

1 A bill to be entitled

2 An act relating to building construction; amending s.
3 162.12, F.S.; providing an additional method for local
4 governments to provide notices to alleged code
5 enforcement violators; amending s. 514.03, F.S.;
6 requiring application for an operating permit before
7 filing an application for a building permit for a
8 public swimming pool; amending s. 514.031, F.S.;
9 providing additional requirements for obtaining a
10 public swimming pool operating permit; amending s.
11 553.37, F.S.; specifying inspection criteria for
12 construction or modification of manufactured buildings
13 or modules; amending s. 553.721, F.S.; removing
14 obsolete language; amending s. 553.775, F.S.;
15 authorizing building officials, local enforcement
16 agencies, and the Florida Building Commission to
17 interpret the Florida Accessibility Code for Building
18 Construction; specifying procedures for such
19 interpretations; deleting provisions relating to
20 declaratory statements and interpretations of the
21 Florida Accessibility Code for Building Construction,
22 to conform; amending s. 553.79, F.S.; prohibiting a
23 local enforcing agency from issuing a building permit
24 for a public swimming pool without proof of
25 application for an operating permit; requiring
26 issuance of an operating permit before a certificate

27 of completion or occupancy is issued; amending s.
28 553.841, F.S.; revising education and training
29 requirements of the Florida Building Code Compliance
30 and Mitigation Program; creating s. 553.883, F.S.;
31 authorizing use of smoke alarms powered by 10-year
32 nonremovable, nonreplaceable batteries in certain
33 circumstances; requiring use of such alarms by a
34 certain date; amending s. 553.993, F.S.; revising the
35 definition of the term "building energy-efficiency
36 rating system" to require consistency with certain
37 national standards for new construction and existing
38 construction; providing for oversight; providing an
39 effective date.

40

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

42

43 Section 1. Paragraph (a) of subsection (1) of section
44 162.12, Florida Statutes, is amended to read:

45 162.12 Notices.—

46 (1) All notices required by this part must be provided to
47 the alleged violator by:

48 (a) First-class mail or, at the option of the local
49 government, certified mail, return receipt requested, to the
50 address listed in the tax collector's office for tax notices or
51 to the address listed in the county property appraiser's
52 database. The local government may also provide an additional

53 notice to any other address it may find for the property owner.
54 For property owned by a corporation, notices may be provided by
55 certified mail to the registered agent of the corporation. If
56 any notice sent by certified mail is not signed as received
57 within 30 days after the postmarked date of mailing, notice may
58 be provided by posting as described in subparagraphs (2)(b)1.
59 and 2.;

60 Section 2. Section 514.03, Florida Statutes, is amended to
61 read:

62 514.03 Approval necessary to construct, develop, or modify
63 public swimming pools or public bathing places.—

64 (1) A person or public body desiring to construct,
65 develop, or modify a public swimming pool must apply to the
66 department for an operating permit before filing an application
67 for a building permit under s. 553.79.

68 (2) Local governments or local enforcement districts may
69 determine compliance with the general construction standards of
70 the Florida Building Code, pursuant to s. 553.80. Local
71 governments or local enforcement districts may conduct plan
72 reviews and inspections of public swimming pools and public
73 bathing places for this purpose.

74 Section 3. Paragraph (a) of subsection (1) of section
75 514.031, Florida Statutes, is amended to read:

76 514.031 Permit necessary to operate public swimming pool.—

77 (1) It is unlawful for any person or public body to
78 operate or continue to operate any public swimming pool without

79 a valid permit from the department, such permit to be obtained
 80 in the following manner:

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

85 1. A description of the structure, its appurtenances, and
 86 its operation.

87 ~~2.1.~~ A description of the source or sources of water
 88 supply, and the amount and quality of water available and
 89 intended to be used.

90 ~~3.2.~~ The method and manner of water purification,
 91 treatment, disinfection, and heating.

92 ~~4.3.~~ The safety equipment and standards to be used.

93 5. A copy of the final approval from the local enforcement
 94 agency as defined in chapter 553.

95 ~~6.4.~~ Any other pertinent information deemed necessary by
 96 the department.

97 Section 4. Paragraph (c) of subsection (1) of section
 98 553.37, Florida Statutes, is amended to read:

99 553.37 Rules; inspections; and insignia.—

100 (1) The Florida Building Commission shall adopt within the
 101 Florida Building Code requirements for construction or
 102 modification of manufactured buildings and building modules, to
 103 address:

104 (c) ~~Minimum~~ Inspection criteria, which shall require the

105 approved inspection agency to:

106 1. Observe the first building built, or with regard to
107 components, observe the first unit assembled, after
108 certification of the manufacturer, from start to finish,
109 inspecting all subsystems: electrical, plumbing, structural,
110 mechanical, or thermal.

111 2. Continue observation of the manufacturing process until
112 the approved inspection agency determines that the
113 manufacturer's quality control program, in conjunction with the
114 application of the plans approved by the approved inspection
115 agency, will result in a building and components that meet or
116 exceed the applicable Florida Building Code requirements.

117 3. Thereafter, inspect each module produced during at
118 least one point of the manufacturing process and inspect at
119 least 75 percent of the subsystems of each module: electrical,
120 plumbing, structural, mechanical, or thermal.

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

125 Section 5. Section 553.721, Florida Statutes, is amended
126 to read:

127 553.721 Surcharge.—In order for the Department of Business
128 and Professional Regulation to administer and carry out the
129 purposes of this part and related activities, there is created a
130 surcharge, to be assessed at the rate of 1.5 percent of the

131 permit fees associated with enforcement of the Florida Building
132 Code as defined by the uniform account criteria and specifically
133 the uniform account code for building permits adopted for local
134 government financial reporting pursuant to s. 218.32. The
135 minimum amount collected on any permit issued shall be \$2. The
136 unit of government responsible for collecting a permit fee
137 pursuant to s. 125.56(4) or s. 166.201 shall collect the
138 surcharge and electronically remit the funds collected to the
139 department on a quarterly calendar basis for the preceding
140 quarter and continuing each third month thereafter. The unit of
141 government shall retain 10 percent of the surcharge collected to
142 fund the participation of building departments in the national
143 and state building code adoption processes and to provide
144 education related to enforcement of the Florida Building Code.
145 All funds remitted to the department pursuant to this section
146 shall be deposited in the Professional Regulation Trust Fund.
147 Funds collected from the surcharge shall be allocated to fund
148 the Florida Building Commission and the Florida Building Code
149 Compliance and Mitigation Program under s. 553.841. ~~Beginning in~~
150 ~~the 2013-2014 fiscal year,~~ Funds allocated to the Florida
151 Building Code Compliance and Mitigation Program shall be
152 \$925,000 each fiscal year. The funds collected from the
153 surcharge may not be used to fund research on techniques for
154 mitigation of radon in existing buildings. Funds used by the
155 department as well as funds to be transferred to the Department
156 of Health shall be as prescribed in the annual General

157 Appropriations Act. The department shall adopt rules governing
158 the collection and remittance of surcharges pursuant to chapter
159 120.

160 Section 6. Section 553.775, Florida Statutes, is amended
161 to read:

162 553.775 Interpretations.—

163 (1) It is the intent of the Legislature that the Florida
164 Building Code and the Florida Accessibility Code for Building
165 Construction be interpreted by building officials, local
166 enforcement agencies, and the commission in a manner that
167 protects the public safety, health, and welfare at the most
168 reasonable cost to the consumer by ensuring uniform
169 interpretations throughout the state and by providing processes
170 for resolving disputes regarding interpretations of the Florida
171 Building Code and the Florida Accessibility Code for Building
172 Construction which are just and expeditious.

173 (2) Local enforcement agencies, local building officials,
174 state agencies, and the commission shall interpret provisions of
175 the Florida Building Code and the Florida Accessibility Code for
176 Building Construction in a manner that is consistent with
177 declaratory statements and interpretations entered by the
178 commission, except that conflicts between the Florida Fire
179 Prevention Code and the Florida Building Code shall be resolved
180 in accordance with s. 553.73(11)(c) and (d).

181 (3) The following procedures may be invoked regarding
182 interpretations of the Florida Building Code or the Florida

183 Accessibility Code for Building Construction:

184 (a) Upon written application by any substantially affected
185 person or state agency or by a local enforcement agency, the
186 commission shall issue declaratory statements pursuant to s.
187 120.565 relating to the enforcement or administration by local
188 governments of the Florida Building Code or the Florida
189 Accessibility Code for Building Construction.

190 (b) When requested in writing by any substantially
191 affected person or state agency or by a local enforcement
192 agency, the commission shall issue a declaratory statement
193 pursuant to s. 120.565 relating to this part and ss. 515.25,
194 515.27, 515.29, and 515.37. Actions of the commission are
195 subject to judicial review under s. 120.68.

196 (c) The commission shall review decisions of local
197 building officials and local enforcement agencies regarding
198 interpretations of the Florida Building Code or the Florida
199 Accessibility Code for Building Construction after the local
200 board of appeals has considered the decision, if such board
201 exists, and if such appeals process is concluded within 25
202 business days.

203 1. The commission shall coordinate with the Building
204 Officials Association of Florida, Inc., to designate panels
205 composed of five members to hear requests to review decisions of
206 local building officials. The members must be licensed as
207 building code administrators under part XII of chapter 468 and
208 must have experience interpreting and enforcing provisions of

209 the Florida Building Code and the Florida Accessibility Code for
 210 Building Construction.

211 2. Requests to review a decision of a local building
 212 official interpreting provisions of the Florida Building Code or
 213 the Florida Accessibility Code for Building Construction may be
 214 initiated by any substantially affected person, including an
 215 owner or builder subject to a decision of a local building
 216 official or an association of owners or builders having members
 217 who are subject to a decision of a local building official. In
 218 order to initiate review, the substantially affected person must
 219 file a petition with the commission. The commission shall adopt
 220 a form for the petition, which shall be published on the
 221 Building Code Information System. The form shall, at a minimum,
 222 require the following:

223 a. The name and address of the county or municipality in
 224 which provisions of the Florida Building Code or the Florida
 225 Accessibility Code for Building Construction are being
 226 interpreted.

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

229 c. The name, address, and telephone number of the
 230 petitioner; the name, address, and telephone number of the
 231 petitioner's representative, if any; and an explanation of how
 232 the petitioner's substantial interests are being affected by the
 233 local interpretation of the Florida Building Code or the Florida
 234 Accessibility Code for Building Construction.

235 d. A statement of the provisions of the Florida Building
 236 Code or the Florida Accessibility Code for Building Construction
 237 which are being interpreted by the local building official.

238 e. A statement of the interpretation given to provisions
 239 of the Florida Building Code or the Florida Accessibility Code
 240 for Building Construction by the local building official and the
 241 manner in which the interpretation was rendered.

242 f. A statement of the interpretation that the petitioner
 243 contends should be given to the provisions of the Florida
 244 Building Code or the Florida Accessibility Code for Building
 245 Construction and a statement supporting the petitioner's
 246 interpretation.

247 g. Space for the local building official to respond in
 248 writing. The space shall, at a minimum, require the local
 249 building official to respond by providing a statement admitting
 250 or denying the statements contained in the petition and a
 251 statement of the interpretation of the provisions of the Florida
 252 Building Code or the Florida Accessibility Code for Building
 253 Construction which the local jurisdiction or the local building
 254 official contends is correct, including the basis for the
 255 interpretation.

256 3. The petitioner shall submit the petition to the local
 257 building official, who shall place the date of receipt on the
 258 petition. The local building official shall respond to the
 259 petition in accordance with the form and shall return the
 260 petition along with his or her response to the petitioner within

261 5 days after receipt, exclusive of Saturdays, Sundays, and legal
262 holidays. The petitioner may file the petition with the
263 commission at any time after the local building official
264 provides a response. If no response is provided by the local
265 building official, the petitioner may file the petition with the
266 commission 10 days after submission of the petition to the local
267 building official and shall note that the local building
268 official did not respond.

269 4. Upon receipt of a petition that meets the requirements
270 of subparagraph 2., the commission shall immediately provide
271 copies of the petition to a panel, and the commission shall
272 publish the petition, including any response submitted by the
273 local building official, on the Building Code Information System
274 in a manner that allows interested persons to address the issues
275 by posting comments.

276 5. The panel shall conduct proceedings as necessary to
277 resolve the issues; shall give due regard to the petitions, the
278 response, and to comments posed on the Building Code Information
279 System; and shall issue an interpretation regarding the
280 provisions of the Florida Building Code or the Florida
281 Accessibility Code for Building Construction within 21 days
282 after the filing of the petition. The panel shall render a
283 determination based upon the Florida Building Code or the
284 Florida Accessibility Code for Building Construction or, if the
285 code is ambiguous, the intent of the code. The panel's
286 interpretation shall be provided to the commission, which shall

287 | publish the interpretation on the Building Code Information
288 | System and in the Florida Administrative Register. The
289 | interpretation shall be considered an interpretation entered by
290 | the commission, and shall be binding upon the parties and upon
291 | all jurisdictions subject to the Florida Building Code or the
292 | Florida Accessibility Code for Building Construction, unless it
293 | is superseded by a declaratory statement issued by the Florida
294 | Building Commission or by a final order entered after an appeal
295 | proceeding conducted in accordance with subparagraph 7.

296 | 6. It is the intent of the Legislature that review
297 | proceedings be completed within 21 days after the date that a
298 | petition seeking review is filed with the commission, and the
299 | time periods set forth in this paragraph may be waived only upon
300 | consent of all parties.

301 | 7. Any substantially affected person may appeal an
302 | interpretation rendered by a hearing officer panel by filing a
303 | petition with the commission. Such appeals shall be initiated in
304 | accordance with chapter 120 and the uniform rules of procedure
305 | and must be filed within 30 days after publication of the
306 | interpretation on the Building Code Information System or in the
307 | Florida Administrative Register. Hearings shall be conducted
308 | pursuant to chapter 120 and the uniform rules of procedure.
309 | Decisions of the commission are subject to judicial review
310 | pursuant to s. 120.68. The final order of the commission is
311 | binding upon the parties and upon all jurisdictions subject to
312 | the Florida Building Code or the Florida Accessibility Code for

313 Building Construction.

314 8. The burden of proof in any proceeding initiated in
315 accordance with subparagraph 7. is on the party who initiated
316 the appeal.

317 9. In any review proceeding initiated in accordance with
318 this paragraph, including any proceeding initiated in accordance
319 with subparagraph 7., the fact that an owner or builder has
320 proceeded with construction may not be grounds for determining
321 an issue to be moot if the issue is one that is likely to arise
322 in the future.

323
324 This paragraph provides the exclusive remedy for addressing
325 requests to review local interpretations of the Florida Building
326 Code or the Florida Accessibility Code for Building Construction
327 and appeals from review proceedings.

328 (d) Upon written application by any substantially affected
329 person, contractor, or designer, or a group representing a
330 substantially affected person, contractor, or designer, the
331 commission shall issue or cause to be issued a formal
332 interpretation of the Florida Building Code or the Florida
333 Accessibility Code for Building Construction as prescribed by
334 paragraph (c).

335 (e) Local decisions declaring structures to be unsafe and
336 subject to repair or demolition are not subject to review under
337 this subsection and may not be appealed to the commission if the
338 local governing body finds that there is an immediate danger to

339 the health and safety of the public.

340 (f) Upon written application by any substantially affected
341 person, the commission shall issue a declaratory statement
342 pursuant to s. 120.565 relating to an agency's interpretation
343 and enforcement of the specific provisions of the Florida
344 Building Code or the Florida Accessibility Code for Building
345 Construction which the agency is authorized to enforce. This
346 subsection does not provide any powers, other than advisory, to
347 the commission with respect to any decision of the State Fire
348 Marshal made pursuant to chapter 633.

349 (g) The commission may designate a commission member who
350 has demonstrated expertise in interpreting building plans to
351 attend each meeting of the advisory council created in s.
352 553.512. The commission member may vary from meeting to meeting,
353 shall serve on the council in a nonvoting capacity, and shall
354 receive per diem and expenses as provided in s. 553.74(3).

355 (h) The commission shall by rule establish an informal
356 process of rendering nonbinding interpretations of the Florida
357 Building Code and the Florida Accessibility Code for Building
358 Construction. The commission is specifically authorized to refer
359 interpretive issues to organizations that represent those
360 engaged in the construction industry. The commission shall
361 immediately implement the process before completing formal
362 rulemaking. It is the intent of the Legislature that the
363 commission create a process to refer questions to a small,
364 rotating group of individuals licensed under part XII of chapter

365 468, to which a party may pose questions regarding the
366 interpretation of code provisions. It is the intent of the
367 Legislature that the process provide for the expeditious
368 resolution of the issues presented and publication of the
369 resulting interpretation on the Building Code Information
370 System. Such interpretations shall be advisory only and
371 nonbinding on the parties and the commission.

372 (4) In order to administer this section, the commission
373 may adopt by rule and impose a fee for filing requests for
374 declaratory statements and binding and nonbinding
375 interpretations to recoup the cost of the proceedings which may
376 not exceed \$125 for each request for a nonbinding interpretation
377 and \$250 for each request for a binding review or
378 interpretation. For proceedings conducted by or in coordination
379 with a third party, the rule may provide that payment be made
380 directly to the third party, who shall remit to the department
381 that portion of the fee necessary to cover the costs of the
382 department.

383 ~~(5) The commission may render declaratory statements in~~
384 ~~accordance with s. 120.565 relating to the provisions of the~~
385 ~~Florida Accessibility Code for Building Construction not~~
386 ~~attributable to the Americans with Disabilities Act~~
387 ~~Accessibility Guidelines. Notwithstanding the other provisions~~
388 ~~of this section, the Florida Accessibility Code for Building~~
389 ~~Construction and chapter 11 of the Florida Building Code may not~~
390 ~~be interpreted by, and are not subject to review under, any of~~

391 ~~the procedures specified in this section. This subsection has no~~
392 ~~effect upon the commission's authority to waive the Florida~~
393 ~~Accessibility Code for Building Construction as provided by s.~~
394 ~~553.512.~~

395 Section 7. Subsections (11) through (18) of section
396 553.79, Florida Statutes, are renumbered as subsections (12)
397 through (19), respectively, and a new subsection (11) is added
398 to that section to read:

399 553.79 Permits; applications; issuance; inspections.—

400 (11) The local enforcing agency may not issue a building
401 permit to construct, develop, or modify a public swimming pool
402 without proof of application for an operating permit under s.
403 514.031. A certificate of completion or occupancy shall not be
404 issued until such operating permit is issued.

405 Section 8. Subsections (1) and (2) of section 553.841,
406 Florida Statutes, are amended to read:

407 553.841 Building code compliance and mitigation program.—

408 (1) The Legislature finds that knowledge and understanding
409 by persons licensed or employed in the design and construction
410 industries of the importance and need for complying with the
411 Florida Building Code and related laws is vital to the public
412 health, safety, and welfare of this state, especially for
413 protecting consumers and mitigating damage caused by hurricanes
414 to residents and visitors to the state. The Legislature further
415 finds that the Florida Building Code can be effective only if
416 all participants in the design and construction industries

417 maintain a thorough knowledge of the code, code compliance and
418 enforcement, duties related to consumers, and changes that
419 ~~additions thereto which~~ improve construction standards, project
420 completion, and compliance of design and construction to protect
421 against consumer harm, storm damage, and other damage.

422 Consequently, the Legislature finds that there is a need for a
423 program to provide ongoing education and outreach activities
424 concerning compliance with the Florida Building Code, the
425 Florida Fire Prevention Code, construction plan and permitting
426 requirements, construction liens, and hurricane mitigation.

427 (2) The Department of Business and Professional Regulation
428 shall administer a program, designated as the Florida Building
429 Code Compliance and Mitigation Program, to develop, coordinate,
430 and maintain education and outreach to persons required to
431 comply with the Florida Building Code and related provisions as
432 specified in subsection (1) and ensure consistent education,
433 training, and communication of the code's requirements,
434 including, but not limited to, methods for design and
435 construction compliance and mitigation of storm-related damage.
436 The program shall also operate a clearinghouse through which
437 design, construction, and building code enforcement licensees,
438 suppliers, and consumers in this state may find others in order
439 to exchange information relating to mitigation and facilitate
440 repairs in the aftermath of a natural disaster.

441 Section 9. Section 553.883, Florida Statutes, is created
442 to read:

443 553.883 Smoke alarms in one-family and two-family
444 dwelling and townhomes.—A one-family and two-family dwelling
445 and townhome undergoing a repair, or an alteration level 1 as
446 defined in the Florida Existing Building Code, may use a smoke
447 alarm powered by a 10-year nonremovable, nonreplaceable battery
448 in lieu of retrofitting such dwelling with a smoke alarm powered
449 by the dwelling's electrical system. Effective January 1, 2015,
450 a battery-powered smoke alarm that is newly installed or
451 replaces an existing battery-powered smoke alarm must be powered
452 by a nonremovable, nonreplaceable battery that powers the alarm
453 for at least 10 years.

454 Section 10. Subsection (3) of section 553.993, Florida
455 Statutes, is amended to read:

456 553.993 Definitions.—For purposes of this part:

457 (3) "Building energy-efficiency rating system" means a
458 whole building energy evaluation system that provides a reliable
459 and scientifically-based analysis of a building's energy
460 consumption or energy features and allows comparison to similar
461 building types in similar climate zones where applicable.
462 Specifically, the rating system shall use standard calculations,
463 formulas, and scoring methods; be applicable nationally; compare
464 a building to a clearly defined and researched baseline or
465 benchmark; require qualified professionals to conduct the rating
466 or assessment; and provide a labeling and recognition program
467 with specific criteria or levels. Residential program benchmarks
468 for new construction shall be consistent with national building

469 standards. Residential building program benchmarks for existing
470 construction shall be consistent with national home energy
471 rating standards. The building energy-efficiency rating system
472 shall require at least one level of oversight performed by an
473 organized and balanced group of professionals with subject
474 matter expertise in energy efficiency, energy rating, and
475 evaluation methods ~~established by the Residential Energy~~
476 ~~Services Network, the Commercial Energy Services Network, the~~
477 ~~Building Performance Institute, or the Florida Solar Energy~~
478 ~~Center.~~

479 Section 11. This act shall take effect July 1, 2014.