

DS 2026-058 by Ian Cohen of My Amelia, Inc.

Summary of Issue:

Petitioner is a private provider of building code inspection services. Petitioner notes that HB 803 (2026) made changes to the statutory provisions pertaining to private providers, and presents a number of questions concerning its responsibilities.

Petitioner's Questions:

Petitioner presents the following questions:

- 1) Does the addition of the word “explicit” to 553.791(2)(a) have any impact on the previously adopted Form 61G20-2.005-2.002-01 to provide a Notice to Building Official?
- 2) Is a separate owner authorization required if the fee owner signs the Commission’s Notice to Building Official Form 61G20-2.005-2.002-01?
- 3) Is the fee owner authorization required to include the scope of contractor’s work (similar to a Notice of Commencement) in order to be “explicit” under §553.791(2)(a)?
- 4) Are there any restrictions related to the method of execution for the explicit fee owner authorization, such as original wet-ink signatures, under oath, or notarization?
- 5) When registering under §553.791(4) is a Duly Authorized Representative for a Private Provider required to submit photo ID, residential address or date of birth?
- 6) Is a private provider still required to resubmit copies of the Duly Authorized Representative information and Certificate of Insurance with each NTBO?

Relevant Provisions:

Section 553.775(3)(a), Florida Statutes (2026), provides that the Commission shall “issue declaratory statements pursuant to s. 120.565 relating to the enforcement or administration by local governments of the Florida Building Code or the Florida Accessibility Code for Building Construction.” (underlining provided)

Rule 28-105.001, Florida Administrative Code, states that “[a] declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority.” (underlining provided)

Staff's Suggested Answers:

The Florida Building Commission has limited involvement with, or authority concerning, the utilization of private providers or the interactions between private providers and local building officials.

The Commission does not have general enforcement authority over the conduct of building officials or private providers. As explicitly stated in section 553.791(21):

When performing building code inspection services, a private provider is subject to the disciplinary guidelines of the applicable professional board with jurisdiction over his or her license or certification under chapter 468, chapter 471, or chapter 481. All private providers shall be subject to the disciplinary guidelines of s. 468.621(1)(c)-(h). Any complaint processing, investigation, and discipline that arise out of a private provider's performance of building code inspection services shall be conducted by the applicable professional board.

Likewise, section 468.621(1)(i), Florida Statutes (2026), provides that disciplinary action can be taken by the Florida Building Code Administrators and Inspectors Board against licensees “[f]ailing to lawfully execute the duties and responsibilities specified in this part and ss. 553.73, 553.781, 553.79, and 553.791.”

The Commission has been tasked with creating certain forms to be used when a private provider is involved with a project. Section 553.791(5), Florida Statutes (2026), directs the Commission to adopt a form to provide notice to the local building official that a private provider will be utilized. Section 553.791(14), Florida Statutes (2026), directs the Commission to provide a form to record inspections performed by the private provider. Section 553.791(15), Florida Statutes (2026), directs the Commission to provide a form to be used for the preparation of a certificate of compliance that summarizes the inspections performed and states that, to the best of the private provider's knowledge and belief, the building construction inspected complies with the approved plans and applicable codes.

In addition to creating these forms, the Commission is charged with hearing the appeal of certain decisions rendered by the local building official:

If the local building official and private provider are unable to resolve the dispute, the matter shall be referred to the local enforcement agency's board of appeals, if one exists, which shall consider the matter at its next scheduled meeting or sooner. Any decisions by the local enforcement agency's board of appeals, or local building official if there is no board of appeals, may be appealed to the commission as provided by this chapter.

Section 553.791(17)(b), Florida Statutes (2026) (underlining provided). *See also* section 553.791(17)(c), Florida Statutes (2026). The only provision in chapter 553, Florida Statutes (2026), which provides for the appeal of a local building official to the Commission is section 553.775(3)(c), Florida Statutes (2026), which states that “[t]he commission shall review decisions of local building officials and local enforcement agencies regarding interpretations of the Florida Building Code or the Florida Accessibility Code for Building Construction after the local board of appeals has considered the decision, if such board exists, and if such appeals process is concluded

within 25 business days.”¹ Thus, even the Commission’s authority to review disputes between the building official and the private provider is limited to interpretations of the Florida Building Code or the Florida Accessibility Code for Building Construction, not the private provider statutes.

Aside from the creation of the related forms that will be used statewide, the Legislature did not task the Commission with creating, enforcing, or interpreting any of the provisions pertaining to the utilization of private providers. As the Commission does not have authority over these provisions, it cannot issue a declaratory statement regarding their application.

Accordingly, the Commission provides the following responses to Petitioner’s questions:

- 1) Form 61G20-2.005-2.002-01 remains in effect, but, as noted in the notice of development published on July 27, 2026, in volume 52/144 of the Florida Administrative Register, the rule is currently under development in response to the identified statutory changes.
- 2) The Commission is without jurisdiction to answer this question.
- 3) The Commission is without jurisdiction to answer this question.
- 4) The Commission is without jurisdiction to answer this question.
- 5) The Commission is without jurisdiction to answer this question.
- 6) The Commission is without jurisdiction to answer this question.

¹ Section 553.73(11), Florida Statutes (2026), provides an avenue to appeal local decisions pertaining to conflicts between the Florida Building Code and the Florida Fire Prevention Code, but those decisions are subject to review by a joint committee comprised of members of the Florida Building Commission and the Fire Code Advisory Council, not the Commission itself. *See* section 553.73(11)(d), Florida Statutes (2026).