

<b>Tab 1</b>	<b>SB 998</b> by <b>Collins</b> ; (Similar to CS/H 00815) Sale of Liquefied Petroleum Gas
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<b>Tab 2</b>	<b>CS/SB 1350</b> by <b>TR, DiCeglie</b> ; (Similar to CS/H 01517) Salvage
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<b>Tab 3</b>	<b>SB 1526</b> by <b>Avila</b> ; (Similar to H 01647) Local Regulation of Nonconforming or Unsafe Structures					
568282	D	S	RCS	EN, Avila	Delete everything after	01/30 01:50 PM

<b>Tab 4</b>	<b>SB 1766</b> by <b>Rodriguez</b> ; (Identical to H 00749) Flood Damage Prevention					
628218	A	S	RS	EN, Rodriguez	Delete L.74 - 85:	01/30 01:50 PM
262940	SA	S	RCS	EN, Rodriguez	Delete L.74 - 88:	01/30 01:50 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**ENVIRONMENT AND NATURAL RESOURCES**  
**Senator Rodriguez, Chair**  
**Senator Harrell, Vice Chair**

**MEETING DATE:** Tuesday, January 30, 2024  
**TIME:** 1:00—3:00 p.m.  
**PLACE:** 301 Senate Building

**MEMBERS:** Senator Rodriguez, Chair; Senator Harrell, Vice Chair; Senators Martin, Mayfield, Polsky, Stewart, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 998</b> Collins (Similar CS/H 815)	Sale of Liquefied Petroleum Gas; Defining the terms "licensed location" and "remote bulk storage"; authorizing up to two remote bulk storage locations for specified licenses; authorizing the Department of Agriculture and Consumer Services to condemn unsafe equipment and order the immediate removal of liquefied petroleum gas from certain bulk storage locations; requiring persons servicing, testing, repairing, maintaining, or installing liquefied petroleum gas equipment and systems to include specified information on certain documents, etc.  CM    01/23/2024 Favorable EN    01/30/2024 Favorable FP	Favorable Yeas 6 Nays 0
2	<b>CS/SB 1350</b> Transportation / DiCeglie (Similar CS/H 1517)	Salvage; Revising provisions relating to obtaining a salvage certificate of title or certificate of destruction; exempting the Department of Highway Safety and Motor Vehicles from liability to certain persons as a result of the issuance of such certificates; providing requirements for an independent entity's release of a damaged or dismantled vessel to the owner; authorizing the independent entity to apply for certain certificates for an unclaimed vessel, etc.  TR    01/23/2024 Fav/CS EN    01/30/2024 Favorable FP	Favorable Yeas 6 Nays 0
3	<b>SB 1526</b> Avila (Similar H 1647)	Local Regulation of Nonconforming or Unsafe Structures; Designating the "Resiliency and Safe Structures Act"; prohibiting local governments from prohibiting, restricting, or preventing the demolition of certain structures unless necessary for public safety; authorizing local governments to review demolition permit applications only for a specified purpose; prohibiting additional local land development regulations or public hearings, etc.  CA    01/16/2024 Temporarily Postponed CA    01/22/2024 Favorable EN    01/30/2024 Fav/CS RC	Fav/CS Yeas 5 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Environment and Natural Resources

Tuesday, January 30, 2024, 1:00—3:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 1766</b> Rodriguez (Identical H 749)	Flood Damage Prevention; Citing this act as the "Flood Damage Prevention Act of 2024"; providing specified maximum voluntary freeboard requirements for new construction and substantial improvements to existing construction; prohibiting voluntary freeboard from being used in the calculation of the maximum allowable height for certain construction; requiring the Florida Building Commission to develop and adopt by rule minimum freeboard requirements by a specified date and to incorporate such requirements into the next edition of the Florida Building Code, etc.	Fav/CS Yeas 6 Nays 0
		CA 01/22/2024 Favorable EN 01/30/2024 Fav/CS RC	

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Other Related Meeting Documents

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**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.)

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Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

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BILL: SB 998

INTRODUCER: Senator Collins

SUBJECT: Sale of Liquefied Petroleum Gas

DATE: January 29, 2024

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McKay</u>	<u>McKay</u>	<u>CM</u>	<b>Favorable</b>
2.	<u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	<b>Favorable</b>
3.	_____	_____	<u>FP</u>	_____

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**I. Summary:**

SB 998 makes a number of changes with regard to the regulation of liquefied petroleum (LP) gas by the Department of Agriculture and Consumer Services (DACS):

- Provides that a category I liquefied petroleum gas dealer license may include up to two remote bulk storage locations to meet minimum bulk storage requirements, and that remote bulk storage locations must be located within 75 miles of the licensed location and included in the category I liquefied petroleum gas dealer license application.
- Specifies that a competency exam must be completed within 90 days after the application has been accepted by the DACS.
- Requires that qualifiers must have one year of verifiable LP gas experience.
- Provides that a person may not act as a master qualifier for more than one licensee.
- Gives the DACS the authority to condemn unsafe equipment and order immediate removal of LP gas that is deemed a threat to public health.
- Adjusts language relating to aggregate capacity of containers.
- Requires LP gas technicians to provide their name, qualifier number, and license number on all work orders.
- Prohibits anyone other than those authorized from adding or removing gas from a customer's tank.
- Revises and clarifies the minimum storage requirement to account for aggregate storage.

The bill provides an effective date of July 1, 2024.

**II. Present Situation:**

The Present Situation for each section in the bill is discussed below in conjunction with the Effect of Proposed Changes.

### III. Effect of Proposed Changes:

The Bureau of Compliance within the Department of Agriculture and Consumer Services (DACS) is the primary agency charged with regulating the liquefied petroleum (LP) gas industry, including licensing, inspection, training, and examination requirements, pursuant to Ch. 527, F.S.<sup>1</sup> LP gas is defined in statute as any material composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane; propylene; butanes (normal butane or isobutane); and butylenes.<sup>2</sup>

#### Definitions and Licensure

Section 527.01, F.S., provides definitions for use in ch. 527, F.S., concerning the sale of liquefied petroleum gas.

Pursuant to s. 527.02, F.S., it is unlawful for any person in Florida to engage in any of the following activities without first obtaining a license from the DACS to do so:

- Category I liquefied petroleum gas dealer - any person selling or offering to sell by delivery or at a stationary location any liquefied petroleum gas to the consumer for industrial, commercial, or domestic use; any person leasing or offering to lease, or exchanging or offering to exchange, any apparatus, appliances, and equipment for the use of liquefied petroleum gas; any person designing, installing, servicing, altering, or modifying apparatus, piping, tubing, appliances, and equipment for the use of liquefied petroleum or natural gas; any person installing carburetion equipment; or any person requalifying cylinders.<sup>3</sup>
- Category II liquefied petroleum gas dispenser - any person engaging in the business of operating a liquefied petroleum gas dispensing unit for the purpose of serving liquid products to the consumer for industrial, commercial, or domestic use, and selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum gas, including maintaining a cylinder storage rack at the licensed business location for the purpose of storing cylinders filled by the licensed business for sale or use at a later date.<sup>4</sup>
- Category III liquefied petroleum gas cylinder exchange operator - any person operating a storage facility used for the purpose of storing filled propane cylinders of not more than 43.5 pounds propane capacity or 104 pounds water capacity, while awaiting sale to the consumer, or a facility used for the storage of empty or filled containers which have been offered for exchange.<sup>5</sup>
- Category IV dealer in appliances and equipment - any person selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum gas.<sup>6</sup>
- Category V LP gas installer - any person who is engaged in the liquefied petroleum gas business and whose services include the design, installation, servicing, altering, or modifying

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<sup>1</sup> See The Florida Department of Agriculture and Consumer Services, *Liquefied Petroleum Gas Licenses*, available at <https://www.fdacs.gov/Business-Services/LP-Gas-Licenses> (last visited Jan. 22, 2024).

<sup>2</sup> Section 527.01(1), F.S.

<sup>3</sup> Section 527.01(6), F.S.

<sup>4</sup> Section 527.01(7), F.S.

<sup>5</sup> Section 527.01(8), F.S.

<sup>6</sup> Section 527.01(9), F.S.

of apparatus, piping, tubing, tanks, and equipment for the use of liquefied petroleum or natural gas and selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum or natural gas.<sup>7</sup>

- Category VI miscellaneous operator - any person who is engaged in operation as a manufacturer of LP gas appliances and equipment; a fabricator, repairer, and tester of vehicles and cargo tanks; a requalifier of LP gas cylinders; or a pipeline system operator.<sup>8</sup>

The sale of liquefied petroleum gas cylinders with a volume of 10 pounds water capacity or 4.2 pounds liquefied petroleum gas capacity or less is exempt. It is a felony of the third degree<sup>9</sup> to intentionally or willfully engage in any of these activities without first obtaining appropriate licensure from the DACS. Each business location of a person having multiple locations must be separately licensed.<sup>10</sup>

**Section 1** amends s. 527.01, F.S., to provide definitions for the following terms:

- “Licensed location” means the premises on which category I, category II, category III, category IV, category V, or category VI liquefied petroleum gas operations are performed.
- “Remote bulk storage” means the location of liquefied petroleum gas stored for the sole purpose of filling delivery vehicles used in delivery to an end user.

**Section 2** amends s. 527.02, F.S., to provide that a category I liquefied petroleum gas dealer license may include up to two remote bulk storage locations to meet the minimum bulk storage requirements of s. 527.11, F.S. Remote bulk storage locations must be located within 75 miles of the licensed location and included in the category I liquefied petroleum gas dealer license application.

### **Qualifiers and Master Qualifiers**

A person applying for a license to engage in category I, category II, or category V activities must prove competency by passing a written examination administered by the DACS or its agent with a grade of 70 percent or above in each area tested, and each applicant for examination must submit a \$20 nonrefundable fee.<sup>11</sup>

Application for examination for competency may be made by an individual or by an owner, a partner, or any person employed by the license applicant. Upon successful completion of the competency examination, the DACS must register the examinee.<sup>12</sup>

Qualifier registration automatically expires if the individual terminates active employment in the area of examination for a period exceeding 24 months, or fails to provide documentation of

<sup>7</sup> Section 527.01(10), F.S.

<sup>8</sup> Section 527.01(11), F.S.

<sup>9</sup> See ss. 775.082, 775.083, and 775.084, F.S., which provide that a “felony of the third degree” is punishable by a term of imprisonment not to exceed 5 years, and a fine not to exceed \$5,000.

<sup>10</sup> Section 527.02(1), F.S.

<sup>11</sup> Section 527.0201(1), F.S.

<sup>12</sup> Section 527.0201(2), F.S.

continuing education. If the qualifier registration has expired, the individual must apply for and successfully complete an examination by the DACS in order to reestablish qualifier status.<sup>13</sup> Every business organization in license category I, category II, or category V must employ at all times a full-time qualifier who has successfully completed an examination in the corresponding category of the license held by the business organization. A person may not act as a qualifier for more than one licensed location.<sup>14</sup> A qualifier for a business must actually function in a supervisory capacity of other company employees performing licensed activities. A separate qualifier is required for every 10 such employees.<sup>15</sup>

In addition to all other licensing requirements, each category I and category V licensee must, at the time of application for licensure, identify to the DACS one master qualifier who is a full-time employee at the licensed location. This person must be a manager, owner, or otherwise primarily responsible for overseeing the operations of the licensed location and must provide documentation to the DACS. The master qualifier requirement is in addition to the requirements of s. 527.0201(1), F.S.<sup>16</sup>

In order to apply for certification as a master qualifier, each applicant must have a minimum of 3 years of verifiable LP gas experience or hold a professional certification by an LP gas manufacturer, each applicant must be employed by a licensed category I or category V licensee or an applicant for such license, and each applicant must pass a master qualifier competency examination administered by the DACS or its agent. Master qualifier examinations must be based on Florida's laws, rules, and adopted codes governing liquefied petroleum gas safety, general industry safety standards, and administrative procedures. The applicant must successfully pass the examination with a grade of 70 percent or above. Each applicant for master qualifier registration must submit to the DACS a nonrefundable \$30 examination fee before the examination.<sup>17</sup>

Upon successful completion of the master qualifier examination, the DACS must issue the examinee a master qualifier registration. A master qualifier may transfer from one licenseholder to another upon becoming employed by the company and providing a written request to the DACS.<sup>18</sup>

A master qualifier registration expires three years after the date of issuance and may be renewed by submission of documentation of completion of at least 16 hours of approved continuing education courses during the three-year period, proof of employment, and a \$30 certificate renewal fee. The DACS must define approved courses of continuing education.<sup>19</sup>

**Section 3** amends s. 527.0201(2), F.S., to provide that the examination for competency must be completed within 90 days after the application has been accepted by the DACS.

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<sup>13</sup> Section 527.0201(2)(a), F.S.

<sup>14</sup> Section 527.0201(2)(b), F.S.

<sup>15</sup> Section 527.0201(4), F.S.

<sup>16</sup> Section 527.0201(5), F.S.

<sup>17</sup> Section 527.0201(5)(a), F.S.

<sup>18</sup> Section 527.0201(5)(b), F.S.

<sup>19</sup> Section 527.0201(5)(c), F.S.

The bill also provides that in order to apply for certification as a qualifier, each applicant must have a minimum of one year of verifiable LP gas experience. A person may not act as a qualifier for more than one licensed *or remote bulk storage* location.

A qualifier for a business must actually function in a position with authority to monitor and enforce safety provisions under ch. 527, F.S., at the licensed location.

The bill replaces a requirement that each category I and category V licensee must identify to the DACS one master qualifier who is a full-time employee *at the licensed location* with a requirement that the identification be of a master qualifier who is a full-time employee *of the licensee*. A person may not act as a master qualifier for more than one licensee.

### **Powers and Duties of the DACS**

The DACS is empowered to enforce all statutory provisions and adopted rules related to:

- The safe handling, installing, storing, selling, utilizing, transporting, servicing, testing, repairing, or maintaining of liquefied petroleum gas, liquefied petroleum gas equipment, and liquefied petroleum gas systems.<sup>20</sup>
- Reasonable standards of competency required of persons to safely engage in the business of handling, installing, storing, selling, utilizing, transporting, servicing, testing, repairing, or maintaining liquefied petroleum gas, liquefied petroleum gas equipment, or liquefied petroleum gas systems, including, but not limited to, the training, licensure, testing, and qualifying of such persons.<sup>21</sup>

The DACS has the powers and authority expressly conferred on it by, or reasonably implied from, the provisions of ch. 527, F.S., and may conduct such investigations as it may deem proper to determine whether any person has violated any provision of ch. 527, F.S., or adopted rule, or to secure information useful in the lawful administration of any law or rule promulgated pursuant to ch. 527, F.S.<sup>22</sup> The DACS may collect, propose, publish, and disseminate information relating to the subject matter of any duties imposed upon it by law.<sup>23</sup>

**Section 4** amends s. 527.055, F.S., to provide that the DACS has the powers and authority to condemn unsafe equipment and order the immediate removal of LP gas from storage that does not comply with ch. 527, F.S., and is deemed a threat to the public health, safety, and welfare.

### **Bulk Storage Locations**

The provisions of ch. 527, F.S., apply to LP gas bulk storage locations when:

- A single container in the bulk storage location has a capacity of 2,000 gallons or more;
- The aggregate container capacity of the bulk storage location is 4,000 gallons or more; or
- A container or containers are installed for the purpose of serving the public the liquid product.<sup>24</sup>

<sup>20</sup> Section 527.055(1)(a), F.S.

<sup>21</sup> Section 527.055(1)(b), F.S.

<sup>22</sup> See ss. 527.055(2), and 527.055(3), F.S.

<sup>23</sup> Section 527.055(4), F.S.

<sup>24</sup> Section 527.0605, F.S.



No newly installed container may be placed in operation until it has been inspected and approved by the DACS.<sup>25</sup>

**Section 5** amends s. 527.0605(1)(b), F.S., to provide that the provisions of ch. 527, F.S., apply to liquefied petroleum gas bulk storage locations when the aggregate container capacity of the bulk storage location is *more than* 4,000 gallons.

### **Responsibilities of Persons Engaged in Servicing Liquefied Petroleum Gas Equipment**

All persons engaged in the business of servicing, testing, repairing, maintaining, or installing LP gas equipment and systems must initially present proof of licensure to consumers, owners, or end users prior to working on said equipment or systems. Additionally, such persons must subsequently present proof of licensure upon the request of consumers, owners, end users, or persons who have authorized such work.<sup>26</sup>

Any consumer, owner, end user, or person who alters or modifies his or her LP gas equipment or system in any way must, for informational purposes, notify the licensed dealer who next fills or otherwise services his or her LP gas system that such work has been performed. The DACS may promulgate rules prescribing the method of notification. Such notification must be made within a reasonable time prior to the date the liquefied petroleum gas equipment or system is next filled or otherwise serviced in order that the equipment or system may be serviced in a safe manner.<sup>27</sup>

A category I liquefied petroleum gas dealer may not render a consumer's LP gas equipment or system inoperable or discontinue service without providing written or electronic notification to the consumer at least 5 business days before rendering the LP gas equipment or system inoperable or discontinuing service. This notification does not apply in the event of a hazardous condition known to the category I liquefied petroleum gas dealer.<sup>28</sup>

**Section 6** amends s. 527.067, F.S., to add a provision that all persons engaged in the business of servicing, testing, repairing, maintaining, or installing liquefied petroleum gas equipment and systems must include on all work orders, estimates, invoices, and similar documentation the name, qualifier number, and license number of the person performing the work.

### **Restriction on Use of Containers**

A person, other than the owner and those authorized by the owner, may not sell, fill, refill, remove gas from, deliver, permit to be delivered, or use in any manner any LP gas container or receptacle for any gas or compound, or for any other purpose.<sup>29</sup>

**Section 7** amends s. 527.07, F.S., to add a provision that a person, other than those authorized by the end user, may not add gas to or remove gas from any container or receptacle that contains LP gas purchased or contracted for transfer by, and in the lawful possession of, the end user.

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<sup>25</sup> *Id.*

<sup>26</sup> Section 527.067(1), F.S.

<sup>27</sup> Section 527.067(2), F.S.

<sup>28</sup> Section 527.067(3), F.S.

<sup>29</sup> Section 527.07, F.S.

## Minimum Storage

Every person who engages in the distribution of LP gas for resale to domestic, commercial, or industrial consumers as a prerequisite to obtaining an LP gas license must install, own, or lease a bulk storage filling plant of not less than 18,000 gallons (water capacity) within Florida and must be located within a 75-mile radius of the licensed company's business location. This bulk storage filling plant must have loading and unloading provisions solely for the licenseholder and be operated and maintained in compliance with ch. 527, F.S., for the duration of the license.<sup>30</sup>

A dealer in LP gas licensed as of August 31, 2000, who has entered or who enters into a written agreement with a wholesaler that the wholesaler will provide liquefied petroleum gas to the dealer for a period of 12 continuous months is exempt from the requirements in s. 527.11(1), F.S., if the wholesaler has at least 18,000 gallons (water capacity) of bulk storage within Florida permanently connected for storage, which is used as such for each dealer to whom gas is sold, and if the wholesaler has loading and unloading provisions. Such dealer must provide certification of this agreement on a form provided by the DACS to the DACS before her or his license may be issued. The form must be signed by both the wholesaler or his or her agent and the dealer or his or her agent and must be submitted annually with the license renewal application. A dealer who does not provide written proof of minimum storage may have her or his license denied, suspended, or revoked. A wholesaler may not enter into written agreements that allocate an amount of storage that exceeds the wholesaler's total storage capacity minus 18,000 gallons (water capacity).<sup>31</sup>

**Section 8** amends s. 527.11(1), F.S., to provide that the necessary bulk storage requirement is *aggregate capacity* of not less than 18,000 gallons, and deletes the requirement that the bulk storage be located within 75 miles of the licensed company's business location.

The bill deletes an outdated provision in s. 527.11(2), F.S., and provides that a wholesaler *or a dealer* may not enter into written agreements that allocate an amount that exceeds the total storage capacity minus 18,000 gallons.

## Effective Date

**Section 9** provides an effective date of July 1, 2024.

## IV. Constitutional Issues:

### A. Municipality/County Mandates Restrictions:

None.

### B. Public Records/Open Meetings Issues:

None.

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<sup>30</sup> Section 527.11(1), F.S.

<sup>31</sup> Section 527.11(2), F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None Identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 527.01, 527.02, 527.0201, 527.055, 527.0605, 527.067, 527.07, and 527.11 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.

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

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By Senator Collins

14-00349-24

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1                   A bill to be entitled  
2           An act relating to the sale of liquefied petroleum  
3           gas; amending s. 527.01, F.S.; defining the terms  
4           "licensed location" and "remote bulk storage";  
5           amending s. 527.02, F.S.; authorizing up to two remote  
6           bulk storage locations for specified licenses;  
7           requiring such bulk storage locations to be located  
8           within a specified distance of the licensed location;  
9           amending s. 527.0201, F.S.; requiring that competency  
10          examinations be completed within a specified  
11          timeframe; providing eligibility criteria for  
12          certification as a qualifier; prohibiting a person  
13          from acting as a qualifier for more than one remote  
14          bulk storage location; requiring qualifiers to  
15          function in a position with specified authority;  
16          prohibiting a person from acting as a master qualifier  
17          for more than one licensee; amending s. 527.055, F.S.;  
18          authorizing the Department of Agriculture and Consumer  
19          Services to condemn unsafe equipment and order the  
20          immediate removal of liquefied petroleum gas from  
21          certain bulk storage locations; amending s. 527.0605,  
22          F.S.; revising the applicability of specified  
23          provisions for bulk storage locations; amending s.  
24          527.067, F.S.; requiring persons servicing, testing,  
25          repairing, maintaining, or installing liquefied  
26          petroleum gas equipment and systems to include  
27          specified information on certain documents; amending  
28          s. 527.07, F.S.; prohibiting unauthorized persons from  
29          adding liquefied petroleum gas to or removing

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liquefied petroleum gas from certain containers and receptacles; amending s. 527.11, F.S.; revising minimum bulk storage requirements for liquefied petroleum gas licenses; removing an exemption from such requirements; prohibiting dealers from entering into certain agreements; providing an effective date.

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

Section 1. Subsections (19) and (20) are added to section 527.01, Florida Statutes, to read:

527.01 Definitions.—As used in this chapter:

(19) "Licensed location" means the premises on which category I, category II, category III, category IV, category V, or category VI liquefied petroleum gas operations are performed.

(20) "Remote bulk storage" means the location of liquefied petroleum gas stored for the sole purpose of filling delivery vehicles used in delivery to an end user.

Section 2. Paragraph (d) is added to subsection (3) of section 527.02, Florida Statutes, to read:

527.02 License; penalty; fees.—

(3)

(d) A category I liquefied petroleum gas dealer license may include up to two remote bulk storage locations to meet the minimum bulk storage requirements of s. 527.11. Remote bulk storage locations must be located within 75 miles of the licensed location and included in the category I liquefied petroleum gas dealer license application.

Section 3. Subsections (2), (4), and (5) of section

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59 527.0201, Florida Statutes, are amended to read:

60 527.0201 Qualifiers; master qualifiers; examinations.-

61 (2) Application for examination for competency may be made  
62 by an individual or by an owner, a partner, or any person  
63 employed by the license applicant. The examination for  
64 competency must be completed within 90 days after the  
65 application has been accepted by the department. Upon successful  
66 completion of the competency examination, the department shall  
67 register the examinee.

68 (a) Qualifier registration automatically expires if the  
69 individual terminates active employment in the area of  
70 examination for a period exceeding 24 months, or fails to  
71 provide documentation of continuing education. If the qualifier  
72 registration has expired, the individual must apply for and  
73 successfully complete an examination by the department in order  
74 to reestablish qualifier status.

75 (b) Every business organization in license category I,  
76 category II, or category V shall employ at all times a full-time  
77 qualifier who has successfully completed an examination in the  
78 corresponding category of the license held by the business  
79 organization. In order to apply for certification as a  
80 qualifier, each applicant must have a minimum of 1 year of  
81 verifiable LP gas experience. A person may not act as a  
82 qualifier for more than one licensed or remote bulk storage  
83 location.

84 (4) A qualifier for a business must actually function in a  
85 position with authority to monitor and enforce safety provisions  
86 under this chapter at the licensed location ~~supervisory capacity~~  
87 ~~of other company employees performing licensed activities.~~ A

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88 separate qualifier shall be required for every 10 such  
89 employees.

90 (5) In addition to all other licensing requirements, each  
91 category I and category V licensee must, at the time of  
92 application for licensure, identify to the department one master  
93 qualifier who is a full-time employee of the licensee ~~at the~~  
94 ~~licensed location~~. This person shall be a manager, an owner, or  
95 otherwise primarily responsible for overseeing the operations of  
96 the licensed location and must provide documentation to the  
97 department as provided by rule. A person may not act as a master  
98 qualifier for more than one licensee. The master qualifier  
99 requirement shall be in addition to the requirements of  
100 subsection (1).

101 (a) In order to apply for certification as a master  
102 qualifier, each applicant must have a minimum of 3 years of  
103 verifiable LP gas experience or hold a professional  
104 certification by an LP gas manufacturer as adopted by department  
105 rule immediately preceding submission of the application, must  
106 be employed by a licensed category I or category V licensee or  
107 an applicant for such license, and must pass a master qualifier  
108 competency examination administered by the department or its  
109 agent. Master qualifier examinations shall be based on Florida's  
110 laws, rules, and adopted codes governing liquefied petroleum gas  
111 safety, general industry safety standards, and administrative  
112 procedures. The applicant must successfully pass the examination  
113 with a grade of 70 percent or above. Each applicant for master  
114 qualifier registration must submit to the department a  
115 nonrefundable \$30 examination fee before the examination.

116 (b) Upon successful completion of the master qualifier



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117 examination, the department shall issue the examinee a master  
118 qualifier registration. A master qualifier may transfer from one  
119 licenseholder to another upon becoming employed by the company  
120 and providing a written request to the department.

121 (c) A master qualifier registration expires 3 years after  
122 the date of issuance and may be renewed by submission to the  
123 department of documentation of completion of at least 16 hours  
124 of approved continuing education courses during the 3-year  
125 period; proof of employment; and a \$30 certificate renewal fee.  
126 The department shall define by rule approved courses of  
127 continuing education.

128 Section 4. Subsection (5) is added to section 527.055,  
129 Florida Statutes, to read:

130 527.055 General powers and duties.—

131 (5) The department shall have the powers and authority to  
132 condemn unsafe equipment and order the immediate removal of  
133 liquefied petroleum gas from storage that does not comply with  
134 this chapter and is deemed a threat to the public health,  
135 safety, and welfare.

136 Section 5. Subsection (1) of section 527.0605, Florida  
137 Statutes, is amended to read:

138 527.0605 Liquefied petroleum gas bulk storage locations;  
139 jurisdiction.—

140 (1) The provisions of this chapter apply to liquefied  
141 petroleum gas bulk storage locations when:

142 (a) A single container in the bulk storage location has a  
143 capacity of 2,000 gallons or more;

144 (b) The aggregate container capacity of the bulk storage  
145 location is more than 4,000 gallons ~~or more~~; or

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146 (c) A container or containers are installed for the purpose  
147 of serving the public the liquid product.

148 Section 6. Present subsections (2) and (3) of section  
149 527.067, Florida Statutes, are redesignated as subsections (3)  
150 and (4), respectively, and a new subsection (2) is added to that  
151 section, to read:

152 527.067 Responsibilities of persons engaged in servicing  
153 liquefied petroleum gas equipment and systems and consumers, end  
154 users, or owners of liquefied petroleum gas equipment or  
155 systems.-

156 (2) All persons engaged in the business of servicing,  
157 testing, repairing, maintaining, or installing liquefied  
158 petroleum gas equipment and systems shall include on all work  
159 orders, estimates, invoices, and similar documentation the name,  
160 qualifier number, and license number of the person performing  
161 the work.

162 Section 7. Section 527.07, Florida Statutes, is amended to  
163 read:

164 527.07 Restriction on use of containers.-

165 (1) A person, other than the owner and those authorized by  
166 the owner, may not sell, fill, refill, remove gas from, deliver,  
167 permit to be delivered, or use in any manner any liquefied  
168 petroleum gas container or receptacle for any gas or compound,  
169 or for any other purpose.

170 (2) A person, other than those authorized by the end user,  
171 may not add gas to or remove gas from any container or  
172 receptacle that contains liquefied petroleum gas purchased or  
173 contracted for transfer by, and in the lawful possession of, the  
174 end user.

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175 Section 8. Subsections (1) and (2) of section 527.11,  
176 Florida Statutes, are amended to read:

177 527.11 Minimum storage.—

178 (1) Every person who engages in the distribution of  
179 liquefied petroleum gas for resale to domestic, commercial, or  
180 industrial consumers as a prerequisite to obtaining a liquefied  
181 petroleum gas license shall install, own, or lease a bulk  
182 storage with an aggregate capacity filling plant of not less  
183 than 18,000 gallons (water capacity) within this the state and  
184 ~~shall be located within a 75-mile radius of the licensed~~  
185 ~~company's business location. The~~ This bulk storage ~~filling plant~~  
186 must have loading and unloading provisions solely for the  
187 licenseholder and be operated and maintained in compliance with  
188 this chapter for the duration of the license.

189 (2) ~~A dealer in liquefied petroleum gas licensed as of~~  
190 ~~August 31, 2000, who has entered or who enters into a written~~  
191 ~~agreement with a wholesaler that the wholesaler will provide~~  
192 ~~liquefied petroleum gas to the dealer for a period of 12~~  
193 ~~continuous months is exempt from the requirements of subsection~~  
194 ~~(1), if the wholesaler has at least 18,000 gallons (water~~  
195 ~~capacity) of bulk storage within this state permanently~~  
196 ~~connected for storage, which is used as such for each dealer to~~  
197 ~~whom gas is sold, and if the wholesaler has loading and~~  
198 ~~unloading provisions. Such dealer must provide certification of~~  
199 ~~this agreement on a form provided by the department to the~~  
200 ~~department before her or his license may be issued. The form~~  
201 ~~must be signed by both the wholesaler or his or her agent and~~  
202 ~~the dealer or his or her agent and must be submitted annually~~  
203 ~~with the license renewal application. A dealer who does not~~

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204 provide written proof of minimum storage may have her or his  
205 license denied, suspended, or revoked. A dealer or wholesaler  
206 may not enter into written agreements that allocate an amount of  
207 storage that exceeds the dealer's or wholesaler's total storage  
208 capacity minus 18,000 gallons (water capacity).

209 Section 9. This act shall take effect July 1, 2024.

**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.)

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Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

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BILL: CS/SB 1350

INTRODUCER: Transportation Committee and Senator DiCeglie

SUBJECT: Salvage

DATE: January 29, 2024

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Vickers</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	<u>Favorable</u>
3.	_____	_____	<u>FP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1350 relates to salvage motor vehicles, mobile homes, and vessels. The bill:

- Incorporates vessels into the definition of “independent entity” for purposes of incorporating vessels into the salvage certificate of title statute.
- Defines “major component parts” of electric, hybrid, and plug-in hybrid motor vehicles for verifying the sources of these parts during the rebuilt inspection process.
- Requires, if the owner maintains possession of a total loss motor vehicle or mobile home, that the owner or insurance company or owner notify the Department of Highway Safety and Motor Vehicles (DHSMV), and DHSMV must issue a salvage certificate of title or a certificate of destruction directly to the owner of such motor vehicle or mobile home.
- Incorporates damaged or dismantled “vessel” to the salvage statute and provides procedures for the release and application for titling by an independent entity in possession of the vessel.
- Reenacts statutes relating to the sale of specified motor vehicles and the rebuilt motor vehicle inspection program to incorporate changes to the definition of “major component parts.”

The bill takes effect July 1, 2024.

## II. Present Situation:

### Electric, Hybrid, and Plug-in Hybrid Vehicle Major Component Parts

Salvage motor vehicle dealers who purchase a major component part of a vehicle must record the date of purchase and the name, address, and personal identification card number of the seller, as well as the vehicle identification number, if available.<sup>1</sup> Before a salvage motor vehicle dealer can resell a salvage motor vehicle or its parts, the motor vehicle's title must indicate it is rebuilt, which requires a rebuilt inspection to assure the identity of the vehicle and all major component parts repaired or replaced.<sup>2</sup>

The current definition of "major component parts" provided in s. 319.30(1)(j), F.S., is specific to combustion engines and does not include parts of electric, hybrid, and plug-in hybrid motor vehicles that may be considered major component parts.

### Total Loss Motor Vehicles or Mobile Homes

Under current law, the owner, including persons who are self-insured, of a motor vehicle or mobile home that is considered salvage must, within 72 hours after the motor vehicle or mobile home becomes salvage, forward the title to the motor vehicle or mobile home to the Department of Highway Safety and Motor Vehicles (DHSMV) for processing. However, an insurance company that pays money as compensation for the total loss of a motor vehicle or mobile home must obtain the certificate of title for the motor vehicle or mobile home, make the required notification to the National Motor Vehicle Title Information System (NMVTIS),<sup>3</sup> and, within 72 hours after receiving such certificate of title, forward such title to DHSMV for processing.

The owner or insurance company, as applicable, may not dispose of a vehicle or mobile home that is a total loss before it obtains, from DHSMV, a salvage certificate of title or certificate of destruction. Effective January 1, 2020:

- Thirty days after payment of a claim for compensation, the insurance company may receive, from DHSMV, a salvage certificate of title or certificate of destruction if the insurance company is unable to obtain a properly assigned certificate of title from the owner or lienholder of the motor vehicle or mobile home, if the motor vehicle or mobile home does not carry an electronic lien on the title and the insurance company:
  - Has obtained the release of all liens on the motor vehicle or mobile home;
  - Has attested on a DHSMV-provided form that payment of the total loss claim has been distributed; and
  - Has attested on a DHSMV-provided form and signed by the insurance company or its authorized agent stating the attempts that have been made to obtain the title from the owner or lienholder and further stating that all attempts are to no avail. The form must

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<sup>1</sup> Section 319.30(6)(a), F.S.

<sup>2</sup> Sections 319.141 and 319.14, F.S.

<sup>3</sup> Section 319.30(1)(o), F.S., defines the term "National Motor Vehicle Title Information System" to mean the national mandated vehicle history database maintained by the United States Department of Justice to link the states' motor vehicle title records, including Florida's Department of Highway Safety and Motor Vehicles' title records, and ensure that states, law enforcement agencies, and consumers have access to vehicle titling, branding, and other information that enables them to verify the accuracy and legality of a motor vehicle title before purchase or title transfer of the vehicle occurs.

include a request that the salvage certificate of title or certificate of destruction be issued in the insurance company's name due to payment of a total loss claim to the owner or lienholder. The attempts to contact the owner may be by written request delivered in person or by first-class mail with a certificate of mailing to the owner's or lienholder's last known address.

- If the owner or lienholder is notified of the request for title in person, the insurance company must provide an affidavit attesting to the in-person request for a certificate of title.
- The request to the owner or lienholder for the certificate of title must include a complete description of the motor vehicle or mobile home and a statement that a total loss claim has been paid on the motor vehicle or mobile home.<sup>4</sup>

### **Independent Entities Possessing Damaged or Dismantled Vehicles or Vessels**

For purposes of s. 319.30, F.S., the term "independent entity" means a business or entity that may temporarily store damaged or dismantled motor vehicles pursuant to an agreement with an insurance company and is engaged in the same or resale of damaged motor vehicle. The term does not include a wrecker operator, a towing company, or repair facility.<sup>5</sup>

Under current law, when an independent entity is in possession of a damaged or dismantled motor vehicle, an insurance company can notify the independent entity, with a DHSMV-prescribed form, authorizing the release of the motor vehicle to the owner. The form contains: the policy and claim number, the name and address of the insured, the vehicle identification number, and the signature of an authorized representative of the insurance company.<sup>6</sup>

Upon receiving this form, the independent entity must notify the owner that the motor vehicle is available for pickup. The notification must be sent by certified mail or another commercially available delivery service that provides proof of delivery to the owner at the owner's address contained in the DHSMV's records. If the vehicle is not claimed within 30 days after delivery or attempted delivery of the notice, the independent entity may apply for a certificate of destruction or a certificate of title.<sup>7</sup>

If DHSMV's records do not contain the motor vehicle owner's address, the independent entity must:

- Send the required notification to the owner's address that is provided by the insurance company in the release statement; and
- Identify the latest titling jurisdiction of the vehicle through NMVTIS or an equivalent commercially available system in an attempt to obtain the owner's address from that jurisdiction. If the jurisdiction provides an address that is different from the owner's address provided by the insurance company, the independent entity must provide the required notice to both addresses.<sup>8</sup>

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<sup>4</sup> Section 319.30(3)(b), F.S.

<sup>5</sup> Section 319.30(1)(g), F.S.

<sup>6</sup> Section 319.30(9)(a), F.S.

<sup>7</sup> Section 319.30(9)(b), F.S.

<sup>8</sup> Section 319.30(9)(c), F.S.

The independent entity must maintain all records related to the 30-day notice and searches in the NMVTIS for three years.<sup>9</sup> Upon applying for a certificate of destruction or salvage certificate of title, the independent entity must provide a copy of the release statement from the insurance company, proof of the 30-day notice sent to the owner, proof of notification to the NMVTIS, proof of all lien satisfactions or proof of a release of all liens on the motor vehicle, and applicable fees.<sup>10</sup>

Currently, the above process does not currently include vessels. The need to include a process for returning to owners, or obtaining salvage certificates of title, for damaged or dismantled vessels in the possession of independent entities became evident following Hurricane Ian in 2022.

### **III. Effect of Proposed Changes:**

#### **Electric, Hybrid, and Plug-in Hybrid Vehicle Major Component Parts**

The bill amends s. 319.30(1)(j), F.S., defining the term “major component parts” to include for electric, hybrid, or plug-in hybrid motor vehicles or trucks, in addition to parts currently listed, any electric traction motor, electronic transmission, charge port, DC power converter, onboard charger, power electronics controller, thermal system, traction battery pack, or airbag.

#### **Total Loss Motor Vehicles or Mobile Homes**

The bill amends s. 319.30(3)(b), F.S., providing that if the owner maintains possession of a motor vehicle or mobile home in connection with a total loss claim settlement for such motor vehicle or mobile home, the owner must, within 72 hours of the motor vehicle or mobile home becoming salvage, or the insurance company must, within 72 hours after receiving the certificate of title for motor vehicle or mobile home, forward the certificate of title to the motor vehicle or mobile home to DHSMV for processing, and DHSMV must issue a salvage certificate of title or certificate of destruction directly to the motor vehicle or mobile home owner rather than to the insurance company or its agent.

The bill clarifies that the certificate of title may be either paper or electronic.

The bill provides that as an alternative for the insurance company having received a release of all liens, it may pay the amount due to the lienholder and obtain proof that the lienholder accepts payment as satisfying the amount due to the lienholder.

The bill clarifies that attempts to contact to the owner or lienholder must be to the owner or lienholder’s last known address.

The bill adds that the request to the owner or lienholder for the assignment of title, in lieu of the certificate of title, must include a complete description of the motor vehicle or mobile home and that a total loss claim has been paid on the motor vehicle or mobile home.

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<sup>9</sup> Section 319.30(9)(d), F.S.

<sup>10</sup> Section 319.30(9)(f), F.S.



The bill provides that DHSMV is not liable and may not be held liable to an owner, lienholder, or any other person as a result of the issuance of a salvage certificate of title or a certificate of destruction.

### **Independent Entities Possessing Damaged or Dismantled Vehicles or Vessels**

The bill amends s. 319.30, F.S., expanding the authority of independent entities to allow them to temporarily store damaged or dismantled vessels pursuant to an agreement with an insurance company and participate in the sale or resale of such vessels. For this purpose, a vessel is defined as every description of a watercraft, barge, and airboat used or capable of being used as a means of transportation on water.<sup>11</sup>

The bill treats vessels the same as motor vehicles in possession of an independent entity with the following exceptions:

- On the DHSMV-prescribed form, the vessel’s hull identification number is reported, instead of the vehicle identification number.
- If the vessel is hull-damaged, the independent entity must comply, as applicable, with the “Hull Damaged” title brand designation requirements outlined in s. 328.045, F.S., and that the application must indicate “Hull Damaged.”
- The independent entity is not required to notify NMVTIS before releasing the vessel to the owner or before applying for a certificate of title as defined in s. 328.0015, F.S.<sup>12</sup>.

### **Conforming Changes**

The bill reenacts s. 319.14(1)(b), F.S., relating to the sale of specified motor vehicles, and s. 319.141(1)(b), F.S., relating to the rebuilt motor vehicle inspection program, incorporating changes made by the bill to the term “major component parts” to other provisions of statute.

### **Effective Date**

The bill takes effect July 1, 2024.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

<sup>11</sup> This is as provided in s. 713.78(1)(b), F.S., which excludes a seaplane or a vessel for which a valid certificate of documentation is outstanding pursuant to 46 C.F.R. part 67.

<sup>12</sup> Section 328.0015(1)(f), F.S., defines the term “certificate of title” to mean a record, created by DSHMV or by a governmental agency of another jurisdiction under the law of that jurisdiction, that is designated as a certificate of title by DSHMV or agency and is evidence of ownership of a vessel.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The Department of Highway Safety and Motor Vehicles' (DHSMV's) direct issuance of a certificate of title or certificate of destruction when the owner retains a total loss vehicle or vessel will have an indeterminate positive impact on insurance companies due to the streamlined process.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on DHSMV associated with the inspection of electric, hybrid, and plug-in hybrid motor vehicles.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 319.30 of the Florida Statutes.

This bill reenacts portions of sections 319.14 and 319.141 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

**CS by Transportation on January 23, 2024:**

The committee substitute:

- Defines the term “major component parts” for electric, hybrid, or plug-in hybrid motor vehicles or trucks.
- Clarifies the titling for salvage motor vehicles and mobile homes being retained by the owner.
- Revises the lien release process for total loss motor vehicles.
- Provides a titling process for abandoned vessels.
- Removes the changes to the statutory definition of “hull damaged” as it relates to vessels.
- Makes technical and conforming changes.

**B. Amendments:**

None.

By the Committee on Transportation; and Senator DiCeglie

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1                   A bill to be entitled  
2       An act relating to salvage; amending s. 319.30, F.S.;  
3       revising and defining terms; revising provisions  
4       relating to obtaining a salvage certificate of title  
5       or certificate of destruction; exempting the  
6       Department of Highway Safety and Motor Vehicles from  
7       liability to certain persons as a result of the  
8       issuance of such certificates; providing requirements  
9       for an independent entity's release of a damaged or  
10      dismantled vessel to the owner; authorizing the  
11      independent entity to apply for certain certificates  
12      for an unclaimed vessel; providing requirements for  
13      such application; specifying provisions to which the  
14      independent entity is subject; prohibiting the  
15      independent entity from charging vessel storage fees;  
16      reenacting ss. 319.14(1)(b) and 319.141(1)(b), F.S.,  
17      relating to the sale of motor vehicles registered or  
18      used as specified vehicles and the definition of the  
19      term "rebuilt inspection services" as used in the  
20      rebuilt motor vehicle inspection program,  
21      respectively, to incorporate the amendment made to s.  
22      319.30, F.S., in references thereto; providing an  
23      effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27       Section 1. Paragraphs (g) and (j) of subsection (1),  
28      paragraph (b) of subsection (3), and subsection (9) of section  
29      319.30, Florida Statutes, are amended, and paragraph (y) is

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30 added to subsection (1) of that section, to read:

31 319.30 Definitions; dismantling, destruction, change of  
32 identity of motor vehicle, vessel, or mobile home; salvage.—

33 (1) As used in this section, the term:

34 (g) "Independent entity" means a business or entity that  
35 may temporarily store damaged or dismantled motor vehicles or  
36 vessels pursuant to an agreement with an insurance company and  
37 that is engaged in the sale or resale of damaged or dismantled  
38 motor vehicles or vessels. The term does not include a wrecker  
39 operator, a towing company, or a repair facility.

40 (j) "Major component parts" means:

41 1. Except as provided in subparagraph 3., for motor  
42 vehicles other than motorcycles, any fender, hood, bumper, cowl  
43 assembly, rear quarter panel, trunk lid, door, decklid, floor  
44 pan, engine, frame, transmission, catalytic converter, or  
45 airbag.

46 2. Except as provided in subparagraph 3., for trucks, in  
47 addition to those parts listed in subparagraph 1., any truck  
48 bed, including dump, wrecker, crane, mixer, cargo box, or any  
49 bed which mounts to a truck frame.

50 3. For electric, hybrid, or plug-in hybrid motor vehicles  
51 or trucks, in addition to the parts listed in subparagraphs 1.  
52 and 2., respectively, any electric traction motor, electronic  
53 transmission, charge port, DC power converter, onboard charger,  
54 power electronics controller, thermal system, traction battery  
55 pack, or airbag.

56 4. For motorcycles, the body assembly, frame, fenders, gas  
57 tanks, engine, cylinder block, heads, engine case, crank case,  
58 transmission, drive train, front fork assembly, and wheels.

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59 5.4. For mobile homes, the frame.

60 (y) "Vessel" has the same meaning as in s. 713.78(1)(b).

61 (3)

62 (b) The owner, including persons who are self-insured, of a  
63 motor vehicle or mobile home ~~that is~~ considered to be salvage  
64 shall, within 72 hours after the motor vehicle or mobile home  
65 becomes salvage, forward the title to the motor vehicle or  
66 mobile home to the department for processing. However, and  
67 except as provided in this paragraph for a motor vehicle or  
68 mobile home retained by the owner in connection with a total  
69 loss claim settlement, an insurance company that pays money as  
70 compensation for the total loss of a motor vehicle or mobile  
71 home shall obtain the certificate of title for the motor vehicle  
72 or mobile home, make the required notification to the National  
73 Motor Vehicle Title Information System, and, within 72 hours  
74 after receiving such certificate of title, forward such title by  
75 the United States Postal Service, by another commercial delivery  
76 service, or by electronic means, when such means are made  
77 available by the department, to the department for processing.  
78 However, if the owner retains possession of a motor vehicle or  
79 mobile home in connection with a total loss claim settlement for  
80 such motor vehicle or mobile home, the owner must, within 72  
81 hours after the motor vehicle or mobile home becomes salvage, or  
82 the insurance company must, within 72 hours after receiving the  
83 certificate of title for such motor vehicle or mobile home,  
84 forward the certificate of title to the motor vehicle or mobile  
85 home to the department for processing, and the department must  
86 issue a salvage certificate of title or certificate of  
87 destruction directly to the motor vehicle or mobile home owner

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88 rather than to the insurance company or its agent. The owner or  
89 insurance company, as applicable, may not dispose of a motor  
90 vehicle or mobile home that is a total loss before it obtains a  
91 salvage certificate of title or certificate of destruction from  
92 the department. ~~Effective January 1, 2020:~~

93 1. Thirty days after payment of a claim for compensation  
94 pursuant to this paragraph, the insurance company may receive a  
95 salvage certificate of title or certificate of destruction from  
96 the department if the insurance company is unable to obtain a  
97 properly assigned paper certificate of title from the owner or  
98 lienholder of the motor vehicle or mobile home or a properly  
99 completed assignment of an electronic certificate of title from  
100 the owner of, ~~if the motor vehicle or mobile home does not carry~~  
101 ~~an electronic lien on the title~~ and the insurance company:

102 a. Has obtained the release of all liens on the motor  
103 vehicle or mobile home, or has paid the amount due to the  
104 lienholder and has obtained proof that the lienholder accepts  
105 payment as satisfying the amount due to the lienholder;

106 b. Has attested on a form provided by the department that  
107 payment of the total loss claim has been distributed; and

108 c. Has attested on a form provided by the department and  
109 signed by the insurance company or its authorized agent stating  
110 the attempts that have been made to obtain the paper certificate  
111 of title or a properly completed assignment of an electronic  
112 certificate of title from the owner or lienholder and further  
113 stating that all attempts are to no avail. The form must include  
114 a request that the salvage certificate of title or certificate  
115 of destruction be issued in the insurance company's name due to  
116 payment of a total loss claim to the owner or lienholder. The

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117 attempts to contact the owner or lienholder may be by written  
118 request delivered in person or by first-class mail with a  
119 certificate of mailing to the owner's last known address or  
120 lienholder's last known address, respectively.

121 2. If the owner or lienholder is notified of the request  
122 for title or assignment of title in person, the insurance  
123 company must provide an affidavit attesting to the in-person  
124 request for a certificate of title or assignment of title.

125 3. The request to the owner or lienholder for the  
126 certificate of title or to the owner or lienholder for the  
127 assignment of title must include a complete description of the  
128 motor vehicle or mobile home and the statement that a total loss  
129 claim has been paid on the motor vehicle or mobile home.

130 4. The department is not liable and may not be held liable  
131 to an owner, a lienholder, or any other person as a result of  
132 the issuance of a salvage certificate of title or a certificate  
133 of destruction pursuant to subparagraph 1.

134 (9) (a) An insurance company may notify an independent  
135 entity that obtains possession of a damaged or dismantled motor  
136 vehicle or vessel to release the vehicle or vessel to the owner.  
137 The insurance company shall provide the independent entity a  
138 release statement on a form prescribed by the department  
139 authorizing the independent entity to release the vehicle or  
140 vessel to the owner or lienholder. The form must, at a minimum,  
141 contain the following:

142 1. The policy and claim number.

143 2. The name and address of the insured.

144 3. The vehicle identification number or vessel hull  
145 identification number.



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146 4. The signature of an authorized representative of the  
147 insurance company.

148 (b) The independent entity in possession of a motor vehicle  
149 or vessel must send a notice to the owner that the motor vehicle  
150 or vessel is available for pickup when it receives a release  
151 statement from the insurance company. The notice must ~~shall~~ be  
152 sent by certified mail or by another commercially available  
153 delivery service that provides proof of delivery to the owner at  
154 the owner's address contained in the department's records. The  
155 notice must state that the owner has 30 days after delivery of  
156 the notice to the owner at the owner's address to pick up the  
157 motor vehicle or vessel from the independent entity. If the  
158 motor vehicle or vessel is not claimed within 30 days after the  
159 delivery or attempted delivery of the notice, the independent  
160 entity may apply for a certificate of destruction, a salvage  
161 certificate of title, or a certificate of title for a motor  
162 vehicle or a certificate of title as defined in s. 328.0015 for  
163 a vessel. For a vessel that is hull damaged as defined in s.  
164 328.0015, the application must indicate "Hull Damaged."

165 (c) If the department's records do not contain the owner's  
166 address, the independent entity must do all of the following:

167 1. Send a notice that meets the requirements of paragraph  
168 (b) to the owner's address that is provided by the insurance  
169 company in the release statement.

170 2. For a motor vehicle, identify the latest titling  
171 jurisdiction of the vehicle through use of the National Motor  
172 Vehicle Title Information System or an equivalent commercially  
173 available system and attempt to obtain the owner's address from  
174 that jurisdiction. If the jurisdiction returns an address that

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175 is different from the owner's address provided by the insurance  
176 company, the independent entity must send a notice that meets  
177 the requirements of paragraph (b) to both addresses.

178 (d) The independent entity shall maintain for at least a  
179 ~~minimum of~~ 3 years the records related to the 30-day notice sent  
180 to the owner. For motor vehicles, the independent entity shall  
181 also maintain for at least 3 years the results of searches of  
182 the National Motor Vehicle Title Information System or an  
183 equivalent commercially available system, and the notification  
184 to the National Motor Vehicle Title Information System made  
185 pursuant to paragraph (e).

186 (e) The independent entity shall make the required  
187 notification to the National Motor Vehicle Title Information  
188 System before releasing any damaged or dismantled motor vehicle  
189 to the owner or before applying for a certificate of destruction  
190 or salvage certificate of title. The independent entity is not  
191 required to notify the National Motor Vehicle Title Information  
192 System before releasing any damaged or dismantled vessel to the  
193 owner or before applying for a certificate of title as defined  
194 in s. 328.0015.

195 (f) Upon applying for a certificate of destruction, ~~or~~  
196 salvage certificate of title, or certificate of title for a  
197 motor vehicle or for a certificate of title as described in  
198 paragraph (b) for a vessel, the independent entity shall provide  
199 a copy of the release statement from the insurance company to  
200 the independent entity, proof of providing the 30-day notice to  
201 the owner, proof of notification to the National Motor Vehicle  
202 Title Information System if required, proof of all lien  
203 satisfactions or proof of a release of all liens on the motor

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204 vehicle or vessel, and applicable fees. If the independent  
205 entity is unable to obtain a lien satisfaction or a release of  
206 all liens on the motor vehicle or vessel, the independent entity  
207 must provide an affidavit stating that notice was sent to all  
208 lienholders that the motor vehicle or vessel is available for  
209 pickup, 30 days have passed since the notice was delivered or  
210 attempted to be delivered pursuant to this section, attempts  
211 have been made to obtain a release from all lienholders, and all  
212 such attempts have been to no avail. The notice to lienholders  
213 and attempts to obtain a release from lienholders may be by  
214 written request delivered in person or by certified mail or  
215 another commercially available delivery service that provides  
216 proof of delivery to the lienholder at the lienholder's address  
217 as provided on the certificate of title for a motor vehicle or  
218 on the certificate of title as defined in s. 328.0015 for a  
219 vessel and to the address designated with the Department of  
220 State pursuant to s. 655.0201(2) if such address is different.

221 (g) The independent entity may not charge an owner of the  
222 vehicle or vessel storage fees or apply for a title under s.  
223 713.585 or s. 713.78.

224 Section 2. For the purpose of incorporating the amendment  
225 made by this act to section 319.30, Florida Statutes, in a  
226 reference thereto, paragraph (b) of subsection (1) of section  
227 319.14, Florida Statutes, is reenacted to read:

228 319.14 Sale of motor vehicles registered or used as  
229 taxicabs, police vehicles, lease vehicles, rebuilt vehicles,  
230 nonconforming vehicles, custom vehicles, or street rod vehicles;  
231 conversion of low-speed vehicles.—

232 (1)

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233 (b) A person may not knowingly offer for sale, sell, or  
234 exchange a rebuilt vehicle until the department has stamped in a  
235 conspicuous place on the certificate of title for the vehicle  
236 words stating that the vehicle has been rebuilt or assembled  
237 from parts, or is a kit car, glider kit, replica, flood vehicle,  
238 custom vehicle, or street rod vehicle unless proper application  
239 for a certificate of title for a vehicle that is rebuilt or  
240 assembled from parts, or is a kit car, glider kit, replica,  
241 flood vehicle, custom vehicle, or street rod vehicle has been  
242 made to the department in accordance with this chapter and the  
243 department has conducted the physical examination of the vehicle  
244 to assure the identity of the vehicle and all major component  
245 parts, as defined in s. 319.30(1), which have been repaired or  
246 replaced. Thereafter, the department shall affix a decal to the  
247 vehicle, in the manner prescribed by the department, showing the  
248 vehicle to be rebuilt.

249 Section 3. For the purpose of incorporating the amendment  
250 made by this act to section 319.30, Florida Statutes, in a  
251 reference thereto, paragraph (b) of subsection (1) of section  
252 319.141, Florida Statutes, is reenacted to read:

253 319.141 Rebuilt motor vehicle inspection program.—

254 (1) As used in this section, the term:

255 (b) "Rebuilt inspection services" means an examination of a  
256 rebuilt vehicle and a properly endorsed certificate of title,  
257 salvage certificate of title, or manufacturer's statement of  
258 origin and an application for a rebuilt certificate of title, a  
259 builder's affidavit, a photograph of the junk or salvage  
260 vehicle taken before repairs began, if available, a photograph  
261 of the interior driver and passenger sides of the vehicle if

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262 airbags were previously deployed and replaced, receipts or  
263 invoices for all major component parts, as defined in s. 319.30,  
264 and repairs which were changed, and proof that notice of  
265 rebuilding of the vehicle has been reported to the National  
266 Motor Vehicle Title Information System.

267 Section 4. This act shall take effect July 1, 2024.

**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.)

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Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

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BILL: CS/SB 1526

INTRODUCER: Committee on Environment and Natural Resources and Senator Avila

SUBJECT: Local Regulation of Nonconforming or Unsafe Structures

DATE: January 31, 2024

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	<b>Favorable</b>
2.	<u>Barriero</u>	<u>Rogers</u>	<u>EN</u>	<b>Fav/CS</b>
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1526 creates the Resiliency and Safe Structures Act, providing that a local government may not prohibit, restrict, or prevent the demolition of the following structures for any reason other than public safety:

- Nonconforming structures;
- Structures or buildings determined to be unsafe by a local building official; and
- Structures or buildings ordered to be demolished by a local government that has proper jurisdiction.

The bill provides that a local government must authorize replacement structures for qualifying buildings to be developed to the maximum height and overall building size authorized by local development regulations for a similarly situated parcel within the same zoning district. The bill prohibits a local government from imposing certain restrictions and limitations on a replacement structure to be built on the property where a qualifying structure was demolished. A local government may only administratively review an application for a demolition permit for compliance with the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code, or local amendments thereto, and any regulation applicable to a similarly situated parcel. The local government may not impose additional local land development regulations or public hearings on an applicant for a permit under this bill.

The provisions of the bill do not apply to:

- Structures or buildings individually listed in the National Register of Historic Places;

- Single-family homes;
- Contributing structures or buildings within a historic district which was listed in the National Register of Historic Places before January 1, 2000;
- Structures or buildings located on a barrier island in a municipality with a population of less than 10,000 according to the most recent decennial census and which has at least six city blocks that are not located in zones V, VE, AO, or AE, as identified in the Flood Insurance Rate Map issued by the Federal Emergency Management Agency.

## II. Present Situation:

### The Florida Building Code

In 1974, Florida passed legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met.<sup>1</sup> 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 saw fit.<sup>2</sup>

In 1992, Hurricane Andrew destroyed many structures that were built according to code, demonstrating that Florida's system of local codes was flawed.<sup>3</sup> The Governor appointed a study commission to review the system of local codes and make recommendations for its modernization. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Building Code, and that first edition replaced all local codes on March 1, 2002.<sup>4</sup>

The Building Code is updated every three years.<sup>5</sup> The current edition of the Building Code is the 8th edition, which is referred to as the 2023 Florida Building Code. Among other things, the Building Code sets limitations on building height and size.<sup>6</sup> Height restrictions are determined based on the type of construction, occupancy classification, and whether there is an automatic sprinkler system installed throughout the building.<sup>7</sup>

The Florida Building Commission was statutorily created to implement the Building Code.<sup>8</sup> The commission, which is housed within the Department of Business and Professional Regulation, is a 19-member technical body made up of design professionals, contractors, and government

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<sup>1</sup> Dep't of Community Affairs, *The Florida Building Commission Report to the 2006 Legislature*, 4 (2006), available at [http://www.floridabuilding.org/fbc/publications/2006\\_Legislature\\_Rpt\\_rev2.pdf](http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*; Dep't of Business and Professional Regulation, *Building Code Information System*, <https://floridabuilding.org/c/default.aspx> (last visited Jan. 25 2024).

<sup>5</sup> See Fla. Bldg. Commission, *Florida Building Codes and Effective Dates*, 1 (2023), available at [https://www.floridabuilding.org/fbc/Publications/2023\\_Effective\\_Dates.pdf](https://www.floridabuilding.org/fbc/Publications/2023_Effective_Dates.pdf).

<sup>6</sup> Florida Building Code, *2023 Florida Building Code, Building: 8th Edition*, s. 503 (2023), available at [https://codes.iccsafe.org/content/FLBC2020P1/chapter-5-general-building-heights-and-areas#FLBC2020P1\\_Ch05\\_Sec502](https://codes.iccsafe.org/content/FLBC2020P1/chapter-5-general-building-heights-and-areas#FLBC2020P1_Ch05_Sec502).

<sup>7</sup> *Id.* at s. 504.1.

<sup>8</sup> See section 553.74(1), F.S.

experts in various disciplines covered by the Building Code.<sup>9</sup> The commission reviews International Codes published by the International Code Council,<sup>10</sup> the National Electric Code, and other nationally adopted model codes during its triennial update of the Building Code.<sup>11</sup> Local governments may adopt amendments to the technical provisions of the Building Code that apply solely within the jurisdiction of such government and that provide for more stringent requirements than those specified in the Building Code.<sup>12</sup> A local government must determine there is a need to strengthen the requirements of the Building Code based on a review of local conditions.<sup>13</sup> Such amendments may not introduce a new subject not addressed in the Building Code.<sup>14</sup> Most technical amendments sunset upon adoption of the newest edition of the Building Code, unless adopted into the Building Code.<sup>15</sup>

### **Local Enforcement of the Florida Building Code**

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.<sup>16</sup> Every local government must enforce the Building Code and issue building permits.<sup>17</sup> It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit.<sup>18</sup> Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Building Code, including certain building, electrical, plumbing, mechanical, and gas inspections.<sup>19</sup> Construction work may not be done beyond a certain point until it passes an inspection.<sup>20</sup>

### **Demolition Permits**

Under state law, a permit is required to demolish a building.<sup>21</sup> 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.<sup>22</sup> However, an application for a demolition permit may only be reviewed administratively for compliance with the Building Code, the Florida Fire Prevention Code, and the Life Safety Code (or local amendments thereto), and any regulations applicable to a similarly

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<sup>9</sup> *Id.*

<sup>10</sup> 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. ICC, *About the ICC*, <https://www.iccsafe.org/about/who-we-are/> (last visited Jan. 25, 2024).

<sup>11</sup> Section 553.73(3), F.S.

<sup>12</sup> Section 553.73(4)(b), F.S.

<sup>13</sup> Section 553.73(4)(b)1., F.S.

<sup>14</sup> Section 553.73(4)(b)3., F.S.

<sup>15</sup> Section 553.73(4)(e), F.S.

<sup>16</sup> Section 553.72(2), F.S.

<sup>17</sup> Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

<sup>18</sup> Sections 125.56(4)(a) and 553.79(1), F.S.

<sup>19</sup> Florida Building Code, *2023 Florida Building Code: 8th Edition*, s. 110 (2023), available at [https://codes.iccsafe.org/content/FLBC2023P1/chapter-1-scope-and-administration#FLBC2023P1\\_Ch01\\_SubCh02\\_Sec110](https://codes.iccsafe.org/content/FLBC2023P1/chapter-1-scope-and-administration#FLBC2023P1_Ch01_SubCh02_Sec110).

<sup>20</sup> *Id.*

<sup>21</sup> Section 553.79(1)(a), F.S.

<sup>22</sup> *Id.*



situated parcel.<sup>23</sup> A local government may not subject applications to any additional local land development regulations or public hearings or penalize a private property owner for a demolition that is in compliance with the demolition permit.<sup>24</sup>

However, a local law, ordinance, or regulation may restrict demolition permits for certain designated historic structures:<sup>25</sup>

- Structure designated on the National Register of Historic Places;<sup>26</sup>
- 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.

### **National Flood Insurance Program**

The National Flood Insurance Program (NFIP) was created by the passage of the National Flood Insurance Act of 1968.<sup>27</sup> The NFIP is administered by the Federal Emergency Management Agency (FEMA) and provides homeowners, business owners, and renters in flood-prone areas the ability to purchase flood insurance protection from the federal government.<sup>28</sup> The general purpose of the NFIP is both to offer primary flood insurance to properties with significant flood risk and to reduce flood risk through the adoption of floodplain management standards. Participation in the NFIP is voluntary.<sup>29</sup> Within participating communities, the federal government makes flood insurance available throughout the community.<sup>30</sup> To join, a community must:

- Complete an application;
- Adopt a resolution of intent to participate and cooperate with FEMA; and
- Adopt and submit a floodplain management ordinance that meets or exceeds the minimum NFIP criteria.<sup>31</sup>

In coordination with participating communities, FEMA develops flood maps called Flood Insurance Rate Maps (FIRMs) that depict the community's flood risk and floodplain.<sup>32</sup> While FEMA is largely responsible for the creation of the FIRM, the community itself must pass the

<sup>23</sup> Section 553.79(26)(b), F.S.

<sup>24</sup> *Id.*

<sup>25</sup> Section 553.79(25)(d), F.S.

<sup>26</sup> The National Register of Historic Places is the federal government's official list of historic places in the United States. The National Historic Preservation Act of 1966 authorized the register, which is administered by the National Park Service. In order to be listed on the register, the owner of the property must not object. National Park Service, *What is the National Register of Historic Places*, <https://www.nps.gov/subjects/nationalregister/what-is-the-national-register.htm> (last visited Jan. 25, 2024).

<sup>27</sup> FEMA, *50 Years of the NFIP*, 2 (2020), available at [https://www.fema.gov/sites/default/files/2020-05/NFIP\\_50th\\_Final\\_8.5x11\\_Regional\\_Printable.pdf](https://www.fema.gov/sites/default/files/2020-05/NFIP_50th_Final_8.5x11_Regional_Printable.pdf).

<sup>28</sup> Benefits.gov, *National Flood Insurance Program (NFIP)*, <https://www.benefits.gov/benefit/435> (last visited Jan. 25, 2024).

<sup>29</sup> FEMA, *Participation in the NFIP*, <https://www.fema.gov/glossary/participation-nfip#:~:text=Participation%20in%20the%20National%20Flood%20Insurance%20Program%20%28NFIP%29,of%20intent%20to%20participate%20and%20cooperate%20with%20FEMA%3B> (last visited Jan. 25, 2024).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> See Congressional Research Service, *Introduction to the National Flood Insurance Program*, 3 (2023), available at <https://crsreports.congress.gov/product/pdf/R/R44593>.

map into its local regulations in order for the map to be effective.<sup>33</sup> An area of specific focus on the FIRM is the Special Flood Hazard Area (SFHA).<sup>34</sup> The SFHA is intended to distinguish the flood risk zones that have a chance of flooding during a 1-in-100 year flood or greater frequency. This means that properties in the SFHA have a risk of 1 percent or greater risk of flooding every year<sup>35</sup> and at least a 26 percent chance of flooding over the course of a 30-year mortgage.<sup>36</sup> Flood maps along the coasts show areas at high risk of flooding within the coastal SFHA.<sup>37</sup> The coastal SFHA includes several flood hazard zones:

- Zone V, or coastal high-hazard area, are coastal areas with a 1 percent or greater chance of flooding and an additional hazard associated with storm waves;<sup>38</sup>
- Zone VE, also known as the coastal high-hazard area, is where wave action and fast-moving water can cause extensive damage during a base flood event;<sup>39</sup>
- Zone AE indicates areas that have at least a 1 percent-annual-chance of being flooded, but where wave heights are less than 3 feet;<sup>40</sup>
- Zone AO is used to map areas at risk of shallow flooding during a base flood (1 percent-annual-chance), where water with average depths of one to three feet flows over sloping ground. On flood maps in coastal communities, Zone AO usually marks areas at risk of flooding from wave overtopping, where waves are expected to wash over the crest of a dune or bluff and flow into the area beyond.<sup>41</sup>

In a community that participates in the NFIP, owners of properties in the mapped SFHA are required to purchase flood insurance as a condition of receiving a federally backed mortgage.<sup>42</sup>

Key conditions of the NFIP minimum floodplain management standards include, among things, that communities:

- Require permits for development in the SFHA;
- Require elevation of the lowest floor of all new residential buildings in the SFHA to or above the base flood elevation;
- Restrict development in floodways to prevent increasing the risk of flooding; and
- Require certain construction materials and methods that minimize future flood damage.<sup>43</sup>

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> FEMA, *Coastal Hazards & Flood Mapping: A Visual Guide*, 6, available at [https://www.fema.gov/sites/default/files/documents/fema\\_coastal-glossary.pdf](https://www.fema.gov/sites/default/files/documents/fema_coastal-glossary.pdf).

<sup>37</sup> FEMA, *Features of Flood Insurance Rate Maps in Coastal Areas*, <https://www.fema.gov/flood-maps/coastal/insurance-rate-maps> (last visited Jan. 25, 2024).

<sup>38</sup> FEMA, *Zone V*, <https://www.fema.gov/glossary/zone-v> (last visited Jan. 25, 2024); see also FEMA, *Coastal High Hazard Areas*, <https://www.fema.gov/node/404318> (last visited Jan. 25, 2024).

<sup>39</sup> FEMA, *Features of Flood Insurance Rate Maps in Coastal Areas*, <https://www.fema.gov/flood-maps/coastal/insurance-rate-maps> (last visited Jan. 25, 2024).

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> Congressional Research Service, *Introduction to the National Flood Insurance Program*, 10 (2023), available at <https://crsreports.congress.gov/product/pdf/R/R44593>. Such lenders include federal agency lenders, such as the Department of Veterans Affairs, government-sponsored enterprises Fannie Mae, Freddie Mac, and federally regulated lending institutions, such as banks covered by the Federal Deposit Insurance Corporation or the Office of the Comptroller of the Currency.

<sup>43</sup> *Id.* at 6.

## New Construction Requirements in Coastal Flood Hazard Zones

For communities participating in the NFIP, FEMA places requirements on any new construction built in flood hazard areas.<sup>44</sup> Generally, new construction in flood-prone areas must be:<sup>45</sup>

- Designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- Constructed with materials resistant to flood damage;
- Constructed by methods and practices that minimize flood damages; and
- Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding.<sup>46</sup>

Specific conditions for new construction in coastal flood hazard zones include requiring all new construction to:<sup>47</sup>

- Be located landward of the reach of mean high tide;
- Be elevated on pilings and columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level;<sup>48</sup>
- Be elevated on pilings and columns so that the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and
- Have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. Such space may be used only for parking vehicles, building access, or storage.<sup>49</sup>

## Coastal Construction Control Line (CCCL)

The CCCL defines the portion of the beach-dune system that is subject to severe fluctuations caused by a 100-year storm surge, storm waves, or other forces such as wind, wave, or water level changes.<sup>50</sup> DEP establishes CCCLs on a county basis along the sand beaches of the state fronting on the Atlantic Ocean, the Gulf of Mexico, or the Straits of Florida.<sup>51</sup>

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<sup>44</sup> See 44 C.F.R. § 60.3.

<sup>45</sup> 44 C.F.R. § 60.3(a)(3).

<sup>46</sup> *Id.*

<sup>47</sup> 44 C.F.R. § 60.3(e)(3)-(5).

<sup>48</sup> The base flood level is how high floodwater is likely to rise during a 1-percent-annual-chance flood event and represents the minimum elevation of construction allowed. FEMA, *Coastal Hazards & Flood Mapping: A Visual Guide*, 6, available at [https://www.fema.gov/sites/default/files/documents/fema\\_coastal-glossary.pdf](https://www.fema.gov/sites/default/files/documents/fema_coastal-glossary.pdf).

<sup>49</sup> 44 C.F.R. § 60.3(e)(3)-(5).

<sup>50</sup> Section 161.053(1)(a), F.S.; Fla. Admin. Code R. 62B-33.005(1); DEP, *The Homeowner's Guide to the Coastal Construction Control Line Program*, 3 (2017), available at [https://floridadep.gov/sites/default/files/Homeowner%27s%20Guide%20to%20the%20CCCL%20Program%206\\_2012%20%28002%29\\_0.pdf](https://floridadep.gov/sites/default/files/Homeowner%27s%20Guide%20to%20the%20CCCL%20Program%206_2012%20%28002%29_0.pdf).

<sup>51</sup> Section 161.053(1)(a), F.S.

CCCLs are established by DEP after it has been determined from a comprehensive engineering study and topographic survey that the establishment of such control lines is necessary for the protection of upland properties and the control of beach erosion.<sup>52</sup> DEP may establish a segment or segments of a CCCL further landward than the impact zone of a 100-year storm surge provided such segment or segments do not extend beyond the landward toe of the coastal barrier dune structure that intercepts the 100-year storm surge.<sup>53</sup> Such segment or segments may not be established if adequate dune protection is provided by a state-approved dune management plan.<sup>54</sup>

Seaward of the CCCL, new construction and improvements to existing structures require a CCCL permit from DEP.<sup>55</sup> The line defines the landward limit of DEP's authority to regulate construction.<sup>56</sup> CCCLs currently exist for large portions of Florida's coast.<sup>57</sup>

A coastal county or coastal municipality may establish coastal construction zoning and building codes if such zones and codes are approved by DEP as being adequate to preserve and protect the beaches and coastal barrier dunes adjacent to such beaches from imprudent construction that will jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, endanger adjacent properties, or interfere with public beach access.<sup>58</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 553.8991, F.S., which establishes the Resiliency and Safe Structures Act. The bill applies to any structure or building on a property in which all or a portion of such property is seaward of the coastal construction control line and the structure or building is:

- A nonconforming structure;
- A structure or building determined to be unsafe by a local building official; or
- A structure or building ordered to be demolished by a local government that has proper jurisdiction.

The bill defines “nonconforming structure” as a structure or building that does not conform to the base flood elevation requirements for new construction issued by the National Flood Insurance Program for the applicable flood zone. The bill defines “coastal construction control line” as the boundary established under current law pursuant to s. 161.053, F.S., which requires the Department of Environmental Protection to establish coastal construction control lines to define that portion of the beach-dune system which is subject to severe fluctuations based on a 100-year storm surge, storm waves, or other predictable weather conditions.

The bill does not apply to any of the following structures or buildings:

- A structure or building individually listed in the National Register of Historic Places;

<sup>52</sup> Section 161.053(2)(a), F.S.

<sup>53</sup> Section 161.053(1)(a), F.S.

<sup>54</sup> *Id.*

<sup>55</sup> DEP, *The Homeowner's Guide to the Coastal Construction Control Line Program* at 2.

<sup>56</sup> *Id.*

<sup>57</sup> DEP, *Geospatial Open Data, CCCL*,

[https://geodata.dep.state.fl.us/datasets/4674ee6d93894168933e99aa2f14b923\\_2/explore](https://geodata.dep.state.fl.us/datasets/4674ee6d93894168933e99aa2f14b923_2/explore) (last visited Jan. 18, 2023).

<sup>58</sup> Section 161.053(3), F.S.

- A single-family home;
- A contributing structure or building within a historic district which was listed in the National Register of Historic Places before January 1, 2000;
- A structure or building located on a barrier island in a municipality with a population of less than 10,000 according to the most recent decennial census and which has at least six city blocks that are not located in zones V, VE, AO, or AE, as identified in the Flood Insurance Rate Map issued by the Federal Emergency Management Agency.<sup>59</sup>

The bill provides that a “local government”—defined as any municipality, county, special district, or any other political subdivision of the state—may not prohibit, restrict, or prevent the demolition of any structure or building identified in this section for any reason other than public safety. A local government may only administratively review an application for a demolition permit for compliance with the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code, or local amendments thereto, and any regulation applicable to a similarly situated parcel. The local government may not impose additional local land development regulations or public hearings on an applicant for a permit under this bill.

In addition, the bill provides that local governments must authorize “replacement structures” for qualifying buildings to be developed to the maximum height and overall building size authorized by local development regulations for a similarly situated parcel within the same zoning district. The bill defines “replacement structure” as a new structure built on a property where a structure was demolished or will be demolished in accordance with this section. A local government may not:

- Limit, for any reason, the development potential of replacement structures below the maximum development potential allowed by local development regulations for a similarly situated parcel within the same zoning district.
- Require replication of a demolished structure.
- Require the preservation of any elements of a demolished structure.
- Impose additional regulatory or building requirements on replacement structures which would not otherwise be applicable to a similarly situated vacant parcel located in the same zoning district.
- Impose additional public hearings or administrative processes that would not otherwise be applicable to a similarly situated vacant parcel within the same zoning district.

The bill provides that development applications submitted for replacement structures for qualifying buildings must be processed in accordance with the process outlined in local land development regulations including any required public hearings in front of the local historic board.

The bill applies prospectively and retroactively to any “law”—defined as any statute, ordinance, rule, regulation, policy, resolution, code enforcement order, agreement, or other governmental act—that is contrary to the bill or its intent. The bill must be liberally construed to effectuate its

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<sup>59</sup> Municipalities meeting this description may include, but are not limited to: Bal Harbour, Briny Breezes, Cape Canaveral, Golden Beach, Gulf Stream, Hillsboro Beach, Indian River Shores, Indian Harbour Beach, Jupiter Island, Manalapan, Ocean Ridge, Palm Beach, Palm Beach Shores, Sanibel Island, Sea Ranch Lakes, and Surfside.

intent. However, the bill does not apply to s. 553.79(25), F.S., regarding the demolition of single-family residential structures located in certain high-hazard areas and flood zones.

The bill also includes a preemption provision that prohibits a local government from adopting or enforcing a law that in any way limits the demolition of a qualifying structure or that limits the development of a replacement structure. A local government may not penalize an owner or a developer of a replacement structure or otherwise enact laws that defeat the intent of the bill. Any local government law contrary to this bill is void.

**Section 2** provides that the act will take effect upon becoming a law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may allow more structures to be demolished and new structures to be built in their places, which would increase construction and development.

C. Government Sector Impact:

Local governments may have to expend funds to process a possible increase in demolition permits. However, local governments may collect fees to cover the cost of their expenses to enforce the Building Code, which includes reviewing building permit applications.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 553.8991 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.)

**CS by Environment and Natural Resources on January 30, 2024:**

- Provides that the bill applies to any qualifying structure and building on a property in which all or a portion of such property is seaward of the coastal construction control line (CCCL);
- Defines CCCL as the boundary established under s. 161.053, F.S.;
- Removes provision that, to be a qualifying structure under the bill, nonconforming structures must be located within one-half mile of the coastline and within flood zones V, VE, AO, or AE;
- Provides that the bill does not apply to:
  - A contributing structure or building within a historic district which was listed in the National Register of Historic Places before January 1, 2000; or
  - A structure or building located on a barrier island in a municipality with a population of less than 10,000 according to the most recent decennial census and which has at least six city blocks that are not located in flood zones V, VE, AO, or AE;
- Clarifies that a local government must authorize replacement structures for qualifying buildings to be developed in accordance with local development regulations for a similarly situated parcel within the same zoning district;
- Prohibits a local government from imposing additional public hearings or administrative processes that would not otherwise be applicable to a similarly situated vacant parcel within the same zoning district;
- Provides that development applications submitted for replacement structures for qualifying buildings must be processed in accordance with the process outlined in local land development regulations including any required public hearings in front of the local historic board; and
- Corrects a citation.

**B. Amendments:**

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2024	.	
	.	
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	.	

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The Committee on Environment and Natural Resources (Avila) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

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

553.8991 Resiliency and Safe Structures Act.-

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

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



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11 (a) "Coastal construction control line" means the boundary  
12 established under s. 161.053.

13 (b) "Law" means any statute, ordinance, rule, regulation,  
14 policy, resolution, code enforcement order, agreement, or other  
15 governmental act.

16 (c) "Local government" means a municipality, county,  
17 special district, or any other political subdivision of the  
18 state.

19 (d) "Nonconforming structure" means a structure or building  
20 that does not conform to the base flood elevation requirements  
21 for new construction issued by the National Flood Insurance  
22 Program for the applicable flood zone.

23 (e) "Replacement structure" means a new structure or  
24 building built on a property where a structure or building was  
25 demolished or will be demolished in accordance with this  
26 section.

27 (3) QUALIFYING STRUCTURES AND BUILDINGS.—

28 (a) Subject to paragraph (b), this section applies to any  
29 structure or building on a property in which all or a portion of  
30 such property is seaward of the coastal construction control  
31 line and the structure or building is:

32 1. A nonconforming structure;

33 2. A structure or building determined to be unsafe by a  
34 local building official; or

35 3. A structure or building ordered to be demolished by a  
36 local government that has proper jurisdiction.

37 (b) This section does not apply to any of the following  
38 structures or buildings:

39 1. A structure or building individually listed in the



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40 National Register of Historic Places.

41 2. A single-family home.

42 3. A contributing structure or building within a historic  
43 district which was listed in the National Register of Historic  
44 Places before January 1, 2000.

45 4. A structure or building located on a barrier island in a  
46 municipality with a population of less than 10,000 according to  
47 the most recent decennial census and which has at least six city  
48 blocks that are not located in zones V, VE, AO, or AE, as  
49 identified in the Flood Insurance Rate Map issued by the Federal  
50 Emergency Management Agency.

51 (4) RESTRICTIONS ON DEMOLITION PROHIBITED.—A local  
52 government may not prohibit, restrict, or prevent the demolition  
53 of any structure or building identified in paragraph (3) (a) for  
54 any reason other than public safety. A local government may only  
55 administratively review an application for a demolition permit  
56 sought under this section for compliance with the Florida  
57 Building Code, the Florida Fire Prevention Code, and the Life  
58 Safety Code, or local amendments thereto, and any regulation  
59 applicable to a similarly situated parcel. The local government  
60 may not impose additional local land development regulations or  
61 public hearings on an applicant for a permit under this section.

62 (5) RESTRICTIONS ON REDEVELOPMENT PROHIBITED.—A local  
63 government shall authorize replacement structures for qualifying  
64 buildings identified in paragraph (3) (a) to be developed to the  
65 maximum height and overall building size authorized by local  
66 development regulations for a similarly situated parcel within  
67 the same zoning district. A local government may not do any of  
68 the following:



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69       (a) Limit, for any reason, the development potential of  
70 replacement structures below the maximum development potential  
71 allowed by local development regulations for a similarly  
72 situated parcel within the same zoning district.

73       (b) Require replication of a demolished structure.

74       (c) Require the preservation of any elements of a  
75 demolished structure.

76       (d) Impose additional regulatory or building requirements  
77 on replacement structures which would not otherwise be  
78 applicable to a similarly situated vacant parcel located in the  
79 same zoning district.

80       (e) Impose additional public hearings or administrative  
81 processes that would not otherwise be applicable to a similarly  
82 situated vacant parcel within the same zoning district.

83       (6) DEVELOPMENT APPLICATIONS.—Development applications  
84 submitted for replacement structures for qualifying buildings  
85 identified in paragraph (3) (a) must be processed in accordance  
86 with the process outlined in local land development regulations  
87 including any required public hearings in front of the local  
88 historic board. However, a local government may not impose  
89 additional public hearings or administrative processes that  
90 would not otherwise be applicable to a similarly situated vacant  
91 parcel within the same zoning district.

92       (7) APPLICATION AND CONSTRUCTION.—This section applies  
93 retroactively to any law adopted contrary to this section or its  
94 intent and must be liberally construed to effectuate its intent.  
95 This section does not apply to or affect s. 553.79(26).

96       (8) PREEMPTION.—A local government may not adopt or enforce  
97 a law that in any way limits the demolition of a structure



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98 identified in paragraph (3)(a) or that limits the development of  
99 a replacement structure in violation of subsection (5). A local  
100 government may not penalize an owner or a developer of a  
101 replacement structure for a demolition pursuant to this section  
102 or otherwise enact laws that defeat the intent of this section.  
103 Any local government law contrary to this section is void.

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

105

106 ===== T I T L E A M E N D M E N T =====

107 And the title is amended as follows:

108 Delete everything before the enacting clause

109 and insert:

110

A bill to be entitled

111 An act relating to local regulation of nonconforming  
112 and unsafe structures; creating s. 553.8991, F.S.;  
113 providing a short title; defining terms; providing  
114 applicability; prohibiting local governments from  
115 prohibiting, restricting, or preventing the demolition  
116 of certain structures and buildings unless necessary  
117 for public safety; authorizing a local government to  
118 administratively review an application for a  
119 demolition permit only for a specified purpose;  
120 prohibiting local governments from imposing additional  
121 local land development regulations or public hearings  
122 on permit applicants; requiring a local government to  
123 authorize replacement structures to be developed in  
124 accordance with certain regulations; prohibiting local  
125 governments from taking certain actions regarding  
126 replacement structures; requiring development



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127 applications to be processed in a specified manner;  
128 providing for retroactive application; providing  
129 construction; preempting regulation of the demolition  
130 or development of certain structures and buildings to  
131 the state under certain circumstances; prohibiting a  
132 local government from penalizing an owner or a  
133 developer for taking certain actions taken under this  
134 act; providing an effective date.

By Senator Avila

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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

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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:

52  
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:



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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

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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

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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.

**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.)

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Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

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BILL: CS/SB 1766

INTRODUCER: Committee on Environment and Natural Resources and Senator Rodriguez

SUBJECT: Flood Damage Prevention

DATE: January 30, 2024

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	<u>Favorable</u>
2.	<u>Barriero</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1766, cited as the Flood Damage Prevention Act of 2024, provides that voluntary freeboard may not be used in the calculation of the maximum allowable height in the applicable zoning district for certain new and substantially improved structures. The bill provides that in all areas, including coastal high-hazard areas, the maximum voluntary freeboard is 10 feet. Freeboard generally refers to elevating a building's lowest floor above the Base Flood Elevation (BFE) and is usually expressed in terms of feet. The BFE is how high floodwater is likely to rise during a 1-percent-annual-chance flood event ("base flood") and represents the minimum elevation of construction allowed.

The bill authorizes a local government to adopt by ordinance minimum voluntary freeboard requirements or a maximum voluntary freeboard that exceeds the requirements in the bill or the Florida Building Code.

In addition, the bill directs the Florida Building Commission to develop and adopt minimum freeboard requirements by November 1, 2024, and incorporate such requirements into the next edition of the Florida Building Code. Beginning January 2029, and every five years thereafter, the commission must review the freeboard requirements in the Florida Building Code and make recommendations to the Legislature regarding any necessary revisions to such requirements.

## II. Present Situation:

### The 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.<sup>1</sup> 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.<sup>2</sup>

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 appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Building Code, and that first edition replaced all local codes on March 1, 2002.<sup>3</sup>

The Building Code is updated every three years.<sup>4</sup> The current edition of the Building Code is the eighth edition, which is referred to as the 2023 Florida Building Code.<sup>5</sup>

Chapter 553, part IV, F.S., is known as the Florida Building Codes 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.<sup>6</sup>

Local governments may, not more than once every 6 months, adopt amendments to the technical provisions of the Building Code that apply solely within the jurisdiction of such government and that provide for more stringent requirements than those specified in the Building Code.<sup>7</sup> A local government must determine there is a need to strengthen the requirements of the Building Code based on a review of local conditions.<sup>8</sup> Such amendments may not introduce a new subject not addressed in the Building Code.<sup>9</sup> Most technical amendments sunset upon adoption of the newest edition of the Building Code, unless adopted into the Building Code.<sup>10</sup>

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<sup>1</sup> The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, available at [http://www.floridabuilding.org/fbc/publications/2006\\_Legislature\\_Rpt\\_rev2.pdf](http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf) (last visited Jan. 17, 2024).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*; Dep't of Business and Professional Regulation, *Building Code Information System*, available at: <https://floridabuilding.org/c/default.aspx#> (last visited Jan. 17, 2024).

<sup>4</sup> See Florida Building Commission, *Florida Building Codes and Effective Dates*, available at [https://www.floridabuilding.org/fbc/Publications/2023\\_Effective\\_Dates.pdf](https://www.floridabuilding.org/fbc/Publications/2023_Effective_Dates.pdf).

<sup>5</sup> See Florida Building Code, *2023 Florida Building Code: 8th Edition*, available at <https://codes.iccsafe.org/content/FLBC2023P1>.

<sup>6</sup> Section 553.72(1), F.S.

<sup>7</sup> Section 553.73 (4)(b), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Section 553.73(4)(e), F.S.

The Florida Building Commission was statutorily created to implement the Building Code. The commission, which is housed within the Department of Business and Professional Regulation, 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 International Codes published by the International Code Council,<sup>11</sup> the National Electric Code, and other nationally adopted model codes during its triennial update of the Building Code.<sup>12</sup>

### **Local Enforcement of the Florida Building Code**

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.<sup>13</sup> Every local government must enforce the Building Code and issue building permits.<sup>14</sup> It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency 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.<sup>15</sup>

Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Building Code, including certain building, electrical, plumbing, mechanical, and gas inspections.<sup>16</sup> Construction work may not be done beyond a certain point until it passes an inspection.<sup>17</sup>

### **National Flood Insurance Program**

The National Flood Insurance Program (NFIP) was created by the passage of the National Flood Insurance Act of 1968.<sup>18</sup> The NFIP is administered by the Federal Emergency Management Agency (FEMA) and provides homeowners, business owners, and renters in flood-prone areas the ability to purchase flood insurance protection from the federal government.<sup>19</sup> The general purpose of the NFIP is both to offer primary flood insurance to properties with significant flood risk and to reduce flood risk through the adoption of floodplain management standards. Participation in the NFIP is voluntary.<sup>20</sup> Within participating communities, the federal

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<sup>11</sup> The International Code Council 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*, available at <https://www.iccsafe.org/about/who-we-are/> (last visited Jan. 17, 2024).

<sup>12</sup> Sections 553.73 and 553.74, F.S.

<sup>13</sup> Section 553.72, F.S.

<sup>14</sup> Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

<sup>15</sup> Sections 125.56(4)(a) and 553.79(1), F.S.

<sup>16</sup> Florida Building Code, *2023 Florida Building Code: 8th Edition*, s. 110, available at [https://codes.iccsafe.org/content/FLBC2023P1/chapter-1-scope-and-administration#FLBC2023P1\\_Ch01\\_SubCh02\\_Sec110](https://codes.iccsafe.org/content/FLBC2023P1/chapter-1-scope-and-administration#FLBC2023P1_Ch01_SubCh02_Sec110).

<sup>17</sup> *Id.*

<sup>18</sup> FEMA, *50 Years of the NFIP*, available at [https://www.fema.gov/sites/default/files/2020-05/NFIP\\_50th\\_Final\\_8.5x11\\_Regional\\_Printable.pdf](https://www.fema.gov/sites/default/files/2020-05/NFIP_50th_Final_8.5x11_Regional_Printable.pdf) (last visited Jan. 17, 2024).

<sup>19</sup> Benefits.gov, *National Flood Insurance Program (NFIP)*, available at <https://www.benefits.gov/benefit/435> (last visited Jan. 17, 2024).

<sup>20</sup> FEMA, *Participation in the NFIP*, <https://www.fema.gov/glossary/participation-nfip#:~:text=Participation%20in%20the%20National%20Flood%20Insurance%20Program%20%28NFIP%29,of%20intent%20to%20participate%20and%20cooperate%20with%20FEMA%3B> (last visited Mar. 21, 2023).

government makes flood insurance available throughout the community.<sup>21</sup> To join, a community must:

- Complete an application;
- Adopt a resolution of intent to participate and cooperate with FEMA; and
- Adopt and submit a floodplain management ordinance that meets or exceeds the minimum NFIP criteria.<sup>22</sup>

FEMA collaborates with participating communities to develop flood maps called Flood Insurance Rate Maps (FIRMs) that depict the community's flood risk and floodplain.<sup>23</sup> While FEMA is largely responsible for the creation of the FIRM, the community itself must pass the map into its local regulations in order for the map to be effective.<sup>24</sup> An area of specific focus on the FIRM is the Special Flood Hazard Area (SFHA).<sup>25</sup> The SFHA is intended to distinguish the flood risk zones that have a chance of flooding during a 1-in-100 year flood or greater frequency. This means that properties in the SFHA have a risk of 1 percent or greater risk of flooding every year<sup>26</sup> and a one-in-four chance of flooding during a 30-year mortgage.<sup>27</sup> In a community that participates in the NFIP, owners of properties in the mapped SFHA are required to purchase flood insurance as a condition of receiving a federally backed mortgage.<sup>28</sup>

Key conditions of the NFIP minimum floodplain management standards include, among many other conditions, that communities:

- Require permits for development in the SFHA;
- Require elevation of the lowest floor of all new residential buildings in the SFHA to or above the Base Flood Elevation;
- Restrict development in floodways to prevent increasing the risk of flooding; and
- Require certain construction materials and methods that minimize future flood damage.<sup>29</sup>

### **Base Flood Elevation and Freeboard**

A base flood is a flood that has a one percent chance of occurring during any given year.<sup>30</sup> The Base Flood Elevation (BFE) is how high floodwater is likely to rise during a 1-percent-annual-chance flood event (base flood).<sup>31</sup> BFEs are measured from a reference point called

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> See Congressional Research Service, *Introduction to the National Flood Insurance Program*, 3 (2023), available at <https://crsreports.congress.gov/product/pdf/R/R44593>.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> FEMA, *Coastal Hazards & Flood Mapping: A Visual Guide*, 6, available at [https://www.fema.gov/sites/default/files/documents/fema\\_coastal-glossary.pdf](https://www.fema.gov/sites/default/files/documents/fema_coastal-glossary.pdf).

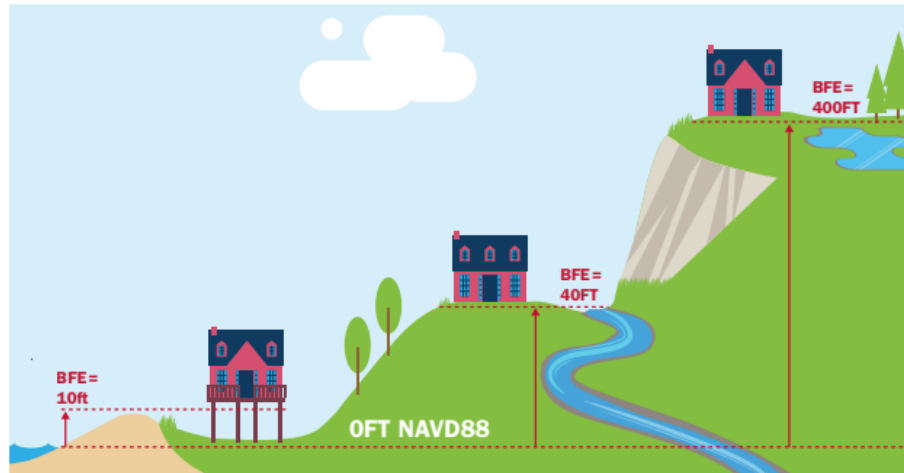
<sup>28</sup> Such lenders include federal agency lenders, such as the Department of Veterans Affairs, government-sponsored enterprises Fannie Mae, Freddie Mac, and federally regulated lending institutions, such as banks covered by the Federal Deposit Insurance Corporation (FDIC) or the Office of the Comptroller of the Currency (OCC).

<sup>29</sup> Congressional Research Service, *Introduction to the National Flood Insurance Program* (Updated Dec. 20, 2023), p. 6, available at <https://crsreports.congress.gov/product/pdf/R/R44593>.

<sup>30</sup> FEMA, *Coastal Hazards & Flood Mapping: A Visual Guide*, 6, available at [https://www.fema.gov/sites/default/files/documents/fema\\_coastal-glossary.pdf](https://www.fema.gov/sites/default/files/documents/fema_coastal-glossary.pdf).

<sup>31</sup> *Id.*

NAVD88, which is approximately equal to sea level, and vary widely across geographies.<sup>32</sup> The BFE represents the minimum elevation of construction allowed by the NFIP.<sup>33</sup>



## Freeboard

Freeboard is an additional amount of height above the BFE used as a factor of safety in determining the level at which a structure's lowest floor must be elevated or floodproofed to be in accordance with state or community floodplain management regulations.<sup>34</sup> Freeboard is usually expressed in feet above flood level and helps compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed. Freeboard is not required by NFIP standards, but FEMA encourages communities to adopt at least one foot of freeboard. Freeboard results in significantly lower flood insurance rates due to lower flood risk.<sup>35</sup> Typically, two feet of freeboard will save a homeowner more than 40 percent off flood insurance through the NFIP.<sup>36</sup>

The Building Code requires all buildings located in a flood hazard area to be built an additional one foot higher.<sup>37</sup> However, many Florida communities adopt requirements for additional elevation above the minimum in the Building Code, ranging from two to five feet above the BFE. Local freeboard requirements are incorporated via technical amendments to the Building

<sup>32</sup> *Id.*

<sup>33</sup> See generally FEMA, *Residential Buildings with Basements*, <https://www.fema.gov/floodplain-management/manage-risk/residential-buildings-basements#:~:text=Since%201971%2C%20the%20National%20Flood%20Insurance%20Program%20%28NFIP%29,Zones%20only%29%20to%20the%20Base%20Flood%20Elevation%20%28BFE%29> (last visited Mar. 21, 2023). FEMA, *Coastal Hazards & Flood Mapping: A Visual Guide* at 6 (depicting BFE graphic).

<sup>34</sup> FEMA, *Freeboard*, <https://www.fema.gov/glossary/freeboard> (last visited Jan. 17, 2024).

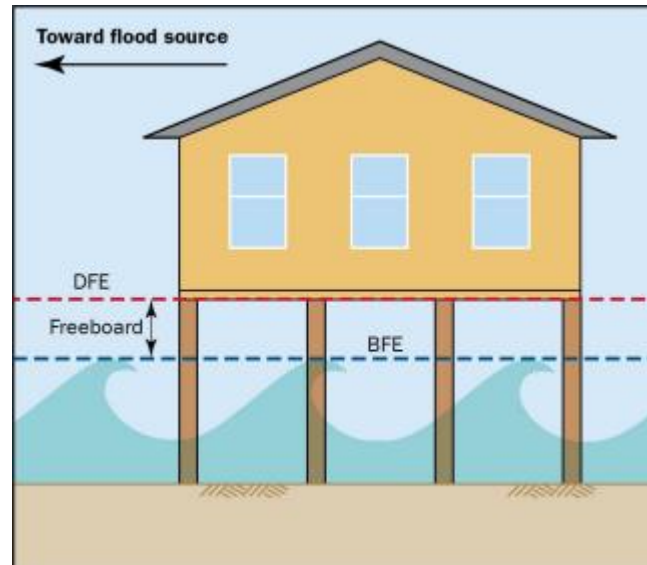
<sup>35</sup> *Id.*

<sup>36</sup> FEMA, *Local Government Officials - Floodplain Management Resources*, <https://www.fema.gov/floodplain-management/manage-risk/local> (last visited Jan. 24, 2024).

<sup>37</sup> Florida Building Code, *2023 Florida Building Code: Eighth Edition, Residential*, s. R322.2.1, available at [https://codes.iccsafe.org/content/FLRC2023P1/chapter-3-building-planning#FLRC2023P1\\_Pt03\\_Ch03\\_SecR322.2.1](https://codes.iccsafe.org/content/FLRC2023P1/chapter-3-building-planning#FLRC2023P1_Pt03_Ch03_SecR322.2.1); Florida Building Code-Building, Table 2-1 Elevation Requirements.



Code.<sup>38</sup> Florida Statutes specifically authorizes counties and municipalities to adopt administrative or technical amendment to the Building Code relating to flood resistance in order to implement the NFIP or other incentives.<sup>39</sup> Flood-related local amendments that require a design flood elevation above the BFE are not subject to sunset upon adoption of the newest edition of the Building Code.<sup>40</sup>



Following Hurricane Ian, FEMA published a Mitigation Assessment Team Report to assess the performance of buildings and building-related damage from the hurricane.<sup>41</sup> The report concluded, among other things, that incorporating additional freeboard into the minimum building elevation helped mitigate flood damage.<sup>42</sup>

### III. Effect of Proposed Changes:

**Section 1** provides that this act may be cited as the “Flood Damage Prevention Act of 2024.”

**Section 2** creates s. 553.845, F.S., regarding flood damage prevention. The bill includes the following findings:

- The state is vulnerable to the adverse effects of flooding resulting from the frequency and intensity of rainfall and an increase in storm surge and sea level rise. These adverse effects pose a significant risk to existing and future structures in the state.
- Public and private investments in our communities are important for economic growth, and protecting all structures from flooding is essential to maintaining resilient communities.

<sup>38</sup> Wilton Manors, FL. Ordinance No, 2020-004 § 2, 5-26-20, City of Miami Beach Flood Plain Management, Sec. 54-35.

<sup>39</sup> Section 553.73(5) F.S.

<sup>40</sup> *Id.* FEMA, *Designing for Flood Levels Above the Minimum Required Elevation After Hurricane Ian*, 456 (2023), available at [https://www.fema.gov/sites/default/files/documents/fema\\_rm-hurricane-ian-mat-report-12-2023.pdf](https://www.fema.gov/sites/default/files/documents/fema_rm-hurricane-ian-mat-report-12-2023.pdf) (depicting graphic of freeboard). “DFE” means Design Flood Elevation, or the minimum building elevation. *Id.* at 455.

<sup>41</sup> FEMA, *Mitigation Assessment Team Report: Hurricane Ian in Florida*, 7 (2023), available at [https://www.fema.gov/sites/default/files/documents/fema\\_rm-hurricane-ian-mat-report-12-2023.pdf](https://www.fema.gov/sites/default/files/documents/fema_rm-hurricane-ian-mat-report-12-2023.pdf).

<sup>42</sup> *Id.* at 335, 422.

- The mitigation of property damage constitutes a valid and recognized objective of the Florida Building Code.
- It is important to develop a consistent, statewide approach to minimizing flooding in the state to mitigate property damage and encourage continued investment in our communities.
- Minimum freeboard requirements are critical to addressing the devastating effects of flooding, and delaying the adoption and implementation of such requirements constitutes a threat to the health, safety, and welfare of the state.

The bill provides that the maximum voluntary freeboard for all new construction and substantial improvements to existing construction, whether residential, commercial, industrial, or nonresidential, is ten feet, including within a coastal high-hazard area. The bill defines “coastal high-hazard area” as a special flood hazard area (SFHA) along the coast, as delineated by a flood insurance rate map (FIRM) issued by the Federal Emergency Management Agency (FEMA), which has additional hazards due to wind and wave action.

The bill defines “freeboard” as the additional height, usually expressed as a factor of safety in feet, above the base flood elevation (BFE) in determining the level at which a structure’s lowest floor or the bottom of the lowest horizontal structural member must be elevated in accordance with floodplain management regulations and the Florida Building Code. If a BFE is not determined for a structure that is not located in a SFHA as designated by a FIRM issued by FEMA, the term “freeboard” means the highest adjacent grade at the foundation of a structure.

The bill defines “voluntary freeboard” as the additional height above the freeboard required by floodplain management regulations and the Florida Building Code. If freeboard is not required by floodplain management regulations and the Florida Building Code, the term “voluntary freeboard” means the additional height above the highest adjacent grade at the foundation of a structure.

The bill provides that for all new construction and “substantial improvements”<sup>43</sup> to an existing commercial, industrial, nonresidential, or residential structure, including a manufactured home, voluntary freeboard may not be used in the calculation of the “maximum allowable height” for the structure. The bill defines “maximum allowable height” as the maximum height allowed for a structure in the applicable zoning district.

The bill authorizes a local government to adopt by ordinance a minimum voluntary freeboard requirement or a maximum voluntary freeboard that exceeds the requirements in the Florida Building Code or established in the bill.

The bill directs the Florida Building Commission to develop and adopt by rule minimum freeboard requirements by November 1, 2024, which must take immediate effect, and incorporate such requirements into the next edition of the Florida Building Code. The bill also provides that, beginning in January 2029, and every five years thereafter, the commission must

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<sup>43</sup> “Substantial improvement” means any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of the improvement or repair of the structure to its pre-damage condition equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. *See* section 161.54(12) F.S.

review the freeboard requirements in the Florida Building Code and make recommendations to the Legislature regarding any necessary revisions to such requirements.

**Section 3** provides an effective date of July 1, 2024.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Building owners who incorporate voluntary freeboard may receive flood insurance discounts and reduce their exposure to flood events.

C. Government Sector Impact:

The Florida Building Commission may incur costs to develop and adopt new freeboard requirements. However, these costs can likely be absorbed with existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 553.845 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.)

**CS by Environment and Natural Resources on January 30, 2024:**

The amendment:

- Reorganizes language to eliminate redundancies and clarify which structures may not use voluntary freeboard in the calculation of the maximum allowable height (i.e., all new construction or substantial improvements to existing commercial, industrial, nonresidential, or residential structures); and
- Inserts the word “voluntary” to clarify that local governments may adopt minimum *voluntary* freeboard requirements.

**B. Amendments:**

None.

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

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628218

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
01/30/2024	.	
	.	
	.	
	.	

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The Committee on Environment and Natural Resources (Rodriguez) recommended the following:

**Senate Amendment**

Delete lines 74 - 85  
and insert:

(3) The maximum voluntary freeboard for all new construction and substantial improvements to existing construction, whether residential, commercial, industrial, or nonresidential, is 10 feet, including within a coastal high-hazard area.

(4) For all new construction or substantial improvements to



628218

11 an existing commercial, industrial, nonresidential, or  
12 residential structure, including a manufactured home, voluntary  
13 freeboard may



262940

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2024	.	
	.	
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The Committee on Environment and Natural Resources (Rodriguez) recommended the following:

1           **Senate Substitute for Amendment (628218) (with title**  
2 **amendment)**

3  
4           Delete lines 74 - 88  
5 and insert:

6           (3) The maximum voluntary freeboard for all new  
7 construction and substantial improvements to existing  
8 construction, whether residential, commercial, industrial, or  
9 nonresidential, is 10 feet, including within a coastal high-  
10 hazard area.



262940

11       (4) For all new construction or substantial improvements to  
12 an existing commercial, industrial, nonresidential, or  
13 residential structure, including a manufactured home, voluntary  
14 freeboard may not be used in the calculation of the maximum  
15 allowable height for the structure.

16       (5) A local government may adopt by ordinance a minimum  
17 voluntary

18  
19 ===== T I T L E   A M E N D M E N T =====

20 And the title is amended as follows:

21       Between lines 10 and 11

22 insert:

23       voluntary



By Senator Rodriguez

40-01713-24

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1                   A bill to be entitled  
2       An act relating to flood damage prevention; providing  
3       a short title; creating s. 553.845, F.S.; providing  
4       legislative findings; providing definitions; providing  
5       specified maximum voluntary freeboard requirements for  
6       new construction and substantial improvements to  
7       existing construction; prohibiting voluntary freeboard  
8       from being used in the calculation of the maximum  
9       allowable height for certain construction; authorizing  
10      local governments to adopt by ordinance a minimum  
11      freeboard requirement or a maximum voluntary freeboard  
12      that exceeds certain requirements; requiring the  
13      Florida Building Commission to develop and adopt by  
14      rule minimum freeboard requirements by a specified  
15      date and to incorporate such requirements into the  
16      next edition of the Florida Building Code; requiring  
17      the commission to review the freeboard requirements in  
18      the Florida Building Code every 5 years beginning on a  
19      specified date and to make certain recommendations to  
20      the Legislature; providing an effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24       Section 1. This act may be cited as the "Flood Damage  
25 Prevention Act of 2024."

26       Section 2. Section 553.845, Florida Statutes, is created to  
27 read:

28       553.845 Flood damage prevention.-

29       (1) The Legislature finds that:

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20241766\_\_

30 (a) The state is vulnerable to the adverse effects of  
31 flooding resulting from the frequency and intensity of rainfall  
32 and an increase in storm surge and sea level rise. These adverse  
33 effects pose a significant risk to existing and future  
34 structures in the state.

35 (b) Public and private investments in our communities are  
36 important for economic growth, and protecting all structures  
37 from flooding is essential to maintaining resilient communities.

38 (c) The mitigation of property damage constitutes a valid  
39 and recognized objective of the Florida Building Code.

40 (d) It is important to develop a consistent, statewide  
41 approach to minimizing flooding in the state to mitigate  
42 property damage and encourage continued investment in our  
43 communities.

44 (e) Minimum freeboard requirements are critical to  
45 addressing the devastating effects of flooding, and delaying the  
46 adoption and implementation of such requirements constitutes a  
47 threat to the health, safety, and welfare of the state.

48 (2) For purposes of this section, the term:

49 (a) "Coastal high-hazard area" means a special flood hazard  
50 area along the coast, as delineated by a Flood Insurance Rate  
51 Map issued by the Federal Emergency Management Agency, which has  
52 additional hazards due to wind and wave action.

53 (b) "Freeboard" means the additional height, usually  
54 expressed as a factor of safety in feet, above the base flood  
55 elevation in determining the level at which a structure's lowest  
56 floor or the bottom of the lowest horizontal structural member  
57 must be elevated in accordance with floodplain management  
58 regulations and the Florida Building Code. If a base flood

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20241766\_\_

59 elevation is not determined for a structure that is not located  
60 in a special flood hazard area as designated by a Flood  
61 Insurance Rate Map issued by the Federal Emergency Management  
62 Agency, the term "freeboard" means the highest adjacent grade at  
63 the foundation of a structure.

64 (c) "Maximum allowable height" means the maximum height  
65 allowed for a structure in the applicable zoning district.

66 (d) "Substantial improvement" has the meaning as in s.  
67 161.54(12).

68 (e) "Voluntary freeboard" means the additional height above  
69 the freeboard required by floodplain management regulations and  
70 the Florida Building Code. If freeboard is not required by  
71 floodplain management regulations and the Florida Building Code,  
72 the term "voluntary freeboard" means the additional height above  
73 the highest adjacent grade at the foundation of a structure.

74 (3) (a) The maximum voluntary freeboard for all new  
75 construction and substantial improvements to existing  
76 construction, whether residential, commercial, industrial, or  
77 nonresidential, is 10 feet.

78 (b) Within a coastal high-hazard area, the maximum  
79 voluntary freeboard for all new construction and substantial  
80 improvements to existing construction, whether residential,  
81 commercial, industrial, or nonresidential, is 10 feet.

82 (4) For all new construction of a residential structure and  
83 substantial improvements to an existing residential structure,  
84 including a manufactured home, or an existing commercial,  
85 industrial, or nonresidential structure, voluntary freeboard may  
86 not be used in the calculation of the maximum allowable height  
87 for the structure.

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88       (5) A local government may adopt by ordinance a minimum  
89 freeboard requirement or a maximum voluntary freeboard that  
90 exceeds the requirements in the Florida Building Code or those  
91 established in this section.

92       (6) The commission shall develop and adopt by rule minimum  
93 freeboard requirements by November 1, 2024, which shall take  
94 immediate effect, and shall incorporate such requirements into  
95 the next edition of the Florida Building Code.

96       (7) Beginning in January 2029, and every 5 years  
97 thereafter, the commission shall review the freeboard  
98 requirements in the Florida Building Code and make  
99 recommendations to the Legislature regarding any necessary  
100 revisions to such requirements.

101       Section 3. This act shall take effect July 1, 2024.