

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

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsections (4) and (8) of section 553.73,

26 Florida Statutes, are amended to read:

27 553.73 Florida Building Code.—

28 (4) (a) All entities authorized to enforce the Florida
 29 Building Code under ~~pursuant to~~ s. 553.80 shall comply with
 30 applicable standards for issuance of mandatory certificates of
 31 occupancy, minimum types of inspections, and procedures for
 32 plans review and inspections as established by the commission by
 33 rule. Local governments may adopt amendments to the
 34 administrative provisions of the Florida Building Code, subject
 35 to the limitations in ~~of~~ this subsection ~~paragraph~~. Local
 36 amendments must ~~shall~~ be more stringent than the minimum
 37 standards described in this section ~~herein~~ and must ~~shall~~ be
 38 transmitted to the commission within 30 days after enactment.
 39 The local government shall make such amendments available to the
 40 general public in a usable format. The State Fire Marshal is
 41 responsible for establishing the standards and procedures
 42 required in this subsection ~~paragraph~~ for governmental entities
 43 with respect to applying the Florida Fire Prevention Code and
 44 the Life Safety Code.

45 (b) Local governments may, subject to the limitations in
 46 ~~of~~ this section and not more than once every 6 months, adopt
 47 amendments to the technical provisions of the Florida Building
 48 Code that ~~which~~ apply solely within the jurisdiction of such
 49 government and that ~~which~~ provide for more stringent
 50 requirements than those specified in the Florida Building Code.

51 ~~not more than once every 6 months.~~ A local government may adopt
52 technical amendments that address local needs if:

53 1. The local governing body determines, following a public
54 hearing which has been advertised in a newspaper of general
55 circulation at least 10 days before the hearing, that there is a
56 need to strengthen the requirements of the Florida Building
57 Code. The determination must be based upon a review of local
58 conditions by the local governing body, which review
59 demonstrates by evidence or data that the geographical
60 jurisdiction governed by the local governing body exhibits a
61 local need to strengthen the Florida Building Code beyond the
62 needs or regional variation addressed by the Florida Building
63 Code, that the local need is addressed by the proposed local
64 amendment, and that the amendment is no more stringent than
65 necessary to address the local need.

66 2. Such additional requirements are not discriminatory
67 against materials, products, or construction techniques of
68 demonstrated capabilities.

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

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

74 (d)5. Any amendment to the Florida Building Code shall be
75 transmitted within 30 days after adoption by the ~~adopting~~ local

76 government to the commission. The commission shall maintain
77 copies of all such amendments in a format that is usable and
78 obtainable by the public. Local technical amendments are ~~shall~~
79 not ~~become~~ effective until 30 days after the amendment has been
80 received and published by the commission.

81 (e)6. ~~An Any~~ amendment to the Florida Building Code
82 adopted by a local government under ~~pursuant to~~ this subsection
83 is paragraph ~~shall be~~ effective only until the adoption ~~by the~~
84 ~~commission~~ of the new edition of the Florida Building Code by
85 the commission every third year. At such time, the commission
86 shall review such amendment for consistency with the criteria in
87 paragraph (9) (a) and adopt such amendment as part of the Florida
88 Building Code or rescind the amendment. The commission shall
89 immediately notify the respective local government of the
90 rescission of any amendment. After receiving such notice, the
91 respective local government may readopt the rescinded amendment
92 under ~~pursuant to~~ the provisions of this subsection ~~paragraph~~.

93 (f)7. Each county and municipality desiring to make local
94 technical amendments to the Florida Building Code shall ~~by~~
95 ~~interlocal agreement~~ establish by interlocal agreement a
96 countywide compliance review board to review any amendment to
97 the Florida Building Code that is ~~7~~ adopted by a local government
98 within the county under ~~pursuant to~~ this subsection and
99 ~~paragraph~~ that is challenged by a any substantially affected
100 party for purposes of determining the amendment's compliance

101 with this subsection ~~paragraph~~. If challenged, the local
102 technical amendments are ~~shall not become~~ effective until the
103 time for filing an appeal under paragraph (g) ~~pursuant to~~
104 ~~subparagraph 8.~~ has expired or, if there is an appeal, until the
105 commission issues its final order determining if the adopted
106 amendment is in compliance with this subsection.

107 (g) 8. If the compliance review board determines such
108 amendment is not in compliance with this subsection ~~paragraph~~,
109 the compliance review board shall notify such local government
110 of the noncompliance and that the amendment is invalid and
111 unenforceable until the local government corrects the amendment
112 to bring it into compliance. The local government may appeal the
113 decision of the compliance review board to the commission. If
114 the compliance review board determines that such amendment is ~~to~~
115 ~~be~~ in compliance with this subsection ~~paragraph~~, any
116 substantially affected party may appeal such determination to
117 the commission. Any such appeal must ~~shall~~ be filed with the
118 commission within 14 days after ~~of~~ the board's written
119 determination. The commission shall promptly refer the appeal to
120 the Division of Administrative Hearings by electronic means
121 through the division's website for the assignment of an
122 administrative law judge. The administrative law judge shall
123 conduct the required hearing within 30 days after being assigned
124 to the appeal, and shall enter a recommended order within 30
125 days after ~~of~~ the conclusion of such hearing. The commission

126 shall enter a final order within 30 days after an order is
127 rendered thereafter. ~~The provisions of Chapter 120 and the~~
128 uniform rules of procedure shall apply to such proceedings. The
129 local government adopting the amendment that is subject to
130 challenge has the burden of proving that the amendment complies
131 with this subsection ~~paragraph~~ in proceedings before the
132 compliance review board and the commission, as applicable.
133 Actions of the commission are subject to judicial review under
134 ~~pursuant to~~ s. 120.68. The compliance review board shall
135 determine whether its decisions apply to a respective local
136 jurisdiction or apply countywide.

137 (h)9. An amendment adopted under this subsection ~~paragraph~~
138 must ~~shall~~ include a fiscal impact statement that ~~which~~
139 documents the costs and benefits of the proposed amendment.
140 Criteria for the fiscal impact statement shall include the
141 impact to local government relative to enforcement and, ~~the~~
142 impact to property and building owners and, ~~as well as to~~
143 industry, ~~relative to the cost of compliance.~~ The fiscal impact
144 statement may not be used as a basis for challenging the
145 amendment for compliance.

146 (i)10. In addition to paragraphs (f) and (g) ~~subparagraphs~~
147 ~~7. and 9.~~, the commission may review any amendments adopted
148 under ~~pursuant to~~ this subsection and make nonbinding
149 recommendations related to compliance of such amendments with
150 this subsection.

151 ~~(j)(e)~~ Any amendment adopted by a local enforcing agency
152 under ~~pursuant to~~ this subsection may ~~shall~~ not apply to state
153 or school district owned buildings, manufactured buildings or
154 factory-built school buildings approved by the commission, or
155 prototype buildings approved under ~~pursuant to~~ s. 553.77(3). The
156 respective responsible entities shall consider the physical
157 performance parameters substantiating such amendments when
158 designing, specifying, and constructing such exempt buildings.

159 ~~(k)(d)~~ A technical amendment to the Florida Building Code
160 related to water conservation practices or design criteria
161 adopted by a local government under ~~pursuant to~~ this subsection
162 is not ~~rendered~~ void when the code is updated if the technical
163 amendment is necessary to protect or provide for more efficient
164 use of water resources as provided in s. 373.621. However, any
165 such technical amendment carried forward into the next edition
166 of the code under ~~pursuant to~~ this paragraph is subject to
167 review or modification as provided in this part.

168 (1) If a local government adopts a regulation, law,
169 ordinance, policy, amendment, or land use or zoning provision
170 without using the process established in this subsection, and a
171 substantially affected person considers such regulation, law,
172 ordinance, policy, amendment, or land use or zoning provision to
173 be a technical amendment to the Florida Building Code, then the
174 substantially affected person may submit a petition to the
175 commission for a nonbinding advisory opinion. If a substantially

176 affected person submits a request in accordance with this
177 paragraph, the commission shall issue a nonbinding advisory
178 opinion stating whether or not the commission interprets the
179 regulation, law, ordinance, policy, amendment, or land use or
180 zoning provision as a technical amendment to the Florida
181 Building Code. As used in this paragraph, the term "local
182 government" means a county, municipality, special district, or
183 political subdivision of the state.

184 1. Requests to review a local government regulation, law,
185 ordinance, policy, amendment, or land use or zoning provision
186 may be initiated by any substantially affected person. A
187 substantially affected person includes an owner or builder
188 subject to the regulation, law, ordinance, policy, amendment, or
189 land use or zoning provision, or an association of owners or
190 builders having members who are subject to the regulation, law,
191 ordinance, policy, amendment, or land use or zoning provision.

192 2. In order to initiate a review, a substantially affected
193 person must file a petition with the commission. The commission
194 shall adopt a form for the petition and directions for filing,
195 which shall be published on the Building Code Information
196 System. The form shall, at a minimum, require the following:

197 a. The name of the local government that enacted the
198 regulation, law, ordinance, policy, amendment, or land use or
199 zoning provision.

200 b. The name and address of the local government's general

201 counsel or administrator.

202 c. The name, address, and telephone number of the
203 petitioner; the name, address, and telephone number of the
204 petitioner's representative, if any; and an explanation of how
205 the petitioner's substantial interests are being affected by the
206 regulation, law, ordinance, policy, amendment, or land use or
207 zoning provision.

208 d. A statement explaining why the regulation, law,
209 ordinance, policy, amendment, or land use or zoning provision is
210 a technical amendment to the Florida Building Code, and which
211 provisions of the Florida Building Code, if any, are being
212 amended by the regulation, law, ordinance, policy, amendment, or
213 land use or zoning provision.

214 3. The petitioner shall serve the petition on the local
215 government's general counsel or administrator by certified mail,
216 return receipt requested, and send a copy of the petition to the
217 commission, in accordance with the commission's published
218 directions. The local government shall respond to the petition
219 in accordance with the form by certified mail, return receipt
220 requested, and send a copy of its response to the commission,
221 within 14 days after receipt of the petition, including
222 Saturdays, Sundays, and legal holidays.

223 4. Upon receipt of a petition that meets the requirements
224 of this paragraph, the commission shall publish the petition,
225 including any response submitted by the local government, on the

226 Building Code Information System in a manner that allows
227 interested persons to address the issues by posting comments.
228 5. Before issuing an advisory opinion, the commission
229 shall consider the petition, the response, and any comments
230 posted on the Building Code Information System. The commission
231 may also provide the petition, the response, and any comments
232 posted on the Building Code Information System to a technical
233 advisory committee, and may consider any recommendation provided
234 by the technical advisory committee. The commission shall issue
235 an advisory opinion stating whether the regulation, law,
236 ordinance, policy, amendment, or land use or zoning provision is
237 a technical amendment to the Florida Building Code within 30
238 days after the filing of the petition, including Saturdays,
239 Sundays, and legal holidays. The commission shall publish its
240 advisory opinion on the Building Code Information System and in
241 the Florida Administrative Register. The commission's advisory
242 opinion is nonbinding and is not a declaratory statement under
243 s. 120.565.

244 (8) Notwithstanding subsection (3) or subsection (7), the
245 commission may address issues identified in this subsection by
246 amending the code under ~~pursuant to~~ the rule adoption procedures
247 in chapter 120. Updates to the Florida Building Code, including
248 provisions contained in referenced standards and criteria which
249 relate to wind resistance or the prevention of water intrusion,
250 may not be amended under ~~pursuant to~~ this subsection to diminish

251 those standards; however, the commission may amend the Florida
252 Building Code to enhance such standards. Following the approval
253 of any amendments to the Florida Building Code by the commission
254 and publication of the amendments on the commission's website,
255 authorities having jurisdiction to enforce the Florida Building
256 Code may enforce the amendments.

257 (a) The commission may approve amendments that are needed
258 to address:

259 1.(a) Conflicts within the updated code;

260 2.(b) Conflicts between the updated code and the Florida
261 Fire Prevention Code adopted under ~~pursuant to~~ chapter 633;

262 3.(c) Unintended results from the integration of
263 previously adopted amendments with the model code;

264 4.(d) Equivalency of standards;

265 5.(e) Changes to or inconsistencies with federal or state
266 law; or

267 6.(f) Adoption of an updated edition of the National
268 Electrical Code if the commission finds that delay of
269 implementing the updated edition causes undue hardship to
270 stakeholders or otherwise threatens the public health, safety,
271 and welfare.

272 (b) The commission may issue errata to the code to correct
273 demonstrated errors in provisions contained within the Florida
274 Building Code. The determination of such errors and the issuance
275 of errata to the code must be approved by a 75 percent

276 supermajority vote of the commission. For purposes of this
277 paragraph, "errata to the code" means a list of errors on
278 current and previous editions of the Florida Building Code.

279 Section 2. Paragraph (d) is added to subsection (1) of
280 section 553.79, Florida Statutes, to read:

281 553.79 Permits; applications; issuance; inspections.—

282 (1)

283 (d) A local government may not require a contract between
284 a builder and an owner for the issuance of a building permit or
285 as a requirement for the submission of a building permit
286 application.

287 Section 3. Paragraph (a) of subsection (8) of section
288 553.842, Florida Statutes, is amended to read:

289 553.842 Product evaluation and approval.—

290 (8) The commission may adopt rules to approve the
291 following types of entities that produce information on which
292 product approvals are based. All of the following entities,
293 including engineers and architects, must comply with a
294 nationally recognized standard demonstrating independence or no
295 conflict of interest:

296 (a) Evaluation entities approved ~~under~~ pursuant to this
297 paragraph or that meet the criteria for approval adopted by the
298 commission by rule. The commission shall specifically approve
299 the National Evaluation Service, the International Association
300 of Plumbing and Mechanical Officials Evaluation Service, the

301 International Code Council Evaluation Services, Underwriters
 302 Laboratories, LLC, Intertek Testing Services NA, Inc., and the
 303 Miami-Dade County Building Code Compliance Office Product
 304 Control Division. Architects and engineers licensed in this
 305 state are also approved to conduct product evaluations as
 306 provided in subsection (5).

307 Section 4. Paragraph (bb) of subsection (1) of section
 308 125.01, Florida Statutes, is amended to read:

309 125.01 Powers and duties.—

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

314 (bb) Enforce the Florida Building Code~~7~~ as provided in s.
 315 553.80~~7~~ and adopt and enforce local technical amendments to the
 316 Florida Building Code as provided in s. 553.73(4)~~, pursuant to~~
 317 ~~s. 553.73(4)(b) and (c).~~

318 Section 5. Subsection (1) of section 125.56, Florida
 319 Statutes, is amended to read:

320 125.56 Enforcement and amendment of the Florida Building
 321 Code and the Florida Fire Prevention Code; inspection fees;
 322 inspectors; etc.—

323 (1) The board of county commissioners of each of the
 324 several counties of the state may enforce the Florida Building
 325 Code and the Florida Fire Prevention Code~~7~~ as provided in ss.

326 553.80, 633.206, and 633.208~~7~~ and, at its discretion, adopt
 327 local technical amendments to the Florida Building Code as
 328 provided in s. 553.73(4)~~7~~, ~~pursuant to s. 553.73(4)(b) and (c)~~
 329 and local technical amendments to the Florida Fire Prevention
 330 Code as provided in~~7~~, ~~pursuant to s. 633.202~~7, to provide for the
 331 safe construction, erection, alteration, repair, securing, and
 332 demolition of any building within its territory outside the
 333 corporate limits of any municipality. Upon a determination to
 334 consider amending the Florida Building Code or the Florida Fire
 335 Prevention Code by a majority of the members of the board of
 336 county commissioners of such county, the board shall call a
 337 public hearing and comply with the public notice requirements of
 338 s. 125.66(2). The board shall hear all interested parties at the
 339 public hearing and may then amend the building code or the fire
 340 code consistent with the terms and purposes of this act. Upon
 341 adoption, an amendment to the code shall be in full force and
 342 effect throughout the unincorporated area of such county until
 343 otherwise notified by the Florida Building Commission under
 344 ~~pursuant to s. 553.73~~ or the State Fire Marshal under ~~pursuant~~
 345 ~~to s. 633.202. This subsection does not~~ ~~Nothing herein contained~~
 346 ~~shall be construed to~~ prevent the board of county commissioners
 347 from repealing such amendment to the building code or the fire
 348 code at any regular meeting of such board.

349 Section 6. This act shall take effect July 1, 2021.