



## Privatization Has Helped Improve Elevator Safety; Additional State Oversight Is Needed

### *at a glance*

Since elevator inspections were privatized in 2000, more inspections are occurring and there are fewer violations per elevator. The percentage of elevators receiving annual safety inspections has increased, but 3,190 elevators were not inspected in Fiscal Year 2006-07 as required by law. To address this problem, the Department of Business and Professional Regulation's Bureau of Elevator Safety hired a private firm to notify elevator owners that they are overdue for an inspection and that their certificates of operation will be revoked if inspections are not completed. In addition, the bureau has begun tracking elevator accidents that require medical intervention or result in death.

Bureau and private inspectors demonstrate differences in how they interpret elevator safety standards, with bureau inspectors finding violations that were undetected by private contractors. The Legislature may wish to amend the elevator safety statute to require inspectors to respond to bureau inquiries about these cases, as many contractors have been unresponsive, citing the bureau's lack of statutory authority.

### Scope

As requested by the Legislature, this report examines state regulation of elevators and how privatization has affected this activity. The report addresses four questions.

1. Has the number of elevator inspections changed since this function was privatized?

2. Are elevators now being inspected as frequently as required by law?
3. How many violations are identified by inspections, and has this changed under privatization?
4. How many elevator safety incidents have occurred since the program was privatized?

To address these questions, we analyzed the Department of Business and Professional Regulation's data for the periods 1997-2000 (prior to privatization) and 2004-2007 (post privatization).

### Background

The Department of Business and Professional Regulation's (DBPR) Bureau of Elevator Safety is statutorily required to ensure that elevators and escalators throughout Florida are safe. The bureau fulfills this mission by enforcing elevator safety laws and licensing and regulating industry professionals, elevators, escalators, and other vertical and inclined conveyance devices (e.g., dumbwaiters, moving walks, stairway chairlifts, and inclined or vertical wheelchair lifts). The number of these devices has steadily increased over the years, from 38,292 in Fiscal Year 1997-98 to 47,910 in Fiscal Year 2006-07.

In 2000, the Legislature significantly amended the elevator safety act by shifting inspections to the private sector. Private inspectors were required to pass a national standards examination, rather than an examination

developed by DBPR and routine elevator inspections were required to be performed annually, rather than every two years. Also, certificates of elevator operation were issued only after a safety inspection had been performed that found zero violations, in accordance with national elevator safety code standards.<sup>1</sup> Prior to this change the bureau issued certificates of elevator operation upon payment of a licensing fee, regardless of whether or not the elevator had been inspected.

The Bureau of Elevator Safety retained responsibilities to oversee program operations. The bureau has a Fiscal Year 2007-08 allocation of \$1,317,075 and 18 staff located throughout the state. The bureau's primary functions are to

- issue permits to erect, move, or alter elevators;
- respond to customer inquiries and complaints;
- issue authorizing credentials to private inspectors to perform inspections in Florida and maintain a registry of companies that employ these inspectors;
- maintain statistical data on elevator inspections and review inspection reports to confirm safety; and
- issue annual elevator certificates of operation.<sup>2</sup>

Included in the bureau staff are 12 elevator inspectors who annually re-inspect a sample of approximately 4% of the elevators inspected by private contractors. Using a 163-page nationally recognized inspection standards checklist, bureau staff check the elevators for a wide array of safety hazards, including those related to ventilation, pipes, and wiring; emergency exit controls; lighting; braking and smoke control devices; and the force with which doors open

and close.<sup>3</sup> These inspections provide state oversight and help verify that private contractors are conducting inspections according to state requirements.

The bureau's policymaking activities are assisted by the Elevator Safety Technical Advisory Council. The council is composed of eight members affiliated with the elevator industry and works with the bureau to ensure that bureau policies both protect the public and are sensitive to industry concerns. For example, it reviews proposed legislation offered by the bureau and provides suggested changes.

## Questions and Answers—

### *Has the number of elevator inspections changed since this function was privatized?*

When the Legislature privatized elevator inspections in 2000, it also amended Florida law to require elevators to be inspected annually rather than once every two years. Increasing inspection frequency was a primary benefit of privatization, as the bureau had been unable to meet its workload and the number of elevators it inspected each year had been declining.

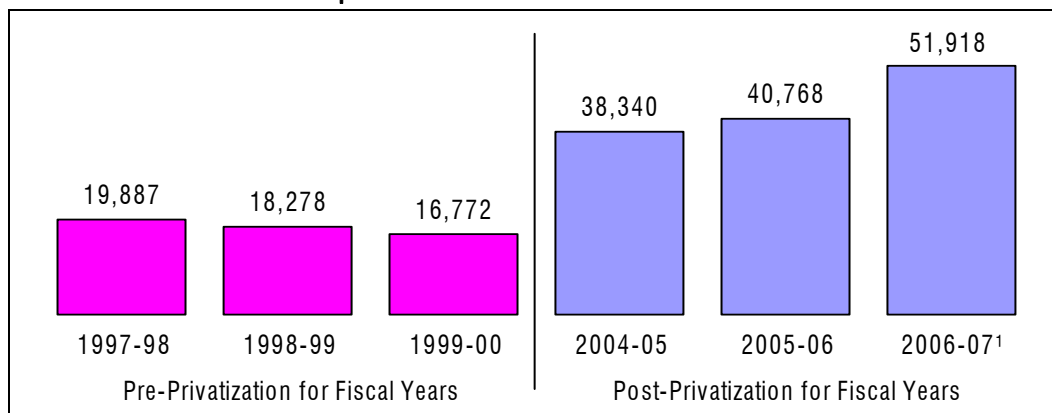
The number of elevator inspections conducted each year has increased substantially under privatization. As shown in Exhibit 1, during Fiscal Year 1999-00, the last year that the bureau performed inspections, staff performed 16,772 inspections. In contrast, 51,918 elevator inspections were completed in Fiscal Year 2006-07.

A primary reason for this increase in inspections is that the number of licensed elevator inspectors has also grown. Currently, there are 261 licensed private elevator inspectors in Florida, compared to 21 bureau inspectors who performed this work prior to privatization.

<sup>1</sup> The American Society of Mechanical Engineers has set national elevator safety standards and developed the elevator inspector examination. Inspectors passing this examination are certified by the department to conduct elevator inspections in Florida.

<sup>2</sup> As authorized by Florida law, the department has delegated its elevator regulatory authority to the following local governments: the cities of Miami and Miami Beach, Broward and Miami-Dade counties, and Reedy Creek Improvement District. These local governments are authorized to construct, install, inspect, maintain, and/or repair elevators. However, the authority to issue or revoke the licenses of elevator personnel remains with the department.

<sup>3</sup> An extensive list of violations can be found on the agency's website at [www.myflorida.com/dbpr/hr/documents/violation\\_codes.xls](http://www.myflorida.com/dbpr/hr/documents/violation_codes.xls).

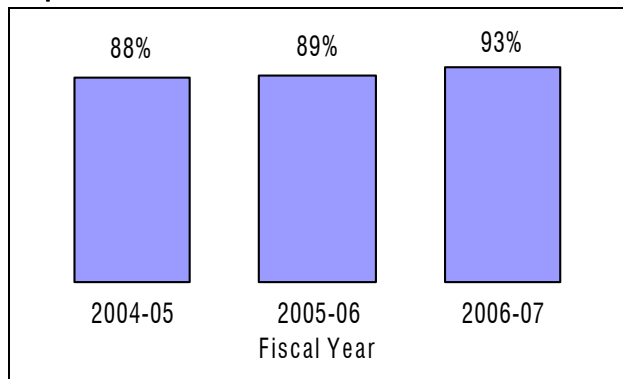
**Exhibit 1****The Number of Elevator Inspections Has Increased Over Time**

<sup>1</sup> In this fiscal year, there were more inspections than elevators because inspectors had to re-inspect those elevators that had initially failed their inspections.

Source: Department of Business and Professional Regulation.

***Are elevators now being inspected as frequently as required by law?***

Florida law requires that all elevators receive annual inspections, and Bureau of Elevator Safety data show that the percentage of elevators meeting this standard has improved, although not all elevators are currently inspected annually. During the last three fiscal years, the percentage of elevators receiving annual inspections has increased from 88% to 93% (see Exhibit 2).

**Exhibit 2****The Percentage of Elevators Receiving Annual Inspections Has Increased**

Source: Department of Business and Professional Regulation.

Before privatization, the bureau did not track the percentage of elevators that were not inspected, so pre- and post-privatization comparisons cannot be made.

However, a substantial number of elevators are not inspected as frequently as required. In Fiscal Year 2006-07, 3,190 elevators (7% of those registered) did not receive inspections. This represents a decline from 4,354 (10% of those registered) not inspected in Fiscal Year 2005-06.

The bureau has taken several steps to address concerns about non-inspected elevators. For example, in January 2006, the bureau contracted with a private firm to notify elevator owners that their elevators were overdue for inspection and in delinquent status. In addition, the bureau has affixed “Do Not Use” stickers to elevators with overdue inspections and sent notices to delinquent elevator owners announcing the bureau’s intent to suspend certificates of operation along with notices to discontinue use of the elevator. However, the bureau could improve its efforts by posting delinquent elevator accounts on its website as an additional way to notify the public about elevators that have not been certified as safe by an inspection.<sup>4</sup>

<sup>4</sup> The bureau’s website currently has a section called “renewals” which includes compliant elevators, those due for an inspection in the next few months, and those in delinquent status.

### ***How many violations are identified by inspections, and has this changed under privatization?***

The average number of violations per inspection has generally declined over time although the total number of cited violations has increased, reflecting the increase in inspection frequency. Exhibit 3 shows that the number of identified violations per inspected elevator fell from 2.20 in Fiscal Year 1997-98 to 1.07 in Fiscal Year 2005-06, although it subsequently increased to 1.24 in Fiscal Year 2006-07. This increase is due to a change in the bureau's data capture procedures, which now reflect both regular inspections and re-inspections conducted by bureau staff as well as changes in the elevator safety codes, which required compliance with new standards that elevator owners were initially slow to adopt.

However, bureau and private inspectors have demonstrated differences in how they interpret elevator safety standards, with bureau inspectors finding violations that were not cited by private inspectors. Each year as part of its oversight mission, the bureau re-inspects about 4% of all elevators inspected by private contractors. In Fiscal Year 2006-07, the bureau re-inspected 2,623 elevators. At OPPAGA's request, the bureau analyzed a sample of 837 inspections and reported that state inspectors found violations in 437 (52%) of elevators that private inspectors had given a passing, violation-free inspection.

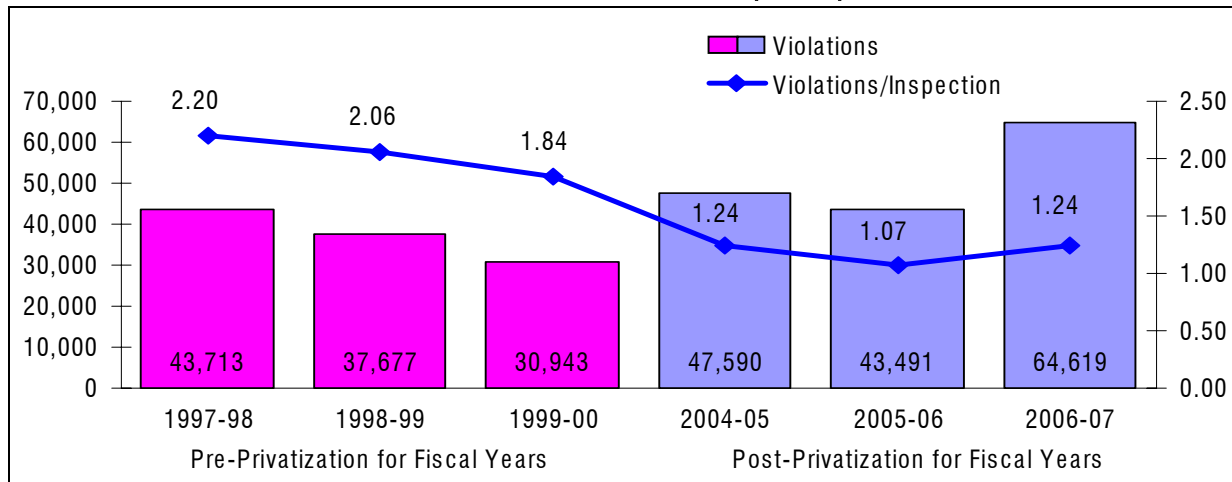
Common violations found by bureau inspectors included problems with the emergency and hydraulic systems as well as elevator lighting. Bureau officials indicated that these violations were not life-threatening, but that these differences demonstrated the need for re-inspections.

To address this issue, the bureau has posted two memos, called technical advisories, on its website to clarify standards upon which bureau and private inspectors differ. Also, the bureau requires private inspectors to submit in writing why their inspections differed from the bureau inspections. However, 40% of private inspectors in the sample ignored or refused to provide reasons for the differing inspection results. Bureau officials report that private inspectors cite the bureau's lack of statutory authority to require them to provide such information.

To strengthen the bureau's ability to provide oversight, the Legislature could amend Ch. 399, *Florida Statutes*, to give the bureau specific authority to require private elevator inspectors to provide the information necessary to reconcile private and bureau inspection results. The bureau has developed proposed statutory language that makes failure to respond to the bureau's request for information a violation against the elevator in question. Because the law provides that certificates of operation cannot be issued if there are violations, failure to respond would result in the elevator not being authorized to operate.

### **Exhibit 3**

#### **Overall Violations Have Increased Over Time While Violations per Inspection Have Decreased**



Source: Department of Business and Professional Regulation.

### ***How many elevator safety incidents have occurred since the program was privatized?***

The Bureau of Elevator Safety tracks elevator incidents as a method of assessing safety. An elevator “incident” is any occurrence that an elevator owner might submit to the bureau, no matter the level of severity. Incidents can include elevators being stuck between floors, passenger injury upon entering or exiting elevators, and problems with elevator controls.

In the past three fiscal years, the bureau has reported 525, 505, and 534 elevator incidents, respectively. Included in these incidents were two deaths, one of which was an elevator worker. Prior to privatization, the bureau tracked only those incidents that resulted in bodily injury or death. For Fiscal Years 1997-98 through 1999-00, the bureau reports that there were 480, 427, and 534 elevator incidents, respectively. Under privatization, the law requires the bureau to report any incident, regardless of how minor. As the criteria for classifying incidents has substantially changed, it is not possible to compare the number of incidents that occurred prior to and under privatization.

As recommended by the Auditor General, the bureau has recently begun to analyze incident data to identify those accidents resulting in bodily injury or death.<sup>5</sup> The bureau now tracks all injuries, but will report only those that require medical intervention or result in death. Reporting these incidents will provide the Legislature with a better assessment of the severity and frequency of elevator accidents, and will enable the bureau to identify any negative trends and unacceptable incident levels and to target elevators and certificate holders that pose the greatest threat to public safety.

## **Conclusions and Recommendations**

Since the Elevator Safety Act privatized elevator inspections in 2000, more inspections are occurring and fewer violations per elevator are being found. However, 3,190 elevators did not receive required inspections during Fiscal Year 2006-07. The bureau has taken steps to ensure that inspections are completed as required by law, including notifying elevator owners that their elevators are in delinquent status and posting “Do Not Use” stickers on delinquent elevators. Additionally, not all private inspectors are identifying violations of safety standards in the same manner as bureau staff, which has resulted in a high discrepancy rate between private and state inspections.

To address these issues, we recommend that the bureau annually review the results of its elevator re-inspections to identify which violations are causing the most discrepancies, publish technical advisories on these violations quarterly, and make them available in printed and electronic formats. These advisories should provide a summary of the violation in question, examples of common interpretation errors, and guidance on correct interpretations of safety standards. To ensure these technical advisories provide sufficient clarification, the bureau’s technical advisory council should review and edit them as part of their quarterly meetings held each year.

We also recommend that the bureau post on its website a listing of elevators that are in delinquent status, including their location, last inspection date, and previous compliance history. This would provide citizens information about the safety of elevators they may frequent and encourage elevator owners to have their noncompliant elevators inspected.

<sup>5</sup> *Department of Business and Professional Regulation, Elevator Safety Inspections, Prior Audit Follow-Up, Operational Audit, Report No. 2008-031, November 2007; and Department of Business and Professional Regulation, Elevator Safety Inspections, Operational Audit, Report No. 2006-075, December 2005.*

We also recommend that the bureau annually analyze elevator incident data and report to the Legislature those accidents that result in medical intervention or death. These reports should include the accident location, nature of the injury, whether the elevator had been involved in previous incidents, and actions taken by the complainant or complainant's estate as a result of the incident. The report should also note if the complainant initiated action against the state because of the incident.

Finally, we recommend that the Legislature consider amending s. 399.049, *Florida Statutes*, to require private inspectors or registered elevator companies to respond to the bureau's request for information reconciling bureau and private inspection results and provide that failure to respond within 30 days will result in a violation that would prohibit the elevator from legally operating.

## Agency Response ---

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was submitted to the Secretary of the Department of Business and Professional Regulation for review and response.

The Secretary's written response is reproduced in its entirety in Appendix A.

## Appendix A

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Office of the Secretary  
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Phone: 850.413.0755 • Fax: 850.921.4094

Chuck Drago, Interim Secretary

Charlie Crist, Governor

March 24, 2008

Mr. Gary R. VanLandingham, Director  
Office of Program Policy Analysis and Government Accountability  
Claude Pepper Building, Room 312  
111 West Madison Street  
Tallahassee, FL 32399-1475

Dear Mr. VanLandingham:

In response to the OPPAGA Report titled *Privatization Has Helped Improve Elevator Safety; Additional State Oversight Is Needed*, the Department of Business and Professional Regulation accepts the findings of your review of the department's Division of Hotels & Restaurants, Bureau of Elevator Safety.

The Bureau has worked closely with your staff in providing information for your report and we are pleased the report acknowledged division performance improvement since privatization. With regards to the report recommendations, steps will continue to be taken to strengthen business practices to improve elevator inspection results and program outcomes.

We appreciate the time and energy put forth by your staff and we look forward to reviewing the final report. We are confident that your efforts to improve the operations of state government will continue to assist us all in providing better and more efficient service. Please contact me at 413.0755 if you need further information or have additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles W. Drago".

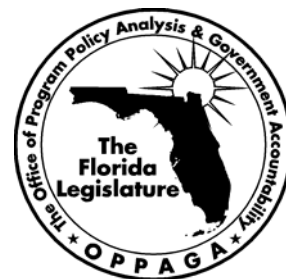
Charles W. Drago  
Interim Secretary

CWD/dw

cc: Bill L. Veach, Director, Division of Hotels and Restaurants

# *The Florida Legislature*

## *Office of Program Policy Analysis and Government Accountability*



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