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 is considered an open permit, expired permit, or closed permit; authorizing an open or expired permit to be closed on by or on behalf of the current property owner if certain requirements are met; prohibiting a 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 a local enforcement agency maintains all rights and remedies identified on the permit; providing that certain permits may be closed under certain circumstances; providing exceptions; authorizing the owner of a home for sale to assume the role of an owner-builder in order to resolve an open permit 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 a 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 the last amendment thereto.

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

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

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 and without complying with other
requirements of the permit at issue, the open permit shall be
considered an expired permit as provided in s. 105.4 of the

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CODING: Words stricken are deletions; words underlined are additions.
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 may hire a different contractor licensed in this state who possesses any license required for the performance of any work necessary to satisfy the 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.

1. The state license of the contractor who performs these functions must be current and active.

2. 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 that fails to comply with any applicable code, rule, regulation, ordinance, permit requirement, or law other than the work actually performed by the contractor.

3. 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.

4. 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.

5. All work required to properly close an open or expired permit under this section must 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 procedures required 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 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 confirm compliance 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 the agency
conducts its own final inspection within 7 business days after
receipt of the affidavit or affidavits and discovers code or
permit violations within the scope of work covered by the
permit. Such 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 must 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 open or has expired.

(6)(a) A local enforcement agency may not deny issuance of
a building permit 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 of the last amendment thereto.

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

(b) A 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 a 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 which authorize permits to be administratively closed by a 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, a 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 substantially the following form:

IMPORTANT NOTICE REGARDING COMPLIANCE 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 searching for and identifying open or unexpired building permits for a tax parcel, regardless of how many units or subunits may be 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, a local enforcement agency shall send a written notice to the property owner if a building permit has not been properly closed within 1 to 3 years after issuance of any such 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.