

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 Regulated Industries

BILL: CS/SB 1486

INTRODUCER: Community Affairs Committee and Senator Brandes

SUBJECT: Residential Master Building Permit Programs

DATE: April 15, 2015

REVISED: _____

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

Please see Section IX. for Additional Information:

PLEASE MAKE SELECTION

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. The bill provides that after approving a master building permit application, the local building department may only require the builder to submit limited documents for a site-specific building permit for a single-family or two-family dwelling.

II. Present Situation:

Florida Building Code and Local Amendments

Part IV of ch. 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.¹ 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.²

While the Legislature has stated its intent that the code be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction,³ flexibility is provided so that local governments may adopt amendments to the administrative provisions⁴ and technical provisions of the code.⁵ 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;⁶ 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.⁷

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 of the officials in favor of the code requirement that offers the greatest degree of lifesafety, or alternatives that would provide an equivalent degree of lifesafety and an equivalent method of construction. These decisions may be appealed to the local administrative board with firesafety responsibilities, and are subject to further review by a joint committee composed of members of the FBC and the Fire Code Advisory Council.

¹ See ss. 553.70 - 553.898, F.S.

² See Section 553.73(7)(g), F.S., which provides in pertinent part, “[a]mendments or modifications related to state agency regulations which are adopted and integrated into an edition of the Florida Building Code shall be carried forward into the next edition of the code, subject to modification as provided in this part. Amendments or modifications related to the wind-resistance design of buildings and structures within the high-velocity hurricane zone of Miami-Dade and Broward Counties which are adopted to [the code] do not expire, and shall be carried forward into the next edition of the code, subject to review or modification”

³ Section 553.72, F.S.

⁴ Section 553.73(4)(a), F.S.

⁵ Section 553.73(4)(b), F.S.

⁶ Section 553.73(4)(b)(3), F.S.

⁷ Section 553.73(4)(c), F.S.

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 welfare.⁸ 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 paying for and obtaining a permit from the appropriate enforcing agency or from such persons delegated the authority to issue permits. 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 plans are in compliance with the code.⁹ The specific documents required to be submitted with the site-specific building permit application 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;

⁸ Section 553.72(2), F.S.

⁹ Section 553.79(2) and (6), F.S.

- Soil test, signed by an engineer with subdivision name, lot and block or complete address; and
- Completed driveway connection application.¹⁰

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.

Section 553.80(7)(a), F.S., further specifies the types of enforcement activities that the fees may be used to fund:

- The direct costs and reasonable indirect costs associated with review of building plans;
- Building inspections;
- Reinspections;
- Building permit processing;
- Building code enforcement;
- Fire inspections associated with new construction;
- Training costs associated with the enforcement of the code; and
- Enforcement action pertaining to unlicensed contractor activity to the extent not funded by other user fees.

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 code¹¹ 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

¹⁰ City of Tallahassee *Combination Residential Building, Environmental & Driveway Connection Permit Application*, BI FORM AP-RESIDENTIAL_BUILDING, 10/17/2012, available at http://www.tal.gov.com/Uploads/Public/Documents/growth/pdf/forms/combo_residential_bldg_env_permit_appl.pdf (last visited April 14, 2015).

¹¹ A draft of the 2014 Florida Building Code has been made available in a read-only format by the International Code Council, Inc. (ICC) at http://ecodes.biz/ecodes_support/free_resources/14FloridaDraft/Building/14FL_Building_Draft.html (last visited April 14, 2015). The ICC was founded in 1994 by the Building Officials and Code Administrators International, Inc. (BOCA), International Conference of Building Officials (ICBO), and Southern Building Code Congress International, Inc. (SBCCI). As regional building codes began to lose their usefulness in a national context, the ICC developed International Codes, which are a set of comprehensive, coordinated building safety and fire prevention codes.

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 must create a residential master building permit program within 6 months of receipt of the request. The program is intended for use by builders constructing identical homes on a repetitive basis, and must be designed to achieve standardization, consistency, and a reduction in time spent by local building departments during the site-specific building permit application process.

After a master building permit program is established by a local government, the following must be submitted to the local building department for a master building permit:

- 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; paper plans must be a minimum of 36 inches by 48 inches or must comply with local building department requirements;
- Shall include left-hand and right-hand building orientations, including floor plans;
- Shall include a model design, with up to four alternate exterior elevations with the same living space footprint, 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;
- Must show typical wall sections from the foundation to the roof;

- Must contain a complete set of applicable electrical, plumbing, fuel gas, and mechanical plans;
- Must contain window, door, and glaze opening impact protection device schedules, if applicable; and
- Must meet any other local building department requirements.

The local building department must review the general construction plan to determine compliance with the code, and must 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 must receive a master building permit and permit number.

In order to build a home using a model design approved under the master building permit, the builder must apply for a site-specific building permit using the master building permit number. The bill provides that once a master building permit application has been approved, 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:

- A completed site-specific building permit application that identifies the master building permit number and 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, base flood elevation, and minimum finished 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 master building permit is valid, and the builder uses an approved model design. 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 if any revised floor plan is submitted and approved; and
- Accept limited field revisions, in its discretion.

The bill provides that fees for the master building permit program may be set by the local government body, as currently authorized by s. 553.80(7), F.S.

The bill provides that in addition to any other penalty provided by law, a builder or design professional who willfully violates the requirements of a local government's residential master building permit program are subject to a fine of \$10,000 for every dwelling or townhome that is built using the master building permit but 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:

The bill requires cities and counties to incur expenses, as it mandates that upon request of a contractor, a local residential master building permit program be created. As set forth in Article VII, Section 18 of the Florida Constitution, cities and counties are not bound by general laws requiring them to spend funds or take an action requiring them to spend funds unless the Legislature has determined that the law fulfills an important state interest, the law is approved by two-thirds of the membership in each house of the Legislature, and the law is exempted from the requirements of the state constitution.

One such exception is for law having insignificant fiscal impact. The fiscal impact of this bill is indeterminate. Should the bill become law, cities and counties may not be bound by it without a determination by the Legislature that the law fulfills an important state interest, and a vote approving the law by a two-thirds vote of the membership of both the Senate and the House of Representatives.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Local governments have the authority to adopt fees associated with a requested master building permit program, and may evaluate revenue impacts accordingly.

B. Private Sector Impact:

After creation of a master building permit program, both the local building department and affected residential contractors will benefit from the reduction in duplicative

documentation and time associated with building permit application reviews for large development projects. Residents and other contractors may benefit from better availability of staff time and resources resulting from reduced volume of building permit application documentation.

C. **Government Sector Impact:**

The expense of establishing master building permit programs and reviewing master building permit applications may be offset by the reduced requirements for maintaining and reviewing repetitive information, allowing more timely review of information specific to each building site and any special attributes when warranted.

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 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.