

By Senator Avila

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1 A bill to be entitled
2 An act relating to local regulation of nonconforming
3 or unsafe structures; amending s. 553.79, F.S.;
4 authorizing private property owners to obtain building
5 permits to demolish certain historic structures under
6 certain circumstances; providing an exception;
7 creating s. 553.8991, F.S.; providing a short title;
8 defining terms; providing applicability; prohibiting
9 local governments from prohibiting, restricting, or
10 preventing the demolition of certain structures unless
11 necessary for public safety; prohibiting local
12 governments from imposing limitations or conditions on
13 certain replacement structures; providing that owners
14 and developers of such structures are entitled to
15 certain land use and development rights; providing for
16 retroactive application; preempting regulation of the
17 demolition or replacement of certain structures to the
18 state under certain circumstances; providing an
19 effective date.

20
21 WHEREAS, it is of paramount importance to replace older,
22 unsafe, or nonconforming structures that are a threat to life
23 and safety with new, resilient buildings built to contemporary
24 building codes and standards, and

25 WHEREAS, nonconforming structures within coastal high-
26 hazard areas and structures ordered to be demolished or deemed
27 unsafe by local building officials pose an increased risk of
28 collapse, may affect the integrity or stability of neighboring
29 buildings or structures, and may cause injury to persons or

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30 property, and

31 WHEREAS, local governmental laws, procedures, and policies
32 that prohibit or limit the demolition of nonconforming or unsafe
33 structures or limit the construction of new resilient structures
34 pose a threat to life and public safety, and

35 WHEREAS, on properties where there is a nonconforming
36 structure within a coastal high-hazard area, a structure that
37 has been deemed unsafe by a local building official, or a
38 structure that is subject to a demolition order, such structure
39 must be authorized to be demolished and any replacement
40 structure authorized which allows owners or developers to enjoy
41 all land use and development rights that would apply to the
42 property without regard to any local restrictions that may
43 restrict future development at the subject property as a result
44 of the local building official's order or demolition, and

45 WHEREAS, to make the application and enforcement of this
46 act uniform throughout this state, the Legislature intends to
47 preempt the regulation of the demolition of certain structures
48 and buildings to the state, NOW, THEREFORE,

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Subsection (25) of section 553.79, Florida
53 Statutes, is amended to read:

54 553.79 Permits; applications; issuance; inspections.—

55 (25) (a) A local law, ordinance, or regulation may not
56 prohibit or otherwise restrict ~~the ability of~~ a private property
57 owner from obtaining ~~to obtain~~ a building permit to demolish his
58 or her single-family residential structure located in a coastal

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59 high-hazard area, moderate flood zone, or special flood hazard
60 area according to a Flood Insurance Rate Map issued by the
61 Federal Emergency Management Agency for the purpose of
62 participating in the National Flood Insurance Program if the
63 lowest finished floor elevation of such structure is at or below
64 base flood elevation as established by the Florida Building Code
65 or a higher base flood elevation as may be required by local
66 ordinance, whichever is higher, provided that such permit
67 otherwise complies with all applicable Florida Building Code,
68 Florida Fire Prevention Code, and Life Safety Code requirements,
69 or local amendments thereto.

70 (b) An application for a demolition permit sought under
71 this subsection may only be reviewed administratively for
72 compliance with the Florida Building Code, the Florida Fire
73 Prevention Code, and the Life Safety Code, or local amendments
74 thereto, and any regulations applicable to a similarly situated
75 parcel. Applications may not be subject to any additional local
76 land development regulations or public hearings. A local
77 government may not penalize a private property owner for a
78 demolition ~~that is~~ in compliance with the demolition permit.

79 (c) If a single-family residential structure is demolished
80 pursuant to a demolition permit, a local government may not
81 impose additional regulatory or building requirements on the new
82 single-family residential structure constructed on the site of
83 the demolished structure which would not otherwise be applicable
84 to a similarly situated vacant parcel.

85 (d) 1. Except as provided in subparagraph 2., this
86 subsection does not apply to any of the following:

87 a.1. A structure designated on the National Register of

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88 Historic Places.

89 ~~b.2.~~ A privately owned single-family residential structure
90 designated historic by a local, state, or federal governmental
91 agency on or before January 1, 2022.

92 ~~c.3.~~ A privately owned single-family residential structure
93 designated historic after January 1, 2022, by a local, state, or
94 federal governmental agency with the consent of its owner.

95 2. This subsection applies to the structures identified in
96 subparagraph 1. if the structure is a nonconforming structure
97 located in a coastal high-hazard area which fails to meet
98 Federal Emergency Management Agency standards for new
99 construction or if the structure is determined to be unsafe by
100 the local building official or is ordered to be demolished by a
101 local government with proper jurisdiction. However, a local law,
102 ordinance, or regulation may prohibit or otherwise restrict the
103 demolition of such a structure if the enforcement agency or
104 local building official determines that demolition of the
105 structure is a threat to public safety.

106 Section 2. Section 553.8991, Florida Statutes, is created
107 to read:

108 553.8991 Resiliency and Safe Structures Act.-

109 (1) SHORT TITLE.-This section may be cited as the
110 "Resiliency and Safe Structures Act."

111 (2) DEFINITIONS.-As used in this section, the term:

112 (a) "Nonconforming structure" means a structure located in
113 a coastal high-hazard area according to a Flood Insurance Rate
114 Map issued by the Federal Emergency Management Agency (FEMA)
115 which does not conform to the requirements for new construction
116 issued by the National Flood Insurance Program. The term

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117 includes any structure listed on the National Register of
118 Historic Places or the State Inventory of Historic Places if it
119 is located in a coastal high-hazard area.

120 (b) "Replacement structure" means a new development that
121 occurs on a property where a nonconforming structure in a
122 coastal high-hazard area was located or where a structure has
123 been ordered to be demolished, has been demolished, or has been
124 deemed unsafe by the local building official.

125 (3) QUALIFYING STRUCTURES AND BUILDINGS.—This section
126 applies to all of the following structures:

127 (a) Nonconforming structures in coastal high-hazard areas
128 which fail to meet FEMA standards for new construction.

129 (b) Any structure determined to be unsafe by a local
130 building official.

131 (c) Any structure ordered to be demolished by a local
132 government that has proper jurisdiction.

133 (4) RESTRICTIONS ON DEMOLITION PROHIBITED.—A local
134 government may not prohibit, restrict, or prevent the demolition
135 of any structure identified in subsection (3) for any reason,
136 other than public safety.

137 (5) RESTRICTIONS ON REDEVELOPMENT PROHIBITED.—A local
138 government may not impose or enforce any limitation or condition
139 on the approval of a replacement structure that replaces a
140 structure identified in subsection (3), including a requirement
141 for replication of the demolished structure, a limitation on the
142 size or height of the replacement structure, or the maintenance
143 of any of the demolished structure's elements. Owners or
144 developers of replacement structures are entitled to enjoy all
145 land use, zoning, and other land development rights, whether

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146 established by law, ordinance, rule, regulation, policy,
147 development order, or any other act, without regard to a local
148 government restriction that may restrict development of a
149 replacement structure at the subject property as a result of a
150 local government order, a designation, a code enforcement
151 proceeding, or an ordinance.

152 (6) APPLICATION.—This section applies prospectively and
153 retroactively to any law adopted contrary to this section and
154 its intent.

155 (7) PREEMPTION.—A municipality, county, special district,
156 or political subdivision may not adopt or apply a law, an
157 ordinance, a rule, a regulation, a policy, a resolution, or any
158 other act that in any way limits the demolition of structures
159 and buildings identified in subsection (3) or limits the
160 development of a replacement structure in a way that would
161 divest property owners or developers of land use, zoning, or
162 other land development rights for demolishing a structure in
163 accordance with this section. All laws, ordinances, rules,
164 regulations, policies, resolutions, and other acts of a
165 municipality, county, special district, or political subdivision
166 to the contrary are void.

167 Section 3. This act shall take effect upon becoming a law.