

CHAPTER 2021-201

Committee Substitute for Committee Substitute for House Bill No. 401

An act relating to the Florida Building Code; amending s. 163.3202, F.S.; prohibiting certain regulations relating to building design elements from being applied to certain dwellings; providing exceptions; defining terms; providing construction; amending s. 553.73, F.S.; authorizing a substantially affected person to file a petition with the Florida Building Commission to review certain local government regulations, laws, ordinances, policies, amendments, or land use or zoning provisions; defining the term “local government”; providing requirements for the petition and commission; requiring the commission to issue a nonbinding advisory opinion within a specified timeframe; prohibiting the use of preliminary maps issued by the Federal Emergency Management Agency under certain circumstances; authorizing the commission to issue errata to the code; providing a definition for the term “errata to the code”; making technical changes; amending s. 553.79, F.S.; prohibiting a local government from requiring certain contracts for the issuance of a building permit; amending s. 553.791, F.S.; revising and defining terms; providing requirements for qualified private providers; requiring local jurisdictions to reduce permit fees under certain circumstances; deleting legislative intent; specifying that contractors using private providers to provide building code inspections services must notify local building officials in writing; revising notice requirements; deleting a provision requiring fee owners or fee owners’ contractors to post certain information at a project site before commencing construction; authorizing certain affidavits to be signed with electronic signatures and be submitted to local building officials electronically; authorizing certain inspections to be performed in-person or virtually; authorizing certain reports to be signed with electronic signatures; authorizing certain notices to be electronically posted; authorizing private providers to perform certain replacements and repairs without first notifying local building officials under certain circumstances; authorizing certain forms to be signed with electronic signatures; authorizing certain inspection records to be electronically posted and electronically submitted to local building officials; authorizing certificates of compliance to be electronically transmitted to local building officials; authorizing certain local entities to use a private provider for code inspection services under certain circumstances; conforming provisions to changes made by the act; amending s. 553.80, F.S.; revising how certain excess funds may be used by a local government; amending s. 553.842, F.S.; requiring evaluation entities that meet certain criteria to comply with certain standards; authorizing the commission to suspend or revoke certain approvals under certain circumstances; amending ss. 125.01 and 125.56, F.S.; conforming cross-references to changes made by the act; making technical changes; providing effective dates.

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

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

163.3202 Land development regulations.—

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

1. The dwelling is listed in the National Register of Historic Places, as defined in s. 267.021(5); is located in a National Register Historic District; or is designated as a historic property or located in a historic district, under the terms of a local preservation ordinance;

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

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

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

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

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

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

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

1. “Building design elements” means the external building color; the type or style of exterior cladding material; the style or material of roof structures or porches; the exterior nonstructural architectural ornamentation; the location or architectural styling of windows or doors; the location or orientation of the garage; the number and type of rooms; and the interior layout of rooms. The term does not include the height, bulk, orientation, or location of a dwelling on a zoning lot; or the use of buffering or screening to minimize potential adverse physical or visual impacts or to protect the privacy of neighbors.

2. “Planned unit development” or “master planned community” means an area of land that is planned and developed as a single entity or in approved stages with uses and structures substantially related to the

character of the entire development, or a self-contained development in which the subdivision and zoning controls are applied to the project as a whole rather than to individual lots.

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

Section 2. Subsections (4), (5), 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 transmitted to the commission within 30 days after enactment. The local government shall make such amendments available to the general public in a usable format. The State Fire Marshal is responsible for establishing the standards and procedures required in this subsection paragraph for governmental entities with respect to applying the Florida Fire Prevention Code and the Life Safety Code.

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

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

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

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

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

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

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

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

~~(g)8.~~ If the compliance review board determines such amendment is not in compliance with this subsection ~~paragraph~~, the compliance review board shall notify such local government of the noncompliance and that the amendment is invalid and unenforceable until the local government corrects the amendment to bring it into compliance. The local government may appeal the decision of the compliance review board to the commission. If the compliance review board determines that such amendment is ~~to be~~ in compliance with this subsection ~~paragraph~~, any substantially affected party may appeal such determination to the commission. Any such appeal must ~~shall~~ be filed with the commission within 14 days after ~~of~~ the board's written determination. The commission shall promptly refer the appeal to the Division of Administrative Hearings by electronic means through the

division’s website for the assignment of an administrative law judge. The administrative law judge shall conduct the required hearing within 30 days after being assigned to the appeal, and shall enter a recommended order within 30 days after of the conclusion of such hearing. The commission shall enter a final order within 30 days after an order is rendered thereafter. ~~The provisions of Chapter 120 and the uniform rules of procedure shall apply to such proceedings. The local government adopting the amendment that is subject to challenge has the burden of proving that the amendment complies with this subsection paragraph in proceedings before the compliance review board and the commission, as applicable. Actions of the commission are subject to judicial review under pursuant to s. 120.68. The compliance review board shall determine whether its decisions apply to a respective local jurisdiction or apply countywide.~~

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

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

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

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

(l) If a local government adopts a regulation, law, ordinance, policy, amendment, or land use or zoning provision without using the process established in this subsection, and a substantially affected person considers such regulation, law, ordinance, policy, amendment, or land use or zoning provision to be a technical amendment to the Florida Building Code, then the substantially affected person may submit a petition to the commission

for a nonbinding advisory opinion. If a substantially affected person submits a request in accordance with this paragraph, the commission shall issue a nonbinding advisory opinion stating whether or not the commission interprets the regulation, law, ordinance, policy, amendment, or land use or zoning provision as a technical amendment to the Florida Building Code. As used in this paragraph, the term “local government” means a county, municipality, special district, or political subdivision of the state.

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

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

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

b. The name and address of the local government’s general counsel or administrator.

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

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

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

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

5. Before issuing an advisory opinion, the commission shall consider the petition, the response, and any comments posted on the Building Code Information System. The commission may also provide the petition, the response, and any comments posted on the Building Code Information System to a technical advisory committee, and may consider any recommendation provided by the technical advisory committee. The commission shall issue an advisory opinion stating whether the regulation, law, ordinance, policy, amendment, or land use or zoning provision is a technical amendment to the Florida Building Code within 30 days after the filing of the petition, including Saturdays, Sundays, and legal holidays. The commission shall publish its advisory opinion on the Building Code Information System and in the Florida Administrative Register. The commission's advisory opinion is nonbinding and is not a declaratory statement under s. 120.565.

(5) Notwithstanding subsection (4), counties and municipalities may adopt by ordinance an administrative or technical amendment to the Florida Building Code relating to flood resistance in order to implement the National Flood Insurance Program or incentives. Specifically, an administrative amendment may assign the duty to enforce all or portions of flood-related code provisions to the appropriate agencies of the local government and adopt procedures for variances and exceptions from flood-related code provisions other than provisions for structures seaward of the coastal construction control line consistent with the requirements in 44 C.F.R. s. 60.6. A technical amendment is authorized to the extent it is more stringent than the code. A technical amendment is not subject to the requirements of subsection (4) and may not be rendered void when the code is updated if the amendment is adopted for the purpose of participating in the Community Rating System promulgated pursuant to 42 U.S.C. s. 4022, the amendment had already been adopted by local ordinance prior to July 1, 2010, or the amendment requires a design flood elevation above the base flood elevation. Any amendment adopted under ~~pursuant to~~ this subsection shall be transmitted to the commission within 30 days after being adopted. A municipality, county, or special district may not use preliminary maps issued by the Federal Emergency Management Agency for any law, ordinance, rule, or other measure that has the effect of imposing land use changes or permits.

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

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

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

- 1.(a) Conflicts within the updated code;
- 2.(b) Conflicts between the updated code and the Florida Fire Prevention Code adopted under ~~pursuant to~~ chapter 633;
- 3.(c) Unintended results from the integration of previously adopted amendments with the model code;
- 4.(d) Equivalency of standards;
- 5.(e) Changes to or inconsistencies with federal or state law; or
- 6.(f) Adoption of an updated edition of the National Electrical Code if the commission finds that delay of implementing the updated edition causes undue hardship to stakeholders or otherwise threatens the public health, safety, and welfare.

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

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

553.79 Permits; applications; issuance; inspections.—

(1)

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

Section 4. Present subsections (10) through (19) of section 553.791, Florida Statutes, are redesignated as subsections (11) through (20), respectively, a new subsection (10) and subsection (21) are added to that section, and subsection (1), paragraph (b) of subsection (2), subsections (3),

(4), and (6), paragraphs (b) and (d) of subsection (7), subsections (8) and (9), and present subsections (10), (11), (12), (14), and (15) are amended, to read:

553.791 Alternative plans review and inspection.—

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

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

(b) “Audit” means the process to confirm that the building code inspection services have been performed by the private provider, including ensuring that the required affidavit for the plan review has been properly completed and submitted with ~~affixed to~~ the permit documents and that the minimum mandatory inspections required under the building code have been performed and properly recorded. The local building official may not replicate the plan review or inspection being performed by the private provider, unless expressly authorized by this section.

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

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

(e) “Deliver” or “delivery” means any method of delivery used in conventional business or commercial practice, including delivery by electronic transmissions.

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

(g) “Electronically posted” means providing notices of decisions, results, or records, including inspection records, through the use of a website or other form of electronic communication used to transmit or display information.

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

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

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

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

~~(l)~~(h) “Permit application” means a properly completed and submitted application for the requested building or construction permit, including:

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

(m)(i) “Plans” means building plans, site engineering plans, or site plans, or their functional equivalent, submitted by a fee owner or fee owner’s contractor to a private provider or duly authorized representative for review.

(n)(j) “Private provider” means a person licensed as a building code administrator under part XII of chapter 468, as an engineer under chapter 471, or as an architect under chapter 481. For purposes of performing inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term “private provider” also includes a person who holds a standard certificate under part XII of chapter 468.

~~(o)(k)~~ “Request for certificate of occupancy or certificate of completion” means a properly completed and executed application for:

1. A certificate of occupancy or certificate of completion.
2. A certificate of compliance from the private provider required under subsection (12) ~~(11)~~.
3. Any applicable fees.
4. Any documents required by the local building official to determine that the fee owner has secured all other government approvals required by law.

(p) “Single-trade inspection” means any inspection focused on a single construction trade, such as plumbing, mechanical, or electrical. The term includes, but is not limited to, inspections of door or window replacements; fences and block walls more than 6 feet high from the top of the wall to the bottom of the footing; stucco or plastering; reroofing with no structural alteration; HVAC replacements; ductwork or fan replacements; alteration or installation of wiring, lighting, and service panels; water heater changeouts; sink replacements; and repiping.

(q)(4) “Site work” means the portion of a construction project that is not part of the building structure, including, but not limited to, grading, excavation, landscape irrigation, and installation of driveways.

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

(2)

(b) If an owner or contractor retains a private provider for purposes of plans review or building inspection services, the local jurisdiction must reduce the permit fee by the amount of cost savings realized by the local enforcement agency for not having to perform such services. Such reduction may be calculated on a flat fee or percentage basis, or any other reasonable means by which a local enforcement agency assesses the cost for its plans review or inspection services. It is the intent of the Legislature that owners and contractors pay reduced fees related to building permitting requirements when hiring a private provider for plans review and building inspections. A local jurisdiction must calculate the cost savings to the local enforcement agency, based on a fee owner or contractor hiring a private provider to perform plans reviews and building inspections in lieu of the local building official, and reduce the permit fees accordingly. The local jurisdiction may not charge fees for building inspections if the fee owner or contractor hires a private provider to perform such services; however, the local jurisdiction may charge a reasonable administrative fee.

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

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

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

(b) The name, firm, address, telephone number, and e-mail address ~~facsimile number~~ of each private provider who is performing or will perform such services, his or her professional license or certification number, qualification statements or resumes, and, if required by the local building official, a certificate of insurance demonstrating that professional liability insurance coverage is in place for the private provider's firm, the private provider, and any duly authorized representative in the amounts required by this section.

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

I have elected to use one or more private providers to provide building code plans review and/or inspection services on the building or structure that is the subject of the enclosed permit application, as authorized by s. 553.791, Florida Statutes. I understand that the local building official may not review the plans submitted or perform the required building inspections to determine compliance with the applicable codes, except to the extent specified in said law. Instead, plans review and/or required building inspections will be performed by licensed or certified personnel identified in the application. The law requires minimum insurance requirements for such personnel, but I understand that I may require more insurance to protect my interests. By executing this form, I acknowledge that I have made inquiry regarding the competence of the licensed or certified personnel and the level of their insurance and am satisfied that my interests are adequately protected. I agree to indemnify, defend, and hold harmless the local government, the local building official, and their building code enforcement personnel from any and all claims arising from my use of these licensed or certified personnel to perform building code inspection services with respect to

the building or structure that is the subject of the enclosed permit application.

If the fee owner or the fee owner’s contractor makes any changes to the listed private providers or the services to be provided by those private providers, the fee owner or the fee owner’s contractor shall, within 1 business day after any change or within 2 business days before the next scheduled inspection, update the notice to reflect such changes. A change of a duly authorized representative named in the permit application does not require a revision of the permit, and the building code enforcement agency shall not charge a fee for making the change. ~~In addition, the fee owner or the fee owner’s contractor shall post at the project site, before the commencement of construction and updated within 1 business day after any change, on a form to be adopted by the commission, the name, firm, address, telephone number, and facsimile number of each private provider who is performing or will perform building code inspection services, the type of service being performed, and similar information for the primary contact of the private provider on the project.~~

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

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

(b) The plans comply with the applicable codes.

Such affidavit may bear a written or electronic signature and may be submitted electronically to the local building official.

(7)

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

(d) If the local building official provides a second written notice of plan deficiencies to the permit applicant within the prescribed time period, the permit applicant may elect to dispute the deficiencies pursuant to subsection ~~(14)~~ (13) or to submit additional revisions to correct the deficiencies. For all revisions submitted after the first revision, the local building official has an additional 5 business days from the date of resubmittal to issue the

requested permit or to provide a written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes, with specific reference to the relevant code chapters and sections.

(8) A private provider performing required inspections under this section shall inspect each phase of construction as required by the applicable codes. Such inspection may be performed in-person or virtually. The private provider ~~may have~~ shall be permitted to send a duly authorized representative to the building site to perform the required inspections, provided all required reports are prepared by and bear the written or electronic signature of the private provider or the private provider's duly authorized representative. The duly authorized representative must be an employee of the private provider entitled to receive reemployment assistance benefits under chapter 443. The contractor's contractual or legal obligations are not relieved by any action of the private provider.

(9) A private provider performing required inspections under this section shall provide notice to the local building official of the date and approximate time of any such inspection no later than the prior business day by 2 p.m. local time or by any later time permitted by the local building official in that jurisdiction. The local building official may not prohibit the private provider from performing any inspection outside the local building official's normal operating hours, including after hours, weekends, or holidays. The local building official may visit the building site as often as necessary to verify that the private provider is performing all required inspections. A deficiency notice must be posted ~~at the job site~~ by the private provider, the duly authorized representative of the private provider, or the building department whenever a noncomplying item related to the building code or the permitted documents is found. Such notice may be physically posted at the job site or electronically posted. After corrections are made, the item must be reinspected by the private provider or representative before being concealed. Reinspection or reaudit fees shall not be charged by the local jurisdiction as a result of the local jurisdiction's audit inspection occurring before the performance of the private provider's inspection or for any other administrative matter not involving the detection of a violation of the building code or a permit requirement.

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

(11)(10) Upon completing the required inspections at each applicable phase of construction, the private provider shall record such inspections on a form acceptable to the local building official. The form must bear the written

~~or electronic signature of~~ be signed by the provider or the provider's duly authorized representative. These inspection records shall reflect those inspections required by the applicable codes of each phase of construction for which permitting by a local enforcement agency is required. The private provider, upon completion of the required inspection before leaving the project site, shall post each completed inspection record, indicating pass or fail, ~~at the site~~ and provide the record to the local building official within 2 business days. Such inspection record may be electronically posted by the private provider or the private provider may post such inspection record physically at the project site. The private provider may electronically transmit the record to the local building official. The local building official may waive the requirement to provide a record of each inspection within 2 business days if the record is electronically posted or posted at the project site and all such inspection records are submitted with the certificate of compliance. Unless the records have been electronically posted, records of all required and completed inspections shall be maintained at the building site at all times and made available for review by the local building official. The private provider shall report to the local enforcement agency any condition that poses an immediate threat to public safety and welfare.

~~(12)~~~~(11)~~ Upon completion of all required inspections, the private provider shall prepare a certificate of compliance, on a form acceptable to the local building official, summarizing the inspections performed and including a written representation, under oath, that the stated inspections have been performed and that, to the best of the private provider's knowledge and belief, the building construction inspected complies with the approved plans and applicable codes. The statement required of the private provider shall be substantially in the following form and shall be signed and sealed by a private provider as established in subsection (1) or may be electronically transmitted to the local building official:

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

~~(13)~~~~(12)~~ No more than 2 business days after receipt of a request for a certificate of occupancy or certificate of completion and the applicant's presentation of a certificate of compliance and approval of all other government approvals required by law, the local building official shall issue the certificate of occupancy or certificate of completion or provide a notice to the applicant identifying the specific deficiencies, as well as the specific code chapters and sections. If the local building official does not provide notice of the deficiencies within the prescribed 2-day period, the request for a certificate of occupancy or certificate of completion shall be deemed granted and the certificate of occupancy or certificate of completion shall be issued by the local building official on the next business day. To resolve any identified deficiencies, the applicant may elect to dispute the

deficiencies pursuant to subsection ~~(14)~~ ~~(13)~~ or to submit a corrected request for a certificate of occupancy or certificate of completion.

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

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

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

(c) This section does not limit the authority of the local building official to issue a stop-work order for a building project or any portion of the project, as provided by law, if the official determines that a condition on the building site constitutes an immediate threat to public safety and welfare.

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

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

553.80 Enforcement.—

(7)(a) The governing bodies of local governments may provide a schedule of reasonable fees, as authorized by s. 125.56(2) or s. 166.222 and this section, for enforcing this part. These fees, and any fines or investment earnings related to the fees, shall be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code. When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. Any unexpended balances shall be carried forward to future years for allowable activities or shall be refunded at the discretion of the local government. A local government may not carry forward an amount exceeding the average of its operating budget for enforcing the Florida Building Code for the previous 4 fiscal years. For purposes of this subsection, the term "operating budget"

does not include reserve amounts. Any amount exceeding this limit must be used as authorized in subparagraph 2. However, a local government which established, as of January 1, 2019, a Building Inspections Fund Advisory Board consisting of five members from the construction stakeholder community and carries an unexpended balance in excess of the average of its operating budget for the previous 4 fiscal years may continue to carry such excess funds forward upon the recommendation of the advisory board. The basis for a fee structure for allowable activities shall relate to the level of service provided by the local government and shall include consideration for refunding fees due to reduced services based on services provided as prescribed by s. 553.791, but not provided by the local government. Fees charged shall be consistently applied.

1. As used in this subsection, the phrase “enforcing the Florida Building Code” includes the direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing; building code enforcement; and fire inspections associated with new construction. The phrase may also include training costs associated with the enforcement of the Florida Building Code and enforcement action pertaining to unlicensed contractor activity to the extent not funded by other user fees.

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

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

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

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

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

- a. Providing proof of licensure pursuant to chapter 489;
- b. Recording or filing a license issued pursuant to this chapter;
- c. Providing, recording, or filing evidence of workers' compensation insurance coverage as required by chapter 440; or
- d. Charging surcharges or other similar fees not directly related to enforcing the Florida Building Code.

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

553.842 Product evaluation and approval.—

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

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

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

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

125.01 Powers and duties.—

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

(bb) Enforce the Florida Building Code, as provided in s. 553.80, and adopt and enforce local technical amendments to the Florida Building Code as provided in s. 553.73(4), ~~pursuant to s. 553.73(4)(b) and (e).~~

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

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

(1) The board of county commissioners of each of the several counties of the state may enforce the Florida Building Code and the Florida Fire Prevention Code, as provided in ss. 553.80, 633.206, and 633.208; and, at its discretion, adopt local technical amendments to the Florida Building Code as provided in s. 553.73(4), ~~pursuant to s. 553.73(4)(b) and (e)~~ and local technical amendments to the Florida Fire Prevention Code as provided in, ~~pursuant to s. 633.202,~~ to provide for the safe construction, erection, alteration, repair, securing, and demolition of any building within its territory outside the corporate limits of any municipality. Upon a determination to consider amending the Florida Building Code or the Florida Fire Prevention Code by a majority of the members of the board of county commissioners of such county, the board shall call a public hearing and comply with the public notice requirements of s. 125.66(2). The board shall hear all interested parties at the public hearing and may then amend the building code or the fire code consistent with the terms and purposes of this act. Upon adoption, an amendment to the code shall be in full force and effect throughout the unincorporated area of such county until otherwise notified by the Florida Building Commission under ~~pursuant to~~ s. 553.73 or the State Fire Marshal under ~~pursuant to~~ s. 633.202. This subsection does not ~~Nothing herein contained shall be construed to~~ prevent the board of county commissioners from repealing such amendment to the building code or the fire code at any regular meeting of such board.

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

Approved by the Governor June 29, 2021.

Filed in Office Secretary of State June 29, 2021.