

By Senator Perry

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1                   A bill to be entitled  
2       An act relating to open and expired building permits;  
3       creating s. 553.7905, F.S.; specifying conditions  
4       under which a building permit is considered an open  
5       permit, expired permit, or closed permit; authorizing  
6       an open or expired permit to be closed on by or on  
7       behalf of the current property owner if certain  
8       requirements are met; prohibiting a local enforcement  
9       agency from taking certain actions against a  
10      subsequent arms-length purchaser of property because a  
11      building permit was not properly closed within certain  
12      time periods; providing that a local enforcement  
13      agency maintains all rights and remedies identified on  
14      the permit; providing that certain permits may be  
15      closed under certain circumstances; providing  
16      exceptions; authorizing the owner of a home for sale  
17      to assume the role of an owner-builder in order to  
18      resolve an open permit under certain circumstances;  
19      providing that such owner is not required to reside in  
20      the home for a specified period; authorizing a  
21      contractor to hold an unlimited number of permits;  
22      providing that certain provisions of the Florida  
23      Building Code are not applicable to certain permits;  
24      providing an exception; requiring a local enforcement  
25      agency to provide written notice to a property owner  
26      when issuing a building permit; authorizing a  
27      governmental entity to charge a fee for searching for  
28      and identifying certain open or unexpired building  
29      permits; requiring a local enforcement agency to send

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30 a written notice to a property owner within a  
 31 specified period if a permit has not been properly  
 32 closed; providing requirements for the notice;  
 33 providing that failure to receive written notice does  
 34 not relieve certain persons from taking action to  
 35 close a permit; providing construction; providing an  
 36 effective date.

37

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

39

40 Section 1. Section 553.7905, Florida Statutes, is created  
 41 to read:

42 553.7905 Open and expired permits; procedures for closing;  
 43 notices to owners applying for permits.-

44 (1) A building permit shall be considered an open permit if  
 45 it is issued for any portion of construction of any commercial,  
 46 residential, or mixed-use project that has not received final  
 47 inspection approval within one of the following periods:

48 (a) One year after the expiration of the notice of  
 49 commencement or the last amendment thereto.

50 (b) In the absence of a notice of commencement:

51 1. One year after the last inspection conducted under the  
 52 permit; or

53 2. If an inspection has not been performed on the project,  
 54 2 years after the date of issuance of the permit.

55 (2) If an open permit expires without receiving final  
 56 inspection approval and without complying with other  
 57 requirements of the permit at issue, the open permit shall be  
 58 considered an expired permit as provided in s. 105.4 of the

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59 Florida Building Code.

60 (3) A closed permit is a building permit in which any of  
61 the following apply:

62 (a) A final inspection approval has been obtained upon  
63 satisfaction of permit requirements.

64 (b) No work is started under the original permit within 6  
65 months after issuance of the permit.

66 (c) The requirements of subsection (4) are satisfied.

67 (4) An open or expired permit may be closed by or on behalf  
68 of the current property owner, regardless of whether the  
69 property owner is the same owner who originally applied for the  
70 permit or is a subsequent owner, by complying with the  
71 requirements for closing permits pursuant to a mutual agreement  
72 between the current property owner and the local enforcement  
73 agency that issued the permit or, absent such an agreement, by  
74 complying with the following requirements:

75 (a) The property owner may retain the original contractor  
76 who obtained the permit or may hire a different contractor  
77 licensed in this state who possesses any license required for  
78 the performance of any work necessary to satisfy the conditions  
79 of the permit at issue, in order to close the open or expired  
80 permit; reactivate the permit if it is expired; or satisfy any  
81 requirement of the permit at issue not yet satisfied, including  
82 correcting of any code violation in accordance with the building  
83 code that was in effect when the application for the permit was  
84 filed, and obtaining any necessary inspection.

85 1. The state license of the contractor who performs these  
86 functions must be current and active.

87 2. After providing the local enforcement agency a written

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88 notice of change to a new licensed contractor and reactivation  
89 of the permit, if applicable, the contractor is not liable for  
90 any existing defect or existing work that fails to comply with  
91 any applicable code, rule, regulation, ordinance, permit  
92 requirement, or law other than the work actually performed by  
93 the contractor.

94 3. The property owner and the permitholder under the  
95 original open or expired permit remain liable, within the period  
96 of any applicable statute of limitations or repose and as  
97 provided by applicable law, for any defect in the work or for  
98 failure to comply with any applicable code, rule, regulation,  
99 ordinance, permit requirement, or law.

100 4. To the extent required by chapter 489, the owner or the  
101 contractor may hire licensed subcontractors in the scope of the  
102 permitted work who may perform the functions of the contractor  
103 as outlined in this subsection to the extent the work is covered  
104 by the subcontractor's license.

105 5. All work required to properly close an open or expired  
106 permit under this section must be performed in accordance with  
107 the building code in effect on the date the application for the  
108 open or expired permit was filed, unless, pursuant to the  
109 building code in effect when the work is performed, the  
110 contractor has sought and received approval from the local  
111 enforcement agency for an alternative material, design, or  
112 method of construction.

113 (b)1. As an alternative to the procedures required in  
114 paragraph (a), a property owner may hire an engineer or  
115 architect who possesses a current and active license in this  
116 state; is experienced in designing, supervising, or inspecting

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117 work of the nature covered by the open or expired permit at  
118 issue; and has at least 3 years of experience in performing  
119 field inspections regarding such work to inspect the  
120 construction work subject to the open or expired building  
121 permit, direct any repair necessary to comply with all the  
122 requirements of the permit, and confirm compliance by submitting  
123 an affidavit bearing the seal of the engineer or architect to  
124 the issuing local enforcement agency. The affidavit must be  
125 substantially in the following form:

126  
127 I, ...(specify name)..., possess a current and active  
128 ...(specify engineering or architectural)... license  
129 in the State of Florida. I am experienced in  
130 designing, supervising, or inspecting work of the  
131 nature covered by the open or expired permit at the  
132 real property located at ...(specify address)... I  
133 have at least 3 years of experience in performing  
134 field inspections as to such work. I have inspected  
135 the construction work subject to the open or expired  
136 building permit number ...(specify number)..., and I  
137 confirm that the construction work complies with all  
138 known requirements of the permit at issue.

139  
140 Signed:

141  
142 ...(affix licensing seal)...

143  
144 2. If any of the permitted work includes construction  
145 outside the engineer's or architect's area of expertise, the

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146 property owner, engineer, or architect may hire an engineer or  
147 architect licensed in the scope of the permitted work who may  
148 direct any necessary repairs to comply with all requirements of  
149 the permit at issue. The engineer or architect hired by the  
150 property owner, engineer, or architect must confirm compliance  
151 by submitting to the local enforcement agency issuing the permit  
152 a signed and sealed affidavit attesting to compliance with all  
153 requirements of the permit at issue.

154 3. The local enforcement agency issuing the permit shall  
155 accept the affidavit or affidavits referenced in this paragraph  
156 as satisfaction of all requirements of the permit at issue and  
157 shall thereafter close the building permit, unless the agency  
158 conducts its own final inspection within 7 business days after  
159 receipt of the affidavit or affidavits and discovers code or  
160 permit violations within the scope of work covered by the  
161 permit. Such violations must be corrected to the local  
162 enforcement agency's satisfaction as a condition to closing the  
163 permit. All work required to properly close an open or expired  
164 permit under this paragraph must be performed in accordance with  
165 the building code in effect on the date the application for the  
166 open or expired permit was filed, unless, pursuant to the  
167 building code in effect when the work is performed, the engineer  
168 or architect has sought and received approval from the local  
169 enforcement agency for an alternative material, design, or  
170 method of construction.

171 (5) The requirements of subsection (4) apply regardless of  
172 whether the building permit is open or has expired.

173 (6) (a) A local enforcement agency may not deny issuance of  
174 a building permit or issue a notice of violation to, or fine,

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175 penalize, sanction, or assess fees against, a subsequent arms-  
176 length purchaser of the subject property for value solely  
177 because a building permit was not properly closed within one of  
178 the following periods:

179 1. Five years after expiration of the date of recordation  
180 of the notice of commencement or of the last amendment thereto.

181 2. If a notice of commencement was not recorded, within 7  
182 years after the building permit was issued.

183 (b) A local enforcement agency shall maintain all rights  
184 and remedies against the property owner and contractor  
185 identified on the permit.

186 (7) An individual trade permit, or any other permit type  
187 determined by a local enforcement agency, may be closed 6 years  
188 after issuance of the permit if no apparent safety hazards exist  
189 and no code violations have been previously documented. This  
190 subsection does not apply to a building permit for a building  
191 project still under construction with a legally granted permit  
192 extension.

193 (8) As an alternative to the requirements in subsection  
194 (4), with the approval of the local enforcement agency, the  
195 owner of a home for sale may assume the role of an owner-builder  
196 in order to resolve an open permit for a substantially completed  
197 project when the project is abandoned or otherwise not completed  
198 by the licensed contractor who obtained the permit. The owner is  
199 not required to continue to reside in the home for 1 year. This  
200 alternative applies only to real property consisting of single  
201 or multiple family dwellings up to and including four units.

202 (9) A contractor may hold an unlimited number of active  
203 permits.

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204       (10) Provisions in the Florida Building Code which  
205 authorize permits to be administratively closed by a local  
206 enforcement agency are not applicable to a permit subject to  
207 regulation by an agency not specifically enforcing the Florida  
208 Building Code, except where the local enforcement agency has  
209 regulatory authority over other areas related to the permit,  
210 such as zoning or other land development code provisions.  
211 Regulations not subject to such provisions in the Florida  
212 Building Code include, but are not limited to, local zoning and  
213 land use rules, local stormwater management rules, local  
214 platting and subdivision requirements, rules implemented by the  
215 Department of Health and the Department of Business and  
216 Professional Regulation, local utility standards, and provisions  
217 of the National Flood Insurance Program Community Rating System.

218       (11) When issuing a building permit, a local enforcement  
219 agency shall provide to the property owner a written notice,  
220 which may be electronically provided if the permit package is  
221 electronically provided, in substantially the following form:

222  
223       IMPORTANT NOTICE REGARDING COMPLIANCE WITH THE  
224 INSPECTION AND APPROVAL PROCESS FOR ALL BUILDING  
225 PERMITS

226  
227       You are receiving a building permit authorizing the  
228 construction referenced in the application that was  
229 submitted to this local enforcement agency by you or  
230 on your behalf. The permit is issued with conditions,  
231 including required building inspections and assurances  
232 that the construction complies with the design



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233 submitted with the permit application and any other  
234 conditions referenced in the permit. It is critical  
235 that you ensure that all necessary building  
236 inspections are passed before the expiration of any  
237 notice of commencement or amendment thereto, as these  
238 inspections are important to ensure that construction  
239 has been performed in a safe and proper manner. If you  
240 have any questions regarding these procedures, please  
241 call the local enforcement agency. Your failure to  
242 comply may also result in unsafe conditions arising  
243 from your construction.

244  
245 (12) The applicable governmental entity may charge only one  
246 search fee for searching for and identifying open or unexpired  
247 building permits for a tax parcel, regardless of how many units  
248 or subunits may be assigned by a municipality or county to a  
249 particular tax parcel identification number, in an amount  
250 commensurate with research and time costs incurred by the  
251 governmental entity.

252 (13) For all building permits issued after October 1, 2019,  
253 a local enforcement agency shall send a written notice to the  
254 property owner if a building permit has not been properly closed  
255 within 1 to 3 years after issuance of any such permit. The  
256 notice must advise the property owner of the need to properly  
257 close the permit upon completion of the work covered by the  
258 permit. Failure to receive written notice does not relieve the  
259 contractor or the property owner from taking the necessary  
260 actions to legally close the permit.

261 (14) This act does not prevent a local governmental entity

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262 from enforcing any provision of a local land development code or  
263 other local ordinance not inconsistent with this section.

264 Section 2. This act shall take effect October 1, 2019.