

1 A bill to be entitled
2 An act relating to the Florida Building Code; amending
3 s. 514.0115, F.S.; providing that assisted living
4 facilities are exempt from certain compliance
5 standards; amending s. 553.73, F.S.; authorizing a
6 substantially affected person to file a petition with
7 the Florida Building Commission to review certain
8 local government regulations, laws, ordinances,
9 policies, amendments, or land use or zoning
10 provisions; defining the term "local government";
11 providing requirements for the petition and
12 commission; requiring the commission to issue a
13 nonbinding advisory opinion within a specified
14 timeframe; authorizing the commission to issue errata
15 to the code; providing a definition for the term
16 "errata to the code"; making technical changes;
17 amending s. 553.77, F.S.; conforming a cross-
18 reference; amending s. 553.79, F.S.; prohibiting a
19 local government from requiring certain contracts for
20 the issuance of a building permit; amending s.
21 553.842, F.S.; requiring evaluation entities that meet
22 certain criteria to comply with certain standards;
23 amending ss. 125.01 and 125.56, F.S.; conforming
24 cross-references to changes made by the act; making
25 technical changes; providing an effective date.

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

Section 1. Subsections (3) through (8) of section 514.0115, Florida Statutes, are renumbered as subsections (4) through (9), respectively, and a new subsection (3) is added to that section, to read:

514.0115 Exemptions from supervision or regulation; variances.—

(3) The department may not require compliance with rules relating to swimming pool lifeguard standards for pools serving assisted living facilities.

Section 2. Subsections (4) and (8) of section 553.73, Florida Statutes, are amended to read:

553.73 Florida Building Code.—

(4) (a) All entities authorized to enforce the Florida Building Code under ~~pursuant to~~ s. 553.80 shall comply with applicable standards for issuance of mandatory certificates of occupancy, minimum types of inspections, and procedures for plans review and inspections as established by the commission by rule. Local governments may adopt amendments to the administrative provisions of the Florida Building Code, subject to the limitations in ~~of~~ this subsection ~~paragraph~~. Local amendments must ~~shall~~ be more stringent than the minimum standards described in this section ~~herein~~ and must ~~shall~~ be

51 transmitted to the commission within 30 days after enactment.
52 The local government shall make such amendments available to the
53 general public in a usable format. The State Fire Marshal is
54 responsible for establishing the standards and procedures
55 required in this subsection ~~paragraph~~ for governmental entities
56 with respect to applying the Florida Fire Prevention Code and
57 the Life Safety Code.

58 (b) Local governments may, subject to the limitations in
59 ~~of~~ this section and not more than once every 6 months, adopt
60 amendments to the technical provisions of the Florida Building
61 Code that ~~which~~ apply solely within the jurisdiction of such
62 government and that ~~which~~ provide for more stringent
63 requirements than those specified in the Florida Building Code, ~~7~~
64 ~~not more than once every 6 months~~. A local government may adopt
65 technical amendments that address local needs if:

66 1. The local governing body determines, following a public
67 hearing which has been advertised in a newspaper of general
68 circulation at least 10 days before the hearing, that there is a
69 need to strengthen the requirements of the Florida Building
70 Code. The determination must be based upon a review of local
71 conditions by the local governing body, which review
72 demonstrates by evidence or data that the geographical
73 jurisdiction governed by the local governing body exhibits a
74 local need to strengthen the Florida Building Code beyond the
75 needs or regional variation addressed by the Florida Building

76 Code, that the local need is addressed by the proposed local
 77 amendment, and that the amendment is no more stringent than
 78 necessary to address the local need.

79 2. Such additional requirements are not discriminatory
 80 against materials, products, or construction techniques of
 81 demonstrated capabilities.

82 3. Such additional requirements may not introduce a new
 83 subject not addressed in the Florida Building Code.

84 (c)4. The enforcing agency shall make readily available,
 85 in a usable format, all amendments adopted under ~~pursuant to~~
 86 this section.

87 (d)5. Any amendment to the Florida Building Code shall be
 88 transmitted within 30 days after adoption by the ~~adopting~~ local
 89 government to the commission. The commission shall maintain
 90 copies of all such amendments in a format that is usable and
 91 obtainable by the public. Local technical amendments are ~~shall~~
 92 not ~~become~~ effective until 30 days after the amendment has been
 93 received and published by the commission.

94 (e)6. ~~An Any~~ amendment to the Florida Building Code
 95 adopted by a local government under ~~pursuant to~~ this subsection
 96 is paragraph shall be effective only until the adoption ~~by the~~
 97 ~~commission~~ of the new edition of the Florida Building Code by
 98 the commission every third year. At such time, the commission
 99 shall review such amendment for consistency with the criteria in
 100 paragraph (9) (a) and adopt such amendment as part of the Florida

101 Building Code or rescind the amendment. The commission shall
102 immediately notify the respective local government of the
103 rescission of any amendment. After receiving such notice, the
104 respective local government may readopt the rescinded amendment
105 under ~~pursuant to~~ the provisions of this subsection ~~paragraph~~.

106 (f)7. Each county and municipality desiring to make local
107 technical amendments to the Florida Building Code shall ~~by~~
108 ~~interlocal agreement~~ establish by interlocal agreement a
109 countywide compliance review board to review any amendment to
110 the Florida Building Code that is~~7~~ adopted by a local government
111 within the county under ~~pursuant to~~ this subsection and
112 ~~paragraph~~, that is challenged by a ~~any~~ substantially affected
113 party for purposes of determining the amendment's compliance
114 with this subsection ~~paragraph~~. If challenged, the local
115 technical amendments are ~~shall not become~~ effective until the
116 time for filing an appeal under paragraph (g) ~~pursuant to~~
117 ~~subparagraph 8.~~ has expired or, if there is an appeal, until the
118 commission issues its final order determining if the adopted
119 amendment is in compliance with this subsection.

120 (g)8. If the compliance review board determines such
121 amendment is not in compliance with this subsection ~~paragraph~~,
122 the compliance review board shall notify such local government
123 of the noncompliance and that the amendment is invalid and
124 unenforceable until the local government corrects the amendment
125 to bring it into compliance. The local government may appeal the

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126 decision of the compliance review board to the commission. If
127 the compliance review board determines that such amendment is ~~to~~
128 ~~be~~ in compliance with this subsection ~~paragraph~~, any
129 substantially affected party may appeal such determination to
130 the commission. Any such appeal must ~~shall~~ be filed with the
131 commission within 14 days after ~~of~~ the board's written
132 determination. The commission shall promptly refer the appeal to
133 the Division of Administrative Hearings by electronic means
134 through the division's website for the assignment of an
135 administrative law judge. The administrative law judge shall
136 conduct the required hearing within 30 days after being assigned
137 to the appeal, and shall enter a recommended order within 30
138 days after ~~of~~ the conclusion of such hearing. The commission
139 shall enter a final order within 30 days after an order is
140 rendered thereafter. ~~The provisions of Chapter 120 and the~~
141 uniform rules of procedure shall apply to such proceedings. The
142 local government adopting the amendment that is subject to
143 challenge has the burden of proving that the amendment complies
144 with this subsection ~~paragraph~~ in proceedings before the
145 compliance review board and the commission, as applicable.
146 Actions of the commission are subject to judicial review under
147 ~~pursuant to~~ s. 120.68. The compliance review board shall
148 determine whether its decisions apply to a respective local
149 jurisdiction or apply countywide.

150 (h) 9. An amendment adopted under this subsection ~~paragraph~~

151 must ~~shall~~ include a fiscal impact statement that ~~which~~
152 documents the costs and benefits of the proposed amendment.
153 Criteria for the fiscal impact statement shall include the
154 impact to local government relative to enforcement and, the
155 impact to property and building owners and, ~~as well as to~~
156 industry, ~~relative to the cost of compliance.~~ The fiscal impact
157 statement may not be used as a basis for challenging the
158 amendment for compliance.

159 (i) ~~10.~~ In addition to paragraphs (f) and (g) ~~subparagraphs~~
160 ~~7. and 9.~~, the commission may review any amendments adopted
161 under ~~pursuant to~~ this subsection and make nonbinding
162 recommendations related to compliance of such amendments with
163 this subsection.

164 (j) ~~(e)~~ Any amendment adopted by a local enforcing agency
165 under ~~pursuant to~~ this subsection may ~~shall~~ not apply to state
166 or school district owned buildings, manufactured buildings or
167 factory-built school buildings approved by the commission, or
168 prototype buildings approved under ~~pursuant to~~ s. 553.77(3). The
169 respective responsible entities shall consider the physical
170 performance parameters substantiating such amendments when
171 designing, specifying, and constructing such exempt buildings.

172 (k) ~~(d)~~ A technical amendment to the Florida Building Code
173 related to water conservation practices or design criteria
174 adopted by a local government under ~~pursuant to~~ this subsection
175 is not ~~rendered~~ void when the code is updated if the technical

176 amendment is necessary to protect or provide for more efficient
177 use of water resources as provided in s. 373.621. However, any
178 such technical amendment carried forward into the next edition
179 of the code under ~~pursuant to~~ this paragraph is subject to
180 review or modification as provided in this part.

181 (1) If a local government adopts a regulation, law,
182 ordinance, policy, amendment, or land use or zoning provision
183 without using the process established in this subsection, and a
184 substantially affected person considers such regulation, law,
185 ordinance, policy, amendment, or land use or zoning provision to
186 be a technical amendment to the Florida Building Code, then the
187 substantially affected person may submit a petition to the
188 commission for a nonbinding advisory opinion. If a substantially
189 affected person submits a request in accordance with this
190 paragraph, the commission shall issue a nonbinding advisory
191 opinion stating whether or not the commission interprets the
192 regulation, law, ordinance, policy, amendment, or land use or
193 zoning provision as a technical amendment to the Florida
194 Building Code. As used in this paragraph, the term "local
195 government" means a county, municipality, special district, or
196 political subdivision of the state.

197 1. Requests to review a local government regulation, law,
198 ordinance, policy, amendment, or land use or zoning provision
199 may be initiated by any substantially affected person. A
200 substantially affected person includes an owner or builder

201 subject to the regulation, law, ordinance, policy, amendment, or
 202 land use or zoning provision, or an association of owners or
 203 builders having members who are subject to the regulation, law,
 204 ordinance, policy, amendment, or land use or zoning provision.

205 2. In order to initiate a review, a substantially affected
 206 person must file a petition with the commission. The commission
 207 shall adopt a form for the petition and directions for filing,
 208 which shall be published on the Building Code Information
 209 System. The form shall, at a minimum, require the following:

210 a. The name of the local government that enacted the
 211 regulation, law, ordinance, policy, amendment, or land use or
 212 zoning provision.

213 b. The name and address of the local government's general
 214 counsel or administrator.

215 c. The name, address, and telephone number of the
 216 petitioner; the name, address, and telephone number of the
 217 petitioner's representative, if any; and an explanation of how
 218 the petitioner's substantial interests are being affected by the
 219 regulation, law, ordinance, policy, amendment, or land use or
 220 zoning provision.

221 d. A statement explaining why the regulation, law,
 222 ordinance, policy, amendment, or land use or zoning provision is
 223 a technical amendment to the Florida Building Code, and which
 224 provisions of the Florida Building Code, if any, are being
 225 amended by the regulation, law, ordinance, policy, amendment, or

226 land use or zoning provision.

227 3. The petitioner shall serve the petition on the local
 228 government's general counsel or administrator by certified mail,
 229 return receipt requested, and send a copy of the petition to the
 230 commission, in accordance with the commission's published
 231 directions. The local government shall respond to the petition
 232 in accordance with the form by certified mail, return receipt
 233 requested, and send a copy of its response to the commission,
 234 within 14 days after receipt of the petition, including
 235 Saturdays, Sundays, and legal holidays.

236 4. Upon receipt of a petition that meets the requirements
 237 of this paragraph, the commission shall publish the petition,
 238 including any response submitted by the local government, on the
 239 Building Code Information System in a manner that allows
 240 interested persons to address the issues by posting comments.

241 5. Before issuing an advisory opinion, the commission
 242 shall consider the petition, the response, and any comments
 243 posted on the Building Code Information System. The commission
 244 may also provide the petition, the response, and any comments
 245 posted on the Building Code Information System to a technical
 246 advisory committee, and may consider any recommendation provided
 247 by the technical advisory committee. The commission shall issue
 248 an advisory opinion stating whether the regulation, law,
 249 ordinance, policy, amendment, or land use or zoning provision is
 250 a technical amendment to the Florida Building Code within 30

251 days after the filing of the petition, including Saturdays,
252 Sundays, and legal holidays. The commission shall publish its
253 advisory opinion on the Building Code Information System and in
254 the Florida Administrative Register. The commission's advisory
255 opinion is nonbinding and is not a declaratory statement under
256 s. 120.565.

257 (8) Notwithstanding subsection (3) or subsection (7), the
258 commission may address issues identified in this subsection by
259 amending the code under ~~pursuant to~~ the rule adoption procedures
260 in chapter 120. Updates to the Florida Building Code, including
261 provisions contained in referenced standards and criteria which
262 relate to wind resistance or the prevention of water intrusion,
263 may not be amended under ~~pursuant to~~ this subsection to diminish
264 those standards; however, the commission may amend the Florida
265 Building Code to enhance such standards. Following the approval
266 of any amendments to the Florida Building Code by the commission
267 and publication of the amendments on the commission's website,
268 authorities having jurisdiction to enforce the Florida Building
269 Code may enforce the amendments.

270 (a) The commission may approve amendments that are needed
271 to address:

- 272 1.(a) Conflicts within the updated code;
273 2.(b) Conflicts between the updated code and the Florida
274 Fire Prevention Code adopted under ~~pursuant to~~ chapter 633;
275 3.(c) Unintended results from the integration of

276 | previously adopted amendments with the model code;

277 | ~~4.(d)~~ Equivalency of standards;

278 | ~~5.(e)~~ Changes to or inconsistencies with federal or state
279 | law; or

280 | ~~6.(f)~~ Adoption of an updated edition of the National
281 | Electrical Code if the commission finds that delay of
282 | implementing the updated edition causes undue hardship to
283 | stakeholders or otherwise threatens the public health, safety,
284 | and welfare.

285 | **(b) The commission may issue errata to the code to correct**
286 | **demonstrated errors in provisions contained within the Florida**
287 | **Building Code. The determination of such errors and the issuance**
288 | **of errata to the code must be approved by a 75 percent**
289 | **supermajority vote of the commission. For purposes of this**
290 | **paragraph, "errata to the code" means a list of errors on**
291 | **current and previous editions of the Florida Building Code.**

292 | Section 3. Subsection (7) of section 553.77, Florida
293 | Statutes, is amended to read:

294 | 553.77 Specific powers of the commission.—

295 | (7) Building officials shall recognize and enforce
296 | variance orders issued by the Department of Health under s.
297 | 514.0115(9) ~~pursuant to s. 514.0115(8)~~, including any conditions
298 | attached to the granting of the variance.

299 | Section 4. Paragraph (d) is added to subsection (1) of
300 | section 553.79, Florida Statutes, to read:

301 553.79 Permits; applications; issuance; inspections.—

302 (1)

303 (d) A local government may not require a contract between
 304 a builder and an owner for the issuance of a building permit or
 305 as a requirement for the submission of a building permit
 306 application.

307 Section 5. Paragraph (a) of subsection (8) of section
 308 553.842, Florida Statutes, is amended to read:

309 553.842 Product evaluation and approval.—

310 (8) The commission may adopt rules to approve the
 311 following types of entities that produce information on which
 312 product approvals are based. All of the following entities,
 313 including engineers and architects, must comply with a
 314 nationally recognized standard demonstrating independence or no
 315 conflict of interest:

316 (a) Evaluation entities approved under pursuant to this
 317 paragraph or that meet the criteria for approval adopted by the
 318 commission by rule. The commission shall specifically approve
 319 the National Evaluation Service, the International Association
 320 of Plumbing and Mechanical Officials Evaluation Service, the
 321 International Code Council Evaluation Services, Underwriters
 322 Laboratories, LLC, Intertek Testing Services NA, Inc., and the
 323 Miami-Dade County Building Code Compliance Office Product
 324 Control Division. Architects and engineers licensed in this
 325 state are also approved to conduct product evaluations as

326 provided in subsection (5).

327 Section 6. Paragraph (bb) of subsection (1) of section
328 125.01, Florida Statutes, is amended to read:

329 125.01 Powers and duties.—

330 (1) The legislative and governing body of a county shall
331 have the power to carry on county government. To the extent not
332 inconsistent with general or special law, this power includes,
333 but is not restricted to, the power to:

334 (bb) Enforce the Florida Building Code~~7~~ as provided in s.
335 553.80~~7~~ and adopt and enforce local technical amendments to the
336 Florida Building Code as provided in s. 553.73(4)~~, pursuant to~~
337 ~~s. 553.73(4)(b) and (c)~~.

338 Section 7. Subsection (1) of section 125.56, Florida
339 Statutes, is amended to read:

340 125.56 Enforcement and amendment of the Florida Building
341 Code and the Florida Fire Prevention Code; inspection fees;
342 inspectors; etc.—

343 (1) The board of county commissioners of each of the
344 several counties of the state may enforce the Florida Building
345 Code and the Florida Fire Prevention Code~~7~~ as provided in ss.
346 553.80, 633.206, and 633.208~~7~~ and, at its discretion, adopt
347 local technical amendments to the Florida Building Code as
348 provided in s. 553.73(4)~~, pursuant to s. 553.73(4)(b) and (c)~~
349 and local technical amendments to the Florida Fire Prevention
350 Code as provided in~~, pursuant to~~ s. 633.202~~7~~ to provide for the

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351 safe construction, erection, alteration, repair, securing, and
352 demolition of any building within its territory outside the
353 corporate limits of any municipality. Upon a determination to
354 consider amending the Florida Building Code or the Florida Fire
355 Prevention Code by a majority of the members of the board of
356 county commissioners of such county, the board shall call a
357 public hearing and comply with the public notice requirements of
358 s. 125.66(2). The board shall hear all interested parties at the
359 public hearing and may then amend the building code or the fire
360 code consistent with the terms and purposes of this act. Upon
361 adoption, an amendment to the code shall be in full force and
362 effect throughout the unincorporated area of such county until
363 otherwise notified by the Florida Building Commission under
364 ~~pursuant to~~ s. 553.73 or the State Fire Marshal under ~~pursuant~~
365 ~~to~~ s. 633.202. This subsection does not ~~Nothing herein contained~~
366 ~~shall be construed to~~ prevent the board of county commissioners
367 from repealing such amendment to the building code or the fire
368 code at any regular meeting of such board.

369 Section 8. This act shall take effect July 1, 2021.