

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; amending s. 514.031, F.S.;
9 providing additional requirements for obtaining a
10 public swimming pool operating permit; amending s.
11 553.37, F.S.; specifying inspection criteria for
12 construction or modification of manufactured buildings
13 or modules; amending s. 553.721, F.S.; revising the
14 allocation of funds from the building permit
15 surcharge; amending s. 553.775, F.S.; authorizing
16 building officials, local enforcement agencies, and
17 the Florida Building Commission to interpret the
18 Florida Accessibility Code for Building Construction;
19 specifying procedures for such interpretations;
20 deleting provisions relating to declaratory statements
21 and interpretations of the Florida Accessibility Code
22 for Building Construction, to conform; amending s.
23 553.79, F.S.; prohibiting a local enforcing agency
24 from issuing a building permit for a public swimming
25 pool without proof of application for an operating
26 permit; requiring issuance of an operating permit

27 before a certificate of completion or occupancy is
 28 issued; amending s. 553.841, F.S.; revising education
 29 and training requirements of the Florida Building Code
 30 Compliance and Mitigation Program; creating s.
 31 553.883, F.S.; authorizing use of smoke alarms powered
 32 by 10-year nonremovable, nonreplaceable batteries in
 33 certain circumstances; requiring use of such alarms by
 34 a certain date; amending s. 553.993, F.S.; revising
 35 the definition of the term "building energy-efficiency
 36 rating system" to require consistency with certain
 37 national standards for new construction and existing
 38 construction; providing for oversight; providing an
 39 effective date.

40
 41 Be It Enacted by the Legislature of the State of Florida:

42
 43 Section 1. Paragraph (a) of subsection (1) of section
 44 162.12, Florida Statutes, is amended to read:

45 162.12 Notices.—

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

48 (a) First-class mail or, at the option of the local
 49 government, certified mail, return receipt requested, to the
 50 address listed in the tax collector's office for tax notices or
 51 to the address listed in the county property appraiser's
 52 database. The local government may also provide an additional

53 notice to any other address it may find for the property owner.
54 For property owned by a corporation, notices may be provided by
55 certified mail to the registered agent of the corporation. If
56 any notice sent by certified mail is not signed as received
57 within 30 days after the postmarked date of mailing, notice may
58 be provided by posting as described in subparagraphs (2)(b)1.
59 and 2.;

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

62 514.03 Approval necessary to construct, develop, or modify
63 public swimming pools or public bathing places.—

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

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

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

76 514.031 Permit necessary to operate public swimming pool.—

77 (1) It is unlawful for any person or public body to
78 operate or continue to operate any public swimming pool without

79 a valid permit from the department, such permit to be obtained
 80 in the following manner:

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

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

87 ~~2.1.~~ A description of the source or sources of water
 88 supply, and the amount and quality of water available and
 89 intended to be used.

90 ~~3.2.~~ The method and manner of water purification,
 91 treatment, disinfection, and heating.

92 ~~4.3.~~ The safety equipment and standards to be used.

93 5. A copy of the final approval from the local enforcement
 94 agency as defined in chapter 553.

95 ~~6.4.~~ Any other pertinent information deemed necessary by
 96 the department.

97 Section 4. Paragraph (c) of subsection (1) of section
 98 553.37, Florida Statutes, is amended to read:

99 553.37 Rules; inspections; and insignia.—

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

104 (c) ~~Minimum~~ Inspection criteria, which shall require the

105 approved inspection agency to:

106 1. Observe the first building built, or with regard to
107 components, observe the first unit assembled, after
108 certification of the manufacturer, from start to finish,
109 inspecting all subsystems: electrical, plumbing, structural,
110 mechanical, or thermal.

111 2. Continue observation of the manufacturing process until
112 the approved inspection agency determines that the
113 manufacturer's quality control program, in conjunction with the
114 application of the plans approved by the approved inspection
115 agency, will result in a building and components that meet or
116 exceed the applicable Florida Building Code requirements.

117 3. Thereafter, inspect each module produced during at
118 least one point of the manufacturing process and inspect at
119 least 75 percent of the subsystems of each module: electrical,
120 plumbing, structural, mechanical, or thermal.

121 4. With respect to components, inspect at least 75 percent
122 of the manufactured building components and at least 20 percent
123 of the storage sheds that are not designed for human habitation
124 and that have a floor area of 720 square feet or less.

125 Section 5. Section 553.721, Florida Statutes, is amended
126 to read:

127 553.721 Surcharge.—In order for the Department of Business
128 and Professional Regulation to administer and carry out the
129 purposes of this part and related activities, there is created a
130 surcharge, to be assessed at the rate of 1.5 percent of the

131 permit fees associated with enforcement of the Florida Building
132 Code as defined by the uniform account criteria and specifically
133 the uniform account code for building permits adopted for local
134 government financial reporting pursuant to s. 218.32. The
135 minimum amount collected on any permit issued shall be \$2. The
136 unit of government responsible for collecting a permit fee
137 pursuant to s. 125.56(4) or s. 166.201 shall collect the
138 surcharge and electronically remit the funds collected to the
139 department on a quarterly calendar basis for the preceding
140 quarter and continuing each third month thereafter. The unit of
141 government shall retain 10 percent of the surcharge collected to
142 fund the participation of building departments in the national
143 and state building code adoption processes and to provide
144 education related to enforcement of the Florida Building Code.
145 All funds remitted to the department pursuant to this section
146 shall be deposited in the Professional Regulation Trust Fund.
147 Funds collected from the surcharge shall be allocated to fund
148 the Florida Building Commission, ~~and~~ the Florida Building Code
149 Compliance and Mitigation Program under s. 553.841, and the
150 Future Builders of America Program. ~~Beginning in the 2013-2014~~
151 ~~fiscal year,~~ Funds allocated to the Florida Building Code
152 Compliance and Mitigation Program shall be \$925,000 each fiscal
153 year. Beginning in the 2014-2015 fiscal year, funds allocated to
154 the Future Builders of America Program shall be \$250,000 each
155 fiscal year. The funds collected from the surcharge may not be
156 used to fund research on techniques for mitigation of radon in

157 existing buildings. Funds used by the department as well as
158 funds to be transferred to the Department of Health shall be as
159 prescribed in the annual General Appropriations Act. The
160 department shall adopt rules governing the collection and
161 remittance of surcharges pursuant to chapter 120.

162 Section 6. Section 553.775, Florida Statutes, is amended
163 to read:

164 553.775 Interpretations.—

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

175 (2) Local enforcement agencies, local building officials,
176 state agencies, and the commission shall interpret provisions of
177 the Florida Building Code and the Florida Accessibility Code for
178 Building Construction in a manner that is consistent with
179 declaratory statements and interpretations entered by the
180 commission, except that conflicts between the Florida Fire
181 Prevention Code and the Florida Building Code shall be resolved
182 in accordance with s. 553.73(11)(c) and (d).

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

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

192 (b) When requested in writing by any substantially
193 affected person or state agency or by a local enforcement
194 agency, the commission shall issue a declaratory statement
195 pursuant to s. 120.565 relating to this part and ss. 515.25,
196 515.27, 515.29, and 515.37. Actions of the commission are
197 subject to judicial review under s. 120.68.

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

205 1. The commission shall coordinate with the Building
206 Officials Association of Florida, Inc., to designate panels
207 composed of five members to hear requests to review decisions of
208 local building officials. The members must be licensed as

209 building code administrators under part XII of chapter 468 and
210 must have experience interpreting and enforcing provisions of
211 the Florida Building Code and the Florida Accessibility Code for
212 Building Construction.

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

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

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

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

235 | local interpretation of the Florida Building Code or the Florida
 236 | Accessibility Code for Building Construction.

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

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

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

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

258 | 3. The petitioner shall submit the petition to the local
 259 | building official, who shall place the date of receipt on the
 260 | petition. The local building official shall respond to the

261 petition in accordance with the form and shall return the
262 petition along with his or her response to the petitioner within
263 5 days after receipt, exclusive of Saturdays, Sundays, and legal
264 holidays. The petitioner may file the petition with the
265 commission at any time after the local building official
266 provides a response. If no response is provided by the local
267 building official, the petitioner may file the petition with the
268 commission 10 days after submission of the petition to the local
269 building official and shall note that the local building
270 official did not respond.

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

278 5. The panel shall conduct proceedings as necessary to
279 resolve the issues; shall give due regard to the petitions, the
280 response, and to comments posed on the Building Code Information
281 System; and shall issue an interpretation regarding the
282 provisions of the Florida Building Code or the Florida
283 Accessibility Code for Building Construction within 21 days
284 after the filing of the petition. The panel shall render a
285 determination based upon the Florida Building Code or the
286 Florida Accessibility Code for Building Construction or, if the

287 code is ambiguous, the intent of the code. The panel's
288 interpretation shall be provided to the commission, which shall
289 publish the interpretation on the Building Code Information
290 System and in the Florida Administrative Register. The
291 interpretation shall be considered an interpretation entered by
292 the commission, and shall be binding upon the parties and upon
293 all jurisdictions subject to the Florida Building Code or the
294 Florida Accessibility Code for Building Construction, unless it
295 is superseded by a declaratory statement issued by the Florida
296 Building Commission or by a final order entered after an appeal
297 proceeding conducted in accordance with subparagraph 7.

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

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

313 binding upon the parties and upon all jurisdictions subject to
314 the Florida Building Code or the Florida Accessibility Code for
315 Building Construction.

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

319 9. In any review proceeding initiated in accordance with
320 this paragraph, including any proceeding initiated in accordance
321 with subparagraph 7., the fact that an owner or builder has
322 proceeded with construction may not be grounds for determining
323 an issue to be moot if the issue is one that is likely to arise
324 in the future.

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

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

337 (e) Local decisions declaring structures to be unsafe and
338 subject to repair or demolition are not subject to review under

339 | this subsection and may not be appealed to the commission if the
340 | local governing body finds that there is an immediate danger to
341 | the health and safety of the public.

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

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

357 | (h) The commission shall by rule establish an informal
358 | process of rendering nonbinding interpretations of the Florida
359 | Building Code and the Florida Accessibility Code for Building
360 | Construction. The commission is specifically authorized to refer
361 | interpretive issues to organizations that represent those
362 | engaged in the construction industry. The commission shall
363 | immediately implement the process before completing formal
364 | rulemaking. It is the intent of the Legislature that the

365 commission create a process to refer questions to a small,
366 rotating group of individuals licensed under part XII of chapter
367 468, to which a party may pose questions regarding the
368 interpretation of code provisions. It is the intent of the
369 Legislature that the process provide for the expeditious
370 resolution of the issues presented and publication of the
371 resulting interpretation on the Building Code Information
372 System. Such interpretations shall be advisory only and
373 nonbinding on the parties and the commission.

374 (4) In order to administer this section, the commission
375 may adopt by rule and impose a fee for filing requests for
376 declaratory statements and binding and nonbinding
377 interpretations to recoup the cost of the proceedings which may
378 not exceed \$125 for each request for a nonbinding interpretation
379 and \$250 for each request for a binding review or
380 interpretation. For proceedings conducted by or in coordination
381 with a third party, the rule may provide that payment be made
382 directly to the third party, who shall remit to the department
383 that portion of the fee necessary to cover the costs of the
384 department.

385 ~~(5) The commission may render declaratory statements in~~
386 ~~accordance with s. 120.565 relating to the provisions of the~~
387 ~~Florida Accessibility Code for Building Construction not~~
388 ~~attributable to the Americans with Disabilities Act~~
389 ~~Accessibility Guidelines. Notwithstanding the other provisions~~
390 ~~of this section, the Florida Accessibility Code for Building~~

391 ~~Construction and chapter 11 of the Florida Building Code may not~~
 392 ~~be interpreted by, and are not subject to review under, any of~~
 393 ~~the procedures specified in this section. This subsection has no~~
 394 ~~effect upon the commission's authority to waive the Florida~~
 395 ~~Accessibility Code for Building Construction as provided by s.~~
 396 ~~553.512.~~

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

401 553.79 Permits; applications; issuance; inspections.-

402 (11) The local enforcing agency may not issue a building
 403 permit to construct, develop, or modify a public swimming pool
 404 without proof of application for an operating permit under s.
 405 514.031. A certificate of completion or occupancy shall not be
 406 issued until such operating permit is issued.

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

409 553.841 Building code compliance and mitigation program.-

410 (1) The Legislature finds that knowledge and understanding
 411 by persons licensed or employed in the design and construction
 412 industries of the importance and need for complying with the
 413 Florida Building Code and related laws is vital to the public
 414 health, safety, and welfare of this state, especially for
 415 protecting consumers and mitigating damage caused by hurricanes
 416 to residents and visitors to the state. The Legislature further

417 finds that the Florida Building Code can be effective only if
418 all participants in the design and construction industries
419 maintain a thorough knowledge of the code, code compliance and
420 enforcement, duties related to consumers, and changes that
421 ~~additions thereto which~~ improve construction standards, project
422 completion, and compliance of design and construction to protect
423 against consumer harm, storm damage, and other damage.
424 Consequently, the Legislature finds that there is a need for a
425 program to provide ongoing education and outreach activities
426 concerning compliance with the Florida Building Code, the
427 Florida Fire Prevention Code, construction plan and permitting
428 requirements, construction liens, and hurricane mitigation.

429 (2) The Department of Business and Professional Regulation
430 shall administer a program, designated as the Florida Building
431 Code Compliance and Mitigation Program, to develop, coordinate,
432 and maintain education and outreach to persons required to
433 comply with the Florida Building Code and related provisions as
434 specified in subsection (1) and ensure consistent education,
435 training, and communication of the code's requirements,
436 including, but not limited to, methods for design and
437 construction compliance and mitigation of storm-related damage.
438 The program shall also operate a clearinghouse through which
439 design, construction, and building code enforcement licensees,
440 suppliers, and consumers in this state may find others in order
441 to exchange information relating to mitigation and facilitate
442 repairs in the aftermath of a natural disaster.

443 Section 9. Section 553.883, Florida Statutes, is created
444 to read:

445 553.883 Smoke alarms in one-family and two-family
446 dwelling and townhomes.—A one-family and two-family dwelling
447 and townhome undergoing a repair, or an alteration level 1 as
448 defined in the Florida Existing Building Code, may use a smoke
449 alarm powered by a 10-year nonremovable, nonreplaceable battery
450 in lieu of retrofitting such dwelling with a smoke alarm powered
451 by the dwelling's electrical system. Effective January 1, 2015,
452 a battery-powered smoke alarm that is newly installed or
453 replaces an existing battery-powered smoke alarm must be powered
454 by a nonremovable, nonreplaceable battery that powers the alarm
455 for at least 10 years.

456 Section 10. Subsection (3) of section 553.993, Florida
457 Statutes, is amended to read:

458 553.993 Definitions.—For purposes of this part:

459 (3) "Building energy-efficiency rating system" means a
460 whole building energy evaluation system that provides a reliable
461 and scientifically-based analysis of a building's energy
462 consumption or energy features and allows comparison to similar
463 building types in similar climate zones where applicable.
464 Specifically, the rating system shall use standard calculations,
465 formulas, and scoring methods; be applicable nationally; compare
466 a building to a clearly defined and researched baseline or
467 benchmark; require qualified professionals to conduct the rating
468 or assessment; and provide a labeling and recognition program

469 with specific criteria or levels. Residential program benchmarks
470 for new construction shall be consistent with national building
471 standards. Residential building program benchmarks for existing
472 construction shall be consistent with national home energy
473 rating standards. The building energy-efficiency rating system
474 shall require at least one level of oversight performed by an
475 organized and balanced group of professionals with subject
476 matter expertise in energy efficiency, energy rating, and
477 evaluation methods established by the Residential Energy
478 ~~Services Network, the Commercial Energy Services Network, the~~
479 ~~Building Performance Institute, or the Florida Solar Energy~~
480 ~~Center.~~

481 Section 11. This act shall take effect July 1, 2014.