

## 2022 Legislative Session Summary

### Disaster Contractors Network

For additional information: <https://www.flsenate.gov/>

#### Tax Cuts

- **Tax Package:** The Legislature gave final approval to HB 7071 during the extended session along with the vote on the state budget. The omnibus bill includes a two-year sales-tax free period, beginning **July 1, 2022**, for impact-resistant windows, doors and garage doors. The bill also includes a two-year timeframe for a sales-tax exemption for Energy Star appliances, commencing **July 1, 2022**. HB 7071 also creates a “Tool Time” sales-tax free holiday, **September 3-9, 2022**. Tools typically utilized by skilled-trades are exempt from the tax, including hand tools, power tools, power-tool batteries, work gloves, safety glasses, coveralls, work boots, tool belts, tool boxes, vehicle tool boxes, industry text books and code books, LED flashlights, shop lights, electrical testing and voltage equipment and handheld pipe cutters, drain-opening tools and plumbing inspection equipment. HB 7071 also includes a two-week “Back-to-School” sales-tax holiday, a two-week “Disaster-Preparedness” sales-tax holiday expanded to include pet supplies, and a “Freedom Week” holiday for outdoor recreational activities and supplies, concerts, attractions, museums, theatre tickets, and pool supplies.

#### **CS/CS/SB 856 — Private Provider Inspections of Onsite Sewage Treatment and Disposal Systems**

by Appropriations Committee; Environment and Natural Resources Committee; and Senators Brodeur and Rodrigues

- The bill amends s. 381.0065, F.S., which regulates onsite sewage treatment and disposal systems (OSTDSs), to authorize the owner of an OSTDS, or a contractor upon the owner’s written authorization, to hire a private provider to perform an inspection of the owner’s OSTDS.
- The bill provides that an inspection of an OSTDS may not be conducted by the private provider or authorized representative of the private provider that installed the OSTDS. Inspections may only be performed by a private

provider, or an authorized representative of a private provider, meeting certain specified qualifications.

- The bill requires an owner or an authorized contractor using a private provider for an OSTDS inspection to provide notice to the Department of Environmental Protection (DEP) at the time of the permit application or by 2 p.m. local time, 2 business days before the first scheduled inspection by DEP. The notice must include information regarding each private provider or authorized representative performing the inspection and an acknowledgment form from the owner in a specified form. If an owner or authorized contractor makes any changes to the listed private provider or the service to be performed, the owner or the authorized contractor must update the notice to reflect the change within 1 business day after the change.
- The bill authorizes DEP to audit up to 25 percent of private providers each year to ensure the accurate performance of OSTDS inspections. Work on an OSTDS may proceed after inspection and approval by a private provider if the owner or authorized contractor has given notice of the inspection as described in the bill and, subsequent to such inspection and approval, such work may not be delayed for completion of an inspection audit by DEP unless deficiencies are found in the audit.
- The bill provides that the OSTDS private provider inspection regulations described in the bill do not prevent DEP from investigating complaints.
- The bill provides that by October 1, 2023, DEP must submit a report to the President of the Senate and the Speaker of the House of Representatives reviewing the use of private providers to perform OSTDS inspections. The report must include, at a minimum, the number of inspections performed by private providers.
- The bill requires DEP to adopt rules to implement the bill and to initiate the rulemaking process by August 31, 2022.
- If approved by the Governor, these provisions take effect July 1, 2022.

### **CS/CS/HB 423 — Building Regulation**

by Commerce Committee; Regulatory Reform Subcommittee; and Rep. LaMarca and others (CS/CS/CS/SB 644 by Rules Committee; Regulated Industries Committee; Community Affairs Committee; and Senator Brodeur)

#### *Private Providers*

The bill makes several changes to current law pertaining to licensed individuals providing private building inspection services, known as “private

providers.” Current law allows contractors and property owners to hire licensed building code administrators, engineers, and architects to review building plans, perform building inspections, and prepare certificates of completion. The bill makes the following changes:

- Specifies that if a person uses a private provider, the local government must provide equal access to all permitting and inspection documents and reports to the private provider, the owner, and the contractor;
- Specifies that the “reasonable administrative fee” a local government may charge for using a private provider must be based on the actual cost incurred by the local government for the clerical and supervisory assistance required;
- Allows a person with a provisional license (qualified to sit for the building official, plans examiner, or building inspector exam) to be a “duly authorized representative” for a private provider if under the direct supervision of a person licensed as a building code administrator. A duly authorized representative is an agent of a private provider authorized to review plans and perform inspections.
- Modifies the timeframe in which a building official must issue a certificate of occupancy or completion for certain types of permits, and provides that if a local building official does not provide a notice of deficiencies within the timeframes provided in the bill, the certificate of occupancy is automatically deemed issued the next day.

### *Building Inspector and Plans Examiner Licensure*

The bill makes the following changes pertaining to building inspector and plans examiner licensure:

- Provides that a person may sit for the building inspector or plans examiner licensure test by completing a four-year internship with a private provider or private provider’s firm while under the direct supervision of a certified building official.
- Requires the Florida Building Code Administrators and Inspectors Board (FBCAIB) to adopt a rule establishing that partial completion of an internship program may be transferred among local jurisdictions, private providers, and private provider firms.
- Prohibits the FBCAIB from issuing a provisional license with a special condition or requirement that such licensee be employed by a municipality, county, or other local government agency.

### *Building Permits*

The bill provides that a local government may only make three requests for additional information from an applicant applying for certain types of building permits and requires the local government to review any requested additional information within a certain time-period. This change is consistent with the limitations provided in current law pertaining to applications for development permits and orders. An applicant may agree in writing to waive this limitation.

The bill also states that a local law, ordinance, or regulation may not prohibit or otherwise restrict the ability of a private property owner to obtain a building permit to demolish any single-family residential structure located in certain flood hazard areas. Additionally, local governments may not impose additional regulatory requirements on the replacement of the demolished structure not otherwise applicable to similarly situated parcels. The bill provides exceptions to this provision for certain historic buildings.

### *Building Code Enforcement Funds*

The bill provides a cause of action for certain owners or builders or an association in Florida that has members with valid building permits to enforce the statutory provisions limiting the uses of a local government's excess Building Code enforcement funds. Current law limits the amount of Building Code enforcement funds a local government may carry forward each year and stipulates how such excess funds may be spent.

If approved by the Governor, these provisions take effect July 1, 2022.

CS/CS/CS/SB 706 — School Concurrency

by Rules Committee; Education Committee; Community Affairs Committee; and Senator Perry

School concurrency is the process by which local governments ensure school capacity is not outpaced by population increase created by development. Concurrency requirements are local laws stating that certain infrastructure must be in place and available to serve new development before the local government may allow new citizens to live in the new development.

The bill provides that school concurrency is deemed satisfied when the developer tenders a written legally binding commitment, rather than actually executes such commitment, to provide mitigation proportionate to the demand created by the development. A district school board must notify the local

government that capacity is available for the development within 30 days after receipt of the developer's commitment.

The bill also provides that such mitigation paid by a developer, rather than being immediately directed toward a school capacity improvement, may be set aside and not spent until an appropriate improvement is identified.

If approved by the Governor, these provisions take effect July 1, 2022.

## **SB352 — Construction Liens**

by Senator Hooper

A construction project generally begins with the posting of a “notice of commencement” on the job site and the recording of the notice in the county clerk’s office. The recording of a notice of commencement is meant to give constructive notice to an owner of real property that claims of lien may be recorded against that property, and which liens may take priority.

A notice of commencement is required for any direct contract greater than \$2,500 between an owner and a contractor, related to improvements to real property consisting of single or multiple family dwellings up to and including four units. However, a notice of commencement is not required in direct contracts to repair or replace an existing heating or air-conditioning system in an amount less than \$7,500.

SB 352 revises the requirement to file a notice of commencement for the repair or replacement of an existing heating or air-conditioning system. The bill raises the cost threshold where a notice of commencement is not required for such contracts from \$7,500 to \$15,000.

If approved by the Governor, these provisions take effect July 1, 2022.