

By Senator Constantine

22-01019-10

20102694

1                   A bill to be entitled  
2           An act relating to the Florida Building Commission;  
3           amending s. 553.37, F.S.; requiring that the  
4           Department of Community Affairs adopt rules addressing  
5           the performance of its designee and contractors;  
6           authorizing the department to adopt rules that provide  
7           for manufacturers to pay fees directly to the  
8           administrator; providing an exception from approval  
9           and insignia requirements for custom or one-of-a-kind  
10          prototype manufactured buildings; requiring that such  
11          manufactured buildings be in compliance with all of  
12          the requirements of the local governmental agency  
13          having jurisdiction at the installation site; amending  
14          s. 553.375, F.S.; revising provisions relating to the  
15          recertification of manufactured buildings; providing  
16          that the manufacturer, dealer, or owner of a  
17          manufactured building may apply for recertification of  
18          such building before it is relocated to a site that  
19          has a higher design wind speed; amending s. 553.512,  
20          F.S.; requiring that the Florida Building Commission  
21          adopt rules establishing a fee to be paid upon  
22          submitting a request for a waiver from the  
23          requirements of the Florida Americans with  
24          Disabilities Accessibility Implementation Act;  
25          amending s. 553.73, F.S.; authorizing counties and  
26          municipalities to adopt by ordinance administrative  
27          and technical amendments to the Florida Building Code  
28          regarding flood resistance to implement the National  
29          Flood Insurance Program; deleting a provision that

22-01019-10

20102694

30 requires the Florida Building Commission to make an  
31 updated version of the Florida Building Code available  
32 to the public; authorizing the commission to approve  
33 certain amendments to the code; exempting certain  
34 family mausoleums from the code; amending s. 553.74,  
35 F.S.; providing that a member of any of the  
36 commission's technical advisory committees, or other  
37 advisory committees or workgroups, does not have an  
38 impermissible conflict of interest when representing  
39 clients before the commission or one of its committees  
40 or workgroups; providing an exception if the member  
41 has a direct financial interest; amending s. 553.76,  
42 F.S.; authorizing the commission to adopt rules  
43 related to its consensus-based decisionmaking  
44 processes; amending s. 553.775, F.S.; authorizing the  
45 commission to impose a fee for filing requests for  
46 declaratory statements and nonbinding interpretations;  
47 amending s. 553.80, F.S.; providing that certain  
48 exemptions from the Florida Building Code do not apply  
49 to a single-family residence located in a flood hazard  
50 area unless the work is determined not to be a  
51 substantial improvement to such residence; amending s.  
52 553.842, F.S.; revising provisions relating to the  
53 product evaluation and approval system; authorizing  
54 the commission to adopt rules providing for the  
55 payment of fees related to approvals; authorizing the  
56 commission to adopt rules allowing for editorial  
57 revisions to approvals; revising provisions requiring  
58 that the commission specifically approve the

22-01019-10

20102694

59 International Association of Plumbing and Mechanical  
60 Officials Evaluation Service; amending s. 553.885,  
61 F.S.; revising provisions requiring that certain  
62 buildings have an approved operational carbon monoxide  
63 alarm; authorizing the installation of a battery-  
64 powered carbon monoxide alarm or a battery-powered  
65 combination carbon monoxide and smoke alarm; providing  
66 an exemption for existing buildings that are  
67 undergoing alterations or repairs unless the  
68 alteration is an extension or increase in floor area,  
69 number of stories, or height of a building or  
70 structure; defining the term "addition"; providing an  
71 effective date.

72  
73 Be It Enacted by the Legislature of the State of Florida:

74  
75 Section 1. Subsections (2) and (8) of section 553.37,  
76 Florida Statutes, are amended, and subsection (12) is added to  
77 that section, to read:

78 553.37 Rules; inspections; and insignia.—

79 (2) The department shall adopt rules to address:

80 (a) Procedures and qualifications for approval of third-  
81 party plan review and inspection agencies and of those who  
82 perform inspections and plan reviews.

83 (b) Investigation of consumer complaints of noncompliance  
84 of manufactured buildings with the Florida Building Code and the  
85 Florida Fire Prevention Code.

86 (c) Issuance, cancellation, and revocation of any insignia  
87 issued by the department and procedures for auditing and

22-01019-10

20102694

88 accounting for disposition of them.

89 (d) Monitoring the manufacturers', inspection agencies',  
90 and plan review agencies' compliance with this part and the  
91 Florida Building Code. Monitoring may include, but is not  
92 limited to, performing audits of plans, inspections of  
93 manufacturing facilities and observation of the manufacturing  
94 and inspection process, and onsite inspections of buildings.

95 (e) The performance by the department and its designee and  
96 contractors of any other functions required by this part.

97 (8) The department, by rule, shall establish a schedule of  
98 fees to pay the cost of the administration and enforcement of  
99 this part. The rule may provide for manufacturers to pay fees  
100 directly to the administrator.

101 (12) Custom or one-of-a-kind prototype manufactured  
102 buildings are not required to have state approval, but must be  
103 in compliance with all of the requirements of the local  
104 governmental agency that has jurisdiction at the installation  
105 site.

106 Section 2. Section 553.375, Florida Statutes, is amended to  
107 read:

108 553.375 Recertification of manufactured buildings.—Prior to  
109 the relocation of a manufactured building within the state to a  
110 site that has a higher design wind speed, or the modification,  
111 or change of occupancy of such a manufactured building within  
112 the state, the manufacturer, dealer, or owner thereof may apply  
113 to the department for recertification of that manufactured  
114 building. The department shall, by rule, provide what  
115 information the applicant must submit for recertification and  
116 for plan review and inspection of such manufactured buildings

22-01019-10

20102694

117 and shall establish fees for recertification. Upon a  
118 determination by the department that the manufactured building  
119 complies with the applicable building codes, the department  
120 shall issue a recertification insignia. A manufactured building  
121 that bears recertification insignia does not require any  
122 additional approval by an enforcement jurisdiction in which the  
123 building is sold or installed, and is considered to comply with  
124 all applicable codes. As an alternative to recertification by  
125 the department, the manufacturer, dealer, or owner of a  
126 manufactured building may seek appropriate permitting and a  
127 certificate of occupancy from the local jurisdiction in  
128 accordance with procedures generally applicable under the  
129 Florida Building Code.

130 Section 3. Subsection (1) of section 553.512, Florida  
131 Statutes, is amended to read:

132 553.512 Modifications and waivers; advisory council.—

133 (1) The Florida Building Commission shall provide by  
134 regulation criteria for granting individual modifications of, or  
135 exceptions from, the literal requirements of this part upon a  
136 determination of unnecessary, unreasonable, or extreme hardship,  
137 provided such waivers shall not violate federal accessibility  
138 laws and regulations and shall be reviewed by the Accessibility  
139 Advisory Council. The commission shall adopt rules establishing  
140 a fee to be paid upon submitting a request for a waiver pursuant  
141 to this section. Notwithstanding any other provision of this  
142 subsection, if an applicant for a waiver demonstrates economic  
143 hardship in accordance with 28 C.F.R. s. 36.403(f)(1), a waiver  
144 shall be granted. The commission may not consider waiving any of  
145 the requirements of s. 553.5041 unless the applicant first

22-01019-10

20102694

146 demonstrates that she or he has applied for and been denied  
147 waiver or variance from all local government zoning, subdivision  
148 regulations, or other ordinances that prevent compliance  
149 therewith. Further, the commission may not waive the requirement  
150 of s. 553.5041(5)(a) and (c)1. governing the minimum width of  
151 accessible routes and minimum width of accessible parking  
152 spaces.

153 Section 4. Present subsections (5) through (13) of section  
154 553.73, Florida Statutes, are redesignated as subsections (6)  
155 through (14), respectively, a new subsection (5) is added to  
156 that section, and present subsections (6), (7), and (9) of that  
157 section are amended, to read:

158 553.73 Florida Building Code.—

159 (5) Notwithstanding subsection (4), a county or  
160 municipality may adopt by ordinance administrative and technical  
161 amendments to the Florida Building Code regarding flood  
162 resistance to implement the programs or incentives of the  
163 National Flood Insurance Program. An administrative amendment  
164 may assign the duty to enforce all or portions of flood-related  
165 code provisions to appropriate agencies of the local government  
166 and may adopt procedures for variances and exceptions from  
167 flood-related code provisions other than the provisions for  
168 structures seaward of the coastal construction control line  
169 consistent with 44 C.F.R. s. 60.6. A technical amendment is  
170 authorized to the extent that it is more stringent than the  
171 code. An administrative or technical amendment is not subject to  
172 the requirements in subsection (4) and may not be rescinded by  
173 the Florida Building Commission upon updating the code if the  
174 amendment is adopted for the purpose of participating in the

22-01019-10

20102694

175 Community Rating System promulgated pursuant to 42 U.S.C. s.  
176 4022. Any amendment adopted pursuant to this subsection shall be  
177 transmitted to the commission within 30 days after its adoption.

178 (7)~~(6)~~ (a) The commission, by rule adopted pursuant to ss.  
179 120.536(1) and 120.54, shall update the Florida Building Code  
180 every 3 years. When updating the Florida Building Code, the  
181 commission shall select the most current version of the  
182 International Building Code, the International Fuel Gas Code,  
183 the International Mechanical Code, the International Plumbing  
184 Code, and the International Residential Code, all of which are  
185 adopted by the International Code Council, and the National  
186 Electrical Code, which is adopted by the National Fire  
187 Protection Association, to form the foundation codes of the  
188 updated Florida Building Code, if the version has been adopted  
189 by the applicable model code entity ~~and made available to the~~  
190 ~~public at least 6 months prior to its selection by the~~  
191 ~~commission~~. The commission shall select the most current version  
192 of the International Energy Conservation Code (IECC) as a  
193 foundation code; however, the IECC shall be modified by the  
194 commission to maintain the efficiencies of the Florida Energy  
195 Efficiency Code for Building Construction adopted and amended  
196 pursuant to s. 553.901.

197 (8)~~(7)~~ Notwithstanding the provisions of subsection (3) or  
198 subsection (7) ~~(6)~~, the commission may address issues identified  
199 in this subsection by amending the code pursuant only to the  
200 rule adoption procedures contained in chapter 120. Provisions of  
201 the Florida Building Code, including those contained in  
202 referenced standards and criteria, relating to wind resistance  
203 or the prevention of water intrusion may not be amended pursuant

22-01019-10

20102694

204 to this subsection to diminish those construction requirements;  
205 however, the commission may, subject to conditions in this  
206 subsection, amend the provisions to enhance those construction  
207 requirements. Following the approval of any amendments to the  
208 Florida Building Code by the commission and publication of the  
209 amendments on the commission's website, authorities having  
210 jurisdiction to enforce the Florida Building Code may enforce  
211 the amendments. The commission may approve amendments that are  
212 needed to address:

213 (a) Conflicts within the updated code;

214 (b) Conflicts between the updated code and the Florida Fire  
215 Prevention Code adopted pursuant to chapter 633;

216 (c) The omission of previously adopted Florida-specific  
217 amendments to the updated code if such omission is not supported  
218 by a specific recommendation of a technical advisory committee  
219 or particular action by the commission;

220 (d) Unintended results from the integration of previously  
221 adopted Florida-specific amendments with the model code;

222 (e) Equivalency of standards;

223 (f) The specific needs of state agencies when their rules  
224 must be updated to reflect federal requirements relating to  
225 design criteria for public educational facilities and state-  
226 licensed facilities.

227 (g)~~(e)~~ Changes to or inconsistencies with federal or state  
228 law; or

229 (h)~~(f)~~ Adoption of an updated edition of the National  
230 Electrical Code if the commission finds that delay of  
231 implementing the updated edition causes undue hardship to  
232 stakeholders or otherwise threatens the public health, safety,



22-01019-10

20102694\_\_

233 and welfare.

234 (10)~~(9)~~ The following buildings, structures, and facilities  
235 are exempt from the Florida Building Code as provided by law,  
236 and any further exemptions shall be as determined by the  
237 Legislature and provided by law:

238 (a) Buildings and structures specifically regulated and  
239 preempted by the Federal Government.

240 (b) Railroads and ancillary facilities associated with the  
241 railroad.

242 (c) Nonresidential farm buildings on farms.

243 (d) Temporary buildings or sheds used exclusively for  
244 construction purposes.

245 (e) Mobile or modular structures used as temporary offices,  
246 except that the provisions of part II relating to accessibility  
247 by persons with disabilities shall apply to such mobile or  
248 modular structures.

249 (f) Those structures or facilities of electric utilities,  
250 as defined in s. 366.02, which are directly involved in the  
251 generation, transmission, or distribution of electricity.

252 (g) Temporary sets, assemblies, or structures used in  
253 commercial motion picture or television production, or any  
254 sound-recording equipment used in such production, on or off the  
255 premises.

256 (h) Storage sheds that are not designed for human  
257 habitation and that have a floor area of 720 square feet or less  
258 are not required to comply with the mandatory wind-borne-debris-  
259 impact standards of the Florida Building Code.

260 (i) Chickees constructed by the Miccosukee Tribe of Indians  
261 of Florida or the Seminole Tribe of Florida. As used in this

22-01019-10

20102694

262 paragraph, the term "chickee" means an open-sided wooden hut  
263 that has a thatched roof of palm or palmetto or other  
264 traditional materials, and that does not incorporate any  
265 electrical, plumbing, or other nonwood features.

266 (j) Family mausoleums that are prefabricated and assembled  
267 on site, or preassembled and delivered on site; that have walls,  
268 roofs, and a floor constructed of granite, marble, or reinforced  
269 concrete; and that do not exceed 250 square feet in area.

270  
271 With the exception of paragraphs (a), (b), (c), and (f), in  
272 order to preserve the health, safety, and welfare of the public,  
273 the Florida Building Commission may, by rule adopted pursuant to  
274 chapter 120, provide for exceptions to the broad categories of  
275 buildings exempted in this section, including exceptions for  
276 application of specific sections of the code or standards  
277 adopted therein. The Department of Agriculture and Consumer  
278 Services shall have exclusive authority to adopt by rule,  
279 pursuant to chapter 120, exceptions to nonresidential farm  
280 buildings exempted in paragraph (c) when reasonably necessary to  
281 preserve public health, safety, and welfare. The exceptions must  
282 be based upon specific criteria, such as under-roof floor area,  
283 aggregate electrical service capacity, HVAC system capacity, or  
284 other building requirements. Further, the commission may  
285 recommend to the Legislature additional categories of buildings,  
286 structures, or facilities which should be exempted from the  
287 Florida Building Code, to be provided by law.

288 Section 5. Subsection (5) is added to section 553.74,  
289 Florida Statutes, to read:

290 553.74 Florida Building Commission.—

22-01019-10

20102694

291       (5) Notwithstanding s. 112.313 or any other provision of  
292 law, a person's membership on any of the commission's technical  
293 advisory committees or other advisory committees or workgroups  
294 does not constitute an impermissible conflict of interest if  
295 that person represents clients before the commission or one of  
296 its committees or workgroups. However, such person may not be  
297 part of any discussion or take action as a member of a committee  
298 or workgroup on any matter in which he or she has a direct  
299 financial interest.

300       Section 6. Subsection (2) of section 553.76, Florida  
301 Statutes, is amended to read:

302       553.76 General powers of the commission.—The commission is  
303 authorized to:

304       (2) Issue memoranda of procedure for its internal  
305 management and control. The commission may adopt rules related  
306 to its consensus-based, decisionmaking processes, including, but  
307 not limited to, super majority voting requirements for  
308 commission actions regarding the adoption of the Florida  
309 Building Code.

310       Section 7. Subsection (4) of section 553.775, Florida  
311 Statutes, is amended to read:

312       553.775 Interpretations.—

313       (4) In order to administer this section, the commission may  
314 adopt by rule and impose a fee for filing requests for  
315 declaratory statements and binding and nonbinding  
316 interpretations to recoup the cost of the proceedings which may  
317 not exceed \$250 for each request for a review or interpretation.  
318 For proceedings conducted by or in coordination with a third-  
319 party, the rule may provide that payment be made directly to the

22-01019-10

20102694

320 third party, who shall remit to the department that portion of  
321 the fee necessary to cover the costs of the department.

322 Section 8. Subsection (3) of section 553.80, Florida  
323 Statutes, is amended to read:

324 553.80 Enforcement.—

325 (3) Each enforcement district shall be governed by a board,  
326 the composition of which shall be determined by the affected  
327 localities. At its own option each enforcement district or local  
328 enforcement agency may promulgate rules granting to the owner of  
329 a single-family residence one or more exemptions from the  
330 Florida Building Code relating to:

331 (a) Addition, alteration, or repairs performed by the  
332 property owner upon his or her own property, provided any  
333 addition or alteration shall not exceed 1,000 square feet or the  
334 square footage of the primary structure, whichever is less.

335 (b) Addition, alteration, or repairs by a nonowner within a  
336 specific cost limitation set by rule, provided the total cost  
337 shall not exceed \$5,000 within any 12-month period.

338 (c) Building and inspection fees.

339

340 The exemptions do not apply to a single-family residence that is  
341 located in a mapped flood hazard area, as defined in the code,  
342 unless the enforcement district or local enforcement agency has  
343 determined, that the work does not constitute a substantial  
344 improvement to the single-family residence, including the repair  
345 of substantial damage. Each code exemption, as defined in  
346 paragraphs (a), (b), and (c), shall be certified to the local  
347 board 10 days prior to implementation and shall only be  
348 effective in the territorial jurisdiction of the enforcement

22-01019-10

20102694

349 district or local enforcement agency implementing it.

350 Section 9. Subsections (1) and (8) of section 553.842,  
351 Florida Statutes, are amended to read:

352 553.842 Product evaluation and approval.—

353 (1) The commission shall adopt rules under ss. 120.536(1)  
354 and 120.54 to develop and implement a product evaluation and  
355 approval system that applies statewide to operate in  
356 coordination with the Florida Building Code. The commission may  
357 enter into contracts to provide for administration of the  
358 product evaluation and approval system. The commission's rules  
359 and any applicable contract may provide that the payment of fees  
360 related to approvals be made directly to the administrator. The  
361 product evaluation and approval system shall provide:

362 (a) Appropriate promotion of innovation and new  
363 technologies.

364 (b) Processing submittals of products from manufacturers in  
365 a timely manner.

366 (c) Independent, third-party qualified and accredited  
367 testing and laboratory facilities, product evaluation entities,  
368 quality assurance agencies, certification agencies, and  
369 validation entities.

370 (d) An easily accessible product acceptance list to  
371 entities subject to the Florida Building Code.

372 (e) Development of stringent but reasonable testing  
373 criteria based upon existing consensus standards, when  
374 available, for products.

375 (f) Long-term approvals, where feasible. State and local  
376 approvals will be valid until the requirements of the code on  
377 which the approval is based change, the product changes in a

22-01019-10

20102694\_\_

378 manner affecting its performance as required by the code, or the  
379 approval is revoked; however, the commission may allow by rule  
380 editorial revisions to approvals and may charge a fee as  
381 provided in this section.

382 (g) Criteria for revocation of a product approval.

383 (h) Cost-effectiveness.

384 (8) The commission may adopt rules to approve the following  
385 types of entities that produce information on which product  
386 approvals are based. All of the following entities, including  
387 engineers and architects, must comply with a nationally  
388 recognized standard demonstrating independence or no conflict of  
389 interest:

390 (a) Evaluation entities that meet the criteria for approval  
391 adopted by the commission by rule. The commission shall  
392 specifically approve the National Evaluation Service, the  
393 International Conference of Building Officials Evaluation  
394 Services, the International Code Council Evaluation Services,  
395 the Building Officials and Code Administrators International  
396 Evaluation Services, the Southern Building Code Congress  
397 International Evaluation Services, the International Association  
398 of Plumbing and Mechanical Officials Evaluation Service, and the  
399 Miami-Dade County Building Code Compliance Office Product  
400 Control. Architects and engineers licensed in this state are  
401 also approved to conduct product evaluations as provided in  
402 subsection (5).

403 (b) Testing laboratories accredited by national  
404 organizations, such as A2LA and the National Voluntary  
405 Laboratory Accreditation Program, laboratories accredited by  
406 evaluation entities approved under paragraph (a), and

22-01019-10

20102694

407 laboratories that comply with other guidelines for testing  
408 laboratories selected by the commission and adopted by rule.

409 (c) Quality assurance entities approved by evaluation  
410 entities approved under paragraph (a) and by certification  
411 agencies approved under paragraph (d) and other quality  
412 assurance entities that comply with guidelines selected by the  
413 commission and adopted by rule.

414 (d) Certification agencies accredited by nationally  
415 recognized accreditors and other certification agencies that  
416 comply with guidelines selected by the commission and adopted by  
417 rule.

418 (e) Validation entities that comply with accreditation  
419 standards established by the commission by rule.

420 Section 10. Subsections (1) and (3) of section 553.885,  
421 Florida Statutes, are amended to read:

422 553.885 Carbon monoxide alarm required.—

423 (1) Every separate building or addition to an existing  
424 building, other than a hospital, an inpatient hospice facility,  
425 or a nursing home facility licensed by the Agency for Health  
426 Care Administration, constructed for which a building permit is  
427 issued for new construction on or after July 1, 2008, and having  
428 a fossil-fuel-burning heater or appliance, a fireplace, or an  
429 attached garage, or other feature, fixture, or element that  
430 emits carbon monoxide as a byproduct of combustion, shall have  
431 an approved operational carbon monoxide alarm installed within  
432 10 feet of each room used for sleeping purposes in the new  
433 building or addition or at such other locations as required by  
434 the Florida Building Code. The requirements in this subsection  
435 may be satisfied with the installation of a battery-powered

22-01019-10

20102694

436 carbon monoxide alarm or a battery-powered combination carbon  
437 monoxide and smoke alarm. For a new hospital, an inpatient  
438 hospice facility, or a nursing home facility licensed by the  
439 Agency for Health Care Administration, an approved operational  
440 carbon monoxide detector shall be installed inside or directly  
441 outside of each room or area within the hospital or facility  
442 where a fossil-fuel-burning heater, engine, or appliance is  
443 located. This detector shall be connected to the fire alarm  
444 system of the hospital or facility as a supervisory signal. This  
445 subsection does not apply to existing buildings that are  
446 undergoing alterations or repairs unless the alteration is an  
447 addition as defined in subsection (3).

448 (3) As used in this section, the term:

449 (a) "Carbon monoxide alarm" means a device that is meant  
450 for the purpose of detecting carbon monoxide, that produces a  
451 distinct audible alarm, and that meets the requirements of and  
452 is approved by the Florida Building Commission.

453 (b) "Fossil fuel" means coal, kerosene, oil, fuel gases, or  
454 other petroleum or hydrocarbon product that emits carbon  
455 monoxide as a by-product of combustion.

456 (c) "Addition" means an extension or increase in floor  
457 area, number of stories, or height of a building or structure.

458 Section 11. This act shall take effect upon becoming a law.