

FHBA

IMPROVING FLORIDA'S BUILDING INDUSTRY

2021

FHBA Priority Legislative Talking Points

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2021 Priority Legislative Talking Points

Construction Defects

SB 270 by Senator Keith Perry
Committee References

1. Judiciary
2. Community Affairs
3. Rules

HB 21 by Representative Alex Andrade
Committee References

1. Civil Justice & Property Rights
2. Regulatory Reform
3. Judiciary

SB 270 and HB 21 will attempt to reform a statute that has been amended seven times since its creation in 2003. Signed into law by Governor Jeb Bush, Chapter 558.004 "Notice and Opportunity to Repair" was put in place to provide an alternative method to resolve construction disputes that would reduce the need for litigation and provide contractors, subcontractors, suppliers, design professionals, or an insurer an opportunity to resolve the claim through repair or pre-suit settlement negotiations.

Nearly two decades since its adoption, the notice and opportunity to repair statute has been taken advantage of by a small group of attorneys who provide one-hundred-page notices to contractors that lack specificity, use broad language, and exclude locations of the alleged defect. All with the intent to bypass the opportunity to repair and head to litigation.

SB 270 and HB 21 move the statute closer to its original intent by:

- Defining material violation,
- Requiring claimants to exhaust warranty options before seeking recourse,
- Requiring visible proof with specific detail surrounding the defect,
- Providing the claimant to attest that they have personal knowledge of the alleged defect, and
- Ensures a notice to mortgage is provided for any 558 claim that resulted in a monetary settlement, including the nature of the defect and whether the defect was repaired following the financial settlement.

Impact Fees

SB 750 by Senator Joe Gruters
Committee References

1. Community Affairs
2. Finance & Tax
3. Appropriations

HB 337 by Representative Nick DiCeglie
Committee References

1. Local Admin. & Veterans Affairs
2. Ways & Means
3. State Affairs

Today, 24.3 percent of the cost of a new single-family home comes from regulatory fees. A 2020 National Association of Home Builders study found that for every $1,000.00 increase to the price of a new home, 10,274 Floridians are priced out of the market. Although addressing the affordable housing issue is multi-faceted; there are critical reforms we can implement to ease anti-growth policies and ensure impact fees are applied to true capital infrastructure projects.

SB 750 and HB 337 sets critical reforms to Chapter 163:

1. Requires Impact Fee Increases to be Incrementally Phased-in. A commonsense policy that addresses local governments, some of whom in the height of a pandemic and an affordable housing crisis, adopted 100-300 percent impact fee increases.
2. Defines infrastructure. The American Society of Civil Engineers recently graded America's Infrastructure as a C-. Impact fees for public facilities should not include public art, uniforms, flashlights, or any other ancillary expenses. By defining "infrastructure" we will ensure impact fees are used for true brick and mortar public facilities and prevent impact fee consultants from inflating studies and unnecessarily driving up the cost of



housing.

3. Ensures Credits for Exactions. As is current law for school impact fees, all exactions, such as providing infrastructure and land dedications, will be credited towards the impact fee.
4. Prevents local governments from collecting undirected and unplanned impact fees. Local governments should not have the power to impose fees on builders without planned or funded capital improvements. Nor should a local government levy an impact fee for an infrastructure project and then remove such project from the jurisdiction's capital improvement plan.
5. Provides for Local Government Attestation. Establishes accountability to ensure impact fees are collected and expended per state statute.

Florida Building Code

SB 1146 by Senator Jason Brodeur

Committee References

1. Community Affairs
2. Appropriations
3. Rules

HB 401 by Representative Elizabeth Fetterhoff

Committee References

1. Regulatory Reform
2. Local Admin. & Veterans Affairs
3. Commerce

SB 1146 and HB 401 will prohibit building departments from requiring building contracts in permit applications. The legislation will also discourage local governments from bypassing the local technical amendment process to the Florida Building Code. We continue to see examples of jurisdictions placing building codes in their land development regulations. This provision will allow an affected party the opportunity to submit a complaint to the Florida Building Commission for a non-binding advisory opinion. Lastly, both bills will allow the Florida Building Commission to correct errors to the code by simplifying the procedures and not opening the process up to special interests.

Building Permits

SB 1788 by Senator Jim Boyd

Committee References

1. Community Affairs
2. Appropriations
3. Rules

HB 1059 by Representative Will Robinson

Committee References

1. Regulatory Reform
2. Commerce

SB 1788 and HB 1059 will require all building departments:

- To accept permit applications as well as all corresponding drawings and documents electronically, and
- Post the status of each building permit application it receives on its website until permit issue.
- The legislation will apply penalties on local enforcement authorities who fail to meet statutory deadlines:
- The bill will require local enforcement authorities to reduce permit fees by 10 percent if they fail to issue a building permit for a single-family residential dwelling within 30 business days.
- Including another 10 percent permit fee reduction for every 10 business days thereafter.
- If a local enforcement authority returns the application for additional information and the builder responds within 30 days, the local enforcement authority will have just 10 days to request additional information or deem the application complete.
- Note: The bill has a similar provision to the "Florida Building Codes" legislation that prohibits jurisdictions from requiring contracts with building permit applications.

