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WILL W. WEATHERFORD
Speaker



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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

February 19, 2014

Jim Richmond
Executive Director
Florida Building Commission
19407 North Monroe Street
Tallahassee, Florida 32399

Re: Section 11, Chapter 2013-213, Laws of Florida

Dear Mr. Richmond:

It has come to the attention of the Joint Administrative Procedures Committee that the Monroe County Growth Management Division has adopted certain guidelines for the implementation of the permit extension provisions enacted by the Legislature in s. 11, Chapter 2013-213, Laws of Florida. A copy of the Division's guidelines is enclosed for your review.

Under the Division's interpretation, as expressed in Ms. Hurley's email and the accompanying matrix, what appears to be the automatic extension of permit expiration dates is not "automatic" and, notwithstanding the absence of any criteria providing for the loss of the extension, the permits are subject to the provisions of section 105.4 of the Florida Building Code, and any other criteria deemed appropriate by the Division. Upon review, it appears that the Division's interpretation of s. 11, Chapter 2013-213, Laws of Florida, may be inconsistent with the plain language of the law. Enclosed please find a copy of the Committee's correspondence to the Division requesting clarification of the Division's position. It would be appreciated if you would review the enclosed documents and advise the Committee whether the Division's interpretation of the provisions of s. 11, Chapter 2013-1213, Laws of Florida, is consistent with that of the Florida Building Commission and, if not, please advise the Committee of the Commission's understanding of the applicability of the law.

I look forward to your response. Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Kenneth J. Plante".

Kenneth J. Plante

KJP:tbm/encl.

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THE FLORIDA LEGISLATURE
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PROCEDURES COMMITTEE**

February 19, 2014

Christine Hurley
Division Director
Growth Management Division
Monroe County
2798 Overseas Highway
Suite 400
Marathon, Florida 33050

Re: Section 11, Chapter 2013-213, Laws of Florida

Dear Ms. Hurley:

It has come to the attention of the Joint Administrative Procedures Committee that the Monroe County Growth Management Division has developed certain guidelines for the implementation of the permit extension provisions enacted by the Legislature in s. 11, Chapter 2013-213, Laws of Florida. Copies of the Division's interpretation, as discussed in an email dated July 2, 2013, from you to Growth Management staff, and presented in the form of a matrix at the construction industry informal group meeting held on August 26, 2013, are enclosed for your reference. Upon review, and as explained below, it appears that the Division's interpretation of s. 11, Chapter 2013-213, Laws of Florida, may be inconsistent with the plain language of the law.

Section 11, Chapter 2013, Laws of Florida, provides, in pertinent part:

For areas to be served by central sewer systems by December 2015 within the Florida Keys Area of Critical State Concern, any building permit . . . that has an expiration date of January 1, 2012, through January 1, 2016, is extended and renewed for a period of 3 years after its previously scheduled expiration date.

The provision took effect on July 1, 2013. The provision, as a matter of law, automatically extended and renewed the expiration date of all affected building permits for a period of three years. No application is necessary for a permit holder to qualify for the extension; no fee is required; there are no qualifying criteria or preconditions to meet for the extension other than to be served by central sewer systems by December 2015; there is no option or provision for either

the permit holder or Monroe County to delay the effective date of the three-year extension; and there are no conditions or criteria that would cause the extension to be revoked or otherwise alter the extension date after the effective date of the bill.

In your email, you state:

This extension may be applied to the permit at any point in the permits [sic] life, prior to 1/1/16. The 3 year extension is NOT automatically applied starting 7/1/13.

The matrix further provides:

Note: Applicant may benefit from requesting Monroe County Ch 6 six month extension (fee \$250) prior to this 3 year extension.

Question: On its face, the law states that, effective July 1, 2013, "any building permit . . . that has an expiration date of January 1, 2012, through January 1, 2016, is extended and renewed for a period of 3 years after its previously scheduled expiration date." The plain language of the law provides for an immediate three-year extension of the expiration date of each permit. Please explain under what statutory authority the Division can delay the effective date of the permit extension as it applies to any individual permit.

With respect to the permit extension, your email states:

The extension is only a one time extension – so, if they restart construction AFTER they are issued the extension, they cannot re-up the extension again.

The matrix expounds upon this position as follows:

While the extension is good for 3 years from the expiration of the permit, once you restart/proceed with construction, inspections will be required every 6 months. Only one 3 year extension is allowed (you can't stop – start – stop – start over and over again):

Question: This interpretation suggests that the extension granted by s. 11, Chapter 2013-213, Laws of Florida, is not a blanket extension as the language suggests, but is subject to some measure of qualification by Monroe County requiring continuous construction during the three-year extension if construction is initiated or restarted. Please explain the statutory authority under which the Division can terminate a permit prior to the extension date granted by the Legislature if there is no continuous construction.

From: Hurley-Christine
Sent: Tuesday, July 02, 2013 4:19 PM
To: Growth Management
Cc: Shillinger-Bob; Wilson-Kevin; Williams-Steve; Grimsley-Susan; County Commissioners and Aides; County Administrator; 'robert_eadie@doh.state.fl.us'; 'Holly.Raschein@myfloridahouse.gov'; DeFoor, Kate (Kate.DeFoor@myfloridahouse.gov); 'Muir, Erin'
Subject: FW: House Bill 7019 - permit extensions, Cudjoe Wastewater area extensions, on site system installation dates, holding tanks
Attachments: HB 7019 FINAL SIGNED BY GOV.pdf; CHAPTER 2012-205 6-24-13.pdf; 381.0065 updated with HB7019 changes 6-24-13.pdf; Cudjoe_Regional_Wastewater_District Maps.pdf; Copy of Cudjoe_Sewer_Parcels_0613.xlsx; Permit Extension Requirements - updated with 2013 bills 7-2-13.pdf

REVISION TO INITIAL Permit Extension Requirements – updated with 2013 bills as of 7-2-13.

Staff: Thank you for the training session last Friday. Your questions were excellent. We have met with the attorneys and have revised the attached file (last attachment) to clarify certain provisions of how this will be implemented. I've made changes below in **orange/bold**. Christine

From: Hurley-Christine
Sent: Monday, June 24, 2013 9:15 AM
To: Growth Management
Cc: Shillinger-Bob; Wilson-Kevin; Williams-Steve; Grimsley-Susan; County Commissioners and Aides; County Administrator; 'robert_eadie@doh.state.fl.us'; 'Holly.Raschein@myfloridahouse.gov'; DeFoor, Kate (Kate.DeFoor@myfloridahouse.gov); 'Muir, Erin'
Subject: FW: House Bill 7019 - permit extensions, Cudjoe Wastewater area extensions, on site system installation dates, holding tanks

Growth Management Staff:

House Bill 7019 (1st attachment), effective 7/1/13 was passed this state legislative session. This bill changed both:

- The Laws of Florida, as they are applicable to all building permits and development orders (conditional uses, etc.). The 2nd attachment in this email is how the Laws of Florida look with all changes in final form.
- Section 11 of Chapter 381.0065 covering the Cudjoe Wastewater Treatment district. The 3rd attachment in this email is how 381.0065 looks with all changes in final form.

Under Laws of Florida:

1. **Anybody** (not just those in the Cudjoe Area) with a permit expiring between Jan 1, 2012 and January 1, 2014 may ask for a two year extension by October 1, 2013. There is still a total limit of 4 years for extensions. So, if they have received an SB360 and SB1752, they are not eligible for this extension. After October 1, 2013, there are no extensions. NO FEE CAN BE CHARGED for this extension. Please put the extension request form online. Karen has updated it with HB7019 information.

Under Section 11 of Chapter 381.0065

1. For areas to be served by central sewer (Cudjoe Area), any permit **directly related to hookup to central sewer system** that expires Jan. 1, 2012 – January 1, 2016 is extended for 3 years – no request necessary. No Fee. Prior extensions in 2009, 2010, 2011 (but 2012 is not included) count and the total cannot exceed 7 years. This excludes Key Largo Wastewater Treatment District (KLWTD). **This extension may be applied to the permit at any point of the permits life, prior to 1/1/16. The 3 year extension is NOT automatically applied starting 7/1/13. Each permit within this area needs to be evaluated by staff to see if it is more beneficial for the County to give them the 6 months extension they are eligible for under Chapter 6 of the Monroe County Code prior to them receiving the 3 year extension under Chapter 381.0065 Florida Statutes. The extension is only a one time extension – so, if they restart construction AFTER they are issued the extension, they cannot re-up the extension again. Please advise them of this fact. Karen is scheduling training asap to go over this as it is applicable to the questions you all had during training.**

2. People not served by centralized wastewater (or not scheduled to be served by centralized wastewater) have until December 31, 2015 to provide an on-site sewage treatment disposal systems (OSTDS) that meets the new level of treatment for water quality purposes.

3. If an On Site Treatment Disposal System complies with the water quality standards in the bill and Department of Health requirements in unincorporated MC (excluding Key Largo Wastewater Treatment District) and was installed after July 1, 2010, it is not required to connect to central sewer (Cudjoe) until Dec. 31, 2020.

4. For areas to be served by central sewer (see attached map [5th attachment] and list of RE#s [6th attachment]), If the property owner has paid a connection fee or assessment for central sewer to be connected by December 31, 2015, they may install a holding tank with a high water alarm with certain requirements up and until the central sewer system is operational (Cudjoe). This may necessitate the need to implement a sewer affidavit. Further, the Health Dept requires a receipt to be forwarded (after permit issuance) to them proving the assessment has been paid. Our office will require a Department of Health (DOH) permit prior to permit issuance. NOTE: This map and RE#s may change. If so, we need to keep updated. Karen has flagged all parcels in CommunityPLUS. She is also looking at the parcels that expired after 1/1/12.

The 3th attachment is your “cheat sheet” (4th attachment) on how this works. Mary Tucker and Christina Goetzman will be the lead staff in answering questions about these extensions, as they apply to building permits. They will consult directly with Jerry Smith, Steve Williams and/or Susan Grimsley if they have questions.

Joe Haberman will be the lead staff in answering questions about other development order/approval extensions (excluding ROGO/NROGO), such as, Conditional Uses, etc.

Tiffany Stankiewicz will be the lead staff in answering questions about ROGO/NROGO extensions. Legal has opined that an allocation IS NOT considered a development order and it cannot be extended using this bill. So, the permittee MUST pay for the permit, then they can extend the permit. These bills, coupled with the tolled allocations or tolled building permits make ROGO/NROGO questions very complicated.

Thank you,
Christine Hurley, AICP
Monroe County
Growth Management Division Director
(305) 289-2517

County of Monroe

Growth Management Division

Office of the Director

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AGENDA

CONSTRUCTION INDUSTRY INFORMAL GROUP MEETING

August 26, 2013, 3 PM – 5 PM

Marathon Government Center, 298 Overseas Highway, Marathon, Florida

1. C. Hurley / J. Smith Request for Proposals (RFP) for On-Call Provider for Permitting, Plan Review and Inspections for Planning, Biology, Fire, Building and Flood review - Discussion
2. K. Pleasant / J. Smith Interactive Voice Response (IVR) System for inspection requests/resulting – Status
3. J. Smith Permitting
 - A. Permit extensions: 2 year and 3 year Cudjoe Service Area
 - B. Increase permit exemptions from \$1,000 to \$2,500 as requested by industry
 - C. Real Estate Number Open/Expired Permit Investigation and Closing Permit process and fees
 - D. After Hours/Saturday Inspection requests and fees
 - E. Walk-Throughs
 - F. New Form for Elevation Certificates: As of 8/1/13 must use the new certificate
 - G. Department of Health approval requirements due by Certificate of Occupancy
4. C. Hurley Tentative Meeting Dates/Locations: October 28, 2013, 3 PM – 5 PM, Key Largo
 - A. Interactive Voice Response (IVR) industry training/testing
 - B. MAXIMUS Consulting Services, Fee Analysis Presentation

Construction Industry Informal Group Mission Statement: "To evaluate Growth Management Division Building, Flood Plain, Planning and Environmental resources, Engineering, Fire, and other department operations related to permitting and development approvals, and recommend improvements for better service delivery to the Construction Industry and Monroe County residents".

NOTE: Normal Codified Monroe County Extensions still apply, i.e. 90 day permit issuance extension, 180 permit extensions, 2 year TOLLED Allocations (refer to Tiffany S.), etc.

Bills	SB 360 Ch. 2009-96 Section 14 (CS/CS/SB 360) Growth Management	SB 1752 Ch. 2010-147 Section 46 (CS/SB 1752) Economic Development	SB 1752 Ch. 2010-147 Section 47 (CS/SB 1752) Economic Development	HB 7207 Ch. 2011-139 Section 73 (CS/HB 7207)	HB 7207 Ch. 2011-139 Section 79 (CS/HB 7207)	HB 503 Ch. 2012-205 Section 24	HB 7019 Ch. 2013-213 Section 9 (HB 7019)	HB 7019 381.0065 - Section 11 (Cudjoe Service Area)	STAFF ACTION
Laws of FL	§ 380.06 FS						Effective 7/1/13	Effective 7/1/13	
Availability	No Longer Available	No Longer Available	No Longer Available	No Longer Available	No Longer Available	No Longer Available	Available until 10/1/13	Available	
Notify authorizing agency in writing	By 12/31/2009	By 12/31/2010	By 12/31/2010	By 12/31/2011	By 12/31/2011	By 12/31/2012	By 10/1/13	Not Applicable	Parcel Flag for Cudjoe Service Area
Fee		\$250.00		\$250.00		No Fee	\$0	\$0	
Qualifying Permits	DEP or Water Management District, Development Order(minor conditional use permits and major conditional use permits), Building Permit, Build-Outs	Development order (minor conditional use permits and major conditional use permits), building permit, DEP permit or water management permit	Any exemption granted for any project for which an application for development approval has been approved or filed	Any permit extended under Section 14 of Ch. 2009-96 (SB 360), reauthorized by section 47 of Ch. 2010-147 (SB 1752)	DEP or Water Management District, Development Order(minor conditional use permits and major conditional use permits), Building Permit, Build-Outs	Any permit issued by DEP or a water management district, local government-issued development order or building permit	Any ISSUED building permit, Development Order, DEP or WMD permit	Any building permit, Development Order, DEP or WMD permit that is directly related to hookup to central sewer system. (e.g., roofing, windows, fence not eligible for extension). Permit must be issued before extended. Allocations do NOT qualify for extension.	
Permit Expiration Date between	9/1/08 - 1/1/12	9/1/08 - 1/1/12	9/1/08 - 1/1/12	n/a	1/1/12 - 1/1/14	1/1/12 - 1/1/14	1/1/12 - 1/1/14	1/1/12 - 1/1/16	Check EXP
Total # years extension allowed from all bills	2 years	4 years	4 years	4 years	4 years	4 years	4 years	If combined with previous extensions, no more than 7 years Note: Applicant may benefit from requesting Monroe County Ch 6 six month extension (fee \$250) prior to this 3 year extension.	Confirm total yrs. of extension by checking Conditions of permit and Inspections
Extension Provides	2 years from permit expiration date	2 years from previously scheduled date of expiration. Extension in addition to 2 year extension provided from Ch. 2009-96 Section 14 (SB 360)	2 years from extension received from Ch. 2009-96 Section 14 (SB 360)	2 years from previously scheduled date of expiration. Extension in addition to 2 year extension provided from Ch. 2009-96 Section 14 (SB 360), reauthorized by section 47 of Ch. 2010-147 (SB 1752)	2 years from previously scheduled date of expiration. Extension in addition to 2 years from extension received from Ch. 2009-96 Section 14 (SB 360) as reauthorized Ch. 2010-147 Section 46 (SB 1752)	2 years after its previously scheduled date of expiration. Extension in addition to any existing permit extensions Section 14 of chapter 2009-96 as reauthorized by section 47 of chapter 2010-147; Section 46 of chapter 2010-147; Section 74 of chapter 2011-139; Section 79 of chapter 2011-139	2 years after its previously scheduled date of expiration. Extension in addition to any existing permit extensions Section 14 of chapter 2009-96 as reauthorized by section 47 of chapter 2010-147; Section 46 of chapter 2010-147; Section 74 of chapter 2011-139; Section 79 of chapter 2011-139; Section 24 of chapter 2012-205	3 years after its previously scheduled date of expiration or 6 months past the last passed inspection that occurred prior to owner/applicant requesting extension. While the extension is good for 3 years from the expiration of the permit, once you restart/proceed with construction, inspections will be required every 6 months. Only one 3 year extension is allowed (you can't stop - start - stop - start over and over again): • If you are currently constructing, but near the end of construction and there is longer than 6 months till you can connect to the central sewer, you can get the extension THEN and that way you will be bridged until connection time. • Alternatively, you can get the 3 year extension now (earlier in construction), and then not restart construction until you get closer to the time when you can connect.	
Inspections Started							PLEASE NOTE: May obtain an inspection after an extension has been granted, but once construction starts AFTER they receive the extension, they no longer have the extension and inspections must continue, based on Florida Building Code, to occur every 6 months at a minimum, until Certificate of Occupancy is issued. Must be hooked to central sewer or holding tank approval by DOH to obtain Certificate of Occupancy.		If extension is no longer valid, add inspection activity noting removal of extension
Clarification on Conversion from construction phase to operation phase: For phased projects, for permits that received partial Certificate of Occupancy, if one portion of the permitted development becomes operational that does not mean the 2nd phase or other portions can't take advantage of the permit extension.									
Governing Rules:	Permits continued to be governed by rules in effect at the time the permit was issued - except						N/A		
Modification of Plans:	Shall apply but not extend the time limit beyond 2 additional years						N/A		
Exclusion:	If Permit extension delays court order, or Permit was established through issuance of warning						N/A		Confirm no CODE case