

Committee on Community Affairs

CS/CS/HB 401 — Florida Building Code

by Commerce Committee; Regulatory Reform Subcommittee; and Reps. Fetterhoff, Overdorf and others (CS/CS/CS/SB 1146 by Rules Committee; Appropriations Committee; Community Affairs Committee; and Senators Brodeur and Perry)

The Florida Building Commission (commission), housed within the Department of Business and Professional Regulation, is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines responsible for the implementation and adoption of the Florida Building Code (Building Code). The Building Code is the statewide building code for all construction in the state. The commission must adopt a new edition of the Building Code every three years.

Local governments enforce the Building Code within their jurisdictions, primarily by conducting inspections and issuing building permits to authorize construction. Under certain circumstances the commission and local governments may adopt technical and administrative amendments to the Building Code as permitted by statute. Local governments may adopt amendments to the Building Code that are more stringent than the Building Code, which are limited to the local government's jurisdiction and expire upon the adoption of the newest editions of the Building Code.

As it pertains to the administration of the Building Code, the bill:

- Allows a substantially affected person, as defined in the bill, to petition the commission for a non-binding advisory opinion on any local government regulation that the person believes is a technical amendment to the Building Code and was not adopted in accordance with the process for adopting local amendments to the Building Code. The commission must issue the opinion within 30 days of receiving the petition.
- Allows the commission to issue an “errata to the code” to correct demonstrated errors in provisions contained within the Building Code.
- Requires the commission to adopt rules for approving product evaluation entities in addition to the ones already listed and approved in current law, and clarifies that the commission may suspend any product evaluation entity.

The bill also:

- Allows local governments to use excess funds generated by building code enforcement fees (i.e., permit fees) for the construction of a building or structure that houses a local government's building department or provides training programs for building officials, inspectors, or plans examiners.
- Prohibits a local government from requiring a contract between a builder and an owner as a condition to apply for or obtain a building permit.
- Specifies that a local government 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.

The bill makes several changes to current law pertaining to licensed individuals providing private building inspection services, known as “private providers.” Current law allows contractors and property owners to hire licensed building code administrators, engineers, and architects to review building plans, perform building inspections, and prepare certificates of completion. The bill makes the following changes to the private provider statute:

- Expressly authorizes private providers to conduct virtual building inspections.
- Allows private providers to submit various inspection forms, records, and reports electronically to local building departments and utilize electronic signatures.
- Allows private providers to conduct “single-trade inspections,” as defined in the bill.
- Authorizes private providers to conduct emergency inspection services.

Additionally, the bill expressly authorizes local governments and school districts to use private providers for public works projects and improvements to any building or structure.

Finally, the bill amends the Community Planning Act to prohibit local governments from adopting land development regulations that regulate specific building design elements (such as exterior color and cladding, ornamentation, styling of windows and doors, etc.) for single- and two-family dwellings. However, certain exceptions are provided that allow local governments to regulate such building design elements when:

- The dwelling is a historic property or located in a historic district, a community redevelopment area, or a planned unit development or master planned community.
- The regulations are adopted in order to implement the National Flood Insurance Program or to ensure protection of coastal wildlife.
- The regulations are adopted in accordance with the procedures for adopting local amendments to the Building Code.
- The dwelling is located within the jurisdiction of a local government with a design review board or architectural review board.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 38-1; House 102-12