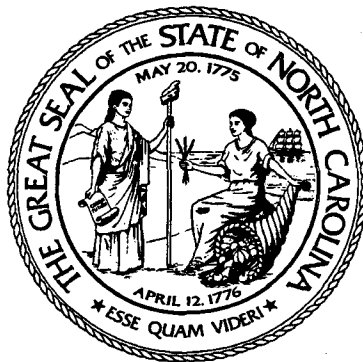


# LEGISLATIVE RESEARCH COMMISSION

## STUDY ON BUILDING CODE ISSUES



REPORT TO THE  
1998 SESSION OF THE  
1997 GENERAL ASSEMBLY  
OF NORTH CAROLINA

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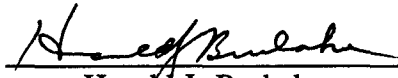
STATE OF NORTH CAROLINA  
**LEGISLATIVE RESEARCH COMMISSION**  
STATE LEGISLATIVE BUILDING  
RALEIGH 27601-1096

May 11, 1998

TO THE MEMBERS OF THE 1997 GENERAL ASSEMBLY (REGULAR SESSION 1998):

The Legislative Research Commission herewith submits to you for your consideration its interim report on building code issues. The report was prepared by the Legislative Research Commission's Committee on the Study of Building Code Issues pursuant to G.S. 120-30.17(1).

Respectfully submitted,

  
\_\_\_\_\_  
Harold J. Brubaker  
Speaker of the House

  
\_\_\_\_\_  
Marc Basnight  
President Pro Tempore

Cochair  
Legislative Research Commission





1997-1999

LEGISLATIVE RESEARCH COMMISSION

MEMBERSHIP

President Pro Tempore of the Senate  
Marc Basnight, Cochair

Speaker of the House of Representatives  
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Sen. Austin M. Allran  
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Rep. Gregory J. Thompson





## PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission, prompted by actions during the 1997 Session, has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of building code issues was authorized by Part II Section 2.1(2) of Chapter 483 of the 1997 Session Laws. Part II of Chapter 483 allows for studies authorized by that Part for the Legislative Research Commission to consider Senate Bill 820 and House Bill 47 to study issues related to the North Carolina State Building Code. Section 1 of House Bill No.47 reads in part, "The Legislative Research Commission is authorized to study issues related to the North Carolina State Building Code including the requirements for initial certification of Code-enforcement officials, the imposition of requirements for annual recertification of Code-enforcement officials, possible suspension and other penalties for Code-enforcement officials who fail to correctly apply the Code...." The relevant portions of Chapter 483, House Bill 47 and Senate Bill 820 are included in Appendix A. The Legislative Research Commission authorized this study under authority of G.S. 120-30.17(1). The Committee was chaired

by Senator Eric M. Reeves and Representative William M. Ives. The full membership of the Committee is listed in Appendix B of this report. A committee notebook containing the committee minutes and all information presented to the committee is filed in the Legislative Library.

## COMMITTEE PROCEEDINGS

The Legislative Research Commission's Committee on Building Codes met three times to study issues relating to building codes. The Committee minutes are on file in the Committee notebook in the Legislative Library.

**December 15, 1997**

The Committee met for the first time. Eight members of the public attended the meeting.

The Committee first addressed the issue of quality of workmanship. Several suggestions were raised to improve workmanship. These suggestions included: 1) requiring all electrical contractors to hire licensed journeymen and helpers; 2) looking at heating and plumbing safety issues; 3) use of an interpretive manual; 4) increasing the availability of craft training in community colleges; and 5) encouraging consumers to be prudent when selecting a contractor. The Committee also expressed concern about the cost of construction in light of increased regulations.

Second, the Committee addressed the issue of mobile home inspections and the safety requirements of such dwellings. Mr. Lee Hauser, Senior Deputy Commissioner with the Department of Insurance, informed the Committee that the Department of Housing and Urban Development controls the standards for manufactured homes. The research staff was charged with obtaining information about out of state mobile home manufacturers.

Third, the Committee discussed single prime contracts verses multi-prime contracts. Mr. Speros Fleggas, State Construction Office, spoke to the Committee about this issue and also explained a study that was conducted with regard to the bidding process. The study included bidding information from other states and revealed that costs are lower for multi-prime contracts. Mr. Fleggas, informed the committee that the State does currently have some single prime contracts.

Next, the Committee decided that there were several additional topics which needed to be addressed during future meetings. These topics included: 1) residential housing; 2) commercial construction; 3) affordability of low income homes after code changes; and 4) unlicensed contractors building modular homes. In addition, Mr. Willy Stewart asked the Committee to address the large number of houses to be inspected. Mr. Stewart also suggested that privatization of inspections be considered as a possible solution.

**January 23, 1998**

The meeting was called to order by Senator Reeves. Lee Hauser, Senior Deputy Commissioner of the Safety Services Group for the N. C. Department of Insurance made the first presentation. He gave an overview of the Building Code System and stated that the North Carolina system is one of the best in the nation.

Mark Selph, Executive Director of the North Carolina Licensing Board of General Contractors, made the next presentation. He gave an overview of the Board and explained how the Board regulates contractors and determines professional competency. Mr. Selph went over the three different types of contractor's licenses in existence and explained their requirements. In addition, he also cited several examples of disciplinary actions taken by the Board as a result of contractor incompetence, conduct, and ethical breaches.

Michael Carpenter, Director of Governmental Affairs and General Counsel for the N. C. Home Builders Association also addressed the committee. His topic was warranties and builder liability in North Carolina. Mr. Carpenter gave an overview of the law that pertains to contractors and how that body of law affects consumers. He also explained the types of warranties that are available to consumers; what they mean to the homeowner; and the impact of the Supreme Court's decisions on this body of law.

A question and answer period ensued where the following points were made:

- Mr. Hauser stated that the Department does not address workmanship issues. The only legal requirement for building projects is that they comply with the Building Code. If the Code's provisions are met, the Department cannot legally look any further.

- Mr. Selph stated that the Contractors Licensing Board can revoke or suspend contractor licenses. It has done so approximately 100 times over the last 10 years. The Board, however, has never taken any action against a licensee for poor workmanship. Mr. Selph stated that the Board receives approximately 200-300 formal complaints each year.

- Mr. Selph also stated that "workmanship" issues are very subjective and difficult to enforce without a formal standard of workmanship. Currently there is no such standard in place. If these standards were promulgated, the Board could suspend licenses for poor workmanship. However, such standards have never been considered before.

Grover Sawyer, Deputy Commissioner of the Engineering Division of the Department of Insurance was the next presenter. He gave an overview on the educational opportunities available to code enforcement officials and indicated that the inspectors have asked for a continuing education program. Mr. Sawyer suggested legislation for a continuing education program at the state level.

Samuel Leggett, Deputy Commissioner for the Engineering Division of the North Carolina Department of Insurance, supported the need for more continuing education at the local level. Mr. Sawyer said all the professional organizations are asking for this bill.

**February 26, 1998**

Five members of the public addressed the Committee. Mr. Edward Owens, Director of Inspections Department for the City of Raleigh, was the first speaker. Mr. Owens provided the Committee with an overview of the inspection process. According to Mr. Owens, there are many good points that can be made with regard to building inspections; however, there are still areas which need to be improved.

Mr. Tom Coulter provided the Committee with a citizens perspective with regards to building code issues. Mr. Coulter discussed his concerns about workmanship. He also told the Committee about his unpleasant personal experience with inspectors which resulted in him filing a formal complaint. According to Mr. Coulter, his home was built in 1983, but during his attempt to make subsequent renovations, the inspectors required his home to meet 1993 building codes.

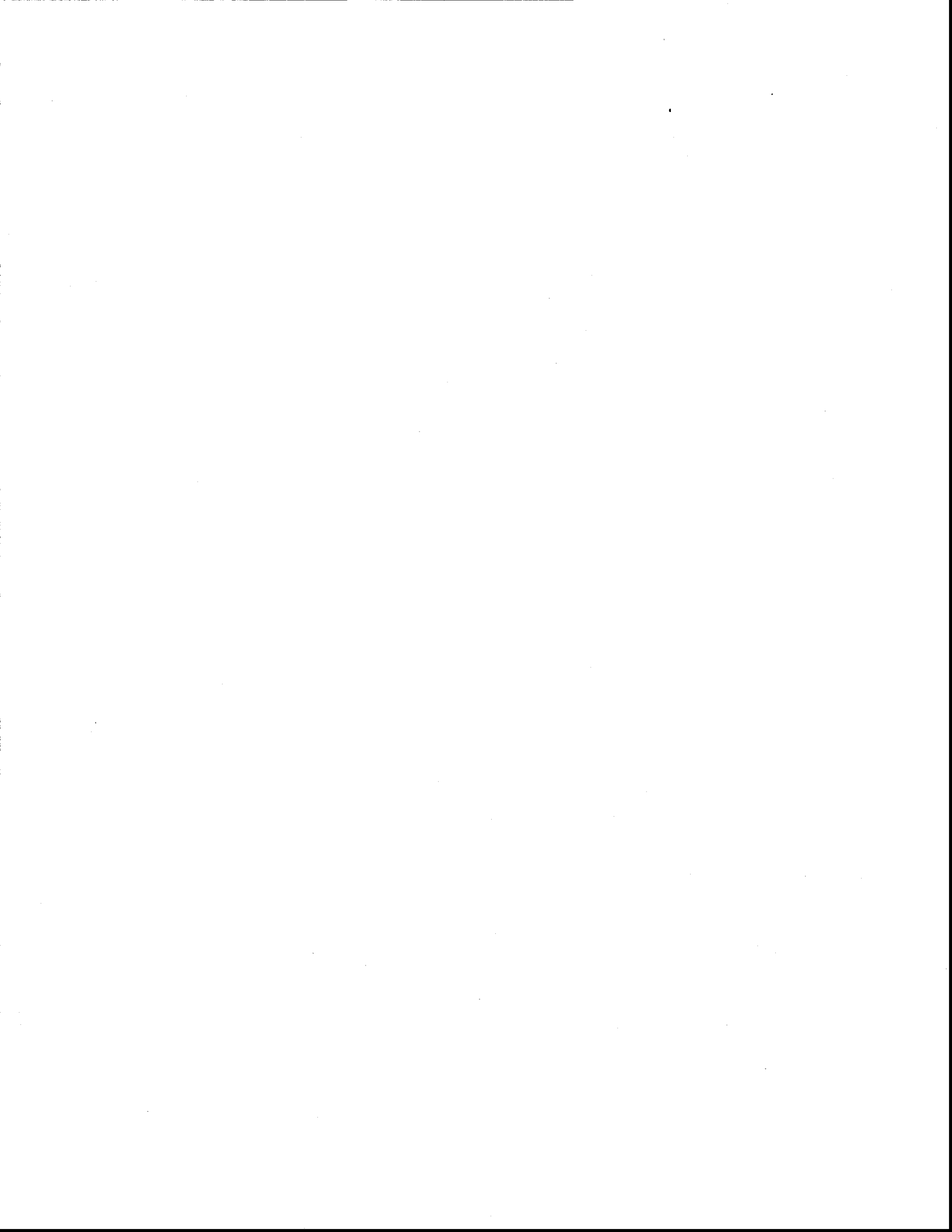
Next, Mr. Grover Sawyer, Jr., Deputy Commissioner of the Engineering Division of the Department of Insurance, and Mr. Owens addressed questions concerning commercial construction in North Carolina. The Committee asked various questions about fire inspectors as well as building code inspectors. The Committee agreed that there is a need for these individuals to work together.

Barbara Riley, committee counsel, presented the Committee with a draft bill that requires code-enforcement officers to participate in a professional development program. Mr. Samuel Leggett, Deputy Commissioner of the Engineering Division of the Department of Insurance, provided the Committee with a handout that illustrated inspection failure rates for the period of July 1995 to December 1996. Mr. Leggett stated that he supports professional development for code-enforcement officials and also stated that the advisory board currently works with builders to improve their performance.

Mr. Mark Selph of the North Carolina Licensing Board for General Contractors presented the Committee with a handout that illustrated the number of disciplinary actions that his board has taken against general contractors from 1987 until 1998. The Committee asked Mr. Selph to provide information that establishes the number of complaints received during a particular period of time versus the number of licenses issued during the same period of time. Mr. Selph informed the Committee that there is no way to determine if contractors are moving from one state to another to continue working after being disciplined.

**April 16 1998**

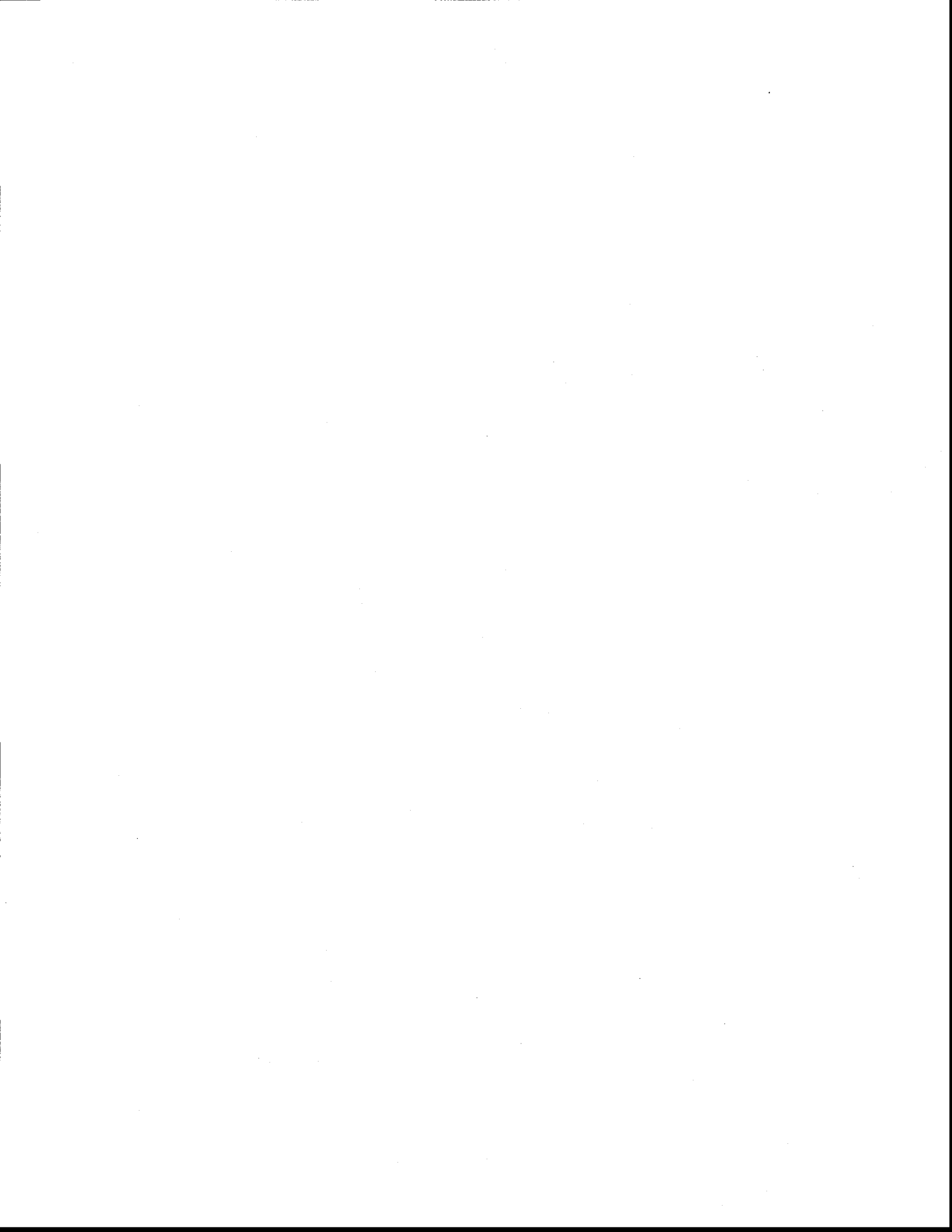
Representative Ives called the meeting to order. The committee unanimously adopted the interim LRC study report and legislation granting the North Carolina Code Officials Qualifications Board the authority to establish a professional development program for Code-enforcement officials. Thereafter, the committee voted unanimously to continue its work after the short session.



## FINDINGS AND RECOMMENDATIONS

**RECOMMENDATION:** The General Assembly should enact the proposed bill requiring all North Carolina code-enforcement officials to participate in an approved professional development program.

The Committee finds that workmanship, building safety, and cost of construction are factors that are extremely important to consumers with regard to residential and commercial construction within the State. Currently, North Carolina does not require its code-enforcement officials to participate in any professional development program. The Committee believes that the current law should be amended to require code-enforcement officials to participate in such a program, so that the State's inspectors will have the opportunity to enhance and maintain their professional competence in enforcing building codes and assuring the health, safety, and welfare of the citizens.





**APPENDIX A**  
**CHAPTER 483**  
**1997 Session Laws**

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE AND CONTINUE VARIOUS COMMISSIONS, TO CONTINUE A COUNCIL, TO DIRECT STATE AGENCIES AND LEGISLATIVE OVERSIGHT COMMITTEES AND COMMISSIONS TO STUDY SPECIFIED ISSUES, AND TO IMPOSE A MORATORIUM ON SERVICE CORPORATION CONVERSIONS.

The General Assembly of North Carolina enacts:

**PART I.-----TITLE**

Section 1. This act shall be known as "The Studies Act of 1997".

**PART II.-----LEGISLATIVE RESEARCH COMMISSION**

Section 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the bill or resolution that originally proposed the issue or study and the name of the sponsor is listed. Unless otherwise specified, the listed bill or resolution refers to the measure introduced in the 1997 Regular Session of the 1997 General Assembly. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study.

- (1) ....
- (2) Building code issues (S.B. 820 - Shaw of Cumberland; H.B. 47 - Davis)....

Section 2.12. Reporting Date. For each of the topics the Legislative Research Commission decides to study under this Part or pursuant to G.S. 120- 30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1997 General Assembly, 1998 Regular Session, or the 1999 General Assembly.

Section 2.13. Funding. From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

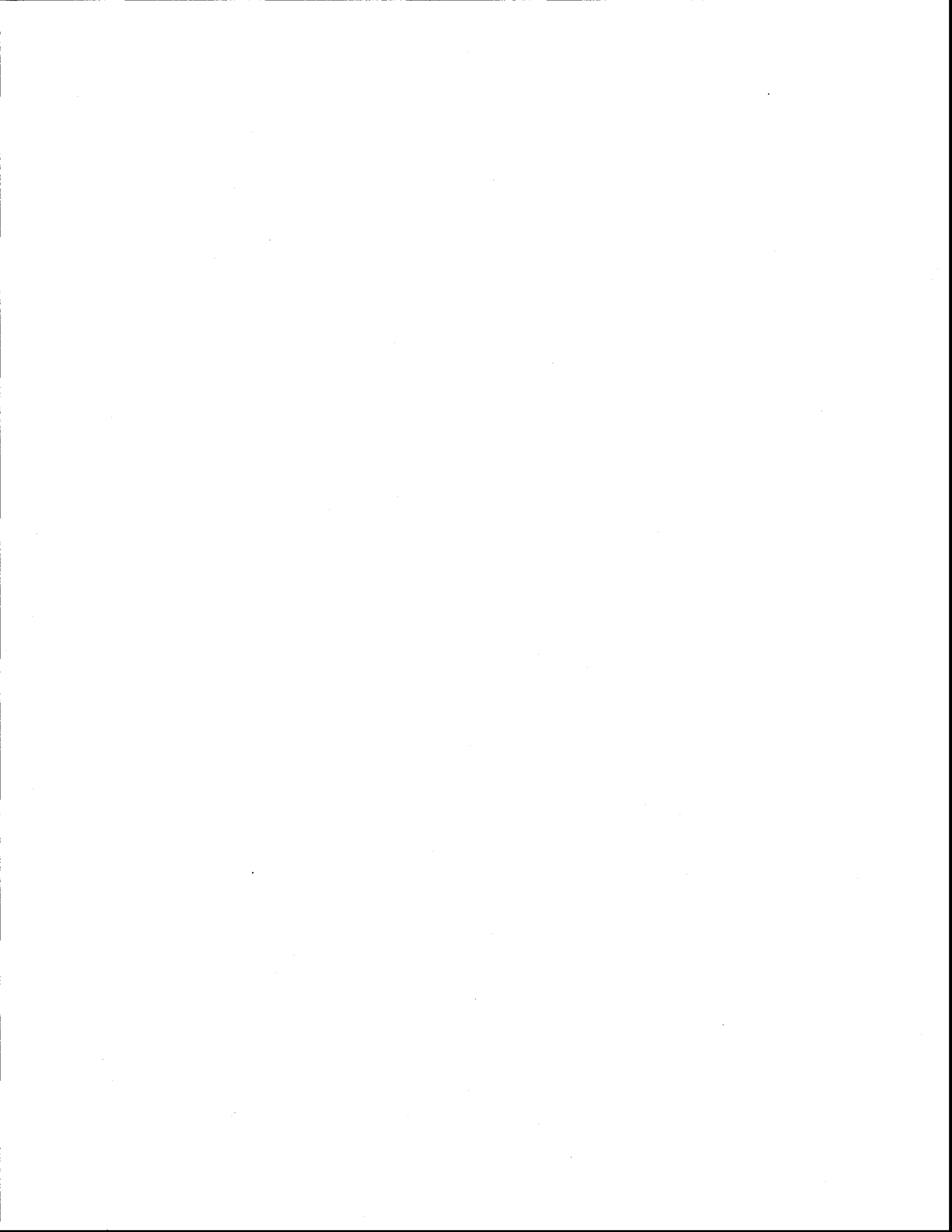
In the General Assembly read three times and ratified this the 28th day of August, 1997.

s/ Marc Basnight  
President Pro Tempore of the Senate

s/ Harold J. Brubaker  
Speaker of the House of Representatives

s/ James B. Hunt, Jr.  
Governor

Approved 11:00 a.m. this 10th day of September, 1997



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 47

Short Title: Building Code Study.

(Public)

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Sponsors: Representatives Davis, Brawley, Fox, Hill; Ives, Moore, Mosley, Sexton, Shubert, and Tolson.

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Referred to: Rules, Calendar and Operations of the House.

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February 5, 1997

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR A STUDY BY THE LEGISLATIVE RESEARCH  
3 COMMISSION OF ISSUES RELATED TO THE ENFORCEMENT OF THE  
4 BUILDING CODE AND QUALIFICATIONS OF CODE ENFORCEMENT  
5 OFFICIALS.

6 The General Assembly of North Carolina enacts:

7                   Section 1. The Legislative Research Commission is authorized to study  
8 issues related to the North Carolina State Building Code including the requirements  
9 for initial certification of Code-enforcement officials, the imposition of requirements  
10 for annual recertification of Code-enforcement officials, possible suspension and other  
11 penalties for Code-enforcement officials who fail to correctly apply the Code,  
12 increased penalties for builders and others who violate the Code, and coordination  
13 between the Building Code Council and the Code Officials Qualification Board on  
14 changes to the Code and the enforcement of those changes.

15                   Section 2. This act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 820\*

Short Title: Building Code Study.

(Public)

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Sponsors: Senators Shaw of Cumberland; Blust, Carpenter, Jordan, Kincaid, Ledbetter, Lucas, Martin of Guilford, Shaw of Guilford, and Weinstein.

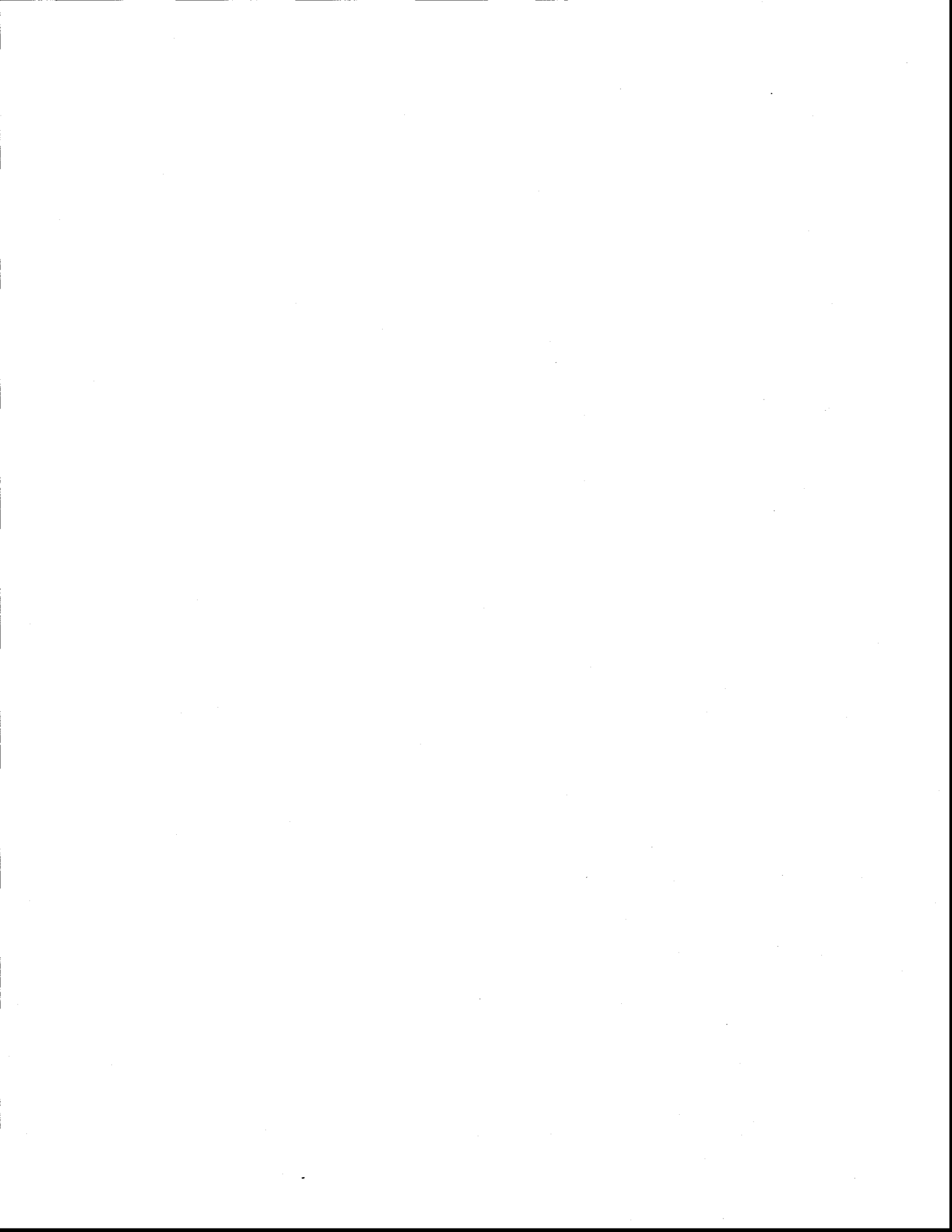
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Referred to: Rules and Operations of the Senate.

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April 14, 1997

- 1                                   A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR A STUDY BY THE LEGISLATIVE RESEARCH  
3 COMMISSION OF ISSUES RELATED TO THE ENFORCEMENT OF THE  
4 BUILDING CODE AND QUALIFICATIONS OF CODE ENFORCEMENT  
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11 penalties for Code-enforcement officials who fail to correctly apply the Code,  
12 increased penalties for builders and others who violate the Code, and coordination  
13 between the Building Code Council and the Code Officials Qualification Board on  
14 changes to the Code and the enforcement of those changes.  
15           Section 2. This act is effective when it becomes law.



**LEGISLATIVE RESEARCH COMMISSION  
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1997-1999**

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**STATUTES AND RULES IN NORTH CAROLINA  
ON NORTH CAROLINA CODE OFFICIALS  
QUALIFICATION BOARD**

**143-151.8. 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 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, or the enforcement of fire code regulations as an employee of the State or local government or other individual contracting with the State or a local government to conduct inspections, 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.

(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 rules enacted by the State and the local government which establish standards and requirements applicable to the construction, alteration, repair, or demolition of buildings, and conditions that may create hazards of fire, explosion, or related hazards.

(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.

(1977, c. 531, s. 1; 1987, c. 827, ss. 224, 225; 1989, c. 681, s. 15; 1993, c. 232, s. 4.1.)

**Local Modification.** - Town of Wrightsville Beach: 1989, c. 611, s. 1.

**Editor's Note.** - Session Laws 1987, c. 429, s. 3, effective June 19, 1987, redesignated this Article, which had been numbered Article 9B, as Article 9C.

Session Laws 1989, c. 681, which amended this section, provided in s. 21: "Section 10 and Sections 14 through 17 shall become effective upon the adoption of fire protection code provisions by the North Carolina Building Code Council." Fire protection code provisions were adopted July 1, 1991.

**143-151.9. 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) One member who is a local government fire prevention inspector and one member who is a citizen 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 General Assembly upon the recommendation of the President Pro Tempore in accordance with G.S. 120-121; (7), (8), and (9) by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121; (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 Community College System; 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.

(1977, c. 531, s. 1; 1987, c. 564, s. 28; 1989, c. 681, s. 16; 1995, c. 490, s. 12(a).)

**Editor's Note.** - Session Laws 1989, c. 681, which amended this section, provided in s. 21: "Section 10 and Sections 14 through 17 shall become effective upon the adoption of fire protection code provisions by the North Carolina Building Code Council." Fire protection code provisions were adopted July 1, 1991.

Session Laws 1995, c. 490, which amended this section, in s. 65 provides: "This act applies with respect to terms beginning on or after January 1, 1997, and to vacancies occurring on or after that date regardless of the date the term began."

**Effect of Amendments.** - The 1995 amendment, in the last sentence of subsection (a), substituted "General Assembly upon the recommendation of the President Pro Tempore in accordance with G.S. 120-121" for "Lieutenant Governor", added "General Assembly upon the recommendation of the" preceding "Speaker", and added "in accordance with G.S. 120-121" following "Representatives". For the applicability of this amendment, see editor's note.

### **§ 143-151.12. Powers.**

In addition to powers conferred upon the Board elsewhere in this Article, the Board shall have the power to:

(1) Adopt rules necessary to administer this Article;

(1a) Require State agencies, local inspection departments, and local governing bodies to submit reports and information about 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 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.

(1977, c. 531, s. 1; 1987, c. 564, s. 15; c. 827, s. 226.)

### **143-151.13. Required standards and certificates for Code-enforcement officials.**

(a) 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 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 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 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 he held on the applicable date and shall become invalid if he does not complete in-service training within two years following the applicable date in the schedule below, according to the governmental jurisdiction's population as published in the 1970 U.S. Census:

Counties and Municipalities over 75,000 population - July 1, 1979

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

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

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

All fire prevention inspectors holding office - July 1, 1989. Fire prevention inspectors have until July 1, 1993, to complete in-service training.

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 such period (not less than one year nor more than three years) as specified by the Board's

rules, or until June 30, 1983, whichever is later, 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 the specified period by renewal or otherwise. The Board may 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 Chapter 83A;
- (2) General contractor, licensed pursuant to Article 1 of Chapter 87;
- (3) Plumbing or heating contractor, licensed pursuant to Article 2 of Chapter 87;
- (4) Electrical contractor, licensed pursuant to Article 4 of Chapter 87; or,
- (5) Professional engineer, registered pursuant to Chapter 89C;

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.

(1977, c. 531, s. 1; 1979, cc. 521, 829; 1983, c. 90; 1987, c. 827, ss. 225, 227; 1989, c. 681, s. 17; 1989 (Reg. Sess., 1990), c. 1021, s. 5; 1991, c. 133, s. 1.)

**Editor's Note.** - Session Laws 1989, c. 681, which amended this section, provided in s. 21: "Section 10 and Sections 14 through 17 shall become effective upon the adoption of fire protection code provisions by the North Carolina Building Code Council." Fire protection code provisions were adopted July 1, 1991.

#### CASE NOTES

**To the extent that various levels or classes of work such as building, electrical, mechanical, and plumbing are referenced as part of the certificates issued, there is no statutory authority to allow the revocation of separate selected certificates dealing with those specific levels or classes of work; the standard certificate and the limited certificate are all that this section authorizes to be issued and thus all that are subject to revocation. Bunch v. North Carolina Code Officials Qualifications Bd., 343 N.C. 97, 468 S.E.2d 55 (1996).**

LEGISLATIVE PROPOSAL

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1998

**DRAFT**  
D

S/H

98-SEZ-01

THIS IS A DRAFT 16-APR-98 08:59:22

Short Title: Code Officials Cont. Ed.

(Public)

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Sponsors:

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Referred to:

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- 1 A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE THE NORTH CAROLINA CODE OFFICIALS  
3 QUALIFICATION BOARD TO REQUIRE CODE-ENFORCEMENT OFFICIALS TO  
4 PARTICIPATE IN PROFESSIONAL DEVELOPMENT PROGRAMS.  
5 The General Assembly of North Carolina enacts:  
6 Section 1. Article 9C of Chapter 143 of the General  
7 Statutes is amended by adding a new section to read:  
8 "143-151.13A. Professional development program for Code-  
9 enforcement officials.  
10 (a) The Board may establish professional development  
11 requirements for code-enforcement officials as a condition of the  
12 renewal or reactivation of their certificates. Such professional  
13 development shall be oriented to assist inspectors in achieving  
14 and maintaining professional competence in their enforcement of  
15 the Code and assuring the health, safety, and welfare of the  
16 citizens of North Carolina. Criteria adopted by the Board for a  
17 professional development program may include:  
18 (1) The content of professional development courses;  
19 (2) Accreditation of professional development course  
20 sponsors and programs;  
21 (3) Computation of credit hours.  
22 (4) Recordkeeping and other administrative procedures;  
23 and  
24 (5) Sanctions for non-compliance.

1 (b) The Board may require, as a condition of renewal of a  
2 certificate, that each individual holding a standard or a limited  
3 certificate complete professional development courses as  
4 prescribed by the Board. The professional development coursework  
5 requirement shall not exceed 24 hours in any three year period.

6 (c) The Board may require each individual who earns a standard  
7 certificate under the prequalification program established  
8 pursuant to G.S. 143-151.13(d) to complete professional  
9 development coursework, not to exceed 16 hours in each technical  
10 area of certification, within one year of that individual  
11 becoming employed by a city or county inspection department.

12 (d) As a condition of reactivating a standard or limited  
13 certificate, the Board may require the completion of professional  
14 development coursework within one year of re-employment as a  
15 code-enforcement official as follows:

16 (1) Individuals who have been on inactive status and  
17 who have been out of the inspection field for more  
18 than two years shall complete professional  
19 development coursework not to exceed 16 hours for  
20 each technical area in which the individual is  
21 certified.

22 (2) Individuals who have been on inactive status for  
23 more than two years but who have remained active in  
24 the inspection field shall complete professional  
25 development coursework not to exceed 12 hours for  
26 each technical area in which the individual is  
27 certified.

28 (3) Individuals who have been on inactive status for  
29 two years or less and who have remained active in  
30 the inspection field to complete professional  
31 development coursework not to exceed 8 hours for  
32 each technical area in which the individual is  
33 certified.

34 Section 2. G.S. 143-151.17(a) reads as rewritten:

35 "(a) The Board shall have the power to suspend, revoke or  
36 refuse to grant any certificate issued under the provisions of  
37 this Article to any person who:

38 (1) Has been convicted of a felony against this State  
39 or the United States, or convicted of a felony in  
40 another state that would also be a felony if it had  
41 been committed in this State;

42 (2) Has obtained certification through fraud, deceit,  
43 or perjury;



- 1 (3) Has knowingly aided or abetted any person  
2 practicing contrary to the provisions of this  
3 Article or the State Building Code;  
4 (4) Has defrauded the public or attempted to do so;  
5 (5) Has affixed his signature to a report of inspection  
6 or other instrument of service if no inspection has  
7 been made by him or under his immediate and  
8 responsible ~~direction; or, direction;~~  
9 (6) Has been guilty of willful misconduct, gross  
10 negligence or gross ~~incompetence, incompetence; or~~  
11 (7) Has failed to comply with the professional  
12 development requirments established by the Board  
13 under this article."

14 Section 3. G.S. 58-6-25(d) reads as rewritten:

15 "(d) Use of Proceeds. -- The Insurance Regulatory Fund  
16 is created in the State treasury, under the control of the Office  
17 of State Budget and Management. The proceeds of the charge levied  
18 in this section and all fees collected under Articles 69 through  
19 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of  
20 the General Statutes shall be credited to the Fund. The Fund  
21 shall be placed in an interest-bearing account and any interest  
22 or other income derived from the Fund shall be credited to the  
23 Fund. Moneys in the Fund may be spent only pursuant to  
24 appropriation by the General Assembly and in accordance with the  
25 line item budget enacted by the General Assembly. The Fund is  
26 subject to the provisions of the Executive Budget Act, except  
27 that no unexpended surplus of the Fund shall revert to the  
28 General Fund. All money credited to the Fund shall be used to  
29 reimburse the General Fund for the following:

- 30 (1) Money appropriated to the Department of Insurance  
31 to pay its expenses incurred in regulating the  
32 insurance industry and other industries in this  
33 State.  
34 (2) Money appropriated to State agencies to pay the  
35 expenses incurred in regulating the insurance  
36 industry, in certifying statewide data processors  
37 under Article 11A of Chapter 131E of the General  
38 Statutes, and in purchasing reports of patient data  
39 from statewide data processors certified under that  
40 Article.  
41 (3) Money appropriated to the Department of Revenue to  
42 pay the expenses incurred in collecting and  
43 administering the taxes on insurance companies

1                   levied in Article 8B of Chapter 105 of the General  
2                   Statutes.

3                   (4) Money appropriated to the Department of Insurance  
4                   for the code enforcement officials professional  
5                   development requirements under G.S. 143-151.13A."

6                   Section 4.       The North Carolina Code Officials  
7 Qualification Board may adopt temporary rules to implement this  
8 act as a recentact of the General Assembly under G.S. 150B-  
9 21.1(a)(2).

10                  Section 5.   There is appropriated from the Department of  
11 Insurance Fund in G.S. 58-6-25 to the Department of Insurance for  
12 the Code Officials Qualification Board the sum of one hundred  
13 thousand dollars (\$100,000) for fiscal year 1998-1999 for the  
14 purpose of developing and implementing the code officials  
15 professional development program under G.S. 143-151.13A. This  
16 appropriation is contingent upon a decision by the Board to  
17 establish the program as prescribed in this act.

18  
19                  Section 6.   Section 5 of this act becomes effective July  
20 1, 1998. The remainder of this act is effective when it becomes  
21 law.

## ANALYSIS OF THE PROPOSED LEGISLATION

This bill authorizes the North Carolina Code Officials Qualification Board (hereinafter "the Board") to establish a professional development program for Building Code enforcement officials. The legislation adds a new section to Article 9C, Chapter 143 of the General Statutes. This new section, G.S. § 143-151.13A, allows the Board to establish a professional development program and sets out criteria that may be adopted by the Board in administering this program.

Section 1. of the bill permits the Board to establish professional development requirements. If such requirements are adopted, this section requires that they be oriented to assist inspectors in achieving and maintaining professional competence. This section also gives the Board guidance on the criteria that it may adopt for: (1) the establishment of the program; (2) conditions for renewal of certificates; and (3) conditions for reactivation for reactivation of certificates.

Section 2. of the bill amends G.S. 143-151.17(a). It adds a provision which allows the Board to suspend, revoke, or refuse to grant a certificate to an individual that fails to comply with the professional development requirements which it establishes.

Section 3. of the bill requires that money appropriated by the General Assembly for purposes of establishing a professional development program be repaid to the General Assembly from the Insurance Regulatory Fund.

Section 4. of the bill allows the Board to establish temporary rules to implement the bill if it becomes law.

Section 5. of the bill appropriates \$100,000 for purposes of establishing and implementing the professional development program. This section makes the appropriation contingent upon the Board's making a decision to establish a professional development program.