

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S

1

SENATE BILL 442

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

Sponsors: Senators Gunn, Ford, Wade (Primary Sponsors); and Wells.

Referred to: Rules and Operations of the Senate.

March 26, 2015

1 A BILL TO BE ENTITLED
2 AN ACT REVISING THE CONDITIONS UNDER WHICH COUNTIES AND CITIES MAY
3 INSPECT BUILDINGS OR STRUCTURES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 153A-364 reads as rewritten:

6 "**§ 153A-364. ~~Periodic inspections~~Inspections for hazardous or unlawful conditions.**

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

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



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

17 (c) In no event may a county do any of the following: (i) adopt or enforce any
18 ordinance that would require any owner or manager of rental property to obtain any permit or
19 permission from the county to lease or rent residential real ~~property~~property or to register
20 rental property with the county, except for those individual rental units that have either more
21 than ~~three~~ ~~seven~~ verified violations of housing ordinances or codes in a rolling 12-month period
22 or two or more verified violations in a rolling 30-day period, or upon the property being
23 identified within the top ~~10%~~ four percent (4%) of properties with crime or disorder problems
24 as set forth in a local ordinance; (ii) require that an owner or manager of residential rental
25 property enroll or participate in any governmental program as a condition of obtaining a
26 certificate of ~~occupancy~~; or (iii) ~~except as provided in subsection (d) of this section~~, occupancy;
27 (iii) levy a special fee or tax on residential rental property that is not also levied against other
28 commercial and residential ~~properties~~ properties, unless expressly authorized by general law or
29 applicable only to an individual rental unit or property described in clause (i) of this subsection
30 and the fee does not exceed five hundred dollars (\$500.00) in any 12-month period in which the
31 unit or property is found to have verified violations; (iv) require proof of registration under
32 clause (i) of this subsection, when applicable, be posted in the business office, common area, or
33 other conspicuous place; (v) provide that any violation of a rental registration ordinance is
34 punishable as a criminal offense; or (vi) require any owner or manager of rental property to
35 submit to an inspection before receiving any utility service provided by the city. For purposes
36 of this section, the term "verified violation" means all of the following:

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

39 (2) Any violations that have not been corrected by the owner or manager within
40 30 days of receipt of written notice from the county of the violations. If the
41 housing ordinance or code provides that any form of prohibited tenant
42 behavior constitutes a violation by the owner or manager of the rental
43 property, it shall be deemed a correction of the tenant-related violation if the
44 owner or manager, within 30 days of receipt of written notice of the
45 tenant-related violation, brings a summary ejectment action to have the
46 tenant evicted.

47 (d) ~~A county may levy a fee for residential rental property registration under subsection~~
48 ~~(c) of this section for those rental units which have been found with more than two verified~~
49 ~~violations of housing ordinances or codes within the previous 12 months or upon the property~~
50 ~~being identified within the top 10% of properties with crime or disorder problems as set forth in~~
51 ~~a local ordinance. The fee shall be an amount that covers the cost of operating a residential~~

1 registration program and shall not be used to supplant revenue in other areas. Counties using
2 registration programs that charge registration fees for all residential rental properties as of June
3 1, 2011, may continue levying a fee on all residential rental properties as follows:

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

10 (e) If a property is identified by the county as being in the top four percent (4%) of
11 properties with crime or disorder problems, the county shall notify the landlord of any crimes,
12 disorders, or other violations that will be counted against the property to allow the landlord an
13 opportunity to attempt to correct the problems. In addition, the county and the county sheriff's
14 department shall assist the landlord in addressing any criminal activity, including testifying in
15 court in a summary ejection action or other matter to aid in evicting a tenant who has been
16 charged with a crime. If the county or the county sheriff's department does not cooperate in
17 evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or
18 disorder problem as set forth in the local ordinance, and the property may not be included in the
19 top four percent (4%) of properties as a result of that tenant's behavior or activity.

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

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

30 **"§ 160A-424. ~~Periodic inspections.~~ Inspections for hazardous or unlawful conditions.**

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

50 (b) A city may require ~~periodic~~ inspections as part of a targeted effort to respond to
51 blighted or potentially blighted conditions within a geographic area that has been designated by

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

25 (c) In no event may a city do any of the following: (i) adopt or enforce any ordinance
26 that would require any owner or manager of rental property to obtain any permit or permission
27 from the city to lease or rent residential real ~~property~~ property or to register rental property with
28 the city, except for those properties—individual rental units that have either more than three
29 seven verified violations in a rolling 12-month period or two or more verified violations in a
30 rolling 30-day period, or upon the property being identified within the top 40%—four percent
31 (4%) of properties with crime or disorder problems as set forth in a local ordinance; (ii) require
32 that an owner or manager of residential rental property enroll or participate in any
33 governmental program as a condition of obtaining a certificate of occupancy; ~~or (iii) except as~~
34 provided in subsection (d) of this section, (iii) levy a special fee or tax on residential rental
35 property that is not also levied against other commercial and residential properties—properties,
36 unless expressly authorized by general law or applicable only to an individual rental unit or
37 property described in subdivision (i) of this subsection and the fee does not exceed five
38 hundred dollars (\$500.00) in any 12-month period in which the unit or property is found to
39 have verified violations; (iv) require proof of registration under clause (i) of this subsection,
40 when applicable, be posted in the business office, common area, or other conspicuous place; (v)
41 provide that any violation of a rental registration ordinance is punishable as a criminal offense;
42 or (vi) require any owner or manager of rental property to submit to an inspection before
43 receiving any utility service provided by the county. For purposes of this section, the term
44 "verified violation" means all of the following:

- 45 (1) The aggregate of all violations of housing ordinances or codes found in an
46 individual rental unit of residential real property during a 72-hour period.
- 47 (2) Any violations that have not been corrected by the owner or manager within
48 30 days of receipt of written notice from the city of the violations. If the
49 housing ordinance or code provides that any form of prohibited tenant
50 behavior constitutes a violation by the owner or manager of the rental
51 property, it shall be deemed a correction of the tenant-related violation if the

1 owner or manager, within 30 days of receipt of written notice of the
2 tenant-related violation, brings a summary ejection action to have the
3 tenant evicted.

4 (d) ~~A city may levy a fee for residential rental property registration under subsection (c)~~
5 ~~of this section for those rental units which have been found with more than two verified~~
6 ~~violations of local ordinances within the previous 12 months or upon the property being~~
7 ~~identified within the top 10% of properties with crime or disorder problems as set forth in a~~
8 ~~local ordinance. The fee shall be an amount that covers the cost of operating a residential~~
9 ~~registration program and shall not be used to supplant revenue in other areas. Cities using~~
10 ~~registration programs that charge registration fees for all residential rental properties as of June~~
11 ~~1, 2011, may continue levying a fee on all residential rental properties as follows:~~

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

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

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

18 (e) If a property is identified by the city as being in the top four percent (4%) of
19 properties with crime or disorder problems, the city shall notify the landlord of any crimes,
20 disorders, or other violations that will be counted against the property to allow the landlord an
21 opportunity to attempt to correct the problems. In addition, the city and the city's police
22 department or, if the city has no police department, the county sheriff's department shall assist
23 the landlord in addressing any criminal activity, including testifying in court in a summary
24 ejection action or other matter to aid in evicting a tenant who has been charged with a crime.
25 If the city, the city's police department, or where applicable the county sheriff's department,
26 does not cooperate in evicting a tenant, the tenant's behavior or activity at issue shall not be
27 counted as a crime or disorder problem as set forth in the local ordinance, and the property may
28 not be included in the top four percent (4%) of properties as a result of that tenant's behavior or
29 activity.

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

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