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M E M O R A N D U M

TO: Members of the Special Occupancy TAC
and Bruce Ketcham, Staff Support

FROM: Suzanne H. Schmith
Commission Staff Attorney

SUBJECT: Enforcement of State Agency Regulations

DATE: June 22, 1999

The purpose of the memorandum is to clarify the issues surrounding enforcement and maintenance of state agency construction regulations which are incorporated into the Florida Building Code.

As you are aware, chapter 98-287, Fla. Laws, directs that the provisions of the Florida Building Code be enforced by local jurisdictions through the permitting and inspection process. The law contains the following exemptions from this requirement: (1) Local enforcement does not apply to the jurisdiction and authority of the Department of Agriculture and Consumer Services to inspect amusement rides or the Department of Insurance to inspect state owned buildings or boilers. *See* section 553.79(17), Florida Statutes; (2) State universities, community colleges and public school districts shall conduct plan review and construction inspections of their building projects and are not subject to local government permitting requirements, plans review and inspection fees. *See* section 553.80(6), Florida Statutes. However, those entities may choose to use the local jurisdiction's plans review and inspection process; and (3) Hospitals and nursing homes shall have facility plans reviewed and construction surveyed by the Agency for Health Care Administration (AHCA). *See* section 553.73(12), Florida Statutes. The law provides that this authority is **in addition to** other sections of the law requiring that state agencies are subject to enforcement of building code

requirements by local jurisdictions. Since this section will require duplicate plans review, the TAC should recommend to the commission how this should be handled, or whether legislative clarification is needed.

Any other state agency construction regulations that are included in the Florida Building Code and not specifically exempted in chapter 98-287, Fla. Laws, are subject to enforcement by local

jurisdictions. The TAC may recommend to the full Commission that enforcement of those regulations be maintained at the state level, which will be implemented by seeking legislative exemptions in the 2000 session. The commission is currently hearing presentations from each of the affected agencies and voting on enforcement issues. At last month's meeting (June), following a presentation by the Bureau of Elevator Inspection, Department of Business and Professional Regulation (DBPR), the commission voted to retain enforcement of the elevator codes at the state level. As such, the department will pursue this in legislation for the 2000 session. At the June meeting, the commission also heard a presentation from the Division of Hotels and Restaurants. The commission did not vote on enforcement, but has requested a recommendation from the TAC on this issue. As the commission continues to hear presentations from the affected agencies, the TAC should be prepared to make recommendations on the enforcement issues.

On the issue of maintenance of state agency regulations, the law is silent. This issue was probably not contemplated by the drafters of House Bill 4181 (codified as chapter 98-287, Fla. Laws). However, these issues are squarely before the commission now and the commission is determining how those regulations will be maintained. At the June meeting, the commission voted to maintain the state elevator construction regulations, which will be included in the Florida Building Code, but will be enforced by the DBPR, Bureau of Elevator Inspections. Obviously this kind of rulemaking will require close coordination with the DBPR and its technical experts. As the commission continues to hear presentations from the affected agencies, the TAC should be prepared to make recommendations on these maintenance issues.