

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 1138

INTRODUCER: Senator Massullo

SUBJECT: Qualified Contractors

DATE: January 16, 2026

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|------------|----------------|-----------|------------------|
| 1. Hackett | Fleming | CA | Favorable |
| 2. _____ | _____ | JU | _____ |
| 3. _____ | _____ | RC | _____ |

I. Summary:

SB 1138 mandates that local governments create and maintain a framework of pre-approved private contractors available to perform building plans reviews, permit processing, and plat approval. Under the framework, a person applying to a local government for a permit, plans review, or plat approval may have a qualified contractor undertake a pre-application review, which results in the contractor certifying to the local government that items within the application meet the requirements for approval. The local government may then approve the application without duplicative reviews.

The bill also forbids a local government from creating or establishing any additional regulations or requirements that a platting applicant must meet for the approval of a final plat.

Finally, the bill makes various changes to the expedited building permit process based on preliminary plats, introduced in the 2024 legislative session. The amendments include expansion to planned unit developments, procedures for when a local government fails to create or follow the required process, and clarification of the section's preemption on the process and the limitations on local governments' more stringent procedures.

The bill takes effect July 1, 2026.

II. Present Situation:

Land Development Regulations

Comprehensive plans are implemented via land development regulations. Land development regulations are ordinances enacted by governing bodies for the regulation of any aspect of

development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land.¹

Each county and municipality must adopt and enforce land development regulations which are consistent with and implement their adopted comprehensive plan.² Local governments are encouraged to use innovative land development regulations³ and may adopt measures for the purpose of increasing affordable housing using land-use mechanisms.⁴ Land development regulations relating to all public and private development, including special district projects, must be consistent with the local comprehensive plan.⁵

Florida Building Code

The Florida Building Codes Act (building code) is found in Part IV of ch. 553, F.S. The purpose and intent of the building code is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The building code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.⁶

The Florida Building Commission (commission), housed within the DBPR, implements the building code. The commission reviews several International Codes published by the International Code Council, the National Electric Code, and other nationally adopted model codes to determine if the building code needs to be updated. The commission adopts an updated building code every three years.

Building Code Administrators, Inspectors, and Plans Examiners

Building officials, inspectors, and plans examiners are regulated by the Building Code Administrators and Inspectors Board (the board) within the DBPR. A building code administrator, otherwise known as a building official, is a local government employee, or a person contracted by a local government, who supervises building code activities, including plans review, enforcement, and inspection.⁷ A building code inspector (inspector) is a local or state government employee, or a person contracted by a local government, who inspects construction that requires permits to determine compliance with building codes and state accessibility laws.⁸

Residential Plans Inspector

A residential plans inspector (sometimes referred to as residential plans examiner) is “a person who is qualified to inspect and determine that one-family, two-family, or three-family residences not exceeding two habitable stories above no more than one uninhabitable story and accessory

¹ Section 163.3164, F.S.

² Section 163.3202, F.S.

³ Section 163.3202(3), F.S.

⁴ Sections 125.01055 and 166.04151, F.S.

⁵ See ss. 163.3161(6) and 163.3194(1)(a), F.S.

⁶ Section 553.72(1), F.S.

⁷ Section 468.603(2), F.S.

⁸ Section 468.603(4), F.S.

use structures in connection therewith are constructed in accordance with the provisions of the governing building, plumbing, mechanical, accessibility, and electrical codes.”⁹

Building Permit

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.¹⁰

It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.¹¹

To obtain a permit, an applicant must complete an application for the proposed work on the form furnished by the government entity.¹² A local enforcement agency¹³ must allow applicants to submit permit applications electronically to the local enforcement agency, which must provide accepted methods of electronic submission. Accepted methods of electronic submission include, but are not limited to, email, fill-in forms available online, or third-party submission software.¹⁴

If a building official or plans reviewer denies a permit application or revokes a building permit, the building official or plans reviewer must give the permit applicant a reason for denying or revoking the permit. The reason must be based on compliance with the building code or a local ordinance. Failing to provide a reason for denying or revoking a building permit, which is based on compliance with the building code or a local ordinance, is grounds for discipline against the building official or plans reviewer’s license.¹⁵

Private Providers Alternative Plans Review and Inspection

In 2002, s. 553.791, F.S., was created to allow property owners and contractors to hire licensed building code officials, engineers, and architects, referred to as private providers, to review building plans, perform building inspections, and prepare certificates of completion.

“Private provider” means a person licensed as a building official, engineer, or as an architect. Licensed building inspectors and plans examiners may perform inspections for additions and alterations that are limited to 1,000 square feet or less in residential buildings.¹⁶

⁹ Section 468.603(5)(h), F.S.

¹⁰ Section 202, Florida Building Code, Seventh Edition.

¹¹ Sections 125.56(4)(a) and 553.79(1), F.S.

¹² Section 713.135, F.S.

¹³ A local enforcement agency is an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the building code. Section 553.71(5), F.S.

¹⁴ Sections 125.56(4)(b) and 553.79(1)(b), F.S.

¹⁵ Section 553.79(1)(a), F.S.

¹⁶ Section 553.791(1)(n) and (3), F.S.

Private providers and their duly authorized representatives¹⁷ are able to approve building plans and perform building code inspections, including single-trade inspections, as long as the plans approval and building inspections are within the scope of the provider's or representative's license.

A local government may establish, for private providers and duly authorized representatives working within the local government's jurisdiction, a system of registration to verify compliance with the license and insurance requirements for private providers.¹⁸

For plans review, a private provider must review the plans¹⁹ to determine compliance with the applicable codes²⁰ and prepare an affidavit²¹ certifying, under oath, that the plans are in compliance and the private provider is duly authorized to perform plans review.²²

Upon receipt of a building permit application and the required affidavit from the private provider, a building official has 20 business days to issue the permit or provide written notice of the plan deficiencies.²³ If the local building official does not provide written notice of plan deficiencies within the prescribed 20-day period, the permit application shall be deemed approved and shall be issued on the next business day.²⁴ If the building official provides a written notice of plan deficiencies, the 20-day period is tolled pending resolution of the matter.²⁵ The law further specifies the process for a private provider to correct the deficiencies and also allows the permit applicant to dispute the deficiencies.

Platting

In Florida law, a "plat" is a map or delineated representation of the subdivision of lands. It is a complete and exact representation of the subdivision and other information, in compliance with state law and any local ordinances.²⁶ Generally, platting is required whenever a developer wishes to subdivide a large piece of property into smaller parcels and tracts. These smaller areas become the residential lots, streets, and parks of a new residential subdivision.²⁷

¹⁷ "Duly authorized representative" means an employee of a private provider identified in a permit application who reviews plans or performs inspections, and is licensed as an engineer, architect, building official, inspector, or plans examiner. Section 553.791(1)(f), F.S.

¹⁸ Section 553.791(16)(b), F.S.

¹⁹ "Plans" means building plans, site engineering plans, or site plans, or their functional equivalent, submitted by a fee owner or fee owner's contractor to a private provider or duly authorized representative for review. Section 553.791(1)(m), F.S.

²⁰ "Applicable codes" means the Florida Building Code and any local technical amendments to the Florida Building Code but does not include the applicable minimum fire prevention and firesafety codes adopted pursuant to ch. 633, F.S. Section 553.791(1)(a), F.S.

²¹ The affidavit may bear a written or electronic signature and may be submitted electronically to the local building official.

²² Section 553.791(6), F.S.

²³ Section 553.791(7)(a), F.S.

²⁴ *Id.*

²⁵ Section 553.791(7)(b), F.S.

²⁶ Section 177.031(14), F.S.

²⁷ Harry W. Carls, Florida Condo & HOA Law Blog, *Why is a Plat so Important?* (May 17, 2018), <https://www.floridacondofoalawblog.com/2018/05/17/why-is-a-plat-so-important/>.

State law establishes consistent minimum requirements for the platting of lands but also authorizes local governments to regulate and control platting.²⁸ Prior to local government approval, the plat must be reviewed for conformity with state and local law and sealed by a professional surveyor and mapper employed by the local government.²⁹

Local governments must review, process, and approve plats or replat submittals without action or approval by the governing body through an administrative authority and official designated by ordinance.³⁰ The administrative authority must be a department, division, or other agency of the local government, and includes an administrative officer or employee which may be a county or city administrator or manager, or assistant or deputy thereto, or other high-ranking county or city department or division director with direct or indirect oversight responsibility for the local government's land development, housing, utilities, or public works programs.

Unless the applicant requests an extension, the authority must approve, approve with conditions, or deny the submittal within the timeframe identified in the initial written notice. A denial must be accompanied by an explanation of why the submittal was denied, specifically citing unmet requirements. The authority or local government may not request or require an extension of time.³¹

Jurisdiction over plat review and approval is as follows:

- When the plat to be submitted for approval is located entirely within the boundaries of a municipality, the governing body of the municipality has exclusive jurisdiction to approve the plat.
- When the plat lies entirely within the unincorporated areas of a county, the governing body of the county has exclusive jurisdiction to approve the plat.
- When the plat lies within the boundaries of more than one governing body, two plats must be prepared and each governing body has exclusive jurisdiction to approve the plat within its own boundaries, unless both governing bodies having jurisdiction agree that one plat is acceptable.³²

Expedited Approval of Residential Building Permits Prior to Plat Approval

In the 2024 legislative session, the Legislature required certain local governments³³ to create a process to expedite the issuance of building permits based on a preliminary plat and to issue the number or percentage of building permits requested by an applicant, under certain circumstances, by October 1, 2024.³⁴ A local government must update its expedited building permit program with certain increased percentages by December 31, 2027.

The application to expedite the issuance of building permits or the local government's final approval may not alter or restrict the applicant from receiving the number of building permits

²⁸ Section 177.011, F.S.

²⁹ Section 177.081(1), F.S.

³⁰ Section 177.071(1), F.S.

³¹ Section 177.071(3), F.S.

³² *Id.*

³³ Counties with more than 75,000 residents and municipalities with more than 10,000 residents.

³⁴ Chapter 2024-210, Laws of Fla., creating s. 177.073, F.S.

requested, as long as the request for the permits does not exceed 50 percent of the homes in the subdivision or planned community or the number of building permits.³⁵

The statute also requires all local governments to create a master building permit process.³⁶

An applicant for a building permit may not obtain a temporary or final certificate of occupancy for each residential structure or building until the final plat is approved by the governing body and recorded in the public records; an applicant may, however, contract to sell, but not transfer ownership of, a residential structure or building located in the preliminary plat before the final plat is approved by the local government.³⁷

Qualified Contractors

The statute allows an applicant to use a private provider to expedite the application process for building permits after a preliminary plat is approved.

To formalize this process, local governments are required to establish a registry of “qualified contractors” whom the local government can use for help processing and expediting the review of applications for preliminary plats.³⁸ Each local government is required to maintain at least three qualified contractors whom the governing body may use to supplement staff resources for processing and expediting the review of an application for a preliminary plat or any plans related to such application.

A qualified contractor on the registry who is hired to review an application may not have a conflict of interest with the applicant.³⁹

III. Effect of Proposed Changes:

Qualified Contractors in Local Planning Decisions

Section 1 creates s. 163.3169, F.S., instituting a framework for the use of qualified, preapproved private professionals from a local government-maintained registry to perform preapplication review of permit applications, plan reviews, and plat approvals before submission to the local government for final approval.

Under the framework, which a local government is required to create and implement under the bill, a person applying to a local government for a permit, plans review, or plat approval may have a qualified contractor undertake a pre-application review, which results in the contractor certifying to the local government that the items within the application the contractor is properly licensed to review meet the requirements for approval. The local government may then approve the application having saved the time and resources required to conduct the reviews handled by the qualified contractor.

³⁵ Section 177.073(2), F.S.

³⁶ Section 177.073(3), F.S.

³⁷ Section 177.073(7), F.S.

³⁸ Section 177.073(4), F.S.

³⁹ As defined by s. 112.312, F.S., “conflict of interest” means a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.

Program Requirements

By October 1, 2026, each local governing body must adopt a program enabling applicants to use qualified contractors⁴⁰ for preapplication reviews. The program must specify:

- How contracts with qualified contractors are made.
- Minimum qualifications for being listed as a qualified contractor (e.g., valid professional credentials, no adverse licensing actions). A local government may not consider as criteria the contractor's years of experience, geographic location, or prior or existing work for or with the local government.
- Minimum and maximum hourly rates aligned with market norms.
- Other procedural elements (intake, payment, records, notice), not to conflict with the law's purpose.

The program must provide that when the applicant submits an application with an affidavit from a qualified contractor showing compliance, the local government must approve it within mandated statutory timeframes, and the development services office⁴¹ may not conduct additional review unless expressly authorized by law.

Registry

Each local development services office must establish and maintain a registry of qualified contractors:

- At least six for most local governments, or at least three for those serving populations under 10,000.
- The local government does not have the discretion to add a qualified contractor who meets the requirements of the local government's registry program and requests to be included in the registry.
- If fewer contractors are available after reasonable effort, all willing and qualified individuals must be listed.
- Local governments may contract with a neighboring locality's qualified public employees, but cannot list their own employees on the registry.

Applicants participating in the program have an unconditional right to choose any qualified contractor who meets the minimum qualifications, regardless of registry status, if the local government failed to establish the program or registry by the deadline, or the registry lacks the required number of contractors. Local governments must accept and process such applications without undue conditioning, denial, or delay, unless there is a substantiated conflict of interest as defined by state law.

Contract Terms, Uniformity, and Insurance Requirements

The bill sets out how contracts between a local government and a qualified contractor must be structured and places limits on what local governments may require. The bill requires that contracts with qualified contractors may only include terms that are authorized by the statute;

⁴⁰ An individual or firm licensed or certified in relevant disciplines (e.g., engineer, surveyor, architect, landscape architect, planner) who is on a local government's registry to conduct preapplication reviews.

⁴¹ The department and person responsible for reviewing applications for compliance with local land development regulations.

local governments may not add provisions that expand, modify, reduce, or limit the rights, processes, responsibilities, or procedures established herein.

Local governments must ensure that the material terms⁴² of contracts with qualified contractors are the same as the terms applied in similar contracts with private sector contractors providing comparable services. Local governments may not require any additional criteria or qualifications for a qualified contractor beyond what the bill expressly allows.

The bill also provides that contracts may require qualified contractors to carry appropriate insurance coverage that is commensurate with the estimated value, scope, and risk profile of the services to be performed under the contract, and must align with commercially reasonable standards for similar services.

Payment, Fees, and Review

While applicants may select from the registry which qualified contractor to use, payment is made through the local government as part of the application. The bill specifies timelines and fee structures for the use of qualified contractors.

If an applicant opts not to use a qualified contractor, and the local government fails to process the application within statutory timelines, an applicant may utilize a qualified contractor from the registry at the local government's expense.

The timelines cited, ss. 125.022 and 166.033, F.S., refer to development permits and orders, which consider that some approvals do require a quasi-judicial determination meriting 180 days before adjudication. It is unclear, in these cases, what the time saved by utilizing a qualified contractor can be expected to amount to, and whether the timelines are intended to begin upon application despite the pre-application review process having been undertaken.

A qualified contractor may only conduct preapplication review for applications relating to the disciplines covered by the contractor's licensure.

Preapplication Review Affidavit and Approval Process

The end result of the preapplication review process is an affidavit certifying to the local government that the application satisfies relevant requirements. The bill specifies the required contents for such affidavit.

Upon receipt of an application with the qualified contractor's affidavit the local government reviews and either approves or denies the application. A denial must include written notice specifically identifying aspects not in compliance with law, regulations, ordinances, and codes, and the reasons the application was denied.

Oversight Provisions

A local government may establish a complementary system for verifying whether a qualified contractor is in compliance with applicable licensure and insurance requirements related to their

⁴² Such as performance expectations, payment terms, timelines, oversight and reporting procedures

professional license. Beyond that, a local government is preempted from actions and policies inconsistent with or more stringent than the provisions of the bill.

When performing a preapplication review, a qualified contractor is subject to the disciplinary guidelines of the applicable professional board over the contractor's license or certification.

A local government may not audit the preapplication review of a qualified contractor prior to creating the standard auditing procedures for internal review staff. The bill specifies that such procedures must specify the purpose, scope, and criteria used for the audit, a framework of procedures for the contractor to file an objection to an audit's findings, and a framework for documenting findings of areas of noncompliance. Audit results must be made publicly available and must be updated at least every 6 months. A qualified contractor may not be audited more than four times in a year unless the local government determines that a condition of an application constitutes an immediate threat to public safety and welfare.

The local government and building officials are held immune from liability to any person or party for any action or inaction by an applicant or qualified contractor in connection with a preapplication review. A qualified contractor is considered an agent of the local government in determining state insurance coverage and sovereign immunity protection.

Finally, the section provides for attorney fees and costs to be awarded to a prevailing plaintiff applicant who brings civil action against a local government for violating the bill's provisions.

Platting Approval

Section 2 of the bill amends s. 177.071(1), F.S., to forbid a local government from creating or establishing any additional regulations or requirements that a platting applicant must meet for the approval of a final plat. Under the bill, local governments requiring infrastructure assurances in connection with a final plat approval shall designate the same authority as the platting administrator to receive and approve the surety instrument, which may be any commonly used form of surety instrument, such as performance bonds, letters of credit, or escrow agreements.

Section 3 amends s. 177.073, F.S., to expand the expedited building permit process from residential subdivisions or planned communities to include planned unit developments and one or more phases of a community or subdivision.

The section also provides that if a governing body fails to adopt the required expedited permit program, an applicant shall have an unconditional right to utilize a qualified contractor of the applicant's choosing to obtain up to 75 percent of the building permits for the applicable development, and the building official may not condition, delay, limit, or deny the applicant's use of a qualified contractor, or require such contractor to use a local government registry, rotation, shortlist, or other selection process. The qualified contractor may perform all services within their licensure, and the local building official shall accept such submissions when prepared and sealed, and shall review and issue permits in accordance with law.

The section also requires the application program to function for the adoption of stabilized access roads in addition to preliminary platting.

The section permits an applicant to retain a private provider of its choosing if the governing body fails to establish or maintain the required qualified contractor registry.

The section provides that, notwithstanding any ordinance, resolution, or policy, a local government may not condition the issuance of building permits under the expedited approval process on the actual or substantial completion of infrastructure or improvements identified in the preliminary plat, or the submission, acceptance, or approval of any certification of completion, record drawings, pressure or compaction test results, utility acceptance letters, or similar confirmation of finished construction or readiness for service.

The section concludes by providing that the expedited building permit approval process is an express and exclusive preemption of the regulation of the activities governed by the section; a local government may not create, adopt, enact, or implement the processes in a manner inconsistent with or more stringent than the statute. Additionally, a local government may not apply an ordinance or policy related to environmental protection or natural resources that is substantially similar to, duplicative of, or more stringent than a state regulatory program.

Section 4 provides that the bill takes effect July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 (a) of the Florida Constitution provides in part that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. Under the bill local governments will be required to create and implement a new local planning and permitting process. Potential costs related to this requirement are unknown at this time.

The mandate requirements do not apply to laws having an insignificant fiscal impact, which for Fiscal Year 2025-2026 is forecast at approximately \$2.4 million.^{43,44,45}

If the bill does qualify as a mandate, in order to be binding upon cities and counties, the bill must contain a finding of important state interest and be approved by a two-thirds vote of the membership of each house.

B. Public Records/Open Meetings Issues:

None.

⁴³ FLA. CONST. art. VII, s. 18(d).

⁴⁴ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 15, 2026).

⁴⁵ Based on the Florida Demographic Estimating Conference's population forecast for 2026. The conference packet is available at: https://edr.state.fl.us/content/conferences/population/ConferenceResults_Tables.pdf (last visited Jan. 15, 2026).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Developers may benefit economically from greater efficiency and private options for various stages of development approval.

C. Government Sector Impact:

Local governments may see a negative impact in creating the required registry program and amending processes to incorporate registered qualified contractors for certain functions, and may in the long term benefit from some amount of workload reduction due to the use of private contractors.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The applications the bill covers include permits, plans reviews, and plat approvals. The bill defines permit to include “an authorization, approval, or grant by a local governing body or development services office that permits the development of land, including any zoning permit, subdivision approval, rezoning, special exception, variance, or any other application, as necessary,” while “plans” includes “site engineering plans or site plans.” However, application is specified to include an application for any permit, but specifically does not include plans or permits as reviewed under s. 553.791, F.S., which include building permits (the general usage meaning of “permit” in this context) and building plans, site engineering plans, or site plans, contradicting the inclusions. Later the bill refers to statutory approval timelines specific to development permits and orders under ss. 125.022 and 166.033, F.S. The exact sorts of applications the bill’s registry covers should be clarified to either include or exclude each of those development stages found in statute.

VIII. Statutes Affected:

This bill substantially amends sections 177.071 and 177.073 of the Florida Statutes.
This bill creates section 163.3169 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
