

Representative Douglas C. Aagard proposes the following substitute bill:

PRIVATE BUILDING INSPECTOR AUTHORIZED

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas C. Aagard

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies county and municipal land use provisions relating to building inspections.

Highlighted Provisions:

This bill:

- ▶ requires counties and municipalities to maintain a list of licensed building inspectors who have requested to be included on the list and have provided a schedule of fees for building inspections;
- ▶ allows building inspectors on the list to perform only those building inspections that they are certified to make;
- ▶ prohibits counties and municipalities from withholding approval of a newly constructed residence based on the lack of approval from a county or municipal building inspector if, after the county or municipality has failed to make a timely building inspection, a building inspector on the inspector list certifies the construction to be in compliance with applicable standards;
- ▶ prohibits counties and municipalities from withholding approval of an improvement, modification, or addition to an owner's existing residence if a building inspector on the inspector list certifies the improvement, modification, or



26 addition to be in compliance with applicable standards;

27 ▶ authorizes counties and municipalities to audit those on the inspector list who make
28 inspections of new construction; and

29 ▶ authorizes counties and municipalities to remove from the list any building
30 inspector found to have a consistent pattern of approving substandard work.

31 **Monies Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **10-9a-509**, as last amended by Laws of Utah 2007, Chapter 363

38 **17-27a-508**, as last amended by Laws of Utah 2007, Chapter 363



40 *Be it enacted by the Legislature of the state of Utah:*

41 Section 1. Section **10-9a-509** is amended to read:

42 **10-9a-509. When a land use applicant is entitled to approval -- Exception --**
43 **Municipality may not impose unexpressed requirements -- Municipality required to**
44 **comply with land use ordinances.**

45 (1) (a) An applicant is entitled to approval of a land use application if the application
46 conforms to the requirements of the municipality's land use maps, zoning map, and applicable
47 land use ordinance in effect when a complete application is submitted and all fees have been
48 paid, unless:

49 (i) the land use authority, on the record, finds that a compelling, countervailing public
50 interest would be jeopardized by approving the application; or

51 (ii) in the manner provided by local ordinance and before the application is submitted,
52 the municipality has formally initiated proceedings to amend its ordinances in a manner that
53 would prohibit approval of the application as submitted.

54 (b) The municipality shall process an application without regard to proceedings
55 initiated to amend the municipality's ordinances if:

56 (i) 180 days have passed since the proceedings were initiated; and

57 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
58 application as submitted.

59 (c) An application for a land use approval is considered submitted and complete when
60 the application is provided in a form that complies with the requirements of applicable
61 ordinances and all applicable fees have been paid.

62 (d) The continuing validity of an approval of a land use application is conditioned upon
63 the applicant proceeding after approval to implement the approval with reasonable diligence.

64 (e) A municipality may not impose on a holder of an issued land use permit a
65 requirement that is not expressed:

66 (i) in the land use permit or in documents on which the land use permit is based; or

67 (ii) in this chapter or the municipality's ordinances.

68 (f) A municipality may not withhold issuance of a certificate of occupancy because of
69 an applicant's failure to comply with a requirement that is not expressed:

70 (i) in the building permit or in documents on which the building permit is based; or

71 (ii) in this chapter or the municipality's ordinances.

72 (2) A municipality is bound by the terms and standards of applicable land use
73 ordinances and shall comply with mandatory provisions of those ordinances.

74 (3) (a) As used in this Subsection (3):

75 (i) "Acknowledged building inspector" means a person who:

76 (A) is licensed as a building inspector in the state;

77 (B) except for fees charged for making a building inspection, is financially independent
78 from the owner for whom the person makes a building inspection; and

79 (C) is included on a municipality's inspector list.

80 (ii) "Inspector list" means a list of persons who:

81 (A) are licensed in the state as building inspectors; and

82 (B) have made a written request to the municipality, as provided in this Subsection (3),
83 to be added to the inspector list.

84 (iii) "New construction" means the construction of a new residence on land described
85 in an approved subdivision plat.

86 (iv) "Remodeling" means an improvement, modification, or addition to an owner's
87 already existing residence.

88 (b) (i) A person who is licensed in the state as a building inspector may make a written
89 request to a municipality to be added to the municipality's inspector list.

90 (ii) A licensed building inspector who makes a written request to be added to a
91 municipality's inspector list:

92 (A) shall, at the time of the request:

93 (I) state in writing each type of building inspection that the building inspector is
94 certified to make; and

95 (II) provide the municipality a schedule of the fees the building inspector charges for
96 each type of building inspection; and

97 (B) may make only the type of building inspection for which the building inspector is
98 certified.

99 (c) Each municipality that receives a written request as provided in Subsection (3)(b)
100 shall include the building inspector making the request on the municipality's inspector list.

101 (d) A municipality may not withhold approval of new construction based on the
102 owner's failure to obtain approval of a municipal building inspector if:

103 (i) the owner makes a written request to the municipality for a building inspection of
104 the new construction;

105 (ii) the municipality fails within 48 hours after the request under Subsection (3)(d)(i) to
106 complete the building inspection by a municipal building inspector; and

107 (iii) an acknowledged building inspector, hired and paid by the owner, certifies that the
108 new construction complies with applicable standards that the municipality has established for
109 new construction.

110 (e) A municipality may not withhold approval of a remodeling based on a failure to
111 obtain approval of a municipal building inspector if an acknowledged building inspector, hired
112 and paid by the owner, certifies that the remodeling complies with applicable standards that the
113 municipality has established for a remodeling.

114 (f) A municipality may perform a periodic audit of building inspectors on the
115 municipality's inspector list who make inspections of new construction.

116 (g) A municipality may remove a building inspector from the municipality's inspector
117 list if the municipality determines that the building inspector has demonstrated a consistent
118 pattern of certifying substandard new construction or remodeling as complying with applicable

119 standards.

120 Section 2. Section **17-27a-508** is amended to read:

121 **17-27a-508. When a land use applicant is entitled to approval -- Exception --**

122 **County may not impose unexpressed requirements -- County required to comply with**

123 **land use ordinances.**

124 (1) (a) An applicant is entitled to approval of a land use application if the application
125 conforms to the requirements of the county's land use maps, zoning map, and applicable land
126 use ordinance in effect when a complete application is submitted and all fees have been paid,
127 unless:

128 (i) the land use authority, on the record, finds that a compelling, countervailing public
129 interest would be jeopardized by approving the application; or

130 (ii) in the manner provided by local ordinance and before the application is submitted,
131 the county has formally initiated proceedings to amend its ordinances in a manner that would
132 prohibit approval of the application as submitted.

133 (b) The county shall process an application without regard to proceedings initiated to
134 amend the county's ordinances if:

135 (i) 180 days have passed since the proceedings were initiated; and

136 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
137 application as submitted.

138 (c) An application for a land use approval is considered submitted and complete when
139 the application is provided in a form that complies with the requirements of applicable
140 ordinances and all applicable fees have been paid.

141 (d) The continuing validity of an approval of a land use application is conditioned upon
142 the applicant proceeding after approval to implement the approval with reasonable diligence.

143 (e) A county may not impose on a holder of an issued land use permit a requirement
144 that is not expressed:

145 (i) in the land use permit or in documents on which the land use permit is based; or

146 (ii) in this chapter or the county's ordinances.

147 (f) A county may not withhold issuance of a certificate of occupancy because of an
148 applicant's failure to comply with a requirement that is not expressed:

149 (i) in the building permit or in documents on which the building permit is based; or

150 (ii) in this chapter or the county's ordinances.

151 (2) A county is bound by the terms and standards of applicable land use ordinances and
152 shall comply with mandatory provisions of those ordinances.

153 (3) (a) As used in this Subsection (3):

154 (i) "Acknowledged building inspector" means a person who:

155 (A) is licensed as a building inspector in the state;

156 (B) except for fees charged for making a building inspection, is financially independent
157 from the owner for whom the person makes a building inspection; and

158 (C) is included on a county's inspector list.

159 (ii) "Inspector list" means a list of persons who:

160 (A) are licensed in the state as building inspectors; and

161 (B) have made a written request to the county, as provided in this Subsection (3), to be
162 added to the inspector list.

163 (iii) "New construction" means the construction of a new residence on land described
164 in an approved subdivision plat.

165 (iv) "Remodeling" means an improvement, modification, or addition to an owner's
166 already existing residence.

167 (b) (i) A person who is licensed in the state as a building inspector may make a written
168 request to a county to be added to the county's inspector list.

169 (ii) A licensed building inspector who makes a written request to be added to a county's
170 inspector list:

171 (A) shall, at the time of the request:

172 (I) state in writing each type of building inspection that the building inspector is
173 certified to make; and

174 (II) provide the county a schedule of the fees the building inspector charges for each
175 type of building inspection; and

176 (B) may make only the type of building inspection for which the building inspector is
177 certified.

178 (c) Each county that receives a written request as provided in Subsection (3)(b) shall
179 include the building inspector making the request on the county's inspector list.

180 (d) A county may not withhold approval of new construction based on the owner's

181 failure to obtain approval of a county building inspector if:

182 (i) the owner makes a written request to the county for a building inspection of the new
183 construction;

184 (ii) the county fails within 48 hours after the request under Subsection (3)(d)(i) to
185 complete the building inspection by a county building inspector; and

186 (iii) an acknowledged building inspector, hired and paid by the owner, certifies that the
187 new construction complies with applicable standards that the county has established for new
188 construction.

189 (e) A county may not withhold approval of a remodeling based on a failure to obtain
190 approval of a county building inspector if an acknowledged building inspector, hired and paid
191 by the owner, certifies that the remodeling complies with applicable standards that the county
192 has established for a remodeling.

193 (f) A county may perform a periodic audit of building inspectors on the county's
194 inspector list who make inspections of new construction.

195 (g) A county may remove a building inspector from the county's inspector list if the
196 county determines that the building inspector has demonstrated a consistent pattern of
197 certifying substandard new construction or remodeling as complying with applicable standards.