FLORIDA BUILDING COMMISSION

FACILITATOR’S SUMMARY REPORT OF
ISSUES FOR INCLUSION IN THE 2006 REPORT TO THE
LEGISLATURE

ADOPTED UNANIMOUSLY ON
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SUMMARY OF ISSUES FOR INCLUSION IN THE 2006 REPORT TO THE LEGISLATURE
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BUILDING CODE ISSUES

Hurricane Damage Investigations—Expedited Code Amendments
As a result of hurricanes affecting Florida during the 2004 season, the Florida Building Commission requested and was granted legislative authority to adopt code amendments in an expedited process. The legislation enacted in 2005 (SB 442 Section 34) authorized the Commission to adopt consensus-based code provisions addressing water intrusion and roof-covering attachment weaknesses, subject only to the rule adoption procedures in Chapter 120—the Expedited Code Amendment process. In addition, the Legislation identified additional specific provisions for the Commission the review and/or implement. The Commission began the process of assessing damage from the 2004 storms in late 2004, and convened the Hurricane Research Advisory Committee (HRAC) in December of 2004 to review the 2004 hurricane studies and consider amendments to the Florida Building Code related to water intrusion and roof covering attachment problems. The HRAC met at each subsequent Commission meeting during 2005, and delivered their package of recommendations for code enhancements resulting from lessons learned from hurricane storm damage, at the August 2005 Commission meeting. The Commission reviewed the Committee’s recommendations and adopted a draft package of code amendments following public comment received during the rule development workshop conducted at the August 2005 meeting. The Commission subsequently conducted a rule adoption hearing at the October 2005 meeting, and adopted a final package of expedited Code amendments, including implementing legislative requirements related to the adoption of the IRC non-vented attic criteria (SB 442 Section 33), a review of roof panel sheathing criteria (SB 442 Section 48), swimming pool exit alarm provisions (SB 442 Section 32), and adopted the most current edition of ASCE-7, wind protection requirements (SB 442 Section 36). In addition, the Commission implemented the legislative provisions related to airport noise safety guidelines (SB 442 Section 7), backflow prevention assemblies inspections (SB 442 Section 21), and the provisions related to mezzanines (SB 442 Section 44) and means of egress (SB 442 Section 46).

Implementation of 2004 Update of the 2004 Florida Building Code (SB 442 Section 40)
The Commission is required by law to update the Florida Building Code (Code) every three years, and the 2004 Edition represents the first update and second edition of the Code. The update process is based on the code development cycle of the national model building codes which serve as the “foundation” codes for the Florida Building Code. Although, the 2004 Code was scheduled to become effective on July 1, 2005, the Florida Legislature, at the request of industry groups, delayed the effective date until October 1, 2005. Industry requested additional time to become familiar and train on the differences between the Code editions. The 2004 Edition of the Code is now in effect and the Commission and stakeholders are reviewing the documents in preparation for the upcoming Glitch Amendment process. Of note, Section 553.73 (6)(e) requires that updates to the Code take effect no sooner than 6 months after publication of the updated code, and the Commission’s code development schedules reflect this requirement.
Status Report of the 2004 FBC Glitch/2006 Annual Interim Amendment Process
The Commission began its annual interim amendment process for 2006, with a focus on identifying and correcting code glitches and correlation issues related to implementation of the 2004 Edition of the Florida Building Code. The amendment submittal cut-off date was December 1, 2005 and the Commission’s Technical Advisory Committee’s will meet in January of 2006 to review the proposed amendments and make recommendations to the Commission, who will review the amendments and initiate rule-making in February of 2006. The anticipated effective date for glitch amendments is October 1, 2006.
Of particular note, during the glitch process the Commission will consider additional hurricane provision enhancements proposed by the Hurricane Research Advisory Committee as well as amendments to the FBC Residential Volume prescriptive design criteria. Specifically, the Commission is considering enhancements to the Residential Code for high wind, related to the masonry, foundations, wall coverings, wood, roofing, and windows provisions of the FRC.

2007 Florida Building Code Update Process
This will be a major focus of the Commission in 2006 and represents initiation of the triennial code update process for the 2007 Edition of the FBC. This process will begin six months after the printing an availability of the 2006 Edition of the International Building Code (IBC), and culminate in the third Edition of the Florida Building Code.

BUILDING CODE SYSTEM

Florida Building Code System Review—Triennial Report
Florida Statute, Chapter 553.77(1)(b), requires the Commission to make a continual study of the Florida Building Code and related laws and on a triennial basis report findings and recommendations to the Legislature for provisions of law that should be changed. The Commission conducted a review of the Building Code System for the first time in 2005. In order to maximize stakeholder input, the Commission solicited feedback in the form of an on-line survey (conducted from August through September 16, 2005), and convened an Ad Hoc Committee of Commissioner at the October Commission meeting. The Building Code System Ad Hoc Committee met three times, and delivered their consensus package of recommendations to the Commission at their December 2005 meeting, where the Commission adopted its own package of recommendations for enhancements to the Florida Building Code System. The primary recommendation is a request for statutory authority establishing an "expedited amendment" process in Chapter 553 for glitch and correlation (including errata) amendments. The process would allow the Commission to implement expedited amendments using only the standard Chapter 120 rule development procedures.
Construction Practices/Quality Assessment Summary

At the request of Senator Constantine, the Commission conducted an assessment process where building code system stakeholders, representing each of the key system participants, were interviewed to determine their views regarding construction practices and quality. The findings from the assessment, based on stakeholder opinions, identified a range of issues and options related to education, training, licensing, enforcement, business practices, and building codes and culminated with recommendations centered around enhanced coordination efforts. In addition, throughout most of 2005, the Commission provided specific opportunities for public comment on this issue during Commission meetings held around the State.

In general, the Commission is proactively addressing construction practices and quality issues through its ongoing code development processes. In fact, as a result of the Legislature’s approval of an expedited code adoption process for water intrusion and roof attachment issues, the Commission adopted a package of recommendations for code enhancements. The Commission continues to evaluate the various studies related to hurricane damage, and in addition to the expedited code amendments it adopted in August, the Commission will be considering additional code enhancements related to hurricane damage investigations during the glitch amendment cycle.

Finally, the Building Code System Assessments process has provided another major forum and opportunity for system enhancements based on stakeholder input and comprehensive review of the Building Code System.

FBC and FFPC Duplicate Provisions and Overlapping Responsibilities

Assessment Summary

In order to consider how to address conflicts between the Florida Building Code and the Florida Fire Prevention Code, the Commission conducted an assessment of stakeholder views, and determined there is consensus that as a first step, the technical code provisions should be reviewed and any conflicts resolved between the FBC and the FFPC.

The Joint Building Fire Technical Advisory Committee (TAC) comprised of the Commission’s Fire TAC and the State Fire Marshal’s Florida Fire Code Advisory Council, convened a process to review the technical provisions and make recommendations for any code changes. The TAC reached consensus on the threshold issue of defining what constitutes a conflict. The Joint Fire TAC agreed to narrowly define “conflicts” to mean requirements that are mutually exclusive, that is, if by satisfying the requirements of one code it would preclude the ability to satisfy the other. It was decided that in most instances, provisions were not conflicts since it was possible to comply with the requirements of both codes, when complying with the requirements of either code. It should be noted that conflicts are generally resolved as a result of complying with statute, requiring resolving the conflict in favor of the provision that offers the greatest lifesafety, or alternatives that would provide an equivalent degree of lifesafety and an equivalent method of construction. The Joint Fire TAC identified the specific Code amendments which could not be resolved by this definition, and submitted proposed amendments for consideration by the Commission during the glitch cycle. The Joint Building Fire TAC will be reviewing issues related to any further partitioning of the codes, and the overlapping jurisdictional and enforcement issues during 2006.

It should be noted that the Florida Building Commission has not had an opportunity to review the specific recommendations from the Joint Fire TAC prior to the drafting of this report, and voted
unanimously at their December 2005 meeting, that the Commission does not agree with the TAC’s recommendation regarding what constitutes a “conflict” and will be working with stakeholders to study this issue further during the 2006 annual interim/2004 glitch amendment process, where the recommendations will be considered by the Commission.

**ICC Code Development Participation**
The Commission convened a facilitated stakeholder group to make recommendation regarding how the Commission should participate in the ICC code development process. In general, as a result of limited resources and a need to focus on the Florida Building Code, the Commission determined that Florida’s existing network of ICC participants, with BOAF as lead, should propose code amendments to the Commission through the TAC review process. This means that the Commission will not participate in a formal manner, and will instead rely on the existing network of participants to monitor developments.

**PRODUCT APPROVAL SYSTEM**

**Product Approval Rule Amendments**
The Commission conducted an extensive stakeholder review process to develop consensus recommendations for refinements to the Product Approval System. The Product Approval Workgroup met for over a year and delivered their recommendations to the Commission in March of 2005. Subsequently, the Commission convened an extensive rule development process to adopt and implement the Workgroup’s recommendations, as well as the Legislative provisions for local product approval (SB 442 Section 19). Following public input during rule development, the Commission voted unanimously to adopt a package of refinements to the Rule that will become effective on January 1, 2006. Although the specific rule requirements were completed in the summer of 2005, the Commission decided to postpone the effective date since the provisions of the amended Rule require significant changes to the website prior to implementation. The Agency (DCA) worked with stakeholders and the Program Oversight Committee, to identify and implement enhancements to the web-based system designed to ensure that relevant information needed by Building Departments is easily accessible, and the application process is more user-friendly for product manufactures.

**EDUCATION SYSTEM**

**Status and Update on Education Initiatives by the Commission**
Although many of the Commission’s functions related to education were assigned to the legislatively created Building Code Education and Outreach Council, education remains a cornerstone of the building code system. The Commission remains focused on the approval of course accreditors and the courses developed and recommended by approved accreditors, through the creation of the Education Program Oversight Committee (POC). The POC meets at each Commission meeting to review the course and accreditor applications, as well as to consider and develop recommendations related to education and training for the Building Code System. In addition, the Commission is in the process of selecting a Building Code Education Administrator, to provide additional administrative and technical support for the Commission’s education functions.
2005 LEGISLATIVE ASSIGNMENTS

Panhandle Hurricane Ivan Study (SB 442 Section 39)
The 2005 Florida Legislature debated whether to revise the definition of the windborne debris region along the panhandle coast from Franklin County to the Alabama border and determined further study was warranted. It directed the Florida Building Commission to review the effects of Hurricane Ivan on damage caused by windborne debris and in conjunction with building officials from the impacted areas, to develop a recommendation for consideration by the 2006 Legislature. On September 13, 2005 the Commission conducted the first workshop which was held at the Okaloosa County Airport, for the purpose of soliciting input from local building officials and other stakeholders in the Panhandle region of the State. At the conclusion of the workshop, there was consensus for the strategy of conducting a study on the treed environment effects and historical wind data affects, prior to making recommendations to the Legislature regarding the existing definition and whether to recommend changes. At the October 2005 meeting, the Commission voted unanimously to request budgetary authority to contract with a consultant to conduct an engineering based risk assessment of hurricane windborne debris protection options for the Panhandle in order to analyze the risks, costs, and benefits of windborne debris protection for the region. The research would focus on factors unique to the Panhandle region including treed areas inland of the coast, and consider historical wind data affects. The requested funding authorization was approved, and the preliminary research results will be presented to the Commission in February of 2006, and subsequently input will be solicited at a second Panhandle region workshop. Following the Panhandle workshop, the Commission will use the study results and Panhandle region input, to make their recommendations to the 2006 Legislature as required by law.

It should be noted that the Commission’s decision to proceed with this strategy, is consistent with their policy of recognizing that Florida is a diverse State geographically and climatically, and on this basis to consider the specific requirements of different regions of the State, when and where appropriate, such as, the High Velocity Hurricane Zone (HVHZ) provisions of the Code specific to Miami-Dade and Broward counties in Southeast Florida.

Exposure Category C Study (SB 442 Section 41)
This legislative assignment requires the Florida Building Commission to evaluate the definition of "exposure category C" as currently defined in section 553.71(10), Florida Statutes, and make recommendations for a new definition that more accurately depicts Florida-specific conditions prior to the 2006 Regular Session. The Commission assigned this legislative assignment to the Hurricane Research Advisory Committee in order to utilize the Committee’s expertise in this subject area. The Commission is considering the recommendation from stakeholders, that in contrast to current ASCE-7 methodology, the default exposure category for Florida should be exposure category B, and clear definitions and criteria will be developed by the Commission in consultation with stakeholders, to define what constitutes Exposure C. These criteria and conditions will include distance factors, the starting point for where to begin measurements, a clear definition of open terrain, and size and density considerations for large development exemptions. The Commission has referred the recommendation to their Structural TAC for evaluation, and will report their recommendation in a separate report to the Legislature.
Product Approval Single Validation Entity Study (SB 442 Section 45)
In response to this legislative assignment, the Florida Building Commission convened the Product Approval Validation Workgroup to review the role of the third party validators in the product approval process, and to make recommendations back to the Commission regarding to what extent the validators should review the technical documentation substantiating compliance with the Florida Building Code. The Workgroup was composed of 10 stakeholders in the State system of product approval including three members of the Commission, to ensure diverse input. The workgroup studied the Product Approval Workgroup’s and Commission’s recommendation that the State be served by a single validation entity for State approval. The PAVWG’s recommendations include, but are not limited to, the recommendation's feasibility, qualifications of the single entity and its staff, costs charged for validation, time standards for validation, means to challenge the validator's determination, and duration of the contract with the validator. The workgroup conducted its proceedings in an open forum subject to comment from the public at each meeting. The Workgroup presented its package of recommendations to the Commission at the December 2005 meeting, where after public comment, the Commission voted to report to the 2006 Legislature that at this time, the State is not served by a single validation entity for state approval, and the Commission will convene a process to work with stakeholders to review and develop consensus recommendations regarding the validation requirements/details for each of the four compliance methods, the degree of technical review required for the compliance options, and review the validation requirements for the certification agency compliance method.

Staff Review of Code Amendments (SB 442 Section 7)
Section 553.73 (7)(c) enacted in 2005, mandates that the Commission require all proposed amendments and information submitted with proposed amendments to be reviewed by Commission staff for sufficiency, prior to consideration by the Commission’s TAC’s. The Commission developed the process in consultation with stakeholders, during a rule development workshop and hearing conducted during October and December of 2005, respectively. Rule 9B-3.050 conforms the Rule to statutory requirements. In general, the Rule requires that Commission staff shall ascertain whether the amendment has been submitted in legislative format, if the rationale for amending the code has been provided, and if all six questions regarding fiscal and other impacts have been answered by the proponent.

Rules for Appeal of Building Official Decision/Binding Interpretations (SB 442 Section 9)
Section 553.775, F.S. enacted in 2005, requires the Commission to implement by rule a process for the Florida Building Code to be interpreted by building officials, local enforcement agencies, and the Commission in a manner that protects the public safety, health, and welfare at the most reasonable cost to the consumer by ensuring uniform interpretations throughout the State and by providing processes for resolving disputes regarding interpretations of the Florida Building Code that are just and expeditious. The Commission developed the process in consultation with stakeholders, during a rule development workshop and hearing conducted during October and December of 2005, respectively. Rule 9B-3.055 conforms the Rule to statutory requirements. In general, the Rule requires that petitions for binding interpretations of the Florida Building Code shall be made through the Building Code Information System on the Internet, there is a fee of
$250, Form No. 9B-3.055(1) is used, and two copies are printed for submittal to the enforcement agency that rendered the decision that is the subject of the petition. The local building official shall respond to the petition within 5 working days after receipt, and return the petition to the petitioner with the response. The petitioner may file the petition with the Commission at any time after it is returned to him or her, or after 10 days if the local building official has not responded. The Commission shall immediately publish the petition online on the Building Code Information System, accept online comments from interested parties for a period of seven calendar days, and provide copies of the petition to a panel. The panel shall conduct proceedings as necessary to resolve the issue, considering the petitioner’s arguments, the building official’s response and comments made on the petition, and shall issue an interpretation within 21 days of the petition’s submittal, based either on code language or the intent of the code. The 21 days may be waived only upon consent of all parties. The interpretation shall be provided to the Commission, which shall post it online on the Building Code Information System and in the Florida Administrative Weekly. The interpretation shall be binding to all parties and all jurisdictions subject to the code unless it is superseded by a declaratory statement issued by the Florida Building Commission or by a final order entered after an appeal proceeding conducted. Appeals to interpretations shall be filed within 30 days of issuance of an interpretation and shall be conducted in accordance with Chapter 120 and the uniform rules of procedure. The interpretation rendered by the panel of building code administrators shall become final upon the earlier of the resolution of any appeal of that interpretation before the Florida Building Commission or the expiration of the time period in which to initiate such appeal. The Commission recommends that the Legislature revise the appropriate statutes to require that the binding interpretation process does not apply to the Accessibility Code, Chapter 11 of the Florida Building Code. In addition, the Commission recommends that they not have the authority to hear petitions for declaratory statements on the Accessibility Code. The Commission recommends that the only authority the Commission retains relative to Chapter 11 of the Florida Building Code, remains the accessibility waiver process.

Private Provider Jobsite Notice Form (SB 442 Section 11)
Section 553.791, F.S. enacted in 2005, requires the Commission to develop a form for use by the private provider. The form requires specific information to be posted on a jobsite where a private provider is conducting inspections. The Commission developed the form in consultation with stakeholders, during a rule development workshop and hearing conducted during October and December of 2005, respectively. Rule 9B-3.053 conforms the Rule to statutory requirements. In general, the form adopted by Rule requires the provider to identify the primary contact, the company name, address, telephone and fax numbers, and the types of service being performed by the private provider.