

MEMORANDUM

TO: Building Officials and Other Interested Parties

FROM: G. Steven Pfeiffer, Chairman
Florida Building Commission

SUBJECT: Petitions for Declaratory Statement

DATE: September 18, 1998

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As you are aware, the 1998 Legislature created the Florida Building Commission and charged the commission with the task of establishing a uniform statewide building code for the state of Florida. We are pleased to be working with all building officials and other interested parties across the state in implementing this task.

In creating the commission, the legislature also changed many of the powers which used to belong to the Florida Board of Building Codes and Standards. Whereas the Board had authority to issue informal written interpretations and advisory opinions on the minimum building codes, the commission is authorized to issue written petitions for declaratory statement.

A declaratory statement is an administrative process by which the commission can answer your questions regarding the applicability of a statute, rule or order to a particular factual situation. As of July 1, 1998, the commission has the authority to respond to petitions concerning the following issues:

New technologies, techniques and materials which have been tested where necessary and found to meet the objectives of the State Minimum Building Codes and the Florida Manufactured Building Act of 1979.

The interpretation, enforcement, administration, or modification by local governments of the State Minimum Building Codes and the Florida Manufactured Building Act of 1979.

A state agency's interpretation and enforcement of the specific model code adopted by the agency to regulate building construction or relating to the conformity of new technologies, techniques and materials to the objectives of that model code.

Provisions relating to classification of threshold buildings, required documentation

for permitting of new buildings or additions, and documentation required prior to issuance of a CO.

Effective January 1, 2001, the commission is authorized to issue declaratory statements regarding the following issues:

New technologies, techniques and materials which have been tested where necessary and found to meet the objectives of the Florida Building Code.

The interpretation, enforcement, administration, or modification by local governments of the Florida Building Code.

Relating, generally, to part VII of ch. 553, which will be titled, "Florida Building Code."

A state agency's interpretation and enforcement of the specific provisions of the Florida Building Code or relating to the conformity of new technologies, techniques and materials to the objectives of the Florida Building Code.

A request for declaratory statement on any of these issues should be initiated by filing a petition with the department. The petition should follow some basic form and content requirements, which are attached in Rule Chapter 28-105 for your information. A sample petition for declaratory statement is also attached as a guide. To summarize, the following is required of a petition for declaratory statement:

File your petition with the clerk of the commission, Paula Ford, at the Department of Community Affairs. You may want to copy staff of the Codes and Standards Section, but just sending staff a copy, does not constitute filing a petition. (This is important because the commission has 90 days to respond to your petition from the date it is filed with the clerk.)

Title your request, "Petition for Declaratory Statement before the Florida Building Commission." Include your name, address, telephone and fax numbers, and the same information for your attorney, if you have one.

Include the statutory provision, commission rule or order on which you are seeking an interpretation. Describe how the statute, rule or order may potentially affect you in your particular set of circumstances.

Sign and date your petition.

Upon receipt of your petition, commission staff will review it for completeness and cause it to be published in the Florida Administrative Weekly (FAW). It will be assigned to the appropriate committee, or to the full commission for discussion and action. The final action on a petition must be taken within 90 days of receipt and published in the FAW. A declaratory statement is final agency action by the commission. That means a declaratory statement is appealable to the district court, not challenged in an administrative hearing.

I hope this information is helpful to you in interacting with the commission and staff during this time of transition to a new uniform statewide building code. Please contact Suzanne H. Schmith, Staff Attorney, at

(850) 922-1689 if you have questions or need further assistance.