

**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: Scott K. Jenkins

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**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, have provided a schedule of fees for building inspections, and have provided proof of insurance;
- ▶ 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 new construction of a 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 or modification to an owner's existing residence based on a lack of approval from a county or municipal building inspector if a building inspector on the inspector list



26 certifies that the improvement or modification complies with applicable standards;  
 27       ▶ prohibits building inspectors on the inspector list from making inspections of work  
 28 they have done or directed or on property they own;  
 29       ▶ requires building inspectors hired by an owner to file a report of the building  
 30 inspection with the county or municipality;;  
 31       ▶ authorizes counties and municipalities to audit those on the inspector list;  
 32       ▶ authorizes counties and municipalities to remove from the list any building  
 33 inspector found to have a consistent pattern of approving substandard work; and  
 34       ▶ requires counties and municipalities with an inspector list to make available to the  
 35 public the fees they charge for a building permit with and without a county or  
 36 municipal building inspector making the building inspection.

37 **Monies Appropriated in this Bill:**

38       None

39 **Other Special Clauses:**

40       None

41 **Utah Code Sections Affected:**

42 AMENDS:

43       **10-9a-509**, as last amended by Laws of Utah 2007, Chapter 363

44       **17-27a-508**, as last amended by Laws of Utah 2007, Chapter 363



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

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

48       **10-9a-509. When a land use applicant is entitled to approval -- Exception --**  
 49 **Municipality may not impose unexpressed requirements -- Municipality required to**  
 50 **comply with land use ordinances.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

90 (iii) "New construction" means:

91 (A) the construction of a new residence on land described in an approved subdivision  
92 plat; or

93 (B) the construction of additional square footage to an existing residence.

94 (iv) "Remodeling" means an improvement or modification:

95 (A) to an existing residence; and

96 (B) for which the municipality requires a building permit.

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

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

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

102 (I) state in writing each type of building inspection that the building inspector is  
103 certified to make;

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

106 (III) provide proof of worker compensation insurance and errors and omissions  
107 insurance coverage;

108 (B) may make only the type of building inspection for which the building inspector is  
109 certified; and

110 (C) may not make a building inspection on:

111 (I) work performed by or at the direction of the inspector; or

112 (II) property owned by the inspector.

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

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

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

119 (ii) the municipality fails within two business days after the request under Subsection  
120 (3)(d)(i) to complete the building inspection by a municipal building inspector; and

121 (iii) an acknowledged building inspector, hired and paid by the owner, signs a written  
122 certification that the new construction complies with applicable standards that the municipality  
123 has established.

124 (e) A municipality may not withhold approval of a remodeling based on a failure to  
125 obtain approval of a municipal building inspector if an acknowledged building inspector, hired  
126 and paid by the owner, signs a written certification that the remodeling complies with  
127 applicable standards that the municipality has established.

128 (f) An acknowledged building inspector shall file each report of a building inspection  
129 made under this Subsection (3) with the municipality in which the property that is the subject  
130 of the building inspection is located.

131 (g) A municipality may perform a periodic audit of building inspectors on the  
132 municipality's inspector list.

133 (h) A municipality may remove a building inspector from the municipality's inspector  
134 list if the municipality determines that the building inspector has demonstrated a consistent  
135 pattern of certifying substandard new construction or remodeling as complying with applicable  
136 standards.

137 (i) Each municipality with an inspector list shall make available to the public:

138 (A) the amount of the fee the municipality charges for a building permit when it is  
139 anticipated that a municipal building inspector will make the building inspection; and

140 (B) the amount of the fee the municipality charges for a building permit when it is  
141 anticipated that a licensed building inspector who is not a municipal building inspector will  
142 make the building inspection.

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

144 **17-27a-508. When a land use applicant is entitled to approval -- Exception --**  
145 **County may not impose unexpressed requirements -- County required to comply with**  
146 **land use ordinances.**

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

150 unless:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

181 (C) is included on a county's inspector list.  
182 (ii) "Inspector list" means a list of persons who:  
183 (A) are licensed in the state as building inspectors; and  
184 (B) have made a written request to the county, as provided in this Subsection (3), to be  
185 added to the inspector list.  
186 (iii) "New construction" means:  
187 (A) the construction of a new residence on land described in an approved subdivision  
188 plat; or  
189 (B) the construction of additional square footage to an existing residence.  
190 (iv) "Remodeling" means an improvement or modification:  
191 (A) to an owner's existing residence; and  
192 (B) for which the county requires a building permit.  
193 (b) (i) A person who is licensed in the state as a building inspector may make a written  
194 request to a county to be added to the county's inspector list.  
195 (ii) A licensed building inspector who makes a written request to be added to a county's  
196 inspector list:  
197 (A) shall, at the time of the request:  
198 (I) state in writing each type of building inspection that the building inspector is  
199 certified to make;  
200 (II) provide the county a schedule of the fees the building inspector charges for each  
201 type of building inspection; and  
202 (III) provide proof of worker compensation insurance and errors and omissions  
203 insurance coverage;  
204 (B) may make only the type of building inspection for which the building inspector is  
205 certified; and  
206 (C) may not make a building inspection on:  
207 (I) work performed by or at the direction of the inspector; or  
208 (II) property owned by the inspector.  
209 (c) Each county that receives a written request as provided in Subsection (3)(b) shall  
210 include the building inspector making the request on the county's inspector list.  
211 (d) A county may not withhold approval of new construction based on the owner's

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

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

215 (ii) the county fails within two business days after the request under Subsection

216 (3)(d)(i) to complete the building inspection by a county building inspector; and

217 (iii) an acknowledged building inspector, hired and paid by the owner, signs a written  
218 certification that the new construction complies with applicable standards that the county has  
219 established.

220 (e) A county may not withhold approval of a remodeling based on a failure to obtain  
221 approval of a county building inspector if an acknowledged building inspector, hired and paid  
222 by the owner, signs a written certification that the remodeling complies with applicable  
223 standards that the county has established.

224 (f) An acknowledged building inspector shall file each report of a building inspection  
225 made under this Subsection (3) with the county in whose unincorporated area the property that  
226 is the subject of the building inspection is located.

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

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

232 (i) Each county with an inspector list shall make available to the public:

233 (A) the amount of the fee the county charges for a building permit when it is  
234 anticipated that a county building inspector will make the building inspection; and

235 (B) the amount of the fee the county charges for a building permit when it is  
236 anticipated that a licensed building inspector who is not a county building inspector will make  
237 the building inspection.



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**H.B. 293 2nd Sub. (Gray) - Private Building Inspector Authorized**

**Fiscal Note**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or businesses. Local governments may incur increased administrative costs.

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