

Senate Commerce Committee

Aaron Jones 271-2609

HB 413, relative to subdivision regulations on the completion of improvements and the regulation of building permits.

Hearing Date: April 15, 2025

Time Opened: 11:00 a.m.

Time Closed: 11:13 a.m.

Members of the Committee Present: Senators Innis, Ricciardi, Murphy, McGough and Fenton

Members of the Committee Absent : Senator Reardon

Bill Analysis: This bill:

I. Extends the existing 5-year exemption for subdivision plats to 7 years and increases the preliminary step from 2 years to 3 years.

II. Changes the building code and fire code appeals process, limiting the jurisdiction of the local building code board of appeals to hearing decisions made under local amendments to those codes.

III. Provides that decisions of the building code review board regarding decisions of the fire marshal and local building code board of appeals may be appealed to superior court or the housing appeals board.

Sponsors:

Rep. Pauer

Rep. Alexander Jr.

Rep. J. Aron

Rep. Cole

Rep. Damon

Rep. Gibbs

Rep. M. Aron

Sen. Murphy

Who supports the bill: Representative Diane Pauer, Greg Moore (AFP-NH), Eric Pauer, Curtis Howland, James Gardner, Anne Marie Skinner, Stephen MacLeod, Aubrey Freedman

Who opposes the bill: Representative Tom Schamberg, Dawn Merryman, Patricia Bridgeo, Margaret Byrnes (NHMA), Sarahlynn Williams, Sharon Monahan, Catherine Tarnowski, Roger Murray, Leah Van Ryen, Todd Selig (Town of Durham), Jo Beth Dudley (Dalton Select Board), Maura Annette Chappelle, Martha Roy (Newington Board of Selectmen)

Who is neutral on the bill: No one

Summary of testimony presented in support:

Representative Diane Pauer

- This bill was a refiling of HB 1215 (2024), which was the outcome of a yearlong inquiry made by the House Special Committee on Housing in 2023. The Senate attached two non-germane amendments, and the Committee of Conference report failed in the House.
- This bill would provide greater flexibility for developers, and it would lower risk, which would enable them to take on larger projects that require a number of years to complete.
- This bill would extend certain time periods.
 - For an approved subdivision plat, it would extend the 5-year exemption to 7 years for changes in subdivision regulations, site plan review regulations, local impact fees, and zoning ordinances.
 - This would prevent escalating costs that are caused when developers need to make changes to the work they have already completed under certain regulations and ordinances that were in place at the time their project was approved.
- This bill would increase the period for active and substantial development from 2 years to 3 years.
- A section would be added to clarify that the 7-year period and the 3-year exemption shall apply to approvals granted on or after July 1, 2023. This would allow projects that are actively or substantially underway to be granted additional time.
- This bill would streamline the building and fire code appeals process.
- Local building code appeals to the zoning board of adjustments (ZBA) or the selectboard would be limited to local regulations.
- This bill would streamline the appeals process for developers, so they could directly appeal to the State Building Code Review Board when there is a dispute involving the application or interpretation of the State Building Code or Fire Code. Currently, the developer must apply to the local ZBA or selectboard.
- A new paragraph would be added to ensure the county register of deeds would record a plat that was approved by a planning board.
- This bill addressed appeals of decisions made by the State Fire Marshal or a local building code board of appeals. Appeals must be appealed to the State Building Code Review Board before appealing to the Housing Appeals Board or superior court.
- Finally, this bill would correct an error in RSA 673:3 to allow either an elected or appointed ZBA to act as a local building code board of appeals.

Summary of testimony presented in opposition:

Dawn Merryman

- While these bills were singular, it was hard not to look at them as a whole.
- This bill would extend the time that buildings could be completed.
- For a zoning or planning board, a 7-year window would be a double cycle. If a developer did not like being told no, they could wait until someone else said yes.
- Ms. Merryman said developing has become incredibly litigious for towns. While there are some towns who can afford it, smaller towns cannot.
- Currently, developers can use RSA 91-A to bury towns in legal work. For example, they had an employee spend 400 hours copying information because a developer wanted everything from a year's long case.
- Due to these factors, Ms. Merryman said it would cost taxpayers more money.
- Ms. Merryman asked the Committee not to approve any housing bills; instead, they should keep decisions local, so towns could handle them in a way that was appropriate to them.

Margaret Byrnes, New Hampshire Municipal Association

- The Association was in light opposition to this bill.
- Last year, the Association was involved in extending the time periods, so they did not take issue with it.
- Ms. Byrnes said the main issue was Page 2, Lines 13 and 14, where the 3-year and 7-year periods would be retroactive. When this statute was amended by SB 144 in 2011, a retroactive provision was not included. Ms. Byrnes asked for this section to be struck.
- Ms. Byrnes said they were also concerned with Lines 16 through 22, which was relative to the powers of building code board of appeals. Moving forward locally was more efficient than going to Concord on an issue that was related to a local project. Ms. Byrnes asked for this section to be removed.
- This bill would take away the ability of municipalities to adopt technical amendments to the building code at the local level.

Neutral Information Presented: No one