisions of this section expire July 1, 2009.

Section 22. Section 553.731, Florida Statutes, is repealed.

Section 23. The repeal of s. 553.731, Florida Statutes, by this act, does not diminish or authorize changes that diminish the provisions of the Florida Building Code relating to wind resistance or water intrusion which were adopted pursuant to chapter 2007-1, Laws of Florida.

Section 24. Subparagraph 6. of paragraph (a) of subsection (6) of s. 627.351, Florida Statutes, is repealed.

Section 25. Subsections (3), and (4) of section 336.41, Florida Statutes, are renumbered as subsections (4), and (5), respectively, and a subsection (3) is added to that section, to read:

336.41 Counties; employing labor and providing road equipment; accounting; when competitive bidding required.—

(3) Notwithstanding any law to the contrary, a county, municipality, or special district may not own or operate an asphalt plant or a portable or stationary concrete batch plant that has an independent mixer; however, this prohibition does not apply to any county that owns or is under contract to purchase an asphalt plant as of April 15, 2008, and that furnishes its plant-generated asphalt solely for use by local governments or companies under contract with local governments for projects within the boundaries of the county. Sale of plant-generated asphalt to private entities or local governments outside the boundaries of the county is prohibited.

Section 26. Subsection (6) is added to section 718.113, Florida Statutes, to read:

718.113 Maintenance; limitation upon improvement; display of flag; hurricane shutters.—

(6) Notwithstanding the provisions of this section or the governing documents of a condominium or a multicondominium association, the board of administration may, without any requirement for approval of the unit owners, install upon or within the common elements or association property solar collectors, clotheslines, or other energy-efficient devices based on renewable resources for the benefit of the unit owners.

Section 27. The Florida Building Commission shall submit the text of the rule required by section 19 of this act to the Legislature in its report to the 2009-2010 Legislature, and shall provide an effective date for the rule by July 1, 2009.

Section 28. This act shall take effect July 1, 2008.

Approved by the Governor June 17, 2008.

Filed in Office Secretary of State June 17, 2008.