

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 Community Affairs

BILL: CS/SB 1752

INTRODUCER: Community Affairs Committee and Senator Perry

SUBJECT: Inspections and Permits

DATE: April 9, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.			IT	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1752 allows local governments that impose building inspection or permit fees to establish a priority process by which inspections or permits may be expedited. Local governments may charge an additional fee for the expedited process, but the fee may not exceed two times the baseline fee for the inspection or permit type being expedited.

The bill limits local governments to collecting 50 percent of the fee that is due when an application for a building permit is filed. If the local government fails to meet an established application deadline, the bill reduces the permitting fee by 10 percent of the original amount for every 10 business days by which the local government fails to meet the established deadline. Upon approval of the building permit application, the local government must notify the applicant of the fee balance. If the applicant owes additional fees, payment of the fees are due before the issuance of any certificate or permit. If the applicant is owed a refund, that refund is due to the applicant when the certificate or permit is issued.

The bill also revises the types of building permits to which certain application deadlines apply.

II. Present Situation:

Florida Building Code

Part IV of ch. 553, F.S., is known as the “Florida Building Codes Act.” The purpose and intent of the Florida Building Codes Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code.¹ The Florida Building Code must be applied, administered and enforced uniformly and consistently from jurisdiction to jurisdiction.² The Florida Building Commission develops and maintains the Florida Building Code.³

Florida Fire Prevention Code

The State Fire Marshall must adopt, by rule, the Florida Fire Prevention Code (FFPC), which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such fire safety laws and rules.⁴ The FFPC operates in conjunction with the Florida Building Code. Conflicts between the FFPC and the Florida Building Code are resolved through coordination and cooperation between the State Fire Marshall and the Florida Building Commission in favor of requirements offering the greatest degree of life safety.⁵

Enforcement of the Florida Building Code: Permits and Inspections

It is the intent of the Legislature 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.⁶ Authorized state and local government agencies enforce the Florida Building Code and issue building permits.⁷

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.⁸ It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local enforcing agency upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.⁹ A local enforcement agency must post each type of building permit application on its website.¹⁰

¹ Section 553.72(1), F.S.

² *Id.*

³ Section 553.74, F.S. The Florida Building Commission is a 27-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Florida Building Code.

⁴ Section 633.202(1), F.S.

⁵ See ss. 553.72(5), 553.73(1)(d), and 633.104(5), F.S.

⁶ Section 553.72(2), F.S.

⁷ See ss. 125.01(1)(bb), 125.56(1), 553.72(3), and 553.80(1), F.S.

⁸ Section 202, 2017 Florida Building Code – Building, Sixth Edition (July 2017) available at <https://codes.iccsafe.org/content/FBC2017/chapter-2-definitions> (last visited April 4, 2019). Section 553.79(1)(b), F.S., requires a local enforcement agency of the Florida Building Code to post each type of building permit application on its website.

⁹ See ss. 125.56(4)(a) and 553.79(1), F.S. Other entities may, by resolution or regulation, be directed to issue permits.

¹⁰ Section 553.79(1)(b), F.S.

A building official is a local government employee who supervises building code activities, including plan review, enforcement, and inspection.¹¹ Any construction work that requires a building permit also requires plans and inspections by the local building official to ensure the work complies with the Florida Building Code,¹² including certain required building, electrical, plumbing, mechanical, and gas inspections.¹³

Local Government Building Code Permit and Inspection Fees

Determination and Usage

A local government entity may provide a schedule of reasonable fees in order to defer the costs of building permitting and inspections and enforcement of the Florida Building Code.¹⁴ The local government entity's fees must be used solely for carrying out that local government entity's responsibilities in enforcing the Florida Building Code.¹⁵ The basis for the fee structure must relate to the level of service provided by the local government.¹⁶ The total estimated annual revenue derived from fees, and fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities.¹⁷ Fees charged must be consistently applied.¹⁸ The funding of certain general government activities and programs from fee revenues is expressly prohibited. Examples of these include planning and zoning activities or the enforcement of local ordinances unrelated to the Florida Building Code.¹⁹

Fiscal Tracking and Accountability

A local government must use recognized management, accounting, and oversight practices to ensure that any building permitting and inspection fees, fines, and investment earnings are maintained and allocated or used solely for the purposes of enforcing building codes.²⁰ Any unexpended fee balances are carried forward to future years for allowable activities or are refunded at the discretion of the local government.²¹

The most recent information on building permit fee revenues provided by the Office of Economic and Demographic Research captures data from 2017. For that year, 63 counties

¹¹ Section 468.603(2), F.S.

¹² Section 553.79(2), F.S.

¹³ Section 110.3, 2017 Florida Building Code – Building, Sixth Edition (July 2017) available at <https://codes.iccsafe.org/content/FBC2017/chapter-1-scope-and-administration> (last visited April 4, 2019).

¹⁴ See ss. 125.56(2), 166.222, and 553.80(7), F.S. While not required by Florida Statutes, it appears that many local governments currently post fee schedules on their websites.

¹⁵ The phrase “enforcing the Florida Building Code” includes the direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing; building code enforcement; and fire inspections associated with new construction. The phrase may also include training costs associated with the enforcement. See s. 553.80(7)(a), F.S.

¹⁶ Section 553.80(7), F.S.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Section 553.80(7)(b), F.S. Additional activities that may not be funded by permit fees include public information requests, community functions, boards, and any program not directly related to enforcement of the Florida Building Code.

²⁰ *Id.*

²¹ Section 553.80(7), F.S.

reported building permit fee revenues totaling \$265,162,945; while 310 municipalities reported revenues totaling \$478,299,301.²²

Building Permit Application Timeframes

When an application for a building permit is filed, the local government must inform the applicant within 10 days of any additional information needed to find that the application is in compliance.²³ If the local government fails to provide written notice to the applicant within the 10-day window, the application is deemed to be properly completed. Once the application is completed, the local government must notify the applicant within 45 days if additional information is necessary to determine the sufficiency of the application and shall specify what additional information is necessary. The applicant may submit the additional information to the local government or request that the local government act on the application without the additional information. The local government must approve, approve with conditions, or deny the application within 120 days following receipt of the completed application.²⁴ This period is tolled, i.e., suspended, during the time an applicant is responding to a request for additional information and may be extended by mutual consent of the parties.

III. Effect of Proposed Changes:

Section 1 amends s. 125.56, F.S., to allow a county that imposes inspection fees to establish an expedited priority inspection process. The additional fee for any expedited processing may not exceed two times the fee for a non-expedited inspection.

Section 2 amends s. 166.222, F.S., to allow a municipality that imposes inspection fees to establish an expedited priority inspection process. The additional fee for any expedited processing may not exceed two times the fee for a non-expedited inspection.

Section 3 amends s. 553.792, F.S., to allow a local government that imposes building permit fees to establish an expedited priority process for such permits. The additional fee for any expedited processing may not exceed two times the fee for a non-expedited permit.

Section 553.792, F.S., is further amended to limit local governments to collecting 50 percent of the fee that is due when an application for a building permit is filed. If the local government fails to meet an established application deadline, the fee associated with the deadline is reduced by 10 percent of the original amount for every 10 business days the local government fails to meet the established deadline. Upon approval of the building permit application, the local government must notify the applicant of the fee balance. If the applicant owes additional fees, payment of the

²² Office of Economic and Demographic Research, The Florida Legislature, *Building Permit Fees*, available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/a-f.cfm> (last visited April 4, 2019).

²³ Section 553.792, F.S. Types of permit applications include those concerning accessory structures; alarm permits; nonresidential buildings less than 25,000 square feet; electric; irrigation permits; landscaping; mechanical; plumbing; residential units other than a single family unit; multifamily residential not exceeding 50 units; roofing; signs; site-plan approvals and subdivision plats not requiring public hearings or public notice; and lot grading and site alteration associated with the permit application. The application procedures do not include permits for any wireless communications facilities or any situation where a law, agency rule, or local ordinance specify different timeframes for review of local building permit applications.

²⁴ *Id.*

fee is due before the issuance of any certificate or permit. If the applicant is owed a refund that refund is due to the applicant when the certificate or permit is issued.

The bill revises the types of building permits to which the established application deadlines provided by s. 553.792, F.S., apply to include all non-residential building permits.

Section 4 provides an effective date of October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The expedited inspection and building permit processes allowed in the bill may increase the speed at which applicants' inspections or building permits are processed. Also, because applicants for local government building permits will pay fees in two phases --- at application and then at approval --- they will experience an extended timeframe to pay permit fees.

C. Government Sector Impact:

To the extent that expedited inspections and building permits are utilized, local governments may realize increased fee revenues. It is unclear if the increased revenues would offset expenditures to provide the expediting. While the two-phase payment of

building permit fees – at application and then at approval – should not affect a local government’s total amount of fees collected, it will affect the cash flow of fee revenues received. In addition, local governments may need to increase resources devoted to accommodate the two-phase fee payments. To the extent that building permit applications are denied, local governments may realize less fee revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.56, 166.222, 553.792.

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 9, 2019:

- Provides that the bill’s expedited inspection and building permit processes are permissive rather than required.
- Changes the bill’s effective date from July 1, 2019 to October 1, 2019.

- B. **Amendments:**

None.