

FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

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BILL #: [HB 405](#)

TITLE: Commercial Construction Projects

SPONSOR(S): Griffiths

COMPANION BILL: [SB 526](#) (Grall)

LINKED BILLS: None

RELATED BILLS: None

Committee References

[Industries & Professional
Activities](#)

13 Y, 2 N, As CS



[State Administration Budget](#)



[Commerce](#)

SUMMARY

Effect of the Bill:

The bill makes provisions in public construction contracts which waive, release, or extinguish certain rights of the contractor void if delay is due to the acts or omissions of the awarding body, directs the Florida Building Commission, in consultation with DBPR, to create a uniform commercial building permit application to be used throughout the state, and directs local enforcement agencies to reduce permit fees for plans review or building inspection services when an owner or contractor retains a private provider for those purposes.

Fiscal or Economic Impact:

The bill may have an indeterminate positive fiscal impact on the private sector.

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ANALYSIS

EFFECT OF THE BILL:

The bill revises [Florida law governing public procurement](#) to void and render unenforceable any provision in a [public construction contract](#) which purports to waive, release or extinguish the rights of a contractor to recover costs, damages, or equitable adjustments, or obtain a time extension, for delays in performance of the contract when the delays are caused by the awarding body or its agents, employees or persons working on its behalf. **These provisions apply to all public construction contracts entered into on or after July 1, 2026.** (Section [1](#))

However, the bill specifically does not void a provision that requires notice of a delay by the party claiming the delay; provisions for liquidated damages for a delay caused by the contractor or its subcontractors, agents or employees; or provisions related to arbitration or other procedures designed to settle contract disputes. (Section [1](#))

The bill adds a section to the [Florida Building Codes Act](#) directing the [Florida Building Commission](#), in consultation with the [Department of Business and Professional Regulation](#) (DBPR), to create a uniform commercial building permit application to be used, unmodified, statewide. The application must, at a minimum, including the name and contact information of the property owner; the name, license number, and contact information of the contractor; the address and parcel identification number of the construction project; the project type and occupancy classification under the [Florida Building Code](#); a description of the construction project, including whether the project is a new construction or an alteration, and addition, or a repair; the total square footages and declared value of the construction project; the architect or engineer or record, if applicable; the identification of any [private provider services](#), if used. (Section [2](#))

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The bill directs the [Florida Building Commission](#), in consultation with the [Department of Business and Professional Regulation](#) (DBPR), to create additional standardized forms to be used statewide relating to specific trades that may be present on a project. The trades may include but are not limited to electric, HVAC, plumbing, and water and sewer. A [local enforcement agency](#) may require these supplemental depending on the scope of the project. The use of supplemental forms must be standardized and used statewide and may not expand the timelines for plans to be reviewed and permits issued. A local enforcement agency may also require additional documentation or plans reasonably necessary to demonstrate compliance with the [Florida Building Code](#) or local zoning ordinances, but the additional documents or plans may not alter the form, content, or substance of the uniform commercial building application. In addition, local enforcement agency must allow relevant reviews to take place simultaneously. (Section [2](#))

The bill directs the Florida Building Commission to make the uniform commercial building permit application available on its website and to all local enforcement agencies by July 1, 2027. (Section [2](#))

The bill defines “commercial construction project” as “the construction, alteration, or repair of a building or structure that is primarily intended for business, industrial, institutional, or mercantile use and is not classified as residential under the Florida Building Code.” (Section [3](#))

The bill directs local enforcement agencies to reduce [permit fees](#) for plans review or building inspection services for a commercial construction contract when an owner or contractor retains a [private provider](#) for those purposes. The local enforcement agency must reduce the fees for those services by at least 50 percent if part of the work is contracted to a private provider, and at least 75 percent if the private provider is retained for all of that work. The language bars the collection of any fees if the local enforcement agency does not reduce the fees. (Section [3](#))

The effective date of the bill is July 1, 2026. (Section [4](#))

RULEMAKING:

The bill requires the Commission, in consultation with DBPR, to create a uniform commercial building permit application. The bill does not specify that this requirement must be accomplished through rulemaking.

Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

Requiring the Commission, in consultation with DBPR, to create a uniform commercial building permit application may have a negative fiscal impact on the Commission and DBPR.

Reducing local government permit fees will reduce DBPR surcharges for local building permits, which fund the activities of the Commission, DBPR’s Building Code Compliance and Mitigation Program, and the Florida Fire Prevention Code informal interpretations.

LOCAL GOVERNMENT:

The bill reduces local government permit fees. Such fees must be used solely for carrying out the local government’s responsibilities in enforcing the Building Code.

PRIVATE SECTOR:

The bill will reduce permit fees for contractors who use private providers.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

[Procurement of Personal Property and Services](#)

For purposes of procurement of goods and services for public use, current law defines the term “awarding body” as a state agency or local government.¹ However, the statutes relating to competitive solicitation of construction services and public works projects are located in chapter 255, F.S.

[Competitive Solicitation of Construction Services](#)

Current law specifies the procedures to be followed in the procurement of construction services for public property and public owned buildings.² The Department of Management Services (DMS) is responsible for establishing by rule procedures:³

- For determining the qualifications and responsibility of potential bidders prior to advertising for and receiving bids for building construction contracts.
- For awarding each state agency construction project to the lowest qualified bidder.
- To govern negotiations for construction contracts and contract modifications when such negotiations are determined to be in the best interest of the state.
- For entering into performance-based contracts for the development of public facilities when those contracts are determined to be in the best interest of the state.

State contracts for construction projects that are projected to cost in excess of \$200,000 must be competitively bid.⁴ A county, municipality, special district, or other political subdivision seeking to construct or improve a public building must competitively bid the project if the estimated cost is in excess of \$300,000.⁵

[Public Works Projects](#)

A “public works project” is an activity that is paid for with any state-appropriated funds and that consists of the construction, maintenance, repair, renovation, remodeling, or improvement of a building, road, street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion thereof owned in whole or in part by any political subdivision.⁶

[Florida Building Code](#)

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida’s minimum standards were met. Local governments could choose from four separate model codes. The state’s role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.⁷

In 1992, Hurricane Andrew demonstrated that Florida’s system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study’s commission recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature

¹ [S. 287.05701\(1\), F.S.](#)

² See ch. 255, F.S.

³ [S. 255.29, F.S.](#)

⁴ See [s. 255.0525, F.S.](#); see also R. 60D-5.002 and 60D-5.0073, F.A.C.

⁵ [S. 255.20\(1\), F.S.](#) For electrical work, local governments must competitively bid projects estimated to cost over \$75,000.

⁶ [S. 255.0992\(1\)\(b\), F.S.](#)

⁷ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Jan. 28, 2024).

authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.⁸ The current edition of the Building Code is the eighth edition, which is referred to as the 2023 Florida Building Code.⁹

Chapter 553, part IV, F.S., is known as the “Florida Building Codes Act” (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.¹⁰

The [Florida Building Commission](#) (Commission) was created to implement the Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The Commission reviews several International Codes published by the International Code Council,¹¹ the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.¹²

[Building Permits](#)

Chapter 553, part IV, F.S., is known as the “[Florida Building Codes Act](#)” (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently throughout the state.¹³

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public’s health, safety, and welfare.¹⁴ Every local government must enforce the Florida Building Code and issue building permits.¹⁵

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.¹⁶ 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 enforcement agency](#) or from such persons as may, by resolution or regulation, be directed to issue such permit.¹⁷

Current law requires local governments to post their building permit applications, including a list of all required attachments, drawings, and documents for each application, on its website. However, other than fire alarm building permit applications, local governments are not required to have uniform building permit applications, and they are free to create their own applications with their own requirements.¹⁸

Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Florida Building Code. The Florida Building Code requires certain building, electrical, plumbing, mechanical, and gas inspections. Construction work may not be done beyond a certain point until it passes an inspection. Generally speaking, a permit for construction work that passes the required

⁸ *Id.*
⁹ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Jan. 28, 2024).
¹⁰ See [s. 553.72\(1\), F.S.](#)
¹¹ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to “construct safe, sustainable, affordable and resilient structures.” International Code Council, *About the ICC*, <https://www.iccsafe.org/about/who-we-are/> (last visited Jan. 28, 2024).
¹² [S. 553.73\(7\)\(a\), F.S.](#)
¹³ [553.72\(1\), F.S.](#)
¹⁴ [S. 553.72, F.S.](#)
¹⁵ [Ss. 125.01\(1\)\(bb\), 125.56\(1\), and 553.80\(1\), F.S.](#)
¹⁶ [S. 468.603, F.S.](#); [S. 202 of the Eighth edition of the Florida Building Code \(Building\)](#).
¹⁷ [Ss. 125.56\(4\)\(a\) and 553.79\(1\), F.S.](#)
¹⁸ [Ss. 553.79\(1\), and 553.7921, F.S.](#)

inspections are considered completed or closed.¹⁹

Building Code Fees

A local government may charge reasonable fees as set forth in a schedule of fees adopted by the enforcing agency for the issuance of a building permit.²⁰ Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the Building Code.²¹ Enforcing the Building Code includes the direct costs and reasonable indirect costs associated with training, review of building plans, building inspections, re-inspections, building permit processing, and fire inspections.²² Local governments must post all building permit and inspection fee schedules on their website.²³

Local governments are only allowed to collect building permit fees that are sufficient to cover their costs in enforcing the Building Code. When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. Any unexpended balances must be carried forward to future years for allowable activities or must be refunded at the discretion of the local government. A local government may not carry forward an amount exceeding the average of its operating budget, not including reserve amounts, for enforcing the Building Code for the previous 4 fiscal years.²⁴

DBPR Surcharges

Current law requires all local governments to assess and collect a 1% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local jurisdictions collect the assessment and remit the surcharge fees to DBPR to fund the activities of the Commission, DBPR's Building Code Compliance and Mitigation Program, and the Florida Fire Prevention Code informal interpretations.²⁵

Current law also requires all local governments to assess and collect a separate 1.5% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local governments collect the assessment and remit the surcharge fees to DBPR, where it is divided equally to fund the activities of the Building Code Administrators and Inspectors Board (BCAIB) and the Florida Homeowners' Construction Recovery Fund.²⁶

Local government building departments are permitted to retain 10% of the amount of the surcharges they collect to fund participation by their agencies in the national and state building code adoption processes and to provide education related to enforcement of the Building Code.²⁷

Private Providers

Private providers and their duly authorized representatives are able to approve building plans and perform building code inspections as long as the plans approval and building inspections are within the scope of the provider's or representative's license.

A "private provider" is defined as a person licensed as a building official, engineer, or architect. Additionally, the term includes licensed building inspectors and plans examiners who perform inspections for additions and alterations that are limited to 1,000 square feet or less in residential buildings.²⁸

¹⁹ [Section 110 of Eighth Edition of the Florida Building Code \(Building\)](#).

²⁰ [S. 553.80 F.S.](#)

²¹ *Id.*

²² [S. 553.80\(7\)\(a\)1., F.S.](#)

²³ [Ss. 125.56 \(4\)\(c\) F.S.](#), and [166.222\(2\), F.S.](#)

²⁴ [S. 553.80\(7\)\(a\), F.S.](#)

²⁵ [S. 553.721, F.S.](#)

²⁶ [S. 468.631, F.S.](#); The Florida Homeowners' Construction Recovery Fund is used to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed general, building and residential contractors. Claims are filed with the DBPR, who reviews for completeness and statutory eligibility. The DBPR then presents the claim to the Construction Industry Licensing Board for review. [s. 489.1401\(2\), F.S.](#)

²⁷ [Ss. 468.631, and 553.721, F.S.](#)

An owner or contractor must notify a local government that the owner or contractor hired a private provider to perform building code inspection services, including single-trade inspections. If an owner or contractor retains a private provider for purposes of plans review or building inspection services, the local jurisdiction must reduce the permit fee by the amount of cost savings realized by the local enforcement agency for not having to perform such services. Such reduction may be calculated on a flat fee or percentage basis, or any other reasonable means by which a local enforcement agency assesses the cost for its plans review or inspection services. The local jurisdiction may not charge fees for building inspections if the fee owner or contractor hires a private provider to perform such services; however, the local jurisdiction may charge a reasonable administrative fee, which shall be based on the cost that is actually incurred, including the labor cost of the personnel providing the service, by the local jurisdiction or attributable to the local jurisdiction for the clerical and supervisory assistance required, or both.²⁹

A local government may not charge a fee for building inspections when an owner or contractor uses a private provider but may charge a “reasonable administrative fee.” A “reasonable administrative fee” must be based on the cost that is actually incurred by the local government, including the labor cost of the personnel providing the service, or the cost attributable to the local government for the clerical and supervisory assistance required, or both.³⁰

Upon receipt of a building permit application and the required affidavit from the private provider, a building official has 20 business days to issue the permit or provide written notice of the plan deficiencies.³¹ If the local building official does not provide written notice of plan deficiencies within the prescribed 20-day period, the permit application shall be deemed approved and must be issued on the next business day.³²

OTHER RESOURCES:

[Department of Business & Professional Regulation](#)

[Florida Building Commission](#)

[Florida Building Code](#)

²⁸ S. [553.791\(1\)\(n\), F.S.](#)

²⁹ S. [553.791\(2\)\(b\), F.S.](#)

³⁰ *Id.*

³¹ S. [553.791\(7\)\(a\), F.S.](#)

³² *Id.*

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Industries & Professional Activities Subcommittee	13 Y, 2 N, As CS	12/2/2025	Anstead	Miralia

THE CHANGES ADOPTED BY THE COMMITTEE: **591883 by Rep. Griffiths (lines 41-58):**

- Revises the definition for “body” to include “awarding body.”
- Creates a definition for “concurrent delay” to mean “two or more unrelated delays by the awarding body or its agents or employees, or any person acting on its behalf, and the contractor or its subcontractors or suppliers that happen at the same time or overlap in time, each of which on its own would have delayed the contractor's performance of a public construction contract.
- Adds “deny” and “restrict” to the list of provisions that could impact a contractor’s rights to recover costs.
- Includes “supplier” with “subcontractor”.
- Adds “waive”, “release” and “extinguish” to the list of provisions that could impact a contractor’s right to a time extension.

262525 by Rep. Griffiths (lines 100-124):

- Specifies that supplemental forms must be created by the Florida Building Commission in consultation with the Department of Business and Professional Regulation.
- Changes the supplemental forms from types of commercial construction to trade-specific.
- Specifies that a local enforcement agency may require supplemental forms based on project scope.
- Changes the date that the uniform commercial building permit application must be completed and available to local enforcement agencies to July 1, 2027.

[State Administration Budget Subcommittee](#)
[Commerce Committee](#)

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.
