

Overview of the Florida Building Code

The 2000 Legislature authorized implementation of the first edition of the Florida Building Code. Now in its fifth edition, the Code governs the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities in the state. Affordable housing developments must comply with these provisions. This overview summarizes the history of the Code's development, its scope, adoption, and maintenance. Sources drawn upon for this summary include Florida Building Commission publications, Legislative Committee analyses of recent Building Code bills, Florida Statutes, and the Building Code itself. Additional resources are also provided for review.

Building Codes in Florida: 1970s to Hurricane Andrew

In 1974, Florida adopted a state minimum building code law requiring all local governments to adopt and enforce a building code that would ensure minimum standards for the public's health and safety. Four separate model codes were available that local governments could consider and adopt. In that system, the state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes as they desired.

When Hurricane Andrew hit South Florida in 1992, it revealed the deficiencies of the state's existing building code compliance and enforcement processes. Andrew broke all records for insurance losses, and was the direct cause of Florida's worst insurance crisis in history. It became obvious that building codes and their administration and enforcement was a statewide issue with statewide implications. Poor compliance or enforcement in a single county could wreak havoc with homeowners, developers and commercial interests in every corner of the state.

Creation of a Statewide Florida Building Code

In 1996, the Florida Building Code Study Commission was appointed to review the system of local codes created by the 1974 law and to make recommendations for modernizing the entire system. During 16 months of study, what the Commission found was a complex and confusing patchwork system of codes and regulations, developed, amended, administered and enforced differently by more than 400 local jurisdictions and state agencies with building code responsibilities. One of the most pressing issues identified was compliance. Commission recommendations called for strengthened compliance through greater predictability and accountability in the building code system. The reforms proposed included a streamlined uniform family of codes, strengthened administration and enforcement of codes and enhanced compliance with codes through education, training and discipline.

The 1998 Legislature adopted the Study Commission's recommendations and amended Chapter 553, Florida Statutes, Building Construction Standards to create a single *minimum standard* building code that is enforced by local governments. As of March 1, 2002, the Florida Building Code, which is developed and maintained by the Florida Building Commission, supersedes all local building codes. The Florida Building Code is updated every three years and may be amended annually to incorporate interpretations and clarifications.

Scope and Intent of the Florida Building Code

The Florida Building Code draws upon national model building codes and national consensus standards which are amended where necessary for Florida's specific needs. The International Code Council (ICC) is an association that develops such model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." The ICC publishes ICodes: a complete set of model comprehensive, coordinated building safety and fire prevention codes, for all aspects of construction, that have been developed by ICC members. All 50 states have adopted the I-Codes.

The Florida Building Code incorporates all building construction related regulations for public and private buildings in the State of Florida other than those specifically exempted by Section 553.73, F.S. It is harmonized with the Florida Fire Prevention Code, which is developed by the Department of Financial Services, Office of the State Fire Marshall, to establish unified and consistent standards.

In addition to providing standardization of the design, construction and compliance processes, the Code establishes regulations for the safety, health and general welfare of building occupants as well as for fire fighters and emergency responders during building emergencies. Structural strength, means of egress, stability, sanitation, adequate light and ventilation and energy conservation are addressed. As a performance-based code, builders have flexibility in the means and materials they utilize to meet various compliance standards.

Florida Building Code Adoption and Maintenance

The Florida Building Code is adopted and updated with new editions triennially by the Florida Building Commission. Statutorily created to implement the Florida Building Code, the Commission is housed within the Department of Business and Professional Regulation (DBPR). It is a 27-member technical body responsible for the development, maintenance, and interpretation of the Florida Building Code. The commission also approves products for statewide acceptance. Members are appointed by the Governor and confirmed by the Senate and include design professionals, contractors, and government experts in the various disciplines covered by the Florida Building Code.

While adopted and updated every three years, the Florida Building Code may be amended annually to incorporate interpretations, clarifications and to update standards. Minimum requirements for permitting, plans review and inspections are established by the Code but local jurisdictions may adopt additional administrative requirements that are more stringent. Issues before the Commission are vetted through a workgroup process where consensus recommendations are developed and submitted by representative stakeholder groups in an open process with several opportunities for public input.

Eleven Technical Advisory Committees (TACs) which are constituted consistent with American National Standards Institute (ANSI) Guidelines review proposed Code changes and clarifications of the Code and make recommendations to the Commission. These TACs include: Accessibility; Joint Building Fire; Code Administration/Enforcement; Electrical; Energy; Mechanical; Plumbing and Fuel Gas; Roofing; Swimming Pool; and Special Occupancy (state agency construction and facility licensing regulations).

Under an adoption process established in 2017 (Chapter 2017-149, Laws of Florida), going forward, the Building Commission will start with the current Florida Building Code and then review the International Building Code, the International Fuel Gas Code, International Existing Building Code, the International Mechanical Code, the International Plumbing Code, and the International Residential Code. At a minimum, the Commission must adopt any updates to such codes or any other code necessary to maintain eligibility for federal funding and discounts from the National Flood Insurance Program, the Federal Emergency Management Agency, and the United States Department of Housing and Urban Development. The Commission must also review and adopt updates based on the International Energy Conservation Code (IECC); however, the commission shall maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction. If amendments or modifications are made to the Florida Building Code, those amendments and modifications will be carried forward until the next edition of the Florida Building Code. The Florida Building Code updating process will remain on a three-year cycle.

Section 553.73, F.S., designates that the “responsibility for enforcement, interpretation and regulation of the Building Code be vested in a specified local board or agency.” These responsibilities include reviews of building plans, building inspections, and building permitting. Each enforcement district is governed by a board whose composition is determined by the affected localities. Day-to-day functions are typically carried out through municipal and county building departments and building officials.

Local Jurisdiction Building Codes

Under strictly defined conditions, local governments may amend requirements to be more restrictive than the statewide Code. Any proposed local technical amendments are subject to strict criteria outlined in s. 553.73, F.S., and may not discriminate against materials, products or construction techniques of demonstrated capabilities. Proposed local amendments are subject to Commission review and adoption into the code or repeal during the triennial update and are subject to appeal to the Commission according to procedures established in s. 553.73, F.S. All local amendments to the Florida Building Code must be adopted by local ordinance and reported to the Florida Building Commission.

The 6th Edition of the Florida Building Code

Earlier this year, the Commission completed its rule development process for the 6th Edition of the Florida Building Code. Under s. 553.73(7)(e), F.S., a rule updating the Florida Building Code does not take effect until six months after the publication of the updated Florida Building Code. The 6th Edition of the Florida Building Code will go into effect on December 31, 2017 and will incorporate the latest version of the I-Codes (2015). The next edition of the I-Codes will be the 2018 I-Codes.

Costs, Affordability and Fiscal Impact of the Florida Building Code

While the health, safety and welfare of the public are paramount concerns embedded within the Florida Building Code, the Code also serves to protect property investments and save insurers, the state and local governments money in mitigation costs linked to natural disasters. It is also important to note that the intent of the Code as outlined in s. 553.72, F.S., provides for flexibility in meeting performance requirements, explicitly mandating that the Code “is affordable, does not inhibit competition, and promotes innovation and new technology.” In practice, this flexibility allows the use of alternative

technologies across a range of price points thus fostering novel, cost-conscious and cost-effective ways to meet code requirements.

The Code's commitment to affordability is also delineated in the specifications governing the adoption of local government technical amendments. Section 553.79, (4)(b), F.S., requires any such amendments provide a fiscal impact statement. The fiscal impact statement must include "the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance."

Florida Building Code Exemptions

Although the Code is uniform in nature, provisions allow for local permissive exemptions related to smaller size and minimal cost additions or repairs performed by property owners and non-owners respectively. There are also a limited number of outright exemptions for certain buildings and structures such as facilities associated with railroads, temporary movie or television sets, nonresidential farm buildings and certain family mausoleums. Section 553.73(10)(k), F.S., provides that the Building Commission "may recommend to the Legislature additional categories of buildings, structures or facilities which should be exempted from the Florida Building Code."

Impact of Building Codes on the Cost of Affordable Housing

A recent review of reports and news articles by Florida Housing's staff found no examples of 'reduced standards' building codes specifically designed for affordable housing to reduce costs. The majority of cost of housing reduction ideas proffered in the reviewed commentaries centered around minimizing zoning and other development requirements and impact fees. This appears to echo findings in Glaser and Gyourko's *Rethinking Federal Housing Policy* (AEI Press, 2008) which indicate that building code regulations impact mainly in the 1-5% cost range, perhaps up to 10%, and are not considered to be as important a cost factor as land use regulations.

Anecdotally, Florida Housing staff have heard of challenges building codes sometimes present when rehabilitating of homes through the SHIP program. These challenges are primarily focused on "25%" or "50%" rules in which a home is required to be completely brought up to code if a certain percentage of the home is being "touched."

Additional Resources

The following resources provide additional commentary and perspective on building codes in general and the Florida Building Code specifically.

Florida Building Codes and Standards Website

<https://floridabuilding.org/c/default.aspx>

The Florida Building Codes and Standards Division of the Florida's Department of Business and Professional Regulation website provides links to the Building Code itself, Commission membership, meetings and archives, statutes and rules governing the Code, Technical Advisory Committees and Frequently Asked Questions.

Insurance Institute for Business and Home Safety (IBHS) Building Codes Website

<http://disastersafety.org/ibhs-public-policy/building-codes/>

The IBHS Building Codes webpage provides links to current building codes across the nation and provides a state-by-state assessment of building code systems for the 18 states most vulnerable to catastrophic hurricanes along the Atlantic Coast and Gulf of Mexico.

Simmons, Kevin, Jeffrey Czajkowski and James Done, *Economic Effectiveness of Implementing a Statewide Building Code: The Case of Florida, May 2017*

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2963244

Hurricane Andrew revealed inadequate construction practices were utilized in Florida for decades. In response, Florida adopted a new statewide code – the 2002 Florida Building Code (FBC) which became one of the strictest in the nation. The authors use ten years of insured loss data to show that the FBC reduced windstorm losses by up to 72%, then use their results to conduct a benefit-cost analysis (BCA). The authors' analysis shows the FBC passes the BCA by a margin of 5 dollars in reduced loss to 1 dollar of added cost, with a payback period of approximately 10 years.

Stellberg, Sarah, Assessment of Energy Efficiency Achievable from Improved Compliance with U.S. Building Energy Codes: 2013 – 2030, February 2013

http://www.imt.org/uploads/resources/files/IMT_Report_Code_Compliance_Savings_Potential.pdf

This report presents the results of a state-by-state analysis of the potential energy and cost savings from improving compliance with building energy codes to 100 percent from current levels. The report also examines 45 statewide compliance evaluation studies, providing a summary of evaluation methods and key findings. Stellberg finds that evidence in most states indicates that high rates of non-compliance, as high as 100 percent in some jurisdictions, have eroded the gains from energy code development and adoption. She estimates that projected national savings from bringing just a year's worth of new residential and commercial construction in the U.S. up to full compliance is 2.8-8.5 trillion Btu annually, or \$63-\$189 million in annual energy cost savings.