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A bill to be entitled
 An act relating to building design; amending s.
 163.3202, F.S.; providing that certain regulations
 relating to building design elements may not be
 applied to certain structures; providing exceptions;
 defining the term "building design elements";
 providing applicability; amending s. 553.73, F.S.;
 providing that an affected party may submit certain
 local government regulations to the Florida Building
 Commission for review; providing for enforcement of
 such regulation; making technical changes; amending
 ss. 125.01 and 125.56, F.S.; conforming cross-
 references to changes made by the act; making
 technical changes; providing an effective date.

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

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

163.3202 Land development regulations.—

(5) (a) Zoning and development regulations relating to
 building design elements may not be applied to a structure that
 is subject to local government regulations for one- or two-
 family dwellings unless:

26 1. The structure is listed in the National Register of
27 Historic Places, as defined in s. 267.021; or is a contributing
28 property to a National Register Historic District; or is
29 designated as a historic property or a contributing property to
30 a historic district, under the terms of a local preservation
31 ordinance.

32 2. The regulations are adopted in order to implement the
33 National Flood Insurance Program.

34 (b) For purposes of this subsection, the term "building
35 design elements" means the external building color; type or
36 style of exterior cladding material; style or material of roof
37 structures or porches; exterior nonstructural architectural
38 ornamentation; location or architectural styling of windows or
39 doors, including garage doors; number and type of rooms; and
40 interior layout of rooms. The term does not include the height,
41 bulk, orientation, or location of a structure on a zoning lot;
42 or the use of buffering or screening to minimize potential
43 adverse physical or visual impacts or protect the privacy of
44 neighbors.

45 (c) This subsection does not affect the validity or
46 enforceability of private covenants or other contractual
47 agreements relating to building design elements between property
48 owners.

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

51 553.73 Florida Building Code.—

52 (4) (a) All entities authorized to enforce the Florida
 53 Building Code under ~~pursuant to~~ s. 553.80 shall comply with
 54 applicable standards for issuance of mandatory certificates of
 55 occupancy, minimum types of inspections, and procedures for
 56 plans review and inspections as established by the commission by
 57 rule. Local governments may adopt amendments to the
 58 administrative provisions of the Florida Building Code, subject
 59 to the limitations in ~~of~~ this subsection ~~paragraph~~. Local
 60 amendments must ~~shall~~ be more stringent than the minimum
 61 standards described in this subsection ~~herein~~ and must ~~shall~~ be
 62 transmitted to the commission within 30 days after enactment.
 63 The local government shall make such amendments available to the
 64 general public in a usable format. The State Fire Marshal is
 65 responsible for establishing the standards and procedures
 66 required in this subsection ~~paragraph~~ for governmental entities
 67 with respect to applying the Florida Fire Prevention Code and
 68 the Life Safety Code.

69 (b) Local governments may, subject to the limitations in
 70 ~~of~~ this subsection ~~section~~ and not more than once every 6
 71 months, adopt amendments to the technical provisions of the
 72 Florida Building Code that ~~which~~ apply solely within the
 73 jurisdiction of such government and that ~~which~~ provide for more
 74 stringent requirements than those specified in the Florida
 75 Building Code, ~~not more than once every 6 months~~. A local

76 | government may adopt technical amendments that address local
 77 | needs if:

78 | 1. The local governing body determines, following a public
 79 | hearing which has been advertised in a newspaper of general
 80 | circulation at least 10 days before the hearing, that there is a
 81 | need to strengthen the requirements of the Florida Building
 82 | Code. The determination must be based upon a review of local
 83 | conditions by the local governing body, which review
 84 | demonstrates by evidence or data that the geographical
 85 | jurisdiction governed by the local governing body exhibits a
 86 | local need to strengthen the Florida Building Code beyond the
 87 | needs or regional variation addressed by the Florida Building
 88 | Code, that the local need is addressed by the proposed local
 89 | amendment, and that the amendment is no more stringent than
 90 | necessary to address the local need.

91 | 2. Such additional requirements are not discriminatory
 92 | against materials, products, or construction techniques of
 93 | demonstrated capabilities.

94 | 3. Such additional requirements do ~~may~~ not introduce a new
 95 | subject not addressed in the Florida Building Code.

96 | (c) ~~4.~~ The enforcing agency shall make readily available,
 97 | in a usable format, all amendments adopted under ~~pursuant to~~
 98 | this subsection ~~section~~.

99 | (d) ~~5.~~ Any amendment to the Florida Building Code shall be
 100 | transmitted within 30 days after adoption by the ~~adopting~~ local

101 government to the commission. The commission shall maintain
 102 copies of all such amendments in a format that is usable and
 103 obtainable by the public. Local technical amendments are ~~shall~~
 104 not ~~become~~ effective until 30 days after the amendment has been
 105 received and published by the commission.

106 (e)6. ~~An Any~~ amendment to the Florida Building Code
 107 adopted by a local government under ~~pursuant to~~ this subsection
 108 is paragraph ~~shall be~~ effective only until the adoption ~~by the~~
 109 ~~commission~~ of the new edition of the Florida Building Code by
 110 the commission every third year. At such time, the commission
 111 shall review such amendment for consistency with the criteria in
 112 paragraph (9) (a) and adopt such amendment as part of the Florida
 113 Building Code or rescind the amendment. The commission shall
 114 immediately notify the respective local government of the
 115 rescission of any amendment. After receiving such notice, the
 116 respective local government may readopt the rescinded amendment
 117 under ~~pursuant to~~ the provisions of this subsection ~~paragraph~~.

118 (f)7. Each county and municipality desiring to make local
 119 technical amendments to the Florida Building Code shall ~~by~~
 120 ~~interlocal agreement~~ establish by interlocal agreement a
 121 countywide compliance review board to review any amendment to
 122 the Florida Building Code that is ~~7~~ adopted by a local government
 123 within the county under ~~pursuant to~~ this subsection and
 124 ~~paragraph~~ that is challenged by a any substantially affected
 125 party for purposes of determining the amendment's compliance

126 with this subsection ~~paragraph~~. If challenged, the local
127 technical amendments are ~~shall~~ not ~~become~~ effective until the
128 time for filing an appeal under paragraph (g) ~~pursuant to~~
129 ~~subparagraph 8.~~ has expired or, if there is an appeal, until the
130 commission issues its final order determining if the adopted
131 amendment is in compliance with this subsection.

132 (g) 8. If the compliance review board determines such
133 amendment is not in compliance with this subsection ~~paragraph~~,
134 the compliance review board shall notify such local government
135 of the noncompliance and that the amendment is invalid and
136 unenforceable until the local government corrects the amendment
137 to bring it into compliance. The local government may appeal the
138 decision of the compliance review board to the commission. If
139 the compliance review board determines that such amendment is ~~to~~
140 ~~be~~ in compliance with this subsection ~~paragraph~~, any
141 substantially affected party may appeal such determination to
142 the commission. Any such appeal must ~~shall~~ be filed with the
143 commission within 14 days after ~~of~~ the board's written
144 determination. The commission shall promptly refer the appeal to
145 the Division of Administrative Hearings by electronic means
146 through the division's website for the assignment of an
147 administrative law judge. The administrative law judge shall
148 conduct the required hearing within 30 days after being assigned
149 to the appeal, and shall enter a recommended order within 30
150 days after ~~of~~ the conclusion of such hearing. The commission

151 shall enter a final order within 30 days after an order is
152 rendered thereafter. ~~The provisions of Chapter 120 and the~~
153 uniform rules of procedure shall apply to such proceedings. The
154 local government adopting the amendment that is subject to
155 challenge has the burden of proving that the amendment complies
156 with this subsection ~~paragraph~~ in proceedings before the
157 compliance review board and the commission, as applicable.
158 Actions of the commission are subject to judicial review under
159 ~~pursuant to~~ s. 120.68. The compliance review board shall
160 determine whether its decisions apply to a respective local
161 jurisdiction or apply countywide.

162 (h)9. An amendment adopted under this subsection ~~paragraph~~
163 shall include a fiscal impact statement that ~~which~~ documents the
164 costs and benefits of the proposed amendment. Criteria for the
165 fiscal impact statement shall include the impact to local
166 government relative to enforcement and ~~the~~ impact to property
167 and building owners and ~~as well as to~~ industry ~~relative to the~~
168 cost of compliance. The fiscal impact statement may not be used
169 as a basis for challenging the amendment for compliance.

170 (i)10. In addition to paragraphs (f) and (g) ~~subparagraphs~~
171 ~~7. and 9.~~, the commission may review any amendments adopted
172 under ~~pursuant to~~ this subsection and make nonbinding
173 recommendations related to compliance of such amendments with
174 this subsection.

175 (j)(e) Any amendment adopted by a local enforcing agency

176 | under ~~pursuant to~~ this subsection may ~~shall~~ not apply to state
177 | or school district owned buildings, manufactured buildings or
178 | factory-built school buildings approved by the commission, or
179 | prototype buildings approved under ~~pursuant to~~ s. 553.77(3). The
180 | respective responsible entities shall consider the physical
181 | performance parameters substantiating such amendments when
182 | designing, specifying, and constructing such exempt buildings.

183 | (k) ~~(d)~~ A technical amendment to the Florida Building Code
184 | related to water conservation practices or design criteria
185 | adopted by a local government under ~~pursuant to~~ this subsection
186 | is not ~~rendered~~ void when the code is updated if the technical
187 | amendment is necessary to protect or provide for more efficient
188 | use of water resources as provided in s. 373.621. However, any
189 | such technical amendment carried forward into the next edition
190 | of the code under ~~pursuant to~~ this subsection ~~paragraph~~ is
191 | subject to review or modification as provided in this part.

192 | (l) Any substantially affected party may submit to the
193 | commission for review any local government regulation,
194 | including, but not limited to, a law, ordinance, policy,
195 | amendment, or land use or zoning provision, that such party
196 | believes is a technical amendment to the Florida Building Code.
197 | If the commission determines that the local government
198 | regulation is a technical amendment to the Florida Building
199 | Code, the regulation is not effective or enforceable until it is
200 | adopted in accordance with this subsection.

201 Section 3. Paragraph (bb) of subsection (1) of section
 202 125.01, Florida Statutes, is amended to read:

203 125.01 Powers and duties.—

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

208 (bb) Enforce the Florida Building Code~~7~~ as provided in s.
 209 553.80~~7~~ and adopt and enforce local technical amendments to the
 210 Florida Building Code as provided in s. 553.73(4)~~7~~, ~~pursuant to~~
 211 ~~s. 553.73(4)(b) and (c)~~.

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

214 125.56 Enforcement and amendment of the Florida Building
 215 Code and the Florida Fire Prevention Code; inspection fees;
 216 inspectors; etc.—

217 (1) The board of county commissioners of each of the
 218 several counties of the state may enforce the Florida Building
 219 Code and the Florida Fire Prevention Code~~7~~ as provided in ss.
 220 553.80, 633.206, and 633.208~~7~~ and, at its discretion, adopt
 221 local technical amendments to the Florida Building Code as
 222 provided in s. 553.73(4)~~7~~, ~~pursuant to s. 553.73(4)(b) and (c)~~
 223 and local technical amendments to the Florida Fire Prevention
 224 Code as provided in~~7~~, ~~pursuant to~~ s. 633.202~~7~~ to provide for the
 225 safe construction, erection, alteration, repair, securing, and

226 demolition of any building within its territory outside the
227 corporate limits of any municipality. Upon a determination to
228 consider amending the Florida Building Code or the Florida Fire
229 Prevention Code by a majority of the members of the board of
230 county commissioners of such county, the board shall call a
231 public hearing and comply with the public notice requirements of
232 s. 125.66(2). The board shall hear all interested parties at the
233 public hearing and may then amend the building code or the fire
234 code consistent with the terms and purposes of this act. Upon
235 adoption, an amendment to the code shall be in full force and
236 effect throughout the unincorporated area of such county until
237 otherwise notified by the Florida Building Commission under
238 ~~pursuant to~~ s. 553.73 or the State Fire Marshal under ~~pursuant~~
239 ~~to~~ s. 633.202. This subsection does not ~~Nothing herein contained~~
240 ~~shall be construed to~~ prevent the board of county commissioners
241 from repealing such amendment to the building code or the fire
242 code at any regular meeting of such board.

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