

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS  
FINAL BILL ANALYSIS**

**BILL #:** CS/HB 127 Permit Fees  
**SPONSOR(S):** State Affairs Committee, Williamson and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 142

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N	Renner	Miller
2) Business & Professions Subcommittee	15 Y, 0 N	Brackett	Anstead
3) State Affairs Committee	22 Y, 0 N, As CS	Renner	Williamson
<b>FINAL HOUSE FLOOR ACTION:</b> 110 <b>Y's</b> 0 <b>N's</b>			
<b>GOVERNOR'S ACTION:</b> Approved			

**SUMMARY ANALYSIS**

CS/HB 127 passed the House on March 21, 2019, and subsequently passed the Senate on March 27, 2019.

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 the governing bodies of counties and municipalities to post permit and inspection fee schedules and building permit and inspection utilization reports on their websites by December 31, 2020. After December 31, 2020, the governing body of a local government that provides a schedule of fees must update its building permit and inspection utilization report before adjusting the fee schedule. Finally, the bill establishes reporting requirements.

The bill does not have a fiscal impact on the state. The bill has an indeterminate, but likely insignificant, fiscal impact on local governments.

The bill was approved by the Governor on June 24, 2019, ch. 2019-121, L.O.F., and will become effective on July 1, 2019.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Background**

##### 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.<sup>1</sup>

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.<sup>2</sup> The current edition of the Florida Building Code is the sixth edition, which is referred to as the 2017 Florida Building Code.<sup>3</sup>

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.<sup>4</sup>

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.<sup>5</sup> 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 needs to be updated and adopts an updated Florida Building Code every three years.<sup>6</sup>

##### Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.<sup>7</sup>

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

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<sup>1</sup> The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, available at [http://www.floridabuilding.org/fbc/publications/2006\\_Legislature\\_Rpt\\_rev2.pdf](http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf) (last visited Jan. 3, 2019).

<sup>2</sup> *Id.* DBPR, *Overview of the Florida Building Code*,

<http://webcache.googleusercontent.com/search?q=cache:udGIX8b7K60J:www.floridahousing.org/docs/default-source/aboutflorida/august2017/august2017/tab4.pdf+&cd=1&hl=en&ct=clnk&gl=us> (last visited Jan. 3, 2019).

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

<sup>4</sup> *See* s. 553.72(1), F.S.

<sup>5</sup> S. 553.74, F.S.

<sup>6</sup> S. 553.73, F.S.

<sup>7</sup> S. 553.72, 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 the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.<sup>9</sup>

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.<sup>10</sup> 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.<sup>11</sup> 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 it complies with the Florida Building Code.<sup>12</sup>

### Local Government Fees

Each local government entity may provide a schedule of reasonable inspection fees<sup>13</sup> in order to defer the costs of inspection and enforcement of the Florida Building Code.<sup>14</sup> 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.<sup>15</sup>

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.<sup>16</sup> The basis for the fee structure must relate to the level of service provided by the local government.<sup>17</sup> Fees charged must be consistently applied.<sup>18</sup>

Local enforcement agencies, dependent special districts,<sup>19</sup> or independent special districts<sup>20</sup> 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

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<sup>8</sup> Ss. 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

<sup>9</sup> See ss. 125.56(4)(a) and 553.79(1), F.S.

<sup>10</sup> S. 202 of the Sixth edition of the Florida Building Code.

<sup>11</sup> S. 468.603(2), F.S.

<sup>12</sup> Ss. 107, 110.1, and 110.3, Sixth edition of the Florida Building Code.

<sup>13</sup> 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).

<sup>14</sup> Ss. 125.56(2), 166.222, and 553.80(7), F.S.

<sup>15</sup> Ss. 125.56(4)(b) and 553.79(1)(b), F.S.

<sup>16</sup> 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.

<sup>17</sup> S. 553.80(7), F.S.

<sup>18</sup> *Id.*

<sup>19</sup> 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* at pg. 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> (last visited April 22, 2019).

<sup>20</sup> Section 189.012(3), F.S., defines an “independent special district” as a special district that is not a dependent special district.

- Providing, recording, or filing evidence of workers' compensation insurance coverage required by ch. 440, F.S.<sup>21</sup>

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.<sup>22</sup>

### **Effect of the Bill**

The bill requires the governing bodies of counties and municipalities to post permit and inspection fee schedules and building permit and inspection utilization reports on their websites.

The governing body of a local government providing a schedule of reasonable fees must create a building permit and inspection utilization report and post the report on its website by December 31, 2020. The information in the report must be derived from relevant information available in the most recently completed financial audit. After December 31, 2020, the governing body of a local government providing a schedule of fees must update its building permit and inspection utilization report on its website before adjusting the fee schedule.

The report must include the following information:

- Direct and indirect costs incurred by the local government to enforce the Florida Building Code, including costs related to personnel services costs, including salary and related employee benefit costs, and operating expenditures and expenses.
- Permit and inspection utilization information, including:
  - Number of building permit applications submitted.
  - Number of building permits issued or approved.
  - Number of building inspections and reinspections requested.
  - Number of building inspections and reinspections conducted.
  - Number of building inspections conducted by a private provider.
  - Number of audits conducted by the local government of private provider building inspections.
  - Number of personnel dedicated by the local government to enforce the Florida Building Code, issue building permits, and conduct inspections.
  - Certain other permissible activities for enforcing the Florida Building Code.
- Revenue information, including revenue derived from certain fees, fines, investment earnings from investment of revenue derived from fees and fines, balances carried forward and balances refunded by the local government, and revenue derived from other sources, including general revenue.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

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<sup>21</sup> S. 553.80(7)(d), F.S.

<sup>22</sup> S. 553.71(5), F.S.

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

Indeterminate. Local governments that do not currently post permit information on their websites may have to expend funds to revise their existing websites in order to meet the reporting requirements in the bill.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Requiring a local government to post its permit and inspection fee schedules as well as a building permit and inspection utilization report on its website will help applicants for building permits assess the associated costs of the permit.

**D. FISCAL COMMENTS:**

None.