

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 12-0650.01 Debbie Haskins x2045

**HOUSE BILL 12-1002**

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**HOUSE SPONSORSHIP**

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**House Committees**  
Economic and Business Development

**Senate Committees**

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**A BILL FOR AN ACT**

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

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill creates the "CLEAR Act", which stands for "Creating Level Expectations For Application Review".

The bill amends the "State Administrative Procedure Act" (APA) to state that the rules of a state agency in effect on the date that a person applies for a new or renewed permit govern the application for a new

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

HOUSE  
3rd Reading Unamended  
February 2, 2012

HOUSE  
Amended 2nd Reading  
February 1, 2012

permit or for renewal of the permit. If the statutes governing the agency's permit process and the requirements to qualify for a permit have changed and the agency has not yet adopted revisions to the rules to implement the new statute as of the date that a person applies for a new or renewed permit, the agency must grandfather in the application under the rules in effect on the date of the application, unless the agency determines in writing that the statutory changes materially affect the health and safety of the public and that use of the existing, unrevised rules is likely to result in an unsafe situation if the applicant does not comply with the new statutory requirements and with new rules. If the agency makes this determination, the agency must treat the application as pending, provide a written notice to the person that states the reasons the application is incomplete, and give the person a reasonable opportunity to comply with all new lawful requirements.

The bill defines "permit" as 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 agency to conduct a profession or occupation.

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

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

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

7           **24-4-104.5. Permits - rules in effect at time of submission of**  
8 **application for a permit control.** (1) FOR PURPOSES OF THIS SECTION,  
9 UNLESS THE CONTEXT OTHERWISE REQUIRES, "PERMIT" MEANS A GRANT  
10 OF AUTHORITY BY AN AGENCY THAT AUTHORIZES THE HOLDER OF THE  
11 PERMIT TO DO SOME ACT NOT FORBIDDEN BY LAW BUT NOT ALLOWED TO  
12 BE PERFORMED WITHOUT SUCH AUTHORITY. "PERMIT" DOES NOT INCLUDE  
13 A PROFESSIONAL LICENSE ISSUED BY A LICENSING BOARD OR AN AGENCY  
14 TO CONDUCT A PROFESSION OR OCCUPATION. "PERMIT" DOES NOT INCLUDE

1 A REGISTRATION OR CERTIFICATION ISSUED BY A BOARD OR STATE AGENCY  
2 TO AN INDIVIDUAL TO PURSUE A PROFESSION, PRACTICE, OR OCCUPATION.

3 (2) (a) THE RULES AND ANY WRITTEN STATEMENTS OF AGENCY  
4 INTERPRETATION OF THE STATUTES OF AN AGENCY THAT ARE IN EFFECT ON  
5 THE DATE THAT A PERSON APPLIES FOR ISSUANCE OR RENEWAL OF A  
6 PERMIT GOVERN THE APPLICATION PROCESS AND ANY PERMIT ELIGIBILITY  
7 REQUIREMENT. IF THE RULES OR ANY WRITTEN STATEMENTS OF AGENCY  
8 INTERPRETATION OF THE STATUTES GOVERNING THE AGENCY'S PERMIT  
9 PROCESS OR THE REQUIREMENTS TO QUALIFY FOR A PERMIT HAVE BEEN  
10 AMENDED, THE AGENCY SHALL PROCESS THE APPLICATION UNDER THE  
11 RULES AND ANY WRITTEN STATEMENTS OF AGENCY INTERPRETATION OF  
12 THE STATUTES IN EFFECT ON THE DATE OF THE APPLICATION, UNLESS THE  
13 AGENCY DETERMINES IN WRITING THAT:

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

16 (B) USE OF THE EXISTING, UNREVISED RULES IS LIKELY TO RESULT  
17 IN AN UNSAFE SITUATION IF THE APPLICANT DOES NOT COMPLY WITH THE  
18 NEW RULES; OR

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

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

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

1       REQUIREMENTS, THE AGENCY SHALL:

2               (I) TREAT THE APPLICATION AS PENDING;

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

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

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

14               **SECTION 3. Act subject to petition - effective date -**  
15 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
16 the expiration of the ninety-day period after final adjournment of the  
17 general assembly (August 7, 2012, if adjournment sine die is on May 9,  
18 2012); except that, if a referendum petition is filed pursuant to section 1  
19 (3) of article V of the state constitution against this act or an item, section,  
20 or part of this act within such period, then the act, item, section, or part  
21 will not take effect unless approved by the people at the general election  
22 to be held in November 2012 and, in such case, will take effect on the  
23 date of the official declaration of the vote thereon by the governor.

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