A bill to be entitled
An act relating to open and expired building permits; creating s. 553.7905, F.S.; specifying conditions under which a building permit becomes an open permit, expired permit, or closed permit; prohibiting the local enforcement agency from taking certain actions against a subsequent arms-length purchaser of property because a building permit was not properly closed within certain time periods; providing that the local enforcement agency still maintains all rights and remedies identified on the permit; providing that certain permits may be closed under certain circumstances; authorizing the owner of a home for sale to assume the role of an owner-builder in order to resolve an open permit for a substantially completed project under certain circumstances; providing that such owner is not required to reside in the home for a specified period; authorizing a contractor to hold an unlimited number of permits; providing that certain provisions of the Florida Building Code are not applicable to certain permits; providing an exception; requiring the local enforcement agency to provide written notice to a property owner when issuing a building permit; authorizing a governmental entity to charge a fee for
searching for and identifying certain open or unexpired building permits; requiring a local enforcement agency to send a written notice to a property owner within a specified period if a permit has not been properly closed; providing requirements for the notice; providing that failure to receive written notice does not relieve certain persons from taking action to close a permit; providing construction; providing an effective date.

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

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

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

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

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

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

1. One year after the last inspection conducted under the
permit.

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

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

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

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

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

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

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

(a) The property owner may retain the original contractor who obtained the permit or hire a different contractor licensed in this state who possesses any license required for the
performance of any work necessary to satisfy conditions of the
permit at issue, in order to close the open or expired permit;
reactivate the permit if it is expired; or satisfy any
requirement of the permit at issue not yet satisfied, including
correcting of any code violation in accordance with the building
code that was in effect when the application for the permit was
filed, and obtaining any necessary inspection. The state license
of the contractor who performs these functions must be current
and active. After providing the local enforcement agency a
written notice of change to a new, licensed contractor and
reactivation of the permit, if applicable, the contractor is not
liable for any existing defect or existing work failing to
comply with any applicable code, rule, regulation, ordinance,
permit requirement, or law other than the work actually
performed by the contractor. The property owner and the
permitholder under the original open or expired permit remain
liable, within the period of any applicable statute of
limitations or repose and as provided by applicable law, for any
defect in the work or for failure to comply with any applicable
code, rule, regulation, ordinance, permit requirement, or law.
To the extent required by chapter 489, the owner or the
contractor may hire licensed subcontractors in the scope of the
permitted work, who may perform the functions of the contractor
as outlined in this subsection to the extent the work is covered
by the subcontractor's license. All work required to properly
close an open or expired permit under this section shall be performed in accordance with the building code in effect on the date the application for the open or expired permit was filed, unless, pursuant to the building code in effect when the work is performed, the contractor has sought and received approval from the local enforcement agency for an alternative material, design, or method of construction.

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

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

Signed:

...(affix licensing seal)...

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

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

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

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

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

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

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

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

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

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

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

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

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

You are receiving a building permit authorizing the construction referenced in the application that was submitted to this local enforcement agency by you or
on your behalf. The permit is issued with conditions, including required building inspections and assurances that the construction complies with the design submitted with the permit application and any other conditions referenced in the permit. It is critical that you ensure that all necessary building inspections are passed before the expiration of any notice of commencement or amendment thereto, as these inspections are important to ensure that construction has been performed in a safe and proper manner. If you have any questions regarding these procedures, please call the local enforcement agency. Your failure to comply may also result in unsafe conditions arising from your construction.

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

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

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

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