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1	A bill to be entitled
2	An act relating to local government code enforcement;
3	amending s. 162.01, F.S.; revising a short title; amending
4	s. 162.02, F.S.; providing legislative findings; amending
5	s. 162.04, F.S.; providing definitions for the terms
6	"arbitrary," "capricious," "harassment," and "violation";
7	revising the definition for the term "repeat violation";
8	creating s. 162.055, F.S.; authorizing local governments
9	to appoint special magistrates to conduct code enforcement
10	hearings; providing requirements and duties; amending s.
11	162.06, F.S.; clarifying provisions for procedures
12	relating to code enforcement proceedings; requiring notice
13	of such proceedings to be provided to the property owner
14	of record under certain conditions; amending s. 162.07,
15	F.S.; revising requirements and procedures for hearings
16	relating to code enforcement violations; providing for
17	specified parties to recover damages, reasonable costs,
18	and attorney's fees under certain circumstances; amending
19	s. 162.08, F.S.; clarifying the powers of code enforcement
20	boards and special magistrates; authorizing enforcement
21	boards and magistrates to order continuances under certain
22	conditions; amending s. 162.09, F.S.; revising provisions
23	for administrative fines, costs of repair, and liens
24	relating to code enforcement violations; eliminating
25	provisions authorizing fines in excess of certain limits;
26	eliminating provisions authorizing the recovery of certain
27	accrued interest; amending s. 162.10, F.S.; decreasing the
28	duration of certain liens relating to code enforcement

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violations; amending s. 162.11, F.S.; revising provisions for the appeal of final administrative orders relating to code enforcement violations; providing for a full appellate review of such appeals; providing for dismissal of certain decisions; amending s. 162.12, F.S.; revising notice requirements for code enforcement violations; eliminating optional publication and posting of notices; revising requirements for leaving notices at residences; creating s. 162.14, F.S.; providing for a citizen's and property owner's code enforcement bill of rights; prohibiting certain code enforcement actions and issuance of certain warrants; requiring certain information to be included in hearing notices; providing that violations of certain provisions are subject to civil action; providing for specified parties to recover damages, reasonable costs, and attorney's fees; providing that certain actions by a governing official, employee, or inspector are a breach of the public trust, subject to suspension or dismissal, and punishable as a third-degree felony; amending s. 784.083, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Section 162.01, Florida Statutes, is amended to read:

162.01 Short title.—This part ~~Sections 162.01-162.13~~ may be cited as the "Local Government Code Enforcement ~~Boards~~ Act."

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Section 2. Section 162.02, Florida Statutes, is amended to read:

162.02 Intent and findings.—It is the intent of this part to promote, protect, and improve the health and safety, ~~and welfare~~ of the citizens of the counties and municipalities of this state by authorizing the creation of administrative boards and use of special magistrates ~~with authority to impose administrative fines and other noncriminal penalties~~ to provide an equitable, expeditious, effective, and inexpensive method of enforcing local ~~any~~ codes and ordinances in force in counties and municipalities, ~~where a pending or repeated violation continues to exist.~~ In furtherance of this intent, the Legislature finds that:

(1) Local governing bodies should restrict their codes and ordinances to health and safety issues without being so overly broad as to unduly restrict normal business activities or infringe upon the outdoor Florida lifestyle; and their rules and ordinances should avoid being arbitrary, capricious, or so vague that a person of average intelligence cannot reasonably understand what is expected of him or her.

(2) The administrative entities authorized under this part do not have jurisdiction over, and should not hear issues affecting, property value disputes. The proper venue for property value disputes remains with the county and circuit courts.

(3) Code enforcement actions may not be used as a revenue stream for local governments.

(4) Abatements of a public nuisance shall continue to be

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subject to the provisions of s. 893.138 and Art. V of the State Constitution, with local governments liable to property owners for loss of use under chapter 70 and the standards and guidelines set forth in the Florida Supreme Court opinion in *Keshbro, Inc. v. City of Miami*, 801 So. 2d 864 (Fla. 2001).

(5) Because code enforcement proceedings are penal and quasi-criminal in nature and prosecuted to the fullest extent of local governmental powers, all constitutional rights of individuals under the federal and state constitutions must be observed.

Section 3. Section 162.04, Florida Statutes, is amended to read:

162.04 Definitions.—As used in this part ~~ss. 162.01-162.13~~, the term:

(1) "Arbitrary" means not supported by logic or necessary facts.

(2) "Capricious" means without thought or reason or irrational.

~~(2)~~ (3) "Code inspector" means any authorized agent or employee of the county or municipality whose duty it is to assure code compliance.

(4) "Enforcement board" means a local government code enforcement board.

(5) "Harassment" means:

(a) Three or more code enforcement complaints by an individual that are determined to be unfounded by the code enforcement process within a 1-year period from the date of the first complaint.

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113 (b) Any single code enforcement complaint by an individual
114 without a real property or other legitimate interest within 500
115 feet of the complained of property.

116 (c) Any single unfounded complaint made by a business
117 competitor, disgruntled employee, estranged spouse or partner,
118 parent in a child custody dispute, or other vindictive
119 complaint.

120 (d) Any act of vandalism, illegal dumping, or unauthorized
121 or other unwarranted conduct by an individual which results in a
122 code enforcement action.

123 (e) Two or more code enforcement prosecutions by a code
124 enforcement department official, employee, or inspector against
125 an individual or property owner determined to be unfounded by an
126 enforcement board or special magistrate within 12 months.

127 (f) Any single code enforcement action proceeding by a
128 code enforcement department official, employee, or inspector
129 based upon an anonymous complaint, aesthetics or appearance, a
130 search not conducted pursuant to ss. 933.20-933.30, or any other
131 violation of an individual's constitutional rights.

132 (g) Any course of conduct by a code enforcement department
133 official, employee, or inspector which reasonably could be
134 expected to annoy, threaten, intimidate, alarm, or put an
135 individual or property owner in fear of his or her health or
136 safety. This conduct includes unwanted, unwelcome, and uninvited
137 behavior, and any insult or gesture that demeans, threatens, or
138 offends an individual, including the use of epithets, derogatory
139 comments or slurs, lewd propositions, assaults or offensive
140 touching, impeding or blocking the movement of an individual, or

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attempting to prevent the video or audio recording of any part
of the code enforcement process.

(h) Any action by a code enforcement department official,
employee, or inspector that causes emotional distress, such as
continued unwarranted and random inspections without receiving a
complaint, stalking, including driving by an individual's place
of business or residence more than once a week without
legitimate cause, false statements or misrepresentation of
procedures to individuals, any obstruction of justice, and any
violation of s. 112.311.

(6)~~(1)~~ "Local governing body" means the governing body of
the county or municipality, however designated.

(7)~~(3)~~ "Local governing body attorney" means the legal
counselor for the county or municipality.

(8)~~(5)~~ "Repeat violation" means a violation of a provision
of a code or ordinance by a person who has been previously found
through a code enforcement board or any other quasi-judicial or
judicial process, to have violated or who has admitted violating
the same provision within 1 year before ~~5 years prior to~~ the
violation, notwithstanding the violations occur at different
locations.

(9) "Violator" means the person identified as most
directly responsible for a violation of a code or ordinance.

Section 4. Section 162.055, Florida Statutes, is created
to read:

162.055 Local government code enforcement special
magistrates.-

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(1) The local governing body may appoint one or more code enforcement special magistrates to conduct code enforcement hearings.

(2) Any person employed as a special magistrate must be a member of The Florida Bar in good standing for at least the preceding 5 years and practice law within the local county. A special magistrate from another county may be employed if a local special magistrate has a conflict of interest.

(3) A special magistrate:

(a) May not be employed, directly or by contract, by any other government entity.

(b) Serves at the pleasure of the local governing body.

(c) Has the same duties and authority as a local code enforcement board.

Section 5. Section 162.06, Florida Statutes, is amended to read:

162.06 Enforcement procedure.—

(1) It is ~~shall be~~ the duty of the code inspector to initiate enforcement proceedings of the various codes. ~~however,~~ A no member of an enforcement a board or special magistrate may not shall have the power to initiate such enforcement proceedings.

(2) Except as provided in subsections (3) and (4), if a violation of the codes is found, the code inspector shall notify the violator and give him or her a minimum of 30 days ~~reasonable time~~ to correct the violation. if should the violation continues ~~continue~~ beyond the time specified for correction, the code inspector shall notify an enforcement board or special

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magistrate and request a hearing. The code enforcement board or
~~special magistrate, through its clerical staff,~~ shall schedule a
hearing, and written notice of the ~~such~~ hearing shall be hand
delivered or mailed as provided in s. 162.12 to the ~~said~~
violator. If the property owner of record is not the violator,
notice of the violation shall be mailed to the property owner of
record as an interested third party. At the option of the code
enforcement board or special magistrate, notice may additionally
be served by publication or posting as provided in s. 162.12. If
the violation is corrected and then recurs or if the violation
is not corrected by the time specified for correction by the
code inspector, the case may be presented to the enforcement
board or special magistrate even if the violation has been
corrected prior to the ~~board~~ hearing, and the notice shall ~~so~~
state such.

(3) If a repeat violation is found, the code inspector
shall notify the violator but is not required to give the
violator a reasonable time to correct the violation. The code
inspector, upon notifying the violator of a repeat violation,
shall notify an enforcement board or special magistrate and
request a hearing. The code enforcement board or special
~~magistrate, through its clerical staff,~~ shall schedule a hearing
and shall provide notice pursuant to s. 162.12. The case may be
presented to the enforcement board or special magistrate even if
the repeat violation has been corrected before ~~prior to~~ the
~~board~~ hearing, and the notice shall ~~so~~ state such. If the repeat
violation has been corrected, the code enforcement board or
special magistrate retains the right to schedule a hearing to

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determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. The repeat violator may choose to waive his or her rights to this hearing and pay the ~~said~~ costs as determined by the code enforcement board or special magistrate.

(4) If the code inspector has reason to believe that a violation or the condition causing the violation presents an immediate ~~a serious~~ threat to the public health or, safety, ~~and welfare~~ or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may immediately notify the enforcement board or special magistrate and request a hearing.

(5) If the owner of property that is subject to an enforcement proceeding before an enforcement board, special magistrate, or court transfers ownership of the ~~such~~ property between the time the initial pleading was served and the time of the hearing, the ~~such~~ owner shall:

(a) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.

(b) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.

(c) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.

(d) File a notice with the code enforcement official of the transfer of the property, with the identity and address of

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the new owner and copies of the disclosures made to the new owner, within 5 days after the date of the transfer.

A failure to make the disclosures described in paragraphs (a), (b), and (c) before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding may ~~shall~~ not be dismissed, but the new owner shall be provided a minimum of 30 days, depending on the nature of the necessary repairs, ~~a reasonable period of time~~ to correct the violation before the hearing is held.

Section 6. Section 162.07, Florida Statutes, is amended to read:

162.07 Conduct of hearing.—

(1) Upon request of the code inspector, or at such other times as may be necessary, a special magistrate or the chair of an enforcement board may call a hearing ~~of an enforcement board~~; a hearing also may be called by written notice signed by at least three members of a seven-member enforcement board or signed by at least two members of a five-member enforcement board. A majority of the members of a code enforcement board must be present at a code enforcement hearing for the hearing to be official. Minutes shall be kept of all hearings with clear audio or video recordings ~~by each enforcement board~~, and all hearings and proceedings shall be open to the public. Audio and video recordings or certified transcripts shall be made available as a matter of public record. The local governing body shall provide clerical and administrative personnel as may be reasonably required for ~~by~~ each hearing and ~~enforcement board~~

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for the proper performance of the ~~its~~ duties of each enforcement board and special magistrate.

(2) Each case before an enforcement board or special magistrate shall be presented by the local governing body attorney or by a member of the administrative staff of the local governing body. If the local governing body prevails in prosecuting a case before the enforcement board or special magistrate, it may ~~shall be entitled to~~ recover all reasonable and actual costs incurred in prosecuting the case before the enforcement board or special magistrate and such costs may be included in the lien authorized under s. 162.09(3). If the local governing body fails in its prosecution of a case, costs or fees may not be assessed against an alleged violator and the alleged violator may recover reasonable and actual costs, plus attorney's fees.

(3) An enforcement board or special magistrate shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The enforcement board or special magistrate shall take testimony from the code inspector, ~~and~~ alleged violator, and other witnesses. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(4) At the conclusion of the hearing, the enforcement board or special magistrate shall issue findings of fact, based on the evidence of record, state ~~and~~ conclusions of law, and ~~shall~~ issue an order affording the proper relief consistent with powers granted under this part ~~herein~~. The findings of the

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308 enforcement board ~~finding~~ shall be by motion approved by a
 309 majority of those members present and voting, ~~except that at~~
 310 ~~least four members of a seven member enforcement board, or three~~
 311 ~~members of a five member enforcement board, must vote in order~~
 312 ~~for the action to be official.~~ The order issued by the
 313 enforcement board or special magistrate may include a notice
 314 that it must be complied with by a specified date and that a
 315 fine may be imposed and, under the conditions specified in s.
 316 162.09(1), the cost of repairs may be included along with the
 317 fine if the order is not complied with by the specified ~~said~~
 318 date. A certified copy of the ~~such~~ order may be recorded in the
 319 public records of the county and shall constitute notice to any
 320 subsequent purchasers, successors in interest, or assigns if the
 321 violation concerns real property, and the findings therein shall
 322 be binding upon the violator and, if the violation concerns real
 323 property, any subsequent purchasers, successors in interest, or
 324 assigns. If an order is recorded in the public records pursuant
 325 to this subsection and the order is complied with by the date
 326 specified in the order, the enforcement board or special
 327 magistrate shall issue an order acknowledging compliance that
 328 shall be recorded in the public records. A hearing is not
 329 required to issue ~~such~~ an order acknowledging compliance. If the
 330 local governing body fails in its prosecution of its case, the
 331 order of the enforcement board or special magistrate shall note
 332 that the action was unfounded, that the alleged violator owes no
 333 costs or fees, and that the local governing body is liable to
 334 the alleged violator for reasonable and actual costs, plus
 335 attorney's fees.

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Section 7. Section 162.08, Florida Statutes, is amended to read:

162.08 Powers of enforcement boards and special magistrates.—~~An Each~~ enforcement board or special magistrate may ~~shall have the power to:~~

(1) Adopt rules for the conduct of ~~its~~ hearings.

(2) Issue subpoenas:

(a) To code inspectors, other code enforcement officials, complainants, Subpoena alleged violators, and other witnesses compelling attendance at ~~to its~~ hearings.

(b) To obtain documentary evidence from individuals other than the alleged violator for use at hearings.

(c) Upon the reasonable request of the alleged violator.

Subpoenas shall ~~may~~ be timely served by the sheriff of the county or police department of the municipality.

~~(3) Subpoena evidence to its hearings.~~

(3) Order continuances as required or at the request of an alleged violator in order to provide adequate time for review of evidence and preparation of a defense prior to a hearing date.

(4) Take testimony under oath.

(5) Issue orders, within the constitutional limits of administrative proceedings, having the force of law to command whatever steps are necessary to bring a violation into compliance.

Section 8. Section 162.09, Florida Statutes, is amended to read:

162.09 Administrative fines; costs of repair; liens.—

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(1) An enforcement board or special magistrate, upon notification by the code inspector that an order of the enforcement board or special magistrate has not been complied with by the set time or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section ~~for each day the violation continues past the date set by the enforcement board for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code inspector.~~ In addition, if the violation is a violation described in s. 162.06(4), the enforcement board or special magistrate shall notify the local governing body, which may make all reasonable emergency repairs that ~~which~~ are required to protect the public health or safety ~~bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section.~~ Making such repairs does not create a continuing obligation on the part of the local governing body to make further repairs or to maintain the property and does not create any liability against the local governing body for any damages to the property if such repairs were completed in good faith. Any further action concerning the correction of an immediate threat to the public health or safety or to impose cost on a property owner for emergency repairs shall be brought under s. 893.138 or by seeking injunctive relief through the county or circuit courts. ~~If a finding of a violation or a repeat violation has been made as provided in this part, a hearing~~

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~~shall not be necessary for issuance of the order imposing the fine.~~ If, after due notice and hearing, a code enforcement board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in paragraph (2)(a).

(2)(a) A fine imposed pursuant to this section may ~~shall~~ not exceed \$250 ~~per day~~ for a first violation or ~~and shall not exceed \$500 per day~~ for a repeat violation, ~~and, in addition, may include all costs of repairs pursuant to subsection (1).~~ However, if a code enforcement board finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$500 ~~\$5,000~~ per violation.

(b) In determining the amount of the fine, if any, the enforcement board or special magistrate shall consider the following factors:

1. The gravity of the violation;
2. Any actions taken by the violator to correct the violation; and
3. Any previous violations committed by the violator.

(c) An enforcement board or special magistrate may reduce a fine imposed pursuant to this section.

~~(d) A county or a municipality having a population equal to or greater than 50,000 may adopt, by a vote of at least a majority plus one of the entire governing body of the county or municipality, an ordinance that gives code enforcement boards or special magistrates, or both, authority to impose fines in excess of the limits set forth in paragraph (a). Such fines shall not exceed \$1,000 per day per violation for a first~~

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~~violation, \$5,000 per day per violation for a repeat violation,
and up to \$15,000 per violation if the code enforcement board or
special magistrate finds the violation to be irreparable or
irreversible in nature. In addition to such fines, a code
enforcement board or special magistrate may impose additional
fines to cover all costs incurred by the local government in
enforcing its codes and all costs of repairs pursuant to
subsection (1). Any ordinance imposing such fines shall include
criteria to be considered by the code enforcement board or
special magistrate in determining the amount of the fines,
including, but not limited to, those factors set forth in
paragraph (b).~~

(3) A certified copy of an order imposing a fine, or a
fine plus repair costs, may be recorded in the public records
and thereafter constitutes ~~shall constitute~~ a lien against the
~~land on which the violation exists and upon any other~~ real or
personal property owned by the violator. Upon petition to the
circuit court, such order is ~~shall be~~ enforceable in the same
manner as a court judgment by the sheriffs of this state,
including execution and levy against the personal property of
the violator, but such order may ~~shall~~ not be deemed to be a
court judgment except for enforcement purposes. ~~A fine imposed
pursuant to this part shall continue to accrue until the
violator comes into compliance or until judgment is rendered in
a suit filed pursuant to this section, whichever occurs first. A~~
lien arising from a fine imposed pursuant to this section runs
in favor of the local governing body, and the local governing
body may execute a satisfaction or release of lien entered

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pursuant to this section. After 3 months from the filing of any such lien that ~~which~~ remains unpaid, the enforcement board may authorize the local governing body attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien ~~plus accrued interest~~. A ~~No~~ lien created pursuant to ~~the provisions of this part~~ may not be foreclosed on real property that ~~which~~ is a homestead under s. 4, Art. X of the State Constitution. The money judgment provisions of this section do ~~shall~~ not apply to real property or personal property which is covered under s. 4(a), Art. X of the State Constitution.

Section 9. Section 162.10, Florida Statutes, is amended to read:

162.10 Duration of lien.—A ~~No~~ lien provided under the Local Government Code Enforcement ~~Boards~~ Act may not ~~shall~~ continue for a period longer than 5 ~~20~~ years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced pursuant to s. 162.09(3) in a court of competent jurisdiction. In an action to foreclose on a lien or for a money judgment, the prevailing party may ~~is~~ ~~entitled to~~ recover all costs, including a reasonable attorney's fee, that it incurs in the action. The local governing body may ~~shall be entitled to~~ collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

Section 10. Section 162.11, Florida Statutes, is amended to read:

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476 162.11 Appeals.—An aggrieved party, including the local
477 governing body, may appeal a final administrative order of an
478 enforcement board or special magistrate to the circuit court.
479 Such an appeal ~~shall not be a hearing de novo but~~ shall be a
480 full limited to appellate review of the record created before
481 the enforcement board or special magistrate and shall review the
482 findings of fact, the conclusions of law, and the procedures
483 followed to ensure that fundamental due process was provided. If
484 the local governing body fails to provide a complete, useable,
485 and paginated record of the decision being appealed, including a
486 transcript or recording of all hearings, the appeal shall be
487 dismissed in favor of the alleged violator until the local
488 governing body can produce a suitable record. If the local
489 governing body does not produce a suitable record within 90
490 days, the code enforcement action shall be dismissed with
491 prejudice in favor of the alleged violator. An appeal shall be
492 filed within 30 days of the execution of the order to be
493 appealed.

494 Section 11. Section 162.12, Florida Statutes, is amended
495 to read:

496 162.12 Notices.—

497 ~~(1)~~ All notices required by this part shall be provided to
498 the alleged violator by:

499 (1)(a) Certified mail, return receipt requested., ~~provided~~
500 If such notice is sent under this subsection ~~paragraph~~ to the
501 owner of the property in question at the address listed in the
502 tax collector's office for tax notices, and at any other address
503 provided to the local government by such owner and is returned

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as unclaimed or refused, notice may be provided ~~by posting as described in subparagraphs (2)(b)1. and 2. and~~ by first class mail directed to the addresses furnished to the local government with a properly executed proof of mailing or affidavit confirming the first class mailing;

(2)(b) Hand delivery by the sheriff or other law enforcement officer, ~~code inspector,~~ or other person legally authorized to serve summons ~~designated by the local governing body;~~

(3)(e) Leaving the notice at the violator's usual place of residence with any person residing therein who is 18 ~~above 15~~ years of age or older and of sound mind, informing such person of the contents of the notice, and obtaining the signature of the recipient; or

(4)(d) In the case of commercial premises, leaving the notice with the manager or other person in charge.

~~(2) In addition to providing notice as set forth in subsection (1), at the option of the code enforcement board, notice may also be served by publication or posting, as follows:~~

~~(a)1. Such notice shall be published once during each week for 4 consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the code enforcement board is located. The newspaper shall meet such requirements as are prescribed under chapter 50 for legal and official advertisements.~~

~~2. Proof of publication shall be made as provided in ss. 50.041 and 50.051.~~

~~(b)1. In lieu of publication as described in paragraph~~

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~~(a), such notice may be posted at least 10 days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be, in the case of municipalities, at the primary municipal government office, and in the case of counties, at the front door of the courthouse or the main county governmental center in said county.~~

~~2. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.~~

~~(c) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (1).~~

~~Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (1), together with proof of publication or posting as provided in subsection (2), shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.~~

Section 12. Section 162.14, Florida Statutes, is created to read:

162.14 Citizen's and property owner's code enforcement bill of rights.—

(1) The citizens and property owners of the state have the right to full enjoyment and peaceful use of their own private real and personal property. Citizens have the right to be free

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from harassment based upon unconstitutionally vague or overly broad codes and ordinances and arbitrary and capricious code enforcement activities. Citizens and property owners have the right to be treated with dignity and respect by government officials and employees.

(2) Because code enforcement exists to protect the health and safety of the public, if a public danger does not exist, code enforcement action should not be pursued. A code enforcement action must cite with specificity the public danger caused by the alleged code violation. A code enforcement action may not be based upon appearance or aesthetics.

(3)(a) Code enforcement search and inspection warrants must comply with chapter 933. A warrant may not be issued based on an anonymous complaint.

(b) A search of private property may not proceed without informed consent, with the right of refusal waived in writing, by an adult in lawful custody and control of the property to be searched.

(4) A notice of hearing must include a statement of the procedures to be used at the hearing and a statement of the rights of the accused to have subpoenas issued on his or her behalf and to question the complainant.

(5)(a) An individual or government official, employee, or inspector who violates this section in a code enforcement action is subject to a civil cause of action by the individual whose rights were violated for actual damages, minimum damages in the amount of \$500 for intentional infliction of emotional distress, and reasonable costs and attorney's fees.

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588 (b) An action by a code enforcement department official,
589 employee, or inspector that violates this section or constitutes
590 harassment under this part:

591 1. Is a breach of the public trust under s. 112.312(3).

592 2. Subjects the official, employee, or inspector to
593 suspension and dismissal under s. 112.317.

594 3. Is a felony of the third degree under s. 838.022,
595 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

596 Section 13. Section 784.083, Florida Statutes, is amended
597 to read:

598 784.083 Assault or battery on code inspectors.—Whenever a
599 person is charged with committing an assault or aggravated
600 assault or a battery or aggravated battery upon a code
601 inspector, as defined in s. 162.04~~(3)(2)~~, while the code
602 inspector is engaged in the lawful performance of his or her
603 duties and when the person committing the offense knows or has
604 reason to know the identity or employment of the victim, the
605 offense for which the person is charged shall be reclassified as
606 follows:

607 (1) In the case of aggravated battery, from a felony of
608 the second degree to a felony of the first degree.

609 (2) In the case of aggravated assault, from a felony of
610 the third degree to a felony of the second degree.

611 (3) In the case of battery, from a misdemeanor of the
612 first degree to a felony of the third degree.

613 (4) In the case of assault, from a misdemeanor of the
614 second degree to a misdemeanor of the first degree.

615 Section 14. This act shall take effect July 1, 2011.