

By Senator Rodriguez

40-01901A-23

20231682__

1 A bill to be entitled
2 An act relating to fees for the enforcement of the
3 Florida Building Code; providing a short title;
4 amending s. 553.80, F.S.; revising the definition of
5 the term "operating budget"; authorizing local
6 governments to carry forward a certain percentage of
7 unexpended funds under certain circumstances;
8 providing that such funds may be used for purposes
9 other than the construction of buildings or
10 structures; conforming provisions to changes made by
11 the act; providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. This act may be cited as the "Low Property Tax
16 Incentive Program."

17 Section 2. Paragraph (a) of subsection (7) of section
18 553.80, Florida Statutes, is amended to read:

19 553.80 Enforcement.—

20 (7) (a) The governing bodies of local governments may
21 provide a schedule of reasonable fees, as authorized by s.
22 125.56(2) or s. 166.222 and this section, for enforcing this
23 part. These fees, and any fines or investment earnings related
24 to the fees, shall be used solely for carrying out the local
25 government's responsibilities in enforcing the Florida Building
26 Code. When providing a schedule of reasonable fees, the total
27 estimated annual revenue derived from fees, and the fines and
28 investment earnings related to the fees, may not exceed the
29 total estimated annual costs of allowable activities. Any

40-01901A-23

20231682__

30 unexpended balances must be carried forward to future years for
31 allowable activities or must be refunded at the discretion of
32 the local government. Except as provided in subparagraph 3., a
33 local government may not carry forward an amount exceeding the
34 average of its operating budget for enforcing the Florida
35 Building Code for the previous 4 fiscal years. For purposes of
36 this paragraph subsection, the term "operating budget" does not
37 include reserve amounts or any fees paid by a local government
38 for its own building construction. Any amount exceeding this
39 limit must be used as authorized in subparagraph 2. ~~However, a~~
40 ~~local government that established, as of January 1, 2019, a~~
41 ~~Building Inspections Fund Advisory Board consisting of five~~
42 ~~members from the construction stakeholder community and carries~~
43 ~~an unexpended balance in excess of the average of its operating~~
44 ~~budget for the previous 4 fiscal years may continue to carry~~
45 ~~such excess funds forward upon the recommendation of the~~
46 ~~advisory board.~~ The basis for a fee structure for allowable
47 activities must relate to the level of service provided by the
48 local government and must include consideration for refunding
49 fees due to reduced services based on services provided as
50 prescribed by s. 553.791, but not provided by the local
51 government. Fees charged must be consistently applied.

52 1. As used in this subsection, the phrase "enforcing the
53 Florida Building Code" includes the direct costs and reasonable
54 indirect costs associated with review of building plans,
55 building inspections, reinspections, and building permit
56 processing; building code enforcement; and fire inspections
57 associated with new construction. The phrase may also include
58 training costs associated with the enforcement of the Florida

40-01901A-23

20231682__

59 Building Code and enforcement action pertaining to unlicensed
60 contractor activity to the extent not funded by other user fees.

61 2. Except as provided in subparagraph 3., a local
62 government must use any excess funds that it is prohibited from
63 carrying forward to rebate and reduce fees, or to pay for the
64 construction of a building or structure that houses a local
65 government's building code enforcement agency or the training
66 programs for building officials, inspectors, or plans examiners
67 associated with the enforcement of the Florida Building Code.
68 Excess funds used to construct such a building or structure must
69 be designated for such purpose by the local government and may
70 not be carried forward for more than 4 consecutive years. An
71 owner or builder who has a valid building permit issued by a
72 local government for a fee, or an association of owners or
73 builders located in the state that has members with valid
74 building permits issued by a local government for a fee, may
75 bring a civil action against the local government that issued
76 the permit for a fee to enforce this subparagraph.

77 3.a. A local government that established, as of January 1,
78 2019, a Building Inspections Fund Advisory Board consisting of
79 five members from the construction stakeholder community and
80 carries an unexpended balance in excess of the average of its
81 operating budget for the previous 4 fiscal years may continue to
82 carry such excess funds forward upon the recommendation of the
83 advisory board.

84 b. A local government that carries an unexpended balance in
85 excess of the average of its operating budget for the previous 4
86 fiscal years may carry forward up to 20 percent of such excess
87 funds if the local government has levied 7 mills or less of ad

40-01901A-23

20231682__

88 valorem taxes and the local government has decreased its
89 building fees by at least 25 percent, cumulatively, over the
90 preceding 5 years. A local government may use the excess funds
91 that are carried over for purposes other than the construction
92 of buildings or structures.

93 ~~4.3.~~ The following activities may not be funded with fees
94 adopted for enforcing the Florida Building Code:

95 a. Planning and zoning or other general government
96 activities.

97 b. Inspections of public buildings for a reduced fee or no
98 fee.

99 c. Public information requests, community functions,
100 boards, and any program not directly related to enforcement of
101 the Florida Building Code.

102 d. Enforcement and implementation of any other local
103 ordinance, excluding validly adopted local amendments to the
104 Florida Building Code and excluding any local ordinance directly
105 related to enforcing the Florida Building Code as defined in
106 subparagraph 1.

107 ~~5.4.~~ A local government must use recognized management,
108 accounting, and oversight practices to ensure that fees, fines,
109 and investment earnings generated under this subsection are
110 maintained and allocated or used solely for the purposes
111 described in subparagraph 1.

112 ~~6.5.~~ The local enforcement agency, independent district, or
113 special district may not require at any time, including at the
114 time of application for a permit, the payment of any additional
115 fees, charges, or expenses associated with:

116 a. Providing proof of licensure under chapter 489;

40-01901A-23

20231682__

- 117 b. Recording or filing a license issued under this chapter;
118 c. Providing, recording, or filing evidence of workers'
119 compensation insurance coverage as required by chapter 440; or
120 d. Charging surcharges or other similar fees not directly
121 related to enforcing the Florida Building Code.
122 Section 3. This act shall take effect July 1, 2023.