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HOUSE BILL 2313*
Senate Finance Committee Substitute Adopted 7/8/08
Third Edition Engrossed 7/14/08

Short Title: Permitting and Building Code Changes.

(Public)

Sponsors:

Referred to:

May 21, 2008

A BILL TO BE ENTITLED

AN ACT TO PROVIDE AN EXPRESS PERMITTING REVIEW PROGRAM FOR CONNECTIONS TO THE STATE HIGHWAY SYSTEM, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE; AND TO EXEMPT CERTAIN GREENHOUSES LOCATED INSIDE THE BUILDING-RULES JURISDICTION OF ANY MUNICIPALITY FROM THE BUILDING CODE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-93.1. Express permit review program.

(a) Program Created. – The Department shall develop a fee-supported express permit review program in each highway division. The program is voluntary for permit applicants and applies to permits, approvals, or certifications that allow for a connection to the State highway system through the use of a driveway, street, signal, drainage, or any other encroachment.

(b) Implementation. – An individual highway division may opt out of the express permit review program created under this section if the highway division routinely reviews and issues special commercial permits within an average of 45 days. Any express permit review program created under this section shall be supported by the fees established pursuant to subsection (e) of this section.

(c) Procedure. – In reviewing a permit application under the express permit review program, the Department shall undergo the following steps:

- (1) The Department shall, within three business days of receipt, determine whether an express permit review application is complete. If the Department determines the express permit review application is not complete, the Department shall return the express permit review

1 application and all fees to the permit applicant to allow for a complete
2 express permit review application to be resubmitted to the Department.

3 (2) If the Department determines the express permit review application is
4 complete, the Department shall, within 45 days, issue or deny the
5 permit based upon its review of the application. Failure of the
6 Department to issue or deny the permit within 45 days is a denial of
7 the express permit review application.

8 (d) Staffing. – In order to implement the express permit review program, the
9 Department may utilize either of the following or a combination thereof:

10 (1) Existing Department staff and resources.

11 (2) Contracted engineering firms supporting each highway division to
12 provide express permit reviews, comments, and recommendations for
13 issuing express permits. If the Department utilizes contracted
14 engineering firms to provide work under this section, any fees received
15 by the Department pursuant to subsection (e) of this section shall be
16 credited towards the cost of the Department utilizing these contracted
17 engineering firms. Any additional costs associated with engaging the
18 contracted engineering firm shall be agreed to by the permit applicant
19 prior to incurring the costs and shall be paid by the permit applicant.

20 (e) Fees. – The Department may determine the fees for an express application
21 review under the express review program conducted by highway division staff. Unless a
22 contracted engineering firm is utilized, the maximum permit application fee to be
23 charged under this section for an express review of a project application requiring all of
24 the permits listed under subsection (a) of this section shall not exceed four thousand
25 dollars (\$4,000). Notwithstanding Chapter 150B of the General Statutes, the
26 Department shall establish the procedure by which the amount of the fees under this
27 subsection are established and applied for an express review program permitted by this
28 section. The fee schedule established by the Department shall be applicable to all
29 divisions participating in an express permit review program.

30 (f) Use of Fees. – All fees collected under this section shall be used to fund the
31 cost of administering and implementing express permit review programs created under
32 this section. These costs include the salaries of the program's staff and costs of
33 contracted engineering firms.

34 (g) Reports. – No later than March 1 of each year, the Department shall report to
35 the Fiscal Research Division and the Joint Legislative Transportation Oversight
36 Committee on the express permitting review program. The report shall include the cost
37 of administering the program in each division, the number of express permits issued, the
38 turnaround time for permits, the amount of fees collected per division, and the method
39 that divisions use to implement the program."

40 **SECTION 2.** G.S. 143-138(b) reads as rewritten:

41 (b) Contents of the Code. – The North Carolina State Building Code, as adopted
42 by the Building Code Council, may include reasonable and suitable classifications of
43 buildings and structures, both as to use and occupancy; general building restrictions as
44 to location, height, and floor areas; rules for the lighting and ventilation of buildings and

1 structures; requirements concerning means of egress from buildings and structures;
2 requirements concerning means of ingress in buildings and structures; rules governing
3 construction and precautions to be taken during construction; rules as to permissible
4 materials, loads, and stresses; rules governing chimneys, heating appliances, elevators,
5 and other facilities connected with the buildings and structures; rules governing
6 plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering
7 of temperature, and electrical systems; and such other reasonable rules pertaining to the
8 construction of buildings and structures and the installation of particular facilities
9 therein as may be found reasonably necessary for the protection of the occupants of the
10 building or structure, its neighbors, and members of the public at large.

11 In addition, the Code may regulate activities and conditions in buildings, structures,
12 and premises that pose dangers of fire, explosion, or related hazards. Such fire
13 prevention code provisions shall be considered the minimum standards necessary to
14 preserve and protect public health and safety, subject to approval by the Council of
15 more stringent provisions proposed by a municipality or county as provided in
16 G.S. 143-138(e). These provisions may include regulations requiring the installation of
17 either battery-operated or electrical smoke detectors in every dwelling unit used as
18 rental property, regardless of the date of construction of the rental property. For
19 dwelling units used as rental property constructed prior to 1975, smoke detectors shall
20 have an Underwriters' Laboratories, Inc., listing or other equivalent national testing
21 laboratory approval, and shall be installed in accordance with either the standard of the
22 National Fire Protection Association or the minimum protection designated in the
23 manufacturer's instructions, which the property owner shall retain or provide as proof of
24 compliance.

25 The Code may contain provisions regulating every type of building or structure,
26 wherever it might be situated in the State.

27 Provided further, that ~~nothing in this Article shall be construed to make any building~~
28 ~~rules applicable to~~ do not apply to (i) farm buildings that are located outside the
29 building-rules jurisdiction of any municipality, or (ii) farm buildings that
30 are located inside the building-rules jurisdiction of any municipality if the farm
31 buildings are greenhouses. A "greenhouse" is a structure that has a glass or plastic roof,
32 has one or more glass or plastic walls, has an area over ninety-five percent (95%) of
33 which is used to grow or cultivate plants, is built in accordance with the National
34 Greenhouse Manufacturers Association Structural Design manual, and is not used for
35 retail sales. Additional provisions addressing distinct life safety hazards shall be
36 approved by the local building-rules jurisdiction.

37 Provided further, that no building permit shall be required under the Code or any
38 local variance thereof approved under subsection (e) for any construction, installation,
39 repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any
40 single family residence or farm building unless the work involves: the addition, repair,
41 or replacement of load bearing structures; the addition (excluding replacement of same
42 size and capacity) or change in the design of plumbing; the addition, replacement or
43 change in the design of heating, air conditioning, or electrical wiring, devices,
44 appliances, or equipment, the use of materials not permitted by the North Carolina

1 Uniform Residential Building Code; or the addition (excluding replacement of like
2 grade of fire resistance) of roofing.

3 Provided further, that no building permit shall be required under such Code from any
4 State agency for the construction of any building or structure, the total cost of which is
5 less than twenty thousand dollars (\$20,000), except public or institutional buildings.

6 For the information of users thereof, the Code shall include as appendices

7 (1) Any rules governing boilers adopted by the Board of Boiler and
8 Pressure Vessels Rules,

9 (2) Any rules relating to the safe operation of elevators adopted by the
10 Commissioner of Labor, and

11 (3) Any rules relating to sanitation adopted by the Commission for Health
12 Services which the Building Code Council believes pertinent.

13 In addition, the Code may include references to such other rules of special types,
14 such as those of the Medical Care Commission and the Department of Public Instruction
15 as may be useful to persons using the Code. No rule issued by any agency other than the
16 Building Code Council shall be construed as a part of the Code, nor supersede that
17 Code, it being intended that they be presented with the Code for information only.

18 Nothing in this Article shall extend to or be construed as being applicable to the
19 regulation of the design, construction, location, installation, or operation of (1)
20 equipment for storing, handling, transporting, and utilizing liquefied petroleum gases
21 for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied
22 petroleum gas from the outlet of the first stage pressure regulator to and including each
23 liquefied petroleum gas utilization device within a building or structure covered by the
24 Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined
25 in G.S. 62-3, or an electric or telephone membership corporation, including without
26 limitation poles, towers, and other structures supporting electric or communication
27 lines.

28 In addition, the Code may contain rules concerning minimum efficiency
29 requirements for replacement water heaters, which shall consider reasonable availability
30 from manufacturers to meet installation space requirements.

31 No State, county, or local building code or regulation shall prohibit the use of special
32 locking mechanisms for seclusion rooms in the public schools approved under
33 G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be
34 constructed so that it will engage only when a key, knob, handle, button, or other similar
35 device is being held in position by a person, and provided further that, if the mechanism
36 is electrically or electronically controlled, it automatically disengages when the
37 building's fire alarm is activated. Upon release of the locking mechanism by a
38 supervising adult, the door must be able to be opened readily."

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