

By Senator Brodeur

9-00990-21

20211146\_\_

1                   A bill to be entitled  
2       An act relating to the Florida Building Code; amending  
3       s. 514.0115, F.S.; prohibiting the Department of  
4       Health from requiring that pools serving assisted  
5       living facilities be compliant with rules relating to  
6       swimming pool lifeguards; amending s. 553.73, F.S.;  
7       authorizing a substantially affected person to file a  
8       petition with the Florida Building Commission to  
9       review certain local government regulations, laws,  
10      ordinances, policies, amendments, or land use or  
11      zoning provisions; defining the term "local  
12      government"; providing requirements for the petition  
13      and commission; requiring the commission to issue a  
14      nonbinding advisory opinion within a specified  
15      timeframe; authorizing the commission to issue errata  
16      to the code; defining the term "errata to the code";  
17      making technical changes; amending s. 553.77, F.S.;  
18      conforming a cross-reference; amending s. 553.79,  
19      F.S.; prohibiting a local government from requiring  
20      certain contracts for the application for or issuance  
21      of a building permit; amending s. 553.842, F.S.;  
22      requiring evaluation entities that meet certain  
23      criteria to comply with certain standards; amending  
24      ss. 125.01 and 125.56, F.S.; conforming cross-  
25      references; making technical changes; providing an  
26      effective date.

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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9-00990-21

20211146\_\_

30 Section 1. Present subsections (3) through (8) of section  
31 514.0115, Florida Statutes, are redesignated as subsections (4)  
32 through (9), respectively, and a new subsection (3) is added to  
33 that section, to read:

34 514.0115 Exemptions from supervision or regulation;  
35 variances.—

36 (3) The department may not require compliance with rules  
37 relating to swimming pool lifeguard standards for pools serving  
38 assisted living facilities.

39 Section 2. Subsections (4) and (8) of section 553.73,  
40 Florida Statutes, are amended to read:

41 553.73 Florida Building Code.—

42 (4) (a) All entities authorized to enforce the Florida  
43 Building Code under ~~pursuant to~~ s. 553.80 shall comply with  
44 applicable standards for issuance of mandatory certificates of  
45 occupancy, minimum types of inspections, and procedures for  
46 plans review and inspections as established by the commission by  
47 rule. Local governments may adopt amendments to the  
48 administrative provisions of the Florida Building Code, subject  
49 to the limitations ~~in~~ of this subsection ~~paragraph~~. Local  
50 amendments must ~~shall~~ be more stringent than the minimum  
51 standards described in this section ~~herein~~ and must ~~shall~~ be  
52 transmitted to the commission within 30 days after enactment.  
53 The local government shall make such amendments available to the  
54 general public in a usable format. The State Fire Marshal is  
55 responsible for establishing the standards and procedures  
56 required in this subsection ~~paragraph~~ for governmental entities  
57 with respect to applying the Florida Fire Prevention Code and  
58 the Life Safety Code.

9-00990-21

20211146\_\_

59 (b) Local governments may, subject to the limitations in ~~of~~  
60 this section and not more than once every 6 months, adopt  
61 amendments to the technical provisions of the Florida Building  
62 Code that ~~which~~ apply solely within the jurisdiction of such  
63 government and that ~~which~~ provide for more stringent  
64 requirements than those specified in the Florida Building Code,  
65 ~~not more than once every 6 months~~. A local government may adopt  
66 technical amendments that address local needs if:

67 1. The local governing body determines, following a public  
68 hearing which has been advertised in a newspaper of general  
69 circulation at least 10 days before the hearing, that there is a  
70 need to strengthen the requirements of the Florida Building  
71 Code. The determination must be based upon a review of local  
72 conditions by the local governing body, which review  
73 demonstrates by evidence or data that the geographical  
74 jurisdiction governed by the local governing body exhibits a  
75 local need to strengthen the Florida Building Code beyond the  
76 needs or regional variation addressed by the Florida Building  
77 Code, that the local need is addressed by the proposed local  
78 amendment, and that the amendment is no more stringent than  
79 necessary to address the local need.

80 2. Such additional requirements are not discriminatory  
81 against materials, products, or construction techniques of  
82 demonstrated capabilities.

83 3. Such additional requirements may not introduce a new  
84 subject not addressed in the Florida Building Code.

85 (c)4. The enforcing agency shall make readily available, in  
86 a usable format, all amendments adopted under ~~pursuant to~~ this  
87 section.

9-00990-21

20211146\_\_

88        (d)5- Any amendment to the Florida Building Code shall be  
89 transmitted within 30 days after adoption by the ~~adopting~~ local  
90 government to the commission. The commission shall maintain  
91 copies of all such amendments in a format that is usable and  
92 obtainable by the public. Local technical amendments are shall  
93 ~~not become~~ effective until 30 days after the amendment has been  
94 received and published by the commission.

95        (e)6- An Any amendment to the Florida Building Code adopted  
96 by a local government under ~~pursuant to~~ this subsection is  
97 ~~paragraph shall be~~ effective only until the adoption ~~by the~~  
98 ~~commission~~ of the new edition of the Florida Building Code by  
99 the commission every third year. At such time, the commission  
100 shall review such amendment for consistency with the criteria in  
101 paragraph (9)(a) and adopt such amendment as part of the Florida  
102 Building Code or rescind the amendment. The commission shall  
103 immediately notify the respective local government of the  
104 rescission of any amendment. After receiving such notice, the  
105 respective local government may readopt the rescinded amendment  
106 under ~~pursuant to~~ the provisions of this subsection ~~paragraph~~.

107        (f)7- Each county and municipality desiring to make local  
108 technical amendments to the Florida Building Code shall ~~by~~  
109 ~~interlocal agreement~~ establish by interlocal agreement a  
110 countywide compliance review board to review any amendment to  
111 the Florida Building Code that is, adopted by a local government  
112 within the county under ~~pursuant to~~ this subsection and  
113 ~~paragraph~~, that is challenged by a ~~any~~ substantially affected  
114 party for purposes of determining the amendment's compliance  
115 with this subsection ~~paragraph~~. If challenged, the local  
116 technical amendments are shall not ~~become~~ effective until the

9-00990-21

20211146\_\_

117 time for filing an appeal under paragraph (g) ~~pursuant to~~  
118 ~~subparagraph 8.~~ has expired or, if there is an appeal, until the  
119 commission issues its final order determining if the adopted  
120 amendment is in compliance with this subsection.

121 (g) 8. If the compliance review board determines such  
122 amendment is not in compliance with this subsection ~~paragraph~~,  
123 the compliance review board shall notify such local government  
124 of the noncompliance and that the amendment is invalid and  
125 unenforceable until the local government corrects the amendment  
126 to bring it into compliance. The local government may appeal the  
127 decision of the compliance review board to the commission. If  
128 the compliance review board determines that such amendment is ~~to~~  
129 ~~be~~ in compliance with this subsection ~~paragraph~~, any  
130 substantially affected party may appeal such determination to  
131 the commission. Any such appeal must ~~shall~~ be filed with the  
132 commission within 14 days after ~~of~~ the board's written  
133 determination. The commission shall promptly refer the appeal to  
134 the Division of Administrative Hearings by electronic means  
135 through the division's website for the assignment of an  
136 administrative law judge. The administrative law judge shall  
137 conduct the required hearing within 30 days after being assigned  
138 to the appeal, and shall enter a recommended order within 30  
139 days after ~~of~~ the conclusion of such hearing. The commission  
140 shall enter a final order within 30 days after an order is  
141 rendered ~~thereafter~~. ~~The provisions of Chapter 120 and the~~  
142 uniform rules of procedure shall apply to such proceedings. The  
143 local government adopting the amendment that is subject to  
144 challenge has the burden of proving that the amendment complies  
145 with this subsection ~~paragraph~~ in proceedings before the

9-00990-21

20211146\_\_

146 compliance review board and the commission, as applicable.  
147 Actions of the commission are subject to judicial review under  
148 ~~pursuant to~~ s. 120.68. The compliance review board shall  
149 determine whether its decisions apply to a respective local  
150 jurisdiction or apply countywide.

151 (h)9. An amendment adopted under this subsection ~~paragraph~~  
152 must ~~shall~~ include a fiscal impact statement that ~~which~~  
153 documents the costs and benefits of the proposed amendment.  
154 Criteria for the fiscal impact statement shall include the  
155 impact to local government relative to enforcement and, ~~the~~  
156 impact to property and building owners and, ~~as well as to~~  
157 industry, ~~relative to the cost of compliance.~~ The fiscal impact  
158 statement may not be used as a basis for challenging the  
159 amendment for compliance.

160 (i)10. In addition to paragraphs (f) and (g) ~~subparagraphs~~  
161 ~~7. and 9.~~, the commission may review any amendments adopted  
162 under ~~pursuant to~~ this subsection and make nonbinding  
163 recommendations related to compliance of such amendments with  
164 this subsection.

165 (j)(e) Any amendment adopted by a local enforcing agency  
166 under ~~pursuant to~~ this subsection may ~~shall~~ not apply to state  
167 or school district owned buildings, manufactured buildings or  
168 factory-built school buildings approved by the commission, or  
169 prototype buildings approved under ~~pursuant to~~ s. 553.77(3). The  
170 respective responsible entities shall consider the physical  
171 performance parameters substantiating such amendments when  
172 designing, specifying, and constructing such exempt buildings.

173 (k)(d) A technical amendment to the Florida Building Code  
174 related to water conservation practices or design criteria

9-00990-21

20211146\_\_

175 adopted by a local government under ~~pursuant to~~ this subsection  
176 is not ~~rendered~~ void when the code is updated if the technical  
177 amendment is necessary to protect or provide for more efficient  
178 use of water resources as provided in s. 373.621. However, any  
179 such technical amendment carried forward into the next edition  
180 of the code under ~~pursuant to~~ this paragraph is subject to  
181 review or modification as provided in this part.

182 (1) If a local government adopts a regulation, law,  
183 ordinance, policy, amendment, or land use or zoning provision  
184 without using the process established in this subsection, and a  
185 substantially affected person considers such regulation, law,  
186 ordinance, policy, amendment, or land use or zoning provision to  
187 be a technical amendment to the Florida Building Code, then the  
188 substantially affected person may submit a petition to the  
189 commission for a nonbinding advisory opinion. If a substantially  
190 affected person submits a request in accordance with this  
191 paragraph, the commission shall issue a nonbinding advisory  
192 opinion stating whether or not the commission interprets the  
193 regulation, law, ordinance, policy, amendment, or land use or  
194 zoning provision as a technical amendment to the Florida  
195 Building Code. As used in this paragraph, the term "local  
196 government" means a county, municipality, special district, or  
197 political subdivision of the state.

198 1. Requests to review a local government regulation, law,  
199 ordinance, policy, amendment, or land use or zoning provision  
200 may be initiated by any substantially affected person. A  
201 substantially affected person includes an owner or builder  
202 subject to the regulation, law, ordinance, policy, amendment, or  
203 land use or zoning provision, or an association of owners or

9-00990-21

20211146\_\_

204 builders having members who are subject to the regulation, law,  
205 ordinance, policy, amendment, or land use or zoning provision.

206 2. In order to initiate a review, a substantially affected  
207 person must file a petition with the commission. The commission  
208 shall adopt a form for the petition and directions for filing,  
209 which shall be published on the Building Code Information  
210 System. The form shall, at a minimum, require the following:

211 a. The name of the local government that enacted the  
212 regulation, law, ordinance, policy, amendment, or land use or  
213 zoning provision.

214 b. The name and address of the local government's general  
215 counsel or administrator.

216 c. The name, address, and telephone number of the  
217 petitioner; the name, address, and telephone number of the  
218 petitioner's representative, if any; and an explanation of how  
219 the petitioner's substantial interests are being affected by the  
220 regulation, law, ordinance, policy, amendment, or land use or  
221 zoning provision.

222 d. A statement explaining why the regulation, law,  
223 ordinance, policy, amendment, or land use or zoning provision is  
224 a technical amendment to the Florida Building Code, and which  
225 provisions of the Florida Building Code, if any, are being  
226 amended by the regulation, law, ordinance, policy, amendment, or  
227 land use or zoning provision.

228 3. The petitioner shall serve the petition on the local  
229 government's general counsel or administrator by certified mail,  
230 return receipt requested, and send a copy of the petition to the  
231 commission, in accordance with the commission's published  
232 directions. The local government shall respond to the petition



9-00990-21

20211146\_\_

233 in accordance with the form by certified mail, return receipt  
234 requested, and send a copy of its response to the commission,  
235 within 14 days after receipt of the petition, including  
236 Saturdays, Sundays, and legal holidays.

237 4. Upon receipt of a petition that meets the requirements  
238 of this paragraph, the commission shall publish the petition,  
239 including any response submitted by the local government, on the  
240 Building Code Information System in a manner that allows  
241 interested persons to address the issues by posting comments.

242 5. Before issuing an advisory opinion, the commission shall  
243 consider the petition, the response, and any comments posted on  
244 the Building Code Information System. The commission may also  
245 provide the petition, the response, and any comments posted on  
246 the Building Code Information System to a technical advisory  
247 committee, and may consider any recommendation provided by the  
248 technical advisory committee. The commission shall issue an  
249 advisory opinion stating whether the regulation, law, ordinance,  
250 policy, amendment, or land use or zoning provision is a  
251 technical amendment to the Florida Building Code within 30 days  
252 after the filing of the petition, including Saturdays, Sundays,  
253 and legal holidays. The commission shall publish its advisory  
254 opinion on the Building Code Information System and in the  
255 Florida Administrative Register. The commission's advisory  
256 opinion is nonbinding and is not a declaratory statement under  
257 s. 120.565.

258 (8) Notwithstanding subsection (3) or subsection (7), the  
259 commission may address issues identified in this subsection by  
260 amending the code under ~~pursuant to~~ the rule adoption procedures  
261 in chapter 120. Updates to the Florida Building Code, including

9-00990-21

20211146\_\_

262 provisions contained in referenced standards and criteria which  
263 relate to wind resistance or the prevention of water intrusion,  
264 may not be amended under ~~pursuant to~~ this subsection to diminish  
265 those standards; however, the commission may amend the Florida  
266 Building Code to enhance such standards. Following the approval  
267 of any amendments to the Florida Building Code by the commission  
268 and publication of the amendments on the commission's website,  
269 authorities having jurisdiction to enforce the Florida Building  
270 Code may enforce the amendments.

271 (a) The commission may approve amendments that are needed  
272 to address:

273 1.~~(a)~~ Conflicts within the updated code;

274 2.~~(b)~~ Conflicts between the updated code and the Florida  
275 Fire Prevention Code adopted under ~~pursuant to~~ chapter 633;

276 3.~~(c)~~ Unintended results from the integration of previously  
277 adopted amendments with the model code;

278 4.~~(d)~~ Equivalency of standards;

279 5.~~(e)~~ Changes to or inconsistencies with federal or state  
280 law; or

281 6.~~(f)~~ Adoption of an updated edition of the National  
282 Electrical Code if the commission finds that delay of  
283 implementing the updated edition causes undue hardship to  
284 stakeholders or otherwise threatens the public health, safety,  
285 and welfare.

286 (b) The commission may issue errata to the code to correct  
287 demonstrated errors in provisions contained within the Florida  
288 Building Code. The determination of such errors and the issuance  
289 of errata to the code must be approved by a 75 percent  
290 supermajority vote of the commission. For purposes of this

9-00990-21

20211146\_\_

291 paragraph, "errata to the code" means a list of errors in  
292 current and previous editions of the Florida Building Code.

293 Section 3. Subsection (7) of section 553.77, Florida  
294 Statutes, is amended to read:

295 553.77 Specific powers of the commission.—

296 (7) Building officials shall recognize and enforce variance  
297 orders issued by the Department of Health under s. 514.0115(9)  
298 ~~pursuant to s. 514.0115(8)~~, including any conditions attached to  
299 the granting of the variance.

300 Section 4. Paragraph (d) is added to subsection (1) of  
301 section 553.79, Florida Statutes, to read:

302 553.79 Permits; applications; issuance; inspections.—

303 (1)

304 (d) A local government may not require a contract between a  
305 builder and an owner for the issuance of a building permit or as  
306 a requirement for the submission of a building permit  
307 application.

308 Section 5. Paragraph (a) of subsection (8) of section  
309 553.842, Florida Statutes, is amended to read:

310 553.842 Product evaluation and approval.—

311 (8) The commission may adopt rules to approve the following  
312 types of entities that produce information on which product  
313 approvals are based. All of the following entities, including  
314 engineers and architects, must comply with a nationally  
315 recognized standard demonstrating independence or no conflict of  
316 interest:

317 (a) Evaluation entities approved under ~~pursuant to~~ this  
318 paragraph or that meet the criteria for approval adopted by the  
319 commission by rule. The commission shall specifically approve

9-00990-21

20211146\_\_

320 the National Evaluation Service, the International Association  
321 of Plumbing and Mechanical Officials Evaluation Service, the  
322 International Code Council Evaluation Services, Underwriters  
323 Laboratories, LLC, Intertek Testing Services NA, Inc., and the  
324 Miami-Dade County Building Code Compliance Office Product  
325 Control Division. Architects and engineers licensed in this  
326 state are also approved to conduct product evaluations as  
327 provided in subsection (5).

328 Section 6. Paragraph (bb) of subsection (1) of section  
329 125.01, Florida Statutes, is amended to read:

330 125.01 Powers and duties.—

331 (1) The legislative and governing body of a county shall  
332 have the power to carry on county government. To the extent not  
333 inconsistent with general or special law, this power includes,  
334 but is not restricted to, the power to:

335 (bb) Enforce the Florida Building Code~~7~~ as provided in s.  
336 553.80~~7~~ and adopt and enforce local technical amendments to the  
337 Florida Building Code as provided in s. 553.73(4)~~7~~, ~~pursuant to~~  
338 ~~s. 553.73(4)(b) and (c)~~.

339 Section 7. Subsection (1) of section 125.56, Florida  
340 Statutes, is amended to read:

341 125.56 Enforcement and amendment of the Florida Building  
342 Code and the Florida Fire Prevention Code; inspection fees;  
343 inspectors; etc.—

344 (1) The board of county commissioners of each of the  
345 several counties of the state may enforce the Florida Building  
346 Code and the Florida Fire Prevention Code~~7~~ as provided in ss.  
347 553.80, 633.206, and 633.208~~7~~ and, at its discretion, adopt  
348 local technical amendments to the Florida Building Code as

9-00990-21

20211146\_\_

349 provided in s. 553.73(4), ~~pursuant to s. 553.73(4)(b) and (c)~~  
350 and local technical amendments to the Florida Fire Prevention  
351 Code as provided in, ~~pursuant to s. 633.202~~, to provide for the  
352 safe construction, erection, alteration, repair, securing, and  
353 demolition of any building within its territory outside the  
354 corporate limits of any municipality. Upon a determination to  
355 consider amending the Florida Building Code or the Florida Fire  
356 Prevention Code by a majority of the members of the board of  
357 county commissioners of such county, the board shall call a  
358 public hearing and comply with the public notice requirements of  
359 s. 125.66(2). The board shall hear all interested parties at the  
360 public hearing and may then amend the building code or the fire  
361 code consistent with the terms and purposes of this act. Upon  
362 adoption, an amendment to the code shall be in full force and  
363 effect throughout the unincorporated area of such county until  
364 otherwise notified by the Florida Building Commission under  
365 ~~pursuant to~~ s. 553.73 or the State Fire Marshal under ~~pursuant~~  
366 ~~to~~ s. 633.202. This subsection does not ~~Nothing herein contained~~  
367 ~~shall be construed to~~ prevent the board of county commissioners  
368 from repealing such amendment to the building code or the fire  
369 code at any regular meeting of such board.

370 Section 8. This act shall take effect July 1, 2021.