

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1317 Local Regulation of Nonconforming or Unsafe Structures  
**SPONSOR(S):** Commerce Committee, Regulatory Reform & Economic Development Subcommittee, Roach  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/CS/SB 1346

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	12 Y, 1 N, As CS	Wright	Anstead
2) Local Administration, Federal Affairs & Special Districts Subcommittee	16 Y, 0 N	Roy	Darden
3) Commerce Committee	18 Y, 1 N, As CS	Wright	Hamon

### SUMMARY ANALYSIS

The Florida Building Codes Act requires a person, firm, or corporation that wishes to demolish any building to first obtain a building permit from the local government. Some local governments in Florida have placed additional requirements or restrictions on obtaining permits for the demolition of buildings deemed historic.

The bill creates the “Resiliency and Safe Structures Act,” which provides that:

- The bill does not apply to any structure that is a single-family home or individually listed on the National Register of Historic Places.
- For any reason other than public safety, a local government may not prohibit, restrict, or prevent the demolition of any:
  - Nonconforming structure, which is a structure that does not conform to the base flood elevation requirements for new construction issued by the National Flood Insurance Program, located within one-half mile of the coastline in zones V, VE, AO, or AE in the Flood Insurance Rate Map issued by the Federal Emergency Management Agency;
  - Structure determined to be unsafe by a local building official; or
  - Structure ordered to be demolished by a local government.
- A local government may only administratively review an application for a demolition permit for such a structure for compliance with the Building Code, the Fire Prevention Code, and any regulation applicable to a similarly situated parcel, and may not impose additional local land development regulations or public hearings on an applicant for such a demolition permit.
- A local government must authorize replacement structures to be developed to the maximum height and overall building size authorized by local development regulations.
- A local government may not do any of the following:
  - Limit the development potential of replacement structures below the maximum development potential allowed by local development regulations.
  - Require replication or preservation of elements of a demolished structure.
  - Impose additional regulatory or building requirements on replacement structures or additional public hearings or administrative processes not otherwise applicable to a similarly situated vacant parcel.
- Development applications submitted for replacement structures must be processed in accordance with the process outlined in local land development regulations including any required public hearings in front of the local historic board. However, a local government may not impose additional public hearings or administrative processes that would not otherwise be applicable to a similarly situated vacant parcel.
- A local government may not adopt or enforce a law that in any way limits the demolition of an applicable structure or that limits the development of a replacement structure in violation of the bill.

The bill has an indeterminate fiscal impact on local governments and does not appear to have a fiscal impact on the state. See Fiscal Comments

The bill provides an effective date of upon becoming law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code. In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work and a study was commissioned to make recommendations. In 1998, the Legislature adopted the 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 (Building Code), and that first edition replaced all local codes on March 1, 2002.<sup>1</sup> The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.<sup>2</sup>

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (FBCA). The Act provides a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.<sup>3</sup>

A local enforcement agency is an agency of local government with jurisdiction to make inspections of buildings and to enforce the Building Code.<sup>4</sup>

Building code administrators are regulated by the Building Code Administrators and Inspectors Board (BCAIB) within DBPR.<sup>5</sup> A building code administrator, also known as a building official, is a local government employee or a person contracted by a local government who supervises Building Code activities, including plans review, enforcement, and inspection.<sup>6</sup>

##### Demolition Permits

It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or **demolish** any building without first obtaining a building permit from the local government 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>7</sup>

The FBCA provides that a local law, ordinance, or regulation may not prohibit or otherwise restrict the ability of a private property owner to obtain a building permit to demolish his or her **single-family residential structure** provided that:<sup>8</sup>

- Such structure is located in a coastal high-hazard area, moderate flood zone, or special flood hazard area according to a Flood Insurance Rate Map issued by the Federal Emergency

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<sup>1</sup> The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, [http://www.floridabuilding.org/fbc/2006\\_Legislature\\_Rpt\\_rev2.pdf](http://www.floridabuilding.org/fbc/2006_Legislature_Rpt_rev2.pdf) (last visited Mar. 14, 2023).

<sup>2</sup> Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Mar. 14, 2023).

<sup>3</sup> See s. 553.72(1), F.S.

<sup>4</sup> S. 553.71(5), F.S.

<sup>5</sup> See Ss. 120.569, 120.57(1)-(2), 468.605, 468.606, and 468.621, F.S.

<sup>6</sup> S. 468.603(2), F.S.

<sup>7</sup> S. 553.79(1), F.S.

<sup>8</sup> S. 553.79(25)(a), F.S.

Management Agency (FEMA) for the purpose of participating in the National Flood Insurance Program;

- The lowest finished floor elevation of such structure is at or below base flood elevation as established by the Building Code or a higher base flood elevation as may be required by local ordinance, whichever is higher; and
- Such permit complies with all applicable Building Code, Fire Prevention Code, and local amendments to such codes.

However, a local law, ordinance, or regulation may restrict demolition permits for a:<sup>9</sup>

- Structure designated on the National Register of Historic Places;<sup>10</sup>
- Privately owned single-family residential structure designated historic by a local, state, or federal governmental agency on or before January 1, 2022; or
- Privately owned single-family residential structure designated historic after January 1, 2022, by a local, state, or federal governmental agency with the consent of its owner.

## Permits for Property with a Historic Designation

Some local governments in Florida have adopted land development regulations that designate certain older buildings to be historic. These local governments have placed restrictions on property owners from obtaining permits for the demolition of older buildings that the local government has deemed historic. Below are examples of such regulations:

- Requiring a special demolition permit process,<sup>11</sup> and
- Requiring new construction on the site of the demolished structure to be subject to certain architectural regulations, related to:<sup>12</sup>
  - The colors, pattern, and trim used in the building's façade.
  - The design of the roof.
  - The proportions and relationships between doors and windows.

Proponents of these land development regulations argue that these regulations are needed to protect Florida's history and preserve Florida's character and architectural style.<sup>13</sup> Opponents of these regulations argue that these older buildings are damaged, do not meet the Building Code's minimum flood elevation requirements, which can make them dangerous and can be demolished for new structures or buildings that meet the requirements of the current Building Code.<sup>14</sup>

There appear to be conflicts<sup>15</sup> in some areas related to whether older buildings that may be unsafe should be demolished or be given time to be rehabilitated. Some argue that policies related to demolition are having an effect on affordable housing.<sup>16</sup>

## Unsafe Structures

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<sup>9</sup> S. 553.79(25)(d), F.S.

<sup>10</sup> The National Register of Historic Places is the federal government's official list of historic places in the United States. The National Historic Preservation Act of 1966 authorized the register, which is administered by the National Park Service. In order to be listed on the register the owner of the property must not object. National Park Service, *What is the National Register of Historic Places*, <https://www.nps.gov/subjects/nationalregister/what-is-the-national-register.htm> (last visited Mar. 13, 2023); National Park Service, *How to List a Property*, <https://www.nps.gov/subjects/nationalregister/how-to-list-a-property.htm> (last visited Mar. 13, 2023).

<sup>11</sup> Sec. 54-71., 54-125., Town of Palm Beach Code of Ordinances.

<sup>12</sup> Sec. 54-122., Town of Palm Beach Code of Ordinances.

<sup>13</sup> Miami Herald Editorial Board, *Historic-home teardowns risk washing away Miami Beach's character in a flood of cash*, Miami Herald (Jan. 11, 2022) <https://www.miamiherald.com/opinion/editorials/article257198932.html> (last visited Mar. 14, 2023).

<sup>14</sup> Pedro Portal, *Miami Beach older homes demolished in part because of 'flood requirements'*, Miami Herald (Jan. 9, 2022) <https://www.miamiherald.com/news/business/real-estate-news/article257166737.html> (last visited Mar. 14, 2023); CBS Miami, *Miami Beach Waterfront Home Of Notorious Prohibition-Era Gangster Al Capone Slated For Demolition*, <https://miami.cbslocal.com/video/5955888-miami-beach-waterfront-home-of-notorious-prohibition-era-gangster-al-capone-slated-for-demolition/> (last visited Mar. 14, 2023).

<sup>15</sup> In November 2022, news reports indicated that there were "dozens of ongoing lawsuits that have recently been filed between property owners and the City of Miami over attempts to demolish their properties. WLRN Miami | South Florida, *After Surfside, Miami changes rules to fast-track demolition. Affordable housing is in the crosshairs*, December 5, 2022, *After Surfside, Miami changes rules to fast-track demolition. Affordable housing is in the crosshairs* | WLRN (last visited Mar. 16, 2023).

<sup>16</sup> In 2022, approximately "48 buildings were demolished by city order, including 30 residential properties. In 2019, 52 buildings were demolished by order of the city." *Id.*

Under the Florida Building Code, Existing Building, 7<sup>th</sup> Edition, buildings, structures or equipment shall be deemed unsafe if they are:<sup>17</sup>

- unsanitary,
- deficient due to inadequate means of egress facilities, inadequate light and ventilation,
- a fire hazard,
- structures or individual structural members that are dangerous,
- otherwise dangerous to human life or the public welfare,
- involved in illegal or improper occupancy or inadequate maintenance, or
- vacant and not secured against entry.

Various local governments across the state impose additional regulations regarding what deems a structure unsafe.

## National Flood Insurance Program

The National Flood Insurance Program (NFIP) was created by the passage of the National Flood Insurance Act of 1968.<sup>18</sup> The NFIP is administered by the Federal Emergency Management Agency (FEMA) and provides homeowners, business owners, and renters in flood-prone areas the ability to purchase flood insurance protection from the federal government.<sup>19</sup> The general purpose of the NFIP is both to offer primary flood insurance to properties with significant flood risk and to reduce flood risk through the adoption of floodplain management standards. Participation in the NFIP is voluntary.<sup>20</sup> Within participating communities, the federal government makes flood insurance available throughout the community.<sup>21</sup> To join, a community must:

- Complete an application;
- Adopt a resolution of intent to participate and cooperate with FEMA; and
- Adopt and submit a floodplain management ordinance that meets or exceeds the minimum NFIP criteria.<sup>22</sup>

In coordination with participating communities, FEMA develops flood maps called Flood Insurance Rate Maps (FIRMs) that depict the community's flood risk and floodplain.<sup>23</sup> While FEMA is largely responsible for the creation of the FIRM, the community itself must pass the map into its local regulations in order for the map to be effective.<sup>24</sup> An area of specific focus on the FIRM is the Special Flood Hazard Area (SFHA).<sup>25</sup> The SFHA is intended to distinguish the flood risk zones that have a chance of flooding during a 1-in-100 year flood or greater frequency. This means that properties in the SFHA have a risk of 1 percent or greater risk of flooding every year<sup>26</sup> (and at least a 26 percent chance of flooding over the course of a 30-year mortgage).<sup>27</sup> In a community that participates in the NFIP, owners of properties in the mapped SFHA are required to purchase flood insurance as a condition of receiving a federally backed mortgage.<sup>28</sup>

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<sup>17</sup> S. 201, 2020 Florida Building Code, Existing Building, 7th Ed.

<sup>18</sup> FEMA, *50 Years of the NFIP*, available at [https://www.fema.gov/sites/default/files/2020-05/NFIP\\_50th\\_Final\\_8.5x11\\_Regional\\_Printable.pdf](https://www.fema.gov/sites/default/files/2020-05/NFIP_50th_Final_8.5x11_Regional_Printable.pdf).

<sup>19</sup> Benefits.gov, National Flood Insurance Program (NFIP), available at <https://www.benefits.gov/benefit/435> (last visited March 29, 2023).

<sup>20</sup> FEMA, *Participation in the NFIP*, <https://www.fema.gov/glossary/participation-nfip#:~:text=Participation%20in%20the%20National%20Flood%20Insurance%20Program%20%28NFIP%29,of%20intent%20to%20participate%20and%20cooperate%20with%20FEMA%3B> (last visited Mar. 29, 2023).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> See Congressional Research Service, *Introduction to the National Flood Insurance Program*, 3 (2023), <https://crsreports.congress.gov/product/pdf/R/R44593>.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

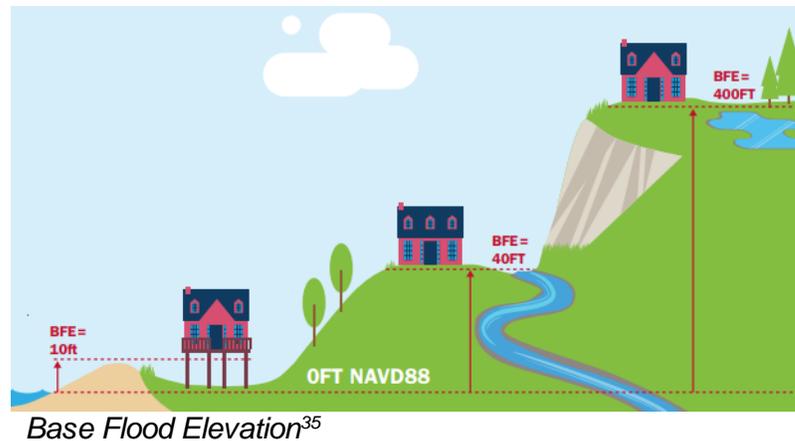
<sup>26</sup> *Id.*

<sup>27</sup> FEMA, *Coastal Hazards & Flood Mapping: A Visual Guide*, 6, [https://www.fema.gov/sites/default/files/documents/fema\\_coastal-glossary.pdf](https://www.fema.gov/sites/default/files/documents/fema_coastal-glossary.pdf).

<sup>28</sup> Congressional Research Service, *Introduction to the National Flood Insurance Program* at 10. Such lenders include federal agency lenders, such as the Department of Veterans Affairs, government-sponsored enterprises Fannie Mae, Freddie Mac, and federally

## Base Flood Elevation

A base flood is a flood that has a one percent chance of occurring during any given year.<sup>29</sup> The base flood elevation (BFE) is how high floodwater is likely to rise during a one-percent-annual-chance flood event (base flood).<sup>30</sup> BFEs are measured from a reference point called North American Vertical Datum of 1988 (NAVD88)<sup>31</sup>, which is approximately equal to sea level, and vary widely across geographies.<sup>32</sup> The BFE represents the minimum elevation of construction allowed by the NFIP.<sup>33</sup> The relationship between the BFE and a structure's elevation determines the flood insurance premium.<sup>34</sup>



## Zones

Within the FIRMS or Flood Hazard Boundary Maps are designated zones, which are geographical areas that reflect the severity or type of flooding in the area.<sup>36</sup> Designated zones include:<sup>37</sup>

- V: Coastal areas with a 1% or greater chance of flooding and an additional hazard associated with storm waves. These areas have a 26% chance of flooding over the life of a 30-year mortgage. No base flood elevations are shown within these zones.
- VE: Coastal areas with a 1% or greater chance of flooding and an additional hazard associated with storm waves. These areas have a 26% chance of flooding over the life of a 30-year

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regulated lending institutions, such as banks covered by the Federal Deposit Insurance Corporation (FDIC) or the Office of the Comptroller of the Currency. *Id.*

<sup>29</sup> FEMA, *Coastal Hazards & Flood Mapping: A Visual Guide*, 6, [https://www.fema.gov/sites/default/files/documents/fema\\_coastal-glossary.pdf](https://www.fema.gov/sites/default/files/documents/fema_coastal-glossary.pdf).

<sup>30</sup> *Id.*

<sup>31</sup> “A ‘geodetic reference system’ is used to precisely describe the location of a specific point on the Earth and is composed of latitude, longitude, and elevation. Its basis is composed of a geoid and a reference ellipsoid — two mathematical representations of the Earth’s surface — along with base points to which the latitude, longitude and elevation of all other points in the system are referenced. These base points are known as ‘datums’. The latitude-longitude base point is known as a horizontal datum, and the elevation base point is known as a vertical datum. Vertical datums are used to establish the elevation of monitoring locations, reference points and natural features such as lake levels and floodplains, as well as for bridges and levies.

The currently accepted vertical datum is the **North American Vertical Datum of 1988 (NAVD88)**, which was formally adopted in 1992. It consists of a leveling network that applies to the entire North American continent and which is affixed to a single origin point in Quebec, Canada.” Coastal & Heartland National Estuary Partnership, University of South Florida Water Institute, *NAVD88 Datum*, Coastal & Heartland National Estuary Partnership Water Atlas, [https://chnep.wateratlas.usf.edu/library/learn-more/learnmore.aspx?toolsection=lm\\_navd88](https://chnep.wateratlas.usf.edu/library/learn-more/learnmore.aspx?toolsection=lm_navd88) (last visited March 29, 2023).

<sup>32</sup> FEMA, *Coastal Hazards & Flood Mapping: A Visual Guide*, 6, available at [https://www.fema.gov/sites/default/files/documents/fema\\_coastal-glossary.pdf](https://www.fema.gov/sites/default/files/documents/fema_coastal-glossary.pdf).

<sup>33</sup> See FEMA, *Residential Buildings with Basements*, <https://www.fema.gov/floodplain-management/manage-risk/residential-buildings-basements#:~:text=Since%201971%2C%20the%20National%20Flood%20Insurance%20Program%20%28NFIP%29,Zones%20only%29%20to%20the%20Base%20Flood%20Elevation%20%28BFE%29> (last visited Mar. 29, 2023).

<sup>34</sup> Pinellas County, *Construction in a Floodplain*, Sept. 13, 2022, <https://pinellas.gov/construction-in-a-floodplain/> (last visited March 29, 2023).

<sup>35</sup> FEMA, *Coastal Hazards & Flood Mapping: A Visual Guide*, 6, [https://www.fema.gov/sites/default/files/documents/fema\\_coastal-glossary.pdf](https://www.fema.gov/sites/default/files/documents/fema_coastal-glossary.pdf).

<sup>36</sup> FEMA, *Glossary*, <https://www.fema.gov/about/glossary> (last visited Apr. 19, 2023).

<sup>37</sup> *Id.*

mortgage. Base flood elevations derived from detailed analyses are shown at selected intervals within these zones.

- AO: River or stream flood hazard areas, and areas with a 1% or greater chance of shallow flooding each year, usually in the form of sheet flow, with an average depth ranging from 1 to 3 feet. These areas have a 26% chance of flooding over the life of a 30-year mortgage. Average flood depths derived from detailed analyses are shown within these zones.
- AE: The base floodplain where base flood elevations are provided. AE Zones are now used on new format FIRMs instead of A1-A30 Zones.

Flood maps along the coasts show areas at high risk of flooding within the coastal SFHA. The coastal SFHA has three flood hazard zones: Zones V and VE (which are unique to coastal areas), AE, and AO. Zones V and VE, also known as a Coastal High Hazard Area, is where wave action and fast-moving water can cause extensive damage during a base flood event.<sup>38</sup>

## New Construction Requirements in Coastal Flood Hazard Zones

When a community is participating in the NFIP, FEMA places requirements on any new construction built in flood hazard areas. Generally, new construction in flood-prone areas must be:<sup>39</sup>

- Designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- Constructed with materials resistant to flood damage;
- Constructed by methods and practices that minimize flood damages; and
- Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Specific conditions for new construction in coastal flood hazard zones include requiring all new construction to:<sup>40</sup>

- Be located landward of the reach of mean high tide;
- Be elevated on pilings and columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level;
- Be elevated on pilings and columns so that the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and
- Have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.
  - Such space may be used only for parking of vehicles, building access, or storage.

When an NFIP-participating structure, in an SFHA, has “substantial damage”<sup>41</sup> for which the total cost of repairs is 50 percent or more of the structure’s market value before a disaster occurred, regardless of the cause of damage, the structure must undergo a “substantial improvement” and be brought into compliance with current local floodplain-management regulations and the Building Code. The decision and specific metrics used to determine if a structure is substantially damaged is made by the local government.<sup>42</sup>

For example, the City of Naples determined that a substantial improvement means any combination of repair, reconstruction, rehabilitation, addition, or improvement of a building or structure taking place during a one-year period from the date of permit issuance, the cumulative cost of which equals or

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<sup>38</sup> *Id.*

<sup>39</sup> 44 C.F.R. § 60.3(a)(3)

<sup>40</sup> 44 C.F.R. § 60.3(e)(3)-(5)

<sup>41</sup> 44 C.F.R. § 59.1

<sup>42</sup> FEMA, *FACT SHEET: “Substantial Damage” – What Does it Mean?*, December 2, 2019, <https://www.fema.gov/press-release/20210318/fact-sheet-substantial-damage-what-does-it-mean> (last visited Mar. 16, 2023).

exceeds 50 percent of the market value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. Substantial improvement does not include:<sup>43</sup>

- Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

### **Effect of the Bill**

The bill creates the "Resiliency and Safe Structures Act" (act) and provides the following definitions:

- "Coastline" means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters as defined in the Submerged Lands Act, 43 U.S.C. s. 1301.
- "Law" means any statute, ordinance, rule, regulation, policy, resolution, code enforcement order, agreement, or other governmental act.
- "Local government" means a municipality, county, special district, or any other political subdivision of the state.
- "Nonconforming structure" means a structure that does not conform to the base flood elevation requirements for new construction issued by the National Flood Insurance Program.
- "Replacement structure" means a new structure built on a property where a structure was demolished or will be demolished in accordance with the bill.

Unless the structure is a single-family home or individually listed on National Register of Historic Places, the bill provides that the act applies to the following structures (applicable structures):

- Nonconforming structures located within one-half mile of the coastline which are also located in zones V, VE, AO, or AE, as identified in the FEMA Flood Insurance Rate Map.
- Any structure determined to be unsafe by a local building official.
- Any structure ordered to be demolished by a local government that has proper jurisdiction.

The bill provides that a local government may not prohibit, restrict, or prevent the demolition of any applicable structure for any reason, other than public safety. A local government may only administratively review an application for a demolition permit sought under the bill for compliance with the Building Code, the Florida Fire Prevention Code, and the Life Safety Code, or local amendments thereto, and any regulation applicable to a similarly situated parcel. The local government may not impose additional local land development regulations or public hearings on an applicant for such a demolition permit.

The bill requires a local government to authorize replacement structures to be developed to the maximum height and overall building size authorized by local development regulations.

The bill provides that a local government may not do any of the following:

- Limit, for any reason, the development potential of replacement structures below the maximum development potential allowed by local development regulations.
- Require replication of a demolished structure.
- Require the preservation of any elements of a demolished structure.
- Impose additional regulatory or building requirements on replacement structures which would not otherwise be applicable to a similarly situated vacant parcel.
- Impose additional public hearings or administrative processes that would not otherwise be applicable to a similarly situated vacant parcel.

The bill requires that development applications submitted for replacement structures must be processed in accordance with the process outlined in local land development regulations including any required public hearings in front of the local historic board. However, a local government may not

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<sup>43</sup> Sec. 16-112., City of Naples Ordinances.

impose additional public hearings or administrative processes that would not otherwise be applicable to a similarly situated vacant parcel.

The bill provides that the act applies prospectively and retroactively to any law adopted contrary to the bill and its intent.

The bill provides that it does not affect demolition provisions for single family homes in the Building Code.

The bill provides that a local government may not adopt or enforce a law that in any way limits the demolition of an applicable structure or that limits the development of a replacement structure in violation of the bill. A local government may not penalize an owner or a developer of a replacement structure for a demolition pursuant to this section or otherwise enact laws that defeat the intent of this section. Any local government law contrary to this section is void.

The bill provides an effective date of upon becoming law.

**B. SECTION DIRECTORY:**

- Section 1:** Creates s. 553.8991, F.S.; relating to demolition of nonconforming structures.
- Section 2:** Providing an effective date.

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

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

- 1. Revenues:  
None.
- 2. Expenditures:  
None.

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

- 1. Revenues:  
There may be an increase in demolition permits, which may create an increase in permit revenue.
- 2. Expenditures:  
See Fiscal Comments.

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

The bill may allow more structures to be demolished and new structures to be built in their places, which would increase development.

**D. FISCAL COMMENTS:**

Local governments may have to expend funds to process a possible increase in demolition permits. The amount local governments will have to spend, if any, is indeterminate. However, local governments are permitted by state law to collect fees to cover the cost of their expenses to enforce the Building Code, which includes reviewing building permit applications.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 16, 2023, the Regulatory Reform & Economic Development Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Provided that the bill does not apply to single-family homes or structures individually listed on the National Register of Historic Places.
- Removed the provision relating to demolition permits for single family homes.

On April 17, 2023, the Commerce Committee adopted an amendment and an amendment to the amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Defined “nonconforming structure” as a structure that does not conform to the Base Flood Elevation requirements for new construction issued by the National Flood Insurance Program.
- Provided that the bill is applicable to the following qualifying structures:
  - Nonconforming structures located within one-half mile of the coastline in certain FEMA coastal flood zones.
  - Any structure determined to be unsafe by a local building official.
  - Any structure ordered to be demolished by the local government.
- Prohibited a local government from prohibiting, restricting, or preventing the demolition of any qualifying structure for any reason other than public safety. Local governments may review an application for a demolition permit for compliance with the Building Code, Fire Prevention Code, and any regulation applicable to similarly situated parcels.
- Required a local government to allow replacement structures to be developed to the maximum height and overall building size authorized by local development regulation.
- Prohibited a local government from:
  - Limiting the development potential of replacement structures below the maximum allowed by local development regulations.
  - Requiring replication of a demolished structure.
  - Requiring the preservation of any of the elements of a demolished structure.
  - Imposing additional regulatory or building requirements on replacement structures which would not otherwise be applicable to a similarly situated parcel.
  - Imposing additional public hearings or administrative processes that would not otherwise be applicable to a similarly situated vacant parcel.
- Provided that development applications submitted for replacement structures must be processed in accordance with the process outlined in local land development regulations, including any required public hearings in front of the local historic board, with no additional hearings that would not be applicable to similarly situated parcels.
- Removed “whereas” clauses from the bill title to remove conflicting provisions.

This analysis is drafted to the committee substitute as passed by the Commerce Committee.

