

SB 188-FN - AS INTRODUCED

2025 SESSION

25-0998

06/09

SENATE BILL ***188-FN***

AN ACT allowing independent permitting and inspections, and allowing local governments to authorize licensed engineers and architects to perform building code inspections.

SPONSORS: Sen. Murphy, Dist 16; Sen. Innis, Dist 7; Sen. McGough, Dist 11; Sen. Pearl, Dist 17; Rep. Alexander Jr., Hills. 29; Rep. Osborne, Rock. 2

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill:

I. Allows independent third-parties, hired by the property owner, to inspect land, buildings, and structures to determine compliance with state and local building codes.

II. Establishes private providers as an alternative to local enforcement agencies for conducting building code inspections and plan reviews.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT allowing independent permitting and inspections, and allowing local governments to authorize licensed engineers and architects to perform building code inspections.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Short Title. This act shall be cited as the "Speeding Development Act".

2 2 Purpose. The purpose of this act is to facilitate speedier and more efficient development while
3 ensuring public safety by authorizing licensed or certified third parties to certify documents and
4 inspect buildings in compliance with applicable building and other codes.

5 3 New Sections; Private Providers Established. Amend RSA 155-A:7 by inserting after section 7
6 the following new sections:

7 155-A:7-a Private Provider Services.

8 I. In this section:

9 (a) "Applicable codes" means the New Hampshire state building code and any local
10 technical amendments, excluding fire prevention and fire safety codes.

11 (b) "Audit" means the process to confirm that building code inspection services have
12 been performed by the private provider.

13 (c) "Private provider" means an individual or entity that is licensed and qualified to
14 perform building code inspection services and plan reviews as an alternative to those conducted by
15 local government agencies. Private providers may include professionals such as engineers,
16 architects, or building code administrators. They are authorized to review building plans, conduct
17 site inspections, and ensure compliance with applicable building codes and standards.

18 (d) "Building code inspection services" means services involving the review of building
19 plans, site plans, and inspections to determine compliance with applicable codes.

20 (e) "Duly authorized representative" means an agent of the private provider who reviews
21 plans or performs inspections and is licensed as an engineer, architect, or building code
22 administrator.

23 II. Property owners or developers may use private providers for building code inspections
24 and plan reviews.

25 III. Private providers shall be licensed professionals, including engineers, architects, or
26 building code administrators.

27 IV. Private providers shall adhere to all applicable codes and standards set forth by the
28 state building code pursuant to RSA 155-A:2 and any local bylaws or ordinances established
29 pursuant to RSA 155-A:3.

1 V. Private providers may use electronic signatures and transmission for submitting plans,
2 reports, and other documents required for building code compliance.

3 VI. Local enforcement agencies appointed pursuant to RSA 674:51 or RSA 47:22 shall audit
4 a percentage of inspections performed by private providers within their jurisdiction to ensure
5 compliance with applicable codes. Audits shall be conducted randomly and without prior notice to
6 the private provider. The local enforcement agency shall have the authority to take corrective action
7 if any violations are found during the audit.

8 4 New Subdivision; New Hampshire Building Code; Independent Permitting and Inspections.
9 Amend RSA 155-A by inserting after section 13 the following new subdivision:

10 Independent Permitting and Inspections

11 155-A:14 Definitions. In this subdivision:

12 I. "Development document" means a document, such as a building plan, site plan, or an
13 application for a building permit, relating to improvements to land, which is required by state or
14 local law or regulation or by a regulatory authority to initiate, engage in, or complete an
15 improvement, but which does not include applications or documents for zoning or planning
16 approvals.

17 II. "Building inspection" means the inspection of an improvement to land required by a
18 regulatory authority as part of a project to develop or improve an improvement to the land, building,
19 or structure.

20 III. "Building permit" means a permit required by a regulatory authority to construct or
21 improve or complete an improvement to land.

22 IV. "Independent provider" means a person licensed or certified as a building code
23 administrator, engineer, or architect.

24 V. "Regulatory authority" means a department, board, commission, or other entity of the
25 state or of the political subdivision responsible for processing or approving development documents
26 and building permits or conducting building inspections.

27 155-A:15 Allowance for Use of Independent Providers.

28 I. Notwithstanding any law, rule, or regulation, the fee owner of land or a building or
29 structure, or the fee owner's contractor upon written authorization from the fee owner, may contract
30 with an independent provider to review development documents or provide building inspections with
31 regard to such land, building, or structure, and may make payment directly to the independent
32 provider for the provision of such services.

33 II. The fee owner or fee owner's contractor may not have an ownership stake in the
34 independent provider, and the independent provider may not provide legal counsel to the fee owner
35 or fee owner's contractor.

36 III. If a fee owner or contractor retains an independent provider for the purposes of
37 reviewing development documents or providing building inspections, the regulatory authority shall

1 reduce the fee charged for such services by the amount of cost savings realized by the regulatory
2 authority.

3 IV. An independent provider may review development documents or provide building
4 inspections only if the independent provider maintains insurance for professional liability covering
5 all services performed as an independent provider, unless such regulatory authority waives such
6 requirement. Such insurance shall have minimum policy limits of \$2 million per occurrence and \$4
7 million in the aggregate for any project with a construction cost of \$5 million or less and \$4 million
8 per occurrence and \$8 million in the aggregate for any project with a construction cost of over \$5
9 million.

10 V. Before any development document reviews or building inspections are performed, the fee
11 owner or the fee owner's contractor shall provide to the regulatory authority:

12 (a) The name, firm, address, telephone number, and e-mail address of each independent
13 provider who is performing, or will perform, such services, his or her professional license or
14 certification number, qualification statements or resumes, and, unless the regulatory authority
15 waives such coverage, a certificate of insurance demonstrating that professional liability-insurance
16 coverage is in place for the independent provider's firm in the amounts required by this section and
17 the list of any lots or structures that the independent provider will assist on, along with the likely
18 dates of such action.

19 (b) The following acknowledgment:

20 By executing this form, I acknowledge that I have made inquiry regarding the competence of the
21 licensed or certified independent provider and the level of his/her insurance and am satisfied that
22 my interests are adequately protected. I agree to indemnify, defend, and hold harmless any
23 regulatory authority from any and all claims arising from my use of these licensed or certified
24 personnel to provide development documents reviews and building inspections with respect to the
25 building or structure that is the subject of the enclosed application.

26 (c) If an owner or an owner's contractor contracts with an independent provider to
27 review development documents or provide building inspections, the regulatory authority shall
28 provide equal access to all permitting and inspection documents and reports to the independent
29 provider, owner, or contractor that would be provided to regulatory authority personnel in
30 completing development documents or building inspections.

31 (d) If such access is normally provided by software that protects exempt records from
32 disclosure, the regulatory authority shall provide requested permitting or inspection documents and
33 reports to the independent provider, owner, or contractor within 2 business days of a request in
34 electronic format.

35 155-A:16 Qualifications and Requirements for Independent Providers for Building Inspections.

36 I. An independent provider may only provide building inspections that are within the
37 disciplines covered by that person's licensure.

1 II. Each regulatory authority may audit the performance of independent providers operating
2 within their jurisdiction and demand of the fee owner or fee owner's contractor to know the times of
3 requested building inspections by the independent provider, although the fact of the audit shall not
4 be given to the independent provider.

5 (a) Audits may be conducted only after the regulatory authority has created a formal
6 audit evaluation. The regulatory authority may, upon clear and convincing evidence, decide that an
7 independent provider has been negligent in providing building inspections and suspend the
8 independent provider for not more than one year.

9 (b) The same independent provider may be audited no more than 4 times in a month,
10 unless the regulatory authority determines that the condition of a building constitutes an immediate
11 threat to public safety and welfare.

12 (c) Work may not be delayed for the completion of an audit by the regulatory authority.

13 III. If an independent provider is providing building inspections, upon completion of all
14 required inspections, the independent provider shall submit to the regulatory authority a certificate
15 of compliance summarizing the inspections performed in accordance with the approved plans and
16 applicable codes.

17 IV. No more than 3 business days, or, if the independent provider is inspecting single-family
18 or 2-family dwellings, no more than 5 business days, after the receipt of the certificate of compliance
19 with all necessary inspections, and after the payment of all outstanding required fees, a certificate of
20 occupancy or completion shall be issued by the regulatory authority, or the regulatory authority
21 shall provide a notice to the independent provider of any specific deficiencies in the certificate of
22 compliance, with reference to specific code chapters and if the regulatory authority does not issue the
23 certificate of occupancy or completion or provide notice within the required number of days, the
24 certificate of occupancy or completion is considered granted as a matter of law and shall be issued
25 the next business day.

26 V. Notwithstanding any provision of this section, any decisions regarding a building
27 inspection or certificate of occupancy or completion, or the suspension of an independent provider by
28 a regulatory authority after an audit, may be appealed to the building code review board, which shall
29 adjudicate the dispute in a timely fashion and according to a fee determined by the board.

30 155-A:17 Requirements for Reviews of Development Documents and Permits.

31 I. An independent provider performing reviews of development documents under this
32 subdivision shall review them to determine compliance with the applicable codes. Upon determining
33 compliance, the independent provider shall prepare an affidavit or affidavits certifying that the
34 documents were reviewed pursuant to this section, that the documents meet all applicable codes,
35 and that he or she holds the appropriate license or certificate. The affidavit should be submitted to
36 the regulatory authority.

1 II. No more than 8 business days after receipt of a development document or application for
2 a building permit, the regulatory authority shall approve such document or provide a written notice
3 to the applicant identifying the specific features that do not comply with the applicable codes, as well
4 as the specific code chapters. If no written notice of the document or permit deficiencies is provided
5 within the prescribed period, the document or permit shall be deemed approved as a matter of law,
6 and any necessary permit or permits shall be issued by the regulatory authority on the next business
7 day.

8 III. If the applicant submits revisions, the regulatory authority has the remainder of the
9 tolled business days plus one business day from the date of resubmittal to approve the development
10 documents, issue the requested building permit, or provide a second written notice to the permit
11 applicant stating which of the previously identified documents or permit features remain in
12 noncompliance with the applicable codes, with specific reference to the relevant code chapters and
13 sections. If the regulatory authority does not provide the second written notice within the prescribed
14 period, the development document or building permit shall be deemed approved as a matter of law,
15 and any necessary permits shall be issued by the regulatory authority on the next business day.

16 IV. Notwithstanding any provision of this section, any decisions regarding the issuance of a
17 development document or building permit by a regulatory authority may be appealed to the state
18 building code review board, which shall adjudicate the dispute in a timely fashion according to a fee
19 determined by the board.

20 155-A:18 Limits on Regulatory Authorities.

21 I. A regulatory authority may not adopt or enforce any laws, rules, procedures, policies,
22 qualifications, or standards regarding independent providers more restrictive than those prescribed
23 by this subdivision.

24 II. This section shall not be construed to limit or deny the authority of the regulatory
25 authority to issue a stop-work order for a building project or any portion of the project, as provided
26 by law, if the regulatory authority determines that a condition on the building site constitutes an
27 immediate threat to public safety and welfare.

28 III. If an applicant believes that the regulatory authority or the building code review board
29 has interpreted existing ordinances, codes, and laws in error, or rejected a certificate of compliance
30 or a development document in error, or not provided a sufficient reduction in fees due to cost-savings
31 resulting from the use of an independent provider, or refused to issue any valid building permit, or
32 suspended an independent provider from performing building inspections in their jurisdiction in
33 error, the independent provider or fee owner or fee owner's contractor may file a proceeding in a
34 court of competent jurisdiction seeking a determination that the inspection or document or permit
35 complies with all relevant requirements and seek an order requiring the regulatory authority to
36 accept the document or inspection and issue any necessary building permits or certificate of
37 occupancy or completion.

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1 5 Severability. The provisions of this act are hereby declared to be severable. If any provision of
2 this act or the application of such provision to any person or circumstance is declared or held to be
3 invalid for any reason, such declaration or holding shall not affect the validity of the remaining
4 portions of this act and the application of its provisions to any other persons or circumstances.

5 6 Effective Date. This act shall take effect 60 days after passage.

SB 188-FN- FISCAL NOTE
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AN ACT allowing independent permitting and inspections, and allowing local governments to authorize licensed engineers and architects to perform building code inspections.

FISCAL IMPACT:

Estimated Political Subdivision Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Local Revenue	\$0	Indeterminable		
Local Expenditures	\$0	Indeterminable		

METHODOLOGY:

The New Hampshire Municipal Association states this bill creates an entirely new framework for building code plan reviews and inspections in New Hampshire and could have multiple impacts on municipal revenue and expenses related to:

- Loss of fees, which would instead be paid directly to the independent provider.
- Additional staff time – and potential additional positions –related to:
 - Reviewing third-party submissions within the statutorily mandated deadlines.
 - Creating and implementing the audit procedures contained in the bill.
 - Generating and producing permitting or inspection documents and reports for third-party providers that are stored on software that protects exempt records from disclosure.
- Legal costs associated with potential lawsuits from developers and/or inspectors allowed under this bill.

The Association states the annual potential impact of lost revenue and additional costs is in the range of more than \$10,000, but less than \$100,000 for most municipalities, with potentially lower amounts for smaller municipalities and potentially higher amounts for the largest municipalities. Ultimately, this bill’s fiscal impact on local governments is indeterminable.

This bill is not expected to have an impact on state or county revenue or expenditures.

AGENCIES CONTACTED:

Department of Safety and New Hampshire Municipal Association