

By Senator Perry

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1                   A bill to be entitled  
 2       An act relating to building design; amending s.  
 3       163.3202, F.S.; providing that certain regulations  
 4       relating to building design elements may not be  
 5       applied to certain structures; providing exceptions;  
 6       defining the term "building design elements";  
 7       providing applicability; amending s. 553.73, F.S.;  
 8       providing that an affected party may submit certain  
 9       local government regulations to the Florida Building  
 10      Commission for review; providing for enforcement of  
 11      such regulations; making technical changes; amending  
 12      ss. 125.01 and 125.56, F.S.; conforming cross-  
 13      references; making technical changes; providing an  
 14      effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

17  
 18       Section 1. Present subsection (5) of section 163.3202,  
 19       Florida Statutes, is redesignated as subsection (6), and a new  
 20       subsection (5) is added to that section, to read:

21       163.3202 Land development regulations.—

22       (5) (a) Zoning and development regulations relating to  
 23       building design elements may not be applied to a structure that  
 24       is subject to local government regulations for one- or two-  
 25       family dwellings unless:

26       1. The structure is listed in the National Register of  
 27       Historic Places, as defined in s. 267.021; or is a contributing  
 28       property to a National Register Historic District; or is  
 29       designated as a historic property or a contributing property to

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30 a historic district, under the terms of a local preservation  
31 ordinance.

32 2. The regulations are adopted in order to implement the  
33 National Flood Insurance Program.

34 (b) For purposes of this subsection, the term "building  
35 design elements" means the external building color; type or  
36 style of exterior cladding material; style or material of roof  
37 structures or porches; exterior nonstructural architectural  
38 ornamentation; location or architectural styling of windows or  
39 doors, including garage doors; number and type of rooms; and  
40 interior layout of rooms. The term does not include the height,  
41 bulk, orientation, or location of a structure on a zoning lot;  
42 or the use of buffering or screening to minimize potential  
43 adverse physical or visual impacts or protect the privacy of  
44 neighbors.

45 (c) This subsection does not affect the validity or  
46 enforceability of private covenants or other contractual  
47 agreements relating to building design elements between property  
48 owners.

49 Section 2. Subsection (4) of section 553.73, Florida  
50 Statutes, is amended to read:

51 553.73 Florida Building Code.—

52 (4) (a) All entities authorized to enforce the Florida  
53 Building Code under ~~pursuant to~~ s. 553.80 shall comply with  
54 applicable standards for issuance of mandatory certificates of  
55 occupancy, minimum types of inspections, and procedures for  
56 plans review and inspections as established by the commission by  
57 rule. Local governments may adopt amendments to the  
58 administrative provisions of the Florida Building Code, subject

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59 to the limitations ~~in of~~ this subsection ~~paragraph~~. Local  
60 amendments must ~~shall~~ be more stringent than the minimum  
61 standards described in this subsection ~~herein~~ and must ~~shall~~ be  
62 transmitted to the commission within 30 days after enactment.  
63 The local government shall make such amendments available to the  
64 general public in a usable format. The State Fire Marshal is  
65 responsible for establishing the standards and procedures  
66 required in this subsection ~~paragraph~~ for governmental entities  
67 with respect to applying the Florida Fire Prevention Code and  
68 the Life Safety Code.

69 (b) Local governments may, subject to the limitations in of  
70 this subsection and not more than once every 6 months ~~section~~,  
71 adopt amendments to the technical provisions of the Florida  
72 Building Code that ~~which~~ apply solely within the jurisdiction of  
73 such government and that ~~which~~ provide for more stringent  
74 requirements than those specified in the Florida Building Code, ~~not~~  
75 ~~not more than once every 6 months~~. A local government may adopt  
76 technical amendments that address local needs if:

77 1. The local governing body determines, following a public  
78 hearing which has been advertised in a newspaper of general  
79 circulation at least 10 days before the hearing, that there is a  
80 need to strengthen the requirements of the Florida Building  
81 Code. The determination must be based upon a review of local  
82 conditions by the local governing body, which review  
83 demonstrates by evidence or data that the geographical  
84 jurisdiction governed by the local governing body exhibits a  
85 local need to strengthen the Florida Building Code beyond the  
86 needs or regional variation addressed by the Florida Building  
87 Code, that the local need is addressed by the proposed local

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88 amendment, and that the amendment is no more stringent than  
89 necessary to address the local need.

90 2. Such additional requirements are not discriminatory  
91 against materials, products, or construction techniques of  
92 demonstrated capabilities.

93 3. Such additional requirements do ~~may~~ not introduce a new  
94 subject not addressed in the Florida Building Code.

95 (c)4. The enforcing agency shall make readily available, in  
96 a usable format, all amendments adopted under ~~pursuant to~~ this  
97 subsection ~~section~~.

98 (d)5. Any amendment to the Florida Building Code shall be  
99 transmitted within 30 days after adoption by the ~~adopting~~ local  
100 government to the commission. The commission shall maintain  
101 copies of all such amendments in a format that is usable and  
102 obtainable by the public. Local technical amendments are ~~shall~~  
103 not ~~become~~ effective until 30 days after the amendment has been  
104 received and published by the commission.

105 (e)6. ~~An Any~~ amendment to the Florida Building Code adopted  
106 by a local government under ~~pursuant to~~ this subsection ~~is~~  
107 ~~paragraph shall be~~ effective only until the adoption ~~by the~~  
108 ~~commission~~ of the new edition of the Florida Building Code by  
109 the commission every third year. At such time, the commission  
110 shall review such amendment for consistency with the criteria in  
111 paragraph (9) (a) and adopt such amendment as part of the Florida  
112 Building Code or rescind the amendment. The commission shall  
113 immediately notify the respective local government of the  
114 rescission of any amendment. After receiving such notice, the  
115 respective local government may readopt the rescinded amendment  
116 under ~~pursuant to~~ the provisions of this subsection ~~paragraph~~.

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117        (f)7- Each county and municipality desiring to make local  
118 technical amendments to the Florida Building Code shall ~~by~~  
119 ~~interlocal agreement~~ establish by interlocal agreement a  
120 countywide compliance review board to review any amendment to  
121 the Florida Building Code that is~~7~~ adopted by a local government  
122 within the county under pursuant to this subsection and  
123 ~~paragraph~~, that is challenged by a any substantially affected  
124 party for purposes of determining the amendment's compliance  
125 with this subsection ~~paragraph~~. If challenged, the local  
126 technical amendments are shall not ~~become~~ effective until the  
127 time for filing an appeal under paragraph (g) pursuant to  
128 ~~subparagraph 8-~~ has expired or, if there is an appeal, until the  
129 commission issues its final order determining if the adopted  
130 amendment is in compliance with this subsection.

131        (g)8- If the compliance review board determines such  
132 amendment is not in compliance with this subsection ~~paragraph~~,  
133 the compliance review board shall notify such local government  
134 of the noncompliance and that the amendment is invalid and  
135 unenforceable until the local government corrects the amendment  
136 to bring it into compliance. The local government may appeal the  
137 decision of the compliance review board to the commission. If  
138 the compliance review board determines that such amendment is to  
139 ~~be~~ in compliance with this subsection ~~paragraph~~, any  
140 substantially affected party may appeal such determination to  
141 the commission. Any such appeal must shall be filed with the  
142 commission within 14 days after ~~of~~ the board's written  
143 determination. The commission shall promptly refer the appeal to  
144 the Division of Administrative Hearings by electronic means  
145 through the division's website for the assignment of an

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146 administrative law judge. The administrative law judge shall  
147 conduct the required hearing within 30 days after being assigned  
148 to the appeal, and shall enter a recommended order within 30  
149 days after ~~of~~ the conclusion of such hearing. The commission  
150 shall enter a final order within 30 days after an order is  
151 rendered thereafter. ~~The provisions of~~ Chapter 120 and the  
152 uniform rules of procedure shall apply to such proceedings. The  
153 local government adopting the amendment that is subject to  
154 challenge has the burden of proving that the amendment complies  
155 with this subsection ~~paragraph~~ in proceedings before the  
156 compliance review board and the commission, as applicable.  
157 Actions of the commission are subject to judicial review under  
158 ~~pursuant to~~ s. 120.68. The compliance review board shall  
159 determine whether its decisions apply to a respective local  
160 jurisdiction or apply countywide.

161 (h)9. An amendment adopted under this subsection ~~paragraph~~  
162 shall include a fiscal impact statement that ~~which~~ documents the  
163 costs and benefits of the proposed amendment. Criteria for the  
164 fiscal impact statement shall include the impact to local  
165 government relative to enforcement and,~~7~~ the impact to property  
166 and building owners and,~~as well as to~~ industry,~~7~~ relative to the  
167 cost of compliance. The fiscal impact statement may not be used  
168 as a basis for challenging the amendment for compliance.

169 (i)10. In addition to paragraphs (f) and (g) ~~subparagraphs~~  
170 ~~7. and 9.~~, the commission may review any amendments adopted  
171 under ~~pursuant to~~ this subsection and make nonbinding  
172 recommendations related to compliance of such amendments with  
173 this subsection.

174 (j)(e) Any amendment adopted by a local enforcing agency

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175 ~~under pursuant to~~ this subsection may ~~shall~~ not apply to state  
176 or school district owned buildings, manufactured buildings or  
177 factory-built school buildings approved by the commission, or  
178 prototype buildings approved under ~~pursuant to~~ s. 553.77(3). The  
179 respective responsible entities shall consider the physical  
180 performance parameters substantiating such amendments when  
181 designing, specifying, and constructing such exempt buildings.

182 (k) ~~(d)~~ A technical amendment to the Florida Building Code  
183 related to water conservation practices or design criteria  
184 adopted by a local government under ~~pursuant to~~ this subsection  
185 is not ~~rendered~~ void when the code is updated if the technical  
186 amendment is necessary to protect or provide for more efficient  
187 use of water resources as provided in s. 373.621. However, any  
188 such technical amendment carried forward into the next edition  
189 of the code under ~~pursuant to~~ this subsection ~~paragraph~~ is  
190 subject to review or modification as provided in this part.

191 (1) Any substantially affected party may submit to the  
192 commission for review any local government regulation,  
193 including, but not limited to, a law, an ordinance, a policy, an  
194 amendment, or a land use or zoning provision, that such party  
195 believes is a technical amendment to the Florida Building Code.  
196 If the commission determines that the local government  
197 regulation is a technical amendment to the Florida Building  
198 Code, the regulation is not effective or enforceable until it is  
199 adopted in accordance with this subsection.

200 Section 3. Paragraph (bb) of subsection (1) of section  
201 125.01, Florida Statutes, is amended to read:

202 125.01 Powers and duties.—

203 (1) The legislative and governing body of a county shall

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204 have the power to carry on county government. To the extent not  
205 inconsistent with general or special law, this power includes,  
206 but is not restricted to, the power to:

207 (bb) Enforce the Florida Building Code~~7~~ as provided in s.  
208 553.80~~7~~ and adopt and enforce local technical amendments to the  
209 Florida Building Code as provided in s. 553.73(4)~~7~~, ~~pursuant to~~  
210 ~~s. 553.73(4)(b) and (c)~~.

211 Section 4. Subsection (1) of section 125.56, Florida  
212 Statutes, is amended to read:

213 125.56 Enforcement and amendment of the Florida Building  
214 Code and the Florida Fire Prevention Code; inspection fees;  
215 inspectors; etc.—

216 (1) The board of county commissioners of each of the  
217 several counties of the state may enforce the Florida Building  
218 Code and the Florida Fire Prevention Code~~7~~ as provided in ss.  
219 553.80, 633.206, and 633.208~~7~~ and, at its discretion, adopt  
220 local technical amendments to the Florida Building Code as  
221 provided in s. 553.73(4)~~7~~, ~~pursuant to s. 553.73(4)(b) and (c)~~  
222 and local technical amendments to the Florida Fire Prevention  
223 Code as provided in~~7~~, ~~pursuant to~~ s. 633.202~~7~~ to provide for the  
224 safe construction, erection, alteration, repair, securing, and  
225 demolition of any building within its territory outside the  
226 corporate limits of any municipality. Upon a determination to  
227 consider amending the Florida Building Code or the Florida Fire  
228 Prevention Code by a majority of the members of the board of  
229 county commissioners of such county, the board shall call a  
230 public hearing and comply with the public notice requirements of  
231 s. 125.66(2). The board shall hear all interested parties at the  
232 public hearing and may then amend the building code or the fire



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233 code consistent with the terms and purposes of this act. Upon  
234 adoption, an amendment to the code shall be in full force and  
235 effect throughout the unincorporated area of such county until  
236 otherwise notified by the Florida Building Commission under  
237 ~~pursuant to~~ s. 553.73 or the State Fire Marshal under ~~pursuant~~  
238 ~~to~~ s. 633.202. This subsection does not ~~Nothing herein contained~~  
239 ~~shall be construed to~~ prevent the board of county commissioners  
240 from repealing such amendment to the building code or the fire  
241 code at any regular meeting of such board.

242 Section 5. This act shall take effect July 1, 2020.