

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 Rules

BILL: CS/SB 1138

INTRODUCER: Judiciary Committee and Senator Massullo

SUBJECT: Qualified Contractors

DATE: February 23, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Fleming</u>	<u>CA</u>	Favorable
2.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3.	<u>Hackett</u>	<u>Kruse</u>	<u>RC</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1138 requires a city, county, or district that issues building permits or plat approvals to create and use a program by January 1, 2027, to use private contractors to conduct a preapplication review of building plans, permits, and proposed plats. Cities having fewer than 10,000 residents are exempt, as are counties having a population of fewer than 25,000. A person applying to a local government entity for a permit, plans review, or plat approval may have a qualified contractor undertake a pre-application review. After review, the contractor certifies to the local government that items within the application meet the requirements for approval. The local government must then consider the application and approve or deny the application without duplicative reviews.

The bill also makes various changes to the expedited building permit process based on preliminary plats which was enacted during the 2024 Legislative Session. The amendments include expansion to planned unit developments and procedures for when a local government fails to create or follow the required process.

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 include 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 that 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 Department of Business and Professional Regulation (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 3 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

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.

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 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.

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.

“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

Private providers and their duly authorized representatives¹⁷ may 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 comply 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 is deemed approved and must 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

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

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 fire safety 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.

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

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

During 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

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

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.

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 requested, if 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 for Development Order Preapplication Review

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 a preapplication review of permit applications, plan reviews, and plat approvals before submission to the local government for final approval. Certain smaller local governments are not required to institute this process.

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

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.

Under the framework, which a regulated 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. This review results in the contractor certifying to the local government that the items within the application, which 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.

Local Governments Affected by This Bill

The requirements of this bill apply to a local governing body that is:

- A county of 25,000 or more residents⁴⁰ other than Monroe County;⁴¹
- A city of 10,000 or more residents;⁴² or
- An independent district created pursuant to chs. 189 or 190, F.S., that has authority over land development regulations.⁴³

Program Requirements

By January 1, 2027, each local governing body must adopt a program enabling applicants to use qualified contractors⁴⁴ 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 applies with an affidavit from a qualified contractor showing compliance, the local government must consider the application to be administratively complete for purposes of acceptance and processing.

Registry

Each local development services office must establish and maintain a registry of at least 6 qualified contractors. A local government may enter into an agreement with another local government to use a qualified public employee as a qualified contractor.

⁴⁰ Currently, 53 of the state's 67 counties have 25,000 or greater residents. See https://www.florida-demographics.com/counties_by_population

⁴¹ See s. 380.0552, F.S. and Fla. Admin. Code Ann. r. 28-29.002.

⁴² Currently, 347 of the state's 953 cities have 10,000 or more residents. See https://www.florida-demographics.com/cities_by_population

⁴³ Chapter 189, F.S., governs special districts, and ch. 190, F.S., governs Community Development Districts.

⁴⁴ 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.

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 only include terms that are authorized by the statute; local governments may not add provisions that expand, modify, reduce, or limit the rights, processes, responsibilities, or procedures established by the bill.

Local governments must ensure that the material terms⁴⁵ 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.

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. If an applicant uses a qualified contractor, the fee must be reduced by the cost savings to the entity resulting from not having to conduct preapplication review. The local government must give a qualified contractor access to relevant local government files that are not otherwise exempt.

The program is optional to applicants, and an applicant may initially file the application directly with the local government. If an applicant opts not to use a qualified contractor, and the local government thereafter fails to process the application within statutory timelines, the applicant may elect to refer the file to a qualified contractor from the registry. If the applicant makes this election, the local government must pay the expense of employing the qualifying contractor, but only if the local government failed to establish a registry as required and the qualifying contractor does not have a conflict of interest.⁴⁶

Limitation on a Qualified Contractor, Disqualification

A qualified contractor may only review and act on an application that is related to that contractor's license or certification. A qualified contractor may not be employed to review an application if the qualified contractor was employed by the applicant for contracting work on the project being reviewed. A qualified contractor is also disqualified if the contractor has a conflict of interest.⁴⁷

Preapplication Review Affidavit Requirement

The result of the preapplication review process is an affidavit signed by the qualifying contractor. The qualifying contractor must work with the applicant to resolve items that do not comply. Once corrected, the qualifying contractor must furnish an affidavit certifying to the local government that the application complies with all relevant land development regulation,

⁴⁵ Such as performance expectations, payment terms, timelines, oversight and reporting procedures.

⁴⁶ The bill here does not define conflict of interest, but may be read to infer that the conflict of interest definition of a conflict of interest applicable to public employees at s. 112.312(8), F.S.

⁴⁷ Here the bill references s. 112.312, F.S., to define a conflict of interest. That section defines it as "a situation in which regard for a private interest tends to lead to disregard of a public duty or interest."

comprehensive plan regulations, ordinances and codes. The bill specifies the required contents for the affidavit:

- The qualifying contractor conducted a preapplication review.
- The qualifying contractor is duly authorized to perform the review.
- The permits, plans or plats comply with all applicable land development regulation, comprehensive plan regulations, ordinances, and codes.
- The signature of the qualifying contractor.

Preapplication Review Approval

Upon receipt of a complete affidavit certifying to the local government that the application satisfies relevant requirements, the development services office must accept the affidavit and, no later than the next business day, forward the application to proceed with final action. The review at this stage is ministerial only, and the office may not re-review technical sufficiency or substantive compliance.

If the development services office determines that the application is administratively incomplete, it must notify the applicant in writing with a specific description of why the application is incomplete. The notice must be given within 10 business days after receipt of the application. If no notice is timely sent to the applicant, the application is deemed administratively complete and must be forwarded to the governing authority.

Preemption; Professional Discipline; Audit

The bill specifically provides that the requirements relating to preapplication reviews preempts any local law or ordinance that is in conflict. A qualified contractor is subject to the disciplinary guidelines of the applicable licensing laws. A local government may audit the work of a qualified contractor. A county, city, school district, or independent special district may use a qualifying contractor to provide them with a preapplication review for a public works project.

Civil Cause of Action; Attorney Fees

The bill creates a civil cause of action for declaratory or injunctive relief against a city or county relating to preapplication reviews. The bill also requires an award of prevailing party attorney fees, except that fees, costs and damages may not be awarded unless the applicant gives notice of the alleged violations of the statutory preapplication review requirements, and the city or county does not cure the failure to comply with the statutory requirements within 14 days of the notice.

Platting Approval

Section 2 of the bill amends s. 177.071(1), F.S., to prohibit 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. Authorized surety instruments include 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 has an unconditional right to use 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.

The section also requires the expedited application program to approve stabilized access roads that can support emergency vehicles in addition to preliminary platting.

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.

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.^{48,49,50}

If the bill does qualify as a mandate, 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.

⁴⁸ FLA. CONST. art. VII, s. 18(d).

⁴⁹ 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).

⁵⁰ 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).

B. Public Records/Open Meetings Issues:

None.

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:

None.

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 Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on February 10, 2026:

The committee substitute differs from the underlying bill by:

- Limiting the bill to rezoning, variances, and special exceptions;
- Exempting smaller local governments from the preapplication review procedures;
- Extending the start date of the bill’s requirements to January 1, 2027;
- Allowing experience-based requirements for a qualified contractor;
- Changing automatic approval of permit to simply automatic completeness, thereby preserving local board authority to approve or deny a complete application;
- Broadening auditing authority over qualified contractors; and
- Removing a provision that would have given sovereign immunity protection to a qualified contractor.

- B. **Amendments:**

None.