

By Senator Simpson

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1                   A bill to be entitled  
2       An act relating to building construction; amending s.  
3       162.12, F.S.; providing an additional method for local  
4       governments to provide notices to alleged code  
5       enforcement violators; amending s. 514.03, F.S.;  
6       requiring application for an operating permit before  
7       filing an application for a building permit for a  
8       public swimming pool or bathing place; amending s.  
9       514.031, F.S.; providing an additional requirement for  
10      obtaining a public swimming pool operating permit;  
11      amending s. 553.37, F.S.; specifying inspection  
12      criteria for construction or modification of  
13      manufactured buildings or modules; amending s.  
14      553.721, F.S.; revising the allocation of funds from  
15      the building permit surcharge; amending s. 553.775,  
16      F.S.; authorizing building officials, local  
17      enforcement agencies, and the Florida Building  
18      Commission to interpret the Florida Accessibility Code  
19      for Building Construction; specifying procedures for  
20      such interpretations; deleting provisions relating to  
21      declaratory statements and interpretations of the  
22      Florida Accessibility Code for Building Construction,  
23      to conform; amending s. 553.79, F.S.; prohibiting a  
24      local enforcing agency from issuing a building permit  
25      for a public swimming pool or bathing place without  
26      proof of application for an operating permit;  
27      requiring issuance of an operating permit before final  
28      inspection is completed; amending s. 553.841, F.S.;  
29      revising education and training requirements of the

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30 Florida Building Code Compliance and Mitigation  
31 Program; providing an effective date.  
32

33 Be It Enacted by the Legislature of the State of Florida:  
34

35 Section 1. Subsection (1) of section 162.12, Florida  
36 Statutes, is amended to read:

37 162.12 Notices.—

38 (1) All notices required by this part must be provided to  
39 the alleged violator by:

40 (a) First-class mail or, at the option of the local  
41 government, certified mail, return receipt requested, to the  
42 address listed in the tax collector's office for tax notices or  
43 to the address listed in the county property appraiser's  
44 database. The local government may also provide an additional  
45 notice to any other address it may find for the property owner.  
46 For property owned by a corporation, notices may be provided by  
47 certified mail to the registered agent of the corporation. If  
48 any notice sent by certified mail is not signed as received  
49 within 30 days after the postmarked date of mailing, notice may  
50 be provided by posting as described in subparagraphs (2) (b)1.  
51 and 2.;

52 (b) Hand delivery by the sheriff or other law enforcement  
53 officer, code inspector, or other person designated by the local  
54 governing body;

55 (c) Leaving the notice at the violator's usual place of  
56 residence with any person residing therein who is above 15 years  
57 of age and informing such person of the contents of the notice;  
58 or

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59 (d) In the case of commercial premises, leaving the notice  
60 with the manager or other person in charge.

61 Section 2. Section 514.03, Florida Statutes, is amended to  
62 read:

63 514.03 Approval necessary to construct, develop, or modify  
64 public swimming pools or public bathing places.—

65 (1) A person or public body desiring to construct, develop,  
66 or modify a public swimming pool or public bathing place must  
67 apply to the department for an operating permit before filing an  
68 application for a building permit under s. 553.79.

69 (2) Local governments or local enforcement districts may  
70 determine compliance with the general construction standards of  
71 the Florida Building Code, pursuant to s. 553.80. Local  
72 governments or local enforcement districts may conduct plan  
73 reviews and inspections of public swimming pools and public  
74 bathing places for this purpose.

75 Section 3. Paragraph (a) of subsection (1) of section  
76 514.031, Florida Statutes, is amended to read:

77 514.031 Permit necessary to operate public swimming pool.—

78 (1) It is unlawful for any person or public body to operate  
79 or continue to operate any public swimming pool without a valid  
80 permit from the department, such permit to be obtained in the  
81 following manner:

82 (a) Any person or public body desiring to operate any  
83 public swimming pool shall file an application for a permit with  
84 the department, on application forms provided by the department,  
85 and shall accompany such application with:

86 1. A description of the structure, its appurtenances, and  
87 its operation.

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88       ~~2.1.~~ A description of the source or sources of water  
89 supply, and the amount and quality of water available and  
90 intended to be used.

91       ~~3.2.~~ The method and manner of water purification,  
92 treatment, disinfection, and heating.

93       ~~4.3.~~ The safety equipment and standards to be used.

94       ~~5.4.~~ Any other pertinent information deemed necessary by  
95 the department.

96       Section 4. Paragraph (c) of subsection (1) of section  
97 553.37, Florida Statutes, is amended to read:

98       553.37 Rules; inspections; and insignia.—

99       (1) The Florida Building Commission shall adopt within the  
100 Florida Building Code requirements for construction or  
101 modification of manufactured buildings and building modules, to  
102 address:

103       (c) ~~Minimum~~ Inspection criteria, which shall require the  
104 approved inspection agency to:

105       1. Inspect the first building built, or the first unit  
106 assembled with components, after certification of the  
107 manufacturer.

108       2. Continue observation of the manufacturing process until  
109 the agency determines that the manufacturer's quality control  
110 program and the plans approved by the agency will result in a  
111 building and components that meet or exceed the applicable  
112 Florida Building Code requirements.

113       3. With respect to manufactured buildings, inspect each  
114 module produced at least once during the manufacturing process,  
115 and inspect the entire production line during each plant  
116 inspection, to ensure that at least one electrical, plumbing,

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117 structural, mechanical, or thermal subsystem is exposed during  
118 inspection of at least 75 percent of the modules inspected.

119 4. With respect to components, inspect at least 50 percent  
120 of the manufactured building components or 20 percent of storage  
121 sheds that are not designed for human habitation and that have a  
122 floor area of 720 square feet or less.

123 Section 5. Section 553.721, Florida Statutes, is amended to  
124 read:

125 553.721 Surcharge.—In order for the Department of Business  
126 and Professional Regulation to administer and carry out the  
127 purposes of this part and related activities, there is created a  
128 surcharge, to be assessed at the rate of 1.5 percent of the  
129 permit fees associated with enforcement of the Florida Building  
130 Code as defined by the uniform account criteria and specifically  
131 the uniform account code for building permits adopted for local  
132 government financial reporting pursuant to s. 218.32. The  
133 minimum amount collected on any permit issued shall be \$2. The  
134 unit of government responsible for collecting a permit fee  
135 pursuant to s. 125.56(4) or s. 166.201 shall collect the  
136 surcharge and electronically remit the funds collected to the  
137 department on a quarterly calendar basis for the preceding  
138 quarter and continuing each third month thereafter. The unit of  
139 government shall retain 10 percent of the surcharge collected to  
140 fund the participation of building departments in the national  
141 and state building code adoption processes and to provide  
142 education related to enforcement of the Florida Building Code.  
143 All funds remitted to the department pursuant to this section  
144 shall be deposited in the Professional Regulation Trust Fund.  
145 Funds collected from the surcharge shall be allocated to fund

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146 the Florida Building Commission, ~~and~~ the Florida Building Code  
147 Compliance and Mitigation Program under s. 553.841, and the  
148 Future Builders of America Program. Beginning in the 2013-2014  
149 ~~fiscal year,~~ Funds allocated to the Florida Building Code  
150 Compliance and Mitigation Program shall be \$925,000 each fiscal  
151 year. Beginning in the 2014-2015 fiscal year, funds allocated to  
152 the Future Builders of America Program shall be \$250,000 each  
153 fiscal year. The funds collected from the surcharge may not be  
154 used to fund research on techniques for mitigation of radon in  
155 existing buildings. Funds used by the department as well as  
156 funds to be transferred to the Department of Health shall be as  
157 prescribed in the annual General Appropriations Act. The  
158 department shall adopt rules governing the collection and  
159 remittance of surcharges pursuant to chapter 120.

160 Section 6. Section 553.775, Florida Statutes, is amended to  
161 read:

162 553.775 Interpretations.—

163 (1) It is the intent of the Legislature that the Florida  
164 Building Code and the Florida Accessibility Code for Building  
165 Construction be interpreted by building officials, local  
166 enforcement agencies, and the commission in a manner that  
167 protects the public safety, health, and welfare at the most  
168 reasonable cost to the consumer by ensuring uniform  
169 interpretations throughout the state and by providing processes  
170 for resolving disputes regarding interpretations of the Florida  
171 Building Code and the Florida Accessibility Code for Building  
172 Construction which are just and expeditious.

173 (2) Local enforcement agencies, local building officials,  
174 state agencies, and the commission shall interpret provisions of

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175 the Florida Building Code and the Florida Accessibility Code for  
176 Building Construction in a manner that is consistent with  
177 declaratory statements and interpretations entered by the  
178 commission, except that conflicts between the Florida Fire  
179 Prevention Code and the Florida Building Code shall be resolved  
180 in accordance with s. 553.73(11)(c) and (d).

181 (3) The following procedures may be invoked regarding  
182 interpretations of the Florida Building Code or the Florida  
183 Accessibility Code for Building Construction:

184 (a) Upon written application by any substantially affected  
185 person or state agency or by a local enforcement agency, the  
186 commission shall issue declaratory statements pursuant to s.  
187 120.565 relating to the enforcement or administration by local  
188 governments of the Florida Building Code or the Florida  
189 Accessibility Code for Building Construction.

190 (b) When requested in writing by any substantially affected  
191 person or state agency or by a local enforcement agency, the  
192 commission shall issue a declaratory statement pursuant to s.  
193 120.565 relating to this part and ss. 515.25, 515.27, 515.29,  
194 and 515.37. Actions of the commission are subject to judicial  
195 review under s. 120.68.

196 (c) The commission shall review decisions of local building  
197 officials and local enforcement agencies regarding  
198 interpretations of the Florida Building Code or the Florida  
199 Accessibility Code for Building Construction after the local  
200 board of appeals has considered the decision, if such board  
201 exists, and if such appeals process is concluded within 25  
202 business days.

203 1. The commission shall coordinate with the Building

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204 Officials Association of Florida, Inc., to designate panels  
205 composed of five members to hear requests to review decisions of  
206 local building officials. The members must be licensed as  
207 building code administrators under part XII of chapter 468 and  
208 must have experience interpreting and enforcing provisions of  
209 the Florida Building Code and the Florida Accessibility Code for  
210 Building Construction.

211 2. Requests to review a decision of a local building  
212 official interpreting provisions of the Florida Building Code or  
213 the Florida Accessibility Code for Building Construction may be  
214 initiated by any substantially affected person, including an  
215 owner or builder subject to a decision of a local building  
216 official or an association of owners or builders having members  
217 who are subject to a decision of a local building official. In  
218 order to initiate review, the substantially affected person must  
219 file a petition with the commission. The commission shall adopt  
220 a form for the petition, which shall be published on the  
221 Building Code Information System. The form shall, at a minimum,  
222 require the following:

223 a. The name and address of the county or municipality in  
224 which provisions of the Florida Building Code or the Florida  
225 Accessibility Code for Building Construction are being  
226 interpreted.

227 b. The name and address of the local building official who  
228 has made the interpretation being appealed.

229 c. The name, address, and telephone number of the  
230 petitioner; the name, address, and telephone number of the  
231 petitioner's representative, if any; and an explanation of how  
232 the petitioner's substantial interests are being affected by the

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233 local interpretation of the Florida Building Code or the Florida  
234 Accessibility Code for Building Construction.

235 d. A statement of the provisions of the Florida Building  
236 Code or the Florida Accessibility Code for Building Construction  
237 which are being interpreted by the local building official.

238 e. A statement of the interpretation given to provisions of  
239 the Florida Building Code or the Florida Accessibility Code for  
240 Building Construction by the local building official and the  
241 manner in which the interpretation was rendered.

242 f. A statement of the interpretation that the petitioner  
243 contends should be given to the provisions of the Florida  
244 Building Code or the Florida Accessibility Code for Building  
245 Construction and a statement supporting the petitioner's  
246 interpretation.

247 g. Space for the local building official to respond in  
248 writing. The space shall, at a minimum, require the local  
249 building official to respond by providing a statement admitting  
250 or denying the statements contained in the petition and a  
251 statement of the interpretation of the provisions of the Florida  
252 Building Code or the Florida Accessibility Code for Building  
253 Construction which the local jurisdiction or the local building  
254 official contends is correct, including the basis for the  
255 interpretation.

256 3. The petitioner shall submit the petition to the local  
257 building official, who shall place the date of receipt on the  
258 petition. The local building official shall respond to the  
259 petition in accordance with the form and shall return the  
260 petition along with his or her response to the petitioner within  
261 5 days after receipt, exclusive of Saturdays, Sundays, and legal

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262 holidays. The petitioner may file the petition with the  
263 commission at any time after the local building official  
264 provides a response. If no response is provided by the local  
265 building official, the petitioner may file the petition with the  
266 commission 10 days after submission of the petition to the local  
267 building official and shall note that the local building  
268 official did not respond.

269 4. Upon receipt of a petition that meets the requirements  
270 of subparagraph 2., the commission shall immediately provide  
271 copies of the petition to a panel, and the commission shall  
272 publish the petition, including any response submitted by the  
273 local building official, on the Building Code Information System  
274 in a manner that allows interested persons to address the issues  
275 by posting comments.

276 5. The panel shall conduct proceedings as necessary to  
277 resolve the issues; shall give due regard to the petitions, the  
278 response, and to comments posed on the Building Code Information  
279 System; and shall issue an interpretation regarding the  
280 provisions of the Florida Building Code or the Florida  
281 Accessibility Code for Building Construction within 21 days  
282 after the filing of the petition. The panel shall render a  
283 determination based upon the Florida Building Code or the  
284 Florida Accessibility Code for Building Construction or, if the  
285 code is ambiguous, the intent of the code. The panel's  
286 interpretation shall be provided to the commission, which shall  
287 publish the interpretation on the Building Code Information  
288 System and in the Florida Administrative Register. The  
289 interpretation shall be considered an interpretation entered by  
290 the commission, and shall be binding upon the parties and upon

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291 all jurisdictions subject to the Florida Building Code or the  
292 Florida Accessibility Code for Building Construction, unless it  
293 is superseded by a declaratory statement issued by the Florida  
294 Building Commission or by a final order entered after an appeal  
295 proceeding conducted in accordance with subparagraph 7.

296 6. It is the intent of the Legislature that review  
297 proceedings be completed within 21 days after the date that a  
298 petition seeking review is filed with the commission, and the  
299 time periods set forth in this paragraph may be waived only upon  
300 consent of all parties.

301 7. Any substantially affected person may appeal an  
302 interpretation rendered by a hearing officer panel by filing a  
303 petition with the commission. Such appeals shall be initiated in  
304 accordance with chapter 120 and the uniform rules of procedure  
305 and must be filed within 30 days after publication of the  
306 interpretation on the Building Code Information System or in the  
307 Florida Administrative Register. Hearings shall be conducted  
308 pursuant to chapter 120 and the uniform rules of procedure.  
309 Decisions of the commission are subject to judicial review  
310 pursuant to s. 120.68. The final order of the commission is  
311 binding upon the parties and upon all jurisdictions subject to  
312 the Florida Building Code or the Florida Accessibility Code for  
313 Building Construction.

314 8. The burden of proof in any proceeding initiated in  
315 accordance with subparagraph 7. is on the party who initiated  
316 the appeal.

317 9. In any review proceeding initiated in accordance with  
318 this paragraph, including any proceeding initiated in accordance  
319 with subparagraph 7., the fact that an owner or builder has

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320 proceeded with construction may not be grounds for determining  
321 an issue to be moot if the issue is one that is likely to arise  
322 in the future.

323  
324 This paragraph provides the exclusive remedy for addressing  
325 requests to review local interpretations of the Florida Building  
326 Code or the Florida Accessibility Code for Building Construction  
327 and appeals from review proceedings.

328 (d) Upon written application by any substantially affected  
329 person, contractor, or designer, or a group representing a  
330 substantially affected person, contractor, or designer, the  
331 commission shall issue or cause to be issued a formal  
332 interpretation of the Florida Building Code or the Florida  
333 Accessibility Code for Building Construction as prescribed by  
334 paragraph (c).

335 (e) Local decisions declaring structures to be unsafe and  
336 subject to repair or demolition are not subject to review under  
337 this subsection and may not be appealed to the commission if the  
338 local governing body finds that there is an immediate danger to  
339 the health and safety of the public.

340 (f) Upon written application by any substantially affected  
341 person, the commission shall issue a declaratory statement  
342 pursuant to s. 120.565 relating to an agency's interpretation  
343 and enforcement of the specific provisions of the Florida  
344 Building Code or the Florida Accessibility Code for Building  
345 Construction which the agency is authorized to enforce. This  
346 subsection does not provide any powers, other than advisory, to  
347 the commission with respect to any decision of the State Fire  
348 Marshal made pursuant to chapter 633.

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349 (g) The commission may designate a commission member who  
350 has demonstrated expertise in interpreting building plans to  
351 attend each meeting of the advisory council created in s.  
352 553.512. The commission member may vary from meeting to meeting,  
353 shall serve on the council in a nonvoting capacity, and shall  
354 receive per diem and expenses as provided in s. 553.74(3).

355 (h) The commission shall by rule establish an informal  
356 process of rendering nonbinding interpretations of the Florida  
357 Building Code and the Florida Accessibility Code for Building  
358 Construction. The commission is specifically authorized to refer  
359 interpretive issues to organizations that represent those  
360 engaged in the construction industry. The commission shall  
361 immediately implement the process before completing formal  
362 rulemaking. It is the intent of the Legislature that the  
363 commission create a process to refer questions to a small,  
364 rotating group of individuals licensed under part XII of chapter  
365 468, to which a party may pose questions regarding the  
366 interpretation of code provisions. It is the intent of the  
367 Legislature that the process provide for the expeditious  
368 resolution of the issues presented and publication of the  
369 resulting interpretation on the Building Code Information  
370 System. Such interpretations shall be advisory only and  
371 nonbinding on the parties and the commission.

372 (4) In order to administer this section, the commission may  
373 adopt by rule and impose a fee for filing requests for  
374 declaratory statements and binding and nonbinding  
375 interpretations to recoup the cost of the proceedings which may  
376 not exceed \$125 for each request for a nonbinding interpretation  
377 and \$250 for each request for a binding review or

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378 interpretation. For proceedings conducted by or in coordination  
379 with a third party, the rule may provide that payment be made  
380 directly to the third party, who shall remit to the department  
381 that portion of the fee necessary to cover the costs of the  
382 department.

383 ~~(5) The commission may render declaratory statements in~~  
384 ~~accordance with s. 120.565 relating to the provisions of the~~  
385 ~~Florida Accessibility Code for Building Construction not~~  
386 ~~attributable to the Americans with Disabilities Act~~  
387 ~~Accessibility Guidelines. Notwithstanding the other provisions~~  
388 ~~of this section, the Florida Accessibility Code for Building~~  
389 ~~Construction and chapter 11 of the Florida Building Code may not~~  
390 ~~be interpreted by, and are not subject to review under, any of~~  
391 ~~the procedures specified in this section. This subsection has no~~  
392 ~~effect upon the commission's authority to waive the Florida~~  
393 ~~Accessibility Code for Building Construction as provided by s.~~  
394 ~~553.512.~~

395 Section 7. Present subsections (11) through (18) of section  
396 553.79, Florida Statutes, are renumbered as subsections (12)  
397 through (19), respectively, and a new subsection (11) is added  
398 to that section, to read:

399 553.79 Permits; applications; issuance; inspections.-

400 (11) The local enforcing agency may not issue a building  
401 permit to construct, develop, or modify a public swimming pool  
402 or public bathing place without proof of application for an  
403 operating permit under s. 514.031. Final inspection may not be  
404 completed until such operating permit is issued.

405 Section 8. Subsections (1) and (2) of section 553.841,  
406 Florida Statutes, are amended to read:

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407 553.841 Building code compliance and mitigation program.—

408 (1) The Legislature finds that knowledge and understanding  
409 by persons licensed or employed in the design and construction  
410 industries of the importance and need for complying with the  
411 Florida Building Code and related laws is vital to the public  
412 health, safety, and welfare of this state, especially for  
413 protecting consumers and mitigating damage caused by hurricanes  
414 to residents and visitors to the state. The Legislature further  
415 finds that the Florida Building Code can be effective only if  
416 all participants in the design and construction industries  
417 maintain a thorough knowledge of the code, code compliance and  
418 enforcement, duties related to consumers, and changes that  
419 ~~additions thereto which~~ improve construction standards, project  
420 completion, and compliance of design and construction to protect  
421 against consumer harm, storm damage, and other damage.

422 Consequently, the Legislature finds that there is a need for a  
423 program to provide ongoing education and outreach activities  
424 concerning compliance with the Florida Building Code, the  
425 Florida Fire Prevention Code, construction plan and permitting  
426 requirements, construction liens, and hurricane mitigation.

427 (2) The Department of Business and Professional Regulation  
428 shall administer a program, designated as the Florida Building  
429 Code Compliance and Mitigation Program, to develop, coordinate,  
430 and maintain education and outreach to persons required to  
431 comply with the Florida Building Code and related provisions as  
432 specified in subsection (1) and ensure consistent education,  
433 training, and communication of the code's requirements,  
434 including, but not limited to, methods for design and  
435 construction compliance and mitigation of storm-related damage.

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436 The program shall also operate a clearinghouse through which  
437 design, construction, and building code enforcement licensees,  
438 suppliers, and consumers in this state may find others in order  
439 to exchange information relating to mitigation and facilitate  
440 repairs in the aftermath of a natural disaster.

441 Section 9. This act shall take effect July 1, 2014.