

FLORIDA BUILDING COMMISSION



FACILITATOR'S SUMMARY REPORT OF THE MARCH 14, 2011 TELECONFERENCE MEETING

TALLAHASSEE, FLORIDA

FACILITATION, MEETING AND PROCESS DESIGN BY



CONSENSUS CENTER

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FLORIDA BUILDING COMMISSION
MARCH 14, 2011 TELECONFERENCE MEETING SUMMARY REPORT

MONDAY, MARCH 14, 2011

OPENING AND MEETING ATTENDANCE

The meeting was opened at 10:00 AM, and the following Commissioners participated:

Raul L. Rodriguez, AIA, Chair, Bob Boyer, Dick Browdy, Ed Carson, Herminio Gonzalez, Jim Goodloe, Ken Gregory, Dale Greiner, Jon Hamrick, Nick Nicholson, Jim Schock, Chris Schulte, Jeff Stone, and Tim Tolbert.

DCA Staff Present

Jon Caudill, Suzanne Davis, Rick Dixon, Ila Jones, Mo Madani, Marlita Peters, Jim Richmond, and Ann Stanton.

Meeting Facilitation

The meeting was facilitated by Jeff Blair from the FCRC Consensus center at Florida State University. Information at: <http://consensus.fsu.edu/>



Project Webpage

Information on the project, including agenda packets, meeting reports, and related documents may be found in downloadable formats at the project webpage below:

<http://consensus.fsu.edu/FBC/index.html>

AGENDA REVIEW AND APPROVAL

The Commission voted unanimously, 14 – 0 in favor, to approve the agenda including the following objectives during the March 14, 2011 meeting:

- To Hear a Legislative Update
- To Discuss and Decide on Relevant Legislative Issues
- To Review Next Meeting Date

LEGISLATIVE ISSUES UPDATE

Jim Richmond, Commission Attorney, provided an update on legislative issues of interest to the Commission regarding the upcoming 2011 Florida Legislative Session, and answered member's questions. Jim provided the Commission with a status update on SB 396 (Bennett: Commission's recommendations and Building Code related legislation) and HB 849 (Davis: House companion bill to SB 396). Jim reported that he is working with legislative staff to have the Commission's Accessibility Law recommendations included in SB 396 and the companion House Bill.

(See Attachment 1—Senate Bill 396)

At the March 7, 2011 Teleconference meeting the Chair and Commission directed DCA staff to draft a White Paper outlining key issues and options regarding the Governor's proposed relocation of the Florida Building Commission to DBPR. At the February 14, 2011 meeting the Commission discussed the "White Paper" and expressed support for the Paper's content and voted to convey it to the Governor and Legislature. At the conclusion of the discussion the Commission voted as follows:

(See Attachment 2—Commission Relocation White Paper)

Commission Actions:

Motion—The Commission voted unanimously, 14 – 0 in favor, to charge the Chair with conveying the "Commission Relocation White Paper", and the related background document that provides an overview of Commission programs and business functions, to the Governor, Senate President, Speaker of the House and others as recommended by DCA legal staff.

NEXT STEPS

Unless cancelled, the Commission will conduct teleconference meetings each Monday of the 2011 Florida Legislative Session as follows:

March 7, 14, 21, 28, April 11, 18, 25 and May 2, 2011. The calls will start at 10:00 AM and Commissioners will be notified prior to each teleconference meeting.

The next teleconference meeting is scheduled for 10:00 AM, Monday, March 28, 2011.

ADJOURN

The Chair adjourned the meeting at 11:15 AM.

ATTACHMENT 1

SENATE BILL 396

Florida Senate - 2011 SB 396

A bill to be entitled:

An act relating to building construction and inspection; amending s. 120.80, F.S.; exempting certain rule proceedings relating to the Florida Building Code from certain provisions of ch. 120, F.S.; amending s. 161.053, F.S.; prohibiting the Florida Building Commission from adopting rules that limit any exceptions or exemptions provided for modifications or repairs of existing structures within the limits of an existing foundation under certain circumstances; amending s. 255.252, F.S.; conforming provisions to changes made by the act; amending s. 255.253, F.S.; redefining the term “sustainable building rating” to include the International Green Construction Code; amending ss. 255.257 and 255.2575, F.S.; requiring that state agencies, local governments, and the court system adopt a sustainable building rating system for new and renovated buildings; amending s. 468.8316, F.S.; revising the continuing education requirements for licensed home inspectors; amending s. 468.8319, F.S.; deleting an exemption for certain contractors from the prohibition against performing repairs on a home that has a home inspection report; deleting an obsolete provision; amending s. 468.8323, F.S.; clarifying a provision relating to the contents of a home inspection report; amending s. 468.8324, F.S.; providing alternative criteria for obtaining a home inspector’s license; amending s. 481.329, F.S.; providing that part II of ch. 481, F.S., does not preclude any person who engages in the business of landscape design from submitting such plans to governmental agencies for approval; amending s. 489.103, F.S.; clarifying an exemption from construction contracting regulation relating to Habitat for Humanity; amending s. 489.105, F.S.; adding the term “glass and glazing contractors” to the definition of the term “contractor”; amending ss. 489.107 and 489.141, F.S.; conforming cross-references; amending s. 514.028, F.S.; revising the composition of the advisory review board relating to public swimming pools and bathing facilities; amending s. 527.06, F.S.; prohibiting the Department of Agriculture and Consumer Services and other state agencies from requiring compliance with certain national standards for liquefied petroleum gas tanks unless the department or agencies require compliance with a specified edition of the national standards; providing for repeal under certain circumstances; amending s. 527.21, F.S.; revising the term “propane” for purposes of the Florida Propane Gas Education, Safety, and Research Act, to incorporate changes to certain national standards in a reference thereto; amending s. 553.73, F.S.; revising requirements relating to the Florida Building Code; providing for a supplement to the code; specifying national codes to form the foundation for state building standards and codes; revising how often the Florida Building Commission may approve technical amendments to the code; requiring proposed amendments to base codes to provide justifications; revising requirements relating to the installation of mechanical equipment on a roof; amending s. 553.74, F.S.; revising requirements for selecting a member of the Florida Building Commission; amending s. 553.842, F.S.; providing for the approval of certain windstorm products; amending s. 553.909, F.S.; revising the requirements for certain pool-related equipment; amending s. 627.711, F.S.; revising requirements relating to home inspectors conducting hurricane mitigation inspections; providing an effective date.

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

Section 1. Paragraph (d) is added to subsection (16) of section 120.80, Florida Statutes, to read:
120.80 Exceptions and special requirements; agencies.—

(16) FLORIDA BUILDING COMMISSION.—

(d) Rule proceedings relating to updates and modifications of the Florida Building Code pursuant to s. 553.73 are exempt from ss. 120.54(3) and 120.541(3).

Section 2. Paragraph (a) of subsection (11) of section 161.053, Florida Statutes, is amended to read:
161.053 Coastal construction and excavation; regulation on county basis.—

(11)(a) The coastal construction control requirements defined in subsection (1) and the requirements of the erosion projections in subsection (5) do not apply to any modification, maintenance, or repair of any existing structure within the limits of the existing foundation which does not require, involve, or include any additions to, or repair or modification of, the existing foundation of that structure. Specifically excluded from this exemption are seawalls or other rigid coastal or shore protection structures and any additions or enclosures added, constructed, or installed below the first dwelling floor or lowest deck of the existing structure. The Florida Building Commission may not adopt any rule having the effect of limiting any exceptions or exemptions contained within this paragraph.

Section 3. Subsections (3) and (4) of section 255.252, Florida Statutes, are amended to read:
255.252 Findings and intent.—

(3) In order for that such energy-efficiency and sustainable materials considerations to become a function of building design and a model for future application in the private sector, it shall be the policy of the state that buildings constructed and financed by the state be designed and constructed to comply with a sustainable building rating the United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) rating system, the Green Building Initiative's Green Globes rating system, the Florida Green Building Coalition standards, or a nationally recognized, high-performance green building rating system as approved by the department. It is further the policy of the state, if when economically feasible, to retrofit existing state-owned buildings in a manner that minimizes which will minimize the consumption of energy used in the operation and maintenance of such buildings.

(4) In addition to designing and constructing new buildings to be energy-efficient, it shall be the policy of the state to operate and maintain state facilities in a manner that minimizes which will minimize energy consumption and maximizes maximize building sustainability, and to operate as well as ensure that facilities leased by the state are operated so as to minimize energy use. It is further the policy of the state that the renovation of existing state facilities be in accordance with a sustainable building rating the United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) rating system, the Green Building Initiative's Green Globes rating system, the Florida Green Building Coalition standards, or a nationally recognized, high-performance green building rating system as approved by the department. State agencies are encouraged to consider shared savings financing of such energy-efficiency and conservation projects, using contracts that which split the resulting savings for a specified period of time between the state agency and the private firm or cogeneration contracts and that which otherwise permit the state to lower its net energy costs. Such energy contracts may be funded from the operating budget.

Section 4. Subsection (7) of section 255.253, Florida 138 Statutes, is amended to read: 139
255.253 Definitions; ss. 255.251-255.258.— 140

(7) "Sustainable building rating" means a rating 141 established by the United States Green Building Council (USGBC) 142 Leadership in Energy and Environmental Design (LEED) rating 143 system, the International Green Construction Code (IGCC), the 144 Green Building Initiative's Green Globes rating system, the 145

Florida Green Building Coalition standards, or a nationally 146 recognized, high-performance green building rating system as 147 approved by the department. 148

Section 5. Subsection (4) of section 255.257, Florida 149 Statutes, is amended to read: 150
255.257 Energy management; buildings occupied by state 151 agencies.— 152

(4) ADOPTION OF STANDARDS.— 153

(a) All state agencies shall adopt a sustainable building 154 rating system the United States Green Building Council (USGBC) 155 Leadership in Energy and Environmental Design (LEED) rating 156 system, the Green Building Initiative's Green Globes rating 157 system, the Florida Green Building Coalition standards, or a 158 nationally recognized, high-performance green building rating 159 system as approved by the department for all new buildings and 160 renovations to existing buildings. 161

(b) No state agency shall enter into new leasing agreements 162 for office space that does not meet Energy Star building 163 standards, except when determined by the appropriate state 164 agency head determines that no other viable or cost-effective 165 alternative exists. 166

(c) All state agencies shall develop energy conservation 167 measures and guidelines for new and existing office space where 168 state agencies occupy more than 5,000 square feet. These 169 conservation measures shall focus on programs that may reduce 170 energy consumption and, when established, provide a net 171 reduction in occupancy costs. 172

Section 6. Subsection (2) of section 255.2575, Florida 173 Statutes, is amended to read: 174
255.2575 Energy-efficient and sustainable buildings.— 175

(2) All county, municipal, school district, water 176 management district, state university, community college, and 177 Florida state court buildings shall be constructed to comply 178 with a sustainable building rating system meet the United States 179 Green Building Council (USGBC) Leadership in Energy and 180 Environmental Design (LEED) rating system, the Green Building 181 Initiative's Green Globes rating system, the Florida Green 182 Building Coalition standards, or a nationally recognized, high-183 performance green building rating system as approved by the 184 Department of Management Services. This section applies shall 185 apply to all county, municipal, school district, water 186 management district, state university, community college, and 187 Florida state court buildings the architectural plans of which 188 are commenced after July 1, 2008. 189

Section 7. Subsection (1) of section 468.8316, Florida 190 Statutes, is amended to read: 191
468.8316 Continuing education.— 192

(1) The department may not renew a license until the 193 licensee submits proof satisfactory to the department that 194 during the 2 years before prior to his or her application for 195 renewal the licensee has completed at least 14 hours of 196 continuing education. Of the 14 hours, at least 2 hours must be 197 in hurricane mitigation training that includes hurricane 198 mitigation techniques and compliance with the uniform mitigation 199 verification inspection form developed under s. 627.711(2). The 200 department shall adopt rules establishing criteria for approving 201 continuing education providers and courses course content shall 202 be approved by the department by rule. 203

Section 8. Paragraph (f) of subsection (1) and subsection 204 (3) of section 468.8319, Florida Statutes, are amended to read 205

468.8319 Prohibitions; penalties.— 206

(1) A person may not: 207

(f) Perform or offer to perform any repairs to a home on 208 which the inspector or the inspector's company has prepared a 209 home inspection report. This paragraph does not apply to: 210

1. a home warranty company that is affiliated with or 211 retains a home inspector to perform repairs pursuant to a claim 212 made under a home warranty contract. 213

2. A certified contractor who is classified in s. 214 489.105(3) as a Division I contractor. However, the department 215 may adopt rules requiring that, if such contractor performs the 216 home inspection and offers to perform the repairs, the contract 217 for repairs provided to the homeowner discloses that he or she 218 has the right to request competitive bids. 219

(3) This section does not apply to unlicensed activity as 220 described in paragraph (1)(a), paragraph (1)(b), or s. 455.228 221 that occurs before July 1, 2011. 222

Section 9. Paragraph (b) of subsection (1) of section 223 468.8323, Florida Statutes, is amended to read: 224

468.8323 Home inspection report.—Upon completion of each 225 home inspection for compensation, the home inspector shall 226 provide a written report prepared for the client. 227

(1) The home inspector shall report: 228

(b) If not self-evident, a reason why the system or 229 component reported under paragraph (a) is significantly 230 deficient or near the end of its service life. 231

Section 10. Present subsections (3) and (4) of section 232

468.8324, Florida Statutes, are renumbered as subsections (4) 233 and (5), respectively, and a new subsection (3) is added to that 234 section, to read: 235

468.8324 Grandfather clause.— 236

(3) A person who performs home inspection services may 237 qualify for licensure as a home inspector under this part if the 238 person submits an application to the department postmarked on or 239 before July 1, 2012, which shows that the applicant: 240

(a) Possesses certification as a one- and two-family 241 dwelling inspector issued by the International Code Council or 242 the Southern Building Code Congress International; 243

(b) Has been certified as a one- and two-family dwelling 244 inspector by the Florida Building Code Administrators and 245 Inspectors Board under part XII of this chapter; or 246

(c) Possesses a Division I contractor license under part I 247 of chapter 489. 248

Section 11. Subsection (5) of section 481.329, Florida 249 Statutes, is amended to read: 250
481.329 Exceptions; exemptions from licensure.— 251

(5) Nothing in this part prohibits any person from engaging 252 in the practice of landscape design, as defined in s. 253 481.303(7), nor submitting such plans to governmental agencies 254 for approval. Persons providing landscape design services shall 255 not use the title, term, or designation “landscape architect,” 256 “landscape architectural,” “landscape architecture,” “L.A.,” 257 “landscape engineering,” or any description tending to convey 258 the impression that she or he is a landscape architect unless 259 she or he is registered as provided in this part. 260

Section 12. Subsection (18) of section 489.103, Florida 261 Statutes, is amended to read: 262

489.103 Exemptions.—This part does not apply to: 263

(18) Any one-family, two-family, or three-family residence 264 constructed or rehabilitated by Habitat for Humanity 265 International, Inc., or its local affiliates. Habitat for 266 Humanity International, Inc., or its local affiliates, must: 267

(a) Obtain all necessary building permits. 268

(b) Obtain all required building code inspections. 269

(c) Provide for supervision of all work by an individual 270 with construction experience. 271

Section 13. Subsection (3) of section 489.105, Florida 272 Statutes, is amended to read 273
489.105 Definitions.—As used in this part: 274

(3) “Contractor” means the person who is qualified for, and 275 is shall only be responsible for, the project contracted for and 276 means, except as exempted in this part, the person who, for 277 compensation, undertakes to, submits a bid to, or does himself 278 or herself or by others construct, repair, alter, remodel, add 279 to, demolish, subtract from, or improve any building or 280 structure,

including related improvements to real estate, for 281 others or for resale to others; and whose job scope is 282 substantially similar to the job scope described in one of the 283 subsequent paragraphs of this subsection. For the purposes of 284 regulation under this part, “demolish” applies only to 285 demolition of steel tanks over 50 feet in height; towers over 50 286 feet in height; other structures over 50 feet in height, other 287 than buildings or residences over three stories tall; and 288 buildings or residences over three stories tall. Contractors are 289 subdivided into two divisions, Division I, consisting of those 290

contractors defined in paragraphs (a)-(c), and Division II, 291 consisting of those contractors defined in paragraphs (d)-(r) 292 (d)-(q): 293

(a) “General contractor” means a contractor whose services 294 are unlimited as to the type of work which he or she may do, who 295 may contract for any activity requiring licensure under this 296 part, and who may perform any work requiring licensure under 297 this part, except as otherwise expressly provided in s. 489.113. 298

(b) “Building contractor” means a contractor whose services 299 are limited to construction of commercial buildings and single-300 dwelling or multiple-dwelling residential buildings, which 301 commercial or residential buildings do not exceed three stories 302 in height, and accessory use structures in connection therewith 303 or a contractor whose services are limited to remodeling, 304 repair, or improvement of any size building if the services do 305 not affect the structural members of the building. 306

(c) “Residential contractor” means a contractor whose 307 services are limited to construction, remodeling, repair, or 308 improvement of one-family, two-family, or three-family 309 residences not exceeding two habitable stories above no more 310 than one uninhabitable story and accessory use structures in 311 connection therewith. 312

(d) “Sheet metal contractor” means a contractor whose 313 services are unlimited in the sheet metal trade and who has the 314 experience, knowledge, and skill necessary for the manufacture, 315 fabrication, assembling, handling, erection, installation, 316 dismantling, conditioning, adjustment, insulation, alteration, 317 repair, servicing, or design, if when not prohibited by law, of 318 ferrous or nonferrous metal work of U.S. No. 10 gauge or its 319 equivalent or lighter gauge and of other materials, including, 320 but not limited to, fiberglass, used in lieu thereof and of air-321 handling systems, including the setting of air-handling 322 equipment and reinforcement of same, the balancing of air-323 handling systems, and any duct cleaning and equipment sanitizing 324 that which requires at least a partial disassembling of the 325 system. 326

(e) “Roofing contractor” means a contractor whose services 327 are unlimited in the roofing trade and who has the experience, 328 knowledge, and skill to install, maintain, repair, alter, 329 extend, or design, if when not prohibited by law, and use 330 materials and items used in the installation, maintenance, 331 extension, and alteration of all kinds of roofing, 332 waterproofing, and coating, except when coating is not 333 represented to protect, repair, waterproof, stop leaks, or 334 extend the life of the roof. The scope of work of a roofing 335 contractor also includes required roof-deck attachments and any 336 repair or replacement of wood roof sheathing or fascia as needed 337 during roof repair or replacement. 338

(f) “Class A air-conditioning contractor” means a 339 contractor whose services are unlimited in the execution of 340 contracts requiring the experience, knowledge, and skill to 341 install, maintain, repair, fabricate, alter, extend, or design, 342 if when not prohibited by law, central air-conditioning, 343 refrigeration, heating, and ventilating systems, including duct 344 work in connection with a complete system if only to the extent 345 such duct work is performed by the contractor as is necessary to 346 make complete an air-distribution system, boiler and unfired 347 pressure vessel systems, and all appurtenances, apparatus, or 348

equipment used in connection therewith, and any duct cleaning 349 and equipment sanitizing that which requires at least a partial 350 disassembling of the system; to install, maintain, repair, 351 fabricate, alter, extend, or design, if when not prohibited by 352 law, piping, insulation of pipes, vessels and ducts,

pressure 353 and process piping, and pneumatic control piping; to replace, 354 disconnect, or reconnect power wiring on the load side of the 355 dedicated existing electrical disconnect switch; to install, 356 disconnect, and reconnect low voltage heating, ventilating, and 357 air-conditioning control wiring; and to install a condensate 358 drain from an air-conditioning unit to an existing safe waste or 359 other approved disposal other than a direct connection to a 360 sanitary system. The scope of work for such contractor shall 361 also include any excavation work incidental thereto, 362 but does shall not include any work such as liquefied petroleum 363 or natural gas fuel lines within buildings, except for 364 disconnecting or reconnecting changeouts of liquefied petroleum 365 or natural gas appliances within buildings; potable water lines 366 or connections thereto; sanitary sewer lines; swimming pool 367 piping and filters; or electrical power wiring. 368

(g) "Class B air-conditioning contractor" means a 369 contractor whose services are limited to 25 tons of cooling and 370 500,000 Btu of heating in any one system in the execution of 371 contracts requiring the experience, knowledge, and skill to 372 install, maintain, repair, fabricate, alter, extend, or design, 373 if when not prohibited by law, central air-conditioning, 374 refrigeration, heating, and ventilating systems, including duct 375 work in connection with a complete system only to the extent 376 such duct work is performed by the contractor as is necessary to 377

make complete an air-distribution system being installed under 378 this classification, and any duct cleaning and equipment 379 sanitizing that which requires at least a partial disassembling 380 of the system; to install, maintain, repair, fabricate, alter, 381 extend, or design, if when not prohibited by law, piping and 382 insulation of pipes, vessels, and ducts; to replace, disconnect, 383 or reconnect power wiring on the load side of the dedicated 384 existing electrical disconnect switch; to install, disconnect, 385 and reconnect low voltage heating, ventilating, and air-386 conditioning control wiring; and to install a condensate drain 387 from an air-conditioning unit to an existing safe waste or other 388 approved disposal other than a direct connection to a sanitary 389 system. The scope of work for such contractor shall also 390 includes include any excavation work incidental thereto, but 391 does shall not include any work such as liquefied petroleum or 392 natural gas fuel lines within buildings, except for 393 disconnecting or reconnecting changeouts of liquefied petroleum 394 or natural gas appliances within buildings; potable water lines 395 or connections thereto; sanitary sewer lines; swimming pool 396 piping and filters; or electrical power wiring. 397

(h) "Class C air-conditioning contractor" means a 398 contractor whose business is limited to the servicing of air-399 conditioning, heating, or refrigeration systems, including any 400 duct cleaning and equipment sanitizing that which requires at 401 least a partial disassembling of the system, and whose 402 certification or registration, issued pursuant to this part, was 403 valid on October 1, 1988. Only a No person who was not 404 previously registered or certified as a Class C air-conditioning 405 contractor as of October 1, 1988, shall be so registered or 406

certified after October 1, 1988. However, the board shall 407 continue to license and regulate those Class C air-conditioning 408 contractors who held Class C licenses before prior to October 1, 409 1988. 410

(i) "Mechanical contractor" means a contractor whose 411 services are unlimited in the execution of contracts requiring 412 the experience, knowledge, and skill to install, maintain, 413 repair, fabricate, alter, extend, or design, if when not 414 prohibited by law, central air-conditioning, refrigeration, 415 heating, and ventilating systems, including duct work in 416 connection with a complete system if only to the extent such 417 duct work is performed by the contractor as is necessary to make 418 complete an air-distribution system, boiler and unfired pressure 419 vessel systems, lift station equipment and piping, and all 420 appurtenances, apparatus, or equipment used in connection 421 therewith, and any duct cleaning and equipment sanitizing that 422 which requires at least a partial disassembling of the system; 423 to install, maintain, repair, fabricate, alter, extend, or 424 design, if when not prohibited by law, piping, insulation of 425 pipes, vessels and ducts, pressure and process piping, pneumatic 426 control piping, gasoline tanks and pump installations and piping 427 for same, standpipes, air piping, vacuum line piping, oxygen 428 lines, nitrous oxide piping, ink and chemical lines, fuel 429 transmission lines, liquefied petroleum gas lines within 430 buildings, and natural gas fuel lines within buildings; to 431

replace, disconnect, or reconnect power wiring on the load side 432 of the dedicated existing electrical disconnect switch; to 433 install, disconnect, and reconnect low voltage heating, 434 ventilating, and air-conditioning control wiring; and to install 435

a condensate drain from an air-conditioning unit to an existing 436 safe waste or other approved disposal other than a direct 437 connection to a sanitary system. The scope of work for such 438 contractor shall also include any excavation work 439 incidental thereto, but does shall not include any work such as 440 potable water lines or connections thereto, sanitary sewer 441 lines, swimming pool piping and filters, or electrical power 442 wiring. 443

(j) “Commercial pool/spa contractor” means a contractor 444 whose scope of work involves, but is not limited to, the 445 construction, repair, and servicing of any swimming pool, or hot 446 tub or spa, whether public, private, or otherwise, regardless of 447 use. The scope of work includes the installation, repair, or 448 replacement of existing equipment, any cleaning or equipment 449 sanitizing that which requires at least a partial disassembling, 450 excluding filter changes, and the installation of new pool/spa 451 equipment, interior finishes, the installation of package pool 452 heaters, the installation of all perimeter piping and filter 453 piping, and the construction of equipment rooms or housing for 454 pool/spa equipment, and also includes the scope of work of a 455 swimming pool/spa servicing contractor. The scope of such work 456 does not include direct connections to a sanitary sewer system 457 or to potable water lines. The installation, construction, 458 modification, or replacement of equipment permanently attached 459 to and associated with the pool or spa for the purpose of water 460 treatment or cleaning of the pool or spa requires licensure; 461 however, the usage of such equipment for the purposes of water 462 treatment or cleaning does shall not require licensure unless 463 the usage involves construction, modification, or replacement of 464

such equipment. Water treatment that does not require such 465 equipment does not require a license. In addition, a license is 466 shall not be required for the cleaning of the pool or spa in a 467 any way that does not affect the structural integrity of the 468 pool or spa or its associated equipment. 469

(k) “Residential pool/spa contractor” means a contractor 470 whose scope of work involves, but is not limited to, the 471 construction, repair, and servicing of a any residential 472 swimming pool, or hot tub or spa, regardless of use. The scope 473 of work includes the installation, repair, or replacement of 474 existing equipment, any cleaning or equipment sanitizing that 475 which requires at least a partial disassembling, excluding 476 filter changes, and the installation of new pool/spa equipment, 477 interior finishes, the installation of package pool heaters, the 478 installation of all perimeter piping and filter piping, and the 479 construction of equipment rooms or housing for pool/spa 480 equipment, and also includes the scope of work of a swimming 481 pool/spa servicing contractor. The scope of such work does not 482 include direct connections to a sanitary sewer system or to 483 potable water lines. The installation, construction, 484 modification, or replacement of equipment permanently attached 485 to and associated with the pool or spa for the purpose of water 486 treatment or cleaning of the pool or spa requires licensure; 487 however, the usage of such equipment for the purposes of water 488 treatment or cleaning does shall not require licensure unless 489 the usage involves construction, modification, or replacement of 490 such equipment. Water treatment that does not require such 491 equipment does not require a license. In addition, a license is 492 shall not be required for the cleaning of the pool or spa in a 493

any way that does not affect the structural integrity of the 494 pool or spa or its associated equipment. 495

(l) “Swimming pool/spa servicing contractor” means a 496 contractor whose scope of work involves, but is not limited to, 497 the repair and servicing of a any swimming pool, or hot tub or 498 spa, whether public or private, or otherwise, regardless of use. 499 The scope of work includes the repair or replacement of existing 500 equipment, any cleaning or equipment sanitizing that which 501 requires at least a partial disassembling, excluding filter 502 changes, and the installation of new pool/spa equipment, 503 interior refinishing, the reinstallation or addition of pool 504 heaters, the repair or replacement of all perimeter piping and 505 filter piping, the repair of equipment rooms or housing for

506 pool/spa equipment, and the substantial or complete draining of 507 a swimming pool, or hot tub or spa, for the purpose of any 508 repair or renovation. The scope of such work does not include 509 direct connections to a sanitary sewer system or to potable 510 water lines. The installation, construction, modification, 511 substantial or complete disassembly, or replacement of equipment 512 permanently attached to and associated with the pool or spa for 513 the purpose of water treatment or cleaning of the pool or spa 514 requires licensure; however, the usage of such equipment for the 515 purposes of water treatment or cleaning does shall not require 516 licensure unless the usage involves construction, modification, 517 substantial or complete disassembly, or replacement of such 518 equipment. Water treatment that does not require such equipment 519 does not require a license. In addition, a license is shall not 520 be required for the cleaning of the pool or spa in a any way 521 that does not affect the structural integrity of the pool or spa 522 or its associated equipment. 523

(m) "Plumbing contractor" means a contractor whose 524 contracting business consists of the execution of contracts 525 requiring the experience, financial means, knowledge, and skill 526 to install, maintain, repair, alter, extend, or, if when not 527 prohibited by law, design plumbing. A plumbing contractor may 528 install, maintain, repair, alter, extend, or, if when not 529 prohibited by law, design the following without obtaining an any 530 additional local regulatory license, certificate, or 531 registration: sanitary drainage or storm drainage facilities; 532 venting systems; public or private water supply systems; septic 533 tanks; drainage and supply wells; swimming pool piping; 534 irrigation systems; or solar heating water systems and all 535 appurtenances, apparatus, or equipment used in connection 536 therewith, including boilers and pressure process piping and 537 including the installation of water, natural gas, liquefied 538 petroleum gas and related venting, and storm and sanitary sewer 539 lines; and water and sewer plants and substations. The scope of 540 work of the plumbing contractor also includes the design, if 541 when not prohibited by law, and installation, maintenance, 542 repair, alteration, or extension of air-piping, vacuum line 543 piping, oxygen line piping, nitrous oxide piping, and all 544 related medical gas systems; fire line standpipes and fire 545 sprinklers if to the extent authorized by law; ink and chemical 546 lines; fuel oil and gasoline piping and tank and pump 547 installation, except bulk storage plants; and pneumatic control 548 piping systems, all in such a manner that complies as to comply 549 with all plans, specifications, codes, laws, and regulations 550 applicable. The scope of work of the plumbing contractor applies 551

shall apply to private property and public property, including 552 shall include any excavation work incidental thereto, and 553 includes shall include the work of the specialty plumbing 554 contractor. Such contractor shall subcontract, with a qualified 555 contractor in the field concerned, all other work incidental to 556 the work but which is specified herein as being the work of a 557 trade other than that of a plumbing contractor. Nothing in This 558 definition does not shall be construed to limit the scope of 559 work of any specialty contractor certified pursuant to s. 560 489.113(6), and does not. Nothing in this definition shall be 561 construed to require certification or registration under this 562 part of any authorized employee of a public natural gas utility 563 or of a private natural gas utility regulated by the Public 564 Service Commission when disconnecting and reconnecting water 565 lines in the servicing or replacement of an existing water 566 heater. 567

(n) "Underground utility and excavation contractor" means a 568 contractor whose services are limited to the construction, 569 installation, and repair, on public or private property, whether 570 accomplished through open excavations or through other means, 571 including, but not limited to, directional drilling, auger 572 boring, jacking and boring, trenchless technologies, wet and dry 573 taps, grouting, and slip lining, of main sanitary sewer 574 collection systems, main water distribution systems, storm sewer 575 collection systems, and the continuation of utility lines from 576 the main systems to a point of termination up to and including 577 the meter location for the individual occupancy, sewer 578 collection systems at property line on residential or single-579 occupancy commercial properties, or on multioccupancy properties 580 at manhole or wye lateral extended to an invert elevation as 581 engineered to accommodate future

building sewers, water 582 distribution systems, or storm sewer collection systems at storm 583 sewer structures. However, an underground utility and excavation 584 contractor may install empty underground conduits in rights-of-585 way, easements, platted rights-of-way in new site development, 586 and sleeves for parking lot crossings no smaller than 2 inches 587 in diameter if, provided that each conduit system installed is 588 designed by a licensed professional engineer or an authorized 589 employee of a municipality, county, or public utility and that 590 the installation of any such conduit does not include 591 installation of any conductor wiring or connection to an 592 energized electrical system. An underground utility and 593 excavation contractor may shall not install any piping that is 594 an integral part of a fire protection system as defined in s. 595 633.021 beginning at the point where the piping is used 596 exclusively for such system. 597

(o) “Solar contractor” means a contractor whose services 598 consist of the installation, alteration, repair, maintenance, 599 relocation, or replacement of solar panels for potable solar 600 water heating systems, swimming pool solar heating systems, and 601 photovoltaic systems and any appurtenances, apparatus, or 602 equipment used in connection therewith, whether public, private, 603 or otherwise, regardless of use. A contractor, certified or 604 registered pursuant to the provisions of this chapter, is not 605 required to become a certified or registered solar contractor or 606 to contract with a solar contractor in order to provide any 607 services enumerated in this paragraph that are within the scope 608 of the services such contractors may render under this part. 609

(p) “Pollutant storage systems contractor” means a 610 contractor whose services are limited to, and who has the 611 experience, knowledge, and skill to install, maintain, repair, 612 alter, extend, or design, if when not prohibited by law, and use 613 materials and items used in the installation, maintenance, 614 extension, and alteration of, pollutant storage tanks. Any 615 person installing a pollutant storage tank shall perform such 616 installation in accordance with the standards adopted pursuant 617 to s. 376.303. 618

(q) “Glass and glazing contractor” means a contractor whose 619 services are unlimited in the execution of contracts requiring 620 the experience, knowledge, and skill to install, attach, 621 maintain, repair, fabricate, alter, extend, or design, in 622 residential and commercial applications without any height 623 restrictions, all types of windows, glass, and mirrors, whether 624 fixed or movable; swinging or sliding glass doors attached to 625 existing walls, floors, columns, or other structural members of 626 the building; glass holding or supporting mullions or horizontal 627 bars; structurally anchored impact-resistant opening protection 628 attached to existing building walls, floors, columns, or other 629 structural members of the building; prefabricated glass, metal, 630 or plastic curtain walls; storefront frames or panels; shower 631 and tub enclosures; metal fascias; and caulking incidental to 632 such work and assembly. 633

(r)(q) “Specialty contractor” means a contractor whose 634 scope of work and responsibility is limited to a particular 635 phase of construction established in a category adopted by board 636 rule and whose scope is limited to a subset of the activities 637 described in one of the paragraphs of this subsection.

Section 14. Paragraphs (b) and (c) of subsection (4) of 639 section 489.107, Florida Statutes, are amended to read: 640

489.107 Construction Industry Licensing Board.— 641

(4) The board shall be divided into two divisions, Division 642 I and Division II. 643

(b) Division II is comprised of the roofing contractor, 644 sheet metal contractor, air-conditioning contractor, mechanical 645 contractor, pool contractor, plumbing contractor, and 646 underground utility and excavation contractor members of the 647 board; one of the members appointed pursuant to paragraph 648 (2)(j); and one of the members appointed pursuant to paragraph 649 (2)(k). Division II has jurisdiction over the regulation of 650 contractors defined in s. 489.105(3)(d)-(q) 489.105(3)(d)-(p). 651

(c) Jurisdiction for the regulation of specialty 652 contractors defined in s. 489.105(3)(r) 489.105(3)(q) shall lie 653 with the division having jurisdiction over the scope of work of 654 the specialty contractor

as defined by board rule. 655

Section 15. Paragraph (g) of subsection (2) of section 656 489.141, Florida Statutes, is amended to read: 657

489.141 Conditions for recovery; eligibility.— 658

(2) A claimant is not qualified to make a claim for 659 recovery from the recovery fund, if: 660

(g) The claimant has contracted with a licensee to perform 661 a scope of work described in s.

489.105(3)(d)-(r) 489.105(3)(d)-662 (q). 663

Section 16. Subsection (1) of section 514.028, Florida 664 Statutes, is amended to read: 665

514.028 Advisory review board.— 666

(1) The Governor shall appoint an advisory review board 667

which shall meet as necessary or at least quarterly, to 668 recommend agency action on variance request, rule and policy 669 development, and other technical review problems. The board 670 shall be comprised of the following: 671

(a) A representative from the office of licensure and 672 certification of the department. 673

(b) A representative from the county health departments. 674

(c) Three representatives from the swimming pool 675 construction industry. 676

(d) A representative Two representatives from the public 677 lodging industry. 678

(e) A representative from a county or local building 679 department. 680

Section 17. Subsection (3) of section 527.06, Florida 681 Statutes, is amended to read: 682

527.06 Rules.— 683

(3)(a) Rules in substantial conformity with the published 684 standards of the National Fire Protection Association (NFPA) are 685 shall be deemed to be in substantial conformity with the 686 generally accepted standards of safety concerning the same 687 subject matter. 688

(b) Notwithstanding any other law, the department or other 689 state agency may not require compliance with the minimum 690 separation distances of NFPA 58 for separation between a 691 liquefied petroleum gas tank and a building, adjoining property 692 line, other liquefied petroleum gas tank, or any source of 693 ignition, except in compliance with the minimum separation 694 distances of the 2011 edition of NFPA 58. This subsection shall 695 be deemed repealed upon the last effective date of rules 696

adopted, directly or as incorporated by reference, by the 697 department, the Florida Building Commission as part of the 698 Florida Building Code, and the Office of State Fire Marshal as 699 part of the Florida Fire Prevention Code of these minimum 700 separation distances as contained in the 2011 edition of NFPA 58 701 promulgated by the National Fire Protection Association. 702

Section 18. Subsection (11) of section 527.21, Florida 703 Statutes, is amended to read: 704

527.21 Definitions relating to Florida Propane Gas 705 Education, Safety, and Research Act.—As used in ss. 527.20-706 527.23, the term: 707

(11) “Propane” includes propane, butane, mixtures, and 708 liquefied petroleum gas as defined by the National Fire 709 Protection Association (NFPA) Standard 58, For The Storage and 710 Handling of Liquefied Petroleum Gas Code Gases. 711

Section 19. Subsections (1), (2), (3), (9), and (15) of 712 section 553.73, Florida Statutes, are amended to read: 713

553.73 Florida Building Code.— 714

(1)(a) The commission shall adopt, by rule pursuant to ss. 715 120.536(1) and 120.54, the Florida Building Code and a Florida 716 supplement to the International Code Council’s set of codes 717 which contains or incorporates shall contain or incorporate by 718 reference all laws and rules that which

pertain to and govern 719 the design, construction, erection, alteration, modification, 720 repair, and demolition of public and private buildings, 721 structures, and facilities and enforcement of such laws and 722 rules, except as otherwise provided in this section. 723

(a)(b) The technical portions of the Florida Accessibility 724 Code for Building Construction shall be contained in their 725

entirety in the Florida Building Code supplement to the 726 International Accessibility Code. The civil rights portions and 727 the technical portions of the accessibility laws of this state 728 shall remain as currently provided by law. Any revision or 729 amendments to the Florida Accessibility Code for Building 730 Construction pursuant to part II shall be placed in the next 731 edition of the supplement considered adopted by the commission 732 as part of the Florida Building Code. Neither the commission nor 733 any local government shall revise or amend any standard of the 734 Florida Accessibility Code for Building Construction except as 735 provided for in part II. 736

(b)(c) The Florida Fire Prevention Code and the Life Safety 737 Code shall be referenced in the Florida Building Code, but shall 738 be adopted, modified, revised, or amended, interpreted, and 739 maintained by the Department of Financial Services by rule 740 adopted pursuant to ss. 120.536(1) and 120.54. The Florida 741 Building Commission may not adopt a fire prevention or 742 lifesafety code, and nothing in the Florida Building Code shall 743 affect the statutory powers, duties, and responsibilities of any 744 fire official or the Department of Financial Services. 745

(c)(d) Conflicting requirements between the Florida 746 Building Code and the Florida Fire Prevention Code and Life 747 Safety Code of the state established pursuant to ss. 633.022 and 748 633.025 shall be resolved by agreement between the commission 749 and the State Fire Marshal in favor of the requirement that 750 offers the greatest degree of lifesafety or alternatives that 751 would provide an equivalent degree of lifesafety and an 752 equivalent method of construction. If the commission and State 753 Fire Marshal are unable to agree on a resolution, the question 754

shall be referred to a mediator, mutually agreeable to both 755 parties, to resolve the conflict in favor of the provision that 756 offers the greatest lifesafety, or alternatives that would 757 provide an equivalent degree of lifesafety and an equivalent 758 method of construction. 759

(d)(e) Subject to the provisions of this act, 760 responsibility for enforcement, interpretation, and regulation 761 of the Florida Building Code shall be vested in a specified 762 local board or agency, and the terms words “local government” 763 and “local governing body” as used in this part shall be 764 construed to refer exclusively to such local board or agency. 765

(2) The Florida Building Code and supplement must shall 766 contain provisions or requirements for public and private 767 buildings, structures, and facilities relative to structural, 768 mechanical, electrical, plumbing, energy, and gas systems, 769 existing buildings, historical buildings, manufactured 770 buildings, elevators, coastal construction, lodging facilities, 771 food sales and food service facilities, health care facilities, 772 including assisted living facilities, adult day care facilities, 773 hospice residential and inpatient facilities and units, and 774 facilities for the control of radiation hazards, public or 775 private educational facilities, swimming pools, and correctional 776 facilities and enforcement of and compliance with such 777 provisions or requirements. Further, the Florida Building Code 778 and supplement must provide for uniform implementation of ss. 779 515.25, 515.27, and 515.29 by including standards and criteria 780 for residential swimming pool barriers, pool covers, latching 781 devices, door and window exit alarms, and other equipment 782 required therein, which are consistent with the intent of s. 783

515.23. Technical provisions to be contained within the Florida 784 Building Code are restricted to requirements related to the 785 types of materials used and construction methods and standards 786 employed in order to meet criteria specified in the Florida 787 Building code. Provisions relating to the personnel, supervision 788 or training of personnel, or any other professional 789 qualification requirements relating to contractors or their 790 workforce may not be included within the Florida Building Code, 791 and subsections (4), (6), (7), (8), and (9) are not to be 792 construed to allow the inclusion of such provisions within the 793 Florida Building code by amendment. This restriction applies

to 794 both initial development and amendment of the Florida Building 795 Code and supplement. 796
(3) The commission shall use the International Codes 797 published by the International Code Council, the National 798 Electric Code (NFPA 70), or other nationally adopted model codes 799 and standards needed to supplant or apply the base code in 800 Florida select from available national or international model 801 building codes, or other available building codes and standards 802 currently recognized by the laws of this state, to form the 803 foundation for building code standards and the Florida Building 804 Code and supplement. The commission may modify the selected 805 model codes and standards as needed to accommodate the specific 806 needs of this state. Standards or criteria referenced by the 807 selected model codes shall be similarly incorporated by 808 reference. If a referenced standard or criterion requires 809 amplification or modification to be appropriate for use in this 810 state, only the amplification or modification shall be 811 specifically set forth in the Florida Building Code. The Florida 812

Building Commission may approve technical amendments to the 813 code, subject to the requirements of subsections (8) and (9), 814 after the amendments have been subject to the following 815 conditions: 816

(a) The proposed amendment has been published on the 817 commission's website for a minimum of 45 days and all the 818 associated documentation has been made available to any 819 interested party before any consideration by a any technical 820 advisory committee; 821

(b) In order for a technical advisory committee to make a 822 favorable recommendation to the commission, the proposal must 823 receive a three-fourths vote of the members present at the 824 technical advisory committee meeting and at least half of the 825 regular members must be present in order to conduct a meeting; 826

(c) After technical advisory committee consideration and a 827 recommendation for approval of any proposed amendment, the 828 proposal must be published on the commission's website for at 829 least not less than 45 days before any consideration by the 830 commission; and 831

(d) A Any proposal may be modified by the commission based 832 on public testimony and evidence from a public hearing held in 833 accordance with chapter 120. 834
835

The commission shall incorporate within sections of the Florida 836 Building Code provisions which address regional and local 837 concerns and variations. The commission shall make every effort 838 to minimize conflicts between the Florida Building Code, the 839 Florida Fire Prevention Code, and the Life Safety Code. 840

(9)(a) The commission may approve technical amendments to 841 the Florida Building Code once each year for statewide or 842 regional application upon a finding that the amendment: 843

1. Is needed in order to accommodate the specific needs of 844 this state. 845
2. Has a reasonable and substantial connection with the 846 health, safety, and welfare of the general public. 847
3. Strengthens or improves the Florida Building Code, or in 848 the case of innovation or new technology, will provide 849 equivalent or better products or methods or systems of 850 construction. 851

4. Does not discriminate against materials, products, 852 methods, or systems of construction of demonstrated 853 capabilities. 854

5. Does not degrade the effectiveness of the Florida 855 Building Code. 856
857

Furthermore, The Florida Building Commission may also approve 858 technical amendments to the code once every 3 years in order 859 each year to incorporate into the Florida Building Code its own 860 interpretations of the code which are embodied in its opinions, 861 final orders, declaratory statements, and interpretations of 862 hearing officer panels under s. 553.775(3)(c), but shall do so 863 only to the extent that the incorporation of interpretations is 864 needed to modify the foundation codes to

accommodate the 865 specific needs of this state. Amendments approved under this 866 paragraph shall be adopted by rule pursuant to ss. 120.536(1) 867 and 120.54, after the amendments have been subjected to the 868 provisions of subsection (3). 869

(b) A proposed amendment must shall include a fiscal impact 870 statement that which documents the costs and benefits of the 871 proposed amendment. Criteria for the fiscal impact statement 872 shall be established by rule by the commission and shall include 873 the impact to local government relative to enforcement, the 874 impact to property and building owners, and the impact as well 875 as to industry, relative to the cost of compliance. A proposed 876 amendment to the base code must also include specific 877 justifications for why this state is different from other areas 878 that have adopted the base code and why the proposed amendment 879 applies to this state and no other area or region where the base 880 code has been adopted. 881

(c) The commission may not approve a any proposed amendment 882 that does not accurately and completely address all requirements 883 for amendment which are set forth in this section. The 884 commission shall require all proposed amendments and information 885 submitted with proposed amendments to be reviewed by commission 886 staff prior to consideration by any technical advisory 887 committee. These reviews shall be for sufficiency only and are 888 not intended to be qualitative in nature. Staff members shall 889 reject any proposed amendment that fails to include a fiscal 890 impact statement. Proposed amendments rejected by members of the 891 staff may not be considered by the commission or any technical 892 advisory committee. 893

(d) Provisions of the Florida Building Code, including 894 those contained in referenced standards and criteria, relating 895 to wind resistance or the prevention of water intrusion may not 896 be amended pursuant to this subsection to diminish those 897 construction requirements; however, the commission may, subject 898 to conditions in this subsection, amend the provisions to 899 enhance those construction requirements. 900

(15) An agency or local government may not require that 901 existing mechanical equipment on the surface of a roof be 902 installed in compliance with the requirements of the Florida 903 Building Code until the equipment is required to be removed or 904 replaced, or the roof is replaced or recovered. 905

Section 20. Paragraph (v) of subsection (1) of section 906 553.74, Florida Statutes, is amended to read: 907

553.74 Florida Building Commission.— 908

(1) The Florida Building Commission is created and shall be 909 located within the Department of Community Affairs for 910 administrative purposes. Members shall be appointed by the 911 Governor subject to confirmation by the Senate. The commission 912 shall be composed of 25 members, consisting of the following: 913

(v) One member who is a representative of the green 914 building industry and who is a third-party commission agent, a 915 Florida board member of the United States Green Building Council 916 or Green Building Initiative, a professional who is accredited 917 under the International Green Construction Code (IGCC), or a 918 professional who is accredited under Leadership in Energy and 919 Environmental Design (LEED) LEED-accredited professional. 920 921

Any person serving on the commission under paragraph (c) or 922 paragraph (h) on October 1, 2003, and who has served less than 923 two full terms is eligible for reappointment to the commission 924 regardless of whether he or she meets the new qualification. 925

Section 21. Subsection (5) of section 553.842, Florida 926 Statutes, is amended to read: 927

553.842 Product evaluation and approval.— 928

(5) Statewide approval of products, methods, or systems of 929 construction may be achieved by one of the following methods. 930 One of these methods must be used by the commission to approve 931 the following categories of products: panel walls, exterior 932 doors, roofing, skylights, windows, shutters,

and structural 933 components as established by the commission by rule. Products 934 advertised, sold, offered, provided, distributed, or marketed as 935 hurricane, windstorm, or impact protection from wind-borne 936 debris during a hurricane or windstorm must be approved in 937 accordance with s. 553.842 or s. 553.8425. 938

(a) Products for which the code establishes standardized 939 testing or comparative or rational analysis methods shall be 940 approved by submittal and validation of one of the following 941 reports or listings indicating that the product or method or 942 system of construction was evaluated to be in compliance with 943 the Florida Building Code and that the product or method or 944 system of construction is, for the purpose intended, at least 945 equivalent to that required by the Florida Building Code: 946

1. A certification mark or listing of an approved 947 certification agency, which may be used only for products for 948 which the code designates standardized testing; 949
2. A test report from an approved testing laboratory; 950
3. A product evaluation report based upon testing or 951 comparative or rational analysis, or a combination thereof, from 952 an approved product evaluation entity; or 953
4. A product evaluation report based upon testing or 954 comparative or rational analysis, or a combination thereof, 955 developed and signed and sealed by a professional engineer or 956 architect, licensed in this state. 957

958

A product evaluation report or a certification mark or listing 959 of an approved certification agency which demonstrates that the 960 product or method or system of construction complies with the 961 Florida Building Code for the purpose intended is shall be 962 equivalent to a test report and test procedure as referenced in 963 the Florida Building Code. An application for state approval of 964 a product under subparagraph 1. must be approved by the 965 department after the commission staff or a designee verifies 966 that the application and related documentation are complete. 967 This verification must be completed within 10 business days 968 after receipt of the application. Upon approval by the 969 department, the product shall be immediately added to the list 970 of state-approved products maintained under subsection (13). 971 Approvals by the department shall be reviewed and ratified by 972 the commission's program oversight committee except for a 973 showing of good cause that a review by the full commission is 974 necessary. The commission shall adopt rules providing means to 975 cure deficiencies identified within submittals for products 976 approved under this paragraph. 977

(b) Products, methods, or systems of construction for which 978 there are no specific standardized testing or comparative or 979 rational analysis methods established in the code may be 980 approved by submittal and validation of one of the following: 981

1. A product evaluation report based upon testing or 982 comparative or rational analysis, or a combination thereof, from 983 an approved product evaluation entity indicating that the 984 product or method or system of construction was evaluated to be 985 in compliance with the intent of the Florida Building Code and 986

that the product or method or system of construction is, for the 987 purpose intended, at least equivalent to that required by the 988 Florida Building Code; or 989

2. A product evaluation report based upon testing or 990 comparative or rational analysis, or a combination thereof, 991 developed and signed and sealed by a professional engineer or 992 architect, licensed in this state, who certifies that the 993 product or method or system of construction is, for the purpose 994 intended, at least equivalent to that required by the Florida 995 Building Code. 996 Section 22. Subsections (3), (4), and (5) of section 997 553.909, Florida Statutes, are amended to read: 998

553.909 Setting requirements for appliances; exceptions.— 999

(3) Commercial or residential swimming pool pumps or water 1000 heaters manufactured on or after July 1, 2011, for installation 1001 in this state must shall comply with the requirements of the 1002 Florida Energy Efficiency Code for Building Construction this 1003 subsection. 1004

- (a) Natural gas pool heaters shall not be equipped with 1005 constantly burning pilots. 1006
- (b) Heat pump pool heaters shall have a coefficient of 1007 performance at low temperature of not less than 4.0. 1008
- (c) The thermal efficiency of gas-fired pool heaters and 1009 oil-fired pool heaters shall not be less than 78 percent. 1010
- (d) All pool heaters shall have a readily accessible on-off 1011 switch that is mounted outside the heater and that allows 1012 shutting off the heater without adjusting the thermostat 1013 setting. 1014
- (4)(a) Residential swimming pool filtration pumps and pump 1015 motors manufactured and sold on or after July 1, 2011, for 1016 installation in this state must comply with the requirements of 1017 the Florida Energy Efficiency Code for Building Construction in 1018 this subsection. 1019
- (b) Residential filtration pool pump motors shall not be 1020 split-phase, shaded-pole, or capacitor start-induction run 1021 types. 1022
- (c) Residential filtration pool pumps and pool pump motors 1023 with a total horsepower of 1 HP or more shall have the 1024 capability of operating at two or more speeds with a low speed 1025 having a rotation rate that is no more than one-half of the 1026 motor's maximum rotation rate. 1027
- (d) Residential filtration pool pump motor controls shall 1028 have the capability of operating the pool pump at a minimum of 1029 two speeds. The default circulation speed shall be the 1030 residential filtration speed, with a higher speed override 1031 capability being for a temporary period not to exceed one normal 1032 cycle or 24 hours, whichever is less; except that circulation 1033 speed for solar pool heating systems shall be permitted to run 1034 at higher speeds during periods of usable solar heat gain. 1035
- (5) Portable electric spas manufactured and sold on or 1036 after July 1, 2011, for installation in this state must comply 1037 with the requirements of the Florida Energy Efficiency Code for 1038 Building Construction spa standby power shall not be greater 1039 than $5(V/3)$ watts where V = the total volume, in gallons, when 1040 spas are measured in accordance with the spa industry test 1041 protocol.

Section 23. Paragraph (a) of subsection (2) of section 1043 627.711, Florida Statutes, is amended to read: 1044

627.711 Notice of premium discounts for hurricane loss 1045 mitigation; uniform mitigation verification inspection form.— 1046

(2)(a) The Financial Services Commission shall develop by 1047 rule a uniform mitigation verification inspection form that 1048 shall be used by all insurers when submitted by policyholders 1049 for the purpose of factoring discounts for wind insurance. In 1050 developing the form, the commission shall seek input from 1051 insurance, construction, and building code representatives. 1052 Further, the commission shall provide guidance as to the length 1053 of time the inspection results are valid. An insurer shall 1054 accept as valid a uniform mitigation verification form signed by 1055 the following authorized mitigation inspectors: 1056

1. A home inspector licensed under s. 468.8314 who has 1057 completed at least 3 hours of hurricane mitigation training 1058 approved by the Construction Industry Licensing Board which 1059 includes hurricane mitigation techniques and compliance with the 1060 uniform mitigation verification form and completion of a 1061 proficiency exam. Thereafter, home inspectors licensed under s. 1062 468.8314 must complete at least 2 hours of continuing education, 1063 as part of the existing licensure renewal requirements each 1064 year, related to mitigation inspection and the uniform 1065 mitigation form; 1066
2. A building code inspector certified under s. 468.607; 1067
3. A general, building, or residential contractor licensed 1068 under s. 489.111; 1069
4. A professional engineer licensed under s. 471.015; 1070
5. A professional architect licensed under s. 481.213; or 1071
6. Any other individual or entity recognized by the insurer 1072 as possessing the necessary qualifications

to properly complete 1073
a uniform mitigation verification form. 1074

Section 24. This act shall take effect July 1, 2011. 1075

ATTACHMENT 2

COMMISSION RELOCATION WHITE PAPER

A WHITE PAPER ON THE RELOCATION OF THE FLORIDA BUILDING COMMISSION WITHIN STATE GOVERNMENT

The Florida Building Commission is a 25 member collegial body with diverse representation from the construction industry, building owners and state and local governments. Its role is to oversee the updating and maintenance of the Florida Building Code, the primary state regulation governing the safety of the built environment. The building code establishes standards for the broad array of building systems, so to manage its task the Commission relies on a small core staff that coordinate and manage processes which access the specialized expertise of over a hundred volunteer committee members and countless additional industry and government participants.

The Florida Building Code is one of two major building construction codes dictated by state law. The second code is the Florida Fire Prevention Code administered by the State Fire Marshal's Office which is a part of the Building Code by reference. Coordination of the two codes at the state and local levels is critical to efficiency in the building design and construction process. The Commission and the State Fire Marshal have established coordinating committees and processes that address overlaps in the codes during revisions and updates and for interpretation of the codes.

The Commission is responsible for major programs that support the Code and it is a resource for building construction technical expertise to other state agencies. The primary program areas or responsibility additional to the update and maintenance of the Florida Building Code are the state product approval system, which provides quality assurance for hurricane protection building products and systems, and building code training and education. The Commission has also applied its network of technical experts to insurance, onsite sewage system, termite control, swimming pool safety and other issues under the authority of other agencies.

The unique characteristic of the Florida Building Commission's business processes relative to other state regulatory agencies is its approach to establishing regulations. Government agencies have input to the development of their regulations but the regulations are ultimately written by the agencies. The Commission's approach is to involve a broad spectrum of effected industry stakeholders in all of its decisions. The majority of the building code's requirements are proposed by the public but where special issues such as hurricane related building failures are investigated by the Commission structured consensus development processes are employed to investigate issues and develop solutions by committees of industry and government specialists. This approach brings the expertise of hundreds of private and public sector volunteers who invest tens of thousands of hours in the Commission's work. The high standard for consensus, seventy five percent for approval, ensures balanced decisions and fair treatment to all industry participants.

Also of special note are the efficiencies the Commission and its support group the Building Codes and Standards Office have implemented to increase the productivity of this large scale use of the private sector expertise to develop government regulations. These efficiency gains have resulted in a fifteen staff persons supporting a level of effort that originally required twenty one. The core of the business system that allows these efficiency gains is the Building Code Information System (BCIS)

through which all functions are managed other than direct calls for building code technical assistance. This award winning system is a key element of the Commission and Building Codes and Standards Office business system that must be maintained to ensure continued performance and success.

This paper addresses the Florida Building Commission's perspective of where in state government it believes it would best fit and thrive. The primary goal is to seek placement in an organization where its approach to governance can survive and thrive rather than be molded into the culture or format of existing bureaucracies. The difficulty is there are no other areas of government currently identified where the Building Commission's approach to governance and its business processes exist. The Commission is unique in extent of its reliance on outside parties to work on its regulations and it is unique in that its Chairman is appointed by the Governor and confirmed by the Florida Senate. These characteristics have been crucial to its ability to apply science and practical private sector expertise to building construction problems with minimal undue influence of special interests. They must be preserved in any relocation for the Commission's continued responsiveness to industry and public needs.

An overview of the business processes of the Commission and the Building Codes and Standards Office that supports it are provided in the attachment to this paper. As indicated the core mission of the Office is support of the Commission but it also manages related programs such as the building department for factory built buildings and the energy efficiency ratings system for buildings program. To ensure the continued success of the Commission these business processes must be a "good fit" with the business processes of whatever organization it is incorporated into or the host organization must be flexible enough to allow continued operation of these processes.

The Commission requests that reviewers compare its role in building construction regulation, its process of private sector driven development of building code regulations and its business practices and technology system to those of the organizations being considered for it to merge with. There are similarities with units within several existing agencies and perhaps future agencies that should be evaluated in determining the best fit. We trust that evaluation will be deeper than consideration that the Commission and another organization both deal with some aspect of the construction industry.

POTENTIAL AGENCIES FOR RELOCATION:

Other States:

Building codes and standards functions are located in several different agencies in other states and the US Government including departments of community affairs, insurance, state, housing and commerce. Codes are related to the mission of those agencies in differing ways. Below is a discussion of those agencies that exist or may be revived in Florida and how the Florida Building Commission would be similar or may fit within each.

Department of Community Affairs

These state agencies characteristically provide support to local governments and provide an interface between local governments and federal agencies that promote community development. Building codes are a key program for promoting health, safety and welfare of the public in the domain of the built environment as a component of community development.

The Commission is currently attached to the Florida DCA for administrative support but that agency is targeted for elimination and its programs are to be reduced or relocated.

Department of State

The Florida Department of State has programs that support the preservation of historic buildings and have a unique role in Florida and federal law in determining how certain aspects of the building and fire codes are applied to historic structures.

Little is known about the business processes and organization of the DOS but its presumed strength of choice is the Commission could be organized into the agency in a manner that maintains its autonomy and preserves its business processes with little interference.

Department of Financial Services (Insurance)

The Florida agency that regulates insurance is incorporated into the Department of Financial Services. The program within the DFS that is most similar to the Commission's areas of responsibility is the State Fire Marshal's Office which includes a bureau responsible for the Florida Fire Prevention Code. The Florida Building Code and the Florida Fire Prevention Code are the two major building codes that govern the safety of the built environment and Florida law requires close coordination of their requirements.

The business processes of the Fire Code bureau and the Commission are similar and there could be significant enhancements for the Fire Code by integrating the bureau's business processes into the Commission's BCIS. Conversely, the Fire Code administration system in Florida has a more advanced Fire Code education and training system that could be extended to improve effectiveness of the Building Code. The key unknown and underlying suspicion of industry is how independence of the Commission could be maintained within the organization of a strong SFM. Cultural differences and rivalries between the fire services realm and building code enforcement realm are an impediment that would raise significant questions as to how integration into DFS would occur while establishing appropriate deference to or promoting integration of the two cultures.

Department of Business and Professional Regulation

This agency is well known to most stakeholders in the building construction industry via its professions licensing functions. There are similarities and significant differences in the business processes of the Commission and the licensing boards that are organized within or supported by DBPR's Division of Professions. The greatest similarity is both regulate the actions of contractors, architects, engineers (some types), building code enforcement personnel and private inspectors of different types. However, what and how the building code and the licensing boards' regulations affect those parties differ significantly.

The DBPR also has a business regulation function that may be more similar in its business processes to those of the Commission. As example, the Bureau of Elevators in the business regulation side of DBPR establishes and maintains the construction standards for elevators in buildings. Those regulations are then incorporated into the Florida Building Code. The Bureau operates with an advisory committee similar to the Commission's Technical Advisory Committees. The Bureau also administers state requirements for inspection of elevator installations via a private third party inspection system which is similar to the Building Codes and Standards Office administration of the factory built buildings design and construction inspection program.

A specific concern with relocation of the Commission and Codes and Standards Office into this agency is potential impacts on the Commission's streamlined business practices. On the Professions side of the agency the approach to improving efficiency and productivity has been to group all similar functions for a large number of licensing boards into separate units which then provide

consistent business practices for all boards. This approach inherently creates a more rigid organizational structure with less flexibility for diversity and ability to tailor business processes for service delivery to specific needs of different client groups. This type organization may not be the best fit for the Commission's own approach to efficiency optimization and its current business practices.

A possible better fit for the Commission within the DBPR may be direct attachment to the DBPR Secretary's Office via a "Type I" transfer. This organizational approach was once considered for the Commission in its early days with DCA. The reasoning is both the Secretary of the agency that provides staffing and administrative support to the Commission and the Chairman of the Commission are both appointed by and serve at the pleasure of the Governor (unlike all other boards). With this organizational structure the lines of communication and responsibility are more direct and appropriately do not go through a subordinate of the Department Secretary, a division director. This organizational approach would also shield the Commission from some levels of the bureaucratic in-fighting over budgets and policy priorities and potential interference of other boards or entities.

Best Fit and Evolving Option

The best option would be establishment of an Agency or a major unit within a new Agency that combines state government building construction support and regulation programs within one organization that could provide effective coordination of construction related policies. Building construction like agriculture and tourism is a major industry and source of jobs in Florida and it warrants a government organization that can promote it and provide efficient and balanced regulation. While such an agency does not currently exist there are potential options for pursuing this approach to governance.

An option is for the Commission to travel with the Division of Housing and Community Development (HCD), within which it is currently organized, to whichever agency the Division will be relocated in. The Building Codes and Standards Office was created within the Department of Veterans and Community Affairs in 1974 and subsequently organized within the Division of Housing and Community Development in the current Department of Community Affairs in a limited version of the combined support and regulation approach to governance. In addition to the Building Codes and Standards Office the Division includes programs that support housing and the development of infrastructure essential to construction in Florida communities. Also, until it was spun off as an independent agency the Florida Housing Finance Agency, which provides major funding support to housing construction, was located within the Department of Community Affairs and aligned with the Division's programs. The Commission has been allowed to innovate and thrive within the Division during its developmental years. Continued association with the Division or other similar organization would better ensure it continues to innovate and adapt to changes in the industry than any other current organizational option.

An organization which maintains the current Division of Housing and Community Development support and public safety programs as its core offers additional possibilities in the current climate of government reinvention. Programs directly related to building construction could be relocated from other agencies into a construction-centric agency or agency sub-division. The evolution of the HCD core group of programs into an organization that can be more responsive to the efficiencies necessary to streamline government/industry interactions becomes a more real possibility than with a reorganization approach that separates construction industry regulation and support into different

agencies. Silo-ing has been the standard approach employed for the past 30 years and has resulted in a system lacking coordination and balance between the dual goals of both facilitating and regulating the construction industry. On the regulation side building codes, fire codes, health codes, elevator codes and numerous facility licensing programs all of which dictate construction standards are spread throughout different agencies with their own narrow focus. The specific mission and focus of the different agencies inherently create impediments to coordination and promotion of a comprehensive regulatory construct that would improve government effectiveness and construction industry efficiency. The Florida Building Code and the system created to support it was the first major effort to confront and improve the coordination of the multiple state agencies' construction regulations. The next step could be the initiation of an agency or entity that could evolve to bring all the construction industry regulatory and government support pieces into one organization.