

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 267 Building Regulations

SPONSOR(S): Commerce Committee, Local Administration, Federal Affairs & Special Districts
Subcommittee, Regulatory Reform & Economic Development Subcommittee, Esposito

TIED BILLS: **IDEN./SIM. BILLS:** SB 684

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	9 Y, 6 N, As CS	Wright	Anstead
2) Local Administration, Federal Affairs & Special Districts Subcommittee	10 Y, 4 N, As CS	Mwakyanjala	Darden
3) Commerce Committee	16 Y, 2 N, As CS	Wright	Hamon

SUMMARY ANALYSIS

The Florida Building Code (Building Code) must be applied and enforced uniformly and consistently across the state. Local governments are required to enforce the Building Code and are responsible for issuing building permits. Current law provides standards and timeframes for local governments to follow for the issuance of building permits.

The bill:

- Requires the Florida Building Commission (Commission) to provide an exception relating to sealed drawings for replacement windows, doors, and garages for one-family and two-family homes.
- Requires the Commission to use the 2020 definition of “windborne debris region” for residential use.
- Requires a local government to:
 - Determine if a building permit application is complete within 5 business days of receiving the application, previously set at 10 days.
 - Determine if a building permit application is sufficient within 10 business days of receiving a completed application, previously set at 45 days.
 - Approve, approve with conditions, or deny a complete and sufficient permit application within the following timeframes:
 - 30 business days for applicants using local government review, previously set at 120 days;
 - 15 business days for applicants using a private provider, previously set at 120 days; and
 - 10 business days for applicants for a permit under an already-approved master plan permit, previously set at 120 days.
 - 60 business days for applicants for a multifamily project; previously set at 120 days.
 - Review an completed application for sufficiency within 10 business days.
 - Provide an opportunity for a virtual meeting, instead of just an in-person meeting, before a second request for additional information may be made.
- Provides that a local government can request additional information from an applicant two times, unless the applicant agrees otherwise, previously set at three times.
- Provides an exception to the fee reduction provision when a delay is caused by the applicant or by a force majeure or other extraordinary circumstance.
- Provides that completing an internship program for residential building inspectors is a pathway for licensure as a residential building inspector.
- Reduces the time frame that a local government has to issue a building permit to a private provider who is a licensed engineer or architect who seals the affidavit, to 10 days after application, from 20 days.
- Provides that the Florida Building Commission must review certain standards for unvented attics before December 31, 2024, and that certain standards will be effective related to such attics on July 1, 2025.

The bill may have an indeterminate fiscal impact on state and local government.

The bill provides an effective date of January 1, 2025.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives .

STORAGE NAME: h0267d.COM

DATE: 2/17/2024

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation – Building Permits

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. 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.¹

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study's commission recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.² The current edition of the Building Code is the eighth edition, which is referred to as the 2023 Florida Building Code.³

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.⁴

The Florida Building Commission (Commission) was created to implement the Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The Commission reviews several International Codes published by the International Code Council,⁵ the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.⁶

Use of Building Code Enforcement Fees

A local government may charge reasonable fees as set forth in a schedule of fees adopted by the enforcing agency for the issuance of a building permit.⁷ Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the Building Code.⁸ Enforcing the Building Code includes the direct costs and reasonable indirect costs associated with training, review of building plans, building inspections, re-inspections, building permit processing, and fire inspections.⁹ Local governments must post all building permit and inspection fee schedules on their website.¹⁰

¹ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Jan. 28, 2024).

² *Id.*

³ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Jan. 28, 2024).

⁴ See s. 553.72(1), F.S.

⁵ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." International Code Council, *About the ICC*, <https://www.iccsafe.org/about/who-we-are/> (last visited Jan. 28, 2024).

⁶ S. 553.73(7)(a), F.S.

⁷ S. 553.80 F.S.

⁸ *Id.*

⁹ S. 553.80(7)(a)1., F.S.

¹⁰ Ss. 125.56 (4)(c) F.S., and 166.222(2), F.S.

Local governments are only allowed to collect building permit fees that are sufficient to cover their costs in enforcing the Building Code. When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. Any unexpended balances must be carried forward to future years for allowable activities or must be refunded at the discretion of the local government. A local government may not carry forward an amount exceeding the average of its operating budget, not including reserve amounts, for enforcing the Building Code for the previous 4 fiscal years.¹¹

DBPR Surcharges

Current law requires all local governments to assess and collect a 1% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local jurisdictions collect the assessment and remit the surcharge fees to DBPR to fund the activities of the Commission, DBPR's Building Code Compliance and Mitigation Program, and the Florida Fire Prevention Code informal interpretations.¹²

Current law also requires all local governments to assess and collect a separate 1.5% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local governments collect the assessment and remit the surcharge fees to DBPR, where it is divided equally to fund the activities of the Building Code Administrators and Inspectors Board (BCAIB) and the Florida Homeowners' Construction Recovery Fund.¹³

Local government building departments are permitted to retain 10% of the amount of the surcharges they collect to fund participation by their agencies in the national and state building code adoption processes and to provide education related to enforcement of the Building Code.¹⁴

Building Permit Delays

Any delays in obtaining a building permit can delay the completion of a construction project. Delays in the completion of a construction project may:¹⁵

- Lead to increased costs for construction projects, which may be passed onto occupants of a completed project;
- Discourage construction, which can reduce the total supply of buildings in a community and may lead to higher rents in the community;
- Reduce property tax revenue to a local government and other taxing jurisdictions resulting from the delayed start and completion of a construction project; and
- Result in delayed occupancy of a project, including single-family residences and multi-family residences.

Streamlining the process to obtain a building permit can accelerate the completion of construction projects. The goal of streamlining is to remove overlap and duplication and create more efficient administrative procedures while not reducing a building department's ability to enforce the applicable construction codes. Streamlining the building permit process may:¹⁶

¹¹ S. 553.80(7)(a), F.S.

¹² S. 553.721, F.S.

¹³ S. 468.631, F.S.; The Florida Homeowners' Construction Recovery Fund is used to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed general, building and residential contractors. Claims are filed with the DBPR, who reviews for completeness and statutory eligibility. The DBPR then presents the claim to the Construction Industry Licensing Board for review. s. 489.1401(2), F.S.

¹⁴ Ss. 468.631, and 553.721, F.S.

¹⁵ City of Austin Development Services Department, *A Program for Expedited Permitting*, http://austintexas.gov/sites/default/files/files/8-9-2016_Report_on_Expedited_Permitting_Program.pdf (last visited Jan. 28, 2024); PricewaterhouseCoopers, *The Economic Impact of Accelerating Permit Processes on Local Development and Government Revenues*, (Dec. 7, 2005).

¹⁶ *Id.*; Institute for Market Transformation, *Streamlining Compliance Processes*, (Winter 2012) <https://www.imt.org/wp-content/uploads/2018/02/CaseStudy5.pdf> (last visited Jan. 28, 2024).

- Increase local government revenues by accelerating completion of a project and thus accelerating property tax collection;
- Create local construction jobs and other indirect jobs supported by local construction jobs, such as jobs at a material supplier, which may increase local tax revenue; and
- Encourage economic development by having an efficient permit system.

Building Permit Application Review

Time-Period to Review

Current law requires local governments to review certain building permit applications within a specific time-period of receiving the applications. Current law has established time-periods for local governments to review applications for the following building permits:¹⁷

- Accessory structure;
- Alarm permit;
- Nonresidential buildings less than 25,000 square feet;
- Electric;
- Irrigation permit;
- Landscaping;
- Mechanical;
- Plumbing;
- Residential units other than a single-family unit;
- Multifamily residential not exceeding 50 units;
- Roofing;
- Signs;
- Site-plan approvals and subdivision plats not requiring public hearings or public notice; and
- Lot grading and site alteration associated with the permit application.

When a local government receives an application for one of the above building permits, it must:¹⁸

- **Complete Application** – Inform the applicant within **10 days** of receiving the application, what information, if any, is needed to complete the application.
 - If the local government fails to provide written notice to the applicant within the 10-day window, the application is deemed to be properly completed.
- **Sufficiency of Application** – Notify the applicant within **45 days** of the application being deemed complete, if additional information is necessary to determine the sufficiency of the application;
 - If additional information is needed the local government must specify what additional information is necessary.
 - The applicant may submit the additional information to the local government within 30 days or request that the local government act on the application without the additional information.
- **Approve or Deny Application** – Approve, approve with conditions, or deny the application within **120 days** following receipt of the completed application.
 - This period is tolled during the time an applicant is responding to a request for additional information and may be extended by mutual consent of the parties.

These time-periods do not apply when a law, agency rule, or local ordinance specify different timeframes for review of local building permit applications, for permits for wireless communication facilities, or when both parties agree to an extension.¹⁹

Additional Information Standards²⁰

¹⁷ S. 553.792(2), F.S.

¹⁸ S. 553.792(1), F.S.

¹⁹ S. 553.792(1)(a), F.S.

²⁰ S. 553.792(1)(b), F.S.

A local government may only make **three** requests for additional information. However, an applicant may agree in writing to waive the limitation that local governments may only make three requests for additional information for such permits.

If a local government makes a request for additional information from an applicant for one the above building permits, and the applicant provides the information within **30 days** of receiving the request, the local government must²¹:

- **First Request** – Review the additional information and determine the application is complete, approve the application, approve the application with conditions, deny the application, or specify the remaining deficiencies **within 15 days** of receiving the information from the applicant, if the request is the local government's **first request**.
- **Second Request** – Review the additional information and determine the application is complete, approve the application, approve the application with conditions, deny the application, or specify the remaining deficiencies **within 10 days** of receiving the information from the applicant, if the request is the local government's **second request**.
- **Third Request** – Deem the application complete and approve the application, approve the application with conditions, or deny the application **within 10 days** of receiving the information from the applicant, if the request is the local government's **third request**.

Prior to making a third request for information the local government must **offer to meet** with the permit applicant to attempt to resolve outstanding issues.

If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the local government, at the applicant's request, shall proceed to process the application for approval, approval with conditions, or denial.

Fee Reductions for Failure to Meet Timeframes

If a local government fails to meet these deadlines it must reduce the building permit fee by 10% for each **business day** that it fails to meet the deadline. However, these time limitations do not apply when a law, agency rule, or local ordinance specifies different timeframes for review of local building permit applications, for permits for wireless communication facilities, or when both parties agree to an extension.

If any permit fees are refunded because a local government fails to meet an established deadline for reviewing a building permit application, the Department of Business and Professional Regulation (DBPR) surcharges for funding the Commission, the Florida Building Code Administrators and Inspectors Board (BCAIB), and the Florida Homeowners' Recovery Fund must be recalculated based on the amount of the permit fees after the refund.²²

Time-Period to Review Single-Family Residential Dwelling Building Permit Applications

Single-family residential dwelling permits must be issued within:

- **30 business days** of receiving the application, unless the application fails to satisfy the Building Code or the enforcing agency's laws or ordinances, or unusual circumstances require a longer time-period for processing the application.²³
- If the local enforcing agency does not issue a building permit for a single-family residential dwelling, within **30 business days** after receiving the permit application, it must reduce the building permit fee by 10% for each **business day** that it fails to meet the deadline. Each 10% reduction is based on the original amount of the building permit fee.
- The enforcing agency does not have to reduce the building permit fee if it provides notice to the applicant, by e-mail or United States Postal Service, within **30 business days** after receiving

²¹ *Id.*

²² S. 553.79(16)(d), F.S.

²³ S. 553.79(16), F.S.

the permit application, that specifically states the reasons the permit application fails to satisfy the Building Code or the enforcing agency's laws or ordinances.²⁴

- After receiving the written notice, the applicant has **10 business days** to correct the specifications written by the local enforcing agency and submit revisions to correct the permit application.
- If the applicant submits the revisions within 10 business days, the local enforcing agency has **10 business days** after receiving such revisions to approve or deny the building permit unless the applicant agrees to a longer permit in writing.²⁵

If a government entity fails to approve or deny the single-family residential dwelling building permit within **10 business days** of receiving the applicant's revisions, it must:²⁶

- Reduce the permit fee by 20% of the original permit fee for the first business day that it fails to meet the deadline; and
- An additional 10% of the original permit fee for each business day that it fails to meet the deadline, for up to five business days.

A government entity does not have to reduce the fee for a single-family residential dwelling building permit, if:²⁷

- It provides written notice to the applicant, by email or USPS mail within **30 business days** of receiving the application; and
- The written notice specifically states how the application fails to satisfy the Building Code or the government entity's laws or ordinances, and that the applicant has **10 business days** after receiving the notice to remedy the deficiencies in their application or it will be denied.

A building permit for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant-Disaster Recovery program administered by the Department of Economic Opportunity must be issued within **15 business days** after receipt of the application unless the permit application fails to satisfy the Building Code or the enforcing agency's laws or ordinances.²⁸

Construction Documents

Professional Engineers

Professional engineers and related qualified business organizations are regulated by Ch. 471, F.S., and by the Florida Board of Professional Engineers under DBPR.²⁹

"Engineering" includes the term "professional engineering" and means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land and water, teaching of the principles and methods of engineering design, engineering surveys, and the inspection of construction for the purpose of determining in general if the work is proceeding in compliance with drawings and specifications, any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and includes such other professional services as may be necessary to the planning, progress, and completion of any engineering services...."³⁰

²⁴ S. 553.79(16)(a)-(b), F.S.

²⁵ S. 553.79(16)(c), F.S.

²⁶ S. 553.79(16)(c), F.S.

²⁷ S. 553.79(16)(b), F.S.

²⁸ S. 553.79(16)(e), F.S.

²⁹ S. 20.165(4)(a)11., F.S.

³⁰ S. 471.005(7), F.S.

All final drawings, specifications, plans, reports, or documents prepared or issued by the professional engineer and being filed for **public record**, including for a building permit, and all final documents provided to the owner or the owner's representative must be signed by the licensee, dated, and sealed with said seal. Such signature, date, and seal shall be evidence of the authenticity of that to which they are affixed.³¹

Architects

Architects and related qualified business organizations in the state are regulated by part I of Ch. 481, F.S., and by the Board of Architecture and Interior Design under DBPR.

“Architecture services” means the rendering or offering to render services in connection with the design and construction of a structure or group of structures which have as their principal purpose human habitation or use, and the utilization of space within and surrounding such structures. These services include planning, providing preliminary study designs, drawings and specifications, job-site inspection, and administration of construction contracts.³²

All final construction documents and instruments of service which include drawings, plans, specifications, or reports prepared or issued by the registered architect or qualified architecture business and being filed for **public record**, including for a building permit, must bear the signature and seal of the registered architect who prepared or approved the document and the date on which they were sealed. The signature, date, and seal shall be evidence of the authenticity of that to which they are affixed.³³

Building Code Requirements

The Building Code, Building, requires applicants for a permit to submit construction documents, a statement of special inspections, a geotechnical report, and other data in two or more sets with each permit application. The construction documents must be prepared by a registered design professional³⁴ where required by Ch. 471, F.S., or Ch. 481, F.S.³⁵

Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional. However, the building official may waive the submission of construction documents and other data not required to be prepared by a registered

³¹ S. 471.025(1), F.S.

³² S. 481.206(6), F.S.

³³ Ss. 481.219(4) and 481.221(2), F.S.

³⁴ The Building Code, Building, defines “registered design professional” as an individual who is registered or licensed to practice their respective design profession as defined by the statutory requirements of the professional registration laws of the state or jurisdiction in which the project is to be constructed. This includes any registered design professional so long as they are practicing within the scope of their license, which includes those licensed under Chs. 471 (professional engineers) and 481, F.S. (architects, interior designers, and landscape architects). S. 202, FBS, Building (8th Ed. 2023).

³⁵ S. 553.71(12), F.S.; S. 107.1, FBC, Building (8th Ed. 2023).

design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with the Building Code.³⁶

Threshold Buildings

A “threshold building” is a building that is greater than 3 stories or 50 feet in height, or that has an assembly occupancy classification that exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.³⁷

A “special inspector” is a licensed architect or engineer who is certified under Ch. 471, F.S., or Ch. 481, F.S. to conduct inspections of threshold buildings.³⁸

During new construction or during repair or restoration projects in which the structural system or structural loading of a threshold building is being modified, including windows and doors, the enforcing agency must require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record.³⁹

The structural inspection plan must be submitted to the enforcing agency prior to the issuance of a building permit for the construction of a threshold building.

The purpose of the structural inspection plans is to provide specific inspection procedures and schedules so that the building can be adequately inspected for compliance with the permitted documents.⁴⁰

Residential Windborne Debris Region Requirements

Exposure D

The American Society of Civil Engineers (ASCE) and Structural Engineering Institute (SEI) developed and published the Minimum Design Loads and Associated Criteria for Buildings and Other Structures (commonly referred to as ASCE 7-22), which is the primary reference standard for structural loads in the 2024 International Building Code, 2024 International Residential Code, and the 2023 Florida Building Code. The standard specifies minimum structural design loads and other criteria for the design of buildings and other structures for dead, live, soil, flood, tsunami, snow, rain, atmospheric ice, earthquake, wind, and tornado loads. It also provides criteria on how to assess load combinations.⁴¹

ASCE 7-22 describes the process to which wind speed is converted into wind pressure used to design structures. The formula is based on many variables, one of which is called “Exposure Category”, which is a category of wind exposure and reflects the characteristics of ground surface irregularities at a site which the building or structure is to be constructed. The rougher the surface, the lower the multiplier

³⁶ *Id.*

³⁷ S. 202, FBS, Building (8th Ed. 2023).

³⁸ S. 553.71(9), F.S.

³⁹ 553.79(5)(a), F.S.; s. 110.8.1, FBC, Building (8th Ed. 2023).

⁴⁰ *Id.*

⁴¹ Federal Emergency Management Agency, *FEMA Fact Sheet- Highlights of Significant Changes to the Wind Load Provisions of ASCE 7-22*, Aug. 2022, https://www.fema.gov/sites/default/files/documents/fema_asce-7-22-wind-highlights_fact-sheet_2022.pdf (last visited Feb. 13, 2024).

that converts wind speed to pressure.⁴² “Exposure D” is the largest multiplier when converting wind velocity to wind pressure, representing coastal areas and the ‘smoothness’ of water relative to wind.

The 2023 Building Code, Residential provides that Exposure D applies:⁴³

- Where the ground surface roughness in flat, unobstructed areas and water surfaces, prevails in the upwind direction for a distance of at least 5,000 feet (1524 m) or 20 times the height of the building, whichever is greater.
- Where the ground surface roughness immediately upwind of the site is Exposure B or C, and the site is within a distance of 600 feet (183 m) or 20 times the building height, whichever is greater, from an Exposure D condition.

Windborne Debris Region Definition Change

The Building Code requires certain increased building protections for homes in a windborne debris region, such as the requirement for impact windows.⁴⁴

The Building Code, Residential, 8th edition, 2023, currently defines “windborne debris” as areas within hurricane-prone regions located in accordance with one of the following:⁴⁵

- Within 1 mile (1.61 km) of the **mean high water line where an Exposure D condition exists upwind at the waterline** and the ultimate design wind speed, Vult, is 130 mph (58 m/s) or greater.
- In areas where the ultimate design wind speed, Vult, is 140 mph (63.6 m/s) or greater; or Hawaii.

However, in the previous edition of the Building Code, Residential, 7th edition, 2020, defined “windborne debris” as areas within hurricane-prone regions located in accordance with one of the following:⁴⁶

- Within 1 mile (1.61 km) of the **coastal mean high water line** where the ultimate design wind speed, Vult, is 130 mph (58 m/s) or greater
- In areas where the ultimate design wind speed, Vult, is 140 mph (63.6 m/s) or greater; or Hawaii.

The ASCE 7-22 updated the definition of “windborne debris region” because the term “coastal mean high-water line” is not a defined term, and its interpretation has varied across jurisdictions in the hurricane-prone region due to confusion about the intent. The new criteria in ASCE 7-22 deletes the word “coastal” and adds language to require that an Exposure D condition exist upwind of the water line.⁴⁷

This trigger now applies to locations that are within a mile of any body of water (located in hurricane-prone regions where the basic wind speed is equal to or greater than 130 mph and less than 140 mph) and an Exposure D condition exists upwind of the water line. For example, the impact of this change is

⁴² Engineering Express, ASCE 7 WIND EXPOSURE CATEGORIES AND HOW EXPOSURE ‘D’ WORKS, <https://www.engineeringexpress.com/wiki/asce-7-exposure-d-work/> (last visited Feb. 13, 2024).

⁴³ S. R301.2.1.4.3, FBC, Residential (8th Ed. 2023).

⁴⁴ S. R301.2.1.2, FBC, Residential (8th Ed. 2023).

⁴⁵ S. R202, FBC, Residential (8th Ed. 2023).

⁴⁶ S. R202, FBC, Residential (7th Ed. 2020).

⁴⁷ FEMA, *supra* note 41.

illustrated in the figure below for Panama City where the basic wind speed ranges from 130 mph to 140 mph.



For the area on the left, buildings within 1 mile of the mean high-water line of the Gulf of Mexico where the basic wind speed is equal to or greater than 130 mph are within the windborne debris region. However, for the area on the right, the initial point to measure “1 mile from the coastal mean high-water line” was not clear under earlier definitions. In ASCE 7-22, this ambiguity has been removed and any building located within 1 mile of the mean high-water line of the bay that has exposure to a water surface that prevails for at least 5000 feet from the shoreline will be in the windborne debris region.⁴⁸

Additionally, the new definition may include homes near certain inland lakes in a wind zone of at least 130 mph.

Unvented Attic Requirements

Building Thermal Envelope

The Florida Building Code, Energy Conservation (EC Code), regulates the design and construction of buildings for the effective use and conservation of energy over the useful life of each building. The EC Code is intended to provide flexibility to permit the use of innovative approaches and techniques to achieve this objective.⁴⁹

The EC Code defines:⁵⁰

- “Building thermal envelope” as the basement walls, exterior walls, floors, ceilings, roofs and any other building element assemblies that enclose conditioned space or provide a boundary between conditioned space and exempt or unconditioned space.
- “Conditioned space” as an area, room or space that is enclosed within the building thermal envelope and that is directly or indirectly heated or cooled. Spaces are indirectly heated or cooled where they communicate through openings with conditioned spaces; where they are separated from conditioned spaces by uninsulated walls, floors or ceilings; or where they contain uninsulated ducts, piping or other sources of heating or cooling.

⁴⁸ *Id.*

⁴⁹ S. R101.1-101.3. FBC, Energy Conservation (8th Ed. 2023).

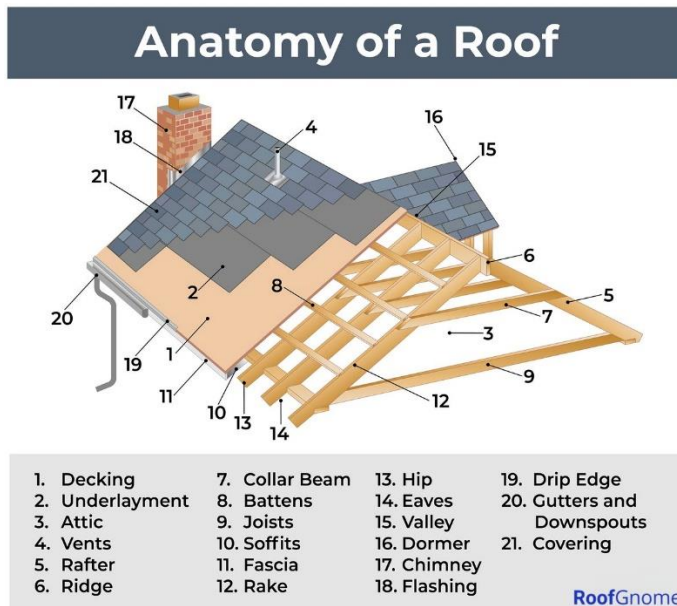
⁵⁰ S. R202, FBC, Energy Conservation (8th Ed. 2023).

The building thermal envelope for residential buildings must meet the requirements of ss. R402.1.1 through R402.1.5 of the EC Code, except the following low-energy buildings, or portions thereof, separated from the remainder of the building by EC Code-compliant building thermal envelope assemblies:⁵¹

- Those with a peak design rate of energy usage less than 3.4 Btu/h · ft² (10.7 W/m²) or 1.0 watt/ft² of floor area for space-conditioning purposes.
- Those that do not contain conditioned space.
- Log homes designed in accordance with ICC-400.

Parts of a Roof

In general, a roof is composed of the following structures:⁵²



Roof sheathing, also called roof decking, are the wooden boards that make up the framing of a roof system. These boards are what shingles and other roofing components are installed directly on.⁵³

Roof rafters are structural components of a roof on a building. Traditional rafters frame out the roof and connect to the exterior walls, and land on a ridge board, which runs across the length of the building. The result is a vaulted ceiling that can be filled with insulation and drywall to finish the space or be left as open space in an attic.⁵⁴

Unvented Attics

Residences may be constructed with either a:⁵⁵

- Vented attic: With openings for outside air to ventilate the space underneath the roof with insulation above the ceiling finish.
- Unvented attic: Without any opening underneath the roof—creating an unvented attic space with insulation at the roof deck. The unvented attic is completely within the building thermal envelope.

⁵¹ S. R402.1, FBC, Energy Conservation (8th Ed. 2023).

⁵² Kimberly Magerl, *21 Different Parts of a Roof*, Roof Gnome, Oct. 9, 2023, <https://roofgnome.com/blog/roofing/different-parts-of-a-roof/> (last visited Feb. 4, 2024).

⁵³ Bill Ragan, *What is Roof Sheathing? (What You Need to Know About It)*, Bill Ragan Roofing Company, Aug. 31, 2022, <https://www.billraganroofing.com/blog/what-roof-sheathing/> (last visited Feb. 4, 2024).

⁵⁴ MT Copeland, *What Are Rafters?*, Dec. 22, 2021, <https://mtcopeland.com/blog/what-are-rafters/> (last visited Feb. 4, 2024).

⁵⁵ University of Central Florida, Florida Solar Energy Center, *Attic Insulation and Ventilation*, <https://energyresearch.ucf.edu/research/buildings-research/roof-assembly/attic-insulation-ventilation/> (last visited Feb. 4, 2024).

Unvented roof assemblies, such as conditioned attics and unvented cathedral ceilings, are created by eliminating ventilation openings and moving the thermal (or insulation), moisture, and air control boundaries to the plane of the roof deck.⁵⁶ Unvented attics are also typically built with the HVAC system completely within the building thermal envelope. Insulation is usually a spray foam product that also provides air sealing to create a semi-conditioned space.⁵⁷

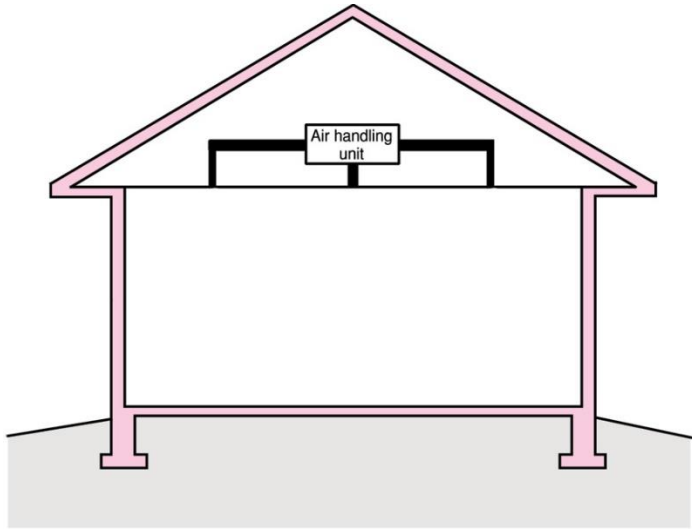
Although the rationale for attic ventilation is for moisture control, this was historically based on needs in cold climates and to prevent ice dams. However, vented attics can introduce additional moisture loads into Florida homes by allowing moisture laden air in the attic that may come indoors. Unvented attics can help to reduce moisture condensation on attic mounted ducts and air handlers by reducing the moisture level of the air around the ducts and on the back side of ceiling drywall when low thermostat set points are used.

Unvented attics offer the following potential advantages over vented attics:⁵⁸

- Energy Savings - An unvented attic is warmer in winter and cooler in summer, reducing the HVAC load. The equipment will be more durable and more efficient, especially if ductwork is in the attic.
- Moisture Resistance - The attic will stay dry, avoiding problems with mold and wood rot, and thus can serve as living or storage space.
- Disaster Resistance - Roofs over unvented attics are less likely to be blown off in high winds because the wind cannot readily enter the attic. In addition, a house in wildfire zones is less likely to catch fire from floating embers since there are no soffit vents for the embers to enter. In coastal areas, an unvented roof keeps out wind-driven rain and better protects metal connectors in the roof assembly against salt spray and corrosion.

However, an unvented attic system can be more expensive than a vented attic, as it requires more spray foam insulation, which means more cost.⁵⁹

An example of an unvented attic is pictured below:⁶⁰



Note: Colored shading depicts the building's thermal barrier and pressure boundary. The thermal barrier and pressure boundary enclose the conditioned space.

⁵⁶ U.S. Department of Energy, *Unvented, Conditioned Attics*, [https://www.energy.gov/eere/buildings/articles/unvented-conditioned-attics-building-america-top-innovation#:~:text=insulating%20and%20air%20sealing%20along,insulating%20along%20the%20ceiling%20deck%3A&text=Energy%20Savings%20%2D%20An%20unvented%20attic,the%20attic%20\(Rudd%202005\)](https://www.energy.gov/eere/buildings/articles/unvented-conditioned-attics-building-america-top-innovation#:~:text=insulating%20and%20air%20sealing%20along,insulating%20along%20the%20ceiling%20deck%3A&text=Energy%20Savings%20%2D%20An%20unvented%20attic,the%20attic%20(Rudd%202005).). (last visited Feb. 4, 2024)

⁵⁷ UCF, *supra* note 14.

⁵⁸ US Dept. of Energy, *supra* note 15.

⁵⁹ Amanda Ringler, *Vented vs. Unvented Attic: Which is Better?*, RetroFoam of Michigan Inc., July 13, 2020, <https://www.retrofoamofmichigan.com/blog/vented-vs-unvented-attic-which-is-better> (last visited Feb. 4, 2024).

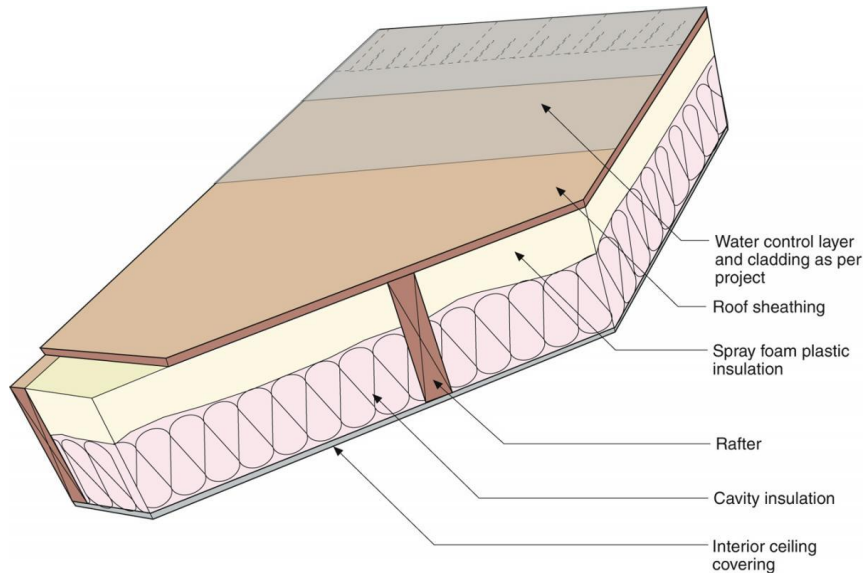
⁶⁰ U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, *Unvented Attic Insulation*, <https://basc.pnnl.gov/resource-guides/unvented-attic-insulation#edit-group-description> (last visited Feb. 4, 2024).

Air-impermeable Insulation

Permeable and impermeable air barrier membranes differ in their ability to block moisture:⁶¹

- Impermeable air barriers block water vapor and air.
- Permeable air barriers block air but allow water vapor to move through the membrane, promoting diffusion out of the wall system. Permeable air barriers offer varying permeability rates and come as either sheet or fluid-applied membranes.

Air-impermeable insulation that is installed to the underside of the roof sheathing of an unvented roof is typically spray foam. Air-impermeable spray foam insulation for unvented attics applied under the sheathing is typically installed as follows:⁶²



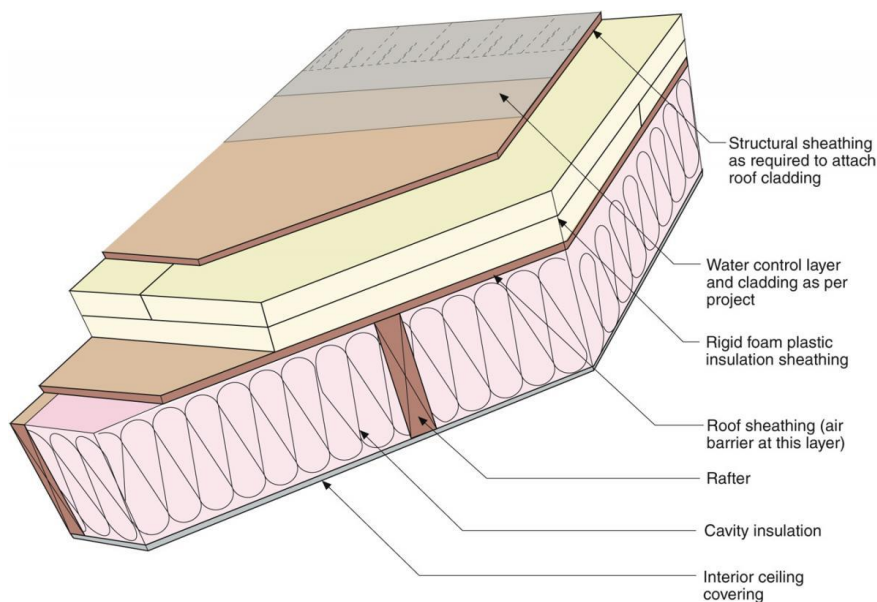
Florida generally requires insulation to be installed under the roof sheathing,⁶³ but elsewhere, air-impermeable insulating sheathing applied over the roof deck may be used for unvented attics, and is typically installed as follows:⁶⁴

⁶¹ Cory Bendokas, *Impermeable vs. Permeable Air Barriers: Main Differences*, Build Meets World by Tremco CPG Inc., <https://blog.buildmeetsworld.com/impermeable-vs-permeable-air-barriers> (last visited Feb. 4, 2024).

⁶² US Dept. of Energy, *supra* note 19.

⁶³ S. R806.5, FBC, Residential (8th Ed. 2023).

⁶⁴ To meet durability goals in most applications, the airtightness must be provided by a continuous membrane—preferably adhered to the top surface of the structural roof deck and under rigid insulation that provides condensation control. *Id.*



R-Value

R-value is a measure of how much resistance insulation has to heat flow. The higher the R-value, the more the resistance and the better the material is at insulating a home. Generally, insulation materials with higher R-values cost more when compared to those with lower R-values.⁶⁵

Blower Door Tests

Blower door tests determine to what degree a home is airtight. A temporary “blower door” equipped with a powerful fan is fitted into the frame of an existing front or back door, and when the fan is turned on, it sucks the air out of the house and blows it outside. Digital gauges compare the difference in air pressure between the inside air and the outside air to determine how much air is leaking into the house.⁶⁶

The standard way to determine air tightness of a building is to measure air leakage at 50 Pascals (ACH50) to the conditioned volume of the building. Air Change per Hour at 50 Pa (ACH50) is calculated by dividing air flow per hour by the volume of the building. ACH50 tells us how many times per hour the entire volume of air in the building is replaced when the building envelope is subjected to a 50 Pascal pressure. The airtightness of existing homes can vary dramatically based on the construction style, age and region.⁶⁷

Proper, tight air sealing of unvented attics is important for proper function.⁶⁸ Whole-house mechanical ventilation is required for homes with a high air-tightness.⁶⁹

The chart below shows the relative tightness of homes based on the ACH50:⁷⁰

⁶⁵ Emily Glover and Samantha Allen, *What Is Insulation R Value? Everything You Need To Know*, Forbes, Jan, 20, 2022, <https://www.forbes.com/home-improvement/home/what-is-insulation-r-value/> (last visited Feb. 4, 2024).

⁶⁶ Glenda Taylor and Bob Vila, *All You Need to Know About Blower Door Tests*, BobVila.com, Oct. 23, 2020, <https://www.bobvila.com/articles/blower-door-tests/> (last visited Feb. 4, 2024); Tyler Vanzo, *Air Changes Per Hour (ACH): What is it & How to Calculate it*, SmartAir, Jan. 16, 2024, <https://smartairfilters.com/en/blog/what-is-air-changes-per-hour-ach-how-to-calculate/> (last visited Feb. 4, 2024).

⁶⁷ The Energy Conservatory, TEST RESULTS AND SAMPLE TEST FORMS, <https://energyconservatory.com/wp-content/uploads/2017/08/Test-Results-and-Sample-Test-Forms-Guide-.pdf> (last visited Feb. 4, 2024).

⁶⁸ UCF, *supra* note 14.

⁶⁹ Eric Martin and Charles Withers, Jr., *Survey of Unvented Attics in Climate Zone 2A*, University of Central Florida, Florida Solar Energy Center, Mar. 17, 2021, <https://publications.energyresearch.ucf.edu/wp-content/uploads/2021/02/FSEC-CR-2106-21.pdf> (last visited Feb. 4, 2024).

⁷⁰ UCF, *supra* note 14.

0 - 1.5 ACH	Very tight
1.5 - 3 ACH	Tight
3 - 5 ACH	Moderately tight
5 - 7 ACH	Loose
7 - 10 ACH	Very loose
10 + ACH	Extremely loose

Unvented Attics and Unvented Enclosed Roof Framing Assemblies

Section 806.5, Florida Building Code, Residential, for residential buildings, requires that unvented attics and unvented enclosed roof framing assemblies created by ceilings that are applied directly to the underside of the roof framing members and structural roof sheathing applied directly to the top of the roof framing members or rafters, must be allowed if certain conditions are met, including:⁷¹

- The unvented attic space is completely within the building thermal envelope.
- No interior Class I vapor retarders are installed on the ceiling side (attic floor) of the unvented attic assembly or on the ceiling side of the unvented enclosed roof framing assembly.
- Insulation must comply with Item 5.1 and Item 5.3. As an alternative, where air-permeable insulation is located on top of the attic floor or on top of the attic ceiling, insulation must comply with Item 5.3 and Item 5.2.

Item 5.1. provides requirements insulation depending on the air permeability of the insulation directly under the structural roof sheathing. The following requirements are applicable to air-impermeable insulation:

- Where only **air-impermeable insulation** is provided, it must be applied in direct contact with the **underside** of the structural roof sheathing.
- Alternatively, sufficient rigid board or sheet insulation must be installed directly above the structural roof sheathing to maintain the monthly average temperature of the underside of the structural roof sheathing above 45°F (7°C). For calculation purposes, an interior air temperature of 68°F (20°C) is assumed and the exterior air temperature is assumed to be the monthly average outside air temperature of the three coldest months.

Item 5.2. provides requirements for air-permeable insulation, and Item 5.3.requires, where preformed insulation board is used as the air-impermeable insulation layer, it must be sealed at the perimeter of each individual sheet interior surface to form a continuous layer.

Section R402 of the EC Code

Insulation Requirements

In general, the EC Code requires residential ceilings, including ceilings with attics, to be built using **R-30 insulation** in Climate Zone 1, and **R-38 insulation** in Climate Zone 2.⁷²

However, s. R402.1.2 of the EC Code, where R-38 insulation is required in the ceiling or attic, allows installing R-30 over 100 percent of the ceiling or attic area requiring insulation to satisfy the requirement for R-38 insulation wherever the full height of uncompressed R-30 insulation extends over the wall top plate at the eaves.

Mechanical Requirements

Section R402 requires that a mechanical system of a residential building or dwelling unit must be blower door tested in accordance with ANSI/RESNET/ICC 380, reported at a pressure of 50 pascals, and verified as having an air leakage rate not exceeding seven air changes per hour (**7 ACH50**) in Climate Zones 1 and 2.

⁷¹ S. R806.5, FBC, Residential (8th Ed. 2023).

⁷² Table R402.1.2, FBC, Energy Conservation (8th Ed. 2023).

Homes with an air leakage rate less than three air changes per hour (**3 ACH50**) must be provided with **whole-house mechanical ventilation**.⁷³ All counties in Florida are either Climate Zone 1 or 2.⁷⁴

Types of Whole-house Ventilation Systems

Whole-house mechanical ventilation is the intentional exchange of indoor air with fresh outdoor air at a controlled rate using fans. The purpose of whole-house mechanical ventilation is to improve indoor air quality. Historically, mechanical ventilation was limited to local-exhaust (kitchen and bath exhaust fans) for spot control of moisture and odors. Houses commonly had enough natural ventilation, through leaky building enclosures, that whole-house mechanical ventilation was not necessary. Houses have become significantly tighter during the past 15-20 years as a result of changing codes, energy efficiency programs, and an overall desire to reduce energy use. Above-code programs and more recently the building codes have generally made controlled whole-house mechanical ventilation a requirement.⁷⁵

Balanced

The exhaust-only ventilation method is when a fan, commonly an efficient bath fan, exhausts indoor air, and outdoor makeup air is drawn into the house through leaks in the building enclosure. The supply-only ventilation method is when a fan draws outdoor air into the house, and indoor air escapes through the building enclosure and exhaust fan ducts.⁷⁶

A balanced whole-house mechanical ventilation system is a combination of exhaust and supply methods providing approximately equal indoor exhaust and outdoor supply air flows, e.g., an exhaust fan combined with a supply fan or passive inlet vents. A balanced system may include a heat recovery ventilator (HRV) or an energy recovery ventilator (ERV).⁷⁷

Hybrid

A hybrid ventilation whole-house mechanical ventilation system is a recent concept that consists in using the components and sizing of natural ventilation ducts coupled with non-constant low-pressure mechanical assistance. Mechanical assistance is only used to supplement natural forces when necessary. Natural forces means three different kinds of natural phenomena that cause air to move:⁷⁸

- Wind that can penetrate the dwelling through entrances and exists.
- Thermal draught where the airflow is produced by the density difference between the hot air and the cold air, where the less dense hot air tends to rise and the denser cold air tends to go down.
- Aeraulic draught caused by the pressure difference linked to height, where the lower upright pression creates a depression that enables the air to circulate in the dwelling.

The hybrid ventilation start is automatic; it can be activated by a temperature sensor, a wind vane or a pressure switch. Fresh air is admitted through the humidity-controlled air inlets located in the dry rooms (e.g., bedrooms and living room), and stale air is evacuated through the wet rooms (e.g., bathrooms and kitchen) by humidity-controlled extraction grilles linked to the ventilation duct connected to the fan.⁷⁹

Positive Input

A positive input ventilation system generally addresses ventilation issues in existing properties, such as condensation, damp and mold. Positive input ventilation pumps and circulates fresh filtered air into a

⁷³ S. R402.4.1.2, FBC, Energy Conservation (8th Ed. 2023).

⁷⁴ Table R301.1, FBC, Energy Conservation (8th Ed. 2023).

⁷⁵ Home Innovation Research Labs, *Whole-House Mechanical Ventilation Code: Safety and Performance Considerations*, International Code Council and National Association of Home Builders, October 2013, https://www.iccsafe.org/wp-content/uploads/proclamations/TN01-Whole-House-Ventilation_pdf.pdf (last visited Feb. 3, 2024).

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Aereco, *How does hybrid ventilation work?*, <https://www.aereco.com/ventilation/ventilation-systems/hybrid-ventilation/> (last visited Feb. 3, 2024).

⁷⁹ *Id.*

house, forcing stale air out of the gaps and cracks in the fabric of the building. The unit is installed in the loft area, and a distribution diffuser is mounted in the ceiling in the room below. The continual supply and slight positive pressure result in the air in the property being continually diluted, displaced and replaced to create a healthier indoor air quality.⁸⁰

Elevator Rails

Chapter 399, F.S., regulates elevator safety procedures, and is enforced by the Division of Hotels and Restaurants (H&R) at DBPR. H&R issues the following:⁸¹

- Permits to install, relocate, or alter elevators,
- Certificates of operation for elevators, and
- Licenses for:
 - Elevator companies,
 - Elevator technicians, and
 - Elevator inspectors.

Each elevator car interior, to be made accessible to physically handicapped persons, must have a support rail on at least one wall. **Support rails** must be continuous and a minimum length of 42 inches overall.

All support rails must be smooth, have no sharp edges, and must not be more than 1 1/2 inches thick or 2 1/2 inches in diameter. The inside surface of support rails must be 1 1/2 inches clear of the car wall. The distance from the top of the support rail to the finished car floor must be at least 31 inches and not more than 33 inches.⁸²

Building Officials, Inspectors, Plans Examiners

Building officials, inspectors, and plans examiners are regulated by the BCAIB within DBPR.⁸³

A building code administrator, otherwise known as a building official, is a local government employee or a person contracted by a local government who supervises building code activities, including plans review, enforcement, and inspection.⁸⁴

A building code inspector (inspector) inspects construction that requires permits to determine compliance with the Building Code and state accessibility laws. Inspectors are divided into several different categories. An inspector's ability to practice is limited to the category or categories under which the inspector has been licensed. The inspector categories are:⁸⁵

- Building inspector
- Coastal construction inspector
- Commercial electrical inspector
- Residential electrical inspector
- Mechanical inspector
- Plumbing inspector
- Residential inspector
- Electrical inspector

A plans examiner reviews plans submitted for building permits to determine design compliance with construction codes. The term includes a residential plans examiner who is qualified to determine that plans submitted for building permits comply with the applicable residential building, plumbing, mechanical, electrical, gas, energy, accessibility, and other applicable construction codes. A plans

⁸⁰ Hugh Metcalf, *Positive Input Ventilation Explained: Pros, Cons, Costs and More*, Homebuilding & Renovating, Sep. 9, 2021, <https://www.homebuilding.co.uk/advice/positive-input-ventilation> (last visited Feb. 3, 2024).

⁸¹ S. 399.01, F.S.

⁸² S. 399.035(1)(b), F.S.

⁸³ S. 468.605, F.S.

⁸⁴ S. 468.603(2), F.S.

⁸⁵ See s. 468.603(5), F.S.

examiner's ability to practice is limited to the category or categories under which the plans examiner has been licensed. The plans examiner categories are:⁸⁶

- Building plans examiner
- Plumbing plans examiner
- Mechanical plans examiner
- Electrical plans examiner

Residential Inspector Licensing

In order to sit for the plans examiner or inspector exam a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:⁸⁷

- Have 4 years of combined relevant experience;
- Have 3 years of combined postsecondary education and relevant experience;
- Have 3 years of combined technical education and relevant experience;
- Complete an approved cross-training program and have at least 2 years of experience;
- Hold a standard certificate issued by the BCAIB or a firesafety inspector license; and
 - Have at least 4 years of relevant experience as an inspector or plans examiner;
 - Have a minimum of 3 years of experience in firesafety inspection or firesafety plan review and have completed a training program of not less than 100 hours in the new category sought;
 - Complete an approved training program of not less than 200 hours in inspection or plans review except for residential training programs, which may not be less than 500 hours; or
- Complete a 4-year **internship certification program**.

A person who is qualified to sit for the building official, plans examiner, or inspector exam but has not taken the exam may be granted a provisional license by the BCAIB. A provisional license allows a person to engage in the duties of a building official, inspector, or plans examiner.⁸⁸

Provisional licenses are valid for two years, but may be renewed by the BCAIB for just cause. A provisional license is not valid for more than three years. However, an applicant who is obtaining licensure as an inspector or plans examiner through an internship may apply to the BCAIB for a provisional license that is valid for the duration of the internship.⁸⁹

Currently, residential inspector applicants may not use an internship program as a basis for eligibility to take the licensing examination.⁹⁰

Private Providers

In 2002, s. 553.791, F.S., was created to allow property owners and contractors to hire licensed building code officials, engineers, and architects, referred to as private providers, to review building plans, perform building inspections, and prepare certificates of completion.

Private providers and their duly authorized representatives are able to approve building plans and perform building code inspections as long as the plans approval and building inspections are within the scope of the provider's or representative's license.

⁸⁶ See s. 468.603(8), F.S.

⁸⁷ S. 468.609(2), F.S.

⁸⁸ S. 468.609(7) and (10), F.S.

⁸⁹ *Id.*

⁹⁰ R. 61G19-6.017, F.A.C.; DBPR BCAIB 7 - Application for Internship Certification Training Program Approval/Renewal and Provider, available at

http://www.myfloridalicense.com/dbpr/pro/build/documents/BCAIB7_Application_Internship_Certification_Training_Program_Approval_Renewal_and_Provider.pdf (last visited Feb. 16, 2024).

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DATE: 2/17/2024

Current law defines “private provider” as person licensed as a building official, engineer, or architect. Licensed building inspectors and plans examiners may perform inspections for additions and alterations that are limited to 1,000 square feet or less in residential buildings.⁹¹

If an owner or contractor opts to use a private provider, the local government must calculate the cost savings to its building department and reduce the building permit fees accordingly.⁹²

A local government may not charge a fee for building inspections when an owner or contractor uses a private provider but may charge a “reasonable administrative fee.”⁹³ A “reasonable administrative fee” must be based on the cost that is actually incurred by the local government, including the labor cost of the personnel providing the service, or the cost attributable to the local government for the clerical and supervisory assistance required, or both.

A building official may audit a private provider to ensure the private provider and their duly authorized agent has reviewed the building plans and is performing the required inspections. A building official may deny a building permit or a request for a certificate of completion if the building construction or plans do not comply with the Building Code. A building official may also issue a stop work order at any time if he or she determines any condition of the construction poses an immediate threat to public safety and welfare.⁹⁴

A private provider who approves building plans must sign a sworn affidavit that the plans comply with the Building Code. The private provider or their duly authorized representative is authorized to review the plans.⁹⁵ Upon receipt of a building permit application from a private provider, a building official has **20 business days** to grant the permit or provide a written notice to the permit applicant identifying the specific plan features that do not comply with the applicable codes.⁹⁶ If the local building official provides a written notice of plan deficiencies to the permit applicant within the prescribed 20-day period, the 20-day period is tolled pending resolution of the matter.⁹⁷

If the permit applicant submits revisions, the local building official has the remainder of the tolled 20-day period plus 5 business days from the date of resubmittal to issue the requested permit or to provide a second written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes, with specific reference to the relevant code chapters and sections. Any subsequent review by the local building official is limited to the deficiencies cited in the written notice. If the local building official does not provide the second written notice within the prescribed time period, the permit shall be deemed approved as a matter of law, and the local building official must issue the permit on the next business day.⁹⁸

For all revisions submitted after the first revision, the local building official has an additional 5 business days from the date of resubmittal to issue the requested permit or to provide a written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes.⁹⁹

Effect of the Bill

Building Permit Application Review

The bill removes a provision in Ch. 533, the Building Code, which requires single-family residential dwelling permits to be issued within 30 days unless the application does not conform to the Building

⁹¹ S. 553.791(1)(n) and (3), F.S.

⁹² S. 553.791(2)(b), F.S.

⁹³ *Id.*

⁹⁴ S. 553.791(1), (14), and (19), F.S.

⁹⁵ S. 553.791(6), F.S.

⁹⁶ S. 553.791(7)(a), F.S.

⁹⁷ S. 553.791(7)(b), F.S.

⁹⁸ S. 553.791(7)(c), F.S.

⁹⁹ S. 553.791(7)(d), F.S.

Code or local laws or ordinances. However, the bill incorporates the time period to review single-family residential dwellings into the general section related to building permit applications.¹⁰⁰

The bill reduces current timelines and revises procedures for applying for and obtaining a building permit. The new procedures set out below apply to the following building permit applications:

- Accessory structure;
- Alarm permit;
- Nonresidential buildings less than 25,000 square feet;
- Electric;
- Irrigation;
- Landscaping;
- Mechanical;
- Plumbing;
- Residential units **including a single-family residential unit or a single-family residential dwelling**;
- Multifamily residential not exceeding 50 units;
- Roofing;
- Signs;
- Site-plan approvals and subdivision plats not requiring public hearings or public notice; and
- Lot grading and site alteration associated with a permit application set forth above.

Timelines to Approve or Deny a Completed and Sufficient Building Permit Application

The bill reduces the time that a local government has to approve, approve with conditions, or deny a building permit application following receipt of a **completed and sufficient** application to the following timelines, unless the applicant waives such limitation in writing:

- For an applicant using local government plans review to obtain a building permit:
 - Within **30 business days** after receiving a complete and sufficient application (**currently 120 days, or 30 days for single-family residential dwellings**).
- For an applicant using a private provider to obtain a building permit:
 - Within **15 business days** after receiving a complete and sufficient application (**currently 120 days, or 30 days for single-family residential dwellings**).
- For an applicant for a master plan permit:
 - Within **10 business days** after receiving a complete and sufficient application (**current timeframe is dependent on the local program, or 30 days for single-family residential dwellings**).
- For an applicant for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant–Disaster Recovery program administered by the Department of Economic Opportunity:
 - Within **10 business days** after receipt of the application, unless the permit application fails to satisfy the Building Code or the enforcing agency's laws or ordinances (**currently 15 days**).
- For an applicant for multifamily residential units:
 - Within **60 business days** after receiving a complete and sufficient application.

If the local government does not approve, approve with conditions, or deny the completed and sufficient application within the required timeframes, the application is **deemed or determined to be approved**.

The bill provides that a local government may not require a waiver of the timeframes in this section as a condition to review an application for a building permit.

The bill requires a local government to maintain a policy on its website containing procedures and expectations for processing of any building permits and development orders required by law to be expedited.

¹⁰⁰ See, s. 553.792, F.S.
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DATE: 2/17/2024

Timelines to Determine a Complete and Sufficient Application

The bill reduces the time that a local government has to provide timely written notice to the applicant about what information, if any, is needed before the application is deemed or determined to be:

- **Completed:**
 - Local government has 5 business days to review an application and determine if it has been properly completed (from 10 days).
- **Sufficient:**
 - Local government has 10 business days to review a completed application to determine whether more information is needed or whether the application is sufficient (from 45 days).

The bill reduces the amount of times that a local government may request additional information from the applicant when reviewing an application for sufficiency for a building permit, to **two times**, from three times.

If the local government requests additional information for a second time, such request must be within **10 business days** of receiving additional information after the first request, and the local government must determine the sufficiency of the application within **10 business days** of receiving the requested additional information.

The bill allows a local government to offer to **meet virtually**, instead of only in person, with the applicant to attempt to resolve outstanding issues before a second request for additional information is made.

If the applicant believes a request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the bill requires the local government, at the applicant's written request, to approve the application, approve the application with conditions, or deny the application within **10 business days** after receipt of such. The local government must provide the applicant with sufficient reason for a denial.

The bill provides exceptions for local governments who fail to meet deadlines if:

- The parties involved agreed, in writing, to a reasonable extension of time.
- The delay is caused by the applicant.
- The delay is caused by a force majeure or other extraordinary circumstance.

Use of Building Code Enforcement Fees

The bill clarifies that local governments may use fees, and any related fines or investment earnings, they have collected for enforcing the Building Code to upgrade technology hardware and software systems used to enforce the Building Code.

Hurricane Building Requirements

The bill requires the Commission to modify the Building Code to provide that sealed drawings by a design professional will not be required for the replacement of windows, doors, or garage doors in an existing one-family or two-family dwelling or townhouse if all of the following conditions are met:

- The replacement windows, doors, or garage doors are installed in accordance with the manufacturer's instructions for the appropriate wind zone.
- The replacement windows, doors, or garage doors meet the design pressure requirements in the most recent version of the Florida Building Code, Residential.
- A copy of the manufacturer's instructions is submitted with the permit application in a printed or digital format.
- The replacement windows, doors, or garage doors are the same size and are installed in the same opening as the existing windows, doors, or garage doors.

The bill provides that the definition of “windborne debris region” is the same as defined in the 7th edition of the Building Code, Residential, until the adoption of the 9th Building Code in 2026, which has a practical effect of replacing the new definition in the 8th edition with the previous version.

Unvented Attic Requirements

The bill provides thermal efficiency standards for unvented attic and unvented enclosed rafter assemblies.

The bill provides that, effective July 1, 2025, unvented attic and unvented enclosed rafter assemblies that are insulated and air sealed with a minimum of **R-20 air-impermeable insulation**¹⁰¹ meet the requirements of sections R402 of the Florida Building Code, 8th Edition (2023), Energy Conservation, if all of the following apply:

- The building has a blower door test result of less than **3 ACH50**.
- The building has a positive input ventilation system or a balanced or hybrid **whole-house mechanical ventilation system**.
- If the insulation is installed **below the roof deck** and the exposed portion of roof rafters is not already covered by the **R-20 air-impermeable insulation**, the exposed portion of the roof rafters is insulated by a minimum of **R-3 air-impermeable insulation** unless directly covered by a finished ceiling. Roof rafters are not required to be covered by a minimum of **R-3 air-impermeable insulation** if continuous insulation is installed **above the roof deck**.
- All indoor heating, cooling, and ventilation equipment and ductwork is inside the building thermal envelope.

The bill requires the Commission to review and consider these requirements and any needed technical changes, and report such findings to the Legislature by December 31, 2024.

Elevator Rails

The bill provides that **at least one support rail** must be continuous and a minimum length of 42 inches overall, instead of all support rails.

Residential Inspector Licensing

The bill allows a residential inspector applicant to use an internship program as a basis for eligibility to take the licensing examination.

Private Providers

The bill shortens the timeframe that a local government has to issue a permit or notify the applicant of the specific plan features that do not comply with the Building Code to **10 business days**, from 20

¹⁰¹ Current law requires R-30 or R-38, depending on Climate Zone.

business days, if the private provider is a person licensed as a professional engineer or an architect and affixes his or her industry seal to the affidavit certifying that the plans comply with the Building Code and the private provider or their duly authorized representative is authorized to review the plans.

The bill provides that if the local building official does not provide specific written notice to the permit applicant within the 10-day period, the permit application is deemed approved as a matter of law, and the local building official must issue the permit on the next business day.

The process for tolling time for responding to additional requests for information from the local government remains current law.

The bill has an effective date of January 1, 2025, except as otherwise stated.

B. SECTION DIRECTORY:

- Section 1: Amends s. 399.035, F.S.; relating to elevator support rails.
- Section 2: Amends s. 468.609, F.S.; relating to a residential inspector license pathway.
- Section 3: Amends s. 553.73, F.S., relating to the Florida Building Code.
- Section 4: Amends s. 553.79, F.S., relating to single-family residential permits.
- Section 5: Amends s. 553.791, F.S.; relating to private providers.
- Section 6: Amends s. 553.792, F.S., relating to building permit application processes.
- Section 7: Amends s. 553.80, F.S.; relating to acceptable uses of local government Building Code enforcement fees.
- Section 8: Creates s. 553.9065, F.S.; relating to standards for unvented attic and rafter assemblies.
- Section 9: Amends s. 440.103, F.S., conforming a cross-reference.
- Section 10: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

For a similar bill in 2023, DBPR stated that surcharge collections pursuant to s. 553.791, F.S., and s. 468.631, F.S., could be impacted by the bill.¹⁰²

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

For a similar bill in 2023, DBPR stated that this bill may reduce the amount of permit fees that could be collected by local governments in certain circumstances.¹⁰³

2. Expenditures:

This bill may impact local governments because they may have to hire more employees to meet the prescribed timeframes.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

For a similar bill in 2023, DBPR stated that the bill may reduce the cost of permit fees paid by the private sector to local governments based on the local governments failure to meet time

¹⁰² Department of Business & Professional Regulation, Agency Analysis of 2023 Senate Bill 682, p. 4 (February 14, 2023).

¹⁰³ *Id.*, at 5.

requirements.¹⁰⁴ On the other hand, the local jurisdiction may raise permit fees so that they can hire employees to meet the time requirements in the bill.

The streamlined permitting processes in the bill may expedite development across the state.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill would require the Florida Building Commission to amend the Building Code to reflect some of the bill's changes to building permit application processing requirements.¹⁰⁵

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On December 12, 2024, the Regulatory Reform & Economic Development Subcommittee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute:

- Provides that vested rights in a preliminary plat are formed if an applicant commences developing the property based on an approval of such preliminary plat by a local government.
- Requires an applicant for a residential building permit pursuant to a preliminary plat to indemnify and hold harmless the local government from damages directly related to the issuance of such building permit before the approval of the final plat.
- Clarifies that timeframes in the updated permitting procedures are calculated using business days.
- Clarifies that if a local government fails to timely notify an applicant of what is needed to determine a sufficient application, such application will be automatically determined to be sufficient.
- Corrects a scrivener's error.

On January 31, 2024, the Local Administration, Federal Affairs & Special Districts Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Removes provisions of the bill relating to platting.
- Requires the Commission to provide an exception in the Building Code relating to sealed drawings by a design professional.
- Requires local governments to approve applications for multifamily projects within 60 business days.
- Requires local governments to review completed applications for sufficiency within 10 business days.

¹⁰⁴ *Id.*

¹⁰⁵ See rule impacted, r. 61G20-1.001, F.A.C.

- Provides an exception for the fee reduction provision.
- Changes the effective date of the bill to January 1, 2025.

On February 15, 2024, the Commerce Committee adopted three amendments and reported the bill favorably as a committee substitute. The amendments:

- Provide that only one support rail in an elevator needs to be continuous and be at least 42 inches.
- Provide that completing an internship program for residential building inspectors is a pathway for licensure as a residential building inspector.
- Clarify that not requiring sealed plans for window and door replacement is only applicable to existing one- or two-family dwellings or townhouses.
- Reduce the time frame that a local government has to issue a building permit to a private provider who seals the plans, to 10 days after receipt of the application, from 20 days.
- Provide that a local government may not require a waiver of permit approval timeframes as a condition to review an application for a building permit.
- Provides that the Florida Building Commission must review certain standards for unvented attics before December 31, 2024, and that certain standards will be effective related to such attics on July 1, 2025.

This analysis is drafted to the committee substitute as passed by the Commerce Committee.