

HB 859

2023

1                   A bill to be entitled  
2     An act relating to flood damage prevention; providing  
3     a short title; creating s. 553.845, F.S.; providing  
4     legislative findings; providing definitions; providing  
5     specified maximum voluntary freeboard requirements for  
6     all new construction and substantial improvements to  
7     existing construction; prohibiting voluntary freeboard  
8     from being used in the calculation of the maximum  
9     allowable height for certain construction in  
10    applicable zoning districts; authorizing local  
11    governments to adopt by ordinance a minimum freeboard  
12    requirement or a maximum voluntary freeboard that  
13    exceeds the minimum requirements in the Florida  
14    Building Code or established in this act; requiring  
15    the Florida Building Commission to develop and adopt  
16    by rule minimum freeboard requirements by a specified  
17    date, which shall take immediate effect, and to  
18    incorporate such requirements into the next edition of  
19    the Florida Building Code; requiring the commission to  
20    review the freeboard requirements in the Florida  
21    Building Code every 5 years beginning on a specified  
22    date and make certain recommendations to the  
23    Legislature; providing an effective date.

24  
25    Be It Enacted by the Legislature of the State of Florida:

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27       Section 1. This act may be cited as the "Flood Damage  
28 Prevention Act of 2023."

29       Section 2. Section 553.845, Florida Statutes, is created  
30 to read:

31       553.845 Flood damage prevention.—

32       (1) The Legislature finds that:

33       (a) The state is vulnerable to the adverse effects of  
34 flooding resulting from the frequency and intensity of rainfall  
35 and an increase in storm surge and sea level rise. These adverse  
36 effects pose a significant risk to existing and future  
37 structures in the state.

38       (b) Public and private investments in our communities are  
39 important for economic growth, and protecting all structures  
40 from flooding is essential to maintaining resilient communities.

41       (c) The mitigation of property damage constitutes a valid  
42 and recognized objective of the Florida Building Code.

43       (d) It is important to develop a consistent, statewide  
44 approach to minimizing flooding in the state to mitigate  
45 property damage and encourage continued investment in our  
46 communities.

47       (e) Minimum freeboard requirements are critical to  
48 addressing the devastating effects of flooding, and delaying the  
49 adoption and implementation of such requirements constitutes a  
50 threat to the health, safety, and welfare of the state.

51        (2) For purposes of this section, the term:

52        (a) "Coastal high-hazard area" means a special flood  
53 hazard area along the coast, as delineated by a Flood Insurance  
54 Rate Map issued by the Federal Emergency Management Agency, that  
55 has additional hazards due to wind and wave action.

56        (b) "Freeboard" means the additional height, usually  
57 expressed as a factor of safety in feet, above the base flood  
58 elevation in determining the level at which a structure's lowest  
59 floor or the bottom of the lowest horizontal structural member  
60 must be elevated in accordance with floodplain management  
61 regulations and the Florida Building Code. If a base flood  
62 elevation is not determined for a structure that is not located  
63 in a special flood hazard area as designated by a Flood  
64 Insurance Rate Map issued by the Federal Emergency Management  
65 Agency, the term "freeboard" means the highest adjacent grade at  
66 the foundation of a structure.

67        (c) "Maximum allowable height" means the maximum height  
68 allowed for a structure in the applicable zoning district.

69        (d) "Substantial improvement" has the meaning as in s.  
70 161.54(12).

71        (e) "Voluntary freeboard" means the additional height  
72 above the freeboard required by floodplain management  
73 regulations and the Florida Building Code. If freeboard is not  
74 required by floodplain management regulations and the Florida  
75 Building Code, the term "voluntary freeboard" means the

76 additional height above the highest adjacent grade at the  
77 foundation of a structure.

78 (3)(a) The maximum voluntary freeboard for all new  
79 construction and substantial improvements to existing  
80 construction, whether residential, commercial, industrial, or  
81 nonresidential, is 4 feet.

82 (b) Within a coastal high-hazard area, the maximum  
83 voluntary freeboard for all new construction and substantial  
84 improvements to existing construction, whether residential,  
85 commercial, industrial, or nonresidential, is 9 feet.

86 (4) For all new construction of a residential structure  
87 and substantial improvements to an existing residential  
88 structure, including a manufactured home, or an existing  
89 commercial, industrial, or nonresidential structure, voluntary  
90 freeboard may not be used in the calculation of the maximum  
91 allowable height for the structure.

92 (5) A local government may adopt by ordinance a minimum  
93 freeboard requirement or a maximum voluntary freeboard that  
94 exceeds the requirements in the Florida Building Code or  
95 established in this section.

96 (6) The commission shall develop and adopt by rule minimum  
97 freeboard requirements by November 1, 2023, which shall take  
98 immediate effect, and shall incorporate such requirements into  
99 the next edition of the Florida Building Code.

100 (7) Beginning in January 2028, and every 5 years

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101 thereafter, the commission shall review the freeboard  
102 requirements in the Florida Building Code and make  
103 recommendations to the Legislature regarding any necessary  
104 revisions to such requirements.

105       Section 3. This act shall take effect July 1, 2023.