

# JDB CODE SERVICES, INC.

---

41 Oak Village Boulevard • Homosassa, FL 34446 • 352-382-3873 jdbcodeservices@tampabay.rr.com

**Date:** August 2, 2007  
**To:** Bill Feeley, President, IHPA  
**From:** Joe Belcher, Code Consultant  
**Subject:** Update of Activities

Please accept the following as an update on the activities of the code consultant.

## Code Modifications.

The code consultant attended the Florida Building Commission Technical Advisory Committee meetings and the Florida Building Commission meeting comprising the final code change hearings for the Florida Building Code, 2007 Edition. The hearings were held at Miami Lakes from June 24 - 27, 2007. All changes submitted by the code consultant on behalf of the industry were approved by the full Commission as submitted or as modified.

1. Permits (Mod 2684 Belcher). Requires a permit for the installation of impact resistant coverings. The Administration TAC modified the original proposal to limit the requirement for permits to the installation of "required" impact resistant coverings. The Administration TAC recommends approval as modified. **The Commission unanimously approved the Administration TAC recommendation to approve as modified.**
2. Inspection (Mod 2685 Belcher). Requires the building official to establish inspections of the installation of impact resistant coverings installed to meet the requirements of the code. The Administration TAC unanimously approved as submitted. **The Commission approved the Administration TAC recommendation to approve as submitted.**
3. Impact Resistant Coverings Labeling and Installation (Mod 2681 – Building; Mod 2682 – Residential Belcher). Establishes labeling requirements for impact resistant coverings: adds provisions related to installation: adds language addressing substitution of fasteners and components. Approved by Structural TAC unanimously. **The Commission unanimously approved the Structural TAC recommendation.**
4. Exposure Category (Mod 2660 – Building; 2662 – Residential Stafford) Clarifies effects of open patches. At the first public hearing the Structural TAC approved Comment 1 containing modifications by proponent. At the second public hearing further modifications were submitted and the Structural TAC adopted Comment 3. It is unclear if provisions changing the surface roughness provisions which were approved at the first meeting were included in the final adoption. There will likely be an effort to correct any errors at the meeting of the Commission in August at Tampa. **The Commission approved the Structural TAC recommendation to approve as modified. Note:** These provisions are important to the industry because they affect the determination of the Exposure Category. The classification may result in higher design pressures for enclosures and other structures. (Increase in C & C loads for single family dwelling 15 ft. mean roof height (MRH) 21%; 40% for MRH of 30 feet)
5. Aluminum Design Manual Update – HVHZ (Mod 2494 Aluminum Design Manual Update – HVHZ Kissell). Updates the referenced standard for aluminum design in the HVHZ. **The Commission approved the recommendation of the Structural TAC to approve as submitted. Note:** This provision may impact the design of aluminum storm protection devices. While approved, the update was already accomplished in the 2006 Supplement change submitted by AAF.

The first draft of the Florida Building Code, 2007 Edition, is available for viewing on line at

[http://www2.iccsafe.org/states/2004\\_florida\\_codes/](http://www2.iccsafe.org/states/2004_florida_codes/). The draft does not contain recently approved changes. There will be a Rule Adoption Hearing held in conjunction with the Commission meeting scheduled in August 2007 at Tampa, Florida. The code consultant does not anticipate any changes to industry sponsored modifications. Changes at this juncture could result in a delay in the implementation of the code. Finally, the Commission plans to open a glitch cycle in January 2008. The cycle will be limited to correcting errors, updating standards, dealing with unintended consequences, and addressing legislative mandates before the effective date of the FBC 2007 Edition (October 1, 2008).

### **Legislative Initiative.**

In an important action, the aluminum industry was successful in addressing a number of concerns during the 2007 Regular Legislative Session. The industry was prompted to seek redress from the legislature because of a rule proposed by the Florida Board of Professional Engineers (FBPE). The FBPE rule would eliminate master file engineering and mandate site-specific engineering for all aluminum structures. The FBPE steadfastly refused to consider alternates to the proposed rule which the industry believes was initiated based on inaccurate and faulty information. Further, the industry believes the proposed rule would be ruinous to the industry while not resulting in any improvement in the design and construction of aluminum structures. As reported previously, there were concerns that the actions of the FBPE would impact other industries using master file engineering such as the master sheets used in the design and permitting of impact resistant coverings. (Update February 2007) The hurricane protection industry is a beneficiary of the work of the aluminum industry.

The aluminum industry interviewed and engaged former Florida Senator Fred Dudley as General Counsel and Legislative Lobbyist. Dudley represented the industry before the FBPE in the rulemaking process and in filing a formal challenge to the FBPE rule. The rule challenge is ongoing with Dudley currently preparing an amendment to the challenge citing recently enacted legislation as making the rule moot. Dudley will request withdrawal of the rule. The attorney for the FBPE has indicated to Dudley that he will recommend the FBPE withdraw the rule in light of the provisions of Chapter 2007-227 Laws of Florida. (LOF) In addition to working with the rule, Dudley serves as the industry lobbyist.

Of great concern to the industry were the efforts of the FBPE in singling out aluminum structures by outlawing master design manuals and requiring site-specific engineering. Dudley found a sponsor and a vehicle (SB 404) for addressing the issues of concern to the industry. Dudley was able to get favorable legislation enacted working with other lobbyists and organizations with similar concerns or interests in other subjects addressed within the bill. An example of those Dudley worked with include the Florida Swimming Pool Association, the Florida Construction Industry Coalition, the Florida Home Builders Association, various lobbyists, legislative staff members, and legislators. The joint efforts of Dudley and many others resulted in the enactment of Ch. 2007-227 LOF which will have a far reaching impact on the industry. The bill was signed into law by the Governor on June 27, 2007, with an effective date of July 1, 2007.

Salient points of the bill of interest to the industry are listed below. (See excerpt following.)

1. The law prohibits requiring site-specific engineering for single-family and two-family dwellings, swimming pools, spas, screened enclosures, or any other structure not exceeding 1200 ft<sup>2</sup> or one story in height. The 1200 ft<sup>2</sup> limitation applies to the other structure, not the dwellings, swimming pools, spas or screened enclosures. Impact resistant coverings would fall within the scope of the law.
2. The law specifically states nothing in law shall prevent any licensed architect or engineer from entering into a contract with a licensed contractor to prepare plans, specifications, or a master design manual addressing structural designs used in making application for building permits. Should other provisions of law (i.e. Ch. 471 or 481, FS) require the architect or engineer to seal her or his documents; documents such as master files prepared under contract with a contractor and provided to the contractor would be sealed. However, there would be no requirement for the contractor to submit such sealed plans when applying for permits using plans developed as master file plans under a contract with the architect or engineer.
3. The law clearly states there is no requirement for a licensed engineer or architect to prepare site-specific drawings, specifications, or plans when preparing for use by licensed contractors. The

prohibition applies to structures identified in Item 1 above. The law requires building departments to accept such drawings, specifications, or plans when submitted by a licensed contractor. Since the law states there is no requirement for a licensed architect or engineer, there is no requirement for sealed documents based on drawings, specifications, plans, or master design manuals prepared by licensed architects or engineers under contract to the contractor.

4. The law provides building departments the authority to accept or reject plans prepared by persons licensed under Chapters 471, 481, or 489, Florida Statute.
5. The law requires the manual to identify the engineer or architect conducting the peer review.
6. The law specifically states an engineer or architect is not required for the preparation or use of any design guide (prescriptive document) adopted by the Florida Building Commission as part of the Florida Building Code.

**Excerpt from Ch. 2007-227 LOF, Section 8.** Subsection (9) of section 489.113, Florida Statutes, is amended to read:

489.113 Qualifications for practice; restrictions.—

(9)(a) This part does not prevent any contractor from acting as a prime contractor where the majority of the work to be performed under the contract is within the scope of his or her license or from subcontracting to other licensed contractors that remaining work which is part of the project contracted.

(b) This part, chapter 471, chapter 481, or any other provision of law does not:

1. Prevent any licensed engineer or architect from contracting directly with a licensed contractor for the preparation of plans, specifications, or a master design manual addressing structural designs used to make an application for building permits.
2. Require a licensed engineer or architect, when preparing drawings, specifications, plans, or master design manuals for use by any licensed contractor, to prepare site-specific drawings, specifications, or plans for the design and construction of single-family and two-family dwellings; swimming pools, spas, or screened enclosures; or any other structure not exceeding 1,200 square feet or one story in height. For the purpose of issuing building permits, local building officials shall accept such drawings, specifications, or plans when submitted by any licensed contractor. Upon good cause shown, local government code enforcement agencies may accept or reject plans prepared by persons licensed under chapter 471, chapter 481, or this chapter.

As used in this section, the term “master design manual” means a restrictive design manual intended to be used to design, permit, and construct structures as described in this section. Any such manual must be prepared by a licensed engineer or architect and specifically detail the limits of its use, including, but not limited to, the structure type, size, materials, loading conditions, time limits, applicable codes, and associated criteria. The manual must also detail the required training for the contractor, engineer, or architect using the manual. All master design manuals must be peer reviewed by an independent licensed engineer or architect having no financial interest in the development of the manual or the construction of structures pursuant to the manual. The engineer or architect conducting the peer review must be identified in the manual.

### **Chapter 2007-1 Laws of Florida.**

As previously reported, legislation addressing opening protection and the definition of the wind-borne debris region (WBDR) was passed during the Special Session called by the Governor in December 2007. [2007 Session A; Ch. 2007-1, Laws of Florida (LOF)] The legislation:

- Eliminates the option to design structures in the WBDR as partially enclosed in lieu of protecting glazing in openings;
- Adopts the WBDR definitions contained in the International Building and Residential Codes, 2006 Editions;
- Prohibits the Commission and local jurisdictions from amending the code in a manner that diminishes the wind resistance and water intrusion provisions of the foundation codes;

- Requires the Commission to make certain modifications to the code by July 1, 2007;
- Requires the Commission to develop “Code Plus” guidelines and report the guidelines to the 2008 Legislature.

The changes in the WBDR definition and the elimination of the partially enclosed design option went into effect when the governor signed the bill into law on January 25, 2007. However, some coastal jurisdictions refused to begin enforcing the provisions until the Florida Building Commission changed the Florida Building Code. The Florida Home Builders Association expressed concerns about contracts for homes that had been signed, but, for which building permit applications had not been submitted. The concern was the added cost of providing opening protection which was not part of the contract. Legislation was enacted in the subsequent Regular Session that extended the option to design structures in the WBDR as partially enclosed in lieu of protecting openings until June 25, 2007. (Ch. 2007-090 LOF) The provision is retroactive to January 25, 2007.

In addition, changes to the Florida Comprehensive Hurricane Damage Mitigation Program should be of interest to the Industry as the changes should result in an increase in the installation of impact resistive coverings. The program was re-designated the My Safe Florida Home Program with numerous legislative changes made to the program. (Ch.2007-126 LOF) The legislature specified the goal of 400,000 free inspections to be conducted by June 30, 2009, with 35,000 matching grants. The grants are up to \$5,000.00 to be awarded for upgrading homes constructed prior to the adoption of the Florida Building Code. (March 1, 2002) The main thrust of the program appears to be increased opening protection for windows, doors, and garage doors. More information is available at <http://www.mysafefloridahome.com> .

Finally, where building permits are applied for on or after July 1, 2008, and the work is valued at \$50,000 or more, and the building is valued at \$750,000 or more, opening protections are required to be provided as required for new construction for a building located in the wind borne debris region. (Ch. 2007-126 LOF, Section 5) A strict reading of the law indicates the building is not required to be located in a wind borne debris region, but, to be protected as required for a building in a wind borne debris region.

#### **Product Approval.**

The code consultant has been advised the Commission will not appoint a Workgroup to examine the issue fabricators fabricating, distributing, selling, and installing impact resistant coverings under another’s product approval number. Reportedly, the staff will recommend the POC send out a letter requiring those participating in such programs to either obtain individual product approvals or provide a list of those authorized to operate under the product approval number. The list would be posted at the Building Code Information System (BCIS [www.floridabuilding.org](http://www.floridabuilding.org)) ostensibly for building department use in verification. The concern within the industry is the procedure is tantamount to providing competitors a shopping list of one’s customers. The code consultant is working for the acceptance of a labeling system as an additional alternate to providing a list and individual product approvals. If not successful, the only recourse is filing a rule challenge.

#### **Wind Mitigation Retrofit Rule.**

The Commission reviewed a rule proposal addressing mitigation guidelines for existing dwelling structures constructed before the adoption of the Florida Building Code (March 1, 2002). A workshop on the rule is scheduled for August 8, 2007, at Tampa, Florida. A Rule Adoption Hearing is scheduled in conjunction with the Commission meeting at Tampa, Florida, on August 21, 2007. The rule is on an accelerated timeline due to a legislative mandate to the Commission to adopt the rule by October 1, 2007, and to include the rule in the FBC 2007 Edition. The code consultant will monitor the activities on this rule..

The following Rules will be heard August 21, 2007, 1:00 p.m., or as soon thereafter as the matter comes before the Florida Building Commission pursuant to its agenda at the Embassy Suites USF, 3705 Spectrum Boulevard in Tampa, Florida:

Rule 9B-74, Prototype Buildings,  
 Rule 9B-7.003, Florida Accessibility Code  
 Rule 9B-3.0472, Carbon Monoxide Detectors

Rule 9B-3.0475, Wind Mitigation Retrofits  
Rule 9B-3.0477, Electrical Bonding of Pool Decks  
Rule 9B-3.047, Florida Building Code.

In closing, Bill, should you have any questions on any of the above or any other matter, or, need further information, please do not hesitate to contact me as your earliest convenience.

Respectfully yours,

A handwritten signature in black ink that reads "Joseph D. Belcher". The signature is written in a cursive, flowing style.

Joseph D. Belcher, CBO  
Code Consultant