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**M E M O R A N D U M**

TO: Product Approval Task Group  
Charlie Hickey

FROM: Suzanne H. Schmith

SUBJECT: Statutory Authority

DATE: November 20, 1998

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This memo is in response to a request from members of the task group, at the November meeting, for a summary of the statutory requirements for the Florida Building Commission relative to establishing a product approval system. The statutory sections which pertain to this issue are ss. 553.77 and 553.842, Florida Statutes (F.S.). The legislature has charged the commission with the following responsibilities relative to product approval:

Determine the types of products which require approval *for local or statewide use* (may not include products approved by the State Fire Marshal);

Provide for a system of evaluation and approval of those products *for statewide use*. Evaluation and approval may be done by the commission or by approved product evaluation entities. The system must rely upon the regional, national and international consensus standards which are adopted by the Florida Building Code, and must follow the criteria set forth in s. 553.842(1)(a)-(h), F.S. However, the commission is directed to consider standards which exceed established state requirements in designing the product evaluation and approval

system;

Specifically, approval of products and methods may be accomplished by the submittal and validation of either an approved product evaluation entity or a professional engineer or architect. The statute contains specific requirements for submittal and validation in both cases (s. 553.842(5), F.S.);

Maintain a list of approved products and product evaluation entities and make that list available in a cost-effective manner. Further, the commission must establish a reasonable time frame between product approval and availability of the list (s.553.842(11), F.S.). The commission may approve product evaluation entities which are not currently accredited by a nationally recognized independent evaluation authority, but the statute does not provide guidance relative to this task;

Establish reasonable fees for the review of rational analyses and certification of manufactured buildings (s. 553.842(11), F.S.; and

Establish procedures for appeals of the decisions of local building officials to the commission and expedited procedures for appeals of the approval of a product for statewide use (ss. 553.842(6), (8) and (9), F.S.).

The TAC will conduct the necessary research in order to make a recommendation to the commission to carry out each of these responsibilities. The TAC may also recommend whether the product approval system should be adopted as part of the Florida Building Code, or separately by rule of the commission, and should coordinate with legal staff and the Administration/Code Enforcement TAC. At a minimum, procedures for appeals and challenges to locally-approved products should be adopted within the commission's procedural rules, rather than the code.