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The Honorable Chip LaMarca
Florida House of Representatives
214 House Office Building
402 South Monroe Street
Tallahassee, Florida 32399

Dear Representative LaMarca:

This office received your letter requesting a legal opinion on questions of Florida law.[1] First, you ask whether, under section 553.791, Florida Statutes, a local enforcement agency, local building official, or local government may require a building department to perform additional local inspections or site visits that replicate inspections already performed by a duly retained private provider, as a condition for closing out a permit. Second, you ask whether a local enforcement agency, local building official, or local government may adopt or enforce policies or procedures that differ from or impose additional requirements beyond those established under section 553.791, where all statutory requirements have otherwise been satisfied, including the timely delivery of inspection reports and certificates of completion.

My answer to your first question is no. Section 553.791 explicitly prohibits a local enforcement agency, local building official, or local government from requiring a local government building department to perform additional local inspections or site visits that replicate the inspections already performed by a duly retained private provider. As to your second question, a local enforcement agency, local building official, or local government may not adopt or enforce any laws, rules, procedures, policies, qualifications, or standards more stringent than those prescribed by section 553.791.

[1] *See* Letter from Chip LaMarca, Fla. House of Representatives, to James Uthmeier, Att'y Gen. of Fla. (June 15, 2026) (on file with the Office of the Florida Attorney General).

You also ask under what circumstances may a county or municipality charge fees pursuant to section 553.791(2)(b) for required inspections or plan reviews when a private provider has been retained to perform such services. Further, if a county or municipality has charged fees in excess of what is authorized under section 553.791, you ask whether the county or municipality is required to refund those fees.

A county or municipality may charge a permit fee when a private provider has been retained to provide building inspections or plans review. The county or municipality, however, must reduce the amount of the permit fee by the amount of cost savings realized by the county or municipality for not having to perform those services. Further, the local enforcement agency may not charge any punitive administrative fees when a private provider has been retained to perform those services. If a county or municipality has charged fees in excess of what is authorized under section 553.791, then the county or municipality is required to refund any fees collected for services not actually provided or required to be performed by statute because the collection of excess fees is not authorized by statute.

## ANALYSIS

### I.

Section 553.791 establishes an alternative building code inspection and plans review system under which a fee owner or the fee owner's contractor may choose to use a private provider of building code inspection services—rather than a local jurisdiction's provider—to perform required building code inspection services.[2] Specifically, "[n]otwithstanding any other law or local government ordinance or local policy," a fee owner or the fee owner's contractor "may choose at any time to use a private provider to provide plans review or building code inspection services with regard to such building or structure and may make payment directly to the private provider for the provision of such services."[3]

The statute contains a direct prohibition on a local jurisdiction replicating a private provider's building code inspection services. In defining the term "audit" as "the process to confirm that the building code inspection services have been performed by the private provider," the statute specifies that "[t]he local building official *may not replicate the plan review or inspection*

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[2] *See* § 553.791, Fla. Stat. (2026). The term "private provider" means "a person licensed as a building code administrator under part XII of chapter 468, as an engineer under chapter 471, or as an architect under chapter 481." In addition, the term "private provider" includes "a person who holds a standard certificate under part XII of chapter 468" for the purposes of "performing inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings." § 553.791(1)(n), Fla. Stat. (2026).

[3] § 553.791(2)(a), Fla. Stat. (2026).

*being performed by the private provider, unless expressly authorized* by this section."[4]

It is well settled that state law preemption of local ordinances and other local regulations may be accomplished by express preemption or implied preemption.[5] Indeed, preemption under state law "need not be explicit so long as it is clear that the legislature has clearly preempted local regulation of the subject."[6] Here, section 553.791 expressly prohibits a local enforcement agency, local building official, or local government from requiring a building department to perform additional local inspections or site visits that replicate inspections already performed by a duly retained private provider as a condition for closing out a permit.[7]

## II.

Section 553.791(19)(a) states that "[a] local enforcement agency, local building official, or local government may not adopt or enforce any laws, rules, procedures, policies, qualifications, or standards more stringent than those prescribed by this section." The term "stringent" means "[m]arked by rigor, strictness, or severity [especially] with regard to rule or standard."[8] For example, the charging of fees above what is authorized by section 553.791 would qualify as a more stringent rule or policy. Additionally, requiring more inspections than are prescribed by section 553.791 would be a more stringent rule or policy. Therefore, a local enforcement agency, local building official, or local government may not adopt or enforce any laws, rules, procedures, policies, qualifications, or standards more stringent than those prescribed by section 553.791.

## III.

Section 553.791(2)(b) provides the framework for when a local jurisdiction may charge a fee to an owner or contractor who hires a private

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[4] § 553.791(1)(b), Fla. Stat. (2026) (emphasis added). "The local building official may only perform building inspections of construction that a private provider has determined to be compliant with the applicable codes *if the local building official has knowledge that the private provider did not perform the required inspections.*" § 553.791(16)(a), Fla. Stat. (2026) (emphasis added).

[5] *Masone v. City of Aventura,* 147 So. 3d 492, 495-97 (Fla. 2014) (holding that the preemption clause in section 316.007, Florida Statutes, which provides that "no local authority shall enact or enforce any ordinance on a matter covered by this chapter unless expressly authorized," expressly preempted a city ordinance on traffic control signals).

[6] *Id.* (quoting *Barragan v. City of Miami,* 545 So. 2d 252, 254 (Fla.1989)).

[7] Further, "[t]he local government, local enforcement agency, local building official, and building code enforcement personnel may not prohibit or discourage the use of a private provider or a private provider firm." § 553.791(23), Fla. Stat. (2026).

[8] *Stringent,* American Heritage Dictionary of the English Language (5th ed. 2016).

provider for plans review or building inspection services. A local jurisdiction may charge an owner or contractor choosing to use a private provider of plans review or building inspection services a "permit fee."[9] However, "the local jurisdiction must reduce the permit fee by the amount of cost savings realized by the local enforcement agency for not having to perform such services."[10] The reduction may be calculated on "a flat fee or percentage basis," or by "any other reasonable means by which a local enforcement agency assesses the cost for its plans review or inspection services."[11] The permit fee "must be based on the *cost incurred by the local jurisdiction*, including the labor cost of the personnel providing such services and the clerical and supervisory assistance required to comply with this section."[12]

Additionally, if an owner or the owner's contractor hires a private provider for plans review or building inspections, a "local jurisdiction may not charge fees for plans review or building inspections."[13] Before July 1, 2026, the local enforcement agency was permitted to charge "a reasonable administrative fee," which was based on "the cost that is actually incurred."[14] However, the Legislature removed the authorization for the local enforcement agency to charge an administrative fee.[15] Further, as provided in the statute, as amended and effective July 1, 2026, "[t]he local enforcement agency may not charge punitive administrative fees when a fee owner has chosen to work with a private provider."[16] Therefore, a local enforcement agency is not authorized to charge an administrative fee for plans review and building inspections when a fee owner or the owner's contractor has chosen to hire a private provider.[17] Any administrative fee charged on or after July 1, 2026, is considered a "punitive administrative fee" because no administrative fee is currently authorized by section 553.791(2)(b).[18]

Accordingly, when an owner or the owner's contractor hires a private provider for purposes of plans review or building inspection services, a local government may only charge fees under section 553.791(2)(b) as outlined above. Section 553.791(19)(a) preempts a local government's ability to charge any fees beyond what is authorized in section 553.791. Any fees charged in excess of

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[9] § 553.791(2)(b), Fla. Stat. (2026).
[10] *Id.*
[11] *Id.*
[12] *Id.* (emphasis added).
[13] *Id.*
[14] § 553.791(2)(b), Fla. Stat. (2025).
[15] § 553.791(2)(b), Fla. Stat. (2026).
[16] *Cf.* § 553.791(2)(b), Fla. Stat. (2026) with § 553.791(2)(b), Fla. Stat. (2025).
[17] § 553.791(2)(b), Fla. Stat. (2026).
[18] *Id.*

those permitted by section 553.791, therefore, are unauthorized and must be refunded to the payer.[19]

## CONCLUSION

Section 553.791 prohibits a local enforcement agency, local building official, or local government from requiring a building department to perform additional local inspections or site visits that replicate inspections already performed by a duly retained private provider, as a condition for closing out a permit. Further, a local enforcement agency, local building official, or local government may not adopt or enforce any laws, rules, procedures, policies, qualifications, or standards more stringent than those prescribed by section 553.791. Additionally, under section 553.791(2)(b), a county or municipality may only charge a permit fee from a party that has hired its own private provider. The permit fee must be discounted by the amount of cost savings from the county or municipality not having to perform those services. Any fees collected by a county or municipality in excess of what is permitted under section 553.791 are unauthorized and must be refunded to the party who paid the unauthorized excess fees.

Sincerely,

Greg Slemp

Greg Slemp
Deputy Attorney General
(Legal Counsel)

[19] *See, e.g., Bill Stroop Roofing, Inc. v. Metropolitan Dade County*, 788 So. 2d 365, 366-367 (Fla. 3d DCA 2001) (holding the refund of illegally extracted monies by a local government is required).