



# SENATE BILL 677: Surveyors Right of Entry/Expedite Commercial and Multifamily Building Projects.

2023-2024 General Assembly

<b>Committee:</b>		<b>Date:</b>	December 18, 2023
<b>Introduced by:</b>		<b>Prepared by:</b>	Howard Marsilio Staff Attorney
<b>Analysis of:</b>	S.L. 2023-142		

## OVERVIEW: S.L. 2023-142:

- Gives 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.
- Expedites plan review processes and authorizes the use of limited at-risk construction permitting options for certain commercial and multifamily building projects.

*The section of the act pertaining to professional land surveyor right-of-entry becomes effective July 1, 2024, and applies to acts on or after that date. The section of the act pertaining to commercial and multifamily building permits becomes effective July 1, 2024, and applies to permit applications submitted on or after that date.*

## CURRENT LAW/BILL ANALYSIS:

### Professional Land Surveyor Right-of-Entry. –

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** of the act pertaining to professional land surveyor right-of-entry enacts 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 is to 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 or construed as removing civil liability incurred from those actions.

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

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The surveyor is required to make reasonable efforts to notify adjoining landowners upon whose land entry is necessary. The surveyor, or person under such surveyor's supervision, will not have a civil cause of action for personal injury or property damage incurred while on the land for these purposes, except when such damages and injury are willfully or deliberately caused by the landowner or lessee.

The authority granted under new G.S. 89C-19.2 does 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."

## **Commercial and Multifamily Building Permit Process Modifications. -**

Article 11 of Chapter 160D is the primary body of law that outlines Code enforcement by local government in land development. 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, local governments and their inspection departments are responsible for plan review for building permit purposes.

**Section 2** of the act pertaining to commercial and multifamily building permits:

- Requires 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.
- Creates 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.
- Provides alternative methods using third-party plan reviewers if the local government is unable to complete plan review within the applicable timeframes.
- Provides liability limitations for local governments when issuing permits based on these new processes.
- Makes various conforming changes to clarify the application of erosion and sedimentation control programs, vested rights laws, and various existing laws along these lines.

**EFFECTIVE DATE:** Section 1 of the act pertaining to professional land surveyor right-of-entry becomes effective July 1, 2024, and applies to acts on or after that date. Section 2 of the act pertaining to commercial and multifamily building permits becomes effective July 1, 2024, and applies to permit applications submitted on or after that date. Except as otherwise provided, this act became effective October 21, 2023.