

By the Committee on Community Affairs; and 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; creating s. 553.8991, F.S.;
4 providing a short title; defining terms; providing
5 applicability; prohibiting local governments from
6 prohibiting, restricting, or preventing the demolition
7 of certain structures unless necessary for public
8 safety; requiring that replacement structures be
9 permitted to be developed in accordance with
10 applicable zoning codes and ordinances; providing an
11 exception; authorizing owners and developers of
12 replacement structures to develop in accordance with
13 all land use, zoning, and other land development
14 rights; providing for retroactive application;
15 preempting regulation of the demolition or replacement
16 of certain structures to the state under certain
17 circumstances; providing an effective date.

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

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

29 WHEREAS, local governmental laws, procedures, and policies

578-02927-23

20231346c1

30 that prohibit or limit the demolition of nonconforming or unsafe
31 structures or limit the construction of new resilient structures
32 pose a threat to life and public safety, and

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

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

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. Section 553.8991, Florida Statutes, is created
51 to read:

52 553.8991 Resiliency and Safe Structures Act.-

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

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

56 (a) "Nonconforming structure" means a structure located in
57 a coastal high-hazard area according to a Flood Insurance Rate
58 Map issued by the Federal Emergency Management Agency (FEMA)

578-02927-23

20231346c1

59 which does not conform to the requirements for new construction
60 issued by the National Flood Insurance Program.

61 (b) "Replacement structure" means a new structure built on
62 a property where a structure was demolished or will be
63 demolished in accordance with this section.

64 (3) QUALIFYING STRUCTURES AND BUILDINGS.—This section
65 applies to all of the following structures, unless the structure
66 is individually listed in the National Register of Historic
67 Places or is a single-family home:

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

70 (b) Any structure determined to be unsafe by a local
71 building official.

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

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

78 (5) RESTRICTIONS ON REDEVELOPMENT PROHIBITED.—A replacement
79 structure must be permitted to be developed in accordance with
80 all applicable zoning codes and ordinances, provided that the
81 zoning codes and ordinances do not in any way penalize or
82 restrict development rights due to, or related to, the
83 demolition of any structure in accordance with this section,
84 including a requirement for replication of the demolished
85 structure, a limitation on the size or height of the replacement
86 structure, or the maintenance of any of the elements of the
87 demolished structure. Owners or developers of replacement

578-02927-23

20231346c1

88 structures may develop in accordance with all land use, zoning,
89 and other land development rights, whether established by law,
90 ordinance, rule, regulation, policy, development order, or any
91 other act, without regard to any local government restrictions
92 or penalties resulting from the demolition of any structure
93 identified in subsection (3) which may restrict development of a
94 replacement structure as a result of a local government order, a
95 designation, a code enforcement proceeding, or an ordinance.

96 (6) APPLICATION.—This section applies prospectively and
97 retroactively to any law adopted contrary to this section and
98 its intent.

99 (7) PREEMPTION.—A municipality, county, special district,
100 or political subdivision may not adopt or apply a law, an
101 ordinance, a rule, a regulation, a policy, a resolution, or any
102 other act that in any way limits the demolition of any
103 structures and buildings identified in subsection (3) or that
104 limits the development of any replacement structure in a way
105 that would divest property owners or developers of land use,
106 zoning, or other land development rights for the demolition of
107 any structure in accordance with this section. All laws,
108 ordinances, rules, regulations, policies, resolutions, and other
109 acts of a municipality, county, special district, or political
110 subdivision to the contrary are void.

111 Section 2. This act shall take effect upon becoming a law.