

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Eagle offered the following:

Amendment to Amendment (868193) (with title amendment)

Remove lines 82-433 of the amendment and insert:

(1) A person or public body desiring to construct, develop, or modify a public swimming pool must submit an application, containing the information required in s. 514.031(1)(a)1.-5., to the department for an operating permit before filing an application for a building permit under s. 553.79. Required information under s. 514.031(1)(a)6. shall be submitted to the department upon receipt by the applicant. The application shall be deemed incomplete pending receipt of the final inspection from the applicant.

(2) Local governments or local enforcement districts may

354775

Approved For Filing: 4/23/2014 4:55:10 PM

Amendment No.

15 determine compliance with the general construction standards of
16 the Florida Building Code, pursuant to s. 553.80. Local
17 governments or local enforcement districts may conduct plan
18 reviews and inspections of public swimming pools and public
19 bathing places for this purpose.

20 Section 14. Paragraph (a) of subsection (1) of section
21 514.031, Florida Statutes, is amended to read:

22 514.031 Permit necessary to operate public swimming pool.—

23 (1) It is unlawful for any person or public body to
24 operate or continue to operate any public swimming pool without
25 a valid permit from the department, such permit to be obtained
26 in the following manner:

27 (a) Any person or public body desiring to operate any
28 public swimming pool shall file an application for an operating
29 ~~a~~ permit with the department, on application forms provided by
30 the department, and shall accompany such application with:

31 1. A description of the structure, its appurtenances, and
32 its operation.

33 ~~2.1.~~ A description of the source or sources of water
34 supply, and the amount and quality of water available and
35 intended to be used.

36 ~~3.2.~~ The method and manner of water purification,
37 treatment, disinfection, and heating.

38 ~~4.3.~~ The safety equipment and standards to be used.

39 ~~5.4.~~ Any other pertinent information deemed necessary by
40 the department.

354775

Approved For Filing: 4/23/2014 4:55:10 PM

Amendment No.

41 6. A copy of the final inspection from the local
42 enforcement agency as defined in chapter 553.

43 (b) The provisions provided in s. 120.60 shall apply while
44 the applicant responds to any request for additional information
45 due to an incomplete application for an operating permit. Upon
46 receipt of an application, whether complete or incomplete, as
47 required in s. 514.03 and as set forth under this section, the
48 department shall review and provide to the s. 553.79 local
49 enforcing agency and the applicant any comment or proposed
50 modifications on the items received in the application as
51 outlined in subparagraphs (a)1.-5.

52 (c)~~(b)~~ If the department determines that the public
53 swimming pool is or may reasonably be expected to be operated in
54 compliance with this chapter and the rules adopted hereunder,
55 the department shall grant the application for permit.

56 (d)~~(e)~~ If the department determines that the public
57 swimming pool does not meet the provisions outlined in this
58 chapter or the rules adopted hereunder, the department shall
59 deny the application for a permit pursuant to the provisions of
60 chapter 120. Such denial shall be in writing and shall list the
61 circumstances for the denial. Upon correction of such
62 circumstances, an applicant previously denied permission to
63 operate a public swimming pool or bathing place may reapply for
64 a permit.

65 Section 15. Paragraph (c) of subsection (1) of section
66 553.37, Florida Statutes, is amended to read:

354775

Approved For Filing: 4/23/2014 4:55:10 PM

Amendment No.

67 553.37 Rules; inspections; and insignia.—

68 (1) The Florida Building Commission shall adopt within the
69 Florida Building Code requirements for construction or
70 modification of manufactured buildings and building modules, to
71 address:

72 (c) ~~Minimum~~ Inspection criteria, which shall require the
73 approved inspection agency to:

74 1. Observe the first building built, or with regard to
75 components, observe the first unit assembled, after
76 certification of the manufacturer, from start to finish,
77 inspecting all subsystems: electrical, plumbing, structural,
78 mechanical, or thermal.

79 2. Continue observation of the manufacturing process until
80 the approved inspection agency determines that the
81 manufacturer's quality control program, in conjunction with the
82 application of the plans approved by the approved inspection
83 agency, will result in a building and components that meet or
84 exceed the applicable Florida Building Code requirements.

85 3. Thereafter, inspect each module produced during at
86 least one point of the manufacturing process and inspect at
87 least 75 percent of the subsystems of each module: electrical,
88 plumbing, structural, mechanical, or thermal.

89 4. With respect to components, inspect at least 75 percent
90 of the manufactured building components and at least 20 percent
91 of the storage sheds that are not designed for human habitation
92 and that have a floor area of 720 square feet or less.

354775

Approved For Filing: 4/23/2014 4:55:10 PM

Amendment No.

93 Section 16. Section 553.721, Florida Statutes, is amended
94 to read:

95 553.721 Surcharge.—In order for the Department of Business
96 and Professional Regulation to administer and carry out the
97 purposes of this part and related activities, there is created a
98 surcharge, to be assessed at the rate of 1.5 percent of the
99 permit fees associated with enforcement of the Florida Building
100 Code as defined by the uniform account criteria and specifically
101 the uniform account code for building permits adopted for local
102 government financial reporting pursuant to s. 218.32. The
103 minimum amount collected on any permit issued shall be \$2. The
104 unit of government responsible for collecting a permit fee
105 pursuant to s. 125.56(4) or s. 166.201 shall collect the
106 surcharge and electronically remit the funds collected to the
107 department on a quarterly calendar basis for the preceding
108 quarter and continuing each third month thereafter. The unit of
109 government shall retain 10 percent of the surcharge collected to
110 fund the participation of building departments in the national
111 and state building code adoption processes and to provide
112 education related to enforcement of the Florida Building Code.
113 All funds remitted to the department pursuant to this section
114 shall be deposited in the Professional Regulation Trust Fund.
115 Funds collected from the surcharge shall be allocated to fund
116 the Florida Building Commission and the Florida Building Code
117 Compliance and Mitigation Program under s. 553.841. ~~Beginning in~~
118 ~~the 2013-2014 fiscal year,~~ Funds allocated to the Florida

354775

Approved For Filing: 4/23/2014 4:55:10 PM

Amendment No.

119 Building Code Compliance and Mitigation Program shall be
120 \$925,000 each fiscal year. The funds collected from the
121 surcharge may not be used to fund research on techniques for
122 mitigation of radon in existing buildings. Funds used by the
123 department as well as funds to be transferred to the Department
124 of Health shall be as prescribed in the annual General
125 Appropriations Act. The department shall adopt rules governing
126 the collection and remittance of surcharges pursuant to chapter
127 120.

128 Section 17. Subsection (15) of section 553.73, Florida
129 Statutes, is amended to read:

130 553.73 Florida Building Code.—

131 (15) An agency or local government may not require that
132 existing mechanical equipment located on or above the surface of
133 a roof be installed in compliance with the requirements of the
134 Florida Building Code except when ~~until~~ the equipment is being
135 replaced or moved during reroofing and the equipment is not in
136 compliance with the provisions of the Florida Building Code
137 pertaining to roof mounted mechanical units ~~required to be~~
138 ~~removed or replaced.~~

139 Section 18. Section 553.775, Florida Statutes, is amended
140 to read:

141 553.775 Interpretations.—

142 (1) It is the intent of the Legislature that the Florida
143 Building Code and the Florida Accessibility Code for Building
144 Construction be interpreted by building officials, local

354775

Approved For Filing: 4/23/2014 4:55:10 PM

Amendment No.

145 enforcement agencies, and the commission in a manner that
146 protects the public safety, health, and welfare at the most
147 reasonable cost to the consumer by ensuring uniform
148 interpretations throughout the state and by providing processes
149 for resolving disputes regarding interpretations of the Florida
150 Building Code and the Florida Accessibility Code for Building
151 Construction which are just and expeditious.

152 (2) Local enforcement agencies, local building officials,
153 state agencies, and the commission shall interpret provisions of
154 the Florida Building Code and the Florida Accessibility Code for
155 Building Construction in a manner that is consistent with
156 declaratory statements and interpretations entered by the
157 commission, except that conflicts between the Florida Fire
158 Prevention Code and the Florida Building Code shall be resolved
159 in accordance with s. 553.73(11)(c) and (d).

160 (3) The following procedures may be invoked regarding
161 interpretations of the Florida Building Code or the Florida
162 Accessibility Code for Building Construction:

163 (a) Upon written application by any substantially affected
164 person or state agency or by a local enforcement agency, the
165 commission shall issue declaratory statements pursuant to s.
166 120.565 relating to the enforcement or administration by local
167 governments of the Florida Building Code or the Florida
168 Accessibility Code for Building Construction.

169 (b) When requested in writing by any substantially
170 affected person or state agency or by a local enforcement

354775

Approved For Filing: 4/23/2014 4:55:10 PM

Amendment No.

171 agency, the commission shall issue a declaratory statement
172 pursuant to s. 120.565 relating to this part and ss. 515.25,
173 515.27, 515.29, and 515.37. Actions of the commission are
174 subject to judicial review under s. 120.68.

175 (c) The commission shall review decisions of local
176 building officials and local enforcement agencies regarding
177 interpretations of the Florida Building Code or the Florida
178 Accessibility Code for Building Construction after the local
179 board of appeals has considered the decision, if such board
180 exists, and if such appeals process is concluded within 25
181 business days.

182 1. The commission shall coordinate with the Building
183 Officials Association of Florida, Inc., to designate panels
184 composed of five members to hear requests to review decisions of
185 local building officials. The members must be licensed as
186 building code administrators under part XII of chapter 468 and
187 must have experience interpreting and enforcing provisions of
188 the Florida Building Code and the Florida Accessibility Code for
189 Building Construction.

190 2. Requests to review a decision of a local building
191 official interpreting provisions of the Florida Building Code or
192 the Florida Accessibility Code for Building Construction may be
193 initiated by any substantially affected person, including an
194 owner or builder subject to a decision of a local building
195 official or an association of owners or builders having members
196 who are subject to a decision of a local building official. In

354775

Approved For Filing: 4/23/2014 4:55:10 PM

Amendment No.

197 order to initiate review, the substantially affected person must
198 file a petition with the commission. The commission shall adopt
199 a form for the petition, which shall be published on the
200 Building Code Information System. The form shall, at a minimum,
201 require the following:

202 a. The name and address of the county or municipality in
203 which provisions of the Florida Building Code or the Florida
204 Accessibility Code for Building Construction are being
205 interpreted.

206 b. The name and address of the local building official who
207 has made the interpretation being appealed.

208 c. The name, address, and telephone number of the
209 petitioner; the name, address, and telephone number of the
210 petitioner's representative, if any; and an explanation of how
211 the petitioner's substantial interests are being affected by the
212 local interpretation of the Florida Building Code or the Florida
213 Accessibility Code for Building Construction.

214 d. A statement of the provisions of the Florida Building
215 Code or the Florida Accessibility Code for Building Construction
216 which are being interpreted by the local building official.

217 e. A statement of the interpretation given to provisions
218 of the Florida Building Code or the Florida Accessibility Code
219 for Building Construction by the local building official and the
220 manner in which the interpretation was rendered.

221 f. A statement of the interpretation that the petitioner
222 contends should be given to the provisions of the Florida

354775

Approved For Filing: 4/23/2014 4:55:10 PM

Amendment No.

223 Building Code or the Florida Accessibility Code for Building
224 Construction and a statement supporting the petitioner's
225 interpretation.

226 g. Space for the local building official to respond in
227 writing. The space shall, at a minimum, require the local
228 building official to respond by providing a statement admitting
229 or denying the statements contained in the petition and a
230 statement of the interpretation of the provisions of the Florida
231 Building Code or the Florida Accessibility Code for Building
232 Construction which the local jurisdiction or the local building
233 official contends is correct, including the basis for the
234 interpretation.

235 3. The petitioner shall submit the petition to the local
236 building official, who shall place the date of receipt on the
237 petition. The local building official shall respond to the
238 petition in accordance with the form and shall return the
239 petition along with his or her response to the petitioner within
240 5 days after receipt, exclusive of Saturdays, Sundays, and legal
241 holidays. The petitioner may file the petition with the
242 commission at any time after the local building official
243 provides a response. If no response is provided by the local
244 building official, the petitioner may file the petition with the
245 commission 10 days after submission of the petition to the local
246 building official and shall note that the local building
247 official did not respond.

248 4. Upon receipt of a petition that meets the requirements

354775

Approved For Filing: 4/23/2014 4:55:10 PM

Amendment No.

249 of subparagraph 2., the commission shall immediately provide
250 copies of the petition to a panel, and the commission shall
251 publish the petition, including any response submitted by the
252 local building official, on the Building Code Information System
253 in a manner that allows interested persons to address the issues
254 by posting comments.

255 5. The panel shall conduct proceedings as necessary to
256 resolve the issues; shall give due regard to the petitions, the
257 response, and to comments posed on the Building Code Information
258 System; and shall issue an interpretation regarding the
259 provisions of the Florida Building Code or the Florida
260 Accessibility Code for Building Construction within 21 days
261 after the filing of the petition. The panel shall render a
262 determination based upon the Florida Building Code or the
263 Florida Accessibility Code for Building Construction or, if the
264 code is ambiguous, the intent of the code. The panel's
265 interpretation shall be provided to the commission, which shall
266 publish the interpretation on the Building Code Information
267 System and in the Florida Administrative Register. The
268 interpretation shall be considered an interpretation entered by
269 the commission, and shall be binding upon the parties and upon
270 all jurisdictions subject to the Florida Building Code or the
271 Florida Accessibility Code for Building Construction, unless it
272 is superseded by a declaratory statement issued by the Florida
273 Building Commission or by a final order entered after an appeal
274 proceeding conducted in accordance with subparagraph 7.

354775

Approved For Filing: 4/23/2014 4:55:10 PM

Amendment No.

275 6. It is the intent of the Legislature that review
276 proceedings be completed within 21 days after the date that a
277 petition seeking review is filed with the commission, and the
278 time periods set forth in this paragraph may be waived only upon
279 consent of all parties.

280 7. Any substantially affected person may appeal an
281 interpretation rendered by a hearing officer panel by filing a
282 petition with the commission. Such appeals shall be initiated in
283 accordance with chapter 120 and the uniform rules of procedure
284 and must be filed within 30 days after publication of the
285 interpretation on the Building Code Information System or in the
286 Florida Administrative Register. Hearings shall be conducted
287 pursuant to chapter 120 and the uniform rules of procedure.
288 Decisions of the commission are subject to judicial review
289 pursuant to s. 120.68. The final order of the commission is
290 binding upon the parties and upon all jurisdictions subject to
291 the Florida Building Code or the Florida Accessibility Code for
292 Building Construction.

293 8. The burden of proof in any proceeding initiated in
294 accordance with subparagraph 7. is on the party who initiated
295 the appeal.

296 9. In any review proceeding initiated in accordance with
297 this paragraph, including any proceeding initiated in accordance
298 with subparagraph 7., the fact that an owner or builder has
299 proceeded with construction may not be grounds for determining
300 an issue to be moot if the issue is one that is likely to arise

354775

Approved For Filing: 4/23/2014 4:55:10 PM

Amendment No.

301 in the future.

302

303 This paragraph provides the exclusive remedy for addressing
304 requests to review local interpretations of the Florida Building
305 Code or the Florida Accessibility Code for Building Construction
306 and appeals from review proceedings.

307 (d) Upon written application by any substantially affected
308 person, contractor, or designer, or a group representing a
309 substantially affected person, contractor, or designer, the
310 commission shall issue or cause to be issued a formal
311 interpretation of the Florida Building Code or the Florida
312 Accessibility Code for Building Construction as prescribed by
313 paragraph (c).

314 (e) Local decisions declaring structures to be unsafe and
315 subject to repair or demolition are not subject to review under
316 this subsection and may not be appealed to the commission if the
317 local governing body finds that there is an immediate danger to
318 the health and safety of the public.

319 (f) Upon written application by any substantially affected
320 person, the commission shall issue a declaratory statement
321 pursuant to s. 120.565 relating to an agency's interpretation
322 and enforcement of the specific provisions of the Florida
323 Building Code or the Florida Accessibility Code for Building
324 Construction which the agency is authorized to enforce. This
325 subsection does not provide any powers, other than advisory, to
326 the commission with respect to any decision of the State Fire

354775

Approved For Filing: 4/23/2014 4:55:10 PM

Amendment No.

327 Marshal made pursuant to chapter 633.

328 (g) The commission may designate a commission member who
329 has demonstrated expertise in interpreting building plans to
330 attend each meeting of the advisory council created in s.
331 553.512. The commission member may vary from meeting to meeting,
332 shall serve on the council in a nonvoting capacity, and shall
333 receive per diem and expenses as provided in s. 553.74(3).

334 (h) The commission shall by rule establish an informal
335 process of rendering nonbinding interpretations of the Florida
336 Building Code and the Florida Accessibility Code for Building
337 Construction. The commission is specifically authorized to refer
338 interpretive issues to organizations that represent those
339 engaged in the construction industry. The commission shall
340 immediately implement the process before completing formal
341 rulemaking. It is the intent of the Legislature that the
342 commission create a process to refer questions to a small,
343 rotating group of individuals licensed under part XII of chapter
344 468, to which a party may pose questions regarding the
345 interpretation of code provisions. It is the intent of the
346 Legislature that the process provide for the expeditious
347 resolution of the issues presented and publication of the
348 resulting interpretation on the Building Code Information
349 System. Such interpretations shall be advisory only and
350 nonbinding on the parties and the commission.

351 (4) In order to administer this section, the commission
352 may adopt by rule and impose a fee for filing requests for

354775

Approved For Filing: 4/23/2014 4:55:10 PM

Amendment No.

353 declaratory statements and binding and nonbinding
354 interpretations to recoup the cost of the proceedings which may
355 not exceed \$125 for each request for a nonbinding interpretation
356 and \$250 for each request for a binding review or
357 interpretation. For proceedings conducted by or in coordination
358 with a third party, the rule may provide that payment be made
359 directly to the third party, who shall remit to the department
360 that portion of the fee necessary to cover the costs of the
361 department.

362 ~~(5) The commission may render declaratory statements in~~
363 ~~accordance with s. 120.565 relating to the provisions of the~~
364 ~~Florida Accessibility Code for Building Construction not~~
365 ~~attributable to the Americans with Disabilities Act~~
366 ~~Accessibility Guidelines. Notwithstanding the other provisions~~
367 ~~of this section, the Florida Accessibility Code for Building~~
368 ~~Construction and chapter 11 of the Florida Building Code may not~~
369 ~~be interpreted by, and are not subject to review under, any of~~
370 ~~the procedures specified in this section. This subsection has no~~
371 ~~effect upon the commission's authority to waive the Florida~~
372 ~~Accessibility Code for Building Construction as provided by s.~~
373 ~~553.512.~~

374 Section 19. Subsections (11) through (18) of section
375 553.79, Florida Statutes, are renumbered as subsections (12)
376 through (19), respectively, present subsection (18) is amended,
377 and a new subsection (11) is added to that section, to read:
378 553.79 Permits; applications; issuance; inspections.-

354775

Approved For Filing: 4/23/2014 4:55:10 PM

Amendment No.

379 (11) A local enforcing agency may not issue a building
380 permit to construct, develop, or modify a public swimming pool
381 without proof of application, whether complete or incomplete,
382 for a operating permit under s. 514.031. A certificate of
383 competition or occupancy shall not be issued until such
384 operating permit is issued. The local enforcing agency shall
385 conduct their review of the permit application upon filing and
386 in accordance with the provisions of this chapter. The local
387 enforcing agency may confer with the Department of Health when
388 necessary, but may not delay application review while awaiting
389 comment from the Department of Health.

391 -----
392 **T I T L E A M E N D M E N T**

393 Remove lines 556-561 of the amendment and insert:
394 amending s. 514.03, F.S.; providing requirements for a
395 person or public body desiring to construct, develop,
396 or modify a public swimming pool; requiring
397 application for an operating permit before filing an
398 application for a building permit for a public
399 swimming pool; amending s. 514.031, F.S.; providing
400 additional requirements for obtaining a public
401 swimming pool operating permit; amending s. 553.37,
402 F.S.; specifying inspection

354775

Approved For Filing: 4/23/2014 4:55:10 PM