

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-421
HOUSE BILL 355**

AN ACT TO PROVIDE THAT THE DEPARTMENT OF INSURANCE IS NOT LIABLE FOR COSTS INCURRED IN SATISFYING THE FISCAL NOTE REQUIREMENT FOR CHANGES IN THE STATE BUILDING CODE; TO UPDATE REFERENCES TO ORGANIZATIONS WHOSE STANDARDS MAY BE USED IN ADOPTING CODE PROVISIONS; TO GIVE THE BUILDING CODE COUNCIL EXPLICIT AUTHORITY TO USE STANDARDS OF INTERNATIONAL AGENCIES; TO MAKE TECHNICAL CORRECTIONS IN THE BUILDING CODE COUNCIL STATUTES; TO PROHIBIT MEMBERS OF THE MANUFACTURED HOUSING AND HOME INSPECTOR LICENSING BOARDS FROM SPONSORING OR PROVIDING CONTINUING EDUCATION COURSES WHILE SERVING ON THE BOARD; TO AUTHORIZE THE MANUFACTURED HOUSING BOARD TO ADOPT TEMPORARY RULES REGARDING CONTINUING EDUCATION REQUIREMENTS; TO CLARIFY THAT SALES MANAGERS OF A MANUFACTURED HOUSING RETAIL DEALER SHALL BE LICENSED AS SALESPERSONS; TO ENSURE THAT BUILDING INSPECTORS APPLY THE MANUFACTURED HOME INSTALLATION STANDARDS; TO MAKE A TECHNICAL CORRECTION IN THE FIREMEN'S RELIEF FUND LAW; AND TO AMEND THE BEACH PLAN LAW REGARDING LOSS ADJUSTMENT EXPENSE REIMBURSEMENTS.

The General Assembly of North Carolina enacts:

PART I. BUILDING CODE AND BUILDING CODE COUNCIL.

SECTION 1.1. G.S. 143-138(a), as rewritten by Section 1 of S.L. 2001-141, reads as rewritten:

"(a) Preparation and Adoption. – The Building Code Council ~~is hereby empowered to~~ may prepare and adopt, in accordance with the provisions of this Article, a North Carolina State Building Code. ~~Prior to~~ Before the adoption of ~~this the~~ Code, or any part ~~thereof, of the Code,~~ the Council shall hold at least one public hearing. A notice of ~~such the~~ public hearing shall be published in the North Carolina Register at least 15 days ~~prior to~~ before the date of the hearing. Notwithstanding G.S. 150B-2(8a)h., the North Carolina State Building Code as adopted by the Building Code Council is a rule within the meaning of G.S. 150B-2(8a) and shall be adopted in accordance with the procedural requirements of Article 2A of Chapter 150B of the General Statutes.

The Council shall request the Office of State Budget, Planning, and Management to prepare a fiscal note for a proposed Code change that has a substantial economic impact, as defined in G.S. 150B-21.4(b1), or that increases the cost of residential housing by eighty dollars (\$80.00) or more per housing unit. The change can become effective only in accordance with G.S. 143-138(d). Neither the Department of Insurance nor the Council shall be required to expend any monies to pay for the preparation of any fiscal note under this section by any person outside of the Department or Council unless the Department or Council contracts with a third-party vendor to prepare the fiscal note."

SECTION 1.2. G.S. 143-138(c) reads as rewritten:

"(c) Standards to Be Followed in Adopting the Code. – All regulations contained in the North Carolina State Building Code shall have a reasonable and substantial connection with the public health, safety, morals, or general welfare, and their provisions shall be construed reasonably to those ends. Requirements of the Code shall conform to good engineering practice. The Council may use as guidance, but is not required to adopt, the requirements of the ~~National Building Code of the American Insurance Association, formerly the National Board of Fire Underwriters, the Southern International Building Code of the International Code Council, the Standard Building Code of the Southern Building Code Congress, Congress International, Inc., the Uniform Building Code of the Pacific Coast Building Officials Conference, International Conference of Building Officials, the Basic National Building Code of the Building Officials Conference of America, Inc., and Code Administrators, Inc., the National Electric Code, the Life Safety Code Code, the National Fuel Gas Code, and the Fire Prevention Code of the National Fire Protection Association, the American Standard Safety Code for Elevators, Dumbwaiters, Elevators and Escalators, and the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, Standards of the American Insurance Association for the Installation of Gas Piping and Gas Appliances in Buildings, and standards promulgated by the United States of America American National Standards Institute, formerly the American Standards Association, Underwriters' Laboratories, Inc., and similar national or international agencies engaged in research concerning strength of materials, safe design, and other factors bearing upon health and safety."~~

SECTION 1.3. G.S. 150B-21.5(d), as enacted by Section 5 of S.L. 2001-141, reads as rewritten:

"(d) State Building Code. – The Building Code Council is not required to publish a notice of text in the North Carolina Register when it proposes to adopt a rule that concerns the North Carolina State Building Code. The Building Code Council is required to publish a notice of rule-making proceeding in the North Carolina Register when it proposes to adopt a rule that concerns the North Carolina State Building Code. The Building Code Council is required to submit to the Commission for review a rule for which notice and hearing is not required under this subsection. In adopting a rule, the Council shall comply with the procedural requirements of G.S. 150B-21.3."

SECTION 1.4. G.S. 150B-21.17(a), as rewritten by Section 6 of S.L. 2001-141, reads as rewritten:

"(a) Content. – The Codifier of Rules must publish the North Carolina Register. The North Carolina Register must be published at least two times a month and must contain the following:

- (1) Temporary rules entered in the North Carolina Administrative Code.
- (1a) Notices of rule-making proceedings, the text of proposed rules, and the text of permanent rules approved by the Commission. This Except with regard to notices of rule-making proceedings, this subdivision does not apply to the North Carolina State Building Code.
- (2) Notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165.
- (3) Executive orders of the Governor.
- (4) Final decision letters from the United States Attorney General concerning changes in laws that affect voting in a jurisdiction subject to section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H.
- (5) Orders of the Tax Review Board issued under G.S. 105-241.2.
- (6) Other information the Codifier determines to be helpful to the public."

SECTION 1.5. G.S. 143-138(d), as rewritten by Section 2 of S.L. 2001-141, reads as rewritten:

"(d) Amendments of the Code. – The Building Code Council may revise and amend the North Carolina State Building Code, either on its own motion or upon

application from any citizen, State agency, or political subdivision of the State. In adopting any amendment, the Council shall comply with the same procedural requirements and the same standards set forth above for adoption of the Code.

Handbooks providing explanatory material on Code provisions shall be provided no later than January 1, 2000, and shall be updated with each ~~triennial~~ revision of the Code or, in the discretion of the Council, more frequently. The Department may charge a reasonable fee for the handbooks."

PART II. MANUFACTURED HOUSING, CODE OFFICIALS, AND HOME INSPECTOR BOARDS.

SECTION 2.1. G.S. 143-143.9(9) reads as rewritten:

"(9) Manufactured home salesperson or salesperson. – Any person employed by a manufactured home dealer to sell manufactured homes to buyers. Manufactured home salesperson or salesperson also includes sales managers, lot managers, general managers, or others who manage or supervise salespersons."

SECTION 2.2. G.S. 143-143.11B(a) reads as rewritten:

"(a) The Board may establish programs and requirements of continuing education for licensees, but shall not require licensees to complete more than eight credit hours of continuing education. ~~Prior to~~ Before the renewal of a license, a licensee shall present evidence to the Board that ~~he or she~~ the licensee has completed the required number of continuing education hours in courses approved by the Board during the two months immediately preceding the expiration of ~~his or her~~ the licensee's license. No member of the Board shall provide or sponsor a continuing education course under this section while that person is serving on the Board."

SECTION 2.3. G.S. 150B-21.1 is amended by adding a new subsection to read:

"(a6) Notwithstanding the provisions of subsection (a) of this section, the Manufactured Housing Board may adopt temporary rules regarding continuing education course approval under G.S. 143-143.11B(c). After having the proposed temporary rule published in the North Carolina Register and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the Board shall:

- (1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule;
- (2) Accept oral and written comments on the proposed temporary rule;
and
- (3) Hold at least one public hearing on the proposed temporary rule.

When the Board adopts a temporary rule pursuant to this subsection, the Board must submit a reference to this subsection as the Board's statement of need to the Codifier of Rules.

Notwithstanding any other provision of this Chapter, the Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the Board in accordance with this subsection."

SECTION 2.4. G.S. 143-151.8(2) reads as rewritten:

"(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~~ under G.S. 143-138, ~~and~~ any resolution adopted by a federally recognized Indian Tribe under G.S. 153A-350.1 in which the Tribe adopts the North Carolina State Building Code and related local building ~~rules.~~ rules, and the standards adopted by the Commissioner of Insurance under G.S. 143-143.15(a)."

SECTION 2.5. G.S. 143-151.64(a) reads as rewritten:

"(a) Requirements. – The Board may establish programs of continuing education for licensees under this Article. A licensee subject to a program under this section shall present evidence to the Board upon the license renewal following initial licensure, and every renewal thereafter, that during the 12 months preceding the annual license expiration date the ~~person~~ licensee has completed the required number of classroom hours of instruction in courses approved by the Board. Annual continuing education hour requirements shall be determined by the Board, but shall not be more than 12 credit hours. No member of the Board shall provide or sponsor a continuing education course under this section while that person is serving on the Board."

PART III. FIREMEN'S RELIEF FUND TECHNICAL CORRECTION.

SECTION 3. G.S. 58-84-46 reads as rewritten:

"§ 58-84-46. Certification to Commissioner.

On or before October 31 of each year the clerk or finance officer of each ~~fire district~~ city or county that has a local board of trustees under G.S. 58-84-30 shall file a certificate of eligibility with the Commissioner. The certificate shall contain information prescribed by administrative rule adopted by the Commissioner. If the certificate is not filed with the Commissioner on or before January 31 in the ensuing year:

- (1) The ~~fire district~~ city or county that failed to file the certificate shall forfeit the payment next due to be paid to its board of trustees.
- (2) The Commissioner shall pay over that amount to the treasurer of the North Carolina State Firemen's Association.
- (3) That amount shall constitute a part of the Firemen's Relief Fund."

PART IV. BEACH PLAN LOSS ADJUSTMENT REIMBURSEMENTS.

SECTION 4.1. G.S. 58-45-35(e) reads as rewritten:

"(e) Policies of windstorm and hail insurance provided for in subsection (b) of this section are available only for risks in the beach and coastal areas for which essential property insurance has been written by licensed insurers. Whenever such other essential property insurance written by licensed insurers includes replacement cost coverage, the Association shall also offer replacement cost coverage. In order to be eligible for a policy of windstorm and hail insurance, the applicant shall provide the Association, along with the premium payment for the windstorm and hail insurance, a certificate that the essential property insurance is in force. The policy forms for windstorm and hail insurance shall be filed by the Association with the Commissioner for ~~his~~ the Commissioner's approval before they may be used. Catastrophic losses, as determined by the Association and approved by the Commissioner, that are covered under the windstorm and hail coverage in the beach and coastal areas shall be adjusted by the licensed insurer that issued the essential property insurance and not by the Association. ~~Expenses incurred by the licensed insurer in adjusting windstorm and hail losses shall be reimbursed by the Association. The Association shall reimburse the insurer for reasonable expenses incurred by the insurer in adjusting windstorm and hail losses.~~"

SECTION 4.2. G.S. 58-45-50 reads as rewritten:

"§ 58-45-50. Appeal from acts of Association to Commissioner; appeal from Commissioner to superior court.

(a) Any person or any insurer who may be aggrieved by an act, ~~ruling~~ ruling, or decision of the Association other than an act, ~~ruling~~ ruling, or decision relating to (i) the cause or amount of a claimed ~~loss~~, loss or (ii) the reasonableness of expenses incurred by an insurer in adjusting windstorm and hail losses, may, within 30 days after the ruling, appeal to the Commissioner. Any hearings held by the Commissioner under the appeal shall be in accordance with rules adopted by the Commissioner: Provided, however, the Commissioner is authorized to appoint a member of the Commissioner's staff as deputy commissioner for the purpose of hearing those appeals and a ruling

based upon the hearing shall have the same effect as if heard by the Commissioner. All persons or insureds aggrieved by any order or decision of the Commissioner may appeal as is provided in G.S. 58-2-75.

(b) No later than 10 days before each hearing, the appellant shall file with the Commissioner or the Commissioner's designated hearing officer and shall serve on the appellee a written statement of the appellant's case and any evidence that the appellant intends to offer at the hearing. No later than five days before the hearing, the appellee shall file with the Commissioner or the designated hearing officer and shall serve on the appellant a written statement of the appellee's case and any evidence that the appellee intends to offer at the hearing. Each hearing shall be recorded and may be transcribed. If the matter is between an insurer and the Association, the cost of the recording and transcribing shall be borne equally by the appellant and appellee; provided that upon any final adjudication the prevailing party shall be reimbursed for his share of such costs by the other party. If the matter is between an insured and the Association, the cost of transcribing shall be borne equally by the appellant and appellee; provided that the Commissioner may order the Association to pay recording or transcribing costs for which the insured is financially unable to pay. Each party shall, on a date determined by the Commissioner or the designated hearing officer, but not sooner than 15 days after delivery of the completed transcript to the party, submit to the Commissioner or the designated hearing officer and serve on the other party, a proposed order. The Commissioner or the designated hearing officer shall then issue an order."

PART V. EFFECT OF HEADINGS, SEVERABILITY, AND EFFECTIVE DATE.

SECTION 5.1. The headings to the parts of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SECTION 5.2. If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

SECTION 5.3. This act is effective when it becomes law. Sections 1.1, 1.3, 1.4, and 1.5 apply to revisions made to the North Carolina State Building Code on or after January 1, 2002. Section 2.3 of this act expires June 30, 2002.

In the General Assembly read three times and ratified this the 12th day of September, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:14 a.m. this 22nd day of September, 2001