

SB0185S03 compared with SB0185S02

~~{deleted text}~~ shows text that was in SB0185S02 but was deleted in SB0185S03.

inserted text shows text that was not in SB0185S02 but was inserted into SB0185S03.

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~~{Senator Evan J. Vickers}~~ Representative Calvin R. Musselman proposes the following substitute bill:

RESIDENTIAL BUILDING INSPECTION AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill amends provisions relating to third-party inspection firms.

Highlighted Provisions:

This bill:

- ▶ provides that, if a city does not provide a building inspection within three days, an applicant may engage a third-party inspection firm;
- ▶ authorizes a person seeking a building permit to hire a third-party inspection firm to perform an inspection of the person's property;
- ▶ requires that a local regulator that issues a building permit pay any cost associated with the person seeking a building permit hiring a third-party inspection firm;
- ▶ establishes a process and standards that govern a local regulator's payment of

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third-party inspection firm costs;

- ▶ requires that a local regulator issue a certificate of occupancy to the owner of real property after the third-party inspection firm complies with certain requirements;
- ▶ exempts a local regulator from liability for any inspection performed by a third-party inspection firm;
- ▶ grants rulemaking authority to the Division of Facilities Construction and Management;
- ▶ amends provisions relating to disciplinary proceedings for a licensed inspector; and
- ▶ defines terms.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-6-160, as last amended by Laws of Utah 2021, First Special Session, Chapter 3

15A-1-202, as last amended by Laws of Utah 2021, First Special Session, Chapter 3

17-36-55, as last amended by Laws of Utah 2021, First Special Session, Chapter 3

58-56-9, as last amended by Laws of Utah 2018, Chapter 229

ENACTS:

15A-1-105, Utah Code Annotated 1953

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

Section 1. Section **10-6-160** is amended to read:

10-6-160. Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) "Business day" means a day other than Saturday, Sunday, or a legal holiday.

(b) "Construction project" means the same as that term is defined in Section 38-1a-102.

(c) "Lodging establishment" means a place providing temporary sleeping

accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

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- (ii) a boarding house;
- (iii) a dormitory;
- (iv) a hotel;
- (v) an inn;
- (vi) a lodging house;
- (vii) a motel;
- (viii) a resort; or
- (ix) a rooming house.

(d) "Planning review" means a review to verify that a city has approved the following elements of a construction project:

- (i) zoning;
- (ii) lot sizes;
- (iii) setbacks;
- (iv) easements;
- (v) curb and gutter elevations;
- (vi) grades and slopes;
- (vii) utilities;
- (viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

- (x) subdivision.

(e) (i) "Plan review" means all of the reviews and approvals of a plan that a city requires to obtain a building permit from the city with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing

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agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review;

(H) the total square footage for each building level of finished, garage, and unfinished space; and

(I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.

(ii) "Plan review" does not mean a review of a document:

(A) required to be re-submitted for a construction project other than a construction project for a one to two family dwelling or townhome if additional modifications or substantive changes are identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

(f) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

(g) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

(h) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)(h)(i), a review that a licensed engineer conducts.

(i) "Technical nature" means a characteristic that places an item outside the training

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and expertise of an individual who regularly performs plan reviews.

(2) (a) If a city collects a fee for the inspection of a construction project, the city shall ensure that the construction project receives a prompt inspection.

(b) If a city cannot provide a building inspection within three business days after the day on which the city receives the request for the inspection, [~~the city shall promptly engage an independent inspector with fees collected from the applicant~~] the applicant may hire a third-party inspection firm, as described in Section 15A-1-105.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code; and

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(3) (a) A city shall complete a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the applicant submits a complete building permit application to the city.

(b) A city shall complete a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the applicant submits a complete building permit application to the city.

(c) (i) Subject to Subsection (3)(c)(ii), if a city does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the city complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the city shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the

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applicant makes the request.

(d) An applicant may:

- (i) waive the plan review time requirements described in this Subsection (3); or
- (ii) with the city's consent, establish an alternative plan review time requirement.

(4) A city may not enforce a requirement to have a plan review if:

(a) the city does not complete the plan review within the time period described in

Subsection (3)(a) or (b); and

(b) a licensed architect or structural engineer, or both when required by law, stamps the plan.

(5) (a) A city may attach to a reviewed plan a list that includes:

- (i) items with which the city is concerned and may enforce during construction; and
- (ii) building code violations found in the plan.

(b) A city may not require an applicant to redraft a plan if the city requests minor changes to the plan that the list described in Subsection (5)(a) identifies.

(c) A city may only require a single resubmittal of plans for a one or two family dwelling or townhome if the resubmission is required to address deficiencies identified by a third-party review of a geotechnical report or geological report.

(6) If a city charges a fee for a building permit, the city may not refuse payment of the fee at the time the applicant submits a building permit application under Subsection (3).

(7) A city may not limit the number of building permit applications submitted under Subsection (3).

(8) For purposes of Subsection (3), a building permit application is complete if the application contains:

(a) the name, address, and contact information of:

(i) the applicant; and

(ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

(i) is drawn to scale;

(ii) includes a north arrow and legend; and

(iii) provides specifications for the following:

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- (A) lot size and dimensions;
- (B) setbacks and overhangs for setbacks;
- (C) easements;
- (D) property lines;
- (E) topographical details, if the slope of the lot is greater than 10%;
- (F) retaining walls;
- (G) hard surface areas;
- (H) curb and gutter elevations as indicated in the subdivision documents;
- (I) utilities, including water meter and sewer lateral location;
- (J) street names;
- (K) driveway locations;
- (L) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and
- (M) the location of the nearest hydrant;
- (c) construction plans and drawings, including:
 - (i) elevations, only if the construction project is new construction;
 - (ii) floor plans for each level, including the location and size of doors and windows;
 - (iii) foundation, structural, and framing detail; and
 - (iv) electrical, mechanical, and plumbing design;
- (d) documentation of energy code compliance;
- (e) structural calculations, except for trusses;
- (f) a geotechnical report, including a slope stability evaluation and retaining wall design, if:
 - (i) the slope of the lot is greater than 15%; and
 - (ii) required by the city; and
 - (g) a statement indicating that actual construction will comply with applicable local ordinances and building codes.

Section 2. Section **15A-1-105** is enacted to read:

15A-1-105. Third-party inspection firms.

(1) As used in this section:

(a) "Code" means:

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(i) the State Construction Code; or

(ii) an approved code.

(b) "Inspection" means a comprehensive assessment of the physical condition of a piece of real property or the real property's components.

(c) "Local regulator" means a political subdivision of the state that is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the code.

(d) "Third-party inspection firm" means a licensed, independent entity, with no interest in the outcome of an inspection, that a client engages to conduct an inspection.

(2) Subject to the provisions of this section and Subsection 10-6-160(2):

(a) a person may hire a third-party inspection firm to conduct an inspection on real property that the person owns; and

(b) the local regulator shall pay the cost of the inspection the third-party inspection firm performs after the local regulator issues a building permit for the property and collects the building permit fee.

(3) Before the local regulator pays the cost of an inspection in accordance with Subsection (2):

(a) the third-party inspection firm shall provide proof of payment to the local regulator; and

(b) the local regulator shall ensure that the cost described in the proof of payment complies with rules made by the Division of Facilities Construction and Management.

(4) Upon completing an inspection, a third-party inspection firm shall submit the inspection report to the local regulator.

(5) After the third-party inspection firm completes the final inspection and submits the inspection report to the local regulator, the local regulator shall issue the certificate of occupancy to the owner of the real property, if the local regulator determines that, based on the inspection report, the property meets the applicable standards.

(6) A local regulator is not liable for any inspection performed by a third-party inspection firm.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Facilities and Construction Management shall:

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(a) make rules establishing standard reimbursement costs for the services of third-party inspection firms;

(b) establish standards for the approval of a third-party inspection firm; and

(c) establish a process by which the Division of Facilities and Construction Management approves a third-party inspection firm.

Section 3. Section **15A-1-202** is amended to read:

15A-1-202. Definitions.

As used in this chapter:

(1) "Agricultural use" means a use that relates to the tilling of soil and raising of crops, or keeping or raising domestic animals.

(2) (a) "Approved code" means a code, including the standards and specifications contained in the code, approved by the division under Section 15A-1-204 for use by a compliance agency.

(b) "Approved code" does not include the State Construction Code.

(3) "Building" means a structure used or intended for supporting or sheltering any use or occupancy and any improvements attached to it.

(4) "Building permit holder" means a person to whom a local regulator issues a building permit.

~~[(4)]~~ (5) "Code" means:

(a) the State Construction Code; or

(b) an approved code.

~~[(5)]~~ (6) "Commission" means the Uniform Building Code Commission created in Section 15A-1-203.

~~[(6)]~~ (7) "Compliance agency" means:

(a) an agency of the state or any of its political subdivisions which issues permits for construction regulated under the codes;

(b) any other agency of the state or its political subdivisions specifically empowered to enforce compliance with the codes; ~~[or]~~

(c) a third-party inspection firm as defined in Section 15A-1-105 approved by the Division of Facilities Construction and Management that a building permit holder hires; or

~~[(c)]~~ (d) any other state agency which chooses to enforce codes adopted under this

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chapter by authority given the agency under a title other than this part and Part 3, Factory Built Housing and Modular Units Administration Act.

~~[(7)]~~ (8) "Construction code" means standards and specifications published by a nationally recognized code authority for use in circumstances described in Subsection 15A-1-204(1), including:

- (a) a building code;
- (b) an electrical code;
- (c) a residential one and two family dwelling code;
- (d) a plumbing code;
- (e) a mechanical code;
- (f) a fuel gas code;
- (g) an energy conservation code;
- (h) a swimming pool and spa code; and
- (i) a manufactured housing installation standard code.

~~[(8)]~~ (9) "Construction project" means the same as that term is defined in Section 38-1a-102.

~~[(9)]~~ (10) "Executive director" means the executive director of the Department of Commerce.

~~[(10)]~~ (11) "Legislative action" includes legislation that:

- (a) adopts a new State Construction Code;
- (b) amends the State Construction Code; or
- (c) repeals one or more provisions of the State Construction Code.

~~[(11)]~~ (12) "Local regulator" means a political subdivision of the state that is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes.

~~[(12)]~~ (13) "Membrane-covered frame structure" means a nonpressurized building with a structure composed of a rigid framework to support a tensioned membrane that provides a weather barrier.

~~[(13)]~~ (14) "Not for human occupancy" means use of a structure for purposes other than protection or comfort of human beings, but allows people to enter the structure for:

- (a) maintenance and repair; and

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(b) the care of livestock, crops, or equipment intended for agricultural use which are kept there.

~~[(14)]~~ (15) "Opinion" means a written, nonbinding, and advisory statement issued by the commission concerning an interpretation of the meaning of the codes or the application of the codes in a specific circumstance issued in response to a specific request by a party to the issue.

~~[(15)]~~ (16) "Remote yurt" means a membrane-covered frame structure that:

- (a) is no larger than 710 square feet;
- (b) is not used as a permanent residence;
- (c) is located in an unincorporated county area that is not zoned for residential, commercial, industrial, or agricultural use;
- (d) does not have plumbing or electricity;
- (e) is set back at least 300 feet from any river, stream, lake, or other body of water; and
- (f) is registered with the local health department.

~~[(16)]~~ (17) "State regulator" means an agency of the state which is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes adopted pursuant to this chapter.

Section 4. Section **17-36-55** is amended to read:

17-36-55. Fees collected for construction approval -- Approval of plans.

- (1) As used in this section:
- (a) "Business day" means a day other than Saturday, Sunday, or a legal holiday.
 - (b) "Construction project" means the same as that term is defined in Section 38-1a-102.
 - (c) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:
 - (i) a bed and breakfast establishment;
 - (ii) a boarding house;
 - (iii) a dormitory;
 - (iv) a hotel;
 - (v) an inn;
 - (vi) a lodging house;
 - (vii) a motel;

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(viii) a resort; or

(ix) a rooming house.

(d) "Planning review" means a review to verify that a county has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

(e) (i) "Plan review" means all of the reviews and approvals of a plan that a county requires to obtain a building permit from the county with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review;

(H) the total square footage for each building level of finished, garage, and unfinished space; and

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(I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.

(ii) "Plan review" does not mean a review of a document:

(A) required to be re-submitted for a construction project other than a construction project for a one to two family dwelling or townhome if additional modifications or substantive changes are identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

(f) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

(g) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

(h) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)(h)(i), a review that a licensed engineer conducts.

(i) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a county collects a fee for the inspection of a construction project, the county shall ensure that the construction project receives a prompt inspection.

(b) If a county cannot provide a building inspection within three business days after the day on which the county receives the request for the inspection, ~~[the county shall promptly engage an independent inspector with fees collected from the applicant]~~ the applicant may hire

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a third-party inspection firm, as described in Section 15A-1-105.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code; and

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(3) (a) A county shall complete a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the applicant submits a complete building permit application to the county.

(b) A county shall complete a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the applicant submits a complete building permit application to the county.

(c) (i) Subject to Subsection (3)(c)(ii), if a county does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the county complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the county shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the county's consent, establish an alternative plan review time requirement.

(4) A county may not enforce a requirement to have a plan review if:

(a) the county does not complete the plan review within the time period described in

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Subsection (3)(a) or (b); and

(b) a licensed architect or structural engineer, or both when required by law, stamps the plan.

(5) (a) A county may attach to a reviewed plan a list that includes:

- (i) items with which the county is concerned and may enforce during construction; and
- (ii) building code violations found in the plan.

(b) A county may not require an applicant to redraft a plan if the county requests minor changes to the plan that the list described in Subsection (5)(a) identifies.

(c) A county may require a single resubmittal of plans for a one or two family dwelling or townhome if the resubmission is required to address deficiencies identified by a third-party review of a geotechnical report or geological report.

(6) If a county charges a fee for a building permit, the county may not refuse payment of the fee at the time the applicant submits a building permit application under Subsection (3).

(7) A county may not limit the number of building permit applications submitted under Subsection (3).

(8) For purposes of Subsection (3), a building permit application is complete if the application contains:

(a) the name, address, and contact information of:

- (i) the applicant; and
- (ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

- (i) is drawn to scale;
- (ii) includes a north arrow and legend; and
- (iii) provides specifications for the following:
 - (A) lot size and dimensions;
 - (B) setbacks and overhangs for setbacks;
 - (C) easements;
 - (D) property lines;
 - (E) topographical details, if the slope of the lot is greater than 10%;
 - (F) retaining walls;

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- (G) hard surface areas;
- (H) curb and gutter elevations as indicated in the subdivision documents;
- (I) utilities, including water meter and sewer lateral location;
- (J) street names;
- (K) driveway locations;
- (L) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and
- (M) the location of the nearest hydrant;
- (c) construction plans and drawings, including:
 - (i) elevations, only if the construction project is new construction;
 - (ii) floor plans for each level, including the location and size of doors and windows;
 - (iii) foundation, structural, and framing detail; and
 - (iv) electrical, mechanical, and plumbing design;
- (d) documentation of energy code compliance;
- (e) structural calculations, except for trusses;
- (f) a geotechnical report, including a slope stability evaluation and retaining wall design, if:
 - (i) the slope of the lot is greater than 15%; and
 - (ii) required by the county; and
 - (g) a statement indicating that actual construction will comply with applicable local ordinances and building codes.

Section 5. Section **58-56-9** is amended to read:

58-56-9. Qualifications of inspectors -- Contract for inspection services.

- (1) An inspector employed by a local regulator, state regulator, or compliance agency to enforce the codes shall:
 - (a) (i) meet minimum qualifications as established by the division in collaboration with the commission;
 - (ii) be certified by a nationally recognized organization which promulgates construction codes; or
 - (iii) pass an examination developed by the division in collaboration with the commission;

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(b) be currently licensed by the division as meeting those minimum qualifications; and

(c) be subject to ~~[revocation or suspension of the inspector's license or being placed on probation if found guilty of]~~ disciplinary or other action if the licensee engages in unlawful or unprofessional conduct.

(2) A local regulator, state regulator, ~~[or] compliance agency,~~ or building permit holder as defined in Section 15A-1-202 may contract for the services of a licensed inspector not regularly employed by the regulator or agency.

(3) In accordance with Section 58-1-401, the division may:

(a) refuse to issue a license to an applicant;

(b) refuse to renew the license of a licensee;

(c) revoke, suspend, restrict, or place on probation the license of a licensee;

(d) issue a public or private reprimand;

(e) issue a citation to a licensee; and

(f) issue a cease and desist order.

Section 6. **Effective date.**

This bill takes effect on May 1, 2024.