

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 773
PROPOSED COMMITTEE SUBSTITUTE H773-PCS70357-RW-27

Short Title: Local Gov'ts/Bldgs/Structures/Inspections.

(Public)

Sponsors:

Referred to:

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT REVISING THE CONDITIONS UNDER WHICH COUNTIES AND CITIES MAY
3 INSPECT BUILDINGS OR STRUCTURES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 153A-364 reads as rewritten:

6 "**§ 153A-364. ~~Periodic inspections~~Inspections for hazardous or unlawful conditions.**

7 (a) The inspection department may make ~~periodic~~ inspections, subject to the board of
8 commissioners' directions, for unsafe, unsanitary, or otherwise hazardous and unlawful
9 conditions in buildings or structures within its territorial jurisdiction. Except as provided in
10 subsection (b) of this section, the inspection department may make ~~periodic~~ inspections only
11 when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or
12 unlawful conditions may exist in a residential building or structure. For purposes of this
13 section, the term "reasonable cause" means any of the following: (i) the ~~landlord or~~
14 ~~owner~~ property has a history of more than two verified violations of the housing ordinances or
15 codes within a 12-month period; (ii) there has been a complaint that substandard conditions
16 exist within the building or there has been a request that the building be inspected; (iii) the
17 inspection department has actual knowledge of an unsafe condition within the building; or (iv)
18 violations of the local ordinances or codes are visible from the outside of the property. In
19 conducting inspections authorized under this section, the inspection department shall not
20 discriminate between single-family and multifamily ~~buildings.~~ buildings or between
21 owner-occupied and tenant-occupied buildings. In exercising these powers, each member of the
22 inspection department has a right, upon presentation of proper credentials, to enter on any
23 premises within the territorial jurisdiction of the department at any reasonable hour for the
24 purposes of inspection or other enforcement action. Nothing in this section shall be construed
25 to prohibit periodic inspections in accordance with State fire prevention code or as otherwise
26 required by State law.

27 (b) A county may require ~~periodic~~ inspections as part of a targeted effort to respond to
28 blighted or potentially blighted conditions within a geographic area that has been designated by
29 the county commissioners. However, the targeted area must meet the requirements for a
30 community development block grant, and the total aggregate of designated geographic areas in
31 the county shall not be greater than one square mile. The county shall not discriminate ~~in its~~
32 ~~selection of areas or~~ between single-family and multifamily buildings or between
33 owner-occupied and tenant-occupied buildings in its selection of housing types to be targeted
34 and shall inspect in the targeted area. The county shall (i) provide notice to all owners and
35 residents of properties in the affected area about the ~~periodic~~ inspections plan and information
36 regarding a public hearing regarding the plan; (ii) hold a public hearing regarding the plan; and



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1 (iii) establish a plan to address the ability of low-income residential property owners to comply
2 with minimum housing code standards.

3 (c) In no event may a county do any of the following: (i) adopt or enforce any
4 ordinance that would require any owner or manager of rental property to obtain any permit or
5 permission from the county to lease or rent residential real ~~property, property, or to register~~
6 rental property, except for those individual rental units that have more than three verified
7 violations of housing ordinances or codes in a 12-month period or upon the property being
8 identified within the top ~~10% four percent (4%)~~ of properties with crime or disorder problems
9 as set forth in a local ordinance; (ii) require that an owner or manager of residential rental
10 property enroll or participate in any governmental program as a condition of obtaining a
11 certificate of occupancy; ~~or (iii) except as provided in subsection (d) of this section,~~ (iii) levy a
12 special fee or tax on residential rental property that is not also levied against other commercial
13 and residential ~~properties, properties;~~ (iv) require proof of registration under subdivision (i) of
14 this subsection, when applicable, be posted in the business office, common area, or other
15 conspicuous place; or (v) provide that any violation of a rental registration ordinance is
16 punishable as a criminal offense.

17 (d) ~~A county may levy a fee for residential rental property registration under subsection~~
18 ~~(c) of this section for those rental units which have been found with more than two verified~~
19 ~~violations of housing ordinances or codes within the previous 12 months or upon the property~~
20 ~~being identified within the top 10% of properties with crime or disorder problems as set forth in~~
21 ~~a local ordinance. The fee shall be an amount that covers the cost of operating a residential~~
22 ~~registration program and shall not be used to supplant revenue in other areas. Counties using~~
23 ~~registration programs that charge registration fees for all residential rental properties as of June~~
24 ~~1, 2011, may continue levying a fee on all residential rental properties as follows:~~

25 (1) ~~For properties with 20 or more residential rental units, the fee shall be no~~
26 ~~more than fifty dollars (\$50.00) per year.~~

27 (2) ~~For properties with fewer than 20 but more than three residential rental units,~~
28 ~~the fee shall be no more than twenty five dollars (\$25.00) per year.~~

29 (3) ~~For properties with three or fewer residential rental units, the fee shall be no~~
30 ~~more than fifteen dollars (\$15.00) per year.~~

31 (e) For purposes of this section, the term "verified violation" means all of the following:

32 (1) The aggregate of all violations of housing ordinances or codes found in an
33 individual rental unit of residential real property during a 72-hour period.

34 (2) Any violations that have not been corrected by the owner or manager within
35 30 days of receipt of written notice from the county of the violations. If the
36 housing ordinance or code provides that any form of prohibited tenant
37 behavior constitutes a violation by the owner or manager of the rental
38 property, it shall be deemed a correction of the tenant-related violation if the
39 owner or manager, within 30 days of receipt of written notice of the
40 tenant-related violation, brings a summary ejectment action to have the
41 tenant evicted. If the court finds against the owner or manager in the
42 summary ejectment action and does not evict the tenant, it shall be deemed a
43 correction of the tenant-related violation if the owner or manager does not
44 renew the tenant's lease at the end of the then-current term and does not lease
45 to the tenant again.

46 (f) If a property is identified by the county as being in the top four percent (4%) of
47 properties with crime or disorder problems, the county shall notify the landlord of any crimes,
48 disorders, or other violations that will be counted against the property to allow the landlord an
49 opportunity to attempt to correct the problems. In addition, the county and the county's sheriff
50 department shall assist the landlord in addressing any criminal activity, including testifying in
51 court in a summary ejectment action or other matter to aid in evicting a tenant who has been

1 charged with a crime. If the county or the county's sheriff department does not cooperate in
2 evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or
3 disorder problem as set forth in the local ordinance, and the property may not be included in the
4 top four percent (4%) of properties as a result of that tenant's behavior or activity."

5 **SECTION 2.** G.S. 160A-424 reads as rewritten:

6 **"§ 160A-424. ~~Periodic inspections.~~ Inspections for hazardous or unlawful conditions.**

7 (a) The inspection department may make ~~periodic~~ inspections, subject to the council's
8 directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings
9 or structures within its territorial jurisdiction. Except as provided in subsection (b) of this
10 section, the inspection department may make ~~periodic~~ inspections only when there is
11 reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful
12 conditions may exist in a residential building or structure. For purposes of this section, the term
13 "reasonable cause" means any of the following: (i) the ~~landlord or owner~~ property has a history
14 of more than two verified violations of the housing ordinances or codes within a 12-month
15 period; (ii) there has been a complaint that substandard conditions exist within the building or
16 there has been a request that the building be inspected; (iii) the inspection department has
17 actual knowledge of an unsafe condition within the building; or (iv) violations of the local
18 ordinances or codes are visible from the outside of the property. In conducting inspections
19 authorized under this section, the inspection department shall not discriminate between
20 single-family and multifamily ~~buildings~~ buildings or between owner-occupied and
21 tenant-occupied buildings. In exercising this power, members of the department shall have a
22 right to enter on any premises within the jurisdiction of the department at all reasonable hours
23 for the purposes of inspection or other enforcement action, upon presentation of proper
24 credentials. Nothing in this section shall be construed to prohibit periodic inspections in
25 accordance with State fire prevention code or as otherwise required by State law.

26 (b) A city may require ~~periodic~~ inspections as part of a targeted effort to respond to
27 blighted or potentially blighted conditions within a geographic area that has been designated by
28 the city council. However, the targeted area must meet the requirements for a community
29 development block grant, and the total aggregate of targeted areas in the city shall not be
30 greater than one square mile. The ~~municipality~~ city shall not discriminate in its selection of
31 areas or between owner-occupied and tenant-occupied buildings in its selection of housing types
32 to be inspected in the targeted and shall (i) area. The city shall (i) provide notice to all owners
33 and residents of properties in the affected area about the ~~periodic~~ inspections plan and
34 information regarding a public hearing regarding the plan; (ii) hold a public hearing regarding
35 the plan; and (iii) establish a plan to address the ability of low-income residential property
36 owners to comply with minimum housing code standards.

37 (c) In no event may a city do any of the following: (i) adopt or enforce any ordinance
38 that would require any owner or manager of rental property to obtain any permit or permission
39 from the city to lease or rent residential real property, except for those ~~properties~~ individual
40 rental units that have more than three verified violations in a 12-month period or upon the
41 property being identified within the top ~~10%~~ four percent (4%) of properties with crime or
42 disorder problems as set forth in a local ordinance; (ii) require that an owner or manager of
43 residential rental property enroll or participate in any governmental program as a condition of
44 obtaining a certificate of occupancy; ~~or (iii) except as provided in subsection (d) of this~~
45 ~~section, (iii) levy a special fee or tax on residential rental property that is not also levied against~~
46 ~~other commercial and residential properties; (iv) require proof of registration under~~
47 subdivision (i) of this subsection, when applicable, be posted in the business office, common
48 area, or other conspicuous place; or (v) provide that any violation of a rental registration
49 ordinance is punishable as a criminal offense.

50 (d) ~~A city may levy a fee for residential rental property registration under subsection (c)~~
51 ~~of this section for those rental units which have been found with more than two verified~~

1 ~~violations of local ordinances within the previous 12 months or upon the property being~~
2 ~~identified within the top 10% of properties with crime or disorder problems as set forth in a~~
3 ~~local ordinance. The fee shall be an amount that covers the cost of operating a residential~~
4 ~~registration program and shall not be used to supplant revenue in other areas. Cities using~~
5 ~~registration programs that charge registration fees for all residential rental properties as of June~~
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15 individual rental unit of residential real property during a 72-hour period.

16 (2) Any violations that have not been corrected by the owner or manager within
17 30 days of receipt of written notice from the city of the violations. If the
18 housing ordinance or code provides that any form of prohibited tenant
19 behavior constitutes a violation by the owner or manager of the rental
20 property, it shall be deemed a correction of the tenant-related violation if the
21 owner or manager, within 30 days of receipt of written notice of the
22 tenant-related violation, brings a summary ejectment action to have the
23 tenant evicted. If the court finds against the owner or manager in the
24 summary ejectment action and does not evict the tenant, it shall be deemed a
25 correction of the tenant-related violation if the owner or manager does not
26 renew the tenant's lease at the end of the then-current term and does not lease
27 to the tenant again.

28 (f) If a property is identified by the city as being in the top four percent (4%) of
29 properties with crime or disorder problems, the city shall notify the landlord of any crimes,
30 disorders, or other violations that will be counted against the property to allow the landlord an
31 opportunity to attempt to correct the problems. In addition, the city and the city's police
32 department or, if the city has no police department, the county sheriff's department shall assist
33 the landlord in addressing any criminal activity, including testifying in court in a summary
34 ejectment action or other matter to aid in evicting a tenant who has been charged with a crime.
35 If the city, the city's police department, or where applicable the county's sheriff department
36 does not cooperate in evicting a tenant, the tenant's behavior or activity at issue shall not be
37 counted as a crime or disorder problem as set forth in the local ordinance, and the property may
38 not be included in the top four percent (4%) of properties as a result of that tenant's behavior or
39 activity."

40 **SECTION 3.** This act is effective when it becomes law.