

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE DRS15115-MH-49C* (02/10)

Short Title: Building Code Reg. Reform.

(Public)

Sponsors: Senators Brock, McInnis, and Clark (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REFORM BUILDING CODE ENFORCEMENT TO PROMOTE ECONOMIC GROWTH BY CONFORMING WORK IN PROGRESS INSPECTION AUTHORITY TO RECENTLY ENACTED INSPECTION LIMITATIONS, BY REQUIRING THE BUILDING CODE COUNCIL TO STUDY THE ALTERNATE METHODS APPROVAL PROCESS, BY CLARIFYING THE DEFINITION OF OFFICIAL MISCONDUCT FOR CODE OFFICIALS, BY ELIMINATING MANDATORY PLAN REVIEW FOR RESIDENTIAL STRUCTURES, BY RAISING THE THRESHOLD FOR REQUIREMENT OF A BUILDING PERMIT, BY CREATING THE BUILDING CODE COUNCIL RESIDENTIAL CODE COMMITTEE, BY REQUIRING INTERNET POSTING OF CERTAIN COUNCIL DECISIONS AND INTERPRETATIONS, BY CLARIFYING THAT INSPECTION FEES COLLECTED BY CITIES AND COUNTIES MAY ONLY BE USED TO SUPPORT THE INSPECTION DEPARTMENT, AND BY REQUIRING THAT INSPECTIONS BE PERFORMED IN FULL AND IN A TIMELY MANNER AND INSPECTION REPORTS TO INCLUDE ALL ITEMS FAILING TO MEET CODE REQUIREMENTS.

The General Assembly of North Carolina enacts:

PART I. COMPLIANCE WITH BUILDING CODE INSPECTION REQUIREMENTS

SECTION 1.(a) G.S. 153A-360 reads as rewritten:

"§ 153A-360. Inspections of work in progress.

As-Subject to the limitation imposed by G.S. 153A-352(b), as the work pursuant to a permit progresses, local inspectors shall make as many inspections of the work as may be necessary to satisfy them that it is being done according to the provisions of the applicable State and local laws and local ordinances and regulations and of the terms of the permit. In exercising this power, each member of the inspection department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action. If a permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being personally present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes."

SECTION 1.(b) G.S. 160A-420 reads as rewritten:

"§ 160A-420. Inspections of work in progress.

As-Subject to the limitation imposed by G.S. 160A-412(b), the work pursuant to a permit progresses, local inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable State and



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1 local laws and of the terms of the permit. In exercising this power, members of the inspection
2 department shall have a right to enter on any premises within the jurisdiction of the department
3 at all reasonable hours for the purposes of inspection or other enforcement action, upon
4 presentation of proper credentials. If a permit has been obtained by an owner exempt from
5 licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being
6 personally present, unless the plans for the building were drawn and sealed by an architect
7 licensed pursuant to Chapter 83A of the General Statutes."
8

9 **PART II. STUDY ALTERNATIVE APPROVAL METHODS**

10 **SECTION 2.** The North Carolina Building Code Council shall study procedures
11 and policies for the approval of alternative materials, designs, or methods. The study shall
12 include review of the following elements:

- 13 (1) The alternate methods application process, including requirements for initial
14 application submittal, supporting information, and site-specific or
15 project-specific application submittals.
- 16 (2) Time lines for the application process, including application submittal,
17 Council review, and final approval or denial of applications, including the
18 feasibility of a requirement that final determinations be rendered on a
19 completed application within 30 days of the date an application is
20 determined to be complete.
- 21 (3) Procedures for appeal of applications denied by the Council.

22 In conducting the study, the Council may utilize support services provided by staff
23 from the Engineering Division of the Department of Insurance. The Council shall report its
24 findings and recommendations, including any proposed legislative changes, to the 2016
25 Regular Session of the 2015 General Assembly when it convenes.
26

27 **PART III. CLARIFY OFFICIAL MISCONDUCT FOR CODE OFFICIALS**

28 **SECTION 3.(a)** G.S. 143-151.8 is amended by adding a new subsection to read:

29 "(c) For purposes of this Article, "willful misconduct, gross negligence or gross
30 incompetence" in addition to the meaning of those terms under other provisions of the General
31 Statutes or at common law, shall include any of the following:

- 32 (1) The enforcement of a Code requirement applicable to a certain area or set of
33 circumstances in other areas or circumstances not specified in the
34 requirement.
- 35 (2) For an alternative design or construction method that has been appealed
36 under G.S. 143-140.1 and found by the Department of Insurance to comply
37 with the Code, to refuse to accept the decision by the Department to allow
38 that alternative design or construction method under the conditions or
39 circumstances set forth in the Department's decision for that appeal.
- 40 (3) For an alternative construction method currently included in the Building
41 Code, to refuse to allow the alternative method under the conditions or
42 circumstances set forth in the Code for that alternative method.
- 43 (4) The enforcement of a requirement that is more stringent than or otherwise
44 exceeds the Code requirement.
- 45 (5) To refuse to implement or adhere to an interpretation of the Building Code
46 issued by the Building Code Council or the Department of Insurance.
- 47 (6) The habitual failure to provide requested inspections in a timely manner."

48 **SECTION 3.(b)** The North Carolina Code Officials Qualification Board shall, no
49 later than October 1, 2015, notify all Code enforcement officials in the State of the clarification
50 to the grounds for disciplinary action enacted by this act.
51

1 **PART IV. ELIMINATE MANDATORY PLAN REVIEW FOR RESIDENTIAL**
2 **STRUCTURES AND RAISE THRESHOLD FOR BUILDING PERMIT**
3 **REQUIREMENT**

4 **SECTION 4.1.** G.S. 143-138(b5) reads as rewritten:

5 "(b5) Exclusion for Certain Minor Activities in Residential and Farm Structures. – No
6 building permit shall be required under the Code or any local variance thereof approved under
7 subsection (e) for any construction, installation, repair, replacement, or alteration costing ~~five~~
8 ~~thousand dollars (\$5,000)~~ ten thousand dollars (\$10,000) or less in any single family residence
9 or farm building unless the work involves: the addition, repair, or replacement of load bearing
10 structures; the addition (excluding replacement of same capacity) or change in the design of
11 plumbing; the addition, replacement or change in the design of heating, air conditioning, or
12 electrical wiring, devices, fixtures (excluding repair or replacement of electrical lighting
13 devices and fixtures of the same type), appliances (excluding replacement of water heaters,
14 provided that the energy use rate or thermal input is not greater than that of the water heater
15 which is being replaced, and there is no change in fuel, energy source, location, capacity, or
16 routing or sizing of venting and piping), or equipment, the use of materials not permitted by the
17 North Carolina Uniform Residential Building Code; or the addition (excluding replacement of
18 like grade of fire resistance) of roofing. The exclusions from building permit requirements set
19 forth in this paragraph for electrical lighting devices and fixtures and water heaters shall apply
20 only to work performed on a one- or two-family dwelling. In addition, exclusions for electrical
21 lighting devices and fixtures and electric water heaters shall apply only to work performed by a
22 person licensed under G.S. 87-43 and exclusions for water heaters, generally, to work
23 performed by a person licensed under G.S. 87-21."

24 **SECTION 4.2.(a)** G.S. 153-357(a2) is recodified as G.S. 153-357(a3).

25 **SECTION 4.2.(b)** G.S. 153A-357, as amended by subsection (a) of this section,
26 reads as rewritten:

27 **"§ 153A-357. Permits.**

28 ...

29 (a1) A permit shall be in writing and shall contain a provision that the work done shall
30 comply with ~~the State Building Code~~ relevant requirements of the North Carolina Building
31 Code and all other applicable State and local laws and local ordinances and regulations.
32 ~~Nothing in this section shall require a~~ A county to ~~shall~~ review and approve residential-building
33 plans submitted to the county for any nonresidential structure pursuant to Section R-110 of
34 ~~Volume VII of the North Carolina Statethe North Carolina Building Code; provided that the~~
35 ~~county may review and approve such residential building plans as it deems necessary.~~ Code. No
36 permit may be issued unless the plans and specifications are identified by the name and address
37 of the author thereof; and if the General Statutes of North Carolina require that plans for certain
38 types of work be prepared only by a registered architect or registered engineer, no permit may
39 be issued unless the plans and specifications bear the North Carolina seal of a registered
40 architect or of a registered engineer. Review and approval of plans for the construction of
41 structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings
42 shall not be required by a county, provided that a county may require building plans to be
43 available on site during the inspection process. If a provision of the General Statutes of North
44 Carolina or of any ordinance requires that work be done by a licensed specialty contractor of
45 any kind, no permit for the work may be issued unless the work is to be performed by such a
46 duly licensed contractor.

47 (a2) No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be required for
48 any construction, installation, repair, replacement, or alteration costing ~~five thousand dollars~~
49 ~~(\$5,000)~~ ten thousand dollars (\$10,000) or less in any single-family residence or farm building
50 unless the work involves: the addition, repair or replacement of load bearing structures; the
51 addition (excluding replacement of same size and capacity) or change in the design of

1 plumbing; the addition, replacement or change in the design of heating, air conditioning, or
 2 electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the
 3 North Carolina Uniform Residential Building Code; or the addition (excluding replacement of
 4 like grade of fire resistance) of roofing. Violation of this section constitutes a Class 1
 5 misdemeanor.

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7 **SECTION 4.3.(a)** G.S. 160-417(a2) is recodified as G.S. 160-417(a3).

8 **SECTION 4.3.(b)** G.S. 160A-417, as amended by subsection (a) of this section,
 9 reads as rewritten:

10 **"§ 160A-417. Permits.**

11 ...

12 (a1) A permit shall be in writing and shall contain a provision that the work done shall
 13 comply with ~~the State Building Code relevant requirements of the North Carolina Building~~
 14 Code and all other applicable State and local laws. Nothing in this section shall require a city
 15 ~~to~~ shall review and approve residential building plans submitted to the city for any
 16 nonresidential structure pursuant to Section R-110 of Volume VII of the North Carolina
 17 ~~Statethe North Carolina Building Code; provided that the city may review and approve such~~
 18 ~~residential building plans as it deems necessary.~~Code. No permits shall be issued unless the
 19 plans and specifications are identified by the name and address of the author thereof, and if the
 20 General Statutes of North Carolina require that plans for certain types of work be prepared only
 21 by a registered architect or registered engineer, no permit shall be issued unless the plans and
 22 specifications bear the North Carolina seal of a registered architect or of a registered engineer.
 23 Review and approval of plans for the construction of structures subject to the North Carolina
 24 Residential Code for One- and Two-Family Dwellings shall not be required by a city, provided
 25 that a city may require building plans to be available on site during the inspection process.
 26 When any provision of the General Statutes of North Carolina or of any ordinance requires that
 27 work be done by a licensed specialty contractor of any kind, no permit for the work shall be
 28 issued unless the work is to be performed by such a duly licensed contractor.

29 (a2) No permit issued under Articles 9 or 9C of Chapter 143 shall be required for any
 30 construction, installation, repair, replacement, or alteration costing ~~five thousand dollars~~
 31 ~~(\$5,000)~~ ten thousand dollars (\$10,000) or less in any single family residence or farm building
 32 unless the work involves: the addition, repair or replacement of load bearing structures; the
 33 addition (excluding replacement of same size and capacity) or change in the design of
 34 plumbing; the addition, replacement or change in the design of heating, air conditioning, or
 35 electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the
 36 North Carolina Uniform Residential Building Code; or the addition (excluding replacement of
 37 like grade of fire resistance) of roofing. Violation of this section shall constitute a Class 1
 38 misdemeanor.

39"

40
 41 **PART V. CREATE BUILDING CODE COUNCIL RESIDENTIAL CODE**
 42 **COMMITTEE**

43 **SECTION 5.1.** G.S. 143-136 is amended by adding a new subsection to read:

44 "(c) Residential Code Committee Created; Duties. – Within the Building Code Council,
 45 there is hereby created a Residential Code for One- and Two-Family Dwellings Committee
 46 composed of five members of the Building Code Council, specifically the licensed general
 47 contractor specializing in residential construction who shall serve as chairman of this
 48 committee; the licensed general contractor specializing in coastal residential construction; the
 49 registered engineer practicing structural engineering; the licensed plumbing and heating
 50 contractor; and the licensed electrical contractor. This committee shall meet upon the call of its
 51 chairman to review any proposal for revision or amendment to the North Carolina State

1 Building Code: Residential Code for One- and Two-Family Dwellings, including provisions
2 applicable to One- and Two-Family Dwellings from the NC Energy Code, NC Electrical Code,
3 NC Fuel Gas Code, NC Plumbing Code, the NC Mechanical Code and the NC Existing
4 Building Code and no revision or amendment to any of these codes applicable to residential
5 construction may be considered by the Building Code Council unless recommended by this
6 committee. This committee shall also oversee the process by which the Council conducts its
7 revision pursuant to G.S. 143-138(d). This committee shall also consider any appeal or
8 interpretation arising under G.S. 143-141 pertaining to North Carolina State Building Code:
9 Residential Code for One- and Two-Family Dwellings and make a recommendation to the
10 Building Code Council for disposition of the appeal or interpretation."

11 **SECTION 5.2.** G.S. 143-138(d) reads as rewritten:

12 "(d) Amendments of the Code. – The Building Code Council may periodically revise
13 and amend the North Carolina State Building Code, either on its own motion or upon
14 application from any citizen, State agency, or political subdivision of the State. In addition to
15 the periodic revisions or amendments made by the Council, the Council ~~shall~~ shall, following
16 the procedure set forth in G.S. 143-136(c), revise the North Carolina State Building Code:
17 Residential Code for One- and Two-Family Dwellings, including provisions applicable to One-
18 and Two-Family Dwellings from the NC Energy Code, NC Electrical Code, NC Fuel Gas
19 Code, NC Plumbing Code, and NC Mechanical Code only every six years, to become effective
20 the first day of January of the following year, with at least six months between adoption and
21 effective date. The first six-year revision under this subsection shall be adopted to become
22 effective January 1, 2019, and every six years thereafter. In adopting any amendment, the
23 Council shall comply with the same procedural requirements and the same standards set forth
24 above for adoption of the Code. The Council, through the Department of Insurance, shall
25 publish in the North Carolina Register ~~and shall post on the Council's Web site~~ all appeal
26 decisions made by the Council and all formal opinions at least semiannually. The Council,
27 through the Department of Insurance, shall also publish at least semiannually in the North
28 Carolina Register a statement providing the accurate Web site address and information on how
29 to find additional commentary and interpretation of the Code."
30

31 **PART VI. BUILDING CODE COUNCIL REQUIRED WEB SITE POSTINGS**

32 **SECTION 6.1.** G.S. 143-141 is amended by adding a new subsection to read:

33 "(c1) Posting on Department Web Site. – The Department of Insurance shall post and
34 maintain on that portion of its Web site devoted to the Building Code Council all appeal
35 decisions, interpretations, and variations of the Code issued by the Council within three
36 business days of issuance."

37 **SECTION 6.2.** G.S. 143-138.1(b) reads as rewritten:

38 "(b) The Department of Insurance shall post and maintain on ~~its Web site~~ that portion of
39 its Web site devoted to the Building Code Council written commentaries and written
40 interpretations made and given by staff to the ~~North Carolina Building Code Council~~ and the
41 Department for each section of the North Carolina Building Code. Code within three business
42 days of issuance."
43

44 **PART VII. INSPECTION FEES TO BE SPENT ONLY FOR ACTIVITIES OF** 45 **INSPECTION DEPARTMENT**

46 **SECTION 7.1.** G.S. 153A-354 reads as rewritten:

47 "**§ 153A-354. Financial support.**

48 A county may appropriate any available funds for the support of its inspection department.
49 It may provide for paying inspectors fixed salaries, or it may reimburse them for their services
50 by paying over part or all of any fees collected. It may fix reasonable fees for issuing permits,
51 for inspections, and for other services of the inspection department. All fees collected under the

1 authority set forth in this section shall be used for support of the activities of the inspection
2 department and for no other purpose."

3 **SECTION 7.2.** G.S. 160A-414 reads as rewritten:

4 **"§ 160A-414. Financial support.**

5 The city council may appropriate for the support of the inspection department any funds
6 that it deems necessary. It may provide for paying inspectors fixed salaries or it may reimburse
7 them for their services by paying over part or all of any fees collected. It shall have power to fix
8 reasonable fees for issuance of permits, inspections, and other services of the inspection
9 department. All fees collected under the authority set forth in this section shall be used for
10 support of the activities of the inspection department and for no other purpose."

11
12 **PART VIII. INSPECTIONS TO BE PERFORMED IN FULL AND IN A TIMELY**
13 **MANNER AND INSPECTION REPORTS TO INCLUDE ALL ITEMS FAILING TO**
14 **MEET CODE REQUIREMENTS**

15 **SECTION 8.1.** G.S. 153A-352 reads as rewritten:

16 **"§ 153A-352. Duties and responsibilities.**

17 (a) The duties and responsibilities of an inspection department and of the inspectors in
18 it are to enforce within the county's territorial jurisdiction State and local laws and local
19 ordinances and regulations relating to:

- 20 (1) The construction of buildings;
- 21 (2) The installation of such facilities as plumbing systems, electrical systems,
22 heating systems, refrigeration systems, and air-conditioning systems;
- 23 (3) The maintenance of buildings in a safe, sanitary, and healthful condition;
- 24 (4) Other matters that may be specified by the board of commissioners.

25 These duties and responsibilities include receiving applications for permits and issuing or
26 denying permits, making necessary ~~inspections~~, inspections in a timely manner, issuing or
27 denying certificates of compliance, issuing orders to correct violations, bringing judicial actions
28 against actual or threatened violations, keeping adequate records, and taking any other actions
29 that may be required to adequately enforce the laws and ordinances and regulations. The board
30 of commissioners may enact reasonable and appropriate provisions governing the enforcement
31 of the laws and ordinances and regulations.

32 (b) Except as provided in G.S. 153A-364, a county may not adopt a local ordinance or
33 resolution or any other policy that requires regular, routine inspections of buildings or
34 structures constructed in compliance with the North Carolina Residential Code for One- and
35 Two-Family Dwellings in addition to the specific inspections required by the North Carolina
36 Building Code without first obtaining approval from the North Carolina Building Code
37 Council. The North Carolina Building Code Council shall review all applications for additional
38 inspections requested by a county and shall, in a reasonable manner, approve or disapprove the
39 additional inspections. This subsection does not limit the authority of the county to require
40 inspections upon unforeseen or unique circumstances that require immediate action. In
41 performing the specific inspections required by the North Carolina Building Code, the
42 inspector shall conduct a full inspection and provide the permit holder with a complete list of
43 all items which fail to meet the requirements of the North Carolina Residential Code for One-
44 and Two-Family Dwellings."

45 **SECTION 8.2.** G.S. 160A-412 reads as rewritten:

46 **"§ 160A-412. Duties and responsibilities.**

47 (a) The duties and responsibilities of an inspection department and of the inspectors
48 therein shall be to enforce within their territorial jurisdiction State and local laws relating to

- 49 (1) The construction of buildings and other structures;
- 50 (2) The installation of such facilities as plumbing systems, electrical systems,
51 heating systems, refrigeration systems, and air-conditioning systems;

- 1 (3) The maintenance of buildings and other structures in a safe, sanitary, and
- 2 healthful condition;
- 3 (4) Other matters that may be specified by the city council.

4 These duties shall include the receipt of applications for permits and the issuance or denial of
5 permits, the making of any necessary ~~inspections~~, inspections in a timely manner, the issuance
6 or denial of certificates of compliance, the issuance of orders to correct violations, the bringing
7 of judicial actions against actual or threatened violations, the keeping of adequate records, and
8 any other actions that may be required in order adequately to enforce those laws. The city
9 council shall have the authority to enact reasonable and appropriate provisions governing the
10 enforcement of those laws.

11 (b) Except as provided in G.S. 160A-424, a city may not adopt a local ordinance or
12 resolution or any other policy that requires regular, routine inspections of buildings or
13 structures constructed in compliance with the North Carolina Residential Code for One- and
14 Two-Family Dwellings in addition to the specific inspections required by the North Carolina
15 Building Code without first obtaining approval from the North Carolina Building Code
16 Council. The North Carolina Building Code Council shall review all applications for additional
17 inspections requested by a city and shall, in a reasonable manner, approve or disapprove the
18 additional inspections. This subsection does not limit the authority of the city to require
19 inspections upon unforeseen or unique circumstances that require immediate action. In
20 performing the specific inspections required by the North Carolina Building Code, the
21 inspector shall conduct a full inspection and provide the permit holder with a complete list of
22 all items which fail to meet the requirements of the North Carolina Residential Code for One-
23 and Two-Family Dwellings."
24

25 **PART IX. EFFECTIVE DATE**

26 **SECTION 9.** This act becomes effective July 1, 2015.