

CHAPTER 2010-110

Committee Substitute for House Bill No. 1035

An act relating to elevator safety; amending s. 399.01, F.S.; revising definitions; amending s. 399.02, F.S.; conforming a reference to a safety code; requiring the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to adopt rules; authorizing the division to enter certain buildings; providing for variances; exempting certain elevators from specific code update requirements; providing a phase-in period for such elevators; amending s. 399.035, F.S.; conforming a reference to certain safety standards; amending s. 399.049, F.S.; specifying additional acts by a registered elevator company or certificateholder which are subject to discipline; amending s. 399.061, F.S.; requiring certain licensees to provide written responses to departmental requests relating to inspection reports; amending s. 399.105, F.S.; extending the time within which an elevator owner may comply with certain orders to correct; creating s. 399.16, F.S.; providing procedures related to citations and discipline relating to unlicensed activity; creating s. 399.17, F.S.; providing registration and continuing education requirements for certified elevator inspectors; providing an effective date.

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

Section 1. Subsection (11) of section 399.01, Florida Statutes, is repealed, present subsections (12) through (17) of that section are redesignated as subsections (11) through (16), respectively, and present subsection (14) of that section is amended, to read:

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

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

All other building transportation terms are defined in the current Florida Building Code.

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

399.02 General requirements.—

- (3) Equipment not covered by this chapter includes, but is not limited to:
- (t) Equipment covered in s. 1.1.2 ~~1.2~~ of the Elevator Safety Code.

(6)(a) The department is empowered to carry out all of the provisions of this chapter relating to the inspection and regulation of elevators and to enforce the provisions of the Florida Building Code. The division shall adopt rules to administer this chapter.

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

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

(9) Updates to the code requiring modifications for Phase II Firefighters' Service on existing elevators, as amended into the Safety Code for Existing Elevators and Escalators, ASME A17.1 and A17.3, may not be enforced on elevators in condominiums or multi-family residential buildings, including those that are part of a continuing care facility licensed under chapter 651 or similar retirement community with apartments, issued a certificate of occupancy by the local building authority as of July 1, 2008, for 5 years or until the elevator is replaced or requires major modification, whichever occurs first. This exception does not apply to a building for which a certificate of occupancy was issued after July 1, 2008. This exception does not prevent an elevator owner from requesting a variance from the applicable codes before or after the expiration of the 5-year term. This subsection does not prohibit the division from granting variances pursuant to s. 120.542 and subsection (8). The division shall adopt rules to administer this subsection.

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

399.035 Elevator accessibility requirements for the physically handicapped.—

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

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

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

399.049 Disciplinary action.—

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

(a) Any false statement as to a material matter in an application for registration, certification, or any permit or certificate issued under this chapter.

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

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

(d) Violation of any provision of this chapter.

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

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

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

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

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

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

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

399.105 Administrative fines.—

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

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

399.16 Unlicensed activity; citations; prohibitions; penalties.—

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

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

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

(c) The activity for which a citation is issued shall cease upon receipt of the citation and the person who receives the citation must correct the violation and respond to the civil penalty, which may not exceed \$1,000 per violation, or request an administrative hearing pursuant to chapter 120.

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

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

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

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

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

Approved by the Governor May 26, 2010.

Filed in Office Secretary of State May 26, 2010.