

By the Committees on Environment and Natural Resources; and
Community Affairs; and Senator Avila

592-03511-23

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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; authorizing local governments to review
9 demolition permit applications only for a specified
10 purpose; requiring that replacement structures be
11 permitted to be developed in accordance with
12 applicable development regulations; prohibiting local
13 governments from taking certain actions regarding
14 replacement structures; providing for retroactive
15 application; providing applicability and construction;
16 preempting regulation of the demolition or replacement
17 of certain structures to the state under certain
18 circumstances; providing an effective date.

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

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

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

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

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

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

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

53 553.8991 Resiliency and Safe Structures Act.—

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

56 (2) DEFINITIONS.—As used in this section, the term:

57 (a) "Law" means any statute, ordinance, rule, regulation,
58 policy, resolution, code enforcement order, agreement, or other

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59 governmental act.

60 (b) "Local government" means a municipality, county,
61 special district, or any other political subdivision of the
62 state.

63 (c) "Nonconforming structure" means a structure that does
64 not conform to the requirements for new construction issued by
65 the National Flood Insurance Program.

66 (d) "Replacement structure" means a new structure built on
67 a property where a structure was demolished or will be
68 demolished in accordance with this section.

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

73 (a) Nonconforming structures located within one-half mile
74 of the coastline and within zones V, VE, AO, or AE, as
75 identified in the Flood Insurance Rate Map issued by the Federal
76 Emergency Management Agency.

77 (b) Any structure determined to be unsafe by a local
78 building official.

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

81 (4) RESTRICTIONS ON DEMOLITION PROHIBITED.—A local
82 government may not prohibit, restrict, or prevent the demolition
83 of any structure identified in subsection (3) for any reason
84 other than public safety. A local government may review an
85 application for a demolition permit sought pursuant to this
86 section only administratively for compliance with the Florida
87 Building Code, the Florida Fire Prevention Code, and the Life

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88 Safety Code, or local amendments thereto, and any regulation
89 applicable to a similarly situated parcel. The local government
90 may not subject an application to additional local land
91 development regulations or public hearings.

92 (5) RESTRICTIONS ON REDEVELOPMENT PROHIBITED.—A local
93 government shall authorize replacement structures to be
94 developed to the maximum height and overall building size
95 authorized by local development regulations. A local government
96 may not do any of the following:

97 (a) Limit, for any reason, the development potential of
98 replacement structures below the maximum allowed by local
99 development regulations.

100 (b) Require replication of a demolished structure.

101 (c) Limit the size or height of a replacement structure.

102 (d) Require maintenance of any element of a demolished
103 structure.

104 (e) If a structure is demolished pursuant to this section,
105 impose additional regulatory or building requirements on a
106 replacement structure which would not otherwise be applicable to
107 a similarly situated vacant parcel.

108 (6) APPLICATION AND CONSTRUCTION.—This section applies
109 prospectively and retroactively to any law adopted contrary to
110 this section or its intent, except that this section does not
111 apply to s. 553.79(25). This section must be liberally construed
112 to effectuate its intent.

113 (7) PREEMPTION.—A local government may not adopt or enforce
114 a law that in any way limits the demolition of a structure
115 identified in subsection (3) or that limits the development of a
116 replacement structure in violation of subsection (5). A local

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117 government may not penalize an owner or a developer of a
118 replacement structure for a demolition pursuant to this section
119 or otherwise enact laws that defeat the intent of this section.
120 Any local government law contrary to this section is void.

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