

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 582

INTRODUCER: Senator Leek

SUBJECT: Unlawful Demolition of Historical Buildings and Structures

DATE: March 24, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Shuler</u>	<u>Fleming</u>	<u>CA</u>	Favorable
2.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Pre-meeting
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 582 authorizes a code enforcement board or special magistrate to impose increased fines for the demolition of a structure listed on the National Register of Historic Places. To impose the fine, the demolition of the historic structure must have been knowing and willful, not permitted, and not the result of a natural disaster.

The bill is not expected to have a significant impact on state and local government revenues and expenditures.

The bill takes effect July 1, 2025.

II. Present Situation:

County and Municipal Code Enforcement

Code enforcement is a function of local government and affects people's daily lives. Its purpose is to enhance the quality of life and economy of local government by protecting the health, safety, and welfare of the community.¹ Chapters 125, 162, and 166 of the Florida Statutes² provide counties and municipalities with a mechanism to enforce their codes and ordinances. These statutes provide non-binding, permissible code enforcement mechanisms that may be used by local governments in any combination they choose, and they may enforce their codes by any other means.³

¹ Section 162.02, F.S.

² Chapter 125, Part II, F.S. (county self-government), ch. 162, Part I, F.S. (the Code Enforcement Boards Act), ch. 162, Part II, F.S. (supplemental procedures for county or municipal code or ordinance enforcement procedures), and s. 166.0415, F.S. (city ordinance enforcement).

³ Sections 125.69(4)(k), 162.13, 162.21(8), and 166.0415(7), F.S.

Code Enforcement Boards Act (Part I, Ch. 162, F.S.)

The Local Government Code Enforcement Boards Act (Act), located in Part I of ch. 162, F.S., allows each county and municipality to create by ordinance one or more local government code enforcement boards.⁴ A code enforcement board is an administrative board made up of members appointed by the governing body of a county or municipality with the authority to hold hearings and impose administrative fines and other noncriminal penalties for violations of county or municipal codes or ordinances.⁵ Members of the enforcement boards⁶ must be residents of the respective municipality or county and, whenever possible, must include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.⁷

Code enforcement boards have the power to:

- Adopt rules for the conduct of its hearings;
- Subpoena alleged violators, witnesses, and evidence to its hearings;
- Take testimony under oath; and
- Issue orders that have the force of law to command steps necessary to bring a violation into compliance.⁸

Section 162.06, F.S., establishes the procedures for local governments to address violations of various codes using a code enforcement board. It begins with the county or municipal code inspector⁹ who initiates code enforcement procedures by notifying the violator and giving him or her reasonable time to correct the violation.¹⁰ If the violation continues to exist after such time period as specified by the code inspector,¹¹ then the inspector will notify the code enforcement board and request a hearing.¹²

In each case heard before a code enforcement board, the case is presented, and testimony is taken, from both the code inspector and alleged violator.¹³ At the conclusion of the hearing, the board issues findings of fact and provides an order stating the proper relief granted.¹⁴ All final administrative orders of the code enforcement board may be appealed to the circuit court 30 days after execution of the order.¹⁵

⁴ Section 162.03, F.S.

⁵ Sections 162.02 and 162.05(1), F.S.

⁶ Code enforcement boards are either five-member or seven-member boards. If a local government has a population over 5,000 persons, the board must be a seven-member board. Section 162.05, F.S.

⁷ Section 162.05(2), F.S.

⁸ Section 162.08, F.S.

⁹ Section 162.04(2), F.S., defines the term “code inspector” to mean “any authorized agent or employee of the county or municipality whose duty it is to assure code compliance.”

¹⁰ Section 162.06(2), F.S.

¹¹ The code inspector does not need to provide the violator reasonable time to remedy the violation if it is a repeat violation; the violation presents a serious threat to the public health, safety, and welfare; or the violation is irreparable or irreversible in nature. Sections. 162.06(3) and (4), F.S.

¹² Section 162.06(2), F.S. A hearing may also be called by written notice signed by at least three members of a seven-member enforcement board or signed by at least two members of a five-member enforcement board. Section 162.07(1), F.S.

¹³ Section 162.07(2)-(3), F.S.

¹⁴ Section 162.07(4), F.S.

¹⁵ Section 162.11, F.S.

As an alternative to a code enforcement board, the Act allows counties and municipalities to adopt an alternate code enforcement system that gives code enforcement officials or special magistrates the authority to hold hearings and assess fines against violators of respective codes or ordinances.¹⁶ Each of these methods are offered by statute as devices to be used at the local governments' discretion, but a local government may use any method they choose to enforce codes and ordinances.¹⁷

Administrative Fines for Code Enforcement Violations

A code enforcement board may, upon notification by the code inspector that repairs have not been completed by a specified date or upon finding that repeat violations have occurred, order violators to pay a fine for each day of the continued violation.¹⁸ If the violation presents a serious threat to the public health, safety, and welfare, the code enforcement board must notify the local governing body, which may make all reasonable repairs to bring the property in compliance and charge the violator the reasonable cost of those repairs in addition to the fine imposed.¹⁹ If, after due notice and hearing, a code enforcement board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine.²⁰

Administrative fines may not exceed \$250 per day for a first violation and may not exceed \$500 per day for a repeat violation.²¹ If the board finds the violation is irreparable or irreversible in nature, the board may impose a fine of up to \$5,000.²² When determining the amount of the fine, the board may consider the following factors:

- The gravity of the violation.
- Any actions taken by the violator to correct the violation.
- Any previous violations committed by the violator.²³

A code enforcement board may choose to reduce the amount of the fine initially imposed.²⁴

A county or municipality with a population of 50,000 or greater may adopt, by a majority vote plus one of the entire governing body, an ordinance that allows code enforcement boards or special magistrates to impose fines in excess of the above limits.²⁵ The ordinance may provide for fines of up to \$1,000 per day per violation for a first violation, \$5,000 per day per violation for a repeat violation, and up to \$15,000 per violation if the code enforcement board or special

¹⁶ Section 162.03, F.S.

¹⁷ The Attorney General has opined that "once a municipality has adopted the procedures of Chapter 162, Florida Statutes, to enforce its municipal codes and ordinances, it may not alter or amend those statutorily prescribed procedures but must utilize them as they are set forth in the statutes." Op. Att'y Gen. 2000-53 (2000). A local government may, however, maintain a ch. 162, F.S., code enforcement board and still decide to enforce a particular violation by bringing a charge in county court, or any other means provided by law. *Goodman v. Cnty. Court in Broward Cnty., Fla.* 711 So. 2d 587 (Fla 4th DCA 1998).

¹⁸ Section 162.09(1), F.S.

¹⁹ *Id.*

²⁰ *Id.*

²¹ Section 162.09(2)(a), F.S.

²² *Id.*

²³ Section 162.09(2)(b), F.S.

²⁴ Section 162.09(2)(c), F.S.

²⁵ Section 162.09(2)(d), F.S.

magistrate finds the violation to be irreparable or irreversible in nature.²⁶ In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs.²⁷ Any ordinance imposing such fines must include criteria to be considered by the code enforcement board or special magistrate in determining the amount of the fines.²⁸

A certified copy of an order imposing a fine, including any repair costs incurred by the local government, may be recorded in the public records and constitutes a lien against the land on which the violation exists and upon any other real or personal property owned by the violator.²⁹ Upon petition to the circuit court, the order is enforceable in the same manner as a court judgment, including execution and levy against the personal property of the violator, but such order cannot be deemed to be a court judgment except for enforcement purposes.³⁰ A lien arising from such a fine runs in favor of the local governing body, and the local governing body may execute a satisfaction or release of lien entered.³¹

National Register of Historic Places

The National Register of Historic Places,³² under the National Park Service is the official list of the Nation's historic places worthy of preservation is “part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America’s historic and archeological resources.”³³ The program reviews property nominations and lists eligible properties in the National Register; offers guidance on evaluating, documenting, and listing historic places; and helps qualified historic properties receive preservation benefits and incentives.³⁴

In Florida, there are more than 1,700 properties and districts listed on the National Register.³⁵ Nominations for those properties must be submitted to the National Park Service through the Florida Department of State’s Division of Resources, following a review and recommendation by the Florida National Register Review Board.³⁶ Listing in the National Register does not, in itself, impose any obligation on the property owner, or restrict the owner's basic right to use and dispose of the property as he or she sees fit, but does encourage the preservation of significant historic resources.³⁷

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ Section 162.09(3), F.S.

³⁰ *Id.*

³¹ *Id.*

³² 54 U.S.C. ch. 3021.

³³ U.S. Department of the Interior, National Park Service, National Register of Historic Places, *What is the National Register of Historic Places?*, <https://www.nps.gov/subjects/nationalregister/what-is-the-national-register.htm> (last visited Mar. 21, 2025).

³⁴ *Id.*

³⁵ Fla. Dep’t of State, *National Register of Historic Places*, <https://dos.myflorida.com/historical/preservation/national-register/> (last visited Mar. 21, 2025).

³⁶ *Id.*

³⁷ *Id.*

Demolition Permits

It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a building permit from the local government or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.³⁸ The enforcing agency may revoke any such permit if the demolition is in violation of, or not in conformity with, the provisions of the Building Code.³⁹

A local law, ordinance, or regulation may not prohibit or otherwise restrict the ability of a private property owner to obtain a building permit to demolish his or her single-family residential structure provided that such structure is located in a coastal high-hazard area, moderate flood zone, or special flood hazard area according to a Flood Insurance Rate Map issued by the Federal Emergency Management Agency for the purpose of participating in the National Flood Insurance Program if the lowest finished floor elevation of such structure is at or below base flood elevation as established by the Building Code or a higher base flood elevation as may be required by local ordinance, whichever is higher, provided the permit complies with all applicable Building Code, Fire Prevention Code, and local amendments to such codes.⁴⁰

However, a local law, ordinance, or regulation may restrict demolition permits for certain designated historic structures:

- Structure designated on the National Register of Historic Places;
- Privately owned single-family residential structure designated historic by a local, state, or federal governmental agency on or before January 1, 2022; or
- Privately owned single-family residential structure designated historic after January 1, 2022, by a local, state, or federal governmental agency with the consent of its owner.⁴¹

III. Effect of Proposed Changes:

SB 582 authorizes a code enforcement board or special magistrate to impose a fine that exceeds the limits specified in s. 162.09, F.S., for the demolition of a structure that is individually listed on the National Register of Historic Places or is a contributing resource to a district listed on the National Register. To impose the fine, a code enforcement board or special magistrate must find, based on competent substantial evidence, that the demolition of the historic structure was knowing and willful and not permitted or the result of a natural disaster. The fine may not exceed 20 percent of the fair or just market value of the property as determined by the property appraiser.

The bill takes effect July 1, 2025.

³⁸ Section 553.79(1)(a), F.S.

³⁹ *Id.*

⁴⁰ Section 553.79(25)(a), F.S.

⁴¹ Section 553.79(25)(d), F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None identified.

C. Trust Funds Restrictions:

None identified.

D. State Tax or Fee Increases:

Article VII, s. 19 of the State Constitution requires that legislation that increases or creates taxes or fees be passed by a 2/3 vote of each chamber in a bill with no other subject. The bill does not increase or create new taxes or fees. Thus, the constitutional requirements related to new or increased taxes or fees do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None identified.

B. Private Sector Impact:

None identified.

C. Government Sector Impact:

Local governments may receive increased revenues from additional fines for the demolition of buildings listed on the National Register without permits.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill substantially amends section 162.09 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
