

1                   A bill to be entitled  
2           An act relating to the Florida Building Code; amending  
3           s. 553.73, F.S.; authorizing a substantially affected  
4           person to file a petition with the Florida Building  
5           Commission to review certain local government  
6           regulations, laws, ordinances, policies, amendments,  
7           or land use or zoning provisions; defining the term  
8           "local government"; providing requirements for the  
9           petition and commission; requiring the commission to  
10          issue a nonbinding advisory opinion within a specified  
11          timeframe; authorizing the commission to issue errata  
12          to the code; providing a definition for the term  
13          "errata to the code"; making technical changes;  
14          amending s. 553.79, F.S.; prohibiting a local  
15          government from requiring certain contracts for the  
16          issuance of a building permit; amending s. 553.791,  
17          F.S.; authorizing certain local entities to use a  
18          private provider for code inspection services under  
19          certain circumstances; amending s. 553.80, F.S.;  
20          revising how certain excess funds may be used by a  
21          local government; amending s. 553.842, F.S.; requiring  
22          evaluation entities that meet certain criteria to  
23          comply with certain standards; authorizing the  
24          commission to suspend or revoke certain approvals  
25          under certain circumstances; amending ss. 125.01 and

26 | 125.56, F.S.; conforming cross-references to changes  
 27 | made by the act; making technical changes; providing  
 28 | an effective date.

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

32 | Section 1. Subsections (4) and (8) of section 553.73,  
 33 | Florida Statutes, are amended to read:

34 | 553.73 Florida Building Code.—

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

51 | the Life Safety Code.

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

60 |       1. The local governing body determines, following a public  
61 | hearing which has been advertised in a newspaper of general  
62 | circulation at least 10 days before the hearing, that there is a  
63 | need to strengthen the requirements of the Florida Building  
64 | Code. The determination must be based upon a review of local  
65 | conditions by the local governing body, which review  
66 | demonstrates by evidence or data that the geographical  
67 | jurisdiction governed by the local governing body exhibits a  
68 | local need to strengthen the Florida Building Code beyond the  
69 | needs or regional variation addressed by the Florida Building  
70 | Code, that the local need is addressed by the proposed local  
71 | amendment, and that the amendment is no more stringent than  
72 | necessary to address the local need.

73 |       2. Such additional requirements are not discriminatory  
74 | against materials, products, or construction techniques of  
75 | demonstrated capabilities.

76 3. Such additional requirements may not introduce a new  
 77 subject not addressed in the Florida Building Code.

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

81 (d)5. Any amendment to the Florida Building Code shall be  
 82 transmitted within 30 days after adoption by the ~~adopting~~ local  
 83 government to the commission. The commission shall maintain  
 84 copies of all such amendments in a format that is usable and  
 85 obtainable by the public. Local technical amendments are ~~shall~~  
 86 not ~~become~~ effective until 30 days after the amendment has been  
 87 received and published by the commission.

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

100 (f)7. Each county and municipality desiring to make local

101 technical amendments to the Florida Building Code shall ~~by~~  
 102 ~~interlocal agreement~~ establish by interlocal agreement a  
 103 countywide compliance review board to review any amendment to  
 104 the Florida Building Code that is, adopted by a local government  
 105 within the county under ~~pursuant to~~ this subsection and  
 106 ~~paragraph~~, that is challenged by a ~~any~~ substantially affected  
 107 party for purposes of determining the amendment's compliance  
 108 with this subsection ~~paragraph~~. If challenged, the local  
 109 technical amendments are ~~shall~~ not become effective until the  
 110 time for filing an appeal under paragraph (g) ~~pursuant to~~  
 111 ~~subparagraph 8.~~ has expired or, if there is an appeal, until the  
 112 commission issues its final order determining if the adopted  
 113 amendment is in compliance with this subsection.

114 (g) 8. If the compliance review board determines such  
 115 amendment is not in compliance with this subsection ~~paragraph~~,  
 116 the compliance review board shall notify such local government  
 117 of the noncompliance and that the amendment is invalid and  
 118 unenforceable until the local government corrects the amendment  
 119 to bring it into compliance. The local government may appeal the  
 120 decision of the compliance review board to the commission. If  
 121 the compliance review board determines that such amendment is ~~to~~  
 122 ~~be~~ in compliance with this subsection ~~paragraph~~, any  
 123 substantially affected party may appeal such determination to  
 124 the commission. Any such appeal must ~~shall~~ be filed with the  
 125 commission within 14 days after ~~of~~ the board's written

126 determination. The commission shall promptly refer the appeal to  
 127 the Division of Administrative Hearings by electronic means  
 128 through the division's website for the assignment of an  
 129 administrative law judge. The administrative law judge shall  
 130 conduct the required hearing within 30 days after being assigned  
 131 to the appeal, and shall enter a recommended order within 30  
 132 days after ~~of~~ the conclusion of such hearing. The commission  
 133 shall enter a final order within 30 days after an order is  
 134 rendered thereafter. ~~The provisions of Chapter 120 and the~~  
 135 uniform rules of procedure shall apply to such proceedings. The  
 136 local government adopting the amendment that is subject to  
 137 challenge has the burden of proving that the amendment complies  
 138 with this subsection ~~paragraph~~ in proceedings before the  
 139 compliance review board and the commission, as applicable.  
 140 Actions of the commission are subject to judicial review under  
 141 ~~pursuant to~~ s. 120.68. The compliance review board shall  
 142 determine whether its decisions apply to a respective local  
 143 jurisdiction or apply countywide.

144 (h)9. An amendment adopted under this subsection ~~paragraph~~  
 145 must ~~shall~~ include a fiscal impact statement that ~~which~~  
 146 documents the costs and benefits of the proposed amendment.  
 147 Criteria for the fiscal impact statement shall include the  
 148 impact to local government relative to enforcement and, ~~the~~  
 149 impact to property and building owners and, ~~as well as to~~  
 150 industry, ~~relative to the cost of compliance.~~ The fiscal impact

151 statement may not be used as a basis for challenging the  
152 amendment for compliance.

153 (i)~~10.~~ In addition to paragraphs (f) and (g) ~~subparagraphs~~  
154 ~~7. and 9.~~, the commission may review any amendments adopted  
155 under ~~pursuant to~~ this subsection and make nonbinding  
156 recommendations related to compliance of such amendments with  
157 this subsection.

158 (j)~~(e)~~ Any amendment adopted by a local enforcing agency  
159 under ~~pursuant to~~ this subsection may ~~shall~~ not apply to state  
160 or school district owned buildings, manufactured buildings or  
161 factory-built school buildings approved by the commission, or  
162 prototype buildings approved under ~~pursuant to~~ s. 553.77(3). The  
163 respective responsible entities shall consider the physical  
164 performance parameters substantiating such amendments when  
165 designing, specifying, and constructing such exempt buildings.

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

175 (l) If a local government adopts a regulation, law,

176 ordinance, policy, amendment, or land use or zoning provision  
177 without using the process established in this subsection, and a  
178 substantially affected person considers such regulation, law,  
179 ordinance, policy, amendment, or land use or zoning provision to  
180 be a technical amendment to the Florida Building Code, then the  
181 substantially affected person may submit a petition to the  
182 commission for a nonbinding advisory opinion. If a substantially  
183 affected person submits a request in accordance with this  
184 paragraph, the commission shall issue a nonbinding advisory  
185 opinion stating whether or not the commission interprets the  
186 regulation, law, ordinance, policy, amendment, or land use or  
187 zoning provision as a technical amendment to the Florida  
188 Building Code. As used in this paragraph, the term "local  
189 government" means a county, municipality, special district, or  
190 political subdivision of the state.

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

199 2. In order to initiate a review, a substantially affected  
200 person must file a petition with the commission. The commission



201 shall adopt a form for the petition and directions for filing,  
202 which shall be published on the Building Code Information  
203 System. The form shall, at a minimum, require the following:

204 a. The name of the local government that enacted the  
205 regulation, law, ordinance, policy, amendment, or land use or  
206 zoning provision.

207 b. The name and address of the local government's general  
208 counsel or administrator.

209 c. The name, address, and telephone number of the  
210 petitioner; the name, address, and telephone number of the  
211 petitioner's representative, if any; and an explanation of how  
212 the petitioner's substantial interests are being affected by the  
213 regulation, law, ordinance, policy, amendment, or land use or  
214 zoning provision.

215 d. A statement explaining why the regulation, law,  
216 ordinance, policy, amendment, or land use or zoning provision is  
217 a technical amendment to the Florida Building Code, and which  
218 provisions of the Florida Building Code, if any, are being  
219 amended by the regulation, law, ordinance, policy, amendment, or  
220 land use or zoning provision.

221 3. The petitioner shall serve the petition on the local  
222 government's general counsel or administrator by certified mail,  
223 return receipt requested, and send a copy of the petition to the  
224 commission, in accordance with the commission's published  
225 directions. The local government shall respond to the petition

226 in accordance with the form by certified mail, return receipt  
227 requested, and send a copy of its response to the commission,  
228 within 14 days after receipt of the petition, including  
229 Saturdays, Sundays, and legal holidays.

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

235 5. Before issuing an advisory opinion, the commission  
236 shall consider the petition, the response, and any comments  
237 posted on the Building Code Information System. The commission  
238 may also provide the petition, the response, and any comments  
239 posted on the Building Code Information System to a technical  
240 advisory committee, and may consider any recommendation provided  
241 by the technical advisory committee. The commission shall issue  
242 an advisory opinion stating whether the regulation, law,  
243 ordinance, policy, amendment, or land use or zoning provision is  
244 a technical amendment to the Florida Building Code within 30  
245 days after the filing of the petition, including Saturdays,  
246 Sundays, and legal holidays. The commission shall publish its  
247 advisory opinion on the Building Code Information System and in  
248 the Florida Administrative Register. The commission's advisory  
249 opinion is nonbinding and is not a declaratory statement under  
250 s. 120.565.

251 (8) Notwithstanding subsection (3) or subsection (7), the  
252 commission may address issues identified in this subsection by  
253 amending the code under ~~pursuant to~~ the rule adoption procedures  
254 in chapter 120. Updates to the Florida Building Code, including  
255 provisions contained in referenced standards and criteria which  
256 relate to wind resistance or the prevention of water intrusion,  
257 may not be amended under ~~pursuant to~~ this subsection to diminish  
258 those standards; however, the commission may amend the Florida  
259 Building Code to enhance such standards. Following the approval  
260 of any amendments to the Florida Building Code by the commission  
261 and publication of the amendments on the commission's website,  
262 authorities having jurisdiction to enforce the Florida Building  
263 Code may enforce the amendments.

264 (a) The commission may approve amendments that are needed  
265 to address:

266 1.~~(a)~~ Conflicts within the updated code;

267 2.~~(b)~~ Conflicts between the updated code and the Florida  
268 Fire Prevention Code adopted under ~~pursuant to~~ chapter 633;

269 3.~~(c)~~ Unintended results from the integration of  
270 previously adopted amendments with the model code;

271 4.~~(d)~~ Equivalency of standards;

272 5.~~(e)~~ Changes to or inconsistencies with federal or state  
273 law; or

274 6.~~(f)~~ Adoption of an updated edition of the National  
275 Electrical Code if the commission finds that delay of

276 implementing the updated edition causes undue hardship to  
277 stakeholders or otherwise threatens the public health, safety,  
278 and welfare.

279 (b) The commission may issue errata to the code pursuant  
280 to the rule adoption procedures in chapter 120 to list  
281 demonstrated errors in provisions contained within the Florida  
282 Building Code. The determination of such errors and the issuance  
283 of errata to the code must be approved by a 75 percent  
284 supermajority vote of the commission. For purposes of this  
285 paragraph, "errata to the code" means a list of errors on  
286 current and previous editions of the Florida Building Code.

287 Section 2. Paragraph (d) is added to subsection (1) of  
288 section 553.79, Florida Statutes, to read:

289 553.79 Permits; applications; issuance; inspections.—

290 (1)

291 (d) A local government may not require a contract between  
292 a builder and an owner for the issuance of a building permit or  
293 as a requirement for the submission of a building permit  
294 application.

295 Section 3. Subsection (20) is added to section 553.791,  
296 Florida Statutes, to read:

297 553.791 Alternative plans review and inspection.—

298 (20) Notwithstanding any other law, a county, a  
299 municipality, a school district, or an independent special  
300 district may use a private provider to provide building code

301 inspection services for a public works project, an improvement,  
 302 a building, or any other structure that is owned by the county,  
 303 municipality, school district, or independent special district.

304 Section 4. Paragraph (a) of subsection (7) of section  
 305 553.80, Florida Statutes, is amended to read:

306 553.80 Enforcement.—

307 (7) (a) The governing bodies of local governments may  
 308 provide a schedule of reasonable fees, as authorized by s.  
 309 125.56(2) or s. 166.222 and this section, for enforcing this  
 310 part. These fees, and any fines or investment earnings related  
 311 to the fees, shall be used solely for carrying out the local  
 312 government's responsibilities in enforcing the Florida Building  
 313 Code. When providing a schedule of reasonable fees, the total  
 314 estimated annual revenue derived from fees, and the fines and  
 315 investment earnings related to the fees, may not exceed the  
 316 total estimated annual costs of allowable activities. Any  
 317 unexpended balances shall be carried forward to future years for  
 318 allowable activities or shall be refunded at the discretion of  
 319 the local government. A local government may not carry forward  
 320 an amount exceeding the average of its operating budget for  
 321 enforcing the Florida Building Code for the previous 4 fiscal  
 322 years. For purposes of this subsection, the term "operating  
 323 budget" does not include reserve amounts. Any amount exceeding  
 324 this limit must be used as authorized in subparagraph 2.  
 325 However, a local government which established, as of January 1,

326 | 2019, a Building Inspections Fund Advisory Board consisting of  
 327 | five members from the construction stakeholder community and  
 328 | carries an unexpended balance in excess of the average of its  
 329 | operating budget for the previous 4 fiscal years may continue to  
 330 | carry such excess funds forward upon the recommendation of the  
 331 | advisory board. The basis for a fee structure for allowable  
 332 | activities shall relate to the level of service provided by the  
 333 | local government and shall include consideration for refunding  
 334 | fees due to reduced services based on services provided as  
 335 | prescribed by s. 553.791, but not provided by the local  
 336 | government. Fees charged shall be consistently applied.

337 |         1. As used in this subsection, the phrase "enforcing the  
 338 | Florida Building Code" includes the direct costs and reasonable  
 339 | indirect costs associated with review of building plans,  
 340 | building inspections, reinspections, and building permit  
 341 | processing; building code enforcement; and fire inspections  
 342 | associated with new construction. The phrase may also include  
 343 | training costs associated with the enforcement of the Florida  
 344 | Building Code and enforcement action pertaining to unlicensed  
 345 | contractor activity to the extent not funded by other user fees.

346 |         2. A local government must use any excess funds that it is  
 347 | prohibited from carrying forward to rebate and reduce fees, or  
 348 | to pay for the construction of a building or structure that  
 349 | houses a local government's building code enforcement agency or  
 350 | the training programs for building officials, inspectors, or

351 plans examiners associated with the enforcement of the Florida  
352 Building Code. Excess funds used to construct such a building or  
353 structure must be designated for such purpose by the local  
354 government and may not be carried forward for more than 4  
355 consecutive years.

356 3. The following activities may not be funded with fees  
357 adopted for enforcing the Florida Building Code:

358 a. Planning and zoning or other general government  
359 activities.

360 b. Inspections of public buildings for a reduced fee or no  
361 fee.

362 c. Public information requests, community functions,  
363 boards, and any program not directly related to enforcement of  
364 the Florida Building Code.

365 d. Enforcement and implementation of any other local  
366 ordinance, excluding validly adopted local amendments to the  
367 Florida Building Code and excluding any local ordinance directly  
368 related to enforcing the Florida Building Code as defined in  
369 subparagraph 1.

370 4. A local government shall use recognized management,  
371 accounting, and oversight practices to ensure that fees, fines,  
372 and investment earnings generated under this subsection are  
373 maintained and allocated or used solely for the purposes  
374 described in subparagraph 1.

375 5. The local enforcement agency, independent district, or

376 special district may not require at any time, including at the  
 377 time of application for a permit, the payment of any additional  
 378 fees, charges, or expenses associated with:

- 379 a. Providing proof of licensure pursuant to chapter 489;
- 380 b. Recording or filing a license issued pursuant to this  
 381 chapter;
- 382 c. Providing, recording, or filing evidence of workers'  
 383 compensation insurance coverage as required by chapter 440; or
- 384 d. Charging surcharges or other similar fees not directly  
 385 related to enforcing the Florida Building Code.

386 Section 5. Paragraph (a) of subsection (8) and subsection  
 387 (14) of section 553.842, Florida Statutes, are amended to read:

388 553.842 Product evaluation and approval.—

389 (8) The commission may adopt rules to approve the  
 390 following types of entities that produce information on which  
 391 product approvals are based. All of the following entities,  
 392 including engineers and architects, must comply with a  
 393 nationally recognized standard demonstrating independence or no  
 394 conflict of interest:

395 (a) Evaluation entities approved under ~~pursuant to~~ this  
 396 paragraph or that meet the criteria for approval adopted by the  
 397 commission by rule. The commission shall specifically approve  
 398 the National Evaluation Service, the International Association  
 399 of Plumbing and Mechanical Officials Evaluation Service, the  
 400 International Code Council Evaluation Services, Underwriters



401 Laboratories, LLC, Intertek Testing Services NA, Inc., and the  
 402 Miami-Dade County Building Code Compliance Office Product  
 403 Control Division. Architects and engineers licensed in this  
 404 state are also approved to conduct product evaluations as  
 405 provided in subsection (5).

406 (14) The commission shall by rule establish criteria for  
 407 revocation of product approvals as well as suspension ~~revocation~~  
 408 of approvals of product evaluation entities, including those  
 409 approved in accordance with paragraph (8)(a), and suspension or  
 410 revocation of approvals of testing laboratories, quality  
 411 assurance entities, certification agencies, and validation  
 412 entities. Suspension and revocation is governed by s. 120.60 and  
 413 the uniform rules of procedure.

414 Section 6. Paragraph (bb) of subsection (1) of section  
 415 125.01, Florida Statutes, is amended to read:

416 125.01 Powers and duties.—

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

421 (bb) Enforce the Florida Building Code~~7~~ as provided in s.  
 422 553.80~~7~~ and adopt and enforce local technical amendments to the  
 423 Florida Building Code as provided in s. 553.73(4), ~~pursuant to~~  
 424 ~~s. 553.73(4)(b) and (c)~~.

425 Section 7. Subsection (1) of section 125.56, Florida

426 Statutes, is amended to read:

427       125.56 Enforcement and amendment of the Florida Building  
428 Code and the Florida Fire Prevention Code; inspection fees;  
429 inspectors; etc.—

430       (1) The board of county commissioners of each of the  
431 several counties of the state may enforce the Florida Building  
432 Code and the Florida Fire Prevention Code~~7~~ as provided in ss.  
433 553.80, 633.206, and 633.208~~7~~ and, at its discretion, adopt  
434 local technical amendments to the Florida Building Code as  
435 provided in s. 553.73(4)~~, pursuant to s. 553.73(4)(b) and (c)~~  
436 and local technical amendments to the Florida Fire Prevention  
437 Code as provided in~~, pursuant to s. 633.2027~~ to provide for the  
438 safe construction, erection, alteration, repair, securing, and  
439 demolition of any building within its territory outside the  
440 corporate limits of any municipality. Upon a determination to  
441 consider amending the Florida Building Code or the Florida Fire  
442 Prevention Code by a majority of the members of the board of  
443 county commissioners of such county, the board shall call a  
444 public hearing and comply with the public notice requirements of  
445 s. 125.66(2). The board shall hear all interested parties at the  
446 public hearing and may then amend the building code or the fire  
447 code consistent with the terms and purposes of this act. Upon  
448 adoption, an amendment to the code shall be in full force and  
449 effect throughout the unincorporated area of such county until  
450 otherwise notified by the Florida Building Commission under

451 ~~pursuant to~~ s. 553.73 or the State Fire Marshal under ~~pursuant~~  
452 ~~to~~ s. 633.202. This subsection does not ~~Nothing herein contained~~  
453 ~~shall be construed to~~ prevent the board of county commissioners  
454 from repealing such amendment to the building code or the fire  
455 code at any regular meeting of such board.

456 Section 8. This act shall take effect July 1, 2021.