

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 326
PROPOSED HOUSE COMMITTEE SUBSTITUTE S326-PCS15400-SU-54

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

Sponsors:

Referred to:

March 19, 2015

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

26 (b) A county 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 county commissioners. However, the total aggregate of targeted areas in the county at any one
29 time shall not be greater than one square mile or five percent (5%) of the area within the county,
30 whichever is greater. A targeted area designated by the county shall reflect the county's stated
31 neighborhood revitalization strategy and shall consist of property that meets the definition of a
32 "blighted area" or "blighted parcel" as those terms are defined in G.S. 160A-503(2) and
33 G.S. 160A-503(2a), respectively, except that for purposes of this subsection the planning
34 commission is not required to make a determination as to the property. The county shall ~~not~~
35 ~~discriminate in its selection of areas or housing types to be targeted and shall~~(i) provide notice to
36 all owners and residents of properties in the affected area about the ~~periodic~~ inspections plan and



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1 information regarding a public hearing regarding the plan; (ii) hold a public hearing regarding the
2 plan; and (iii) establish a plan to address the ability of low-income residential property owners to
3 comply with minimum housing code standards. A residential building or structure that is subject to
4 periodic inspections by the North Carolina Housing Finance Agency (hereinafter "Agency") shall
5 not be subject to ~~periodic~~ inspections under this subsection if the Agency has issued a finding that
6 the building or structure is in compliance with federal standards established by the United States
7 Department of Housing and Urban Development to assess the physical condition of residential
8 property. The owner or manager of a residential building or structure subject to periodic
9 inspections by the Agency shall, within 10 days of receipt, submit to the inspection department a
10 copy of the Compliance Results Letter issued by the Agency showing that the residential building
11 or structure is in compliance with federal housing inspection standards. If the owner or manager
12 fails to submit a copy of the Compliance Results Letter as provided in this subsection, the
13 residential building or structure shall be subject to ~~periodic~~ inspections as provided in this
14 subsection until the Compliance Results Letter is submitted to the inspection department.

15 (c) In no event may a county do any of the following: (i) adopt or enforce any ordinance
16 that would require any owner or manager of rental property to obtain any permit or permission
17 from the county to lease or rent residential real ~~property~~, property or to register rental property with
18 the county, except for those individual rental units that have either more than three-four verified
19 violations of housing ordinances or codes in a rolling 12-month period or two or more verified
20 violations in a rolling 30-day period, or upon the property being identified within the top 40%-ten
21 percent (10%) of properties with crime or disorder problems as set forth in a local ordinance; (ii)
22 require that an owner or manager of residential rental property enroll or participate in any
23 governmental program as a condition of obtaining a certificate of ~~occupancy~~; or (iii) except as
24 provided in subsection (d) of this section, occupancy; (iii) levy a special fee or tax on residential
25 rental property that is not also levied against other commercial and residential
26 properties-properties, unless expressly authorized by general law or applicable only to an
27 individual rental unit or property described in clause (i) of this subsection and the fee does not
28 exceed five hundred dollars (\$500.00) in any 12-month period in which the unit or property is
29 found to have verified violations; (iv) provide that any violation of a rental registration ordinance
30 is punishable as a criminal offense; or (v) require any owner or manager of rental property to
31 submit to an inspection before receiving any utility service provided by the city. For purposes of
32 this section, the term "verified violation" means all of the following:

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

35 (2) Any violations that have not been corrected by the owner or manager within 21
36 days of receipt of written notice from the county of the violations. Should the
37 same violation occur more than two times in a 12-month period, the owner or
38 manager may not have the option of correcting the violation. If the housing
39 ordinance or code provides that any form of prohibited tenant behavior
40 constitutes a violation by the owner or manager of the rental property, it shall
41 be deemed a correction of the tenant-related violation if the owner or manager,
42 within 30 days of receipt of written notice of the tenant-related violation, brings
43 a summary ejectment action to have the tenant evicted.

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

- 1 (1) For properties with 20 or more residential rental units, the fee shall be no more
2 than fifty dollars (\$50.00) per year.
3 (2) For properties with fewer than 20 but more than three residential rental units,
4 the fee shall be no more than twenty five dollars (\$25.00) per year.
5 (3) For properties with three or fewer residential rental units, the fee shall be no
6 more than fifteen dollars (\$15.00) per year.

7 (e) If a property is identified by the county as being in the top ten percent (10%) of
8 properties with crime or disorder problems, the county shall notify the landlord of any crimes,
9 disorders, or other violations that will be counted against the property to allow the landlord an
10 opportunity to attempt to correct the problems. In addition, the county and the county sheriff's
11 department shall assist the landlord in addressing any criminal activity, which may include
12 testifying in court in a summary ejectment action or other matter to aid in evicting a tenant who
13 has been charged with a crime. If the county or the county sheriff's department does not cooperate
14 in evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or
15 disorder problem as set forth in the local ordinance, and the property may not be included in the
16 top ten percent (10%) of properties as a result of that tenant's behavior or activity.

17 (f) If the county takes action against an individual rental unit under this section, the owner
18 of the individual rental unit may appeal the decision to the housing appeals board, if created under
19 G.S. 160A-446, or the planning board, if created under G.S. 153A-321, or if neither is created, the
20 county manager or the county manager's designee. The board or manager shall fix a reasonable
21 time for hearing appeals, shall give due notice to the owner of the individual rental unit, and shall
22 render a decision within a reasonable time. The owner may appear in person or by agent or
23 attorney. The board or manager may reverse or affirm the action, wholly or partly, or may modify
24 the action appealed from, and may make any decision and order that in the opinion of the board or
25 manager ought to be made in the matter."

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

27 **"§ 160A-424. ~~Periodic inspections.~~ Inspections for hazardous or unlawful conditions.**

28 (a) The inspection department may make ~~periodic~~ inspections, subject to the council's
29 directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or
30 structures within its territorial jurisdiction. Except as provided in subsection (b) of this section, the
31 inspection department may make ~~periodic~~ inspections only when there is reasonable cause to
32 believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a
33 residential building or structure. For purposes of this section, the term "reasonable cause" means
34 any of the following: (i) the ~~landlord or owner~~ property has a history of more than ~~two~~ four verified
35 violations of the housing ordinances or codes within a rolling 12-month period; (ii) there has been
36 a complaint that substandard conditions exist within the building or there has been a request that
37 the building be inspected; (iii) the inspection department has actual knowledge of an unsafe
38 condition within the building; or (iv) violations of the local ordinances or codes are visible from
39 the outside of the property. In conducting inspections authorized under this section, the inspection
40 department shall not discriminate between single-family and multifamily ~~buildings~~ buildings
41 between owner-occupied and tenant-occupied buildings. In exercising this power, members of the
42 department shall have a right to enter on any premises within the jurisdiction of the department at
43 all reasonable hours for the purposes of inspection or other enforcement action, upon presentation
44 of proper credentials. Nothing in this section shall be construed to prohibit periodic inspections in
45 accordance with State fire prevention code or as otherwise required by State law.

46 (b) A city may require ~~periodic~~ inspections as part of a targeted effort to respond to
47 blighted or potentially blighted conditions within a geographic area that has been designated by
48 the city council. However, the total aggregate of targeted areas in the city at any one time shall not
49 be greater than one square mile or five percent (5%) of the area within the city, whichever is
50 greater. A targeted area designated by the city shall reflect the city's stated neighborhood
51 revitalization strategy and shall consist of property that meets the definition of a "blighted area" or

1 "blighted parcel" as those terms are defined in G.S. 160A-503(2) and G.S. 160A-503(2a),
2 respectively, except that for purposes of this subsection the planning commission is not required to
3 make a determination as to the property. The municipality shall not discriminate in its selection of
4 areas or housing types to be targeted and city shall (i) provide notice to all owners and residents of
5 properties in the affected area about the periodic inspections plan and information regarding a
6 public hearing regarding the plan; (ii) hold a public hearing regarding the plan; and (iii) establish a
7 plan to address the ability of low-income residential property owners to comply with minimum
8 housing code standards. A residential building or structure that is subject to periodic inspections
9 by the North Carolina Housing Finance Agency (hereinafter "Agency") shall not be subject to
10 periodic inspections under this subsection if the Agency has issued a finding that the building or
11 structure is in compliance with federal standards established by the United States Department of
12 Housing and Urban Development to assess the physical condition of residential property. The
13 owner or manager of a residential building or structure subject to periodic inspections by the
14 Agency shall, within 10 days of receipt, submit to the inspection department a copy of the
15 Compliance Results Letter issued by the Agency showing that the residential building or structure
16 is in compliance with federal housing inspection standards. If the owner or manager fails to submit
17 a copy of the Compliance Results Letter as provided in this subsection, the residential building or
18 structure shall be subject to periodic inspections as provided in this subsection until the
19 Compliance Results Letter is submitted to the inspection department.

20 (c) In no event may a city do any of the following: (i) adopt or enforce any ordinance that
21 would require any owner or manager of rental property to obtain any permit or permission from
22 the city to lease or rent residential real ~~property, property~~ or to register rental property with the city,
23 except for those ~~properties individual rental units~~ that have either more than ~~three four~~ verified
24 violations in a rolling 12-month period or two or more verified violations in a rolling 30-day
25 period, or upon the property being identified within the top ~~40% ten percent (10%)~~ of properties
26 with crime or disorder problems as set forth in a local ordinance; (ii) require that an owner or
27 manager of residential rental property enroll or participate in any governmental program as a
28 condition of obtaining a certificate of occupancy; or (iii) except as provided in subsection (d) of
29 this section, (iii) levy a special fee or tax on residential rental property that is not also levied
30 against other commercial and residential ~~properties properties~~, unless expressly authorized by
31 general law or applicable only to an individual rental unit or property described in subdivision (i)
32 of this subsection and the fee does not exceed five hundred dollars (\$500.00) in any 12-month
33 period in which the unit or property is found to have verified violations; (iv) provide that any
34 violation of a rental registration ordinance is punishable as a criminal offense; or (v) require any
35 owner or manager of rental property to submit to an inspection before receiving any utility service
36 provided by the city. For purposes of this section, the term "verified violation" means all of the
37 following:

- 38 (1) The aggregate of all violations of housing ordinances or codes found in an
39 individual rental unit of residential real property during a 72-hour period.
40 (2) Any violations that have not been corrected by the owner or manager within 21
41 days of receipt of written notice from the city of the violations. Should the same
42 violation occur more than two times in a 12-month period, the owner or
43 manager may not have the option of correcting the violation. If the housing
44 ordinance or code provides that any form of prohibited tenant behavior
45 constitutes a violation by the owner or manager of the rental property, it shall
46 be deemed a correction of the tenant-related violation if the owner or manager,
47 within 30 days of receipt of written notice of the tenant-related violation, brings
48 a summary ejectment action to have the tenant evicted.

49 (d) ~~A city may levy a fee for residential rental property registration under subsection (c) of~~
50 ~~this section for those rental units which have been found with more than two verified violations of~~
51 ~~local ordinances within the previous 12 months or upon the property being identified within the~~

1 ~~top 10% of properties with crime or disorder problems as set forth in a local ordinance. The fee~~
2 ~~shall be an amount that covers the cost of operating a residential registration program and shall not~~
3 ~~be used to supplant revenue in other areas. Cities using registration programs that charge~~
4 ~~registration fees for all residential rental properties as of June 1, 2011, may continue levying a fee~~
5 ~~on all residential rental properties as follows:~~

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

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

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

12 (e) If a property is identified by the city as being in the top ten percent (10%) of properties
13 with crime or disorder problems, the city shall notify the landlord of any crimes, disorders, or
14 other violations that will be counted against the property to allow the landlord an opportunity to
15 attempt to correct the problems. In addition, the city and the city's police department or, if the city
16 has no police department, the county sheriff's department shall assist the landlord in addressing
17 any criminal activity, which may include testifying in court in a summary ejectment action or
18 other matter to aid in evicting a tenant who has been charged with a crime. If the city, the city's
19 police department, or where applicable the county sheriff's department does not cooperate in
20 evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or
21 disorder problem as set forth in the local ordinance, and the property may not be included in the
22 top ten percent (10%) of properties as a result of that tenant's behavior or activity.

23 (f) If the city takes action against an individual rental unit under this section, the owner of
24 the individual rental unit may appeal the decision to the housing appeals board, if created under
25 G.S. 160A-446, or the planning board, if created under G.S. 160A-361, or if neither is created, the
26 city manager or the city manager's designee. The board or manager shall fix a reasonable time for
27 hearing appeals, shall give due notice to the owner of the individual rental unit, and shall render a
28 decision within a reasonable time. The owner may appear in person or by agent or attorney. The
29 board or manager may reverse or affirm the action, wholly or partly, or may modify the action
30 appealed from, and may make any decision and order that in the opinion of the board or manager
31 ought to be made in the matter."

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