

**fhba** FLORIDA HOME  
BUILDERS ASSOCIATION

# 2022

ADVOCACY REPORT



## A WORD FROM YOUR **FHBA** PRESIDENT



**Thomas "TJ"  
Thornberry**  
President

After a rather unconventional session in 2021, lawmakers returned to what felt like some sense of normal in Florida's capitol city this year. Thankfully, FHBA was able to welcome members back to Tallahassee in January, with more than 125 us "taking to the hill" during our 2022 Spring Legislative Conference.

FHBA championed many priorities this session as outlined in the following report. Chief among these, FHBA urged lawmakers to address private provider inspections of sewage tanks, school concurrency, tortoise relocation, construction defects, and standards for building and fire safety code timing.

Although construction defects, code timing and contraction/de-annexation will require continued work in future sessions, the FHBA advocacy team celebrated many victories. Our advocacy team also successfully defended the industry by defeating harmful legislation concerning heat illness and injury prevention plans, HOAs, and a prohibition against condominium reserve waivers for developers.

In order to improve the building climate across the state and support the economic environment that addresses anti-growth regulations head on, we must continue to elect pro-construction and pro-business candidates. The FHBPAC continues to fulfill this mission with ever-increasing donations and support, and key Senate and House leadership have taken notice. Thank you to all the contributors, supporters and 1,000 Club members for continuing to advance our mission of creating an environment in which the construction industry can prosper.

Advocacy is the cornerstone of our work to improve Florida's building industry.



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For more information about these issues and others, please contact us.



# 2022 SESSION IN REVIEW

Lawmakers brought the 2022 Regular Legislative Session to a close on March 14 with the final approval of a historic \$112 billion state budget. A mere 285 bills of the 3735 filed made it across the proverbial finish line, although several pieces of legislation contained provisions initially filed separately.

We have prepared this report to give you a deeper dive on the results of individual priority bills that may have an impact on your day-to-day operations and business. It is not however, an exhaustive list of the multitude of issues monitored by FHBA.

As you explore the outcome of these key issues lobbied on behalf of the industry, please keep in mind that each bill passed by the Florida Legislature must still be considered by Governor DeSantis before becoming a law. FHBA continues to maintain a positive working relationship with the Executive Office of the Governor, in order to ensure they understand the importance and impact of our legislative priorities.

## **FHBA 2022 Legislative Priority Outcomes**

### **Private Provider Septic Tank Inspections**

HB 309 by Rep. Fetterhoff

SB 856 by Sen. Brodeur

KEY LEGISLATORS ASSISTING: Rep. Elizabeth Fetterhoff, Rep. Mike Giallombardo, Rep. Blaise Ingoglia, Rep. Ralph Massullo, Sen. Jason Brodeur and Sen. Debbie Mayfield

### **ACTION: PASSED as SB 856.**

To help relieve the backlog of septic inspections in local jurisdictions around the state, the FHBA prioritized legislation allowing qualified private providers to conduct septic tank inspections. The bill provides qualifications the provider must hold to perform such inspections (Engineers, employees of Engineers and Master Septic Tank Installers who have certain credentials), prohibits DEP from charging any fees associated with a private provider inspection, and authorizes DEP to audit up to 25% of the



private providers each year. Notice must be given to DEP that the private inspection will be done, and the owner is required to execute a form acknowledging that the owner must hold the department harmless from any claims arising from the use of the private provider inspection. The bill also prohibits a septic tank from being inspected by the person or company that installed the septic tank.

### **Gopher Tortoise Relocation/Florida Fish & Wildlife Conservation Commission Omnibus Bill**

KEY LEGISLATORS ASSISTING: Rep. Tyler Sirois, Rep. James Buchanan, Rep. Toby Overdorf, Rep. Ralph Massulla, and Sen. Travis Hutson

#### **ACTION: PASSED as SB 49.**

This legislation is the omnibus package for the Florida Fish & Wildlife Conservation Commission and includes provisions lobbied by FHBA to allow for relocation of gopher tortoises to public lands. The state land management agencies, in consultation with the Commission to determine feasibility, may develop plans for utilizing portions of state lands for gopher tortoise recipient sites. Opening up public lands for gopher relocation efforts should help moderate re-location fees.

**Background:** Frequently, developers provide infrastructure that surpasses the impacts generated by a development. In return, some local governments provide impact fee credits for that additional capacity. The “credit” given to developers for providing excess capacity is meant to reduce impact fees on future projects yet, counties and cities use zones that limit where credits can be applied. This prevented developers from utilizing impact fee credits that they have earned once a zone has been built-out.

### **School Concurrency**

HB 851 by Rep. McClain

SB 706 by Sen. Perry

KEY LEGISLATORS ASSISTING: Rep. Stan McClain, Rep. Jackie Toledo, Sen. Keith Perry and Sen. Jennifer Bradley

#### **ACTION: PASSED as SB 706.**

In reaction to a de facto residential building moratorium in sections of Hillsborough County for failure to meet school concurrency even when proportional share was met. These bills provide that proportionate-share mitigation may be set aside and not spent if improvements have not been identified, a sort of “pay-as-you-go” provision for school concurrency.







## **Additional Personnel for 404 Permitting**

KEY LEGISLATORS ASSISTING: Rep. Josie Tomkow, Rep. Toby Overdorf, Rep. Jay Trumbul, Sen. Ben Albritton and Sen. Kelli Stargel

### **ACTION: 25 New FTEs Funded as Part of the Budget.**

Since assuming the 404 Permitting Process from the feds, the State of Florida has had an difficult time keeping up with the demand. The FHBA supported and lobbied in support of the Governor's budget proposal to add an additional 23 FTEs to the Department of Environmental Protection's 404 Permitting Operations. The budget as finally adopted funded a total of 25 new positions.

## **Construction Defects**

HB 583 by Rep. Yarborough

SB 736 by Sen. Hutson

KEY LEGISLATORS ASSISTING: Rep. Clay Yarborough, Rep. Wyman Duggan, Rep. Blaise Ingoglia, Rep. Bob Rommel, Sen. Travis Huton, Sen. Kathleen Passidomo and Sen. Wilton Simpson

### **ACTION: Died On The House Calendar**

This legislation attempted to fix the "Notice & Right to Repair" law in Chapter 558, F.S., and reign in the fraudulent construction defect claims while still maintaining a remedy for homeowners with legitimate issues. The FHBA supported the Senate position providing a 7-year Statute of Repose for single-family, a definition for "material violation," mandated a third-party inspection and added parameters for homeowners who filed claims but didn't make repairs with settlement funds. After negotiations between the Senate and the House continued late into the night on Thursday, March 10, it became clear that finding a deal which advanced the industry's position and was acceptable to the House could not be crafted. Despite this, the FHBA team was successful in convincing the Senate and key House members the importance of lowering the statute of repose and revising the definition of material violation to avoid the disastrous economic consequences of nuisance suits. **The work on this issue will continue.**

## Florida Building Code & Florida Fire Prevention Code Timing

HB 659 by Rep. Harding

SB 626 by Sen. Wright

KEY LEGISLATORS ASSISTING: Rep. Joe Harding,

### **ACTION: Died In Committee**

In order to ensure time for training and understanding these bills provide for a delay in implementation for the Florida Building Code and Florida Fire Prevention Code as well as ensuring the Energy Code compliance software is available prior to effective date of a new code. Code Timing: Although legislation requiring energy software to be available at least 3 months prior to the effective date of the building code and the fire code to be completed and least 3 months prior to its effective date was never considered, a major concession and future strategy resulted from the bill being filed. We have a commitment from the State Fire Marshal that the fire code will be finalized at least 3 months prior to its effective date. Additionally, policymakers expressed a concern over delaying the building code because energy software (a private -market product) was not available in a timely fashion but expressed interest in exploring the delay of the specific Energy Code if such software was not timely available.



## Other Key Issues

### **Tax Cut Package**

HB 7071(WMC1) by H. Ways & Means

Rep. Payne

### **ACTION: PASSED as HB 7071.**

HB 7071 is an omnibus tax relief package which includes provisions for property tax relief for homestead property rendered uninhabitable for 30 days or more and for all assessments for owners affected by the Surfside collapse. More importantly for our industry, it included several tax Holiday's including;



A two-year tax exemption for impact-resistant window, doors and garage doors for residential buildings beginning July 1, 2022;

A 12-month exemption for ENERGY STAR appliances beginning July 1, 2022;

A tool "Tool Time" sales tax fee week to include September 3-9, 2022:

Toolboxes for vehicles selling for \$300 or less.

Power tools selling for \$300 or less

Power tool batteries selling for \$150 or less.

Industry textbooks and code books selling for \$125 or less.

Tool belts selling for \$100 or less.

Work boots selling for \$175 or less.

Electrical voltage & testing equipment selling for \$100 or less.

Handheld pipe cutters, drain opening tools, & plumbing inspection equipment for \$150 or less.

Toolboxes selling for \$75 or less.

Hand tools, protective coveralls, tool belts, duffle/tote bags, and LED flashlights shop lights selling for \$50 or less.

Shop lights shop lights selling for \$100 or less.

Work gloves safety glasses selling for \$25 or less.

Safety glasses selling for \$50 or less

## **Notice of Commencement Requirements**

HB 263 by Rep. Bell

SB 352 by Sen. Hooper

### **ACTION: PASSED as SB 352.**

SB 352 increases the threshold for application of the Notice of Commencement (NOC) requirements for direct contracts to repair or replace an existing HVAC system from \$7,500 to \$15,000. It does not increase the threshold for the filing of an NOC outside the context of an HVAC repair.



## **Constitutional Prohibition Against Lobbying by a Public Officer/CDDs**

HB 7001 by the Rep. Koster

H. Public Integrity & Elections Committee

### **ACTION: PASSED as 700**

Another key bill for FHBA, HB 7001 implements the public officer lobbying prohibitions required by a 2018 amendment to the Florida Constitution passed by Florida voters which is slated to take effect on December 31, 2022. As originally filed, the bill would have created a chilling affect with respect to developers and staff of developers sitting on a Community Development District (CDD) Board, a common industry practice. They would have been defined as a "Public Officer" under amendment 12 and subject to lobbying restrictions and other rules. The FHBA successfully CDD Board members removed from the definition of Public Official for the purposes of Amendment 12.

## **Building Plans**

HB 635 by Rep. Maggard

SB 644 by Sen. Brodeur

HB 423 by Rep. LaMarca

### **ACTION: PASSED as HB 423 HB 423 passed the House on March 4, 113-0 and was substituted for SB 644 and was approved 38-0. HB**

These bills prohibit local governments from making substantive changes to building plans after a permit has been issued, unless the changes are required to bring the plans into compliance with the Building Code or the Fire Prevention Code. If a local government makes substantive changes to building plans, it must notify the permit holder of the specific reasons for the changes. The bills also require a local fire official to notify a permit applicant if the plans do not comply with the Fire Prevention Code of the specific reasons the plans are not in compliance. The bills also place new restrictions on local governments' ability to prevent property owners from demolishing single-family buildings in flood zones. The legislation (HB 423) was further amended to limit how many times local governments may request information from a building permit applicant and specifies timeline for the local government to act on the application and approve or deny the permit.

Perhaps most importantly, the bill was amended by Rep. Blaise Ingoglia to specifically an owner, builder, local association or state association or state association representing owners and builders who pull permits and pay fees to bring a civil action against local governments that do not comply with statutes regarding excess permit fee funds.



## **Mandatory Building Inspections**

SB 1702 by Sen. Bradley

### **ACTION: Died On Calendar.**

Even though both HB 7069 and SB 1702 included some of the Surfside Task Force recommendations, such as unit owner access to records and reports, reserve funding disclosures and alternative funding mechanisms for maintenance, repair and reserve funding obligations, the House and Senate wanted different approaches related to funding of reserves and agreement could not be reached

SB 1702 includes several of the recommendations from the Florida Bar RPPTL Condominium Law and Policy Life Safety Advisory Task Force. Specifically the bill requires a milestone inspection for all multifamily residential buildings three-stories or more by December 31 of the year in which the building reaches 30 years old, and every 10 years after the first inspection. For buildings located within 3 miles of the coastline, the inspection period begins at 20 years, with subsequent inspections every 7 years. The inspections do not apply to two-family dwellings or buildings less than 3500 square feet. For buildings occupied before July 1, 1992, the first milestone report is due by December 31, 2024. The bill outlines the two phases of the milestone inspection with Phase I being a visual inspection conducted by a licensed architect or engineer to perform a qualitative assessment of the structural conditions of the building. Phase II inspection occurs if structural distress is identified in Phase I, and may only be performed by a special threshold inspector and destructive testing may occur during this phase. Once inspections are completed, the architect, engineer or threshold inspector must send a sealed copy of their report to the building owner, or if a condominium, the condominium administrator, each condominium owner and it must be posted on the website, even if no deficiencies are identified. The report must also be sent to the local building official. The local enforcement agency may establish

## **Municipal Contraction (Deannexation) Procedures**

HB 1401 by Rep. Persons-Mulicka

SB 1876 by Sen. Perry

### **ACTION: Died In Committee.**

An FHBA initiative, these bills outline requirements that must be followed prior to holding a referendum proposing to contract an area of a municipality. If more than 70 percent of the land in an area proposed to be contracted is owned by persons or legal entities that are not registered electors of the area, then the area may only be contracted if the owners of more than 50 percent of the total land area to be contracted consent to the contraction. If the area to be contracted does not have any registered electors then the proponents of contraction must obtain the consent of the owners of more than 50 percent of the total land area before final adoption of the ordinance of contraction.

## Heat Illness Prevention in Outdoor Work Environments

HB 887 by Rep. Chambliss

SB 732 by A. Rodriguez

### **ACTION: Died In Committee.**

HB 887 and its companion require employers of employees who work primarily outdoors (agriculture, construction, landscaping) to provide drinking water, access to shade, implement an outdoor heat exposure safety program and provide annual training to employees and supervisors on heat illness prevention and treatment. These requirements are supplemental to all related industry-specific standards.

### **Mobility Fees**

HB 1415 by Rep. Robinson

SB 1824 by Sen. Brodeur

**ACTION: Died In Committee.** The bill sponsor agreed not to move the bill this Session in response to our concerns, however he has asked us to reconsider options for next year.

The bills require local governments to adopt either a transportation concurrency system or a mobility plan and fee system. The bills also prescribe a number of requirements with which local mobility plans would have to comply. Existing mobility plans previously adopted by local governments would have to be revised in order to comply with the law. The bills require that an adopted mobility fee be updated at least every five years, otherwise the fee is rendered void by operation of law. There are a number of issues raised by the bill, including seeming internal inconsistencies, the deletion of a requirement that such plans utilize “professionally accepted techniques,” the method of accounting for extra-territorial impacts (which the bills appear to require to be factored into any fee charged to a developer), and how existing credits would be treated by newly adopted mobility plans or transferred from one type of credit to another type of credit in the adopted mobility plan.





# FHBA

IMPROVING FLORIDA'S  
**BUILDING  
INDUSTRY**

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