

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 becomes an open permit,
5 expired permit, or closed permit; prohibiting the
6 local enforcement agency from taking certain actions
7 against a subsequent arms-length purchaser of property
8 because a building permit was not properly closed
9 within certain time periods; providing that the local
10 enforcement agency still maintains all rights and
11 remedies identified on the permit; providing that
12 certain permits may be closed under certain
13 circumstances; authorizing the owner of a home for
14 sale to assume the role of an owner-builder in order
15 to resolve an open permit for a substantially
16 completed project under certain circumstances;
17 providing that such owner is not required to reside in
18 the home for a specified period; authorizing a
19 contractor to hold an unlimited number of permits;
20 providing that certain provisions of the Florida
21 Building Code are not applicable to certain permits;
22 providing an exception; requiring the local
23 enforcement agency to provide written notice to a
24 property owner when issuing a building permit;
25 authorizing a governmental entity to charge a fee for

26 | searching for and identifying certain open or
 27 | unexpired building permits; requiring a local
 28 | enforcement agency to send a written notice to a
 29 | property owner within a specified period if a permit
 30 | has not been properly closed; providing requirements
 31 | for the notice; providing that failure to receive
 32 | written notice does not relieve certain persons from
 33 | taking action to close a permit; providing
 34 | construction; providing an effective date.

35 |
 36 | Be It Enacted by the Legislature of the State of Florida:

37 |
 38 | Section 1. Section 553.7905, Florida Statutes, is created
 39 | to read:

40 | 553.7905 Open and expired permits; procedures for closing;
 41 | notices to owners applying for permits.—

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

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

49 | (b) In the absence of a notice of commencement:

50 | 1. One year after the last inspection conducted under the

51 permit.

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

54 (2) If an open permit expires without receiving final
55 inspection approval, the open permit shall be considered an
56 expired permit as provided in s. 105.4 of the Florida Building
57 Code.

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

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

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

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

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

73 (a) The property owner may retain the original contractor
74 who obtained the permit or hire a different contractor licensed
75 in this state who possesses any license required for the

76 | performance of any work necessary to satisfy conditions of the
77 | permit at issue, in order to close the open or expired permit;
78 | reactivate the permit if it is expired; or satisfy any
79 | requirement of the permit at issue not yet satisfied, including
80 | correcting of any code violation in accordance with the building
81 | code that was in effect when the application for the permit was
82 | filed, and obtaining any necessary inspection. The state license
83 | of the contractor who performs these functions must be current
84 | and active. After providing the local enforcement agency a
85 | written notice of change to a new, licensed contractor and
86 | reactivation of the permit, if applicable, the contractor is not
87 | liable for any existing defect or existing work failing to
88 | comply with any applicable code, rule, regulation, ordinance,
89 | permit requirement, or law other than the work actually
90 | performed by the contractor. The property owner and the
91 | permitholder under the original open or expired permit remain
92 | liable, within the period of any applicable statute of
93 | limitations or repose and as provided by applicable law, for any
94 | defect in the work or for failure to comply with any applicable
95 | code, rule, regulation, ordinance, permit requirement, or law.
96 | To the extent required by chapter 489, the owner or the
97 | contractor may hire licensed subcontractors in the scope of the
98 | permitted work, who may perform the functions of the contractor
99 | as outlined in this subsection to the extent the work is covered
100 | by the subcontractor's license. All work required to properly

101 close an open or expired permit under this section shall be
102 performed in accordance with the building code in effect on the
103 date the application for the open or expired permit was filed,
104 unless, pursuant to the building code in effect when the work is
105 performed, the contractor has sought and received approval from
106 the local enforcement agency for an alternative material,
107 design, or method of construction.

108 (b)1. As an alternative to the procedure in paragraph (a),
109 a property owner may hire an engineer or architect who possesses
110 a current and active license in this state; is experienced in
111 designing, supervising, or inspecting work of the nature covered
112 by the open or expired permit at issue; and has at least 3 years
113 of experience in performing field inspections regarding such
114 work, in order to inspect the construction work subject to the
115 open or expired building permit, direct any repair necessary to
116 comply with all the requirements of the permit, and then confirm
117 compliance therewith by submitting an affidavit bearing the seal
118 of the engineer or architect to the issuing local enforcement
119 agency. The affidavit must be substantially in the following
120 form:

121
122 I, ...(specify name)..., possess a current and active
123 ...(specify engineering or architectural)... license
124 in the State of Florida. I am experienced in
125 designing, supervising, or inspecting work of the

126 nature covered by the open or expired permit at the
127 real property located at ...(specify address).... I
128 have at least 3 years of experience in performing
129 field inspections as to such work. I have inspected
130 the construction work subject to the open or expired
131 building permit number ...(specify number)..., and I
132 confirm that the construction work complies with all
133 known requirements of the permit at issue.

134
135 Signed:

136
137 ...(affix licensing seal)...
138

139 2. If any of the permitted work includes construction
140 outside the engineer's or architect's area of expertise, the
141 property owner, engineer, or architect may hire an engineer or
142 architect licensed in the scope of the permitted work who may
143 direct any necessary repairs to comply with all requirements of
144 the permit at issue. The engineer or architect hired by the
145 property owner, engineer, or architect must confirm compliance
146 by submitting to the local enforcement agency issuing the permit
147 a signed and sealed affidavit attesting to compliance with all
148 requirements of the permit at issue.

149 3. The local enforcement agency issuing the permit shall
150 accept the affidavit or affidavits referenced in this paragraph

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

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

169 (6) (a) The local enforcement agency may not deny issuance
170 of a building permit to or issue a notice of violation to, or
171 fine, penalize, sanction, or assess fees against, a subsequent
172 arms-length purchaser of the subject property for value solely
173 because a building permit was not properly closed within one of
174 the following periods:

175 1. Five years after expiration of the date of recordation

176 of the notice of commencement or last amendment thereto.

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

179 (b) The local enforcement agency shall maintain all rights
180 and remedies against the property owner and contractor
181 identified on the permit.

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

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

198 (9) A contractor may hold an unlimited number of active
199 permits.

200 (10) Provisions in the Florida Building Code authorizing

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

214 (11) When issuing a building permit, the local enforcement
 215 agency shall provide to the property owner a written notice,
 216 which may be electronically provided if the permit package is
 217 electronically provided, in the following form:

218
 219 IMPORTANT NOTICE REGARDING COMPLYING WITH THE
 220 INSPECTION AND APPROVAL PROCESS FOR ALL BUILDING
 221 PERMITS

222
 223 You are receiving a building permit authorizing the
 224 construction referenced in the application that was
 225 submitted to this local enforcement agency by you or

226 on your behalf. The permit is issued with conditions,
227 including required building inspections and assurances
228 that the construction complies with the design
229 submitted with the permit application and any other
230 conditions referenced in the permit. It is critical
231 that you ensure that all necessary building
232 inspections are passed before the expiration of any
233 notice of commencement or amendment thereto, as these
234 inspections are important to ensure that construction
235 has been performed in a safe and proper manner. If you
236 have any questions regarding these procedures, please
237 call the local enforcement agency. Your failure to
238 comply may also result in unsafe conditions arising
239 from your construction.

240
241 (12) The applicable governmental entity may charge only
242 one search fee for identifying open or unexpired building
243 permits for any unit or subunit assigned by a municipality or
244 county to a particular tax parcel identification number, in an
245 amount commensurate with research and time costs incurred by the
246 governmental entity.

247 (13) For all building permits issued after October 1,
248 2019, the local enforcement agency shall send a written notice
249 to the property owner if a building permit has not been properly
250 closed out within 1 to 3 years after issuance of any building

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251 permit. The notice must advise the property owner of the need to
252 properly close the permit upon completion of the work covered by
253 the permit. Failure to receive written notice does not relieve
254 the contractor or the property owner from taking the necessary
255 actions to legally close the permit.

256 (14) This act does not prevent a local governmental entity
257 from enforcing any provision of a local land development code or
258 other local ordinance not inconsistent with this section.

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