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CS/HB 1035

2010 Legislature

1 A bill to be entitled
2 An act relating to elevator safety; amending s. 399.01,
3 F.S.; revising definitions; amending s. 399.02, F.S.;
4 conforming a reference to a safety code; requiring the
5 Division of Hotels and Restaurants of the Department of
6 Business and Professional Regulation to adopt rules;
7 authorizing the division to enter certain buildings;
8 providing for variances; exempting certain elevators from
9 specific code update requirements; providing a phase-in
10 period for such elevators; amending s. 399.035, F.S.;
11 conforming a reference to certain safety standards;
12 amending s. 399.049, F.S.; specifying additional acts by a
13 registered elevator company or certificateholder which are
14 subject to discipline; amending s. 399.061, F.S.;
15 requiring certain licensees to provide written responses
16 to departmental requests relating to inspection reports;
17 amending s. 399.105, F.S.; extending the time within which
18 an elevator owner may comply with certain orders to
19 correct; creating s. 399.16, F.S.; providing procedures
20 related to citations and discipline relating to unlicensed
21 activity; creating s. 399.17, F.S.; providing registration
22 and continuing education requirements for certified
23 elevator inspectors; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Subsection (11) of section 399.01, Florida
28 Statutes, is repealed, present subsections (12) through (17) of

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29 | that section are redesignated as subsections (11) through (16),
30 | respectively, and present subsection (14) of that section is
31 | amended, to read:

32 | 399.01 Definitions.—As used in this chapter, the term:

33 | (13)~~(14)~~ "Certified elevator inspector" is a natural
34 | person registered with and authorized by the division to
35 | construct, install, inspect, maintain, or repair any vertical
36 | conveyance, after having properly acquired the qualified
37 | elevator inspector credential as prescribed by the American
38 | Society of Mechanical Engineers. ~~Each certified elevator~~
39 | ~~inspector must annually register with the division and provide~~
40 | ~~proof of completion of 8 hours of continuing education, proof~~
41 | ~~that the qualified elevator inspector credential remains in good~~
42 | ~~standing, and proof of general liability insurance coverage in~~
43 | ~~the minimum amounts set by the division.~~

44 |
45 | All other building transportation terms are defined in the
46 | current Florida Building Code.

47 | Section 2. Paragraph (t) of subsection (3) and subsection
48 | (6) of section 399.02, Florida Statutes, are amended, and
49 | subsections (8) and (9) are added to that section, to read:

50 | 399.02 General requirements.—

51 | (3) Equipment not covered by this chapter includes, but is
52 | not limited to:

53 | (t) Equipment covered in s. 1.1.2 ~~1.2~~ of the Elevator
54 | Safety Code.

55 | (6) (a) The department is empowered to carry out all of the
56 | provisions of this chapter relating to the inspection and

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57 | regulation of elevators and to enforce the provisions of the
58 | Florida Building Code. The division shall adopt rules to
59 | administer this chapter.

60 | (b) In order to perform its duties and responsibilities
61 | under this section, the division may enter and have reasonable
62 | access to all buildings and rooms or spaces in which an existing
63 | or newly installed conveyance and equipment are located.

64 | (8) The division may grant variances for undue hardship
65 | pursuant to s. 120.542 and the rules adopted under this section.
66 | Such rules must include a process for requests for variances.
67 | The division may not grant a request for a variance unless it
68 | finds that the variance will not adversely affect the safety of
69 | the public.

70 | (9) Updates to the code requiring modifications for Phase
71 | II Firefighters' Service on existing elevators, as amended into
72 | the Safety Code for Existing Elevators and Escalators, ASME
73 | A17.1 and A17.3, may not be enforced on elevators in
74 | condominiums or multi-family residential buildings, including
75 | those that are part of a continuing care facility licensed under
76 | chapter 651 or similar retirement community with apartments,
77 | issued a certificate of occupancy by the local building
78 | authority as of July 1, 2008, for 5 years or until the elevator
79 | is replaced or requires major modification, whichever occurs
80 | first. This exception does not apply to a building for which a
81 | certificate of occupancy was issued after July 1, 2008. This
82 | exception does not prevent an elevator owner from requesting a
83 | variance from the applicable codes before or after the
84 | expiration of the 5-year term. This subsection does not prohibit

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85 the division from granting variances pursuant to s. 120.542 and
86 subsection (8). The division shall adopt rules to administer
87 this subsection.

88 Section 3. Paragraph (c) of subsection (1) of section
89 399.035, Florida Statutes, is amended to read:

90 399.035 Elevator accessibility requirements for the
91 physically handicapped.—

92 (1) Each elevator, the installation of which is begun
93 after October 1, 1990, must be made accessible to physically
94 handicapped persons with the following requirements:

95 (c) Each elevator covered by this section must be
96 available to be used at any time to assist the physically
97 handicapped in an emergency evacuation. The requirements of the
98 latest revision of s. 2.27 ~~211~~ of the American Society of
99 Mechanical Engineers Standard ASME ~~National Standards Institute~~
100 ~~standard ANSI A17.1~~ must be complied with to meet the
101 requirements of this paragraph.

102 Section 4. Subsection (1) of section 399.049, Florida
103 Statutes, is amended to read:

104 399.049 Disciplinary action.—

105 (1) The department may suspend or revoke an elevator
106 inspector certification, an elevator company registration, an
107 elevator certificate of competency, or an elevator certificate
108 of operation issued under this chapter or impose an
109 administrative penalty of up to \$1,000 per violation upon any
110 registered elevator company or certificateholder who commits any
111 one or more of the following violations:

112 (a) Any false statement as to a material matter in an

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113 application for registration, certification, or any permit or
114 certificate issued under this chapter.

115 (b) Fraud, misrepresentation, or bribery in the practice
116 of the profession.

117 (c) Failure by a certified elevator inspector to provide
118 the department and the certificate of operation holder with a
119 copy of the inspection report within 5 days after the date of
120 any inspection performed after the initial certificate of
121 operation is issued.

122 (d) Violation of any provision of this chapter.

123 (e) Failure by a certified elevator inspector to maintain
124 his or her qualified elevator inspector credential in good
125 standing.

126 (f) Having a license to install, inspect, maintain, or
127 repair any vertical conveyance revoked, suspended, or otherwise
128 acted against, including the denial of licensure, by the
129 licensing authority of another state, territory, or county.

130 (g) Engaging in fraud or deceit, negligence, incompetency,
131 or misconduct in the practice of the profession.

132 Section 5. Subsection (5) is added to section 399.061,
133 Florida Statutes, to read:

134 399.061 Inspections; service maintenance contracts;
135 correction of deficiencies.—

136 (5) A certified elevator inspector or registered elevator
137 company shall, upon the written request of the department,
138 provide a written response that explains the inspection
139 procedures and applications used to prepare an inspection report
140 that was found by the department to contain errors or omissions

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141 of code violations or tests.

142 Section 6. Subsection (4) of section 399.105, Florida
143 Statutes, is amended to read:

144 399.105 Administrative fines.—

145 (4) An elevator owner who fails to comply with an order to
146 correct issued under s. 399.061(4) within 90 ~~30~~ days after its
147 issuance is subject, in addition to any other penalty provided
148 by law, to an administrative fine in an amount not to exceed
149 \$1,000.

150 Section 7. Section 399.16, Florida Statutes, is created to
151 read:

152 399.16 Unlicensed activity; citations; prohibitions;
153 penalties.—

154 (1) The division may issue a citation for unlicensed
155 activity upon a finding of probable cause that activity
156 requiring a permit, certificate, or license is being performed
157 without a valid permit, certificate, or license. The citation
158 constitutes a stop work order that may be enforced by the
159 division.

160 (a) The citation shall be in a form prescribed by rule.
161 The division may adopt rules to administer this section,
162 including a schedule of penalties.

163 (b) The division shall issue a citation to the owner of an
164 unlicensed elevator, to unlicensed elevator personnel, or to the
165 owner of an unregistered elevator company.

166 (c) The activity for which a citation is issued shall
167 cease upon receipt of the citation and the person who receives
168 the citation must correct the violation and respond to the civil

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169 penalty, which may not exceed \$1,000 per violation, or request
170 an administrative hearing pursuant to chapter 120.

171 (2) Each day that a violation continues constitutes a
172 separate violation.

173 (3) The remedies in this section are not exclusive and may
174 be imposed in addition to other remedies in this chapter.

175 Section 8. Section 399.17, Florida Statutes, is created to
176 read:

177 399.17 Certified elevator inspectors; registration.—Each
178 certified elevator inspector must annually register with the
179 division and provide proof of completion of 8 hours of
180 continuing education, proof of good standing, and proof of
181 general liability insurance coverage in the minimum amounts
182 established by the division. The registration must remain in
183 good standing throughout the license year.

184 Section 9. This act shall take effect July 1, 2010.