

THE FLORIDA SENATE
2019 SUMMARY OF LEGISLATION PASSED
Committee on Community Affairs

CS/CS/HB 447 — Construction

by Commerce Committee; Business and Professions Subcommittee; and Rep. Diamond and others (CS/SB 902 by Rules Committee and Senators Perry, Hutson, and Bracy)

The Florida Building Codes Act provides a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. Local governments enforce the Florida Building Code, issue building permits, review building plans, and perform building inspections. CS/CS/HB 447 creates provisions related to building permits and fees as well as the enforcement and updating of the Florida Building Code.

The legislation establishes a number of processes and related procedures for property owners and local governments to close open and expired building permits. Specifically, the bill:

- Allows local governments to provide written notice to a property owner and contractor no less than 30 days before a building permit is set to expire;
- Creates a procedure for property owners to close open or expired building permits by retaining the original contractor or a different contractor to perform the work necessary and obtain the inspections required to close the permit;
- Clarifies that a subsequent contractor is only liable for the work she or he performs when working to close a permit;
- Allows the owner of a residential property to close a permit by assuming the role of an owner-builder upon approval from the local government;
- Provides a local government may close a building permit after 6 years, if the agency determines that no apparent safety hazards exist;
- Prohibits a local government from penalizing or denying issuance of a building permit to a subsequent arms-length purchaser solely because a previous owner applied for a permit which was not closed;
- Prohibits a local government from denying issuance of a building permit to a contractor solely because the contractor is listed on other building permits that are not closed; and
- Limits a local government to only charge one search fee for identifying building permits for a particular tax parcel.

The bill also:

- Prohibits a local government from carrying forward an amount greater than its average cost for enforcing the Florida Building Code for the previous four fiscal years;
- Requires a local government to use any excess code enforcement funds to rebate or reduce code enforcement fees; and
- Prohibits a local government from charging surcharges or similar fees not directly related to enforcing the Florida Building Code.

In addition, the bill clarifies the risk horizon of construction industry participants by providing that a notice of claim authorized within ch. 558, F.S., to resolve construction defects does not toll any statute of repose under ch. 95, F.S., on limitations of actions and adverse possession. This

effectively reverses a September 2018 4th DCA decision in *Gindel v. Centex Homes*, (43 Fla. L. Weekly D2112d) that held that a service of pre-suit construction defect notice pursuant to s. 558.004, F.S., constitutes an “action” for purposes of initiating an action within the ten year statute of repose for actions founded upon the improvement of real property under s. 95.011(3)(c), F.S.

Finally, the bill allows the Florida Building Commission, during the triennial update process of the Florida Building Code, to approve certain amendments without a finding that the amendments are needed in order to accommodate the specific needs of the state. This provision takes effect July 1, 2020.

If approved by the Governor, these provisions take effect July 1, 2019, except where otherwise provided.

Vote: Senate 40-0; House 109-0