

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 651 Building Construction and Inspection

SPONSOR(S): Business & Consumer Affairs Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Business & Consumer Affairs Subcommittee		Livingston	Creamer

SUMMARY ANALYSIS

The Florida Building Code is authorized by statute as the statewide code pertaining to construction. The overall purpose for the building code is to create within a single set of documents uniform standards applicable to construction in Florida. The Florida Building Commission is responsible for adopting, updating, and general administration of the building code.

The bill:

- changes the method that county and municipal code enforcement offices are required to use to serve notices on property owners;
- adds specific requirements for service of notices on corporations owning property and eliminates the need to serve notices by first class mail to an owner when a county or municipality publishes or posts notices;
- authorizes local building code administrators and building officials to accept electronic submission of construction plans, drawings, specifications, reports, and other documents with approval of the building administrator or building official and allows licensees to electronically seal documents;
- requires the current building permit surcharge revenues to statutorily be allocated between the Florida Building Commission and the Florida Building Code Compliance and Mitigation Program;
- statutorily limits the funding to \$925,000 each fiscal year for allocation to the Compliance and Mitigation Program; and
- specifies criteria to be complied with in order to be exempt from the minimum requirements of the building code for buildings or structures that are used for hunting purposes.

The bill does not have a fiscal impact on state funds. The Department of Business and Professional Regulation estimates that any additional workload can be absorbed within existing resources.

The effective date of the bill is July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current situation

Local government code enforcement notices

Currently, s. 162.12, F.S., outlines the notice requirements under the Local Government Code Enforcement Boards Act (part I of chapter 162, F.S.). This part specifies that “a charter county, a noncharter county, or a municipality may, by ordinance, adopt an alternate code enforcement system that gives code enforcement boards or special magistrates designated by the local governing body, or both, the authority to hold hearings and assess fines against violators of the respective county or municipal codes and ordinances.”

Pursuant to this section, an alleged violator may be provided notice by:

- certified mail, return receipt requested, at the address listed in the tax collector’s office and at any other address provided to the local government by a property owner;
- hand delivery by the sheriff or other law enforcement officer, code inspector, or person designated by the local governing body;
- leaving notice at violators usual place of residence with an individual over 15 years of age; or
- in the case of commercial premises, leaving the notice with the manager or other person in charge.

The code enforcement board may also provide notice by publication or posting pursuant to the procedures in subsection (2) of s.162.12, F.S.

Proposed changes

The bill amends the notice requirements relating to a municipal or county code violation to allow notice to be sent to either the address listed in the tax collector’s office or any other address provided by the property owner in writing to the local government for purposes of receiving notice. Current law requires notice to be sent to both addresses. The bill also states that in instances where the property is owned by a business, notice may be provided by certified mail to the registered agent of the corporation. If the notice is not signed as being received within 30 days after the date of mailing, the bill states that notice may be provided by posting under the procedures specified in s. 162.12, F.S.

Current situation

Electronic documents

The Florida Building Code is authorized by statute as the unified statewide building code pertaining to construction. The overall purpose for the building code is to create within a single set of documents uniform standards applicable to all aspects of construction in Florida to provide protection for public health, safety, and welfare at the most reasonable cost to the consumer. The Florida Building Commission (Commission) is responsible for administration of the building code.

The statute imposes detailed requirements the Commission must follow to adopt, amend, review, and update the building code. The resulting code contains or incorporates the laws and rules pertaining to major aspects of public and private building construction in Florida, from broad areas including design, physical construction, modification, repair, and demolition, to specific matters from structural and mechanical systems that apply to elevators and coastal construction standards.

Building code administrators, inspectors and plans examiners are regulated by part XII of chapter 468, F.S. This regulation is under the Florida Building Code Administrators and Inspectors Board within the Department of Business and Professional Regulation (DBPR).

A building code administrator supervises building code activities, including plans review, enforcement, and inspection. A building code inspector inspects construction that requires permits to determine compliance with building codes and state accessibility laws. A plans examiner reviews plans submitted for building permits to determine compliance with construction codes.

Proposed changes

The bill amends s. 468.604, F.S. to express a statement of legislative findings to allow municipal and county building code administrators and building officials to accept electronically submitted documents prepared or issued by a licensee for review by the administrator, official, or plans examiner. The bill does not create a mandatory requirement for electronic filing, but makes the electronic submission an option upon approval by the local authority. The bill also allows licensees to sign, date, and seal documents electronically if approved locally.

Current situation

Building Code Compliance and Mitigation Program/ Enforcement Surcharge

Currently, s. 553.841, F.S., states, in part: “the Legislature finds that knowledge and understanding by persons licensed in the design and construction industries of the importance and need for complying with the Florida Building Code is vital to the public health, safety, and welfare of this state, especially for mitigating damage caused by hurricanes to residents and visitors to the state.”

This section further states “The (DBPR) shall administer a program, designated as the Florida Building Code Compliance and Mitigation Program (Program), to develop, coordinate, and maintain education and outreach to persons required to comply with the Florida Building Code and ensure consistent education, training, and communication of the code’s requirements, including, but not limited to, methods for mitigation of storm-related damage.”

In order for the DBPR to administer and fund the programs necessary to carry out the purposes of the building code and related activities, s. 553.721, F.S., authorizes the collection of a surcharge assessed at the rate of 1.5 percent of the construction permit fees imposed by local governments and associated with enforcement of the building code.

The minimum amount of the surcharge on any permit issued is \$2. The unit of government responsible for collecting permit fees also collects the surcharge and electronically remits the funds collected to the DBPR on a quarterly basis. The local agency remitting the surcharge is authorized to retain 10 percent of the revenues to fund the participation of local building departments in the building code adoption processes and to provide education related to enforcement of the building code.

The surcharge funds remitted to the DBPR are deposited in the Professional Regulation Trust Fund. These funds are statutorily required to be used exclusively for the duties of the Commission and the DBPR to achieve the goals specified for the implementation of the building code processes and goals. The Program has historically received funds from the Commission by appropriation. The funds are used primarily to provide training and outreach relating to the building code.

Proposed changes

The bill amends s. 553.721, F.S., to provide for revenue sharing of funds collected from the building permit surcharge between the Commission and the Program. The bill specifies that the Program’s funding shall be \$925,000 each fiscal year.

Current situation

Building Code Exemption

Currently s. 553.73(2), F.S., specifies, in part, the building code shall contain provisions or requirements for public and private buildings, structures, and facilities relative to structural, mechanical, electrical, plumbing, energy, and gas systems.

This section also statutorily specifies exemptions from the requirements of the code, such as, buildings and structures specifically regulated and preempted by the federal government, nonresidential farm buildings, certain temporary buildings or sheds that are not designed for human habitation, chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida, among others.

Currently, new construction or alteration of structures used for hunting are subject to the permitting, plan review, and inspection standards to comply with structural and safety requirements of the building code.

Chapter 379, F.S., relating to fish and wildlife conservation, specifies that the term "hunting" means "the lawful pursuit, trapping, shooting, capture, collection, or killing of wildlife or the lawful attempt to pursue, trap, shoot, capture, collect, or kill wildlife.: "Wildlife" is identified as "all species of animals, including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule.

Proposed changes

The bill amends s. 553.73, F.S., to exempt a building or structure having less than 1,000 square feet in area, which is constructed/alterd and owned by a natural person for hunting related purposes, from the administrative, structural and life safety requirements of the Florida Building Code. In general, buildings used for hunting will not be required to meet minimum construction standards.

B. SECTION DIRECTORY:

Section 1 amends s. 162.12, F.S., to eliminate the need to send notices by certified mail to all addresses which a county or municipality has received from property owners and permits counties or municipalities to proceed with service by publication or posting under specified circumstances.

Section 2 amends s. 468.604, F.S., to permit municipal and county building code administrators and building officials to accept electronically submitted documents.

Section 3 amends s. 553.721, F.S., to statutorily allocate funds collected from the building permit surcharge to the Building Code Compliance and Mitigation Program.

Section 4 amends s. 553.73, F.S., to exempt a building or structure used for hunting purposes from the administrative and structural requirements of the building code.

Section 5 provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The DBPR projects that any additional costs associated with the provisions of the bill can be absorbed within current DBPR resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that the counties or municipalities have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES