

Amendment No. 1.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Business & Professions
 2 Subcommittee

3 Representative Overdorf offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (5) of section 163.3202, Florida
 8 Statutes, is renumbered as subsection (6), and a new subsection
 9 (5) is added to that section to read:

10 163.3202 Land development regulations.—

11 (5)(a) Land development regulations relating to building
 12 design elements may not be applied to a single- or two-family
 13 dwelling unless:

14 1. The dwelling is listed in the National Register of
 15 Historic Places, as defined in s. 267.021; or is a contributing
 16 property to a National Register Historic District; or is

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17 designated as a historic property or a contributing property to
18 a historic district, under the terms of a local preservation
19 ordinance.

20 2. The regulations are adopted in order to implement the
21 National Flood Insurance Program.

22 3. The regulations are adopted pursuant to and in
23 compliance with the provisions of chapter 553.

24 (b) For purposes of this subsection, the term "building
25 design elements" means the external building color; type or
26 style of exterior cladding material; style or material of roof
27 structures or porches; exterior nonstructural architectural
28 ornamentation; location or architectural styling of windows or
29 doors, including garage doors; number and type of rooms; and
30 interior layout of rooms. The term does not include the height,
31 bulk, orientation, or location of a structure on a zoning lot;
32 or the use of buffering or screening to minimize potential
33 adverse physical or visual impacts or protect the privacy of
34 neighbors.

35 (c) This subsection does not affect the validity or
36 enforceability of private covenants or other contractual
37 agreements relating to building design elements.

38 Section 2. Subsection (4) of section 553.73, Florida
39 Statutes, is amended to read:

40 553.73 Florida Building Code.—

41 (4) (a) All entities authorized to enforce the Florida

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42 Building Code under ~~pursuant to~~ s. 553.80 shall comply with
43 applicable standards for issuance of mandatory certificates of
44 occupancy, minimum types of inspections, and procedures for
45 plans review and inspections as established by the commission by
46 rule. Local governments may adopt amendments to the
47 administrative provisions of the Florida Building Code, subject
48 to the limitations in ~~of~~ this subsection ~~paragraph~~. Local
49 amendments must ~~shall~~ be more stringent than the minimum
50 standards described in this section ~~herein~~ and must ~~shall~~ be
51 transmitted to the commission within 30 days after enactment.
52 The local government shall make such amendments available to the
53 general public in a usable format. The State Fire Marshal is
54 responsible for establishing the standards and procedures
55 required in this subsection ~~paragraph~~ for governmental entities
56 with respect to applying the Florida Fire Prevention Code and
57 the Life Safety Code.

58 (b) Local governments may, subject to the limitations in
59 ~~of~~ this section and not more than once every 6 months, adopt
60 amendments to the technical provisions of the Florida Building
61 Code that ~~which~~ apply solely within the jurisdiction of such
62 government and that ~~which~~ provide for more stringent
63 requirements than those specified in the Florida Building Code, ~~not more than once every 6 months~~. A local government may adopt
64 technical amendments that address local needs if:
65

66 1. The local governing body determines, following a public

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67 hearing which has been advertised in a newspaper of general
68 circulation at least 10 days before the hearing, that there is a
69 need to strengthen the requirements of the Florida Building
70 Code. The determination must be based upon a review of local
71 conditions by the local governing body, which review
72 demonstrates by evidence or data that the geographical
73 jurisdiction governed by the local governing body exhibits a
74 local need to strengthen the Florida Building Code beyond the
75 needs or regional variation addressed by the Florida Building
76 Code, that the local need is addressed by the proposed local
77 amendment, and that the amendment is no more stringent than
78 necessary to address the local need.

79 2. Such additional requirements are not discriminatory
80 against materials, products, or construction techniques of
81 demonstrated capabilities.

82 3. Such additional requirements ~~do~~ may not introduce a new
83 subject not addressed in the Florida Building Code.

84 ~~(c)4.~~ The enforcing agency shall make readily available,
85 in a usable format, all amendments adopted under ~~pursuant to~~
86 this section.

87 ~~(d)5.~~ Any amendment to the Florida Building Code shall be
88 transmitted within 30 days after adoption by the ~~adopting~~ local
89 government to the commission. The commission shall maintain
90 copies of all such amendments in a format that is usable and
91 obtainable by the public. Local technical amendments are ~~shall~~

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92 not ~~become~~ effective until 30 days after the amendment has been
93 received and published by the commission.

94 ~~(e)6.~~ An ~~Any~~ amendment to the Florida Building Code
95 adopted by a local government under ~~pursuant to~~ this subsection
96 ~~is paragraph~~ shall be effective only until the adoption ~~by the~~
97 ~~commission~~ of the new edition of the Florida Building Code by
98 the commission every third year. At such time, the commission
99 shall review such amendment for consistency with the criteria in
100 paragraph (9) (a) and adopt such amendment as part of the Florida
101 Building Code or rescind the amendment. The commission shall
102 immediately notify the respective local government of the
103 rescission of any amendment. After receiving such notice, the
104 respective local government may readopt the rescinded amendment
105 under ~~pursuant to~~ the provisions of this subsection ~~paragraph~~.

106 ~~(f)7.~~ Each county and municipality desiring to make local
107 technical amendments to the Florida Building Code shall ~~by~~
108 ~~interlocal agreement~~ establish by interlocal agreement a
109 countywide compliance review board to review any amendment to
110 the Florida Building Code that is, adopted by a local government
111 within the county under ~~pursuant to~~ this subsection and
112 ~~paragraph~~, that is challenged by a any substantially affected
113 party for purposes of determining the amendment's compliance
114 with this subsection ~~paragraph~~. If challenged, the local
115 technical amendments are ~~shall~~ not ~~become~~ effective until the
116 time for filing an appeal under paragraph (g) ~~pursuant to~~

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117 ~~subparagraph 8.~~ has expired or, if there is an appeal, until the
118 commission issues its final order determining if the adopted
119 amendment is in compliance with this subsection.

120 (g)8. If the compliance review board determines such
121 amendment is not in compliance with this subsection ~~paragraph~~,
122 the compliance review board shall notify such local government
123 of the noncompliance and that the amendment is invalid and
124 unenforceable until the local government corrects the amendment
125 to bring it into compliance. The local government may appeal the
126 decision of the compliance review board to the commission. If
127 the compliance review board determines that such amendment is ~~to~~
128 ~~be~~ in compliance with this subsection ~~paragraph~~, any
129 substantially affected party may appeal such determination to
130 the commission. Any such appeal must ~~shall~~ be filed with the
131 commission within 14 days after ~~of~~ the board's written
132 determination. The commission shall promptly refer the appeal to
133 the Division of Administrative Hearings by electronic means
134 through the division's website for the assignment of an
135 administrative law judge. The administrative law judge shall
136 conduct the required hearing within 30 days after being assigned
137 to the appeal, and shall enter a recommended order within 30
138 days after ~~of~~ the conclusion of such hearing. The commission
139 shall enter a final order within 30 days after an order is
140 rendered thereafter. ~~The provisions of Chapter 120 and the~~
141 uniform rules of procedure shall apply to such proceedings. The

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142 local government adopting the amendment that is subject to
143 challenge has the burden of proving that the amendment complies
144 with this subsection ~~paragraph~~ in proceedings before the
145 compliance review board and the commission, as applicable.
146 Actions of the commission are subject to judicial review under
147 ~~pursuant to~~ s. 120.68. The compliance review board shall
148 determine whether its decisions apply to a respective local
149 jurisdiction or apply countywide.

150 (h)9. An amendment adopted under this subsection ~~paragraph~~
151 shall include a fiscal impact statement that ~~which~~ documents the
152 costs and benefits of the proposed amendment. Criteria for the
153 fiscal impact statement shall include the impact to local
154 government relative to enforcement and, ~~the impact to property~~
155 and building owners and, ~~as well as to industry,~~ relative to the
156 cost of compliance. The fiscal impact statement may not be used
157 as a basis for challenging the amendment for compliance.

158 (i)10. In addition to paragraphs (f) and (g) ~~subparagraphs~~
159 ~~7. and 9.~~, the commission may review any amendments adopted
160 under ~~pursuant to~~ this subsection and make nonbinding
161 recommendations related to compliance of such amendments with
162 this subsection.

163 (j)(e) Any amendment adopted by a local enforcing agency
164 under ~~pursuant to~~ this subsection may ~~shall~~ not apply to state
165 or school district owned buildings, manufactured buildings or
166 factory-built school buildings approved by the commission, or

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167 prototype buildings approved under ~~pursuant to~~ s. 553.77(3). The
168 respective responsible entities shall consider the physical
169 performance parameters substantiating such amendments when
170 designing, specifying, and constructing such exempt buildings.

171 ~~(k)(d)~~ A technical amendment to the Florida Building Code
172 related to water conservation practices or design criteria
173 adopted by a local government under ~~pursuant to~~ this subsection
174 is not ~~rendered~~ void when the code is updated if the technical
175 amendment is necessary to protect or provide for more efficient
176 use of water resources as provided in s. 373.621. However, any
177 such technical amendment carried forward into the next edition
178 of the code under ~~pursuant to~~ this subsection ~~paragraph~~ is
179 subject to review or modification as provided in this part.

180 (l) If a local government adopts a regulation, law,
181 ordinance, policy, amendment, or land use or zoning provision
182 without using the process established in this subsection, and a
183 substantially affected person considers such regulation, law,
184 ordinance, policy, amendment, or land use or zoning provision to
185 be a technical amendment to the Florida Building Code, then the
186 substantially affected person may submit to the commission a
187 petition for a nonbinding advisory opinion. As used in this
188 paragraph, the term "local government" means a county,
189 municipality, special district, or political subdivision of the
190 state. If a substantially affected person submits the request in
191 accordance with this paragraph, the commission shall issue a

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192 nonbinding advisory opinion stating whether or not the
193 commission interprets the regulation, law, ordinance, policy,
194 amendment, or land use or zoning provision as a technical
195 amendment to the Florida Building Code.

196 1. Requests to review a local government regulation, law,
197 ordinance, policy, amendment, or land use or zoning provision
198 may be initiated by any substantially affected person. A
199 substantially affected person includes an owner or builder
200 subject to the regulation, law, ordinance, policy, amendment, or
201 land use or zoning provision, or an association of owners or
202 builders having members who are subject to the regulation, law
203 ordinance, policy, amendment, or land use or zoning provision.

204 In order to initiate review, a substantially affected
205 person must file a petition with the commission. The commission
206 shall adopt a form for the petition and directions for filing,
207 which shall be published on the Building Code Information
208 System. The form shall, at a minimum, require the following:

209 a. The name of the local government that enacted the
210 regulation, law, ordinance, policy, amendment, or land use or
211 zoning provision.

212 b. The name and address of the local government's general
213 counsel.

214 c. The name, address, and telephone number of the
215 petitioner; the name, address, and telephone number of the
216 petitioner's representative, if any; and an explanation of how

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217 the petitioner's substantial interests are being affected by the
218 regulation, law, ordinance, policy, amendment, land use or
219 zoning provision.

220 d. A statement of why the regulation, law, ordinance,
221 policy, amendment, land use or zoning provision is a technical
222 amendment to the Florida Building Code, and which provisions of
223 Florida Building Code, if any, are being amended by the
224 regulation, law, ordinance, policy, amendment, land use or
225 zoning provision.

226 2. The petitioner shall serve the petition on the local
227 government's general counsel or administrator by certified mail,
228 return receipt requested, and a copy on the commission, in
229 accordance with the commission's published directions. The local
230 government shall respond to the petition in accordance with the
231 form by certified mail, return receipt requested, within 14 days
232 after receipt, including Saturdays, Sundays, and legal holidays.

233 3. Upon receipt of a petition that meets the requirements
234 of this paragraph, the commission shall publish the petition,
235 including any response submitted by the local government, on the
236 Building Code Information System in a manner that allows
237 interested persons to address the issues by posting comments.

238 4. Prior to issuing an advisory opinion, the commission
239 shall consider the petition, the response, and any comments
240 posted on the Building Code Information System. The commission
241 may also provide the petition, the response, and any comments

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242 posted on the Building Code Information System to a technical
243 advisory committee, and may consider any recommendation provided
244 by a technical advisory committee. The commission shall issue an
245 advisory opinion stating whether the regulation, law, ordinance,
246 policy, amendment, land use or zoning provision is a technical
247 amendment to the Florida Building Code within 30 days after the
248 filing of the petition, including Saturdays, Sundays, and legal
249 holidays. The commission shall publish its advisory opinion on
250 the Building Code Information System and in the Florida
251 Administrative Register. The commission's opinion is non-binding
252 and is not a declaratory statement pursuant to s. 120.565.

253 Section 3. Paragraph (bb) of subsection (1) of section
254 125.01, Florida Statutes, is amended to read:

255 125.01 Powers and duties.—

256 (1) The legislative and governing body of a county shall
257 have the power to carry on county government. To the extent not
258 inconsistent with general or special law, this power includes,
259 but is not restricted to, the power to:

260 (bb) Enforce the Florida Building Code~~7~~ as provided in s.
261 553.80~~7~~ and adopt and enforce local technical amendments to the
262 Florida Building Code as provided in s. 553.73(4)~~, pursuant to~~
263 ~~s. 553.73(4)(b) and (c).~~

264 Section 4. Subsection (1) of section 125.56, Florida
265 Statutes, is amended to read:

266 125.56 Enforcement and amendment of the Florida Building

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267 Code and the Florida Fire Prevention Code; inspection fees;
268 inspectors; etc.—

269 (1) The board of county commissioners of each of the
270 several counties of the state may enforce the Florida Building
271 Code and the Florida Fire Prevention Code, as provided in ss.
272 553.80, 633.206, and 633.208, and, at its discretion, adopt
273 local technical amendments to the Florida Building Code as
274 provided in s. 553.73(4), ~~pursuant to s. 553.73(4)(b) and (c)~~
275 and local technical amendments to the Florida Fire Prevention
276 Code as provided in, ~~pursuant to s. 633.202~~, to provide for the
277 safe construction, erection, alteration, repair, securing, and
278 demolition of any building within its territory outside the
279 corporate limits of any municipality. Upon a determination to
280 consider amending the Florida Building Code or the Florida Fire
281 Prevention Code by a majority of the members of the board of
282 county commissioners of such county, the board shall call a
283 public hearing and comply with the public notice requirements of
284 s. 125.66(2). The board shall hear all interested parties at the
285 public hearing and may then amend the building code or the fire
286 code consistent with the terms and purposes of this act. Upon
287 adoption, an amendment to the code shall be in full force and
288 effect throughout the unincorporated area of such county until
289 otherwise notified by the Florida Building Commission under
290 ~~pursuant to~~ s. 553.73 or the State Fire Marshal under ~~pursuant~~
291 ~~to~~ s. 633.202. This subsection does not ~~Nothing herein contained~~

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292 ~~shall be construed to~~ prevent the board of county commissioners
293 from repealing such amendment to the building code or the fire
294 code at any regular meeting of such board.

295 Section 5. This act shall take effect July 1, 2020.
296

297 -----

298 **T I T L E A M E N D M E N T**

299 Remove everything before the enacting clause and insert:

300 An act relating to building design; amending s.
301 163.3202, F.S.; providing that certain regulations
302 relating to building design elements may not be
303 applied to certain structures; providing exceptions;
304 defining the term "building design elements";
305 providing applicability; amending s. 553.73, F.S.;
306 providing that an affected party may submit certain
307 local government regulations to the Florida Building
308 Commission for review; providing for the Commission to
309 issue a nonbinding advisory opinion for such
310 regulation; making technical changes; amending ss.
311 125.01 and 125.56, F.S.; conforming cross-references
312 to changes made by the act; making technical changes;
313 providing an effective date.