

By Senator Avila

39-01119A-24

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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; prohibiting additional local land development
11 regulations or public hearings; requiring that
12 replacement structures be permitted to be developed in
13 accordance with applicable development regulations;
14 prohibiting local governments from taking certain
15 actions regarding replacement structures; providing
16 for retroactive application; providing applicability
17 and construction; preempting regulation of the
18 demolition or replacement of certain structures to the
19 state under certain circumstances; providing an
20 effective date.

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

26 WHEREAS, nonconforming structures that are within one-half
27 mile of the coast and that are also within a coastal special
28 flood hazard area, in addition to any structures that are
29 ordered to be demolished or that are deemed unsafe by local

39-01119A-24

20241526__

30 building officials, pose an increased risk of collapse, may
31 affect the integrity or stability of neighboring buildings or
32 structures, and may cause injury to persons or property, and

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

37 WHEREAS, nonconforming structures that are within one-half
38 mile of the coast and that are also within a coastal special
39 flood hazard area, regardless of whether the structures are
40 deemed unsafe by a local building official or are subject to a
41 demolition order, must be permitted to be demolished and to have
42 replacement structures authorized, allowing owners or developers
43 to enjoy all land use and development rights that would apply to
44 the property without regard to any local restrictions that may
45 restrict future development as a result of the demolition, and

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

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

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53 Section 1. Section 553.8991, Florida Statutes, is created
54 to read:

55 553.8991 Resiliency and Safe Structures Act.—

56 (1) SHORT TITLE.—This section may be cited as the
57 “Resiliency and Safe Structures Act.”

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

39-01119A-24

20241526__

59 (a) "Law" means any statute, ordinance, rule, regulation,
60 policy, resolution, code enforcement order, agreement, or other
61 governmental act.

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

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

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

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

75 (a) Nonconforming structures located within one-half mile
76 of the coastline which are also within zones V, VE, AO, or AE,
77 as identified on the Flood Insurance Rate Map issued by the
78 Federal Emergency Management Agency.

79 (b) Any structure determined to be unsafe by a local
80 building official.

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

83 (4) RESTRICTIONS ON DEMOLITION PROHIBITED.—A local
84 government may not prohibit, restrict, or prevent the demolition
85 of any structure identified in subsection (3) for any reason
86 other than public safety. A local government may review an
87 application for a demolition permit sought pursuant to this

39-01119A-24

20241526__

88 section only administratively for compliance with the Florida
89 Building Code, the Florida Fire Prevention Code, and the Life
90 Safety Code, or local amendments thereto, and any regulation
91 applicable to a similarly situated parcel. The local government
92 may not subject an application to additional local land
93 development regulations or public hearings.

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

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

102 (b) Require replication of a demolished structure.

103 (c) Require the preservation of any element of a demolished
104 structure.

105 (d) Impose additional regulatory or building requirements
106 on a replacement structure which would not otherwise be
107 applicable to 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 and must be liberally construed to
111 effectuate its intent. This section does not apply to or affect
112 s. 553.79(25).

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

39-01119A-24

20241526__

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.