

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1139 Inspections and Permits
SPONSOR(S): Plakon
TIED BILLS: **IDEN./SIM. BILLS:** SB 1752

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	12 Y, 2 N	Darden	Miller
2) Business & Professions Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Building Codes Act provides a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction. The Legislature intends that local governments have the power to inspect all buildings, structures, and facilities within their respective jurisdictions to protect the public's health, safety, and welfare. Under current law, local governments must enforce the Florida Building Code, issue building permits, and post each type of building permit application on their respective websites.

The bill requires each county and municipality that imposes permitting or inspection fees to establish a priority process by which an inspection may expedited. The county or municipality may charge an additional fee for the expedited process, but the fee may not exceed two times the baseline fee for the inspection type being expedited.

The bill limits local governments to collecting 50 percent of the fee that is due when an application for a building permit is filed. If the local government fails to meet an established application deadline, the bill reduces the permitting fee by 10 percent of the original amount for every 10 business days by which the local government fails to meet the established deadline. Upon approval of the building permit application, the local government must notify the applicant of the fee balance. If the applicant owes additional fees, payment of the fees are due before the issuance of any certificate or permit. If the applicant is owed a refund, that refund is due to the applicant when the certificate or permit issued.

The bill also revises the types of building permits to which certain application deadlines apply.

The bill may increase local government revenues and expenditures to the extent the expedited permitting process created by the bill is utilized.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.¹

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code, and that first edition replaced all local codes on March 1, 2002.² The current edition of the Florida Building Code is the sixth edition, which is referred to as the 2017 Florida Building Code.³

Part IV of ch. 553, F.S., is known as the "Florida Building Codes Act" (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.⁴

The Florida Building Commission implements the Florida Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 27-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Florida Building Code.⁵ The Commission reviews several International Codes published by the International Code Council, the National Electric Code, and other nationally adopted model codes to determine if the Florida Building Code should be revised and adopts an updated Florida Building Code every three years.⁶

Enforcement of the Florida Building Code

Local governments are intended to have the power to inspect all buildings, structures, and facilities within their jurisdiction to protect the public's health, safety, and welfare.⁷

Every local government must enforce the Florida Building Code and issue building permits.⁸ It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any

¹ Fla. Dept. of Community Affairs, The Florida Building Commission Report to the 2006 Legislature 4, *available at* http://www.floridmabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Mar. 6, 2019).

² *Id.* Dept. of Business and Professional Regulation, *Overview of the Florida Building Code*, <http://www.floridahousing.org/docs/default-source/aboutflorida/august2017/august2017/tab4.pdf> (last visited Mar. 6, 2019).

³ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Mar. 6, 2019).

⁴ *See* s. 553.72(1), F.S.

⁵ S. 553.74, F.S.

⁶ S. 553.73, F.S.

⁷ S. 553.72, F.S.

⁸ Ss. 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit, upon payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.⁹

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.¹⁰ A building official is a local government employee or a person contracted by a local government who supervises building code activities, including plan review, enforcement, and inspection.¹¹ Any construction work that requires a building permit also requires plans and inspections by the local building official to ensure the work complies with the Florida Building Code. The Florida Building Code requires certain building, electrical, plumbing, mechanical, and gas inspections. In addition to required inspections, a local building official may require other inspections of any work to ensure compliance with the Florida Building Code.¹²

Building Permit Applications to Local Governments

When an application for a building permit is filed, the local government must inform the applicant within 10 days of any additional information needed to find the application is in compliance.¹³ If the local government fails to provide written notice to the applicant within the 10-day window, the application is deemed to be properly completed. Once the application is completed, the local government must notify the applicant within 45 days if additional information is necessary to determine the sufficiency of the application and shall specify what additional information is necessary. The applicant may submit the additional information to the local government or request that the local government act on the application without the additional information. The local government must approve, approve with conditions, or deny the application within 120 days following receipt of the completed application.¹⁴ This period is tolled during the time an applicant is responding to a request for additional information and may be extended by mutual consent of the parties.

Local Government Fees

Each local government entity may provide a schedule of reasonable inspection fees¹⁵ in order to defer the costs of inspection and enforcement of the Florida Building Code.¹⁶ A local government entity that issues building permits must post each type of building permit application on its website. Completed applications must be submitted electronically to the local enforcement agency building department, which must provide accepted methods of electronic submission. However, payments, attachments, or drawings required as part of the permit application may be submitted in person in a nonelectronic format, at the discretion of the building official.¹⁷

⁹ See ss. 125.56(4)(a) and 553.79(1), F.S.

¹⁰ S. 202 of the Sixth edition of the Florida Building Code.

¹¹ S. 468.603(2), F.S.

¹² Ss. 107, 110.1, and 110.3, Sixth edition of the Florida Building Code.

¹³ S. 553.792(1), F.S. For the purposes of this section, a “building permit” includes applications concerning accessory structures; alarm permits; nonresidential buildings less than 25,000 square feet; electric; irrigation permits; landscaping; mechanical; plumbing; residential units other than a single family unit; multifamily residential not exceeding 50 units; roofing; signs; site-plan approvals and subdivision plats not requiring public hearings or public notice; and lot grading and site alteration associated with the permit application. The term does not include permits for any wireless communications facilities or any situation where a law, agency rule, or local ordinance specify different timeframes for review of local building permit applications. S. 553.792(2), F.S.

¹⁴ *Id.*

¹⁵ See, e.g., Broward County website on *Impact and Concurrency Fees*, available at

<http://www.broward.org/Planning/Development/FAQs/Pages/Impact-and-Concurrency-Fees.aspx> (last visited Jan. 3, 2019).

¹⁶ Ss. 125.56(2), 166.222, and 553.80(7), F.S.

¹⁷ Ss. 125.56(4)(b) and 553.79(1)(b), F.S.

A local government entity's fees must be used solely for carrying out that local government entity's responsibilities in enforcing the Florida Building Code.¹⁸ The basis for the fee structure must relate to the level of service provided by the local government.¹⁹ Fees charged must be consistently applied.²⁰

Local enforcement agencies, dependent special districts,²¹ or independent special districts,²² may not require additional fees, charges, or expenses for:

- Providing proof of licensure pursuant to ch. 489, F.S.;
- Recording or filing a license issued pursuant to ch. 553, F.S.; or
- Providing, recording, or filing evidence of workers' compensation insurance coverage required by ch. 440, F.S.²³

A "local enforcement agency" is an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes that establish standards for the design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.²⁴

Effect of Proposed Changes

The bill requires each county and municipality that imposes permitting or inspection fees to establish a priority process by which an inspection may expedited. The county or municipality may charge an additional fee for the expedited process, but the fee may not exceed two times the baseline fee for the inspection type being expedited.

The bill limits local governments to collecting 50 percent of the fee that is due when an application for a building permit is filed. If the local government fails to meet an established application deadline, the fee associated with the deadline is reduced by 10 percent of the original amount for every 10 business days the local government fails to meet the established deadline. Upon approval of the building permit application, the local government must notify the applicant of the fee balance. If the applicant owes additional fees, payment of the fee is due before the issuance of any certificate or permit. If the applicant is owed a refund, that refund is due to the applicant when the certificate or permit is issued.

The bill revises the types of building permits to which the established application deadlines provided by s. 553.792, F.S., apply to include all non-residential building permits.

B. SECTION DIRECTORY:

Section 1: Amends s. 125.56, F.S., requiring each county that imposes inspection fees to establish an expedited priority inspection process.

¹⁸ The phrase "enforcing the 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. *See* s. 553.80(7)(a), F.S.

¹⁹ S. 553.80(7), F.S.

²⁰ *Id.*

²¹ A dependent special district has a governing board comprised of members that are identical in membership to, or all appointed by or any removable at will by, the governing body of a single county or municipality, or the district budget may be affirmed or vetoed by the governing body of a single county or municipality. *See* s. 189.012(2), F.S. A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. *See 2018-2020 Local Gov't Formation Manual* 64, available at

<http://myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2019&DocumentType=General%20Publications&FileName=2018-2020%20Local%20Government%20Formation%20Manual%20Final.pdf>.

²² Section 189.012(3), F.S., defines an "independent special district" as a special district that is not a dependent special district.

²³ S. 553.80(7)(d), F.S.

²⁴ S. 553.71(5), F.S.

- Section 2: Amends s. 166.222, F.S., requiring each municipality that imposes inspection fees to establish an expedited priority inspection process.
- Section 3: Amends s. 553.782, F.S., revising local government permitting fee collection.
- Section 4: Provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill will increase local government revenues to the extent the expedited permitting process is utilized.

2. Expenditures:

The bill will increase local government expenditures to the extent the expedited permitting process is utilized.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The expedited permitting process created by the bill may increase the speed at which building permits are processed.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take any action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Both this bill and CS/HB 127 create a new s. 166.222(2), F.S., with different text.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES