

CHAPTER 249

GOVERNMENT - STATE

HOUSE BILL 12-1002

BY REPRESENTATIVE(S) Sonnenberg, Baumgardner, Becker, Beezley, Brown, Coram, DelGrosso, Gerou, Holbert, Joshi, Liston, Pace, Priola, Ramirez, Scott, Swalm, McNulty, Barker, Conti, Pabon, Stephens, Summers; also SENATOR(S) Jahn, Aguilar, Boyd, Brophy, Cadman, Grantham, King K., King S., Lambert, Lundberg, Mitchell, Neville, Newell, Renfro, Roberts, Scheffel, White, Williams S.

AN ACT

CONCERNING THE RULES OF STATE AGENCIES APPLICABLE TO APPLICATIONS FOR PERMITS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Short title. This act shall be known as the "Creating Level Expectations for Application Review Act" or the "CLEAR Act".

SECTION 2. In Colorado Revised Statutes, **add** 24-4-104.5 as follows:

24-4-104.5. Permits - rules in effect at time of submission of application for a permit control. (1) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "PERMIT" MEANS A GRANT OF AUTHORITY BY AN AGENCY THAT AUTHORIZES THE HOLDER OF THE PERMIT TO DO SOME ACT NOT FORBIDDEN BY LAW BUT NOT ALLOWED TO BE PERFORMED WITHOUT SUCH AUTHORITY. "PERMIT" DOES NOT INCLUDE A PROFESSIONAL LICENSE ISSUED BY A LICENSING BOARD OR AN AGENCY TO CONDUCT A PROFESSION OR OCCUPATION. "PERMIT" DOES NOT INCLUDE A REGISTRATION OR CERTIFICATION ISSUED BY A BOARD OR STATE AGENCY TO AN INDIVIDUAL TO PURSUE A PROFESSION, PRACTICE, OR OCCUPATION. "PERMIT" DOES NOT INCLUDE A WATER WELL PERMIT ISSUED BY THE STATE ENGINEER PURSUANT TO TITLE 37, C.R.S.

(2) (a) THE RULES AND ANY WRITTEN STATEMENTS OF AGENCY INTERPRETATION OF THE STATUTES OF AN AGENCY THAT ARE IN EFFECT ON THE DATE THAT A PERSON APPLIES FOR ISSUANCE OR RENEWAL OF A PERMIT GOVERN THE APPLICATION PROCESS AND ANY PERMIT ELIGIBILITY REQUIREMENT. IF THE RULES OR ANY WRITTEN STATEMENTS OF AGENCY INTERPRETATION OF THE STATUTES GOVERNING THE AGENCY'S PERMIT PROCESS OR THE REQUIREMENTS TO QUALIFY FOR A PERMIT HAVE BEEN AMENDED, THE AGENCY SHALL PROCESS THE APPLICATION UNDER THE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

RULES AND ANY WRITTEN STATEMENTS OF AGENCY INTERPRETATION OF THE STATUTES IN EFFECT ON THE DATE OF THE APPLICATION, UNLESS THE AGENCY DETERMINES IN WRITING THAT:

(I) (A) THE NEW RULES MATERIALLY AFFECT THE HEALTH AND SAFETY OF THE PUBLIC; AND

(B) USE OF THE RULES IN EFFECT ON THE DATE OF APPLICATION IS LIKELY TO RESULT IN AN UNSAFE SITUATION IF THE APPLICANT DOES NOT COMPLY WITH THE NEW RULES; OR

(II) NEW RULES OR NEW REQUIREMENTS ARE NECESSARY TO ENSURE THAT THE AGENCY AND THE PERMIT WILL BE IN COMPLIANCE WITH THE REQUIREMENTS OF FEDERAL LAW AND FEDERAL REGULATIONS; OR

(III) NEW RULES OR NEW REQUIREMENTS ARE NECESSARY TO ENSURE THAT THE AGENCY AND THE PERMIT WILL NOT BE IN CONFLICT WITH STATE STATUTES; OR

(IV) NEW RULES OR NEW REQUIREMENTS ARE NECESSARY TO ENSURE THAT THE AGENCY AND THE PERMIT WILL BE IN COMPLIANCE WITH THE REQUIREMENTS OF A COURT ORDER.

(b) IF THE AGENCY DETERMINES THAT ONE OF THE EXCEPTIONS TO THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (2) WILL OCCUR IF THE APPLICANT DOES NOT COMPLY WITH THE NEW RULES OR NEW REQUIREMENTS, THE AGENCY SHALL:

(I) TREAT THE APPLICATION AS PENDING;

(II) PROVIDE A WRITTEN NOTICE TO THE APPLICANT STATING THE REASONS THE APPLICATION IS INCOMPLETE; AND

(III) GIVE THE APPLICANT A REASONABLE OPPORTUNITY TO COMPLY WITH THE NEW RULES OR NEW REQUIREMENTS.

(3) IF AN AGENCY ADOPTS OR AMENDS RULES THAT GOVERN OR IMPACT THE APPLICATION PROCESS OR ANY PERMIT ELIGIBILITY REQUIREMENTS AFTER A PERSON HAS APPLIED FOR A PERMIT OR RENEWAL OF A PERMIT AND WHILE THE APPLICATION IS PENDING WITH THE AGENCY, THE PERSON SHALL HAVE THE OPTION TO HAVE THE APPLICATION PROCESSED UNDER THE RULES IN EXISTENCE AT THE TIME OF THE FILING OF THE APPLICATION OR UNDER THE NEW RULES.

SECTION 3. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) The provisions of this act apply to any applications for new permits or for renewals of permits submitted to state agencies on or after the applicable effective date of this act.

Approved: June 4, 2012