

House Bill No. 917

An act relating to Palm Beach County; amending chapter 90-445, Laws of Florida, as amended; providing for the uniform implementation, interpretation, and enforcement of building code requirements pursuant to the Florida Building Code; providing and amending definitions; providing for enforcement; providing for repeal of conflicting laws; providing for interpretation of codes and revision; deleting provisions relating to appointments; providing for authority for building code amendments; providing for amending provisions for product and system evaluation, including application fees and revocation and renewal of product and system compliance; providing severability; providing an effective date.

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

Section 1. Notwithstanding section 136 of chapter 2000-141, Laws of Florida, chapter 90-445, Laws of Florida, is reenacted and amended to read:

Section 1. Purpose.—As provided in section 553.80(1), Florida Statutes, each local government and each legally constituted enforcement district with statutory authority shall regulate building construction and, where authorized in the state agency's enabling legislation, each state agency shall enforce the Florida Building Code, as revised or amended by the state or applicable local government, required on all public or private buildings, structures, and facilities unless such responsibility has been delegated to another unit of government pursuant to section 553.79(9), Florida Statutes. The purpose of this act is to provide for a system to advise the Palm Beach County Board of County Commissioners and local governments regarding the uniform implementation, interpretation, and enforcement of the Florida Building Code. Authority.—~~The board of county commissioners shall have the power to adopt, for all municipalities and unincorporated areas of Palm Beach County, more recent editions and revisions of the Standard Building, Gas, Mechanical, and Plumbing Codes, as promulgated by the Southern Building Code Congress International, in addition to the National Electrical Code, as promulgated by the National Fire Protection Association. These codes shall be adopted by ordinance, based on the advice of the Building Code Advisory Board of Palm Beach County.~~

Section 2. Definitions.—As used in this act:

(1) “Amendment” means modified requirements to the Florida Building Code model building codes which are adopted by ordinance by any unit of local government pursuant to section 553.73, Florida Statutes.

(2) “Board” means the Building Code Advisory Board of Palm Beach County, unless otherwise specified.

(3) “Building official” means an individual charged with the administration and enforcement of the Florida Building Code ~~several codes adopted~~

~~pursuant to section 1, who is a full-time employee of a municipality or the county, in the respective election district in which the jurisdiction is situated.~~

(4) “Design professional” means an architect or engineer so registered in the State of Florida.

(5) “Florida Building Code” means the code adopted by the Florida Building Commission pursuant to section 553.73(1)(a), Florida Statutes “Model codes” means the Standard Building, Gas, Mechanical, and Plumbing Codes published by the Southern Building Code Congress International and the National Electrical Code published by the National Fire Protection Association.

(6) “Revisions” means any modifications to the Florida Building Code model codes as published by the Florida Building Commission applicable code-promulgating organization.

~~(7) “Service system” means an electrical, gas, mechanical, plumbing, or other system which provides service to a building, structure, or facility and is regulated by the model codes and any amendments or revisions thereto.~~

~~(7)(8) “Unit of local government” means any one of the municipal governing bodies in Palm Beach County or the Board of County Commissioners of Palm Beach County.~~

Section 3. Enforcement.—Enforcement of the Florida Building Code model codes adopted pursuant to section 1, and any amendments or revisions thereto, shall be the responsibility of each unit of local government. A unit of local government may provide these services through an interlocal agreement with the county or local government, as provided by section 553.79(9), Florida Statutes law.

~~Section 4.— Code enforcement personnel qualifications.—For the purposes of permit review and inspection, qualified plans examiners and inspectors, whose competency shall be determined by each unit of local government, shall be employed and charged with the responsibility of enforcing this act.~~

~~Section 5.— Violations.—No building, structure, or service system shall be erected or installed within Palm Beach County in violation of the requirements of the model codes adopted pursuant to section 1 or any amendments or revisions thereto, except that state buildings are exempt from compliance with such model codes.~~

Section ~~4.6.~~ Repeal of laws in conflict.—Any laws, ordinances, or resolutions now in existence in the unincorporated areas of Palm Beach County or in any municipality in Palm Beach County in conflict with this act are hereby repealed.

~~Section 7.— Enactment of lower standards.—No unit of local government shall enact any law lowering the standards of the model codes adopted pursuant to section 1. However, each unit of local government may adopt ordinances providing amendments to modify or improve the model codes,~~

~~provided such amendments are in compliance with s. 553.73, Florida Statutes.~~

~~Section 8. Code available.—Each unit of local government shall have available for public inspection in its principal office three copies of the model codes, together with any amendments or revisions thereto. Amendments must be printed or otherwise suitably duplicated, and copies shall be available for sale at reasonable cost to the public.~~

Section 5.9. Interpretations.—In the event of a dispute in the interpretation of the provisions of the Florida Building Code model codes, or any amendments or revisions thereto, a building official, ~~plans examiner, inspector, builder, contractor, owner, architect, or engineer~~ may ask for an opinion from the board's Code Interpretation Committee. The Code Interpretation Committee shall be comprised of each of the building official members of the board. The request for interpretation must come by agreement of Both parties to the dispute must agree to seeking the advisory interpretation from the board. Said ~~procedure~~ opinion may be conducted by telephone or other electronic means. A simple majority of the committee shall sustain an interpretation. Each building official member of the committee shall maintain a written record of the date and parties to the dispute. The interpretation shall not be binding upon the parties to the dispute.

Section 6.10. Appointments.—

(1) The Board of County Commissioners of Palm Beach County shall appoint the Building Code Advisory Board of Palm Beach County and supply it with a meeting place, office supplies including stationery, legal counsel, technical staff, mechanical recording of its meetings, written transcripts of the minutes of its meetings, secretarial service, and storage space for its records. The board shall have 16 members, composed of 7 building officials, 1 from each commission election district, appointed from nominees submitted by the Building Official's Association of Palm Beach County; 7 members appointed from nominees submitted by the Construction Industry Management Council of Palm Beach County; 1 member who shall be a registered architect appointed from nominees submitted by the Palm Beach Chapter of the American Institute of Architects; and 1 member who shall be a professional engineer appointed from nominees submitted by the Palm Beach Chapter of the Florida Engineering Society. ~~By January 1, 1991, the Board of County Commissioners of Palm Beach County shall appoint the four new members, two for 1-year terms and two for 3-year terms. Thereafter,~~ All appointments shall be for a term of 3 years, and each member shall serve until his or her successor is appointed. If a vacancy should occur before a term has expired, the Board of County Commissioners shall appoint a new member within 60 days to complete the unexpired term.

(2) Members shall be required to attend all regular and special meetings of the board. The chair ~~chairman~~ of the board shall notify the Board of County Commissioners when a member accumulates three consecutive absences from the regular meetings or when a member fails to attend 50 percent of all meetings of the board during any 12-month period. On such notification, the member shall be removed by the Board of County Commis-

sioners, and the Board of County Commissioners shall appoint a new member within 60 days to complete the unexpired term. The board shall hold meetings open to the public at least once in every calendar quarter, adopt rules and procedures procedure, and elect a chair chairman and vice chair chairman. A quorum of the board shall be 10 members, with a concurring vote of 9 members required to approve any action.

Section 7. Authority.—The purpose of the advisory board is authorized to:

(1) Advise ~~units of~~ local governments regarding:

(a) ~~Future editions of the model codes and subsequent recommendation to the board of county commissioners concerning countywide adoption.~~

(b) ~~Recommendations on the adoption of administrative or technical amendments to the Florida Building Code model codes based on local conditions.~~

(2)(c) Advise local governments how construction code enforcement can be improved and standardized.

(3)(d) Advise local governments how to prevent the recurrence of disputes.

(4)(e) Advise local governments on evaluation of new and innovative materials, products, systems, or methods of construction for compliance with the Florida Building Code ~~model codes adopted pursuant to section 1~~, and any amendments or revisions thereto.

(5) Act as the countywide compliance review board, pursuant to section 553.73(4)(b)7., Florida Statutes, notwithstanding the requirements contained therein to establish such review board by interlocal agreement.

Section 8.11. Product and system evaluation.—

(1) The board shall have the authority to evaluate ADMINISTRATION.—Palm Beach County and each unit of local government within Palm Beach County shall have the option to direct inquiries concerning new or existing products or systems in accordance with section 553.842, Florida Statutes, and the Florida Building Commission's rules adopted thereunder to the board. The board shall act as a clearing house for new or different products or systems, by evaluating them based on the current model codes and any amendments or revisions, being recommended for adoption by the board. The board is authorized to may issue evaluation and compliance reports for products and systems found to be in compliance, as provided by policies established by the board. Recommendations and compliance reports of the board concerning new and existing products or systems shall be advisory in nature for the municipalities within Palm Beach County and shall not form the basis of a local or statewide approval pursuant to section 553.842, Florida Statutes.

(2) STANDARDS.—The evaluation of new and innovative materials, products, systems, or methods of construction shall be based on the Florida

Building Code model codes adopted pursuant to section 1, and any amendments or revisions thereto. The types of construction, materials, systems, or methods of design referred to in the Florida Building Code model codes, and any amendments or revisions thereto, shall be considered standards of performance, quality, and strength. New or different types of construction, materials, or methods of design shall be at least equal to these standards for the corresponding use intended. For the purposes of determining compliance, the product's quality, strength, effectiveness, fire resistance, durability, safety, and control of installation shall be guides for consideration.

(3) The board is authorized to establish policies and procedures necessary to conduct evaluation efforts, such as, but not limited to, applications, fees, renewals, and revocations. APPLICATION PROCEDURE.—

~~(a) Applications for evaluation and compliance determination shall be made in accordance with the policy and procedures established by the board. If the application is for a type of structure or system, the application shall be accompanied by plans prepared by a design professional, together with supporting engineering calculations supporting the design. Applications for components, materials, or devices shall be accompanied by drawings, tests, and calculations, prepared by an engineer registered in the State of Florida, or other proof supporting the design.~~

(b) The board may employ the use of consultants to examine applications. A The consultant shall be a design professional with specific qualifications in the particular that area of product or system analysis for which he or she is employed.

~~(c) The board may establish policies and procedures for the processing and review of requests for evaluation and compliance, including programs designed to monitor manufacturing, fabrication, or performance. The board or its designee may require calculations, tests, or opinions from design professionals, nationally recognized testing laboratories, or approved quality and assurance programs.~~

~~(d) The data shall be analyzed and evaluated for meeting the applicable performance standards. After receiving an evaluation report, the board shall issue a written recommendation on the appropriateness of the product or system for use in Palm Beach County. All decisions or reports shall be forwarded to:~~

- ~~1. The product control file.~~
- ~~2. The applicant.~~
- ~~3. The local building departments.~~

~~The written recommendations of the board shall be advisory only. It is the responsibility of each applicant, contractor, or owner to submit individual permit applications for construction or installation to the appropriate unit of local government for specific approval or rejection.~~

~~(4) FEES.—A \$500 minimum initial application fee shall be paid by the applicant at the time of filing. In addition, the applicant shall be responsible for any cost the board may incur. Resubmissions after unfavorable recommendations shall not require an additional initial filing fee unless final action had been taken by the board. However, the applicant shall be required to pay any additional cost incurred by the board prior to final action.~~

~~(5) DISPOSITION OF FEES AND EXPENSES.—All moneys collected by the board shall be received, deposited, expended, and accounted for pursuant to law. The expenses of the advisory board, consulting fees, testing fees, and all other necessary and appropriate fees shall be paid by the board from the moneys collected.~~

~~(6) DISAPPROVAL.—Applications recommended for disapproval, during any phase of the review process, shall be returned to the applicant in writing, stating the reasons for the recommendation of disapproval.~~

~~(7) REVOCATION.—~~

~~(a) At any time during the valid term of a compliance report, the recommendation may be revoked and become null and void for any of the following reasons:~~

~~1. Nonconformance with the model codes adopted pursuant to section 1, and any amendments or revisions thereto, or any subsequent updates to such standards which occur after the date of acceptance.~~

~~2. Deviation from the design on which the recommendation of acceptance was based, due to change, omission, or substitution.~~

~~3. Use of the product, components, system, or method not within the scope of the recommendation of acceptance.~~

~~4. Unsatisfactory performance when subjected to actual conditions.~~

~~5. Appearance of intolerable effects such as, but not limited to, toxicity when associated with other materials.~~

~~(b) Notification of revocation shall be provided to all persons having received the recommendation of acceptance. Revocations based on subparagraph (a)1. or subparagraph (a)2. may be considered for reinstatement if the original applicant submits:~~

~~1. Revised drawings, calculations, test reports, or other information to the satisfaction of the board.~~

~~2. Payment of a \$50 review fee.~~

~~3. Payment of additional costs incurred by the board.~~

~~Submittals for revisions shall bear the revised date and shall be processed as a new application. Revised reports recommended for approval shall be identified to indicate the revised date; however, the submittal shall maintain the same expiration date.~~

~~(8) RENEWAL.—One year from the date of acceptance and every year thereafter, or upon the adoption of new codes, amendments, revisions, or standards, the board shall ask the original applicant whether he desires the evaluation and compliance report to be renewed. Failure of the applicant to respond within 30 days shall cause the report or approval to be automatically canceled. An applicant desiring the report or approval to be renewed shall submit a \$200 fee. The applicant shall also be responsible for any additional cost incurred by the board prior to final action.~~

Section 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor June 5, 2001.

Filed in Office Secretary of State June 5, 2001.