

1 A bill to be entitled

2 An act relating to building construction; amending s.
3 162.12, F.S.; providing an additional method for local
4 governments to provide notices to alleged code
5 enforcement violators; amending s. 514.03, F.S.;
6 requiring application for an operating permit before
7 filing an application for a building permit for a
8 public swimming pool or bathing place; amending s.
9 514.031, F.S.; providing an additional requirement for
10 obtaining a public swimming pool operating permit;
11 amending s. 553.37, F.S.; specifying inspection
12 criteria for construction or modification of
13 manufactured buildings or modules; amending s.
14 553.721, F.S.; revising the allocation of funds from
15 the building permit surcharge; amending s. 553.775,
16 F.S.; authorizing building officials, local
17 enforcement agencies, and the Florida Building
18 Commission to interpret the Florida Accessibility Code
19 for Building Construction; specifying procedures for
20 such interpretations; deleting provisions relating to
21 declaratory statements and interpretations of the
22 Florida Accessibility Code for Building Construction,
23 to conform; amending s. 553.79, F.S.; prohibiting a
24 local enforcing agency from issuing a building permit
25 for a public swimming pool or bathing place without
26 proof of application for an operating permit;

Page 1 of 17

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27 requiring issuance of an operating permit before final
 28 inspection is completed; amending s. 553.841, F.S.;
 29 revising education and training requirements of the
 30 Florida Building Code Compliance and Mitigation
 31 Program; providing an effective date.
 32

33 Be It Enacted by the Legislature of the State of Florida:
 34

35 Section 1. Paragraph (a) of subsection (1) of section
 36 162.12, Florida Statutes, is amended to read:

37 162.12 Notices.—

38 (1) All notices required by this part must be provided to
 39 the alleged violator by:

40 (a) First-class mail or, at the option of the local
 41 government, certified mail, return receipt requested, to the
 42 address listed in the tax collector's office for tax notices or
 43 to the address listed in the county property appraiser's
 44 database. The local government may also provide an additional
 45 notice to any other address it may find for the property owner.
 46 For property owned by a corporation, notices may be provided by
 47 certified mail to the registered agent of the corporation. If
 48 any notice sent by certified mail is not signed as received
 49 within 30 days after the postmarked date of mailing, notice may
 50 be provided by posting as described in subparagraphs (2) (b) 1.
 51 and 2.;

52 Section 2. Section 514.03, Florida Statutes, is amended to

53 read:

54 514.03 Approval necessary to construct, develop, or modify
55 public swimming pools or public bathing places.—

56 (1) A person or public body desiring to construct,
57 develop, or modify a public swimming pool or public bathing
58 place must apply to the department for an operating permit
59 before filing an application for a building permit under s.
60 553.79.

61 (2) Local governments or local enforcement districts may
62 determine compliance with the general construction standards of
63 the Florida Building Code, pursuant to s. 553.80. Local
64 governments or local enforcement districts may conduct plan
65 reviews and inspections of public swimming pools and public
66 bathing places for this purpose.

67 Section 3. Paragraph (a) of subsection (1) is amended to
68 read:

69 514.031 Permit necessary to operate public swimming pool.—

70 (1) It is unlawful for any person or public body to
71 operate or continue to operate any public swimming pool without
72 a valid permit from the department, such permit to be obtained
73 in the following manner:

74 (a) Any person or public body desiring to operate any
75 public swimming pool shall file an application for a permit with
76 the department, on application forms provided by the department,
77 and shall accompany such application with:

78 1. A description of the structure, its appurtenances, and

79 its operation.

80 ~~2.1.~~ A description of the source or sources of water
 81 supply, and the amount and quality of water available and
 82 intended to be used.

83 ~~3.2.~~ The method and manner of water purification,
 84 treatment, disinfection, and heating.

85 ~~4.3.~~ The safety equipment and standards to be used.

86 ~~5.4.~~ Any other pertinent information deemed necessary by
 87 the department.

88 Section 4. Paragraph (c) of subsection (1) of section
 89 553.37, Florida Statutes, is amended to read:

90 553.37 Rules; inspections; and insignia.—

91 (1) The Florida Building Commission shall adopt within the
 92 Florida Building Code requirements for construction or
 93 modification of manufactured buildings and building modules, to
 94 address:

95 (c) ~~Minimum~~ Inspection criteria, which shall require the
 96 approved inspection agency to:

97 1. Inspect the first building built, or the first unit
 98 assembled with components, after certification from the
 99 manufacturer.

100 2. Continue observation of the manufacturing process until
 101 the agency determines that the manufacturer's quality control
 102 program and the plans approved by the agency will result in a
 103 building and components that meet or exceed the applicable
 104 Florida Building Code requirements.

105 3. With respect to manufactured buildings, inspect each
106 module produced at least once during the manufacturing process,
107 and inspect the entire production line during each plant
108 inspection, to ensure that at least one electrical, plumbing,
109 structural, mechanical, or thermal subsystem is exposed during
110 inspection of at least 75 percent of the modules inspected.

111 4. With respect to components, inspect at least 50 percent
112 of the manufactured building components or 20 percent of storage
113 sheds that are not designed for human habitation and that have a
114 floor area of 720 square feet or less.

115 Section 5. Section 553.721, Florida Statutes, is amended
116 to read:

117 553.721 Surcharge.—In order for the Department of Business
118 and Professional Regulation to administer and carry out the
119 purposes of this part and related activities, there is created a
120 surcharge, to be assessed at the rate of 1.5 percent of the
121 permit fees associated with enforcement of the Florida Building
122 Code as defined by the uniform account criteria and specifically
123 the uniform account code for building permits adopted for local
124 government financial reporting pursuant to s. 218.32. The
125 minimum amount collected on any permit issued shall be \$2. The
126 unit of government responsible for collecting a permit fee
127 pursuant to s. 125.56(4) or s. 166.201 shall collect the
128 surcharge and electronically remit the funds collected to the
129 department on a quarterly calendar basis for the preceding
130 quarter and continuing each third month thereafter. The unit of

131 government shall retain 10 percent of the surcharge collected to
132 fund the participation of building departments in the national
133 and state building code adoption processes and to provide
134 education related to enforcement of the Florida Building Code.
135 All funds remitted to the department pursuant to this section
136 shall be deposited in the Professional Regulation Trust Fund.
137 Funds collected from the surcharge shall be allocated to fund
138 the Florida Building Commission, ~~and~~ the Florida Building Code
139 Compliance and Mitigation Program under s. 553.841, and the
140 Future Builders of America Program. ~~Beginning in the 2013-2014~~
141 ~~fiscal year,~~ Funds allocated to the Florida Building Code
142 Compliance and Mitigation Program shall be \$925,000 each fiscal
143 year. Beginning in the 2014-2015 fiscal year, funds allocated to
144 the Future Builders of America Program shall be \$250,000 each
145 fiscal year. The funds collected from the surcharge may not be
146 used to fund research on techniques for mitigation of radon in
147 existing buildings. Funds used by the department as well as
148 funds to be transferred to the Department of Health shall be as
149 prescribed in the annual General Appropriations Act. The
150 department shall adopt rules governing the collection and
151 remittance of surcharges pursuant to chapter 120.

152 Section 6. Section 553.775, Florida Statutes, is amended
153 to read:

154 553.775 Interpretations.—

155 (1) It is the intent of the Legislature that the Florida
156 Building Code and the Florida Accessibility Code for Building

157 | Construction be interpreted by building officials, local
158 | enforcement agencies, and the commission in a manner that
159 | protects the public safety, health, and welfare at the most
160 | reasonable cost to the consumer by ensuring uniform
161 | interpretations throughout the state and by providing processes
162 | for resolving disputes regarding interpretations of the Florida
163 | Building Code and the Florida Accessibility Code for Building
164 | Construction which are just and expeditious.

165 | (2) Local enforcement agencies, local building officials,
166 | state agencies, and the commission shall interpret provisions of
167 | the Florida Building Code and the Florida Accessibility Code for
168 | Building Construction in a manner that is consistent with
169 | declaratory statements and interpretations entered by the
170 | commission, except that conflicts between the Florida Fire
171 | Prevention Code and the Florida Building Code shall be resolved
172 | in accordance with s. 553.73(11)(c) and (d).

173 | (3) The following procedures may be invoked regarding
174 | interpretations of the Florida Building Code or the Florida
175 | Accessibility Code for Building Construction:

176 | (a) Upon written application by any substantially affected
177 | person or state agency or by a local enforcement agency, the
178 | commission shall issue declaratory statements pursuant to s.
179 | 120.565 relating to the enforcement or administration by local
180 | governments of the Florida Building Code or the Florida
181 | Accessibility Code for Building Construction.

182 | (b) When requested in writing by any substantially

183 affected person or state agency or by a local enforcement
184 agency, the commission shall issue a declaratory statement
185 pursuant to s. 120.565 relating to this part and ss. 515.25,
186 515.27, 515.29, and 515.37. Actions of the commission are
187 subject to judicial review under s. 120.68.

188 (c) The commission shall review decisions of local
189 building officials and local enforcement agencies regarding
190 interpretations of the Florida Building Code or the Florida
191 Accessibility Code for Building Construction after the local
192 board of appeals has considered the decision, if such board
193 exists, and if such appeals process is concluded within 25
194 business days.

195 1. The commission shall coordinate with the Building
196 Officials Association of Florida, Inc., to designate panels
197 composed of five members to hear requests to review decisions of
198 local building officials. The members must be licensed as
199 building code administrators under part XII of chapter 468 and
200 must have experience interpreting and enforcing provisions of
201 the Florida Building Code and the Florida Accessibility Code for
202 Building Construction.

203 2. Requests to review a decision of a local building
204 official interpreting provisions of the Florida Building Code or
205 the Florida Accessibility Code for Building Construction may be
206 initiated by any substantially affected person, including an
207 owner or builder subject to a decision of a local building
208 official or an association of owners or builders having members

209 who are subject to a decision of a local building official. In
210 order to initiate review, the substantially affected person must
211 file a petition with the commission. The commission shall adopt
212 a form for the petition, which shall be published on the
213 Building Code Information System. The form shall, at a minimum,
214 require the following:

215 a. The name and address of the county or municipality in
216 which provisions of the Florida Building Code or the Florida
217 Accessibility Code for Building Construction are being
218 interpreted.

219 b. The name and address of the local building official who
220 has made the interpretation being appealed.

221 c. The name, address, and telephone number of the
222 petitioner; the name, address, and telephone number of the
223 petitioner's representative, if any; and an explanation of how
224 the petitioner's substantial interests are being affected by the
225 local interpretation of the Florida Building Code or the Florida
226 Accessibility Code for Building Construction.

227 d. A statement of the provisions of the Florida Building
228 Code or the Florida Accessibility Code for Building Construction
229 which are being interpreted by the local building official.

230 e. A statement of the interpretation given to provisions
231 of the Florida Building Code or the Florida Accessibility Code
232 for Building Construction by the local building official and the
233 manner in which the interpretation was rendered.

234 f. A statement of the interpretation that the petitioner

235 contends should be given to the provisions of the Florida
236 Building Code or the Florida Accessibility Code for Building
237 Construction and a statement supporting the petitioner's
238 interpretation.

239 g. Space for the local building official to respond in
240 writing. The space shall, at a minimum, require the local
241 building official to respond by providing a statement admitting
242 or denying the statements contained in the petition and a
243 statement of the interpretation of the provisions of the Florida
244 Building Code or the Florida Accessibility Code for Building
245 Construction which the local jurisdiction or the local building
246 official contends is correct, including the basis for the
247 interpretation.

248 3. The petitioner shall submit the petition to the local
249 building official, who shall place the date of receipt on the
250 petition. The local building official shall respond to the
251 petition in accordance with the form and shall return the
252 petition along with his or her response to the petitioner within
253 5 days after receipt, exclusive of Saturdays, Sundays, and legal
254 holidays. The petitioner may file the petition with the
255 commission at any time after the local building official
256 provides a response. If no response is provided by the local
257 building official, the petitioner may file the petition with the
258 commission 10 days after submission of the petition to the local
259 building official and shall note that the local building
260 official did not respond.

261 4. Upon receipt of a petition that meets the requirements
262 of subparagraph 2., the commission shall immediately provide
263 copies of the petition to a panel, and the commission shall
264 publish the petition, including any response submitted by the
265 local building official, on the Building Code Information System
266 in a manner that allows interested persons to address the issues
267 by posting comments.

268 5. The panel shall conduct proceedings as necessary to
269 resolve the issues; shall give due regard to the petitions, the
270 response, and to comments posed on the Building Code Information
271 System; and shall issue an interpretation regarding the
272 provisions of the Florida Building Code or the Florida
273 Accessibility Code for Building Construction within 21 days
274 after the filing of the petition. The panel shall render a
275 determination based upon the Florida Building Code or the
276 Florida Accessibility Code for Building Construction or, if the
277 code is ambiguous, the intent of the code. The panel's
278 interpretation shall be provided to the commission, which shall
279 publish the interpretation on the Building Code Information
280 System and in the Florida Administrative Register. The
281 interpretation shall be considered an interpretation entered by
282 the commission, and shall be binding upon the parties and upon
283 all jurisdictions subject to the Florida Building Code or the
284 Florida Accessibility Code for Building Construction, unless it
285 is superseded by a declaratory statement issued by the Florida
286 Building Commission or by a final order entered after an appeal

287 proceeding conducted in accordance with subparagraph 7.

288 6. It is the intent of the Legislature that review
289 proceedings be completed within 21 days after the date that a
290 petition seeking review is filed with the commission, and the
291 time periods set forth in this paragraph may be waived only upon
292 consent of all parties.

293 7. Any substantially affected person may appeal an
294 interpretation rendered by a hearing officer panel by filing a
295 petition with the commission. Such appeals shall be initiated in
296 accordance with chapter 120 and the uniform rules of procedure
297 and must be filed within 30 days after publication of the
298 interpretation on the Building Code Information System or in the
299 Florida Administrative Register. Hearings shall be conducted
300 pursuant to chapter 120 and the uniform rules of procedure.
301 Decisions of the commission are subject to judicial review
302 pursuant to s. 120.68. The final order of the commission is
303 binding upon the parties and upon all jurisdictions subject to
304 the Florida Building Code or the Florida Accessibility Code for
305 Building Construction.

306 8. The burden of proof in any proceeding initiated in
307 accordance with subparagraph 7. is on the party who initiated
308 the appeal.

309 9. In any review proceeding initiated in accordance with
310 this paragraph, including any proceeding initiated in accordance
311 with subparagraph 7., the fact that an owner or builder has
312 proceeded with construction may not be grounds for determining

313 an issue to be moot if the issue is one that is likely to arise
314 in the future.

315

316 This paragraph provides the exclusive remedy for addressing
317 requests to review local interpretations of the Florida Building
318 Code or the Florida Accessibility Code for Building Construction
319 and appeals from review proceedings.

320 (d) Upon written application by any substantially affected
321 person, contractor, or designer, or a group representing a
322 substantially affected person, contractor, or designer, the
323 commission shall issue or cause to be issued a formal
324 interpretation of the Florida Building Code or the Florida
325 Accessibility Code for Building Construction as prescribed by
326 paragraph (c).

327 (e) Local decisions declaring structures to be unsafe and
328 subject to repair or demolition are not subject to review under
329 this subsection and may not be appealed to the commission if the
330 local governing body finds that there is an immediate danger to
331 the health and safety of the public.

332 (f) Upon written application by any substantially affected
333 person, the commission shall issue a declaratory statement
334 pursuant to s. 120.565 relating to an agency's interpretation
335 and enforcement of the specific provisions of the Florida
336 Building Code or the Florida Accessibility Code for Building
337 Construction which the agency is authorized to enforce. This
338 subsection does not provide any powers, other than advisory, to

339 the commission with respect to any decision of the State Fire
 340 Marshal made pursuant to chapter 633.

341 (g) The commission may designate a commission member who
 342 has demonstrated expertise in interpreting building plans to
 343 attend each meeting of the advisory council created in s.
 344 553.512. The commission member may vary from meeting to meeting,
 345 shall serve on the council in a nonvoting capacity, and shall
 346 receive per diem and expenses as provided in s. 553.74(3).

347 (h) The commission shall by rule establish an informal
 348 process of rendering nonbinding interpretations of the Florida
 349 Building Code and the Florida Accessibility Code for Building
 350 Construction. The commission is specifically authorized to refer
 351 interpretive issues to organizations that represent those
 352 engaged in the construction industry. The commission shall
 353 immediately implement the process before completing formal
 354 rulemaking. It is the intent of the Legislature that the
 355 commission create a process to refer questions to a small,
 356 rotating group of individuals licensed under part XII of chapter
 357 468, to which a party may pose questions regarding the
 358 interpretation of code provisions. It is the intent of the
 359 Legislature that the process provide for the expeditious
 360 resolution of the issues presented and publication of the
 361 resulting interpretation on the Building Code Information
 362 System. Such interpretations shall be advisory only and
 363 nonbinding on the parties and the commission.

364 (4) In order to administer this section, the commission

365 may adopt by rule and impose a fee for filing requests for
366 declaratory statements and binding and nonbinding
367 interpretations to recoup the cost of the proceedings which may
368 not exceed \$125 for each request for a nonbinding interpretation
369 and \$250 for each request for a binding review or
370 interpretation. For proceedings conducted by or in coordination
371 with a third party, the rule may provide that payment be made
372 directly to the third party, who shall remit to the department
373 that portion of the fee necessary to cover the costs of the
374 department.

375 ~~(5) The commission may render declaratory statements in~~
376 ~~accordance with s. 120.565 relating to the provisions of the~~
377 ~~Florida Accessibility Code for Building Construction not~~
378 ~~attributable to the Americans with Disabilities Act~~
379 ~~Accessibility Guidelines. Notwithstanding the other provisions~~
380 ~~of this section, the Florida Accessibility Code for Building~~
381 ~~Construction and chapter 11 of the Florida Building Code may not~~
382 ~~be interpreted by, and are not subject to review under, any of~~
383 ~~the procedures specified in this section. This subsection has no~~
384 ~~effect upon the commission's authority to waive the Florida~~
385 ~~Accessibility Code for Building Construction as provided by s.~~
386 ~~553.512.~~

387 Section 7. Subsections (11) through (18) of section
388 553.79, Florida Statutes, are renumbered as subsections (12)
389 through (19), respectively, and a new subsection (11) is added
390 to that section to read:

391 553.79 Permits; applications; issuance; inspections.-
 392 (11) The local enforcing agency may not issue a building
 393 permit to construct, develop, or modify a public swimming pool
 394 or public bathing place without proof of application for an
 395 operating permit under s. 514.031. Final inspection may not be
 396 completed until such operating permit is issued.

397 Section 8. Subsections (1) and (2) of section 553.841,
 398 Florida Statutes, are amended to read:

399 553.841 Building code compliance and mitigation program.-

400 (1) The Legislature finds that knowledge and understanding
 401 by persons licensed or employed in the design and construction
 402 industries of the importance and need for complying with the
 403 Florida Building Code and related laws is vital to the public
 404 health, safety, and welfare of this state, especially for
 405 protecting consumers and mitigating damage caused by hurricanes
 406 to residents and visitors to the state. The Legislature further
 407 finds that the Florida Building Code can be effective only if
 408 all participants in the design and construction industries
 409 maintain a thorough knowledge of the code, code compliance and
 410 enforcement, duties related to consumers, and changes that
 411 ~~additions thereto which~~ improve construction standards, project
 412 completion, and compliance of design and construction to protect
 413 against consumer harm, storm damage, and other damage.
 414 Consequently, the Legislature finds that there is a need for a
 415 program to provide ongoing education and outreach activities
 416 concerning compliance with the Florida Building Code, the

417 Florida Fire Prevention Code, construction plan and permitting
418 requirements, construction liens, and hurricane mitigation.

419 (2) The Department of Business and Professional Regulation
420 shall administer a program, designated as the Florida Building
421 Code Compliance and Mitigation Program, to develop, coordinate,
422 and maintain education and outreach to persons required to
423 comply with the Florida Building Code and related provisions as
424 specified in subsection (1) and ensure consistent education,
425 training, and communication of the code's requirements,
426 including, but not limited to, methods for design and
427 construction compliance and mitigation of storm-related damage.
428 The program shall also operate a clearinghouse through which
429 design, construction, and building code enforcement licensees,
430 suppliers, and consumers in this state may find others in order
431 to exchange information relating to mitigation and facilitate
432 repairs in the aftermath of a natural disaster.

433 Section 9. This act shall take effect July 1, 2014.