

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 1486

INTRODUCER: Community Affairs Committee and Senator Brandes

SUBJECT: Residential Master Building Permit Programs

DATE: April 17, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
2.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	Favorable
3.	<u>White</u>	<u>Hrdlicka</u>	<u>FP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1486 provides for the creation of local residential master building permit programs to assist builders who construct certain dwellings and townhomes on a repetitive basis. The bill directs each local government to create a residential master building permit program within 6 months of a written request made by a licensed contractor to a licensed local building official. Under the program, a builder obtains a master building permit by submitting certain documents, such as a general construction plan, to the local building department. Within 120 days after receiving a complete application, the local building department must review the general construction plan to determine compliance with the building code and approve or deny the master building permit application.

If the local building department approves the general building plan and all documents provided with the master building permit application are verified, the builder receives a master building permit and permit number. After approving a master building permit application, the bill provides that the local building department may only require the builder to submit the limited documents for a site-specific building permit for a single-family or two-family dwelling.

The bill has an indeterminate fiscal impact to local governments.

II. Present Situation:

Florida Building Code and Local Amendments

Chapter 553, F.S., titled the “Florida Building Codes Act,” provides a mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of a single, unified state building code. The Florida Building Commission (FBC) updates the Florida Building Code (code) every 3 years by selecting the most current versions of model codes to serve as the basis for the new edition of Florida’s code. During the triennial code adoption process, FBC staff integrates provisions that have been previously adopted by the commission in prior code editions that are related to state agency regulation, wind-resistance design of buildings in the high velocity hurricane zone, and other provisions required for consistency with statute.¹

While the Legislature has stated its intent that the code be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction,² flexibility is provided so that local governments may adopt amendments to the administrative provisions³ and technical provisions of the code.⁴ These local amendments, which apply solely within the jurisdiction of the local government, are:

- Required to be more stringent than the minimum standards of the code;
- Not allowed to be made more than once every 6 months;
- Not allowed to make additional requirements that are discriminatory against materials, products, or construction techniques of demonstrated capabilities;
- Not allowed to make additional requirements introducing a new subject not addressed in the code;⁵ and
- Not applicable to state or school district owned buildings, manufactured buildings or factory-built school buildings approved by the commission, or prototype buildings approved pursuant to s. 553.77(3), F.S.⁶

Section 553.73(11), F.S., requires local building code enforcement officials and local fire code enforcement officials to resolve conflicts between the Florida Building Code, the Florida Fire Prevention Code, and the Florida Life Safety Code by agreement as to the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and equivalent method of construction. Additionally, decisions made by local fire officials and the local building officials may be appealed to local administrative boards having firesafety responsibilities. All such decisions are subject to review by a joint committee composed of members of the FBC and the Fire Code Advisory Council.

Local Government Permitting

The Legislature has specified that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public’s health, safety, and

¹ See s. 553.73(7)(g), F.S.

² Section 553.72, F.S.

³ Section 553.73(4)(a), F.S.

⁴ Section 553.73(4)(b), F.S.

⁵ Section 553.73(4)(b)3., F.S.

⁶ Section 553.73(4)(c), F.S.

welfare.⁷ Section 553.79(1), F.S., provides that it is unlawful for any person, firm, corporation, or governmental entity to construct, erect, alter, modify, repair, or demolish any building without first obtaining a permit from the appropriate enforcing agency or from such persons delegated the authority to issue permits, upon the payment of fees adopted by the enforcing agency. Typically, the appropriate enforcing agency is the local building department in the county or municipality in which the property is located. The builder is required to obtain a site-specific building permit for each individual site-specific building intended to be constructed, even if the builder expects to build multiple identical structures on a repetitive basis.

A builder is required to provide building plans and specifications at the time of application for a site-specific building permit, along with a structural inspection plan and additional supporting documents sufficient for the building code administrator or inspector to determine whether the building will be built according to the code.⁸ The specific documents required to be submitted with the site-specific building permit application can vary depending upon the county or municipality reviewing the documents. The City of Tallahassee requests the following documents with the application for site-specific building permit:

- Completed permit application, signed by the contractor;
- Affidavit of the owner, designating contractor as the agent;
- Disclosure statement if the owner is acting as his or her own contractor;
- Affidavit of occupancy;
- Florida Lien Law form if the owner is acting as his or her own contractor;
- Certified copy of recorded Notice of Commencement;
- Two sets of construction plans, including floor plan, elevations, foundation plan or floor framing plan, wall sections, roof plan, two gas diagrams, manufacturer's truss layout, and fire resistance framing plan;
- Two engineered wind analyses, if the structure is over 400 square feet, has openings within three feet of a corner, or is two stories; the engineer must have the subdivision name, lot, and block or complete address;
- Environmental information, including a site plan, information regarding whether the property is located in a FIRM flood zone, street name, lot dimensions, setback dimensions, north arrow, easements and restrictions, location and size of all protected trees, limits of clearing and location for placement of sediment and erosion control measures, clearly labeled existing and proposed structures, existing and proposed two-foot contour lines labeled accordingly; all grading or other methods of storm-water conveyance; and finished floor elevation;
- 2010 Florida Building Code, Energy Conservation Form 402 or 405;
- EPL Display card signed by the builder with the date and address of the home;
- Manual J form with the HVAC load sizing summary for residential buildings signed by the preparer;
- Soil test, signed by an engineer with subdivision name, lot, and block or complete address; and
- Completed driveway connection application.⁹

⁷ Section 553.72(2), F.S.

⁸ Section 553.79(2) and (6), F.S.

⁹ City of Tallahassee Applications and Forms, *Combination Residential Building, Environmental & Driveway Permit Application*, BI FORM AP-RESIDENTIAL BUILDING (Oct. 17, 2012), available at

Along with the application and listed documents, the builder submits a fee to cover both the review of the submitted documents and any inspection costs. The fees are based on a schedule adopted by the local government pursuant to s. 553.80(7), F.S., which provides that:

- The fees, and any fines or investment earnings related to the fees, may only be used to carry out the local government's responsibilities in enforcing the code;
- When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities;
- At the discretion of the local government, any unexpended balances are carried forward to future years for allowable activities or are refunded;
- The basis for a fee structure for allowable activities must relate to the level of service provided by the local government and must include consideration for refunding fees due to reduced services; and
- Fees charged must be consistently applied.

The FBC sets standards and criteria to authorize preliminary construction before completion of all building plans review, including, but not limited to, special permits for the foundation only. Section 105.13 (phased permit approval), of the Florida Building Code provides the following:

After submittal of the appropriate construction documents, the building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted. Corrections may be required to meet the requirements of the technical codes.

III. Effect of Proposed Changes:

Section 1 creates s. 553.794, F.S., to establish the parameters for local government residential master building permit programs. Upon receipt of a written request made by a licensed general, building, or residential contractor, a local government has 6 months to create a residential master building permit program. The program is designed to achieve standardization and reduce the time spent by local building departments during the site-specific building permit application process.

In order to obtain a master building permit, builders must submit the following to the local building department:

- A completed master building permit application;
- A general construction plan that complies with specified requirements;

- All general construction plan pages, documents, and drawings, including structural calculations if required by the local building department, signed and sealed by the licensed architect or engineer;
- Written acknowledgement from the licensed architect or engineer that the plan pages, documents, and drawings contained within the application will be used for future site-specific building permit applications;
- Truss specifications signed and sealed by the engineer; and
- An energy performance calculation for all building orientations that considers the worst-case scenarios for the relevant climate zone and includes component and cladding product approvals for windows, pedestrian and garage doors, glazed opening impact protection devices, truss anchors, roof underlayments, and roof coverings.

The bill provides that the general construction plan may be submitted in electronic or paper format, as required by the local building department, and must include:

- Left-hand and right-hand building orientations including floor plans;
- A model design, with up to four exterior elevations, that must:
 - Include a foundation plan;
 - Contain a truss layout sheet for each exterior elevation compatible with the roof plan;
 - Not contain more than three alternate garage layouts, with each garage limited to accommodating no more than three cars;
- A showing of typical wall sections from the foundation to the roof;
- A complete set of applicable electrical, plumbing, fuel gas, and mechanical plans;
- Window, door, and glaze opening impact protection device schedules, if applicable; and
- Any other local building department requirements.

The local building department must review the general construction plan to determine compliance with the building code, and approve or deny the master building permit application within 120 days after receiving a completed application, unless waived by the applicant. If the local building department approves the general building plan and all documents provided with the master building permit application are verified, the builder receives a master building permit and permit number.

In order to build one of the buildings approved under the master building permit, the builder must apply for a site-specific building permit and include the master building permit number with the application. The bill provides that the local building department may only require the builder to submit the following documents for a site-specific building permit for a single-family or two-family dwelling or townhome after approving a master building permit application:

- A complete site-specific building permit application with the master building permit number, identifying the model design to be built, including elevation and garage style;
- Three signed and sealed copies of the lot or parcel survey or site plan, indicating the Federal Emergency Management Agency flood zone, based flood elevation, and minimum finish floor elevation. The survey or site plan must conform to local zoning regulations and lot or parcel drainage indicators must be shown with site elevations;
- An affidavit by the licensed engineer of record affirming the master building permit is a true and correct copy of the master building permit on file with the local building department,

referencing the master building permit number and affirming that the master building permit will conform to soil conditions on the specific site;

- Complete mechanical drawings of the model design, including HVAC heating and cooling load calculations and equipment specifications; and
- Specific information not included in the master building permit application addressing the HVAC system design, including duct design and heating and cooling load calculations.

The builder may submit the master building permit number an unlimited number of times with the site-specific building permit applications, so long as the builder uses the model design contained in the master building permit and the permit is valid. Approved master building permits are valid until the code is updated as provided in s. 553.73, F.S.

Once a local building department has approved a master building permit, the local building department may:

- Not allow structural revisions to the building;
- Allow limited nonstructural revisions to the building so long as any revised floor plan is submitted to and approved by the local building department; and
- Accept limited field revisions, as determined by the local building department.

The bill provides that the governing bodies of local governments set fees pursuant to s. 553.80(7), F.S.

The bill provides that a builder or design professional who willfully violates provisions of the bill will be fined \$10,000 for each dwelling or townhome built under the master building permit that does not conform to the master building permit on file with the local building department.

Section 2 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18(a) of the Florida Constitution, provides that no county or municipality is bound by any general law requiring a county or municipality to spend funds or take an action requiring the expenditure of funds. The mandates provision may apply because the bill requires county or municipal governments to create a residential master building permit within 6 months of receipt of a written request made by a licensed general, building, or residential contractor.

To be binding on counties and municipalities the Legislature must find that the law fulfills an important state interest and one of the following must apply:

- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law is approved by a two-thirds vote of each house of the Legislature.

Under Art. VII, s. 18(d) of the Florida Constitution, bills having insignificant fiscal impact are exempt from the mandates provisions. If the bill's requirements implicate the

mandates provision, the exemption may apply if the bill results in an insignificant fiscal impact to county or municipal governments.

The fiscal impact of this bill is indeterminate. If the exemption does not apply, and if the bill becomes law, cities and counties will not be bound by the law unless the Legislature determines that the bill fulfills an important state interest and approves the bill by a two-thirds vote of the membership of each House.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By reducing the time spent by local building departments during the site-specific building permit process, builders will experience faster permit review times, possibly encouraging development and increasing private economic activity.

C. Government Sector Impact:

Costs to local governments to develop the program and review master building permit applications could be offset by the reduced requirements for reviewing site-specific building permit applications.

Because local governments have control over fee schedules, any revenue impact will be determined by the local government.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 553.794 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on April 7, 2015:

Provides that a local government whose licensed local building official receives a written request from a licensed general, building, or residential contractor has 6 months to create a master building permit program, and clarifies that local governments set fees for the master building permit program pursuant to existing provisions in s. 553.80(7), F.S.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
