



SENATE BILL 677: Surveyors Right of Entry/Exped. Comm. Bldg.

2023-2024 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	September 21, 2023
Introduced by:	Sens. Jarvis, McInnis	Prepared by:	Howard Marsilio
Analysis of:	PCS to Third Edition S677-CSBG-22		Staff Attorney

OVERVIEW: *The Proposed Committee Substitute (PCS) to Senate Bill 677 would:*

- *Give licensed professional land surveyors and their agents, employees, or personnel under their supervision, a limited right to enter into the lands of others if necessary to perform surveys, and after making a reasonable effort to notify adjoining landowners upon whose land entry is necessary.*
- *Expedite plan review processes and authorize the use of limited at-risk construction permitting options for certain commercial and multifamily building projects.*

The PCS adds Section 2 to the original bill and makes various conforming changes.

CURRENT LAW/BILL ANALYSIS:

Section 1: Professional land surveyors are licensed under Chapter 89C of the General Statutes.

Under Articles 22A and 22B of Chapter 14 of the General Statutes, a person who trespasses upon lands of another without permission is subject to criminal liability.

Under 42 U.S.C. § 5195c, "critical infrastructure" is defined as "systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters."

Section 1 would enact G.S. 89C-19.2 granting a licensed professional land surveyor and the surveyor's agents, employees, or personnel under the surveyor's supervision the right to enter upon the lands of others, with the surveyor's customary equipment and vehicles, if necessary to perform surveys for the practice of land surveying, including the location of property corners, boundary lines, rights-of-way, and easements.

Nothing in this section shall be construed as giving a professional land surveyor authority to destroy, injure, damage, or move anything on the lands of another without the landowner's written permission nor construed as removing civil liability incurred from those actions.

An entry by a professional land surveyor as authorized by this section would not constitute trespass under Articles 22A or 22B of Chapter 14 of the General Statutes, and the surveyor making an authorized entry would not be subject to arrest or a civil action by reason of the entry.

The surveyor would be required to make reasonable efforts to notify adjoining landowners upon whose land entry is necessary. The surveyor, or person under such surveyor's supervision, shall not have a civil

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cause of action for personal injury or property damage incurred while on the land for these purposes, except when such damages and injury were willfully or deliberately caused by the landowner or lessee.

The authority granted under new G.S. 89C-19.2 would not apply to lands:

- Traversed by an operating railroad or properties owned, held, used, or operated by a railroad or their subsidiaries.
- Containing critical infrastructure, as defined in 42 U.S.C. § 5195c.
- Containing "critical infrastructure facilities," defined as "critical infrastructure that is completely enclosed by a fence or other physical barriers that is obviously designed to exclude intruders or clearly marked with a sign or signs posted on the property that are reasonably likely to come to the attention of a person and indicate that entry is forbidden without site authorization."

Section 2: Article 11 of Chapter 160D is the primary body of law that outlines Code enforcement by local government in land development. Generally, a person cannot commence or proceed with construction or related activities without first securing relevant building permit(s) as required by North Carolina State Building Code and any other State or local laws applicable to the construction activity.

For the purposes of permit issuance and administration, generally, local governments and their inspection departments are responsible for plan review for building permit purposes.

Section 2 would:

- Require a local government to perform plan review and issue building permit decisions for commercial and multifamily building projects that are sealed for construction by an applicable engineer or architect within certain timeframes.
- Create the option for a pre-submittal meeting prior to permit application for eligible permit applicants to determine whether the permit applicant possesses necessary plans and sufficient information the local government would require for building permit plan review.
 - For applicants utilizing the pre-submittal meeting option, at-risk building foundation and at-risk building structure permit options are available.
- Provide alternative methods using third-party reviewers if the local government is unable to complete plan review within the applicable timeframes.
- Provide liability limitations for local governments when issuing permits based on these new processes.
- Make various conforming changes to clarify the application of erosion and sedimentation control programs, vested rights laws, and various existing laws to implement these new provisions.

EFFECTIVE DATE: Section 1 would become effective July 1, 2024, and would apply to acts on or after that date. Section 2 would become effective July 1, 2024, and would apply to permit applications submitted on or after that date. Except as otherwise provided, this act would become effective when it becomes law.

**Bill Patterson, Legislative Analysis Division, substantially contributed to this summary.*