

Stricken language would be deleted from and underlined language would be added to present law.
Act 591 of the Regular Session

State of Arkansas
95th General Assembly
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As Engrossed: S3/17/25

A Bill

SENATE BILL 322

By: Senator J. Bryant
By: Representative Pilkington

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING CONSTRUCTION AND DEVELOPMENT; TO ALLOW THIRD PARTIES TO PERFORM PLAN REVIEWS AND SITE INSPECTIONS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING CONSTRUCTION AND DEVELOPMENT; AND TO ALLOW THIRD PARTIES TO PERFORM PLAN REVIEWS AND SITE INSPECTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 14-1-503 is amended to read as follows:

14-1-503. Definitions.

As used in this subchapter:

(1) "Applicant" means a person that submits a request for permit or a person designated to act on the applicant's behalf in submitting a request for permit;

(2) "Local governing body" means a group of persons elected or appointed to make decisions for or recommendations to one (1) or more local governments;

(3) "Local government" means a municipality, county, or other political subdivision of this state;

(4) "Local government official" means an employee of a local government who is lawfully authorized to issue a permit;

(5) "Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization



that can sue or be sued; ~~and~~

(6) "Private professional provider" means one (1) of the following who is not an employee of or otherwise affiliated with the person engaged in the construction project to be reviewed or inspected:

(A) A professional engineer as defined in § 17-30-101;

(B) A registered architect as defined in § 17-15-102; or

(C) A person licensed, certified, or registered by the applicable agency or body to conduct the type of plan review or inspection covered under this section;

(7) "Regulatory fee" means payments, whether designated as permit fees, application fees, or by another name, that are required by the local government to accept a request for permit or request for inspection;

(8)(A) "Regulatory requirements" means the requirements reasonably determined by the local government to be necessary for approval of plans, permits, or applications under this subchapter.

(B) "Regulatory requirements" includes:

(i) The Arkansas Fire Prevention Code as adopted by the State Fire Marshal;

(ii) The state plumbing code;

(iii) The fuel gas code;

(iv) The plumbing law under § 17-38-301 et seq.;

(v) Any locally adopted ordinances and amendments to the ordinances;

(vi) Development, utility, and subdivision regulations;

(vii) Applicable zoning ordinances and conditions;

(viii) Design standards; and

(ix) Other state and local laws, rules, and ordinances applicable to the application in question;

(9) "Request for inspection" means a request for an inspection of improvements related to a residential, multifamily, commercial, or industrial development or subdivision within the jurisdiction of a local government; and

(10) "Request for permit" means a request for a local government official's approval of a permit related to the development of a residential, multifamily, commercial, or industrial improvement within the jurisdiction of

a local government.

SECTION 2. Arkansas Code § 14-1-504 is amended to read as follows:

14-1-504. Request for permit – Time period for approval or denial – Notice of denial required.

(a)(1) No later than five (5) business days after receipt of a request for permit, a local government official shall notify the applicant electronically or in writing as to whether the request for permit meets the regulatory requirements of a complete application under § 14-1-505.

(2)(A) Time spent by the local government official determining whether the request for permit is complete shall count toward the sixty-day time for review or inspection under this section.

(B) If a local government official determines that the request for permit is incomplete, the local government official shall follow the procedure under § 14-1-505.

(b)(1) Upon notification to an applicant under subdivision (a)(1) of this section that a complete application has been accepted, the local government official shall also notify the applicant electronically or in writing as to whether the personnel employed or contracted by the local government will be able to provide action by plan review for approval, denial, or request for revisions on the request for permit within sixty (60) days.

(2)(A)(i) If the local government official determines that the personnel employed or contracted by the local government cannot provide action by plan review within the time required under subdivision (b)(1) of this section, the applicant may request that the local government retain a private professional provider, at the local government's expense, to provide the required plan review under this subchapter.

(ii) The request under subdivision (b)(2)(A)(i) of this section shall be made electronically or in writing within three (3) business days upon receipt of notification from the local government official.

(B)(i) If the local government official determines that the personnel employed or contracted by the local government can provide action by plan review within the time required under subdivision (b)(1) of this section, the applicant may retain a private professional provider to

provide the required plan review under this subchapter.

(ii) If the applicant does not notify the local government official electronically or in writing within three (3) business days of receipt of notification from the local government official, the plan review will commence by the personnel employed or contracted by the local government.

(C) If the applicant elects to retain the services of a private professional provider, the applicant shall bear the full responsibility of expense of the private professional provider and any regulatory fees associated with the request for permit.

(D) An applicant may provide notice of intent to elect to retain the services of a private professional provider at the time of application for a request for permit.

(c)(1) A local government official shall act by approval, denial, or a request for revision of an applicant's request for permit within sixty (60) days from the date the local government official receives the request for permit.

(2) If the local government official does not approve, deny, or request a revision of an applicant's request for permit within sixty (60) days as required under subdivision ~~(a)(1)~~ (c)(1) of this section, the:

(A) ~~request~~ Request for permit is automatically approved;
and

(B) Local government official shall refund all regulatory fees for the request for permit.

(3) A local government official shall not deny an applicant's request for permit if the request for permit complies with and includes the requirements related to the request for permit imposed by the local governing body.

(4)(A) Except as provided in subdivision (c)(4)(B) of this section, the local governing body may limit the:

(i) Scope of a request for permit; and
(ii) Areas of the site to which the request for permit may apply.

(B) The local governing body shall allow the applicant to begin work on the project if a portion of the initial phase of work is compliant with applicable codes, laws, and rules.

~~(b)~~(d) A local government official shall not impose additional requirements related to the request for permit if the request for permit is automatically approved under subdivision ~~(a)(2)~~ (c)(2) of this section.

~~(e)~~(e) The automatic approval of a permit under subdivision ~~(a)(2)~~ (c)(2) of this section shall not authorize the permit holder to violate a:

- (1) Federal law or rule;
- (2) State law or rule; or
- (3) Local ordinance or rule.

~~(d)~~(f) Unless the applicant waives the automatic approval under subdivision ~~(a)(2)~~ (c)(2) of this section, a local government official may refuse to accept a request for permit submitted by a person who previously submitted a request for permit that has not yet been approved or denied.

~~(e)~~(g)(1) The time period for approval or denial of a request for permit shall be extended to accommodate a time period prescribed by state statute, federal law, or court order that prohibits a local government official from approving or denying a request for permit within sixty (60) days.

(2) A local government shall provide an applicant written notice stating the reasons for the extension.

(3) The time period for approval or denial shall be extended sixty (60) days from the date of compliance as required by the state statute, federal law, or court order.

(4) A delay in action on a request for permit that is caused by the fault of the applicant shall not count toward the sixty-day period for action by approval, denial, or request for revisions on a request for permit.

~~(f)~~(h) Upon consent of the applicant, a local government official may extend the time period for approval or denial of a request for permit by providing the applicant written notice stating the reasons for the extension.

~~(g)~~(i) If a local government official denies a request for permit, the local government official shall provide the applicant written or electronic notice of the denial stating the reasons the request for permit was denied.

SECTION 3. Arkansas Code Title 14, Chapter 1, Subchapter 5, is amended to add additional sections to read as follows:

14-1-506. Plan review for request for permit.

(a) A plan review conducted by a private professional provider shall

be no less extensive than a plan review conducted by a local government official.

(b)(1) A private professional provider performing a plan review under this section shall review the plans to determine compliance with all applicable regulatory requirements.

(2) Upon determining that the plans reviewed comply with the applicable regulatory requirements, the private professional provider shall prepare an affidavit or affidavits certifying under oath that the following is true and correct to the best of the private professional provider's knowledge and belief and in accordance with the applicable professional standard of care:

(A) That the plans were reviewed by the affiant who is authorized to perform the plan review under this section and who holds the appropriate license or certifications and insurance coverage required under this subchapter;

(B) That a determination has been made that the plan is in compliance; and

(C) That a determination has been made that plans submitted for the plan review are in conformity with plans previously submitted or approved by the local government in the plan submittal process.

(c) The private professional provider shall be authorized to perform a plan review for a request for permit required by the local government, including without limitation plan review for:

(1) Civil plans;

(2) Construction plans; and

(3) Plumbing plans if allowed by the Department of Health.

(d)(1)(A) An applicant using a private professional provider shall submit a copy of the private professional provider's plan review report to a local government official within five (5) days of completion of the plan review report.

(B) A plan review report under subdivision (d)(1)(A) of this section shall include without limitation the following:

(i) The affidavit of the private professional provider required under subdivision (b)(2) of this section; and

(ii) Any documents reasonably required by the local government official and any other documents reasonably necessary to determine

that the applicant has secured all other governmental approvals required by law.

(2)(A) No more than ten (10) business days after receipt of a plan review report from the private professional provider, the local government official shall issue the requested permit or provide written notice to the applicant identifying the specific plan features that do not comply with the applicable regulatory requirements as well as the specific code chapters and sections of the regulatory requirements.

(B) If the local government official does not provide a written notice of the plan deficiencies with specific code references to the regulatory requirements not met within the prescribed ten-day period, the:

(i) Request for permit shall be deemed approved as a matter of law; and

(ii) Permit shall be issued by the local government official on the next business day.

(3)(A) If the local government official provides a written notice of plan deficiencies to the applicant within the prescribed ten-day period, the ten-day period shall be tolled pending resolution of the matter.

(B) To resolve the plan deficiencies, the applicant may:

(i) Dispute the plan deficiencies under this subchapter; or

(ii) Submit revisions to correct the plan deficiencies.

(4)(A) If the applicant submits revisions to address the plan deficiencies previously identified, the local government official shall have the remainder of the tolled ten-day period plus an additional five (5) business days to issue the requested permit or to provide a second written notice to the applicant stating which plan features remain in noncompliance with the applicable regulatory requirements, with specific reference to the relevant code chapters and sections of the regulatory requirements.

(B) If the local government official does not provide the second written notice under subdivision (4)(A) of this section within the prescribed time, the permit shall be issued by the local government official on the next business day.

(C) If the revisions required to address the plan deficiencies or any additional revisions submitted by the applicant require

that new governmental approvals be obtained, the applicant shall obtain the approvals before a new plan report can be submitted.

(5)(A) If the local government official provides a second written notice of plan deficiencies under subdivision (4)(A) of this section to the applicant within the prescribed time, the applicant may:

(i) Dispute the plan deficiencies under this subchapter; or

(ii) Submit additional revisions to correct the plan deficiencies.

(B) For all revisions submitted after the first revision, the local government official shall have an additional five (5) business days to issue the requested permit or to provide a written notice to the applicant stating which plan features remain in noncompliance with the applicable regulatory requirements, with specific reference to the relevant code chapters and sections.

(6)(A) If the local government official and the private professional provider are unable to resolve a dispute on matters concerning any ordinance, regulation, or policy of the local government, the matter shall be referred to the local governing body, which shall consider the matter by whichever occurs first:

(i) The next scheduled meeting of the local governing body; or

(ii) Within thirty (30) days from the date the matter is referred.

(B) If the local government official and the private professional provider are unable to resolve a dispute on matters concerning state law or state adopted building codes, the matter shall be referred to the Department of Labor and Licensing, which shall consider the matter by whichever occurs first:

(i) The next scheduled meeting of the local governing body; or

(ii) Within thirty (30) days from the date the matter is referred.

(e) The Department of Labor and Licensing may promulgate rules to implement this section.

14-1-507. Request for inspection by private professional provider.

(a)(1) An applicant making a request for inspection may retain a private professional provider to conduct the requested inspection at the expense of the applicant.

(2)(A) At the time the request for inspection is made to a local government official or at any time thereafter, the applicant shall include electronic or written notice of the intent to retain a private professional provider to complete a required inspection.

(B) The notice shall include the date, time, and location of the inspection to be completed.

(C) A local government official may be present during the inspection.

(3) If the applicant elects to retain the services of a private professional provider, the applicant shall bear the full responsibility of expense of the private professional provider and any regulatory fees associated with the request for inspection.

(b)(1) Upon completion of the inspection by the private professional provider, the private professional provider shall submit a copy of his or her inspection report to the local government official.

(2) The local government official shall accept the inspection and inspection report of the private professional provider without further inspection or approval by the personnel employed or contracted by the local government unless the local government official has notified the private professional provider, within one (1) business day after the submission of the inspection report, that the local government official finds the report incomplete or the inspection inadequate and has provided the private professional provider with a written description of the deficiencies and specific regulatory requirements that have not been adequately addressed.

(c) A local government may impose reasonable restrictions on the continuation of work that would hide, obscure, or make it impossible to inspect work subject to the inspection until the inspection report has been approved by the local government official.

(d) The private professional provider may perform an inspection or a review required by a local government, including without limitation:

(1) Inspections for:

(A) Footings, foundations, concrete slabs, sidewalks, and

streets;

(B) Framing;

(C) Electrical components;

(D) Plumbing;

(E) Heating ventilation and air conditioning;

(F) Drainage; and

(G) Utilities;

(2) All other inspections not listed under subdivision (d)(1) of this section that are necessary or required to determine compliance with applicable regulatory requirements; and

(3) Review for the issuance of a building permit or inspections for a certificate of occupancy issued by a local government.

(e) This subchapter does not authorize a private professional provider to issue a certificate of occupancy or building permit.

14-1-508. Fees.

(a) A local government that imposes regulatory fees or regulatory requirements within its jurisdiction shall establish and make available a schedule of the regulatory fees.

(b) The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the local government.

14-1-509. Exemptions.

(a) This subchapter does not limit a public or private right of action designed to provide protection, rights, or remedies for consumers.

(b) This subchapter does not apply to:

(1) Hospitals;

(2) Ambulatory healthcare centers;

(3) Nursing homes;

(4) Jails;

(5) Penal institutions;

(6) Airports;

(7) Buildings or structures that affect national or state homeland security; or

(8)(A) A building defined as a high-rise building in the Arkansas Fire Prevention Code.

(B) An interior tenant build-out project within a high-rise building is not exempt from this subchapter.

14-1-510. Stop-work orders.

(a) If a local government official responsible for building code enforcement determines that a project does not comply with the applicable regulatory requirements, the local government official may:

(1) Deny the permit or request for a certificate of occupancy or certificate of completion, as appropriate; or

(2) Issue a stop-work order for the project or any portion of the project as provided by law after:

(A) Providing notice to one (1) of the following individuals:

(i) The owner;

(ii) The private professional provider of record; or

(iii) The contractor of record;

(B) Posting a copy of the order on the site of the project; and

(C) Providing the opportunity to remedy the violation within the time set forth in the notice.

(b) A local government official shall be available to meet with the private professional provider within two (2) business days after issuing a stop-work order under subdivision (a)(2) of this section to resolve any dispute after issuing a stop-work order or providing notice to the applicant denying:

(1) A permit;

(2) A request for a certificate of occupancy; or

(3) A certificate of completion.

(c) If the local government official and the private professional provider are unable to resolve the dispute or meet within the time required under subsection (b) of this section, the matter shall be referred to the local governing body, which shall consider the matter by whichever occurs first:

(1) The next scheduled meeting of the local governing body; or

(2) Within thirty (30) days from the date the matter is referred.

14-1-511. Authority of local government.

(a) A local government, local government official, member of local government building code enforcement personnel, and agents of the local government are immune from liability to any person or party for any action or inaction by an owner of a building or by a private professional provider or his or her authorized representative in connection with plan review or inspection services by private professional providers as provided under this subchapter.

(b) A local government may establish a list of private professional providers working within the jurisdiction of the local government.

(c) A local government may establish requirements regarding certification and licensure for private professional providers that equate to the certifications and licensure requirements required for personnel employed or contracted by the local government to conduct plan reviews and inspections as may be applicable to the particular type of plan review or inspection.

14-1-512. Liability of private professional providers.

(a) When performing plan review or inspection services under this subchapter, a private professional provider is subject to the disciplinary guidelines of the applicable professional licensing board with jurisdiction over the private professional provider's license or certification, as applicable.

(b) Any complaint processing, investigation, or disciplinary action that arises from a private professional provider's performance of plan review or inspection services shall be conducted by the applicable professional licensing board unless the action constitutes a violation of a local ordinance or law.

(c) Except as provided under the disciplinary rules of the applicable professional licensing board with jurisdiction over the private professional provider's license or certification, a local government official may decline to accept a plan review or an inspection report submitted by a private professional provider who has submitted multiple reports that required revisions due to:

(1) Negligence;

(2) Noncompliance; or

(3) Deficiencies.

(d) A private professional provider providing plan review or inspection services under this subchapter shall secure and maintain insurance coverage under an errors and omissions policy for professional liability insurance.

(e) The limits of the professional liability insurance under this section shall be not less than:

(1) One million dollars (\$1,000,000) per claim and one million dollars (\$1,000,000) in aggregate coverage for any project with a construction cost of less than five million dollars (\$5,000,000); or

(2) Two million dollars (\$2,000,000) per claim and two million dollars (\$2,000,000) in aggregate coverage for any project with a construction cost of five million dollars (\$5,000,000) or more.

(f)(1) Professional liability insurance under this section may be a practice policy or project-specific coverage.

(2) If the professional liability insurance under this section is a practice policy, it shall contain prior-acts coverage for the private professional provider.

(3) If the professional liability insurance under this section is project-specific, it shall continue in effect for two (2) years following the issuance of the certificate of final completion for the project.

(g) An applicant using a private professional provider shall verify compliance with the insurance requirements of this section and provide the information to the local government official.

/s/J. Bryant

APPROVED: 4/14/25