

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

FILED SENATE
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S.B. 139
PRINCIPAL CLERK

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SENATE DRS35061-LR-58B* (02/14)

Short Title: Zoning/Design & Aesthetic Controls. (Public)

Sponsors: Senators Clodfelter, Gunn, and Tarte (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY WHEN A COUNTY OR MUNICIPALITY MAY ENACT ZONING
3 ORDINANCES RELATED TO DESIGN AND AESTHETIC CONTROLS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 160A-381 is amended by adding a new subsection to read:

6 "(g) Regulations relating to building design elements adopted under Parts 2 and 3 of
7 Article 19 of this Chapter, or adopted pursuant to any recommendation made under
8 G.S. 160A-452(6)c., may not be applied to any structures subject to regulation under the North
9 Carolina Residential Code for One- and Two-Family Dwellings except under the following
10 circumstances:

- 11 (1) Structures located in areas designated as local historic districts pursuant to
12 Part 3C of Chapter 160A of the General Statutes.
- 13 (2) Structures located in areas listed on the National Registry of Historic Places.
- 14 (3) Structures located in individually designated local, State, or national historic
15 landmarks.
- 16 (4) The regulations are directly and substantially related to the requirements of
17 applicable safety codes adopted under G.S. 143-138.
- 18 (5) Where applied to manufactured or modular housing, in a manner consistent
19 with G.S. 160A-383.1 and federal law.
- 20 (6) Where such regulations are adopted as a condition of participation in the
21 National Flood Insurance Program.

22 Regulations prohibited by this section may not be applied in any zoning district, special use
23 district, conditional use district, or conditional district unless specifically consented to by the
24 owners of all of the property to which they may be applied, nor may any such regulations be
25 applied indirectly as part of the review pursuant to G.S. 160A-383 of any proposed zoning
26 amendment for consistency with an adopted comprehensive plan or other applicable officially
27 adopted plan. For the purposes of this subsection, the phrase "building design elements" means
28 exterior building color; type or style of exterior cladding material; style or materials of roof
29 structures or porches; exterior nonstructural architectural ornamentation; location or
30 architectural styling of windows and doors, including garage doors; the number and types of
31 rooms; and the interior layout of rooms. The phrase does not include any of the following: (i)
32 the height, bulk, orientation, or location of a structure on a zoning lot; (ii) the use of buffering
33 or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect
34 the privacy of neighbors; (iii) features related to accessory buildings and parking and loading
35 areas; and (iv) off-premises and on-premises signs."

36 **SECTION 2.** G.S. 153A-340 is amended by adding a new subsection to read:



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1 "(k) Regulations relating to building design elements adopted under Parts 2 and 3 of
2 Article 18 of this Chapter, or adopted pursuant to any recommendation made under
3 G.S. 160A-452(6)c., may not be applied to any structures subject to regulation under the North
4 Carolina Residential Code for One- and Two-Family Dwellings except under the following
5 circumstances:

- 6 (1) Structures located in areas designated as local historic districts pursuant to
7 Part 3C of Chapter 160A of the General Statutes.
- 8 (2) Structures located in areas listed on the National Registry of Historic Places.
- 9 (3) Structures located in individually designated local, State, or national historic
10 landmarks.
- 11 (4) The regulations are directly and substantially related to the requirements of
12 applicable safety codes adopted under G.S. 143-138.
- 13 (5) Where applied to manufactured or modular housing, in a manner consistent
14 with G.S. 153A-341.1 and federal law.
- 15 (6) Where such regulations are adopted as a condition of participation in the
16 National Flood Insurance Program.

17 Regulations prohibited by this section may not be applied in any zoning district, special use
18 district, conditional use district, or conditional district unless specifically consented to by the
19 owners of all of the property to which they may be applied, nor may any such regulations be
20 applied indirectly as part of the review pursuant to G.S. 153A-341 of any proposed zoning
21 amendment for consistency with an adopted comprehensive plan or other applicable officially
22 adopted plan. For the purposes of this subsection, the phrase "building design elements" means
23 exterior building color; type or style of exterior cladding material; style or materials of roof
24 structures or porches; exterior nonstructural architectural ornamentation; location or
25 architectural styling of windows and doors, including garage doors; the number and types of
26 rooms; and the interior layout of rooms. The phrase does not include any of the following: (i)
27 the height, bulk, orientation, or location of a structure on a zoning lot; (ii) the use of buffering
28 or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect
29 the privacy of neighbors; (iii) features related to accessory buildings and parking and loading
30 areas; and (iv) off-premises and on-premises signs."

31 **SECTION 3.** This act is effective when it becomes law and applies to development
32 approvals granted on or after that date.