

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill authorizes the Florida Building Commission (commission) to amend the Florida Building Code to provide stronger building standards related to wind protection. It also requires the commission to develop voluntary “Code Plus” guidelines for increasing the hurricane resistance of buildings. Further, the bill requires local governments to enforce the wind-borne debris protections and structural standards provided by in the American Society of Civil Engineers Standard 7, 2002 edition.

Maintain Public Security – The bill increases the physical security of buildings against hurricane winds and windborne debris.

B. EFFECT OF PROPOSED CHANGES:

Florida Building Commission and Florida Building Code

The Florida Building Commission¹ (commission) must adopt and maintain the Florida Building Code² (code) as the technical regulation of construction activity throughout the state.³ The commission’s charge includes annual amendments and triennial updates, wherein the commission integrates previously adopted amendments, local amendments meeting a statutory threshold, and its declaratory statements with the newest edition of the model code upon which the Florida Building code is based. The commission also is charged with several means of interpreting the code.⁴

Design Standards for Wind Resistance

The code adopts the national model building code engineering standard known as the American Society of Civil Engineers Standard 7, 2002 edition (ASCE 7-02) for protection against hurricane winds. The ASCE 7-02 standard considers both wind speeds that can be developed by hurricanes and factors such as terrain and shielding by other buildings that affect the strength of those winds when they impact buildings. This standard, however, is not applied consistently across the state.

Panhandle Exemption

The Florida panhandle, which consists of the eastern border of Franklin County to the Florida-Alabama line, is provided an exemption from the 120 mph windborne debris standard⁵. This often is referred to as the “panhandle exemption”.

In 2000, the legislature created the panhandle exemption to the code. Section 109 of chapter 2000-141, Laws of Florida, provided that from the eastern border of Franklin County to the Florida-Alabama line, only land within one mile of the coast was subject to the windborne debris standards adopted by the commission.

In 2006, the legislature authorized the commission to amend the wind design standards contained in the code. The change allowed the commission to eliminate or revise the panhandle exemption and to

¹ Section 553.74(1), F.S., creates the commission within the Department of Community Affairs for administrative purposes. It is composed of 23 members appointed by the Governor and confirmed by the Senate.

² Section 553.73, F.S.

³ Section 553.73(1), F.S.

⁴ Section 553.77, F.S.

⁵ The 120 mph windborne debris standard specifically requires buildings to provide additional protection in areas that are expected to experience hurricane winds of 120 mph or greater.

amend the wind design standards applicable to the panhandle region to incorporate the ASCE 7-02 standard. The law required the wind lines to address the results of the Florida Panhandle Windborne Debris Region study.⁶

As a result of that study, the commission amended the code to require application of the windborne debris standard to the panhandle at the 130 mph line. The rest of the state is required to comply with the windborne debris standard at the 120 mph line. As such, this change still results in a panhandle exemption because the panhandle is not required to meet the same windborne debris standards as the rest of the state. Further, those areas within 1500 feet of open water are subject to the 120 mph windborne debris standard.⁷ The changes take effect March 8, 2007.⁸

Windborne Debris and Treed Terrain

The commission contracted with Applied Research Associates to conduct an engineering based risk assessment of hurricane windborne debris protection options for the panhandle. The study concluded that within the wind speed contours investigated (110 mph to 130 mph), terrain is more important than wind speed in determining the need for windborne debris protection.⁹ In addition, the study recommended changes to the panhandle exemption which were adopted by the commission and will take effect March 8, 2007. It should be noted, however, that the study did not take into consideration the following:

- Increased development in the panhandle region. As more structures are built, more trees are cut down.
- Tree fall from the 2004 hurricane season.
- Maturation of the tree canopy in the panhandle.¹⁰

Property and Casualty Insurance Reform Committee

The Property and Casualty Insurance Reform Committee (committee) was created pursuant to Executive Order 06-150. The committee examined issues specific to Florida's homeowners and businesses regarding insurance affordability and availability. The committee recommended six major reform features, which included eliminating the panhandle exemption to the Florida Building Code.¹¹

The committee heard testimony regarding the need for a uniform state building code. The committee's final report provided that the panhandle's lack of uniformity with the rest of the state has been a factor in rate level projections and an issue for reinsurers evaluating Florida's loss projections.¹²

Effect of Bill

The bill addresses recommendations made by the Property and Casualty Insurance Reform Committee.

The bill authorizes the commission to modify the code, but only if the modifications provided stronger building standards related to wind protection. It requires the commission to amend the code to require application of standard ASCE 7-02 throughout the state. All exceptions providing less stringent requirements must be eliminated. Further, the commission is required to develop voluntary "Code

⁶ Section 1, chapter 2006-65, L.O.F.

⁷ These changes were recommended in a study performed by Applied Research Associates pursuant to a contract with the commission.

⁸ Testimony by James Richmond, attorney for the Florida Building Commission, Committee on State Affairs workshop of statewide building code practices, January 10, 2007.

⁹ "Summary of UF 2004 Hurricanes Building Performance Assessment and ARA Wind-Borne Debris Criteria for the Panhandle Study", available at http://www.dca.state.fl.us/fbc/publications/1_publications.htm, under the heading "Summary Briefing".

¹⁰ These factors were raised as concerns by Leslie Chapman-Henderson during testimony provided to the Committee on State Affairs as part of its workshop on statewide building code practices on January 10, 2007. Leslie Chapman-Henderson provided testimony on behalf of the Property and Casualty Insurance Reform Committee for which she served as a member.

¹¹ 2006 Property and Casualty Insurance Reform Committee Final Report, available at <http://www.myfloridainsurancereform.com>.

¹² *Id.* at 37 and 38.

Plus” guidelines for increasing the hurricane resistance of buildings. The guidelines must be included in the commission’s report to the 2008 legislature.

Finally, the bill directs counties and cities to enforce the windborne debris protections and structural guidelines provided in standard ASCE 7-02.

C. SECTION DIRECTORY:

Section 1 provides a short title.

Section 2 amends s. 553.773, F.S., to authorize the commission to amend the code in order to provide stronger building standards related to wind protection and to eliminate the panhandle exemption.

Section 3 requires the Florida Building Commission to develop voluntary “Code Plus” guidelines.

Section 4 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The impact of the bill on homebuilders and ultimately homebuyers is indeterminate. To the extent the bill results in increased construction costs associated with enhanced window and door protection, homebuilders and homebuyers could be adversely impacted. These costs, however, could be offset by benefits primarily in the form of reduced hurricane-related property damage and lower insurance rates.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or cities to spend funds or to take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the commission to amend the code in order to eliminate all exceptions that provide less stringent requirements, in essence, eliminating the panhandle exemption. It also authorizes the commission to amend the code in order to include stronger building standards related to wind protection.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.