

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 531
HOUSE BILL 399

AN ACT TO ESTABLISH THE NORTH CAROLINA CODE OFFICIALS QUALIFICATION BOARD AND TO PROVIDE FOR MORE EVEN ENFORCEMENT OF THE STATE BUILDING CODE THROUGHOUT NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143 of the General Statutes is amended by adding a new Article to be numbered 9B and to read as follows:

"ARTICLE 9B.

"North Carolina Code Officials Qualification Board.

"§ 143-151.5. Definitions. — (a) As used in this Article, unless the context otherwise requires:

- (1) 'Board' means the North Carolina Code Officials Qualification Board.
- (2) 'Code' means the North Carolina State Building Code and related local building rules and regulations approved by the Building Code Council heretofore or hereinafter enacted, adopted or approved pursuant to G.S. 143-138.
- (3) 'Code enforcement' means the examination and approval of plans and specifications, or the inspection of the manner of construction, workmanship, and materials for construction of buildings and structures and components thereof as an employee of the State or local government, except an employee of the State Department of Labor engaged in the administration and enforcement of those sections of the code which pertain to boilers and elevators, to assure compliance with the State Building Code and related local building rules and regulations.
- (4) 'Local inspection department' means the agency or agencies of local government with authority to make inspections of buildings and to enforce the code and other laws, ordinances, and regulations enacted by the State and the local government which establish standards and requirements applicable to the construction, alteration, repair, or demolition of buildings.
- (5) 'Qualified code enforcement official' means a person qualified under this Article to engage in the practice of code enforcement.

(b) For purposes of this Article, the population of a city or county shall be determined according to the most current federal census, unless otherwise specified.

"§ 143-151.6. North Carolina Code Officials Qualification Board established; members; terms; vacancies. — (a) There is hereby established the North Carolina Code Officials Qualification Board in the Department of Insurance. The board shall be composed of 20 members appointed as follows:

- (1) one member who is a city or county manager;
- (2) two members, one of whom is an elected official representing a city over 5,000 population and one of whom is an elected official representing a city under 5,000 population;

- (3) two members, one of whom is an elected official representing a county over 40,000 population and one of whom is an elected official representing a county under 40,000 population;
- (4) two members serving as building officials with the responsibility for administering building, plumbing, electrical and heating codes, one of whom serves a county and one of whom serves a city;
- (5) one member who is a registered architect;
- (6) one member who is a registered engineer;
- (7) two members who are licensed general contractors, at least one of whom specializes in residential construction;
- (8) one member who is a licensed electrical contractor;
- (9) one member who is a licensed plumbing or heating contractor;
- (10) one member selected from the faculty of the North Carolina State University School of Engineering and one member selected from the faculty of the School of Engineering of the North Carolina Agricultural and Technical State University;
- (11) one member selected from the faculty of the Institute of Government;
- (12) one member selected from the Department of Community Colleges;
- (13) one member selected from the Division of Engineering and Building Codes in the Department of Insurance; and,
- (14) two members who are citizens of the State.

The various categories shall be appointed as follows: (1), (2), (3), and (14) by the Governor; (4), (5), and (6) by the Lieutenant Governor; (7), (8), and (9) by the Speaker of the House of Representatives; (10) by the Deans of the respective schools of engineering of the named universities; (11) by the Director of the Institute of Government; (12) by the President of the Division of Community Colleges; and (13) by the Commissioner of Insurance.

(b) The members shall be appointed for staggered terms and the initial appointments shall be made prior to September 1, 1977, and the appointees shall hold office until July 1 of the year in which their respective terms expire and until their successors are appointed and qualified as provided hereafter:

For the terms of one year: the members from subdivisions (1), (6) and (10) of subsection (a), and one member from subdivision (3).

For the terms of two years: the member from subdivision (11) of subsection (a), one member from subdivision (2), one member from subdivision (4), one member from subdivision (7), and one member from subdivision (14).

For the terms of three years: the members from subdivisions (8) and (12) of subsection (a), one member from subdivision (2), one member from subdivision (4), and one member from subdivision (14).

For the terms of four years: the members from subdivision (5), (9) and (13) of subsection (a), one member from subdivision (3), and one member from subdivision (7).

Thereafter, as the term of each member expires, his successor shall be appointed for a term of four years. Notwithstanding the appointments for a term of years, each member shall serve at the will of the Governor.

Members of the board who are public officers shall serve ex officio and shall perform their duties on the board in addition to the duties of their office.

(c) Vacancies in the board occurring for any reason shall be filled for the unexpired term by the person making the appointment.

“§ 143-151.7. Compensation.” — Members of the board who are State officers or employees shall receive no salary for serving on the board, but shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the board who are full-time salaried public officers or employees other than State officers or employees shall receive no salary for serving on the

board, but shall be reimbursed for subsistence and travel expenses in accordance with G.S. 138-5(a)(2) and (3). All other members of the board shall receive compensation and reimbursement for expenses in accordance with G.S. 138-5(a).

"§ 143-151.8. Chairman; vice-chairman; other officers; meetings; reports. — (a) The members of the board shall select one of their members as chairman upon its creation, and shall select the chairman each July 1 thereafter.

(b) The board shall select a vice-chairman and such other officers and committee chairmen from among its members, as it deems desirable, at the first regular meeting of the board after its creation and at the first regular meeting after July 1 of each year thereafter. Provided, nothing in this subsection shall prevent the creation or abolition of committees or offices of the board, other than the office of vice-chairman, as the need may arise at any time during the year.

(c) The board shall hold at least four regular meetings per year upon the call of the chairman. Special meetings shall be held upon the call of the chairman or the vice-chairman, or upon the written request of four members of the board.

(d) The activities and recommendations of the board with respect to standards for code officials training and certification shall be set forth in regular and special reports made by the board. Additionally, the board shall present special reports and recommendations to the Governor or the General Assembly, or both, as the need may arise or as the Governor or the General Assembly may request.

"§ 143-151.9. Powers. — In addition to powers conferred upon the board elsewhere in this Article, the board shall have the power to:

- (1) promulgate rules and regulations for the administration of this Article including the authority to require the submission of reports and information by State agencies, local inspection departments, and local governing bodies within this State relating to the employment, education and training of code enforcement officials;
- (2) establish minimum standards for employment as a code enforcement official: (i) in probationary or temporary status, and (ii) in permanent positions;
- (3) certify persons as being qualified under the provisions of this Article to be code enforcement officials;
- (4) consult and cooperate with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, junior colleges, community colleges, technical institutes, and other institutions concerning the development of code enforcement training schools and programs or courses of instruction;
- (5) establish minimum standards and levels of education or equivalent experience for all code enforcement instructors, teachers or professors;
- (6) conduct and encourage research by public and private agencies which shall be designed to improve education and training in the administration of code enforcement;
- (7) adopt and amend bylaws, consistent with law, for its internal management and control; appoint such advisory committees as it may deem necessary; and enter into contracts and do such other things as may be necessary and incidental to the exercise of its authority pursuant to this Article; and,
- (8) make recommendations concerning any matters within its purview pursuant to this Article.

"§ 143-151.10. Required standards. — (a) The board shall provide by regulation that on and after July 1, 1979, no person may engage in code enforcement pursuant to this Article unless he possesses one of the following types of certificates, currently valid, issued by the board

attesting to his qualifications to hold such position: (i) a standard certificate; (ii) a limited certificate provided for in subsection (c); or (iii) a probationary certificate, valid for one year only, provided for in subsection (d). To obtain a standard certificate, a person must pass an examination, as prescribed by the board, which is based on the North Carolina State Building Code and administrative procedures required to enforce the code. The board shall issue a standard certificate of qualification to each person who successfully completes the examination authorizing the person named therein to practice as a qualified code enforcement official in North Carolina. The certificate of qualification shall bear the signatures of the chairman and secretary of the board.

(b) The board shall establish by regulation appropriate performance levels, including designation of territory and type and size of buildings and structures, and classes of qualified code enforcement officials and may develop examinations and prescribe course of instruction for the various levels and classes. The certificate of qualification shall set forth the performance level for which the code enforcement official is qualified. The board may by regulation limit the jurisdiction of code enforcement officials based on the performance level for which they have qualified; provided, a person who receives a certificate of qualification at the highest performance level established by the board shall be entitled to serve anywhere in North Carolina.

(c) A code enforcement official holding office as of the date specified in this subsection for the county or municipality by which he is employed, shall not be required to possess a standard certificate as a condition of tenure or continued employment but shall be required to complete such in-service training as may be prescribed by the board. At the earliest practicable date, such official shall receive from the board a limited certificate qualifying him to engage in code enforcement at the performance level and within the governmental jurisdiction in which he is employed. The limited certificate shall be valid only as an authorization for the official to continue in the position held on the date of ratification of this act.

An official holding a limited certificate can be promoted to a position requiring a higher level certificate only upon issuance by the board of a standard certificate or probationary certificate appropriate for such new position.

(d) The board may provide for the issuance of probationary or temporary certificates valid for one year to any code enforcement official newly employed or newly promoted who lacks the qualifications prescribed by the board as prerequisite to applying for a standard certificate under subsection (a). No official may have his probationary or temporary certificate extended beyond one year by renewal or otherwise. The board may by regulation provide for appropriate levels of probationary or temporary certificates and may issue these certificates with such special conditions or requirements relating to the place of employment of the person holding the certificate, his supervision on a consulting or advisory basis, or other matters as the board may deem necessary to protect the public safety and health.

(e) The board shall, without requiring an examination, issue a standard certificate to any person who is currently certified as a county electrical inspector pursuant to G.S. 153A-351. The certificate issued by the board shall authorize the person to serve at the electrical inspector level approved by the Commissioner of Insurance in G.S. 153A-351.

(f) The board shall issue a standard certificate to any person who is currently licensed to practice as a(n):

- (1) architect, registered pursuant to G.S. Chapter 83;
- (2) general contractor, licensed pursuant to Article 1 of G.S. Chapter 87;
- (3) plumbing or heating contractor, licensed pursuant to Article 2 of G.S. Chapter 87;
- (4) electrical contractor, licensed pursuant to Article 4 of G.S. Chapter 87; or,
- (5) professional engineer, registered pursuant to G.S. Chapter 89;

provided the person successfully completes a short course, as prescribed by the board, relating to the State Building Code regulations and code enforcement administration. The standard certificate shall authorize the person to practice as a qualified code enforcement official at the performance level determined by the board, based on the type of license or registration held in any profession specified above.

"§ 143-151.11. Comity. — The board may, without requiring an examination, grant a standard certificate as a qualified code enforcement official to any person who, at the time of application, is certified as a qualified code enforcement official by a similar board of another state, district or territory where standards are acceptable to the board and not lower than those required by this Article. A fee of not more than twenty dollars (\$20.00), as determined by the board, must be paid by the applicant to the board for the issuance of a certificate under the provisions of this section. The provisions of G.S. 143-151.13(b) relating to renewal fees and late renewals shall apply to every person granted a standard certificate in accordance with this section.

"§ 143-151.12. Return of certificate to board; reissuance by board. — A certificate issued by the board pursuant to this Article shall remain valid only so long as the person certified is employed by the State of North Carolina or any political subdivision thereof as a code enforcement official. When the person certified leaves such employment for any reason, he shall return the certificate to the board. If the person subsequently obtains employment as a code enforcement official in any governmental jurisdiction described above, the board shall reissue the certificate to him. The provisions of G.S. 143-151.13(b) relating to renewal fees and late renewals shall apply, if appropriate. The provisions of G.S. 143-151.13(c) shall not apply. The provisions of this section shall not affect the board's power to suspend or revoke any certificate pursuant to G.S. 143-151.14.

"§ 143-151.13. Certification fees; renewal of certificates. — (a) The board shall establish a schedule of fees to be paid by each applicant for certification as a qualified code enforcement official. Such fee shall not exceed twenty dollars (\$20.00) for each applicant.

(b) A certificate, other than a probationary certificate, as a qualified code enforcement official issued pursuant to the provisions of this Article must be renewed annually on or before the first day of July. Each application for renewal must be accompanied by a renewal fee to be determined by the board, but not to exceed ten dollars (\$10.00). The board is authorized to charge an extra two dollar (\$2.00) late renewal fee for renewals made after the first day of July each year.

(c) Any person who fails to renew his certificate for a period of two consecutive years may be required by the board to take and pass the same examination as unlicensed applicants before allowing such person to renew his certificate.

"§ 143-151.14. Grounds for disciplinary actions; investigation; administrative procedures. — (a) The board shall have the power to suspend, revoke or refuse to grant any certificate issued under the provisions of this Article to any person who:

- (1) has been convicted of a felony against this State or the United States, or convicted of a felony in another state that would also be a felony if it had been committed in this State;
- (2) has obtained certification through fraud, deceit, or perjury;
- (3) has knowingly aided or abetted any person practicing contrary to the provisions of this Article or the State Building Code;
- (4) has defrauded the public or attempted to do so;
- (5) has affixed his signature to a report of inspection or other instrument of service if no inspection has been made by him or under his immediate and responsible direction; or,
- (6) has been guilty of willful misconduct, gross negligence or gross incompetence.

(b) The board may investigate the actions of any qualified code enforcement official or applicant upon the verified complaint in writing of any person alleging a violation of subsection (a). The board may suspend or revoke the certification of any qualified code enforcement official and refuse to grant a certificate to any applicant, whom it finds to have been guilty of one or more of the actions set out in subsection (a) as grounds for disciplinary action.

(c) The board shall establish administrative rules and regulations for actions under this section which shall be in accordance with the requirements of G.S. Chapter 150A. Such rules and regulations shall include provisions for the removal of suspensions, the reissuance of certificates, and the conditions for these actions.

"§ 143-151.15. Violations; penalty; injunction. — On and after July 1, 1979, it shall be unlawful for any person to represent himself as a qualified code enforcement official who does not hold a currently valid certificate of qualification issued by the board. Any person violating any of the provisions of this Article shall be guilty of a misdemeanor and punishable in the discretion of the court. The board is authorized to apply to any judge of the superior court for an injunction in order to prevent any violation or threatened violation of the provisions of this Article.

"§ 143-151.16. Administration. — (a) The Division of Engineering and Building Codes in the Department of Insurance shall provide clerical and other staff services required by the board, and shall administer and enforce all provisions of this Article and all rules and regulations promulgated pursuant to this Article, subject to the direction of the board, except as delegated by this Article to local units of government, other State agencies, corporations, or individuals.

(b) A certified copy of this Article and all rules and regulations promulgated pursuant thereto shall be filed with the Attorney General in accordance with Article 5 of G.S. Chapter 150A. The board shall have printed additional copies of this Article and all rules and regulations promulgated pursuant thereto which shall be available to the public at a price determined by the board.

(c) The board shall keep current a record of the names and addresses of all qualified code enforcement officials and additional personal data as the board deems necessary. The board annually shall publish a list of all currently certified code enforcement officials.

(d) Each certificate issued by the board shall contain such identifying information as the board requires.

(e) The board shall issue a duplicate certificate to practice as a qualified code enforcement official in place of one which has been lost, destroyed, or mutilated upon proper application and payment of a fee to be determined by the board.

"§ 143-151.17. Donations and appropriations. — (a) In addition to appropriations made by the General Assembly, the board may accept for any of its purposes and functions under this Article any and all donations, both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize, disburse and transfer the same, subject to the approval of the Council of State. Any arrangements pursuant to this section shall be detailed in the next regular report of the board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received by the board pursuant to this section shall be deposited in the State treasury to the account of the board.

(b) The board may provide grants as a reimbursement for actual expenses incurred by the State or political subdivision thereof for the provisions of training programs of officials from other jurisdictions within the State. The board, by rules and regulations, shall provide for the administration of the grant program authorized herein. In promulgating such rules, the board shall promote the most efficient and economical program of code enforcement training, including the maximum utilization of existing facilities and programs for the purpose of avoiding duplication."

Sec. 2. G.S. 153A-351, as it appears in 1974 Replacement Volume 3C of the General Statutes, is amended by redesignating subsection (b) as subsection (c) and adding new language at the end of newly designated subsection (c) to read as follows:

"The provisions of this subsection shall become void and ineffective on such date as the North Carolina Code Officials Qualification Board certifies to the Secretary of State that it has placed in effect a certification system for electrical inspectors pursuant to its authority granted by Article 9B of Chapter 143 of the General Statutes."

Sec. 3. G.S. 153A-351, as amended in Section 2 of this act, is further amended by inserting a new subsection (b) to read as follows:

"(b) Every county shall perform the duties and responsibilities set forth in G.S. 153A-352 either by: (1) creating its own inspection department; (2) creating a joint inspection department in cooperation with one or more other units of local government, pursuant to G.S. 153A-353 or Part 1 of Article 20 of G.S. Chapter 160A; or, (3) contracting with another unit of local government for the provision of inspection services pursuant to Part 1 of Article 20 of G.S. Chapter 160A. Such action shall be taken no later than the applicable date in the schedule below, according to the county's population as published in the 1970 U. S. Census:

Counties over 75,000 population - July 1, 1979

Counties between 50,001 and 75,000 - July 1, 1981

Counties between 25,001 and 50,000 - July 1, 1983

Counties 25,000 and under - July 1, 1985.

In the event that any county shall fail to provide inspection services by the date specified above or shall cease to provide such services at any time thereafter, the Commissioner of Insurance shall arrange for the provision of such services, either through personnel employed by his department or through an arrangement with other units of government. In either event, the commissioner shall have and may exercise within the county's jurisdiction all powers made available to the board of county commissioners with respect to building inspection under Part 4 of Article 18 of this Chapter and Part 1 of Article 20 of G.S. Chapter 160A. Whenever the commissioner has intervened in this manner, the county may assume provision of inspection services only after giving the commissioner two years' written notice of its intention to do so; provided, however, that the commissioner may waive this requirement or permit assumption at an earlier date if he finds that such earlier assumption will not unduly interfere with arrangements he has made for the provision of those services."

Sec. 4. Chapter 153A of the General Statutes is amended by inserting a new section to be numbered G.S. 153A-351.1 and to read as follows:

“§ 153A-351.1. Qualifications of inspectors. — On and after the applicable date set forth in the schedule in G.S. 153A-351, no county shall employ an inspector to enforce the State Building Code as a member of a county or joint inspection department who does not have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to his qualifications to hold such position: (a) a probationary certificate, valid for one year only; (b) a standard certificate; or (c) a limited certificate, which shall be valid only as an authorization for him to continue in the position held on the date specified in G.S. 143-151.10(c) and which shall become invalid if he does not successfully complete in-service training prescribed by the qualification board within the period specified in G.S. 143-151.10(c). An inspector holding one of the above certificates can be promoted to a position requiring a higher level certificate only upon issuance by the board of a standard certificate or probationary certificate appropriate for such new position."

Sec. 5. G.S. 160A-411, as it appears in 1976 Replacement Volume 3D, is amended on line two by changing the word "shall" to the word "may"; and, is further amended by adding the following new language at the end of the section:

"Every city shall perform the duties and responsibilities set forth in G.S. 160A-412 either by: (1) creating its own inspection department; (2) creating a joint inspection department in

cooperation with one or more other units of local government, pursuant to G.S. 160A-413 or Part 1 of Article 20 of this Chapter; (3) contracting with another unit of local government for the provision of inspection services pursuant to Part 1 of Article 20 of this Chapter; or (4) arranging for the county in which it is located to perform inspection services within the city's jurisdiction as authorized by G.S. 160A-413 and G.S. 160A-360. Such action shall be taken no later than the applicable date in the schedule below, according to the city's population as published in the 1970 U.S. Census:

Cities over 75,000 population - July 1, 1979
Cities between 50,001 and 75,000 - July 1, 1981
Cities between 25,001 and 50,000 - July 1, 1983
Cities 25,000 and under - July 1, 1985.

In the event that any city shall fail to provide inspection services by the date specified above or shall cease to provide such services at any time thereafter, the Commissioner of Insurance shall arrange for the provision of such services, either through personnel employed by his department or through an arrangement with other units of government. In either event, the commissioner shall have and may exercise within the city's jurisdiction all powers made available to the city council with respect to building inspection under Part 5 of Article 19, and Part 1 of Article 20 of this Chapter. Whenever the commissioner has intervened in this manner, the city may assume provision of inspection services only after giving the commissioner two years' written notice of its intention to do so; provided, however, that the commissioner may waive this requirement or permit assumption at an earlier date if he finds that such earlier assumption will not unduly interfere with arrangements he has made for the provision of those services."

Sec. 6. Chapter 160A of the General Statutes is amended by inserting a new section to be numbered G.S. 160A-411.1 and to read as follows:

"§ 160A-411.1. Qualifications of inspectors. — On and after the applicable date set forth in the schedule in G.S. 160A-411, no city shall employ an inspector to enforce the State Building Code as a member of a city or joint inspection department who does not have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to his qualifications to hold such position: (a) a probationary certificate, valid for one year only; (b) a standard certificate; or (c) a limited certificate which shall be valid only as an authorization for him to continue in the position held on the date specified in G.S. 143-151.10(c) and which shall become invalid if he does not successfully complete in-service training specified by the qualification board within the period specified in G.S. 143-151.10(c). An inspector holding one of the above certificates can be promoted to a position requiring a higher level certificate only upon issuance by the board of a standard certificate or probationary certificate appropriate for such new position."

Sec. 7. The provisions of this act shall not be applicable to municipalities of less than 25,000 population or to counties of less than 75,000 population according to the 1970 U.S. Census, and shall not be applicable to any officials or employees of any such municipality or county unless the Legislative Research Commission makes affirmative findings of fact that as of July 1, 1984, there exist within the State adequate in-service and pre-service training opportunities to permit employees or prospective employees of such municipalities and counties to secure at various convenient places throughout the State or by correspondence courses the training necessary to retain limited certificates or to secure standard certificates, and to provide an adequate pool of qualified personnel to enforce applicable codes in such municipalities or counties. Unless the Legislative Research Commission shall make such affirmative findings of fact, then neither the North Carolina Code Officials Qualification Board nor the North Carolina Building Code Council nor the Commissioner of Insurance nor the Department of Insurance shall enforce any provision of this act as to any municipality of less

than 25,000 population or any county of less than 75,000 population according to the 1970 U.S. Census or as to any official or employee of any such municipality or county.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.