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2021 Legislature

1
2 An act relating to the Florida Building Code; amending
3 s. 163.3202, F.S.; prohibiting certain regulations
4 relating to building design elements from being
5 applied to certain dwellings; providing exceptions;
6 defining terms; providing construction; amending s.
7 553.73, F.S.; authorizing a substantially affected
8 person to file a petition with the Florida Building
9 Commission to review certain local government
10 regulations, laws, ordinances, policies, amendments,
11 or land use or zoning provisions; defining the term
12 "local government"; providing requirements for the
13 petition and commission; requiring the commission to
14 issue a nonbinding advisory opinion within a specified
15 timeframe; prohibiting the use of preliminary maps
16 issued by the Federal Emergency Management Agency
17 under certain circumstances; authorizing the
18 commission to issue errata to the code; providing a
19 definition for the term "errata to the code"; making
20 technical changes; amending s. 553.79, F.S.;
21 prohibiting a local government from requiring certain
22 contracts for the issuance of a building permit;
23 amending s. 553.791, F.S.; revising and defining
24 terms; providing requirements for qualified private
25 providers; requiring local jurisdictions to reduce

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

26 | permit fees under certain circumstances; deleting
27 | legislative intent; specifying that contractors using
28 | private providers to provide building code inspections
29 | services must notify local building officials in
30 | writing; revising notice requirements; deleting a
31 | provision requiring fee owners or fee owners'
32 | contractors to post certain information at a project
33 | site before commencing construction; authorizing
34 | certain affidavits to be signed with electronic
35 | signatures and be submitted to local building
36 | officials electronically; authorizing certain
37 | inspections to be performed in-person or virtually;
38 | authorizing certain reports to be signed with
39 | electronic signatures; authorizing certain notices to
40 | be electronically posted; authorizing private
41 | providers to perform certain replacements and repairs
42 | without first notifying local building officials under
43 | certain circumstances; authorizing certain forms to be
44 | signed with electronic signatures; authorizing certain
45 | inspection records to be electronically posted and
46 | electronically submitted to local building officials;
47 | authorizing certificates of compliance to be
48 | electronically transmitted to local building
49 | officials; authorizing certain local entities to use a
50 | private provider for code inspection services under

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

51 certain circumstances; conforming provisions to
 52 changes made by the act; amending s. 553.80, F.S.;
 53 revising how certain excess funds may be used by a
 54 local government; amending s. 553.842, F.S.; requiring
 55 evaluation entities that meet certain criteria to
 56 comply with certain standards; authorizing the
 57 commission to suspend or revoke certain approvals
 58 under certain circumstances; amending ss. 125.01 and
 59 125.56, F.S.; conforming cross-references to changes
 60 made by the act; making technical changes; providing
 61 effective dates.

62

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

64

65 Section 1. Present subsection (5) of section 163.3202,
 66 Florida Statutes, is redesignated as subsection (6), and a new
 67 subsection (5) is added to that section, to read:

68 163.3202 Land development regulations.—

69 (5) (a) Land development regulations relating to building
 70 design elements may not be applied to a single-family or two-
 71 family dwelling unless:

72 1. The dwelling is listed in the National Register of
 73 Historic Places, as defined in s. 267.021(5); is located in a
 74 National Register Historic District; or is designated as a
 75 historic property or located in a historic district, under the

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

76 terms of a local preservation ordinance;

77 2. The regulations are adopted in order to implement the
 78 National Flood Insurance Program;

79 3. The regulations are adopted pursuant to and in
 80 compliance with chapter 553;

81 4. The dwelling is located in a community redevelopment
 82 area, as defined in s. 163.340(10);

83 5. The regulations are required to ensure protection of
 84 coastal wildlife in compliance with s. 161.052, s. 161.053, s.
 85 161.0531, s. 161.085, s. 161.163, or chapter 373;

86 6. The dwelling is located in a planned unit development
 87 or master planned community created pursuant to a local
 88 ordinance, resolution, or other final action approved by the
 89 local governing body; or

90 7. The dwelling is located within the jurisdiction of a
 91 local government that has a design review board or architectural
 92 review board.

93 (b) For purposes of this subsection, the term:

94 1. "Building design elements" means the external building
 95 color; the type or style of exterior cladding material; the
 96 style or material of roof structures or porches; the exterior
 97 nonstructural architectural ornamentation; the location or
 98 architectural styling of windows or doors; the location or
 99 orientation of the garage; the number and type of rooms; and the
 100 interior layout of rooms. The term does not include the height,

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

101 bulk, orientation, or location of a dwelling on a zoning lot; or
 102 the use of buffering or screening to minimize potential adverse
 103 physical or visual impacts or to protect the privacy of
 104 neighbors.

105 2. "Planned unit development" or "master planned
 106 community" means an area of land that is planned and developed
 107 as a single entity or in approved stages with uses and
 108 structures substantially related to the character of the entire
 109 development, or a self-contained development in which the
 110 subdivision and zoning controls are applied to the project as a
 111 whole rather than to individual lots.

112 (c) This subsection does not affect the validity or
 113 enforceability of private covenants or other contractual
 114 agreements relating to building design elements.

115 Section 2. Subsections (4), (5), and (8) of section
 116 553.73, Florida Statutes, are amended to read:

117 553.73 Florida Building Code.—

118 (4) (a) All entities authorized to enforce the Florida
 119 Building Code under ~~pursuant to~~ s. 553.80 shall comply with
 120 applicable standards for issuance of mandatory certificates of
 121 occupancy, minimum types of inspections, and procedures for
 122 plans review and inspections as established by the commission by
 123 rule. Local governments may adopt amendments to the
 124 administrative provisions of the Florida Building Code, subject
 125 to the limitations in ~~of~~ this subsection ~~paragraph~~. Local

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

126 amendments must ~~shall~~ be more stringent than the minimum
 127 standards described in this section ~~herein~~ and must ~~shall~~ be
 128 transmitted to the commission within 30 days after enactment.
 129 The local government shall make such amendments available to the
 130 general public in a usable format. The State Fire Marshal is
 131 responsible for establishing the standards and procedures
 132 required in this subsection ~~paragraph~~ for governmental entities
 133 with respect to applying the Florida Fire Prevention Code and
 134 the Life Safety Code.

135 (b) Local governments may, subject to the limitations in
 136 ~~of~~ this section and not more than once every 6 months, adopt
 137 amendments to the technical provisions of the Florida Building
 138 Code that ~~which~~ apply solely within the jurisdiction of such
 139 government and that ~~which~~ provide for more stringent
 140 requirements than those specified in the Florida Building Code, ~~7~~
 141 ~~not more than once every 6 months~~. A local government may adopt
 142 technical amendments that address local needs if:

143 1. The local governing body determines, following a public
 144 hearing which has been advertised in a newspaper of general
 145 circulation at least 10 days before the hearing, that there is a
 146 need to strengthen the requirements of the Florida Building
 147 Code. The determination must be based upon a review of local
 148 conditions by the local governing body, which review
 149 demonstrates by evidence or data that the geographical
 150 jurisdiction governed by the local governing body exhibits a

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

151 local need to strengthen the Florida Building Code beyond the
152 needs or regional variation addressed by the Florida Building
153 Code, that the local need is addressed by the proposed local
154 amendment, and that the amendment is no more stringent than
155 necessary to address the local need.

156 2. Such additional requirements are not discriminatory
157 against materials, products, or construction techniques of
158 demonstrated capabilities.

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

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

164 (d)5. Any amendment to the Florida Building Code shall be
165 transmitted within 30 days after adoption by the ~~adopting~~ local
166 government to the commission. The commission shall maintain
167 copies of all such amendments in a format that is usable and
168 obtainable by the public. Local technical amendments are ~~shall~~
169 not ~~become~~ effective until 30 days after the amendment has been
170 received and published by the commission.

171 (e)6. ~~An Any~~ amendment to the Florida Building Code
172 adopted by a local government under ~~pursuant to~~ this subsection
173 ~~is paragraph shall be~~ effective only until the adoption ~~by the~~
174 ~~commission~~ of the new edition of the Florida Building Code by
175 the commission every third year. At such time, the commission

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

176 shall review such amendment for consistency with the criteria in
 177 paragraph (9) (a) and adopt such amendment as part of the Florida
 178 Building Code or rescind the amendment. The commission shall
 179 immediately notify the respective local government of the
 180 rescission of any amendment. After receiving such notice, the
 181 respective local government may readopt the rescinded amendment
 182 under ~~pursuant to~~ the provisions of this subsection ~~paragraph~~.

183 (f)7. Each county and municipality desiring to make local
 184 technical amendments to the Florida Building Code shall ~~by~~
 185 ~~interlocal agreement~~ establish by interlocal agreement a
 186 countywide compliance review board to review any amendment to
 187 the Florida Building Code that is~~7~~ adopted by a local government
 188 within the county under ~~pursuant to~~ this subsection ~~and~~
 189 ~~paragraph~~, that is challenged by a ~~any~~ substantially affected
 190 party for purposes of determining the amendment's compliance
 191 with this subsection ~~paragraph~~. If challenged, the local
 192 technical amendments are ~~shall not become~~ effective until the
 193 time for filing an appeal under paragraph (g) ~~pursuant to~~
 194 ~~subparagraph 8.~~ has expired or, if there is an appeal, until the
 195 commission issues its final order determining if the adopted
 196 amendment is in compliance with this subsection.

197 (g)8. If the compliance review board determines such
 198 amendment is not in compliance with this subsection ~~paragraph~~,
 199 the compliance review board shall notify such local government
 200 of the noncompliance and that the amendment is invalid and

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

201 unenforceable until the local government corrects the amendment
 202 to bring it into compliance. The local government may appeal the
 203 decision of the compliance review board to the commission. If
 204 the compliance review board determines that such amendment is ~~to~~
 205 ~~be~~ in compliance with this subsection ~~paragraph~~, any
 206 substantially affected party may appeal such determination to
 207 the commission. Any such appeal must ~~shall~~ be filed with the
 208 commission within 14 days after ~~of~~ the board's written
 209 determination. The commission shall promptly refer the appeal to
 210 the Division of Administrative Hearings by electronic means
 211 through the division's website for the assignment of an
 212 administrative law judge. The administrative law judge shall
 213 conduct the required hearing within 30 days after being assigned
 214 to the appeal, and shall enter a recommended order within 30
 215 days after ~~of~~ the conclusion of such hearing. The commission
 216 shall enter a final order within 30 days after an order is
 217 rendered ~~thereafter~~. ~~The provisions of Chapter 120 and the~~
 218 uniform rules of procedure shall apply to such proceedings. The
 219 local government adopting the amendment that is subject to
 220 challenge has the burden of proving that the amendment complies
 221 with this subsection ~~paragraph~~ in proceedings before the
 222 compliance review board and the commission, as applicable.
 223 Actions of the commission are subject to judicial review under
 224 ~~pursuant to~~ s. 120.68. The compliance review board shall
 225 determine whether its decisions apply to a respective local

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

226 | jurisdiction or apply countywide.

227 | (h)9. An amendment adopted under this subsection ~~paragraph~~
 228 | must ~~shall~~ include a fiscal impact statement that ~~which~~
 229 | documents the costs and benefits of the proposed amendment.
 230 | Criteria for the fiscal impact statement shall include the
 231 | impact to local government relative to enforcement and, ~~the~~
 232 | impact to property and building owners and, ~~as well as to~~
 233 | industry, ~~relative to the cost of compliance.~~ The fiscal impact
 234 | statement may not be used as a basis for challenging the
 235 | amendment for compliance.

236 | (i)10. In addition to paragraphs (f) and (g) ~~subparagraphs~~
 237 | ~~7. and 9.~~, the commission may review any amendments adopted
 238 | under ~~pursuant to~~ this subsection and make nonbinding
 239 | recommendations related to compliance of such amendments with
 240 | this subsection.

241 | (j)(e) Any amendment adopted by a local enforcing agency
 242 | under ~~pursuant to~~ this subsection may ~~shall~~ not apply to state
 243 | or school district owned buildings, manufactured buildings or
 244 | factory-built school buildings approved by the commission, or
 245 | prototype buildings approved under ~~pursuant to~~ s. 553.77(3). The
 246 | respective responsible entities shall consider the physical
 247 | performance parameters substantiating such amendments when
 248 | designing, specifying, and constructing such exempt buildings.

249 | (k)(d) A technical amendment to the Florida Building Code
 250 | related to water conservation practices or design criteria

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

251 adopted by a local government under ~~pursuant to~~ this subsection
252 is not ~~rendered~~ void when the code is updated if the technical
253 amendment is necessary to protect or provide for more efficient
254 use of water resources as provided in s. 373.621. However, any
255 such technical amendment carried forward into the next edition
256 of the code under ~~pursuant to~~ this paragraph is subject to
257 review or modification as provided in this part.

258 (1) If a local government adopts a regulation, law,
259 ordinance, policy, amendment, or land use or zoning provision
260 without using the process established in this subsection, and a
261 substantially affected person considers such regulation, law,
262 ordinance, policy, amendment, or land use or zoning provision to
263 be a technical amendment to the Florida Building Code, then the
264 substantially affected person may submit a petition to the
265 commission for a nonbinding advisory opinion. If a substantially
266 affected person submits a request in accordance with this
267 paragraph, the commission shall issue a nonbinding advisory
268 opinion stating whether or not the commission interprets the
269 regulation, law, ordinance, policy, amendment, or land use or
270 zoning provision as a technical amendment to the Florida
271 Building Code. As used in this paragraph, the term "local
272 government" means a county, municipality, special district, or
273 political subdivision of the state.

274 1. Requests to review a local government regulation, law,
275 ordinance, policy, amendment, or land use or zoning provision

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

276 may be initiated by any substantially affected person. A
277 substantially affected person includes an owner or builder
278 subject to the regulation, law, ordinance, policy, amendment, or
279 land use or zoning provision, or an association of owners or
280 builders having members who are subject to the regulation, law,
281 ordinance, policy, amendment, or land use or zoning provision.

282 2. In order to initiate a review, a substantially affected
283 person must file a petition with the commission. The commission
284 shall adopt a form for the petition and directions for filing,
285 which shall be published on the Building Code Information
286 System. The form shall, at a minimum, require the following:

287 a. The name of the local government that enacted the
288 regulation, law, ordinance, policy, amendment, or land use or
289 zoning provision.

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

292 c. The name, address, and telephone number of the
293 petitioner; the name, address, and telephone number of the
294 petitioner's representative, if any; and an explanation of how
295 the petitioner's substantial interests are being affected by the
296 regulation, law, ordinance, policy, amendment, or land use or
297 zoning provision.

298 d. A statement explaining why the regulation, law,
299 ordinance, policy, amendment, or land use or zoning provision is
300 a technical amendment to the Florida Building Code, and which

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

301 provisions of the Florida Building Code, if any, are being
302 amended by the regulation, law, ordinance, policy, amendment, or
303 land use or zoning provision.

304 3. The petitioner shall serve the petition on the local
305 government's general counsel or administrator by certified mail,
306 return receipt requested, and send a copy of the petition to the
307 commission, in accordance with the commission's published
308 directions. The local government shall respond to the petition
309 in accordance with the form by certified mail, return receipt
310 requested, and send a copy of its response to the commission,
311 within 14 days after receipt of the petition, including
312 Saturdays, Sundays, and legal holidays.

313 4. Upon receipt of a petition that meets the requirements
314 of this paragraph, the commission shall publish the petition,
315 including any response submitted by the local government, on the
316 Building Code Information System in a manner that allows
317 interested persons to address the issues by posting comments.

318 5. Before issuing an advisory opinion, the commission
319 shall consider the petition, the response, and any comments
320 posted on the Building Code Information System. The commission
321 may also provide the petition, the response, and any comments
322 posted on the Building Code Information System to a technical
323 advisory committee, and may consider any recommendation provided
324 by the technical advisory committee. The commission shall issue
325 an advisory opinion stating whether the regulation, law,

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

326 ordinance, policy, amendment, or land use or zoning provision is
327 a technical amendment to the Florida Building Code within 30
328 days after the filing of the petition, including Saturdays,
329 Sundays, and legal holidays. The commission shall publish its
330 advisory opinion on the Building Code Information System and in
331 the Florida Administrative Register. The commission's advisory
332 opinion is nonbinding and is not a declaratory statement under
333 s. 120.565.

334 (5) Notwithstanding subsection (4), counties and
335 municipalities may adopt by ordinance an administrative or
336 technical amendment to the Florida Building Code relating to
337 flood resistance in order to implement the National Flood
338 Insurance Program or incentives. Specifically, an administrative
339 amendment may assign the duty to enforce all or portions of
340 flood-related code provisions to the appropriate agencies of the
341 local government and adopt procedures for variances and
342 exceptions from flood-related code provisions other than
343 provisions for structures seaward of the coastal construction
344 control line consistent with the requirements in 44 C.F.R. s.
345 60.6. A technical amendment is authorized to the extent it is
346 more stringent than the code. A technical amendment is not
347 subject to the requirements of subsection (4) and may not be
348 rendered void when the code is updated if the amendment is
349 adopted for the purpose of participating in the Community Rating
350 System promulgated pursuant to 42 U.S.C. s. 4022, the amendment

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

351 had already been adopted by local ordinance prior to July 1,
 352 2010, or the amendment requires a design flood elevation above
 353 the base flood elevation. Any amendment adopted under ~~pursuant~~
 354 ~~to~~ this subsection shall be transmitted to the commission within
 355 30 days after being adopted. A municipality, county, or special
 356 district may not use preliminary maps issued by the Federal
 357 Emergency Management Agency for any law, ordinance, rule, or
 358 other measure that has the effect of imposing land use changes
 359 or permits.

360 (8) Notwithstanding subsection (3) or subsection (7), the
 361 commission may address issues identified in this subsection by
 362 amending the code under ~~pursuant to~~ the rule adoption procedures
 363 in chapter 120. Updates to the Florida Building Code, including
 364 provisions contained in referenced standards and criteria which
 365 relate to wind resistance or the prevention of water intrusion,
 366 may not be amended under ~~pursuant to~~ this subsection to diminish
 367 those standards; however, the commission may amend the Florida
 368 Building Code to enhance such standards. Following the approval
 369 of any amendments to the Florida Building Code by the commission
 370 and publication of the amendments on the commission's website,
 371 authorities having jurisdiction to enforce the Florida Building
 372 Code may enforce the amendments.

373 (a) The commission may approve amendments that are needed
 374 to address:

375 1.~~(a)~~ Conflicts within the updated code;

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

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

378 3.~~(c)~~ Unintended results from the integration of
 379 previously adopted amendments with the model code;

380 4.~~(d)~~ Equivalency of standards;

381 5.~~(e)~~ Changes to or inconsistencies with federal or state
 382 law; or

383 6.~~(f)~~ Adoption of an updated edition of the National
 384 Electrical Code if the commission finds that delay of
 385 implementing the updated edition causes undue hardship to
 386 stakeholders or otherwise threatens the public health, safety,
 387 and welfare.

388 (b) The commission may issue errata to the code pursuant
 389 to the rule adoption procedures in chapter 120 to list
 390 demonstrated errors in provisions contained within the Florida
 391 Building Code. The determination of such errors and the issuance
 392 of errata to the code must be approved by a 75 percent
 393 supermajority vote of the commission. For purposes of this
 394 paragraph, "errata to the code" means a list of errors on
 395 current and previous editions of the Florida Building Code.

396 Section 3. Paragraph (d) is added to subsection (1) of
 397 section 553.79, Florida Statutes, to read:

398 553.79 Permits; applications; issuance; inspections.—

399 (1)

400 (d) A local government may not require a contract between

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

401 a builder and an owner for the issuance of a building permit or
402 as a requirement for the submission of a building permit
403 application.

404 Section 4. Present subsections (10) through (19) of
405 section 553.791, Florida Statutes, are redesignated as
406 subsections (11) through (20), respectively, a new subsection
407 (10) and subsection (21) are added to that section, and
408 subsection (1), paragraph (b) of subsection (2), subsections
409 (3), (4), and (6), paragraphs (b) and (d) of subsection (7),
410 subsections (8) and (9), and present subsections (10), (11),
411 (12), (14), and (15) are amended, to read:

412 553.791 Alternative plans review and inspection.—

413 (1) As used in this section, the term:

414 (a) "Applicable codes" means the Florida Building Code and
415 any local technical amendments to the Florida Building Code but
416 does not include the applicable minimum fire prevention and
417 firesafety codes adopted pursuant to chapter 633.

418 (b) "Audit" means the process to confirm that the building
419 code inspection services have been performed by the private
420 provider, including ensuring that the required affidavit for the
421 plan review has been properly completed and submitted with
422 ~~affixed to~~ the permit documents and that the minimum mandatory
423 inspections required under the building code have been performed
424 and properly recorded. The local building official may not
425 replicate the plan review or inspection being performed by the

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

426 private provider, unless expressly authorized by this section.

427 (c) "Building" means any construction, erection,
 428 alteration, demolition, or improvement of, or addition to, any
 429 structure or site work for which permitting by a local
 430 enforcement agency is required.

431 (d) "Building code inspection services" means those
 432 services described in s. 468.603(5) and (8) involving the review
 433 of building plans as well as those services involving the review
 434 of site plans and site work engineering plans or their
 435 functional equivalent, to determine compliance with applicable
 436 codes and those inspections required by law, conducted either in
 437 person or virtually, of each phase of construction for which
 438 permitting by a local enforcement agency is required to
 439 determine compliance with applicable codes.

440 (e) "Deliver" or "delivery" means any method of delivery
 441 used in conventional business or commercial practice, including
 442 delivery by electronic transmissions.

443 (f) "Duly authorized representative" means an agent of the
 444 private provider identified in the permit application who
 445 reviews plans or performs inspections as provided by this
 446 section and who is licensed as an engineer under chapter 471 or
 447 as an architect under chapter 481 or who holds a standard
 448 certificate under part XII of chapter 468.

449 (g) "Electronically posted" means providing notices of
 450 decisions, results, or records, including inspection records,

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

451 through the use of a website or other form of electronic
452 communication used to transmit or display information.

453 (h) "Electronic signature" means any letters, characters,
454 or symbols manifested by electronic or similar means which are
455 executed or adopted by a party with an intent to authenticate a
456 writing or record.

457 (i) "Electronic transmission" or "submitted
458 electronically" means any form or process of communication not
459 directly involving the physical transfer of paper or another
460 tangible medium which is suitable for the retention, retrieval,
461 and reproduction of information by the recipient and is
462 retrievable in paper form by the receipt through an automated
463 process. All notices provided for in this section may be
464 transmitted electronically and shall have the same legal effect
465 as if physically posted or mailed.

466 (j) ~~(f)~~ "Immediate threat to public safety and welfare"
467 means a building code violation that, if allowed to persist,
468 constitutes an immediate hazard that could result in death,
469 serious bodily injury, or significant property damage. This
470 paragraph does not limit the authority of the local building
471 official to issue a Notice of Corrective Action at any time
472 during the construction of a building project or any portion of
473 such project if the official determines that a condition of the
474 building or portion thereof may constitute a hazard when the
475 building is put into use following completion as long as the

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

476 | condition cited is shown to be in violation of the building code
 477 | or approved plans.

478 | (k)~~(g)~~ "Local building official" means the individual
 479 | within the governing jurisdiction responsible for direct
 480 | regulatory administration or supervision of plans review,
 481 | enforcement, and inspection of any construction, erection,
 482 | alteration, demolition, or substantial improvement of, or
 483 | addition to, any structure for which permitting is required to
 484 | indicate compliance with applicable codes and includes any duly
 485 | authorized designee of such person.

486 | (1)~~(h)~~ "Permit application" means a properly completed and
 487 | submitted application for the requested building or construction
 488 | permit, including:

- 489 | 1. The plans reviewed by the private provider.
- 490 | 2. The affidavit from the private provider required under
 491 | subsection (6).
- 492 | 3. Any applicable fees.
- 493 | 4. Any documents required by the local building official
 494 | to determine that the fee owner has secured all other government
 495 | approvals required by law.

496 | (m)~~(i)~~ "Plans" means building plans, site engineering
 497 | plans, or site plans, or their functional equivalent, submitted
 498 | by a fee owner or fee owner's contractor to a private provider
 499 | or duly authorized representative for review.

500 | (n)~~(j)~~ "Private provider" means a person licensed as a

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

501 building code administrator under part XII of chapter 468, as an
 502 engineer under chapter 471, or as an architect under chapter
 503 481. For purposes of performing inspections under this section
 504 for additions and alterations that are limited to 1,000 square
 505 feet or less to residential buildings, the term "private
 506 provider" also includes a person who holds a standard
 507 certificate under part XII of chapter 468.

508 (o)~~(k)~~ "Request for certificate of occupancy or
 509 certificate of completion" means a properly completed and
 510 executed application for:

511 1. A certificate of occupancy or certificate of
 512 completion.

513 2. A certificate of compliance from the private provider
 514 required under subsection (12) ~~(11)~~.

515 3. Any applicable fees.

516 4. Any documents required by the local building official
 517 to determine that the fee owner has secured all other government
 518 approvals required by law.

519 (p) "Single-trade inspection" means any inspection focused
 520 on a single construction trade, such as plumbing, mechanical, or
 521 electrical. The term includes, but is not limited to,
 522 inspections of door or window replacements; fences and block
 523 walls more than 6 feet high from the top of the wall to the
 524 bottom of the footing; stucco or plastering; reroofing with no
 525 structural alteration; HVAC replacements; ductwork or fan

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

526 replacements; alteration or installation of wiring, lighting,
 527 and service panels; water heater changeouts; sink replacements;
 528 and repiping.

529 (q)~~(l)~~ "Site work" means the portion of a construction
 530 project that is not part of the building structure, including,
 531 but not limited to, grading, excavation, landscape irrigation,
 532 and installation of driveways.

533 (r)~~(m)~~ "Stop-work order" means the issuance of any written
 534 statement, written directive, or written order which states the
 535 reason for the order and the conditions under which the cited
 536 work will be permitted to resume.

537 (2)

538 (b) If an owner or contractor retains a private provider
 539 for purposes of plans review or building inspection services,
 540 the local jurisdiction must reduce the permit fee by the amount
 541 of cost savings realized by the local enforcement agency for not
 542 having to perform such services. Such reduction may be
 543 calculated on a flat fee or percentage basis, or any other
 544 reasonable means by which a local enforcement agency assesses
 545 the cost for its plans review or inspection services ~~It is the~~
 546 ~~intent of the Legislature that owners and contractors pay~~
 547 ~~reduced fees related to building permitting requirements when~~
 548 ~~hiring a private provider for plans review and building~~
 549 ~~inspections. A local jurisdiction must calculate the cost~~
 550 ~~savings to the local enforcement agency, based on a fee owner or~~

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

551 ~~contractor hiring a private provider to perform plans reviews~~
552 ~~and building inspections in lieu of the local building official,~~
553 ~~and reduce the permit fees accordingly.~~ The local jurisdiction
554 may not charge fees for building inspections if the fee owner or
555 contractor hires a private provider to perform such services;
556 however, the local jurisdiction may charge a reasonable
557 administrative fee.

558 (3) A private provider and any duly authorized
559 representative may only perform building code inspection
560 services that are within the disciplines covered by that
561 person's licensure or certification under chapter 468, chapter
562 471, or chapter 481, including single-trade inspections. A
563 private provider may not provide building code inspection
564 services pursuant to this section upon any building designed or
565 constructed by the private provider or the private provider's
566 firm.

567 (4) A fee owner or the fee owner's contractor using a
568 private provider to provide building code inspection services
569 shall notify the local building official in writing at the time
570 of permit application, or by 2 p.m. local time, 2 business days
571 before the first scheduled inspection by the local building
572 official or building code enforcement agency that ~~for~~ a private
573 provider has been contracted to perform the performing required
574 inspections of construction under this section, including
575 single-trade inspections, on a form to be adopted by the

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

576 commission. This notice shall include the following information:

577 (a) The services to be performed by the private provider.

578 (b) The name, firm, address, telephone number, and e-mail

579 address ~~facsimile number~~ of each private provider who is
 580 performing or will perform such services, his or her
 581 professional license or certification number, qualification
 582 statements or resumes, and, if required by the local building
 583 official, a certificate of insurance demonstrating that
 584 professional liability insurance coverage is in place for the
 585 private provider's firm, the private provider, and any duly
 586 authorized representative in the amounts required by this
 587 section.

588 (c) An acknowledgment from the fee owner in substantially
 589 the following form:

590
 591 I have elected to use one or more private providers to
 592 provide building code plans review and/or inspection
 593 services on the building or structure that is the
 594 subject of the enclosed permit application, as
 595 authorized by s. 553.791, Florida Statutes. I
 596 understand that the local building official may not
 597 review the plans submitted or perform the required
 598 building inspections to determine compliance with the
 599 applicable codes, except to the extent specified in
 600 said law. Instead, plans review and/or required

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

601 building inspections will be performed by licensed or
602 certified personnel identified in the application. The
603 law requires minimum insurance requirements for such
604 personnel, but I understand that I may require more
605 insurance to protect my interests. By executing this
606 form, I acknowledge that I have made inquiry regarding
607 the competence of the licensed or certified personnel
608 and the level of their insurance and am satisfied that
609 my interests are adequately protected. I agree to
610 indemnify, defend, and hold harmless the local
611 government, the local building official, and their
612 building code enforcement personnel from any and all
613 claims arising from my use of these licensed or
614 certified personnel to perform building code
615 inspection services with respect to the building or
616 structure that is the subject of the enclosed permit
617 application.

618
619 If the fee owner or the fee owner's contractor makes any changes
620 to the listed private providers or the services to be provided
621 by those private providers, the fee owner or the fee owner's
622 contractor shall, within 1 business day after any change or
623 within 2 business days before the next scheduled inspection,
624 update the notice to reflect such changes. A change of a duly
625 authorized representative named in the permit application does

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

626 not require a revision of the permit, and the building code
627 enforcement agency shall not charge a fee for making the change.
628 ~~In addition, the fee owner or the fee owner's contractor shall~~
629 ~~post at the project site, before the commencement of~~
630 ~~construction and updated within 1 business day after any change,~~
631 ~~on a form to be adopted by the commission, the name, firm,~~
632 ~~address, telephone number, and facsimile number of each private~~
633 ~~provider who is performing or will perform building code~~
634 ~~inspection services, the type of service being performed, and~~
635 ~~similar information for the primary contact of the private~~
636 ~~provider on the project.~~

637 (6) A private provider performing plans review under this
638 section shall review the plans to determine compliance with the
639 applicable codes. Upon determining that the plans reviewed
640 comply with the applicable codes, the private provider shall
641 prepare an affidavit or affidavits ~~on a form reasonably~~
642 ~~acceptable to the commission~~ certifying, under oath, that the
643 following is true and correct to the best of the private
644 provider's knowledge and belief:

645 (a) The plans were reviewed by the affiant, who is duly
646 authorized to perform plans review pursuant to this section and
647 holds the appropriate license or certificate.

648 (b) The plans comply with the applicable codes.

649

650 Such affidavit may bear a written or electronic signature and

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

651 may be submitted electronically to the local building official.

652 (7)

653 (b) If the local building official provides a written
654 notice of plan deficiencies to the permit applicant within the
655 prescribed 20-day period, the 20-day period shall be tolled
656 pending resolution of the matter. To resolve the plan
657 deficiencies, the permit applicant may elect to dispute the
658 deficiencies pursuant to subsection (14) ~~(13)~~ or to submit
659 revisions to correct the deficiencies.

660 (d) If the local building official provides a second
661 written notice of plan deficiencies to the permit applicant
662 within the prescribed time period, the permit applicant may
663 elect to dispute the deficiencies pursuant to subsection (14)
664 ~~(13)~~ or to submit additional revisions to correct the
665 deficiencies. For all revisions submitted after the first
666 revision, the local building official has an additional 5
667 business days from the date of resubmittal to issue the
668 requested permit or to provide a written notice to the permit
669 applicant stating which of the previously identified plan
670 features remain in noncompliance with the applicable codes, with
671 specific reference to the relevant code chapters and sections.

672 (8) A private provider performing required inspections
673 under this section shall inspect each phase of construction as
674 required by the applicable codes. Such inspection may be
675 performed in-person or virtually. The private provider may have

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CS/CS/HB 401, Engrossed 1

2021 Legislature

676 | ~~shall be permitted to send~~ a duly authorized representative ~~to~~
677 | ~~the building site to~~ perform the required inspections, provided
678 | all required reports are prepared by and bear the written or
679 | electronic signature of the private provider or the private
680 | provider's duly authorized representative. The duly authorized
681 | representative must be an employee of the private provider
682 | entitled to receive reemployment assistance benefits under
683 | chapter 443. The contractor's contractual or legal obligations
684 | are not relieved by any action of the private provider.

685 | (9) A private provider performing required inspections
686 | under this section shall provide notice to the local building
687 | official of the date and approximate time of any such inspection
688 | no later than the prior business day by 2 p.m. local time or by
689 | any later time permitted by the local building official in that
690 | jurisdiction. The local building official may not prohibit the
691 | private provider from performing any inspection outside the
692 | local building official's normal operating hours, including
693 | after hours, weekends, or holidays. The local building official
694 | may visit the building site as often as necessary to verify that
695 | the private provider is performing all required inspections. A
696 | deficiency notice must be posted ~~at the job site~~ by the private
697 | provider, the duly authorized representative of the private
698 | provider, or the building department whenever a noncomplying
699 | item related to the building code or the permitted documents is
700 | found. Such notice may be physically posted at the job site or

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CS/CS/HB 401, Engrossed 1

2021 Legislature

701 electronically posted. After corrections are made, the item must
702 be reinspected by the private provider or representative before
703 being concealed. Reinspection or reaudit fees shall not be
704 charged by the local jurisdiction as a result of the local
705 jurisdiction's audit inspection occurring before the performance
706 of the private provider's inspection or for any other
707 administrative matter not involving the detection of a violation
708 of the building code or a permit requirement.

709 (10) If equipment replacements and repairs must be
710 performed in an emergency situation, subject to the emergency
711 permitting provisions of the Florida Building Code, a private
712 provider may perform emergency inspection services without first
713 notifying the local building official pursuant to subsection
714 (9). A private provider must conduct the inspection within 3
715 business days after being contacted to conduct an emergency
716 inspection and must submit the inspection report to the local
717 building official within 1 day after the inspection is
718 completed.

719 (11)~~(10)~~ Upon completing the required inspections at each
720 applicable phase of construction, the private provider shall
721 record such inspections on a form acceptable to the local
722 building official. The form must bear the written or electronic
723 signature of ~~be signed by~~ the provider or the provider's duly
724 authorized representative. These inspection records shall
725 reflect those inspections required by the applicable codes of

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

726 each phase of construction for which permitting by a local
727 enforcement agency is required. The private provider, upon
728 completion of the required inspection ~~before leaving the project~~
729 ~~site~~, shall post each completed inspection record, indicating
730 pass or fail, ~~at the site~~ and provide the record to the local
731 building official within 2 business days. Such inspection record
732 may be electronically posted by the private provider or the
733 private provider may post such inspection record physically at
734 the project site. The private provider may electronically
735 transmit the record to the local building official. The local
736 building official may waive the requirement to provide a record
737 of each inspection within 2 business days if the record is
738 electronically posted or posted at the project site and all such
739 inspection records are submitted with the certificate of
740 compliance. Unless the records have been electronically posted,
741 records of all required and completed inspections shall be
742 maintained at the building site at all times and made available
743 for review by the local building official. The private provider
744 shall report to the local enforcement agency any condition that
745 poses an immediate threat to public safety and welfare.

746 (12) ~~(11)~~ Upon completion of all required inspections, the
747 private provider shall prepare a certificate of compliance, on a
748 form acceptable to the local building official, summarizing the
749 inspections performed and including a written representation,
750 under oath, that the stated inspections have been performed and

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

751 that, to the best of the private provider's knowledge and
752 belief, the building construction inspected complies with the
753 approved plans and applicable codes. The statement required of
754 the private provider shall be substantially in the following
755 form and shall be signed and sealed by a private provider as
756 established in subsection (1) or may be electronically
757 transmitted to the local building official:

758

759 To the best of my knowledge and belief, the building
760 components and site improvements outlined herein and
761 inspected under my authority have been completed in
762 conformance with the approved plans and the applicable
763 codes.

764

765 (13)~~(12)~~ No more than 2 business days after receipt of a
766 request for a certificate of occupancy or certificate of
767 completion and the applicant's presentation of a certificate of
768 compliance and approval of all other government approvals
769 required by law, the local building official shall issue the
770 certificate of occupancy or certificate of completion or provide
771 a notice to the applicant identifying the specific deficiencies,
772 as well as the specific code chapters and sections. If the local
773 building official does not provide notice of the deficiencies
774 within the prescribed 2-day period, the request for a
775 certificate of occupancy or certificate of completion shall be

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

776 deemed granted and the certificate of occupancy or certificate
 777 of completion shall be issued by the local building official on
 778 the next business day. To resolve any identified deficiencies,
 779 the applicant may elect to dispute the deficiencies pursuant to
 780 subsection (14) ~~(13)~~ or to submit a corrected request for a
 781 certificate of occupancy or certificate of completion.

782 (15) ~~(14)~~ For the purposes of this section, any notice to
 783 be provided by the local building official shall be deemed to be
 784 provided to the person or entity when successfully transmitted
 785 to the e-mail address ~~facsimile number~~ listed for that person or
 786 entity in the permit application or revised permit application,
 787 or, if no e-mail address ~~facsimile number~~ is stated, when
 788 actually received by that person or entity.

789 (16) (a) ~~(15) (a)~~ A local enforcement agency, local building
 790 official, or local government may not adopt or enforce any laws,
 791 rules, procedures, policies, qualifications, or standards more
 792 stringent than those prescribed by this section.

793 (b) A local enforcement agency, local building official,
 794 or local government may establish, for private providers and
 795 duly authorized representatives working within that
 796 jurisdiction, a system of registration to verify compliance with
 797 the licensure requirements of paragraph (1) (n) ~~(1) (j)~~ and the
 798 insurance requirements of subsection (17) ~~(16)~~.

799 (c) This section does not limit the authority of the local
 800 building official to issue a stop-work order for a building

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

801 project or any portion of the project, as provided by law, if
 802 the official determines that a condition on the building site
 803 constitutes an immediate threat to public safety and welfare.

804 (21) Notwithstanding any other law, a county, a
 805 municipality, a school district, or an independent special
 806 district may use a private provider to provide building code
 807 inspection services for a public works project, an improvement,
 808 a building, or any other structure that is owned by the county,
 809 municipality, school district, or independent special district.

810 Section 5. Paragraph (a) of subsection (7) of section
 811 553.80, Florida Statutes, is amended to read:

812 553.80 Enforcement.—

813 (7) (a) The governing bodies of local governments may
 814 provide a schedule of reasonable fees, as authorized by s.
 815 125.56(2) or s. 166.222 and this section, for enforcing this
 816 part. These fees, and any fines or investment earnings related
 817 to the fees, shall be used solely for carrying out the local
 818 government's responsibilities in enforcing the Florida Building
 819 Code. When providing a schedule of reasonable fees, the total
 820 estimated annual revenue derived from fees, and the fines and
 821 investment earnings related to the fees, may not exceed the
 822 total estimated annual costs of allowable activities. Any
 823 unexpended balances shall be carried forward to future years for
 824 allowable activities or shall be refunded at the discretion of
 825 the local government. A local government may not carry forward

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

826 an amount exceeding the average of its operating budget for
827 enforcing the Florida Building Code for the previous 4 fiscal
828 years. For purposes of this subsection, the term "operating
829 budget" does not include reserve amounts. Any amount exceeding
830 this limit must be used as authorized in subparagraph 2.
831 However, a local government which established, as of January 1,
832 2019, a Building Inspections Fund Advisory Board consisting of
833 five members from the construction stakeholder community and
834 carries an unexpended balance in excess of the average of its
835 operating budget for the previous 4 fiscal years may continue to
836 carry such excess funds forward upon the recommendation of the
837 advisory board. The basis for a fee structure for allowable
838 activities shall relate to the level of service provided by the
839 local government and shall include consideration for refunding
840 fees due to reduced services based on services provided as
841 prescribed by s. 553.791, but not provided by the local
842 government. Fees charged shall be consistently applied.

843 1. As used in this subsection, the phrase "enforcing the
844 Florida Building Code" includes the direct costs and reasonable
845 indirect costs associated with review of building plans,
846 building inspections, reinspections, and building permit
847 processing; building code enforcement; and fire inspections
848 associated with new construction. The phrase may also include
849 training costs associated with the enforcement of the Florida
850 Building Code and enforcement action pertaining to unlicensed

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

851 contractor activity to the extent not funded by other user fees.

852 2. A local government must use any excess funds that it is
 853 prohibited from carrying forward to rebate and reduce fees, or
 854 to pay for the construction of a building or structure that
 855 houses a local government's building code enforcement agency or
 856 the training programs for building officials, inspectors, or
 857 plans examiners associated with the enforcement of the Florida
 858 Building Code. Excess funds used to construct such a building or
 859 structure must be designated for such purpose by the local
 860 government and may not be carried forward for more than 4
 861 consecutive years.

862 3. The following activities may not be funded with fees
 863 adopted for enforcing the Florida Building Code:

- 864 a. Planning and zoning or other general government
 865 activities.
- 866 b. Inspections of public buildings for a reduced fee or no
 867 fee.
- 868 c. Public information requests, community functions,
 869 boards, and any program not directly related to enforcement of
 870 the Florida Building Code.
- 871 d. Enforcement and implementation of any other local
 872 ordinance, excluding validly adopted local amendments to the
 873 Florida Building Code and excluding any local ordinance directly
 874 related to enforcing the Florida Building Code as defined in
 875 subparagraph 1.

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

876 4. A local government shall use recognized management,
 877 accounting, and oversight practices to ensure that fees, fines,
 878 and investment earnings generated under this subsection are
 879 maintained and allocated or used solely for the purposes
 880 described in subparagraph 1.

881 5. The local enforcement agency, independent district, or
 882 special district may not require at any time, including at the
 883 time of application for a permit, the payment of any additional
 884 fees, charges, or expenses associated with:

885 a. Providing proof of licensure pursuant to chapter 489;

886 b. Recording or filing a license issued pursuant to this
 887 chapter;

888 c. Providing, recording, or filing evidence of workers'
 889 compensation insurance coverage as required by chapter 440; or

890 d. Charging surcharges or other similar fees not directly
 891 related to enforcing the Florida Building Code.

892 Section 6. Paragraph (a) of subsection (8) and subsection
 893 (14) of section 553.842, Florida Statutes, are amended to read:

894 553.842 Product evaluation and approval.—

895 (8) The commission may adopt rules to approve the
 896 following types of entities that produce information on which
 897 product approvals are based. All of the following entities,
 898 including engineers and architects, must comply with a
 899 nationally recognized standard demonstrating independence or no
 900 conflict of interest:

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CS/CS/HB 401, Engrossed 1

2021 Legislature

901 (a) Evaluation entities approved under ~~pursuant to~~ this
 902 paragraph or that meet the criteria for approval adopted by the
 903 commission by rule. The commission shall specifically approve
 904 the National Evaluation Service, the International Association
 905 of Plumbing and Mechanical Officials Evaluation Service, the
 906 International Code Council Evaluation Services, Underwriters
 907 Laboratories, LLC, Intertek Testing Services NA, Inc., and the
 908 Miami-Dade County Building Code Compliance Office Product
 909 Control Division. Architects and engineers licensed in this
 910 state are also approved to conduct product evaluations as
 911 provided in subsection (5).

912 (14) The commission shall by rule establish criteria for
 913 revocation of product approvals as well as suspension ~~revocation~~
 914 of approvals of product evaluation entities, including those
 915 approved in accordance with paragraph (8) (a), and suspension or
 916 revocation of approvals of testing laboratories, quality
 917 assurance entities, certification agencies, and validation
 918 entities. Suspension and revocation is governed by s. 120.60 and
 919 the uniform rules of procedure.

920 Section 7. Paragraph (bb) of subsection (1) of section
 921 125.01, Florida Statutes, is amended to read:

922 125.01 Powers and duties.—

923 (1) The legislative and governing body of a county shall
 924 have the power to carry on county government. To the extent not
 925 inconsistent with general or special law, this power includes,

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

926 | but is not restricted to, the power to:

927 | (bb) Enforce the Florida Building Code~~7~~ as provided in s.
928 | 553.80~~7~~ and adopt and enforce local technical amendments to the
929 | Florida Building Code as provided in s. 553.73(4)~~7~~, ~~pursuant to~~
930 | ~~s. 553.73(4)(b) and (c)~~.

931 | Section 8. Subsection (1) of section 125.56, Florida
932 | Statutes, is amended to read:

933 | 125.56 Enforcement and amendment of the Florida Building
934 | Code and the Florida Fire Prevention Code; inspection fees;
935 | inspectors; etc.—

936 | (1) The board of county commissioners of each of the
937 | several counties of the state may enforce the Florida Building
938 | Code and the Florida Fire Prevention Code~~7~~ as provided in ss.
939 | 553.80, 633.206, and 633.208~~7~~ and, at its discretion, adopt
940 | local technical amendments to the Florida Building Code as
941 | provided in s. 553.73(4)~~7~~, ~~pursuant to s. 553.73(4)(b) and (c)~~
942 | and local technical amendments to the Florida Fire Prevention
943 | Code as provided in~~7~~, ~~pursuant to~~ s. 633.202~~7~~ to provide for the
944 | safe construction, erection, alteration, repair, securing, and
945 | demolition of any building within its territory outside the
946 | corporate limits of any municipality. Upon a determination to
947 | consider amending the Florida Building Code or the Florida Fire
948 | Prevention Code by a majority of the members of the board of
949 | county commissioners of such county, the board shall call a
950 | public hearing and comply with the public notice requirements of

ENROLLED

CS/CS/HB 401, Engrossed 1

2021 Legislature

951 s. 125.66(2). The board shall hear all interested parties at the
 952 public hearing and may then amend the building code or the fire
 953 code consistent with the terms and purposes of this act. Upon
 954 adoption, an amendment to the code shall be in full force and
 955 effect throughout the unincorporated area of such county until
 956 otherwise notified by the Florida Building Commission under
 957 ~~pursuant to~~ s. 553.73 or the State Fire Marshal under ~~pursuant~~
 958 ~~to~~ s. 633.202. This subsection does not ~~Nothing herein contained~~
 959 ~~shall be construed to~~ prevent the board of county commissioners
 960 from repealing such amendment to the building code or the fire
 961 code at any regular meeting of such board.

962 Section 9. Except as otherwise expressly provided in this
 963 act, this act shall take effect July 1, 2021.

964