

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 Rules

BILL: CS/CS/SB 684

INTRODUCER: Fiscal Policy Committee; Community Affairs Committee; and Senator DiCeglie

SUBJECT: Residential Building Permits

DATE: February 23, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
2.	<u>Ryon</u>	<u>Yeatman</u>	<u>FP</u>	Fav/CS
3.	<u>Hunter</u>	<u>Twogood</u>	<u>RC</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 684 provides a number of revisions to current law pertaining to the standards and timeframes for local governments to follow for the issuance of building permits. Specifically, the bill requires local governments to approve, approve with conditions, or deny a complete and sufficient permit application within the following timeframes:

- 30 business days for the following permits for structures that are less than 7,500 square feet: single-family residential unit or dwelling, accessory structure, alarm, electrical, irrigation, landscaping, mechanism, plumbing, or roofing.
- 60 business days for the above-mentioned permits for structures more than 7,500 square feet.
- 60 business days for signs and nonresidential buildings less than 25,000 square feet.
- 120 business days for multifamily residential not exceeding 50 units, certain site-plan approvals and subdivision plats, and lot grading and site alteration.
- 15 business days for master building permits for site-specific building permit.
- 10 business days for single-family dwellings utilizing the Community Development Block Grant-Disaster Recovery Program.

The bill modifies provisions requiring local governments to refund permit fees for failure to comply with the applicable timeframes, and applies specific timeframes for the processing of permit applications submitted with an affidavit from a private provider who is a licensed engineer or architect.

The bill also requires the Florida Building Commission to provide an exception in the Florida Building Code relating to sealed drawings by a design professional for replacement windows, doors, and garages, and reverts the definition of “windborne debris region” to the 2020 Florida Building Code, 7th edition definition.

Additionally, the bill:

- Requires certain local governments to create a process to expedite the issuance of building permits based on a preliminary plat and to issue the number or percentage of building permits requested by an applicant, under certain circumstances.
- Provides that vested rights may be formed in a preliminary plat, under certain circumstances.
- Allows an applicant to contract to sell, but not transfer ownership of, a residential structure or building located in the preliminary plat before the final plat is approved.
- Requires all local governments to create a master building permit process.

The bill takes effect on July 1, 2024.

II. Present Situation:

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida’s minimum standards were met. Local governments could choose from four separate model codes. The state’s role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.¹

In 1992, Hurricane Andrew demonstrated that Florida’s system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study’s commission recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.² The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.³

Chapter 553, part IV, F.S., is known as the “Florida Building Codes Act” (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.⁴

¹ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Feb. 5, 2024).

² *Id.*

³ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Feb. 5, 2024).

⁴ *See* s. 553.72(1), F.S.

The Florida Building Commission (Commission) was statutorily created to implement the Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The Commission reviews several International Codes published by the International Code Council,⁵ the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.⁶

Use of Building Code Enforcement Fees

A local government may charge reasonable fees as set forth in a schedule of fees adopted by the enforcing agency for the issuance of a building permit.⁷ Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the Building Code.⁸ Enforcing the Building Code includes the direct costs and reasonable indirect costs associated with training, review of building plans, building inspections, re-inspections, building permit processing, and fire inspections.⁹ Local governments must post all building permit and inspection fee schedules on their website.¹⁰

Local governments are only allowed to collect building permit fees that are sufficient to cover their costs in enforcing the Building 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. Any unexpended balances must be carried forward to future years for allowable activities or must be refunded at the discretion of the local government. A local government may not carry forward an amount exceeding the average of its operating budget, not including reserve amounts, for enforcing the Building Code for the previous 4 fiscal years.¹¹

DBPR Surcharges

Current law requires all local governments to assess and collect a 1 percent surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local jurisdictions collect the assessment and remit the surcharge fees to DBPR to fund the activities of the Commission, DBPR's Building Code Compliance and Mitigation Program, and the Florida Fire Prevention Code informal interpretations.¹²

Current law also requires all local governments to assess and collect a separate 1.5 percent surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local governments collect the assessment and remit the surcharge fees to DBPR, where it is divided equally to fund the activities of the Building Code

⁵ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." International Code Council, *About the ICC*, <https://www.iccsafe.org/about/who-we-are/> (last visited Feb. 5, 2024).

⁶ Section 553.73(7)(a), F.S.

⁷ Section 553.80 F.S.

⁸ *Id.*

⁹ Section 553.80 (7)(a)1., F.S.

¹⁰ Sections 125.56 (4)(c) F.S., and 166.222(2), F.S.

¹¹ Section 553.80(7)(a), F.S.

¹² Section 553.721, F.S.

Administrators and Inspectors Board (BCAIB) and the Florida Homeowners' Construction Recovery Fund.¹³

Local government building departments are permitted to retain 10 percent of the amount of the surcharges they collect to fund participation by their agencies in the national and state building code adoption processes and to provide education related to enforcement of the Building Code.¹⁴

Building Permit Application Review

Time-Period to Review

Current law requires local governments to review certain building permit applications within a specific time-period of receiving the applications. Current law provides specified timeframes for local governments to review applications for the following building permits:¹⁵

- Accessory structure;
- Alarm permit;
- Nonresidential buildings less than 25,000 square feet;
- Electric;
- Irrigation permit;
- 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.

When a local government receives an application for one of the above building permits, it must.¹⁶

- Inform the applicant within **10 days** of receiving the application, what information, if any, is needed to complete the application.
 - 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.
- Notify the applicant within **45 days** of the application being deemed complete, if additional information is necessary to determine the sufficiency of the application;
 - If additional information is needed the local government must specify what additional information is necessary.

¹³ Section 468.631, F.S.; The Florida Homeowners' Construction Recovery Fund is used to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed general, building and residential contractors. Claims are filed with the DBPR, who reviews for completeness and statutory eligibility. The DBPR then presents the claim to the Construction Industry Licensing Board for review. Section 489.1401(2), F.S.

¹⁴ Sections 468.631, and 553.721, F.S.

¹⁵ Section 553.792(2), F.S.

¹⁶ Section 553.792(1), F.S.

- 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.
- Approve, approve with conditions, or deny the application within **120 days** following receipt of the completed application.
 - This period is tolled during the time an applicant is responding to a request for additional information and may be extended by mutual consent of the parties.

These time-periods do not apply when a law, agency rule, or local ordinance specify different timeframes for review of local building permit applications, for permits for wireless communication facilities, or when both parties agree to an extension.¹⁷

If a local government fails to meet the timeframes above without an agreement for an extension of time, a local government must reduce the building permit fee by 10 percent for each business day that a local government fails to meet the deadline.¹⁸ This also applies if a local government fails to meet the deadlines established by local ordinance that differ from the statutory timeframes.¹⁹

Local Government's Requests for Additional Information²⁰

A local government may only make three requests for additional information from an applicant applying for the following types of building permits:

- Accessory structure.
- Alarm permit.
- Nonresidential buildings less than 25,000 square feet.
- Electric.
- Irrigation permit.
- 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.
- Lot grading and site alteration associated with the permit application.

However, an applicant may agree in writing to waive the limitation that local governments may only make three requests for additional information for such permits.

If a local government makes a request for additional information from an applicant for one the above building permits, and the applicant provides the information within **30 days** of receiving the request, the local government must²¹:

¹⁷ Section 553.792(2)(a), F.S.

¹⁸ Section 553.792(1)(c), F.S.

¹⁹ Section 553.792(2)(b), F.S.

²⁰ Section 553.792(1)(b), F.S.

²¹ *Id.*

- Review the additional information and determine the application is complete, approve the application, approve the application with conditions, deny the application, or specify the remaining deficiencies **within 15 days** of receiving the information from the applicant, if the request is the local government's **first request**.
- Review the additional information and determine the application is complete, approve the application, approve the application with conditions, deny the application, or specify the remaining deficiencies **within 10 days** of receiving the information from the applicant, if the request is the local government's **second request**.
- Deem the application complete and approve the application, approve the application with conditions, or deny the application **within 10 days** of receiving the information from the applicant, if the request is the local government's **third request**.

Prior to making a third request for information the local government must offer to meet with the permit applicant to attempt to resolve outstanding issues.

If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the local government, at the applicant's request, shall proceed to process the application for approval, approval with conditions, or denial.

If a local government fails to meet these deadlines it must reduce the building permit fee by 10 percent for each **business day** that it fails to meet the deadline. However, these time limitations do not apply when a law, agency rule, or local ordinance specifies different timeframes for review of local building permit applications, for permits for wireless communication facilities, or when both parties agree to an extension.

Time-Period to Review Single-Family Residential Dwelling Building Permit Applications

For building permit applications for a single-family residential dwelling, the local government must issue the permit within **30 business days** of receiving the application, unless the application fails to satisfy the Building Code or the enforcing agency's laws or ordinances, or unusual circumstances require a longer time-period for processing the application.²²

If the local government does not issue the permit within **30 business days** after receiving the permit application, it must reduce the building permit fee by 10 percent for each **business day** that it fails to meet the deadline. Each 10 percent reduction is based on the original amount of the building permit fee.

However, the local government need not reduce the permit fee if it provides notice to the applicant, by e-mail or United States Postal Service, within **30 business days** after receiving the permit application, that specifically states the reasons the permit application fails to satisfy the Building Code or the enforcing agency's laws or ordinances. In addition, the written notice must also include that the applicant has **10 business days** after receiving the written notice to submit revisions to correct the permit application and that failure to correct the application within **10 business days** will result in a denial of the application.²³

²² Section 553.79(16), F.S.

²³ Section 553.79(16)(a)-(b), F.S.

If the applicant submits the revisions within **10 business days**, the local enforcing agency has **10 business days** after receiving such revisions to approve or deny the building permit unless the applicant agrees to a longer permit in writing.²⁴

If a government entity fails to approve or deny the single-family residential dwelling building permit within **10 business days** of receiving the applicant's revisions, it must:²⁵

- Reduce the permit fee by 20 percent of the original permit fee for the first business day that it fails to meet the deadline; and
- An additional 10 percent of the original permit fee for each business day that it fails to meet the deadline, for up to five business days.

A building permit for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant-Disaster Recovery program administered by the Department of Economic Opportunity must be issued within **15 business days** after receipt of the application unless the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.²⁶

If any permit fees are refunded because a local government fails to meet an established deadline for reviewing a building permit application, the Department of Business and Professional Regulation (DBPR) surcharges for funding the Commission, the Florida Building Code Administrators and Inspectors Board (BCAIB), and the Florida Homeowners' Recovery Fund must be recalculated based on the amount of the permit fees after the refund.²⁷

Private Providers Alternative Plans Review

In 2002, s. 553.791, F.S., was created to allow property owners and contractors to hire licensed building code officials, engineers, and architects, referred to as private providers, to review building plans, perform building inspections, and prepare certificates of completion.

Private providers and their duly authorized representatives are able to approve building plans and perform building code inspections as long as the plans approval and building inspections are within the scope of the provider's or representative's license. A local government may establish, for private providers and duly authorized representatives working within the local government's jurisdiction, a system of registration to verify compliance with the license and insurance requirements for private providers.²⁸

“Private provider” means a person licensed as a building official, engineer, or as an architect. Licensed building inspectors and plans examiners may perform inspections for additions and alterations that are limited to 1,000 square feet or less in residential buildings.²⁹

²⁴ Section 553.79(16)(c), F.S.

²⁵ Section 553.79(16)(c), F.S.

²⁶ Section 553.79(16)(e), F.S.

²⁷ Section 553.79(16)(d), F.S.

²⁸ Section 553.791(16)(b), F.S.

²⁹ Section 553.791(1)(n) and (3), F.S.

“Duly authorized representative” means an employee of a private provider identified in a permit application who reviews plans or performs inspections, and is licensed as an engineer, architect, building official, inspector, or plans examiner. The term does not include a person with a provisional license by the BCAIB.³⁰

If an owner or contractor opts to use a private provider, the local government must calculate the cost savings to its building department and reduce the building permit fees accordingly.³¹

A local government may not charge a fee for building inspections when an owner or contractor uses a private provider but may charge a reasonable administrative fee which is based on the cost that is actually incurred by the local government, including the labor cost of the personnel providing the service, or the cost attributable to the local government for the clerical and supervisory assistance required, or both.³²

Local governments may audit the performance of building code inspection services by private providers operating within the local government’s jurisdiction. However, the same private provider may not be audited more than four times in a month unless the local building official determines a condition of a building constitutes an immediate threat to public safety and welfare.³³

Plats

In Florida law, “plat” means a map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with the requirement of all applicable state requirements and of any local ordinances.³⁴ Generally, platting is required whenever a developer wishes to subdivide a large piece of property into smaller parcels and tracts. These smaller areas become the residential lots, streets and parks of a new residential sub-division.³⁵

State law establishes consistent minimum requirements for the establishment of plats, and local governing bodies have the power to regulate and control the platting of lands.³⁶ Prior to approval by the appropriate governing body, the plat must be reviewed for conformity with state and local law and sealed by a professional surveyor and mapper who is either employed by or under contract to the local governing body.³⁷

Before a plat is offered for recording with the clerk of the circuit court, it must be approved by the appropriate governing body, and evidence of such approval must be placed on the plat. If not

³⁰ Section 553.791(1)(f) and (8), F.S.

³¹ “Such reduction may be calculated on a flat fee or percentage basis, or any other reasonable means by which a local enforcement agency assesses the cost for its plans review or inspection services.” Section 553.791(2)(b), F.S.

³² Section 553.791(2)(b), F.S.

³³ Section 553.791(19), F.S.

³⁴ Section 177.031(14), F.S.

³⁵ Harry W. Carls, Florida Condo & HOA Law Blog, May 17, 2018, *Why is a Plat so Important?*, <https://www.floridacondohoalawblog.com/2018/05/17/why-is-a-plat-so-important/> (last visited Feb. 5, 2024).

³⁶ Section 177.011, F.S.

³⁷ Section 177.081(1), F.S.

approved, the governing body must return the plat to the professional surveyor and mapper or the legal entity offering the plat for recordation.

Jurisdiction over plat approval is as follows:³⁸

- When the plat to be submitted for approval is located wholly within the boundaries of a municipality, the governing body of the municipality has exclusive jurisdiction to approve the plat.
- When a plat lies wholly within the unincorporated areas of a county, the governing body of the county has exclusive jurisdiction to approve the plat.
- When a plat lies within the boundaries of more than one governing body, two plats must be prepared and each governing body has exclusive jurisdiction to approve the plat within its boundaries, unless the governing bodies having said jurisdiction agree that one plat is mutually acceptable.

Every plat of a subdivision offered for recording must have certain information, including providing:³⁹

- The name of the plat in bold legible letters, and the name of the subdivision, professional surveyor and mapper or legal entity, and street and mailing address on each sheet.
- The section, township, and range immediately under the name of the plat on each sheet included, along with the name of the city, town, village, county, and state in which the land being platted is situated.
- The dedications and approvals by the surveyor and mapper and local governing body, and the circuit court clerk's certificate and the professional surveyor and mapper's seal and statement.
- All section lines and quarter section lines occurring within the subdivision. If the description is by metes and bounds, all information called for, such as the point of commencement, course bearings and distances, and the point of beginning. If the platted lands are in a land grant or are not included in the subdivision of government surveys, then the boundaries are to be defined by metes and bounds and courses.
- Location, width, and names of all streets, waterways, or other rights-of-way.
- Location and width of proposed easements and existing easements identified in the title opinion or property information report must be shown on the plat or in the notes or legend, and their intended use.
- All lots numbered either by progressive numbers or, if in blocks, progressively numbered in each block, and the blocks progressively numbered or lettered, except that blocks in numbered additions bearing the same name may be numbered consecutively throughout the several additions.
- Sufficient survey data to positively describe the bounds of every lot, block, street easement, and all other areas shown on the plat.
- Designated park and recreation parcels.
- All interior excepted parcels clearly indicated and labeled "Not a part of this plat."
- The purpose of all areas dedicated clearly indicated or stated on the plat.

³⁸ Section 177.071(1), F.S.

³⁹ Section 177.091, F.S.

- That all platted utility easements must provide that such easements are also easements for the construction, installation, maintenance, and operation of cable television services; provided, however, no such construction, installation, maintenance, and operation of cable television services interferes with the facilities and services of an electric, telephone, gas, or other public utility.

Preliminary Plat Approval

Many local governments around the state have a process to approve a preliminary plat before approving a final plat. Generally, a preliminary plat is a technical, graphic representation of a proposed development, including plans for streets, utilities, drainage, easements, and lot lines, for a proposed subdivision. If a preliminary plat is required, it is generally a prerequisite for a final plat approval and the submission of any property improvement plans or permit applications.⁴⁰

Generally, a preliminary plat approval is approval of the development plan, and a final plat approval is approval of a finalized development plan; engineering plans, if required; and documents confirming the parties with a property interest; which is then recorded with the clerk of the circuit court.⁴¹

Based on a preliminary plat approval, some local governments allow a developer to commence construction before the plat is finalized. For example, the City of Jacksonville, Village of Royal Palm Beach, and the City of Tallahassee allow for a preliminary plat approval process.⁴²

In Jacksonville, the Planning and Development Department (Department) of the City of Jacksonville, upon request of an applicant, may allow up to 50 percent of the lots within a proposed subdivision to be developed, but not occupied, based on a preliminary plat approval so long as the developer or owner meets the following conditions for construction:⁴³

- Prior to Civil Plans submittal to the Department, the developer must submit the development proposal to Jacksonville Electric Authority (JEA) for review.
- Once JEA has granted preliminary approval, the Department will review the preliminary site plan, the preliminary and final engineering plans for the required improvements, and the sheet identifying the lots being requested for home construction prior to platting as approved by JEA. The Department reserves the right to deny authorization for development on a specific lot or lots to protect City interests.
- The developer or owner must provide a guarantee for required improvements and warranty of title.
- A Certificate of Occupancy may not be issued until the final plat is approved by JEA and the Department and recorded in the current public records of Duval County, Florida.

⁴⁰ For examples, *see* City of Zephyrhills Code of Ordinances s. 11.03.02.01; Palm Beach County Code of Ordinances Art. 11., Ch. A.; Seminole County, SEMINOLE COUNTY PLANNING & DEVELOPMENT DIVISION, Subdivision Application, <https://www.seminolecountyfl.gov/core/fileparse.php/3307/urlt/SUBDIVISION-05-2023.ADA.pdf> (last visited Feb. 5, 2024).

⁴¹ Advance Surveying & Engineering, *An In-Depth Look At Preliminary and Final Plats*, <https://www.advsur.com/2019/07/an-in-depth-look-at-preliminary-and-final-plats/> (last visited Feb. 5, 2024).

⁴² City of Jacksonville Code of Ordinances s. 654-109, Village of Royal Palm Beach Code of Ordinances s. 22-22, City of Tallahassee Code of Ordinances s. 9-92.

⁴³ City of Jacksonville Code of Ordinances s. 654-139(d).

- Approval of the preliminary plat and required supplemental material are valid for 12 months from the date of approval. If the final plat is not submitted to and approved during the 12-month period, the conditional approvals are null and void.⁴⁴

Vested Rights in Property Based on a Plat

In general, vested rights⁴⁵ form when a property owner or developer acquires real property rights that cannot be taken by governmental regulation.⁴⁶ Property owners or developers who do not have vested rights will be subject to subsequently enacted land regulations, while subsequently enacted land regulations do not apply to the property owners or developers who are determined to have vested rights.⁴⁷

Florida common law provides that vested rights in a property may be established if a property owner or developer has:⁴⁸

- In good faith reliance,
- Upon some act or omission of government,
- Made such a substantial change in position or has incurred such extensive obligations and expenses,
- That it would make it highly inequitable to interfere with the acquired right.

Recordation of a final plat with the clerk of the circuit court alone is not sufficient to establish vested rights⁴⁹ in the land development regulations in existence at that time.⁵⁰ Instead, the property owner or developer must take meaningful steps towards development of the property, such as applying for development permits or expending certain monies,⁵¹ to constitute a substantial change in position or be considered extensive obligations and expenses towards development of the property in reliance on some action by the local government.⁵²

Additionally, a property owner or developer may obtain vested rights in both a local government-approved preliminary plat and a final plat, as long as expenditures or a substantial change have been made by the property owner or developer based on such preliminary plat or plat.⁵³

⁴⁴ City of Jacksonville Code of Ordinances s. 654-109(b).

⁴⁵ Florida courts have used the concepts of vested rights and equitable estoppel interchangeably in deciding fault in property rights cases. Equitable estoppel, in this instance, means focusing on whether it would be inequitable or fair to allow a local government to deny prior conduct or position on building or development decisions. Robert M. Rhodes and Cathy M. Sellers, *Equitable Estoppel and Vested Rights in Land Use*, The Florida Bar, II Florida Environmental and Land Use Law 8, (1994).

⁴⁶ *Id.*; Heeter, *Zoning Estoppel: Application of the Principles of Equitable Estoppel and Vested Rights to Zoning Disputes*, Urb.L. Ann. 63, 64-65 (1971).

⁴⁷ *Monroe County v. Ambrose*, 866 So.2d 707, 712 (Fla. 3d DCA 2003); Kristin Melton, de la Parte & Gilbert P.A., *When are Rights Vested in a Platted Development?*, 2016,

<https://www.dgfirm.com/email/2016summer/article2.html#:~:text=Florida%20common%20law%20provides%20that,it%20would%20make%20it%20highly> (last visited Feb. 5, 2024).

⁴⁸ *Monroe County*, 866 So.2d at 710.

⁴⁹ *Id.*

⁵⁰ Melton, *supra*, at 42.

⁵¹ *Town of Largo v. Imperial Homes Corp.*, 309 So.2d 571, 573 (Fla. 2d DCA 1975).

⁵² *Id.*; Melton, *supra*, at 42.

⁵³ *The Florida Companies v. Orange County*, 411 So.2d 1008, 1011 (Fla. 5th DCA 1982)

Wind-borne Debris Regions

Wind-borne debris regions (WBDR) are defined in the Building Code by specific wind speeds and represent areas where structures are vulnerable to impact from windborne debris during severe storm events. New construction located within a WBDR must meet enhanced requirements for the protection against windborne debris, such as the installation of impact-resistant windows, doors, or shutters.

The 8th Edition (2023) Building Code defines WBDR as areas:

- Within 1 mile of the mean high-water line where an Exposure D condition exists upwind at the waterline and the ultimate design wind speed is 130 mph or greater; or
- In areas where the ultimate design wind speed is 140 mph or greater.⁵⁴

The 7th Edition (2020) Building Code defines WBDR as areas:

- Within 1 mile of the coastal mean high water line where the ultimate design wind speed is 130 mph or greater; or
- In areas where the ultimate design wind speed is 140 mph or greater.⁵⁵

III. Effect of Proposed Changes:

Building Permit Processing Timeframes

Section 5 amends s. 553.792, F.S., to modify the timeframes for which local governments must process building permit applications. The bill requires a local government to approve, approve with conditions, or deny a building permit application after receipt of a completed and sufficient application within the following timeframes, unless the applicant waives such timeframes in writing:

- Within **30 business days** after receiving a complete and sufficient application, for an applicant using a local government plans reviewer to obtain the following building permits for structures less than 7,500 square feet: residential units including a single-family residential unit or a single-family residential dwelling, accessory structure, alarm, electrical, irrigation, landscaping, mechanical, plumbing, or roofing.
- Within **60 business days** after receiving a complete and sufficient application, for an applicant using a local government plans reviewer to obtain the following building permits for structures of 7,500 square feet or greater: residential units including a single-family residential unit or a single-family residential dwelling, accessory structure, alarm, electrical, irrigation, landscaping, mechanical, plumbing, or roofing.
- Within **60 business days** after receiving a complete and sufficient application, for an applicant using a local government plans reviewer to obtain the following building permits: signs or nonresidential buildings less than 25,000 square feet.
- Within **120 business days** after receiving a complete and sufficient application, for an applicant using a local government plans reviewer to obtain the following building permits: multifamily residential not exceeding 50 units; site-plan approvals and subdivision plats not requiring public hearing or public notice; and lot grading and site alteration.

⁵⁴ 2023 Florida Building Code, Residential, 8th Edition, R202.

⁵⁵ 2020 Florida Building Code, Residential, 7th Edition, R202.

- Within **15 business days** after receiving a complete and sufficient application, for an applicant using a master building permit consistent with s. 553.794 to obtain a site-specific building permit.
- Within **10 business days** after receiving a complete and sufficient application, for an applicant for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant-Disaster Recovery program administered by the Department of Commerce, unless the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.

These timeframes do not apply if the timeframes set by a local ordinances are more stringent than the timeframes provided in the bill. Additionally, the local government may not require a permit applicant to waive the permit processing timeframes as a condition to review an application for a building permit.

The bill requires a local government to provide written notice to a building permit applicant within **5 business days** after receipt of the application advising the applicant what information, if any, is needed to deem or determine that the application is properly complete. If the local government does not provide timely written notice that the applicant has not submitted the properly completed application, the application is automatically deemed or determined to be properly completed and accepted.

If a local government fails to meet a deadline provided in the bill, it must reduce the building permit fee by 10 percent, based on the original amount of the permit fee, for each business day that it fails to meet the deadline, unless the parties agree in writing to a reasonable extension of time, the delay is caused by the applicant, or the delay is attributable to a force majeure or other extraordinary circumstances.

However, a local government need not reduce building permit fees if the local government provides written notice to the applicant within the applicable timeframes specifically stating the reasons the permit application is deficient. If the applicant submits revisions within **10 business days** after receiving the written notice, the local government has **10 business days** after receiving such revisions to approve or deny the permit unless the applicant agrees to a longer period in writing. If the local government fails to issue or deny the permit within **10 business days** after receiving revisions, it must reduce the building permit fee by 20 percent for each business day it fails to meet the deadline unless the applicant agrees to a longer period in writing.

The bill removes from current law the schedule for which local governments may make up to three requests for additional information from an applicant.

Section 3 amends s. 553.79, F.S., to remove provisions which require single-family residential dwelling permits to be issued within 30 days unless the application does not conform to the Building Code or local laws or ordinances. However, the bill incorporates the time period to review single-family residential dwellings into section 5 of the bill.

Use of Building Code Enforcement Fees

Section 6 amends s. 553.80, F.S., to specify that local governments may use fees, and any related fines or investment earnings, they have collected for enforcing the Building Code to upgrade technology hardware and software systems used to enforce the Building Code.

Private Providers

Section 4 amends s. 553.791, F.S., to require a local government to issue a permit or provide written notice of plan deficiencies within **12 business days** after receipt of a permit application that is accompanied by the required affidavit in s. 553.791(6), F.S., prepared by a private provider who is a licensed engineer or architect. The local building official must provide with specificity the plan's deficiencies, the reasons the permit application failed, and the applicable codes being violated in such written notice.

If the local building official does not provide specific written notice to the permit applicant within the 12-day period, the permit application is deemed approved as a matter of law, and the permit must be issued by the local building official on the next business day.

The bill also defines the term "private provider firm" for purposes of allowing local governments to establish a registration system to verify private provider licensure requirements.

The bill provides that a local government may not audit the performance of building code inspection services by private providers until the local government has created a manual for standard operating procedures for staff performing such audits. The manual must include, at a minimum, the audit purpose and scope, audit criteria, an explanation of processes and objectives, and detailed findings of area of noncompliance. The manual must be publicly available online or the printed manual must be readily accessible in building department offices, and the audit results of the staff for the prior two quarters must be publicly available. A local government's private provider audit processes must adhere to the local government's posted standard operating audit procedures.

Additionally, the bill provides that a local government may not audit the same private provider more than four times in a year, as opposed to four times in a month provided in current law.

Other Florida Building Code Provisions

Section 2 amends s. 553.73, F.S., to require the Florida Building Commission to modify section 505 of the 8th edition Building Code to state that sealed drawings by a design professional may not be required for the replacement of windows, doors, or garage doors. Replacement windows, doors, and garage doors must be installed in accordance with the manufacturer's instructions for the appropriate wind zone and must meet the design pressure and the current Building Code. The manufacturer's instructions must be submitted with the applicable permit application.

This section also provide that the term "windborne debris region" has the same meaning as in the 7th edition Building Code, Residential, until the adoption of the 9th edition Building Code. It

further provides that a homeowner or contractor is not prohibited from voluntarily complying with the definition of “windborne debris region” in the 8th edition.

Expedited Approval of Residential Building Permits and Preliminarily Plats

Section 1 creates s. 177.073, F.S., to require a governing body of a county or municipality to create:

- A two-step application process for the adoption of a preliminary plat and for a final plat in order to expedite the issuance of building permits related to such plats.
- A master building permit process consistent with existing master building permit application requirements for applicants seeking multiple building permits for planned residential subdivisions.

The bill requires the governing body to issue the number or percentage of building permits requested by an applicant, provided the residential buildings or structures are unoccupied and all of the following conditions are met:

- The governing body has approved a preliminary plat for each residential subdivision or planned community.
- The applicant provides proof to the governing body that the applicant has provided a copy of the approved preliminary plat, along with the approved plans, to the relevant electric, water, and wastewater utilities.
- The applicant holds a valid performance bond for up to 120 percent of the necessary utilities, roads, and stormwater improvements that have not been completed upon submission of the application under this section.

By August 15, 2024, the bill requires a governing body of a county or municipality with 30,000 residents or more to create a program to expedite the process for issuing building permits for residential subdivisions or planned communities before a final plat is recorded with the clerk of the circuit court.

If a governing body had a program in place before July 1, 2024, to expedite the building permit process, the bill requires such governing body to only update their program to approve an applicant's written application to issue up to 50 percent of the building permits for the residential subdivision or planned community.

The bill allows an applicant to use a private provider to review a preliminary plat and to obtain a building permit for each residential building or structure.

The bill allows a governing body to work with appropriate local government agencies to issue an address and a temporary parcel identification number for lot lines and lot sizes based on the metes and bounds of the plat contained in an application.

The bill allows an applicant to contract to sell, but not transfer ownership of, a residential structure or building located in the residential subdivision or planned community until the final plat is approved by the governing body and recorded in the public records by the clerk of the circuit court.

The bill prohibits an applicant from obtaining a final certificate of occupancy for each residential structure or building for which a building permit is issued until the final plat is approved by the governing body and recorded in the public records by the clerk of the circuit court.

An applicant has a vested right in a preliminary plat that has been approved with conditions by a governing entity, if all of the following conditions are met:

- The applicant relies in good faith on the approved preliminary plat or any amendments,
- The applicant substantially changes his or her position, including making improvements pursuant to s. 117.031(9), F.S., or incurs other obligations and expenses; and
- Any change by the governing body would constitute an inequitable interference in the approved preliminary plat.

The bill requires an applicant to indemnify and hold harmless the governing body and its agents and employees from damages accruing and directly related to the issuance of a building permit for a residential building or structure located in the residential subdivision before the approval and recording of the final plat by the governing body.

The building official of a governing body that creates an expedited program pursuant to this bill must send to the Department of Business and Professional Regulation a letter indicating the program has been established and must include a brief explanation of the program.

The bill provides the following definitions:

- "Final plat" means the final tracing, map, or site plan presented by the subdivider to a governing body for final approval, and, upon approval by the appropriate governing body, is submitted to the clerk of the circuit court for recording.
- "Local building official" has the same meaning as in s. 553.791, F.S.
- "Plans" means any building plans, construction plans, engineering plans, or site plans, or their functional equivalent, submitted by an applicant for a building permit.
- "Preliminary plat" means a map or delineated representation of the subdivision of lands that is a complete and exact representation of the residential subdivision or planned community and contains required land boundary information.

Section 7 makes a technical change to correct a cross-reference and **Section 8** provides that the bill takes effect on July 1, 2024.

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 bill may reduce the cost of permit fees paid by the private sector to local governments if local governments fail to meet the prescribed timeframes.

The streamlined platting processes in the bill may expedite some single family residential development across the state.

C. Government Sector Impact:

The bill may impact surcharge collections remitted to DBPR by local governments pursuant to ss. 553.791, F.S., and 468.631, F.S., in the event local governments must refund portions of permit fees.

This bill may impact local governments because they may have to hire more employees to meet the prescribed timeframes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 553.73, 553.79, 553.791, 553.792, 553.80, and 440.103.

This bill creates section 177.073 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Fiscal Policy on February 22, 2024:

- Prohibits a local government from auditing the performance of building code inspection services by private providers until the local government has created a manual for standard operating audit procedures for such purpose.
- Reduces the frequency in which local governments may audit the same private provider to 4 times per year, reduced from 4 times per month under current law.
- Prohibits a local government from requiring a building permit applicant to waive the permit processing timeframes as a condition to review an application for a building permit.
- Provides that a local government need not reduce building permit fees for failing to meet prescribed deadlines if the delay is caused by the permit applicant or the delay is attributable to a force majeure or other extraordinary circumstances.
- Makes technical and clarifying changes.

CS by Community Affairs on February 6, 2024:

- Requires the Florida Building Commission to modify the Florida Building Code to state that sealed drawings by a design professional may not be required for the replacement of windows, doors, or garage doors. Such replacement windows and doors must be installed in accordance with the manufacturer's instructions and the current FL Building Code.
- Reverts the definition of "windborne debris region" in the Florida Building Code to the definition from the previous Code (7th edition), until the adoption of the next 9th edition of the Code.
- Provides that for permit applications with the seal of a private provider who is a licensed engineer or architect, the local government must issue the permit or provide written notice of plan deficiencies within 12 business days after receipt of the permit application. If the local building official does not provide written notice of deficiencies within the 12-day timeframe, the permit application is deemed approved.
- Restores current law by removing bill provisions requiring local governments to reduce a permit fee by 75 percent if an owner retains a private provider.
- Defines the term "private provider firm" for purposes of allowing local governments to establish a registration system to verify private provider licensure requirements.
- Replaces bill provisions modifying time periods for local governments to approve building permit applications with a new scheme based on size and type of structures.
- Authorizes local governments to use building code enforcement fee revenue to upgrade technology hardware and software systems used to enforce the Building Code.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
