

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Eagle offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove lines 134-484 and insert:

5 develop, or modify a public swimming pool must submit an  
6 application, containing the information required in s.  
7 514.031(1) (a)1.-5., to the department for an operating permit  
8 before filing an application for a building permit under s.  
9 553.79. Required information under s. 514.031(1) (a)6. shall be  
10 submitted to the department upon receipt by the applicant. The  
11 application shall be deemed incomplete pending receipt of the  
12 final inspection from the applicant.

13 (2) Local governments or local enforcement districts may  
14 determine compliance with the general construction standards of

585313

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Amendment No.

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

19 Section 5. Paragraph (a) of subsection (1) of section  
20 514.031, Florida Statutes, is amended to read:

21 514.031 Permit necessary to operate public swimming pool.-

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

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

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

32 ~~2.1.~~ A description of the source or sources of water  
33 supply, and the amount and quality of water available and  
34 intended to be used.

35 ~~3.2.~~ The method and manner of water purification,  
36 treatment, disinfection, and heating.

37 ~~4.3.~~ The safety equipment and standards to be used.

38 ~~5.4.~~ Any other pertinent information deemed necessary by  
39 the department.

40 6. A copy of the final inspection from the local

585313

Approved For Filing: 4/24/2014 1:35:10 PM

Amendment No.

41 enforcement agency as defined in chapter 553.

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

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

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

64 Section 6. Paragraph (c) of subsection (1) of section  
65 553.37, Florida Statutes, is amended to read:

66 553.37 Rules; inspections; and insignia.-

585313

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Amendment No.

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

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

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

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

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

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

92 Section 7. Section 553.721, Florida Statutes, is amended

585313

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Amendment No.

93 to read:

94       553.721 Surcharge.—In order for the Department of Business  
95 and Professional Regulation to administer and carry out the  
96 purposes of this part and related activities, there is created a  
97 surcharge, to be assessed at the rate of 1.5 percent of the  
98 permit fees associated with enforcement of the Florida Building  
99 Code as defined by the uniform account criteria and specifically  
100 the uniform account code for building permits adopted for local  
101 government financial reporting pursuant to s. 218.32. The  
102 minimum amount collected on any permit issued shall be \$2. The  
103 unit of government responsible for collecting a permit fee  
104 pursuant to s. 125.56(4) or s. 166.201 shall collect the  
105 surcharge and electronically remit the funds collected to the  
106 department on a quarterly calendar basis for the preceding  
107 quarter and continuing each third month thereafter. The unit of  
108 government shall retain 10 percent of the surcharge collected to  
109 fund the participation of building departments in the national  
110 and state building code adoption processes and to provide  
111 education related to enforcement of the Florida Building Code.  
112 All funds remitted to the department pursuant to this section  
113 shall be deposited in the Professional Regulation Trust Fund.  
114 Funds collected from the surcharge shall be allocated to fund  
115 the Florida Building Commission and the Florida Building Code  
116 Compliance and Mitigation Program under s. 553.841. ~~Beginning in~~  
117 ~~the 2013-2014 fiscal year,~~ Funds allocated to the Florida  
118 Building Code Compliance and Mitigation Program shall be

585313

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Amendment No.

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

127 Section 8. Subsection (15) of section 553.73, Florida  
128 Statutes, is amended to read:

129 553.73 Florida Building Code.—

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

138 Section 9. Section 553.775, Florida Statutes, is amended  
139 to read:

140 553.775 Interpretations.—

141 (1) It is the intent of the Legislature that the Florida  
142 Building Code and the Florida Accessibility Code for Building  
143 Construction be interpreted by building officials, local  
144 enforcement agencies, and the commission in a manner that

585313

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Amendment No.

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

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

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

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

168 (b) When requested in writing by any substantially  
169 affected person or state agency or by a local enforcement  
170 agency, the commission shall issue a declaratory statement

585313

Approved For Filing: 4/24/2014 1:35:10 PM

Amendment No.

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

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

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

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

585313

Approved For Filing: 4/24/2014 1:35:10 PM



Amendment No.

197 file a petition with the commission. The commission shall adopt  
198 a form for the petition, which shall be published on the  
199 Building Code Information System. The form shall, at a minimum,  
200 require the following:

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

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

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

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

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

220 f. A statement of the interpretation that the petitioner  
221 contends should be given to the provisions of the Florida  
222 Building Code or the Florida Accessibility Code for Building

585313

Approved For Filing: 4/24/2014 1:35:10 PM

Amendment No.

223 Construction and a statement supporting the petitioner's  
224 interpretation.

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

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

247 4. Upon receipt of a petition that meets the requirements  
248 of subparagraph 2., the commission shall immediately provide

585313

Approved For Filing: 4/24/2014 1:35:10 PM

Amendment No.

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

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

274 6. It is the intent of the Legislature that review

585313

Approved For Filing: 4/24/2014 1:35:10 PM

Amendment No.

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

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

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

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

585313

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Amendment No.

301  
302 This paragraph provides the exclusive remedy for addressing  
303 requests to review local interpretations of the Florida Building  
304 Code or the Florida Accessibility Code for Building Construction  
305 and appeals from review proceedings.

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

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

318 (f) Upon written application by any substantially affected  
319 person, the commission shall issue a declaratory statement  
320 pursuant to s. 120.565 relating to an agency's interpretation  
321 and enforcement of the specific provisions of the Florida  
322 Building Code or the Florida Accessibility Code for Building  
323 Construction which the agency is authorized to enforce. This  
324 subsection does not provide any powers, other than advisory, to  
325 the commission with respect to any decision of the State Fire  
326 Marshal made pursuant to chapter 633.

585313

Approved For Filing: 4/24/2014 1:35:10 PM

Amendment No.

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

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

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

585313

Approved For Filing: 4/24/2014 1:35:10 PM

Amendment No.

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

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

373 Section 10. Subsections (11) through (18) of section  
374 553.79, Florida Statutes, are renumbered as subsections (12)  
375 through (19), respectively, present subsection (18) is amended,  
376 and a new subsection (11) is added to that section, to read:

377 553.79 Permits; applications; issuance; inspections.—

585313

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Amendment No.

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

389  
390 -----  
391                   **T I T L E   A M E N D M E N T**

392       Remove line 11 and insert:

393       amending s. 514.03, F.S.; providing requirements for a  
394       person or public body desiring to construct, develop,  
395       or modify a public swimming pool; requiring  
396       application for an

585313

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