

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 1512

INTRODUCER: Senator Diaz

SUBJECT: Fees for Enforcing the Florida Building Code

DATE: April 4, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	<b>Pre-meeting</b>
2.			CM	
3.			RC	

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**I. Summary:**

SB 1512 adds allowable activities for which local governments may charge reasonable fees when enforcing the Florida Building Code. These activities are: costs for the production and maintenance of records; and costs associated with the implementation of local ordinances related or complimentary to the implementation and enforcement of the Florida Building Code.

**II. Present Situation:**

**Florida Building Code**

Part IV of ch. 553, F.S., is known as the “Florida Building Codes Act.” The purpose and intent of the Florida Building Codes Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code.<sup>1</sup> The Florida Building Code must be applied, administered and enforced uniformly and consistently from jurisdiction to jurisdiction.<sup>2</sup> The Florida Building Commission develops and maintains the Florida Building Code.<sup>3</sup>

**Florida Fire Prevention Code**

The State Fire Marshall must adopt, by rule, the Florida Fire Prevention Code (FFPC), which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such fire safety laws and rules.<sup>4</sup> The FFPC operates in conjunction with the

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<sup>1</sup> Section 553.72(1), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 553.74, F.S. The Florida Building Commission 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>4</sup> Section 633.202(1), F.S.

Florida Building Code. Conflicts between the FFPC and the Florida Building Code are resolved through coordination and cooperation between the State Fire Marshall and the Florida Building Commission in favor of requirements offering the greatest degree of life safety.<sup>5</sup>

### **Enforcement of the Florida Building Code: Permits and Inspections**

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public's health, safety, and welfare.<sup>6</sup> Authorized state and local government agencies enforce the Florida Building Code and issue building permits.<sup>7</sup>

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.<sup>8</sup> It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local enforcing agency upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.<sup>9</sup> A local enforcement agency must post each type of building permit application on its website.<sup>10</sup>

A building official is a local government employee 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,<sup>12</sup> including certain required building, electrical, plumbing, mechanical, and gas inspections.<sup>13</sup>

### **Local Government Building Code Permit and Inspection Fees**

#### ***Determination and Usage***

A local government entity may provide a schedule of reasonable fees in order to defer the costs of building permitting and inspections and enforcement of the Florida Building Code.<sup>14</sup> The 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>15</sup> The basis for the fee structure must

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<sup>5</sup> See ss. 553.72(5), 553.73(1)(d), and 633.104(5), F.S.

<sup>6</sup> Section 553.72(2), F.S.

<sup>7</sup> See ss. 125.01(1)(bb), 125.56(1), 553.72(3), and 553.80(1), F.S.

<sup>8</sup> Section 202, 2017 Florida Building Code – Building, Sixth Edition (July 2017) available at <https://codes.iccsafe.org/content/FBC2017/chapter-2-definitions> (last visited April 4, 2019). Section 553.79(1)(b), F.S., requires a local enforcement agency of the Florida Building Code to post each type of building permit application on its website.

<sup>9</sup> See ss. 125.56(4)(a) and 553.79(1), F.S. Other entities may, by resolution or regulation, be directed to issue permits.

<sup>10</sup> Section 553.79(1)(b), F.S.

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

<sup>12</sup> Section 553.79(2), F.S.

<sup>13</sup> Section 110.3, 2017 Florida Building Code – Building, Sixth Edition (July 2017) available at <https://codes.iccsafe.org/content/FBC2017/chapter-1-scope-and-administration> (last visited April 4, 2019).

<sup>14</sup> See ss. 125.56(2), 166.222, and 553.80(7), F.S. While not required by Florida Statutes, it appears that many local governments currently post fee schedules on their websites.

<sup>15</sup> The phrase “enforcing the Florida 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

relate to the level of service provided by the local government.<sup>16</sup> The total estimated annual revenue derived from fees, and fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities.<sup>17</sup> Fees charged must be consistently applied.<sup>18</sup> The funding of certain general government activities and programs from fee revenues is expressly prohibited. Examples of these include planning and zoning activities or the enforcement of local ordinances unrelated to the Florida Building Code.<sup>19</sup>

### ***Fiscal Tracking and Accountability***

A local government must use recognized management, accounting, and oversight practices to ensure that any building permitting and inspection fees, fines, and investment earnings are maintained and allocated or used solely for the purposes of enforcing building codes.<sup>20</sup> Any unexpended fee balances are carried forward to future years for allowable activities or are refunded at the discretion of the local government.<sup>21</sup>

The most recent information on building permit fee revenues provided by the Office of Economic and Demographic Research captures data from 2017. For that year, 63 counties reported building permit fee revenues totaling \$265,162,945; while 310 municipalities reported revenues totaling \$478,299,301.<sup>22</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 553.80, F.S., to include costs for the production and maintenance of records as an allowable activity for which local governments may charge reasonable fees when enforcing the Florida Building Code. Costs associated with the implementation of local ordinances related or complimentary to the implementation and enforcement of the Florida Building Code are also designated as an allowable activity for fee charges.

**Section 2** provides an effective date of July 1, 2019.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

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fire inspections associated with new construction. The phrase may also include training costs associated with the enforcement. *See* s. 553.80(7)(a), F.S.

<sup>16</sup> Section 553.80(7), F.S.

<sup>17</sup> *Id.*

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

<sup>19</sup> Section 553.80(7)(b), F.S. Additional activities that may not be funded by permit fees include public information requests, community functions, boards, and any program not directly related to enforcement of the Florida Building Code.

<sup>20</sup> Section 553.80(7)(c), F.S.

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

<sup>22</sup> Office of Economic and Demographic Research, The Florida Legislature, *Building Permit Fees*, available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/a-f.cfm> (last visited April 4, 2019).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Applicants for building permits may incur higher permit fees as a result of the added allowable activities for which reasonable costs may be charged.

**C. Government Sector Impact:**

While a local government's permit fee revenues may rise as a result of the added allowable chargeable activities, the increase remains statutorily bound not to exceed the costs of the activities.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 553.80 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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