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4

As Engrossed: S3/17/25

A Bill

SENATE BILL 322

5 By: Senator J. Bryant
6 By: Representative Pilkington
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING CONSTRUCTION AND
10 DEVELOPMENT; TO ALLOW THIRD PARTIES TO PERFORM PLAN
11 REVIEWS AND SITE INSPECTIONS; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO AMEND THE LAW CONCERNING CONSTRUCTION
16 AND DEVELOPMENT; AND TO ALLOW THIRD
17 PARTIES TO PERFORM PLAN REVIEWS AND SITE
18 INSPECTIONS.
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

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

23 *14-1-503. Definitions.*

24 *As used in this subchapter:*

25 (1) *“Applicant” means a person that submits a request for permit*
26 *or a person designated to act on the applicant’s behalf in submitting a*
27 *request for permit;*

28 (2) *“Local governing body” means a group of persons elected or*
29 *appointed to make decisions for or recommendations to one (1) or more local*
30 *governments;*

31 (3) *“Local government” means a municipality, county, or other*
32 *political subdivision of this state;*

33 (4) *“Local government official” means an employee of a local*
34 *government who is lawfully authorized to issue a permit;*

35 (5) *“Person” means an individual, corporation, limited liability*
36 *company, partnership, association, trust, or other entity or organization*



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

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

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

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

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

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

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

16 (B) "Regulatory requirements" includes:

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

19 (ii) The state plumbing code;

20 (iii) The fuel gas code;

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

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

24 (vi) Development, utility, and subdivision
25 regulations;

26 (vii) Applicable zoning ordinances and conditions;

27 (viii) Design standards; and

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

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

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

1 a local government.

2

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

4 14-1-504. Request for permit – Time period for approval or denial –

5 Notice of denial required.

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

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

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

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

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

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

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

1 provide the required plan review under this subchapter.

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

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

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

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

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

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

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

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

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

31 (i) Scope of a request for permit; and

32 (ii) Areas of the site to which the request for
33 permit may apply.

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

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

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

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

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

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

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

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

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

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

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

32
33 SECTION 3. Arkansas Code Title 14, Chapter 1, Subchapter 5, is amended
34 to add additional sections to read as follows:

35 14-1-506. Plan review for request for permit.

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

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

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

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

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

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

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

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

24 (1) Civil plans;

25 (2) Construction plans; and

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (ii) Submit revisions to correct the plan
23 deficiencies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36

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

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

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

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

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

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

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

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

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

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

35 (1) Inspections for:

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

1 streets;

2 (B) Framing;

3 (C) Electrical components;

4 (D) Plumbing;

5 (E) Heating ventilation and air conditioning;

6 (F) Drainage; and

7 (G) Utilities;

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

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

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

15
16 14-1-508. Fees.

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

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

22
23 14-1-509. Exemptions.

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

26 (b) This subchapter does not apply to:

27 (1) Hospitals;

28 (2) Ambulatory healthcare centers;

29 (3) Nursing homes;

30 (4) Jails;

31 (5) Penal institutions;

32 (6) Airports;

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

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

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

3
4 14-1-510. Stop-work orders.

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

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

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

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

14 (i) The owner;

15 (ii) The private professional provider of record; or

16 (iii) The contractor of record;

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

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

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

26 (1) A permit;

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

28 (3) A certificate of completion.

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

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

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

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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

