

**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.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 684

INTRODUCER: Senator DiCeglie

SUBJECT: Residential Building Permits

DATE: February 5, 2024

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	<b>Pre-meeting</b>
2.			RI	
3.			RC	

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**I. Summary:**

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 jurisdictions to reduce their permit fee by 75 percent when the property owner or contractor retains a private provider for plans review or building inspection services.
- Shortens timeframes for the submittal, process, and review of applications for a building permit.
- Specifies when a permit application is deemed complete and sufficient.
- Provides that a local government can request additional information from an applicant twice unless the applicant agrees otherwise.
- Provides that a local government can request additional information once for certain residential dwelling building permits.
- Requires local jurisdictions provide an opportunity for an in-person or virtual meeting before a second request for additional information may be made.
- Specifies that certain permit requirements apply to single-family residential units and single-family residential dwellings.
- Requires that local governments follow certain prescribed timeframes unless a local ordinance is more stringent.

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.<sup>1</sup>

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.<sup>2</sup> The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.<sup>3</sup>

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.<sup>4</sup>

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,<sup>5</sup> 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.<sup>6</sup>

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<sup>1</sup> 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](http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf) (last visited Feb. 5, 2024).

<sup>2</sup> *Id.*

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

<sup>4</sup> See s. 553.72(1), F.S.

<sup>5</sup> 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).

<sup>6</sup> Section 553.73(7)(a), F.S.

## 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.<sup>7</sup> Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the Building Code.<sup>8</sup> 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.<sup>9</sup> Local governments must post all building permit and inspection fee schedules on their website.<sup>10</sup>

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.<sup>11</sup>

## 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.<sup>12</sup>

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

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.<sup>14</sup>

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<sup>7</sup> Section 553.80 F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 553.80 (7)(a)1., F.S.

<sup>10</sup> Sections 125.56 (4)(c) F.S., and 166.222(2), F.S.

<sup>11</sup> Section 553.80(7)(a), F.S.

<sup>12</sup> Section 553.721, F.S.

<sup>13</sup> 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. s. 489.1401(2), F.S.

<sup>14</sup> Sections 468.631, and 553.721, F.S.

## Building Permit Delays

Any delays in obtaining a building permit can delay the completion of a construction project. Delays in the completion of a construction project may:<sup>15</sup>

- Lead to increased costs for construction projects, which may be passed onto occupants of a completed project;
- Discourage construction, which can reduce the total supply of buildings in a community and may lead to higher rents in the community;
- Reduce property tax revenue to a local government and other taxing jurisdictions resulting from the delayed start and completion of a construction project; and
- Result in delayed occupancy of a project, including single-family residences and multi-family residences.

Streamlining the process to obtain a building permit can accelerate the completion of construction projects. The goal of streamlining is to remove overlap and duplication and create more efficient administrative procedures while not reducing a building department's ability to enforce the applicable construction codes. Streamlining the building permit process may:<sup>16</sup>

- Increase local government revenues by accelerating completion of a project and thus accelerating property tax collection;
- Create local construction jobs and other indirect jobs supported by local construction jobs, such as jobs at a material supplier, which may increase local tax revenue; and
- Encourage economic development by having an efficient permit system.

## 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 has established time-periods for local governments to review applications for the following building permits:<sup>17</sup>

- 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;

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<sup>15</sup> City of Austin Development Services Department, *A Program for Expedited Permitting*, [http://austintexas.gov/sites/default/files/files/8-9-2016\\_Report\\_on\\_Expedited\\_Permitting\\_Program.pdf](http://austintexas.gov/sites/default/files/files/8-9-2016_Report_on_Expedited_Permitting_Program.pdf) (last visited Feb. 5, 2024); PricewaterhouseCoopers, *The Economic Impact of Accelerating Permit Processes on Local Development and Government Revenues*, (Dec. 7, 2005).

<sup>16</sup> *Id.*; Institute for Market Transformation, *Streamlining Compliance Processes*, (Winter 2012) <https://www.imt.org/wp-content/uploads/2018/02/CaseStudy5.pdf> (last visited Feb. 5, 2024).

<sup>17</sup> Section 553.792(2), F.S.

- 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:<sup>18</sup>

- 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.
  - 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.<sup>19</sup>

If a local government fails to meet the time-periods above without an agreement for an extension of time, a local government is required to reduce a permit fee for any building permit application, including for single-family residential dwellings, by 10 percent of the original permit fee for each business day that a local government fails to meet the current statutory time-period for reviewing a building permit application or a time-period established by the local government.

### ***Local Government's Requests for Additional Information***<sup>20</sup>

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.

<sup>18</sup> Section 553.792(1), F.S.

<sup>19</sup> Section 553.792(1)(a), F.S.

<sup>20</sup> Section 553.792(1)(b), F.S.

- 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 must<sup>21</sup>:

- 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**

If any government entity with authority to enforce the Building Code receives an application for a building permit for a single-family residential dwelling, it 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

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<sup>21</sup> *Id.*

time-period for processing the application.<sup>22</sup>If the local enforcing agency does not issue a building permit for a single-family residential dwelling 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 enforcing agency does not have to reduce the building 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 Florida 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.<sup>23</sup>

After receiving the written notice, the applicant has **10 business days** to correct the specifications written by the local enforcing agency and submit revisions to correct the permit application. 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.<sup>24</sup>

A government entity does not have to reduce the fee for a single-family residential dwelling building permit, if:<sup>25</sup>

- It provides written notice to the applicant, by email or USPS mail within **30 business days** of receiving the application; and
- The written notice specifically states how the application fails to satisfy the Building Code or the government entity's laws or ordinances, and that the applicant has **10 business days** after receiving the notice to remedy the deficiencies in their application or it will be denied.

An applicant for a single-family residential dwelling building permit has **10 business days** to address the reasons specified in the government entity's notice. If the applicant submits revisions to the government entity within **10 business days** of receiving the notice, the government entity must approve or deny the permit within **10 business days** of receiving the applicant's revisions.

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:<sup>26</sup>

- 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.

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<sup>22</sup> Section 553.79(16), F.S.

<sup>23</sup> Section 553.79(16)(a)-(b), F.S.

<sup>24</sup> Section 553.79(16)(c), F.S.

<sup>25</sup> Section 553.79(16)(b), F.S.

<sup>26</sup> Section 553.79(16)(c), F.S.

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.<sup>27</sup>

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.<sup>28</sup>

### **Private Providers Alternative Plans Review**

In 2002, section 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.

"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.<sup>29</sup>

"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.<sup>30</sup>

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.<sup>31</sup>

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.<sup>32</sup>

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<sup>27</sup> Section 553.79(16)(e), F.S.

<sup>28</sup> Section 553.79(16)(d), F.S.

<sup>29</sup> Section 553.791(1)(n) and (3), F.S.

<sup>30</sup> Section 553.791(1)(f) and (8), F.S.

<sup>31</sup> "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.

<sup>32</sup> Section 553.791(2)(b), F.S.

## 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.<sup>33</sup> 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.<sup>34</sup>

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.<sup>35</sup> 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.<sup>36</sup>

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 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:<sup>37</sup>

- 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:<sup>38</sup>

- 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.

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<sup>33</sup> S. 177.031(14), F.S.

<sup>34</sup> 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).

<sup>35</sup> S. 177.011, F.S.

<sup>36</sup> S. 177.081(1), F.S.

<sup>37</sup> S. 177.071(1), F.S.

<sup>38</sup> S. 177.091, F.S.

- 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.
- 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.<sup>39</sup>

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.<sup>40</sup>

<sup>39</sup> 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, 10, 2024).

<sup>40</sup> 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).

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.<sup>41</sup>

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:<sup>42</sup>

- 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.
- 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.<sup>43</sup>

### ***Vested Rights in Property Based on a Plat***

In general, vested rights<sup>44</sup> form when a property owner or developer acquires real property rights that cannot be taken by governmental regulation.<sup>45</sup> 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.<sup>46</sup>

Florida common law provides that vested rights in a property may be established if a property owner or developer has:<sup>47</sup>

- In good faith reliance,

<sup>41</sup> 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.

<sup>42</sup> City of Jacksonville Code of Ordinances s. 654-139(d).

<sup>43</sup> City of Jacksonville Code of Ordinances s. 654-109(b).

<sup>44</sup> 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).

<sup>45</sup> *Id.*; Heeter, *Zoning Estoppel: Application of the Principles of Equitable Estoppel and Vested Rights to Zoning Disputes*, Urb.L. Ann. 63, 64-65 (1971).

<sup>46</sup> *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).

<sup>47</sup> *Monroe County*, 866 So.2d at 710.

- 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 rights<sup>48</sup> in the land development regulations in existence at that time.<sup>49</sup> 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,<sup>50</sup> 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.<sup>51</sup>

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.<sup>52</sup>

### III. Effect of Proposed Changes:

#### Building Permit Application Review (Section 4)

The bill shortens timeframes for building applications. The bill provides that:

- After an applicant submits an application to the local government, the local government must provide written notice to the applicant within **3 calendar days** after receipt of the application advising the applicant what information is needed to make the application properly complete.
  - The bill shortens the local government's timeframe to respond to the application from 10 days to 3 calendar days.
- Within **9 calendar days** after receipt of the completed application, the local government must provide a written notice to an applicant that the application is insufficient to be approved and additional information is needed.
  - The bill shortens the local government's timeframe to notify the applicant from 45 days to 9 calendar days.

The bill removes the requirement that the applicant must submit the requested information from the local government within 30 days.

The bill provides that the local government cannot request additional information from the applicant more than **two times** instead of **three times**, unless the applicant waives such limitation in writing.

The bill removes the **120-day period** which is tolled while the applicant responds to the local government request for additional information.

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<sup>48</sup> *Id.*

<sup>49</sup> Melton, *supra*, at 42.

<sup>50</sup> *Town of Largo v. Imperial Homes Corp.*, 309 So.2d 571, 573 (Fla. 2d DCA 1975).

<sup>51</sup> *Id.*; Melton, *supra*, at 42.

<sup>52</sup> *The Florida Companies v. Orange County*, 411 So.2d 1008, 1011 (Fla. 5th DCA 1982)

The bill provides if a local government requests additional information from an applicant and the applicant submits the requested additional information to the local government, the local government must, within **9 calendar days** (instead of **15 days**) after receiving such information:

- Determine if the application is properly completed;
- Approve the application; or
- Advise the applicant **in writing** of information, if any, that is needed to determine the sufficiency of the application.
  - The bill removes the local government’s decision to deny the application until after the second request for additional information from the local government.

The bill provides that prior to making a **second request** for information the local government must offer to meet **in-person or virtually** with the permit applicant to attempt to resolve outstanding issues. The bill requires that the meeting occur **within 5 calendar days** after the applicant notifies the local government in writing that he or she wants an in-person or virtual meeting unless the applicant agrees to a longer time period in writing.

The bill provides that after the local government submits its **second request** and receives the information from the applicant, the local government must within **9 calendar days** (instead of **10 days**) determine whether the application is complete and:

- Approve the application;
- Approve the application with conditions; or
- Deny the application **and provide the applicant with sufficient reason for such detail.**

The bill provides that 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 within **9 calendar days after the receipt of the request** and approve, approve with conditions, or deny the application **and provide the applicant with sufficient reason for such denial.**

The bill states that if the local government does not notify the applicant that the application is approved, approved with conditions, or denied within **9 days** after the local government receives the additional information from the second request, the application is deemed approved.

The bill removes the ability for a law, agency rule, or an ordinance to specify a different timeframe for the applicable building permit applications except when the timeframes set by local ordinance are stricter than the ones prescribed in the bill.

### **Single-Family Residential Dwelling Building Permit Applications (Sections 2 and 4)**

The bill removes a provision in ch. 533, F.S., the Florida Building Code, which requires single-family residential dwelling permits to be issued within 30 days unless the application does not conform to the Florida Building Code or local laws or ordinances. However, the bill incorporates the time period to review single-family residential dwellings into the building permit application to local government section.<sup>53</sup>

<sup>53</sup> See, s. 553.792, F.S.

The bill provides the following timeframes for single family or two-family dwellings or townhomes located within a master plan community for which the permit for the master plan has been approved under the local government residential master building permit program<sup>54</sup>:

- **1 calendar day** after a building permit application is submitted to the local government, the local government must provide the building permit applicant with what information is needed in order to deem the application complete and ready for processing. If the local government does not provide proper written notice of what information is needed for the application to be considered complete the building permit application is automatically deemed completed and approved.
- Within **5 calendar days** of receiving a completed building permit application the local government must determine if any additional information is needed to determine the sufficiency of a building permit application. The building permit applicant may submit the information or ask that the permit be processed without the additional information.
- A local government may only ask for additional information **once** unless the applicant waives such limitation in writing.
- If the local government requests additional information and the building permit applicant provides the additional information, the local government must act on the building permit application **within 5 calendar days** after receiving such information, unless the applicant waives this limitation in writing, determine that the application is complete and either approve, approve with conditions, or deny the application and provide the applicant with sufficient reason for such detail.
  - If the local government does not notify the building permit applicant that it has acted on the application **within 5 calendar days** the building permit application is deemed approved.

The bill provides that 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 **9 calendar days** (instead of **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.

The bill also requires a local government, upon request by an applicant, to issue no less than 50 percent of the permits for dwellings to be built, but not occupied, in the applicant's residential community, consistent with the provisions of section 1 of the bill, relating to expediting building permits and preliminary plats.

#### **Private Providers Alternative Plans Review (Sections 3 and 4)**

The bill provides that if an owner or contractor retains a private provider for purposes of plans review or building inspection services, the local jurisdiction must reduce the permit fee by **75 percent** for not having to perform such services.

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<sup>54</sup> See, s. 553.794, F.S.

The bill provides that if an owner or contractor retains a private provider for purposes of review, the following time periods apply:

- Within **3 calendar days** of receiving a completed building permit application the local government must determine if any additional information is needed to determine the sufficiency of a building permit application. The building permit applicant may submit the information or ask that the permit be processed without the additional information.
- If the local government requests additional information and the building permit applicant provides the additional information, the local government must act on the building permit application **within 3 calendar days after receiving** such information, unless the applicant waives this limitation in writing, determine that the application is complete and either approve, approve with conditions, or deny the application and provide the applicant with sufficient reason for such detail.
- If the local government does not notify the building permit applicant that it has acted on the application within **3 calendar days** the building permit application is deemed approved.

### **Reduction of Building Permit Fees (Section 3)**

The bill provides that if the local government does not meet the deadlines set forth in this bill, it must reduce the building permit fee by 10 percent for each **calendar day** (as opposed to “business day”) that it fails to meet the deadline, **unless the parties agree in writing to a reasonable extension of time.**

### **Expedited Approval of Residential Building Permits and Preliminarily Plats (Section 1)**

The bill requires 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.

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.

C. Government Sector Impact:

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: 553.79, 553.791, 553.792, and 440.103.

This bill creates the following section 177.073 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.