

1 A Bill To Be Entitled

2 An Act relating to open and expired permits;  
3 creating s. 553.7905 to provide procedures for  
4 closing open and expired building permits;  
5 amending s. 489.129 to clarify that failure to  
6 obtain inspections and close permits is a  
7 violation of a contractor's license; providing an  
8 effective date.

9  
10 Section 1. Section 553.7905, Florida Statutes,  
11 is created to read:

12 553.7905 Open and expired permits; procedures  
13 for closing; notices to owners applying for permits.

14 (1) Any building permit issued for construction  
15 of any commercial, residential or mixed-use project  
16 that has not received final inspection approval and  
17 complied with other permit requirements within one  
18 year from the expiration of the notice of commencement  
19 or last amendment thereto, or in the absence of a  
20 notice of commencement within one year from the last  
21 inspection conducted under the permit or, if no  
22 inspections have been performed on a project without a  
23 notice of commencement, within two years from the date  
24 of issuance of the permit, shall be considered an open  
25 permit. If an open permit expires without receiving  
26 final inspection approval and complying with other  
27 permit requirements, it shall be considered an expired  
28 permit. Open and expired permits may be closed by or  
29 on behalf of the current property owner, regardless of  
30 whether the property owner is the same owner who  
31 originally applied for the permit or is a subsequent  
32 owner, by complying with the following procedures:

33 (a) The property owner may retain the original  
34 contractor who obtained the permit or hire a different  
35 Florida licensed contractor, bearing any license  
36 required for the performance of any work necessary to

37 satisfy permitting conditions to close the open or  
38 expired permit, to reactivate the permit if it is  
39 expired, perform any necessary work to fulfill all  
40 requirements of the open or expired permit, including  
41 correction of any code violations in accordance with  
42 the code in effect when the permit was issued, satisfy  
43 any permit requirements not yet satisfied, and obtain  
44 any necessary inspections and perform any other  
45 actions required for a proper closure of the permit.  
46 The Florida license of the contractor performing these  
47 functions shall be current and active. Said  
48 contractor and owner shall comply with the building  
49 department's change of contractor process, after which  
50 said contractor shall not be liable for any existing  
51 defects or existing work failing to comply with any  
52 applicable code, regulation, ordinance, permit  
53 requirement or law other than as to work actually  
54 performed by the contractor. The permit holder under  
55 the original open or expired permit shall remain  
56 liable, within the period of any applicable statute of  
57 limitations or repose, for any defects in its work or  
58 failure to comply with any applicable code,  
59 regulation, ordinance, permit requirement or law. If  
60 any of the permitted work includes construction  
61 outside the contractor's license, the owner or  
62 contractor may hire licensed subcontractors in the  
63 scope of the permitted work who may perform the  
64 functions of the contractor as outlined in this  
65 subsection to the extent of work covered by its  
66 license. All work required to properly close an open  
67 or expired permit under this section shall be  
68 performed in accordance with the building code in  
69 effect on the date of issuance of the open or expired  
70 permit.

71 (b) As an alternative to the procedure in  
72 subsection 1(a) above, the property owner may hire a

73 licensed engineer or architect, possessing a current  
74 and active Florida license, experienced in designing,  
75 supervising or inspecting work of the nature of the  
76 work covered by the open or expired permit at issue  
77 and having at least three years' experience in  
78 performing field inspections as to such work, to  
79 inspect the construction work subject to the open or  
80 expired building permit, direct any repairs necessary  
81 to comply with all permit requirements, then confirm  
82 compliance therewith by submitting an affidavit  
83 bearing the seal of the engineer or architect to the  
84 issuing building department. The affidavit shall be  
85 substantially in the following form:

86 I, (specify name), possess a current and active  
87 (specify architectural or engineering) license within  
88 the State of Florida and am experienced in designing,  
89 supervising, or inspecting work of the nature covered  
90 by the open or expired permit at the real property  
91 located at (specify address). I have at least three  
92 years' experience in performing field inspections as  
93 to such work. I have inspected the construction work  
94 subject to the open or expired building permit number  
95 (specify number) and I confirm that the construction  
96 work complies with all known permit requirements.

97  
98 Signed:

99  
100 (affix licensing seal)

101  
102 If any of the permitted work includes construction  
103 outside the engineer's or architect's area of  
104 expertise, the owner, engineer or architect may hire  
105 engineers or architects licensed in the scope of the  
106 permitted work, who may direct any necessary repairs  
107 to comply with all permit requirements, then confirm  
108 compliance by submitting to the issuing building

109 department a signed and sealed affidavit attesting to  
110 same. The building department issuing the permit  
111 shall accept the affidavit or affidavits referenced in  
112 this subsection, as satisfaction of all permit  
113 requirements and shall thereafter close the building  
114 permit, unless it conducts its own final inspections  
115 within seven business days of receipt of the affidavit  
116 or affidavits. If the building department conducts  
117 their own final inspection and discovers conditions  
118 constituting code or permit violations within the  
119 scope of work covered by the permit, then said  
120 conditions shall be repaired to the building  
121 department's satisfaction as a condition to closing  
122 the permit.

123 (c) The procedures in subsections 1(a) and (b)  
124 above shall apply regardless of whether the building  
125 permit is still open or has expired, provided the  
126 contractor who obtained the permit is no longer  
127 reasonably available to satisfy the requirements for  
128 closing the permit or refuses to close the permit on  
129 terms reasonably acceptable to the property owner.

130 (2) A failure to properly close a building  
131 permit within five years after expiration of the date  
132 of recordation of the notice of commencement or last  
133 amendment thereto or, if no notice of commencement was  
134 recorded, then within seven years after the building  
135 permit was issued, shall not authorize the permitting  
136 authority to deny issuance of permits to, issue  
137 notices of violation to, or fine, penalize, sanction,  
138 or assess fees against a subsequent arms-length  
139 purchaser of the subject property for value. The  
140 permitting authority shall continue to have all rights  
141 and remedies against the property owner and contractor  
142 who obtained and subsequently failed to close the  
143 permit. The Florida Building Commission shall adopt  
144 rules and amend the applicable Florida Building Code

145 to enact procedures designed to encourage property  
146 owners and contractors to ensure permits are properly  
147 closed.

148 (3) When issuing any building permit, the  
149 building department shall provide to the property  
150 owner a mandatory written notice, which may be  
151 electronically provided if the permit package is  
152 electronically provided, in the following form:

153 IMPORTANT NOTICE REGARDING COMPLYING WITH THE  
154 INSPECTION AND APPROVAL PROCESS FOR ALL PERMITS

155 "You are receiving a building permit authorizing  
156 the construction referenced in the application that  
157 was submitted to this building department by you or on  
158 your behalf. The permit is issued with conditions,  
159 including required building inspections and assurances  
160 that the construction complies with the design  
161 submitted with the permit application and any other  
162 conditions referenced in the permit. It is critical  
163 that you ensure that all necessary building  
164 inspections are obtained and passed before the  
165 expiration of any notice of commencement or amendment  
166 thereto, as these inspections are important to ensure  
167 construction has been performed in a safe and proper  
168 manner. If you have any questions regarding these  
169 procedures, please call the building department. Your  
170 failure to comply may also result in unsafe conditions  
171 arising from your construction."

172 (4) Municipalities, counties and building  
173 departments may not charge separate search fees for  
174 open or unexpired building permits for any units or  
175 subunits assigned by any municipality or county to a  
176 particular tax parcel identification number. Only one  
177 search fee per tax parcel identification number may be  
178 charged, in an amount commensurate with research and

179 time costs incurred by the jurisdiction within a  
180 reasonable range of \$20.00 and not more than \$200.

181 (5) The building department shall send a written  
182 notice to permit holders on improvements to real  
183 property consisting of single or multiple family  
184 dwellings up to and including four units at a point  
185 from one year to three years after issuance of any  
186 permit that has not been properly closed out within  
187 that time advising the permit holder of the need to  
188 properly close out the permit upon completion of the  
189 work covered by same. Failure to send written notice  
190 shall not relieve the contractor or property owner  
191 from taking the necessary actions to legally close out  
192 a permit.

193 (6) Nothing in this Act shall prevent local  
194 government jurisdictions from enforcing any provision  
195 of a local land development code or other local  
196 ordinances to the extent not inconsistent with this  
197 section.

198 Section 2. Section 489.129(1)(o), Florida  
199 Statutes, is amended to read:

200 489.129 Disciplinary proceedings.—

201 (1) The board may take any of the following  
202 actions against any certificateholder or registrant:  
203 place on probation or reprimand the licensee, revoke,  
204 suspend, or deny the issuance or renewal of the  
205 certificate or registration, require financial  
206 restitution to a consumer for financial harm directly  
207 related to a violation of a provision of this part,  
208 impose an administrative fine not to exceed \$10,000  
209 per violation, require continuing education, or assess  
210 costs associated with investigation and prosecution,  
211 if the contractor, financially responsible officer, or  
212 business organization for which the contractor is a  
213 primary qualifying agent, a financially responsible

214 officer, or a secondary qualifying agent responsible  
215 under s. 489.1195 is found guilty of any of the  
216 following acts:

217 (o) Proceeding on any job without obtaining  
218 applicable local building department permits and  
219 inspections or failing to properly close out any  
220 permits or satisfy any applicable permit requirements.

221  
222 Section 3. This act shall take effect July 1,  
223 2017.

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