

**Section 3 (k)(1)(A)(i) and all sections where identical conflict of interest language is included:**

- Change “and” to “or” so that either condition constitutes a conflict of interest

ADMINISTRATION RESPONSE: Incorporated in amendment

**Section 3 (k)(1)(B):**

- Amend definition of “third-party inspector” to add (iv) “and... Can demonstrate competency to conduct the inspection being performed” If one is to conduct an inspection, then one must be qualified through education, experience, certification or some other similar means. As written, one may qualify to be a third-party inspector simply by being a registered architect or engineer. However, such registration, alone, does not ensure that individual is qualified to conduct a plumbing or electrical inspection.

**ADMINISTRATION RESPONSE: Not Accepted**

**Section 3 (k)(1)(C)(i-iii):**

- Amend definition of “third-party plans examiner” to add “and can demonstrate competency to examine the type of plans being examined” Similar to justification above, one must be qualified to exam the plans being examined. The fact that one is a registered architect or engineer does not ensure their qualification to exam all plans.

**ADMINISTRATION RESPONSE: Not Accepted**

**Section 3 (k)(2)(A):**

- Add “provided that such examination shall also include a determination that the plans conform to any local development standards in effect at the time of vesting” When a local jurisdiction reviews plans, that jurisdiction also reviews such plans to determine compliance and conformity to the locally-adopted development standards in place at the time the applicant’s rights vested.
- This is intended to clarify that, if an applicant utilizes a third-party to review plans, then that third-party review must include a review and determination with respect to local development standards in place at the time of vesting.
- “local development standards” are defined under § 13-4-310 to mean all locally adopted or enforced standards, regulations or guidelines applicable to the development of property, including but not limited to, local storm water requirements, layout, design, local construction standards for buildings, streets, alleys, curbs, sidewalks, zoning, lot size, lot configuration, yard dimensions, and off-site improvements, including public or private infrastructure in which an applicant may acquire vesting rights.

ADMINISTRATION RESPONSE: Incorporated in Amendment Amends Section 3 (k)(B)(f) and (g) to incorporate “local development standards” in the information that must be included in a third-party’s submission related to inspections.

**However**, it does not appear that identical language appears in the

section related plans. Arguably, the relevance and necessity for this change is of equal, if not greater, import with respect to plans review. Additionally, further amends Section 3 (k)(1) to provide that “Nothing in this subsection shall be construed to alter any requirement for local governmental approvals including development standards as defined in § 13-4-310.

**Section 3 (k)(2)(C) and all other places that denotes a period of time elapsing within which certain actions are to transpire:**

- Replace “No later than 10 business days after submission” with “No later than 10 business days after the [local jurisdiction’s/state fire marshal’s] receipt of the submission”
- This is intended to afford a more definitive determination as to when the clock starts.

ADMINISTRATION RESPONSE: Incorporated in amendment

**Section 3 (k)(2)(D)(ii)(a) and (c) and all location in which identical language exist concerning the requirements of the state fire marshal:**

- Add “of the local jurisdiction”
- This is intended to ensure that the review and determination of the state fire marshal is based on the relevant codes within the jurisdiction in which the project is to be constructed.
- The Code adopted by the state fire marshal is established as the state minimum. Local jurisdictions are permitted to adopt more recent codes or to impose more stringent standards. This language is to ensure in those cases in which a local jurisdiction has imposed a higher standard than adopted by the state fire marshal, then the state fire marshal is to review plans to determine compliance with the higher local standard.

ADMINISTRATION RESPONSE: Incorporated in Amendment

**Section 3 (k)(3)(B):**

- After “then the person, or the person’s designee, shall” insert the following: “Utilize a third-party inspector to conduct any subsequent inspections related to the project, and shall....”
- The intent of this language is to ensure efficiency and avoid unnecessary confusion and delays.
- If a developer or builder elects to use a third-party inspector for any inspection related to a project, then the local jurisdiction needs certainty with regard to the status and responsibility for all other inspections to be conducted on the project. Uncertainty about the status and responsibility of subsequent inspections will create confusion, resulting in delays and inefficiencies.

**ADMINISTRATION RESPONSE: Not Accepted**

**Section 3 (k)(4):**

- At the beginning of the second sentence insert “The local jurisdiction or the state fire marshal’s office, as applicable, may reject...”

- Under the bill, only the state fire marshal's office is permitted to reject an application under the conflict of interest prohibition established in the bill.
- This proposed change seeks to clarify that a local jurisdiction may also reject a third-party report based on a violation of the conflict of interest provision.

ADMINISTRATION RESPONSE: Incorporated in amendment with the proviso that any local administrative review process must also provide applicant avenue to appeal

### Section 3 (k):

- Create new (5) and renumber accordingly
- New (5)(A) grants a local jurisdiction from immunity for any liability arising out of the acceptance of and reliance upon plans and inspection submitted by a third-party plans' examiner or inspector.
- New (5)(B) requires third-party plans examiners and inspectors to maintain liability insurance and to indemnify and hold harmless any local jurisdiction for any acts or omissions or any local jurisdiction's acceptance of or reliance upon the opinion or determination of a third-party plans' examiner or inspector. The proposed change also states that a failure by a third-party plans' examiner or inspector to disclose a disqualifying conflict of interest does not vacate or void the duty to indemnify and hold the local jurisdiction harmless.
- The bill neither requires a third-party plans' examiner or inspector to maintain sufficient liability insurance commensurate with responsibilities and duties or to indemnify local jurisdictions.
- Under the bill, a local jurisdiction is required to treat the filing of an approval of plans or an inspection by the state fire marshal "as if the local jurisdiction had approved the [plans / inspection]." This requirement means the local jurisdiction must issue either a permit or certificate of occupancy, as applicable, based on the state fire marshal's approval of the work performed and submitted by a third-party plans' examiner or inspector. The local's have no discretion under this scenario. Thus, this language requires locals to issue a permit or certificate of occupancy based solely upon the opinions, determinations and approvals of the third-party examiner or inspector and the state fire marshal. Why should local jurisdictions incur any liability and its residents exposed to financial penalties, if the bill dictates they accept plans or inspections and issue permits or certificate of occupancy?

**ADMINISTRATION RESPONSE: Not Accepted**

### Section 3(k)(7):

- After "or rejected a plan or inspection in error may" insert the following "seek a determination by the local jurisdiction's board of appeals or similar administrative process established to make such determinations. If no such board or similar administrative process exists within the local jurisdiction, then an applicant may..."
- The bill provides for administrative review of an applicant's claim that the state fire marshal has incorrectly interpreted a code or has rejected a plan or inspection in error. However, no such administrative review is afforded under provisions related to disputes arising out of decisions of

a local jurisdiction. Instead, all such disputes involving the interpretations or decisions of a local jurisdiction may only be resolved in the courts.

- This change seeks to afford applicant's contesting a local jurisdiction's interpretation or decision the opportunity to resolve the matter through locally-established administrative review rather than the costlier and time-consuming option of a lawsuit.

ADMINISTRATION RESPONSE: Incorporated in amendment with the proviso that any local administrative review process must also provide applicant avenue to appeal

**Section 6 (m)(2):**

- At the end of the first sentence, insert "provided installation of such systems is allowed in the jurisdiction."
- Some municipalities do not permit the installation of subsurface sewage disposal systems within municipal limits. Others allow such systems but only within designated areas.
- This change seeks to ensure that local requirements and prohibitions applicable to these systems are not preempted under the bill.

**ADMINISTRATION RESPONSE: Not Accepted**