

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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BILL DRAFT 2017-BDfz-13 [v.28]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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Short Title: Building Code Regulatory Reform.

(Public)

Sponsors:

Referred to:

1 AN ACT TO MAKE VARIOUS CHANGES TO THE STATUTES GOVERNING BUILDING
2 CODES, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON
3 IMPLEMENTATION OF BUILDING CODE REGULATORY REFORM LEGISLATION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** Part 5 of Article 19 of Chapter 160A of the General Statutes is
6 amended by adding a new section to read:

7 "**§ G.S. 160A-413.5. Alternate inspection method for component or element.**"

8 **SECTION 1.(b)** G.S. 160A-412(c) is recodified as G.S. 160A-413.5(a).

9 **SECTION 1.(c)** G.S. 160A-412(d) is recodified as G.S. 160A-413.5(b).

10 **SECTION 1.(d)** G.S. 160A-412(e) is recodified as G.S. 160A-413.5(c).

11 **SECTION 1.(e)** G.S. 160A-413.5, as enacted by Section 1 of this act, reads as

12 rewritten:

13 "**§ G.S. 160A-413.5. Alternate inspection method for component or element.**"

14 (a) Notwithstanding the requirements of this Article, a city shall ~~accept and approve,~~
15 ~~accept,~~ without further responsibility to inspect, a design or other proposal for a component or
16 element in the construction of buildings from a licensed architect or licensed engineer provided
17 all of the following apply:

18 (1) The ~~submission~~design or other proposal is completed under valid seal of the
19 licensed architect or licensed engineer.

20 (2) Field inspection of the installation or completion of ~~a construction~~the
21 component or element of the building is performed by a licensed architect or
22 licensed engineer or a person under the direct supervisory control of the
23 licensed architect or licensed engineer.

24 (3) The licensed architect or licensed engineer ~~under subdivision (2) of this~~
25 ~~subsection~~provides the city with a signed written document stating the
26 component or element of the building so inspected under subdivision (2) of
27 this subsection is in compliance with the North Carolina State Building Code
28 or the North Carolina Residential Code for One- and Two-Family Dwellings.
29 The inspection certification required under this subdivision shall be provided
30 by electronic or physical delivery and its receipt shall be promptly
31 acknowledged by the city through reciprocal means.

32 (b) Upon the ~~acceptance and approval receipt~~ of a signed written document ~~by the city as~~
33 required under subsection ~~(e)~~(a) of this section, the city, its inspection department, and the
34 inspectors shall be discharged and released from any duties and responsibilities imposed by this



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Article with respect to the component or element in the construction of the building for which the signed written document was submitted.

(c) Other than what may be required by subsection ~~(e)~~(a) of this section, no further certification by a licensed architect or licensed engineer shall be required for any component or element designed and sealed by a licensed architect or licensed engineer for the manufacturer of the component or element under the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) As used in this section the following definitions shall apply:

(1) Component. – Any assembly, subassembly, or combination of elements designed to be combined with other components to form part of a building or structure. Examples of a component include an excavated footing trench containing no concrete.

(2) Element. – A combination of products designed to be combined with other elements to form all or part of a building component."

SECTION 1.(f) G.S. 153A-352 is amended by adding a new subsection to read:

"(b2) The provisions of G.S. 160A-413.5 shall apply to counties. For purposes of this subsection, references in that section to "city" are deemed to refer to county."

SECTION 1.(g) G.S. 153A-352(c) is repealed.

SECTION 1.(h) G.S. 153A-352(d) is repealed.

SECTION 1.(i) G.S. 153A-352(e) is repealed.

SECTION 1.(j) This section becomes effective July 1, 2018.

SECTION 2.(a) G.S. 143-151.12 reads as rewritten:

"§ 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, including persons employed by a federally recognized Indian Tribe to perform inspections on tribal lands under G.S. 153A-350.1;
- (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.

(9) Establish within the Department of Insurance a marketplace pool of qualified Code-enforcement officials available for the following purposes:

(1) When requested by the Insurance Commissioner, to assist in the discharge of the Commissioner's duty under G.S. 143-139 to supervise, administer, and enforce the North Carolina State Building Code.

(2) When requested by local inspection departments, to assist in Code enforcement."

SECTION 2.(b) G.S. 143-139 reads as rewritten:

"§ 143-139. Enforcement of Building Code.

(a) Procedural Requirements. – Subject to the provisions set forth herein, the Building Code Council shall adopt such procedural requirements in the North Carolina State Building Code as shall appear reasonably necessary for adequate enforcement of the Code while safeguarding the rights of persons subject to the Code.

(b) General Building Regulations. – The Insurance Commissioner shall have general ~~supervision, authority,~~ through the Division of Engineering of the Department of Insurance, ~~of the administration and enforcement of~~ to supervise, administer, and enforce all sections of the North Carolina State Building Code pertaining to plumbing, electrical systems, general building restrictions and regulations, heating and air conditioning, fire protection, and the construction of buildings generally, except those sections of the Code, the enforcement of which is specifically allocated to other agencies by subsections (c) through (e) below. TheIn the exercise of the duty to supervise, administer, and enforce Insurance Commissioner, by means of the Division of Engineering, shall exercise his duties in the enforcement of the North Carolina State Building Code (including local building codes which have superseded the State Building Code in a particular political subdivision pursuant to G.S. 143-138(e))—G.S. 143-138(e)), the Commissioner, through the Division of Engineering, shall:

(1) ~~in cooperation~~Cooperate with local officials and local inspectors duly appointed by the governing body of any municipality or board of county commissioners pursuant to Part 5 of Article 19 of Chapter 160A of the General Statutes or Part 4 of Article 18 of Chapter 153A of the General Statutes, or any other applicable statutory authority.

(2) Timely assign a Code enforcement official from the marketplace pool established under G.S. 143-151.12(9)(1) to conduct any inspection required by the North Carolina State Building Code pertaining to plumbing, electrical systems, general building restrictions and regulations, heating and air conditioning, fire protection, or the general construction of buildings when the Commissioner receives a written request from a permit holder containing sufficient evidence that the permit holder has first requested an inspection by the local inspection department and that inspection has not been, or will not be, conducted within two business days.

...

(b2) Liability. – Any claim alleging negligence by a marketplace pool Code enforcement official arising out of and in the course of the official's duty to conduct an inspection assigned by the Insurance Commissioner under this section shall constitute a claim against this State and shall be brought under and adjudicated according to and in compliance with the terms of Article 31 of Chapter 143 of the General Statutes.

...."

SECTION 2.(c) G.S. 58-2-40 is amended by adding a new subdivision to read:

"§ 58-2-40. Powers and duties of Commissioner.

The Commissioner shall:

...

(1a) Have the power and authority to fix and collect reasonable fees for services performed by Code enforcement officials under G.S. 143-151.12(9)(1). The Commissioner shall have no power or authority to fix or collect fees incurred by local inspection departments under G.S. 143-151.12(9)(2).

...."

SECTION 2.(d) This section is effective August 1, 2018. The Commissioner of Insurance shall adopt temporary rules to implement this section. The Commissioner of Insurance shall also adopt permanent rules to implement this section no later than August 1, 2019.

SECTION 3.(a) G.S. 153A-354 reads as rewritten:

"§ 153A-354. Financial ~~support~~; fee collection, accounting, and use limitation.

(a) A county may appropriate any available funds for the support of its inspection department. It may provide for paying inspectors fixed salaries, or it may reimburse them for their services by paying over part or all of any fees collected. It may fix reasonable fees for issuing permits, for inspections, and for other services of the inspection department.

(b) When an inspection, for which the permit holder has paid a fee to the county, is performed by a marketplace pool Code enforcement official upon request of the Insurance Commissioner under G.S. 143-151.12(9)(1), the county shall promptly return to the permit holder the fee collected by the county for such inspection. This applies to the following inspections: plumbing, electrical systems, general building restrictions and regulations, heating and air conditioning, fire protection, and the general construction of buildings.

(c) All fees collected under ~~the authority set forth in~~ this section shall be used for support of the administration and activities of the inspection department and for no other purpose."

SECTION 3.(b) G.S. 160A-414 reads as rewritten:

"§ 160A-414. Financial ~~support~~; fee collection, accounting, and use limitation.

(a) ~~The~~A city council may appropriate any available funds for the support of ~~the~~its inspection department. It may provide for paying inspectors fixed salaries or it may reimburse them for their services by paying over part or all of any fees collected. It ~~shall have power to~~may fix reasonable fees for ~~issuance of~~ issuing permits, for inspections, and for other services of the inspection department.

(b) When an inspection, for which the permit holder has paid a fee to the city, is performed by a marketplace pool Code enforcement official upon request of the Insurance Commissioner under G.S. 143-151.12(9)(1), the city shall promptly return to the permit holder the fee collected by the city for such inspection. This applies to the following inspections: plumbing, electrical systems, general building restrictions and regulations, heating and air conditioning, fire protection, and the general construction of buildings.

(c) All fees collected under ~~the authority set forth in~~ this section shall be used for support of the administration and activities of the inspection department and for no other purpose."

SECTION 4.(a) The Secretary of the Local Government Commission, upon consultation with the Department of Insurance, shall revise the semiannual reporting requirements for units of local government under G.S. 159-33.1 to include information sufficient to track whether the fees collected by local inspection departments under G.S. 153A-354 and G.S. 160A-414 are used in accordance with those statutes, if the general fund of the local government supplements the inspection department, and if the local inspection department is supplementing the general fund of the local government.

SECTION 4.(b) This section is effective when it becomes law.

SECTION 5.(a) Part 4 of Article 18 of Chapter 153A is amended by adding a new section to read:

"§ 153A-353.1. Mutual aid contracts.

The provisions of G.S. 160A-413.6 shall apply to counties. For purposes of this section, references in G.S. 160-413.6 to "city" are deemed to refer to county."

SECTION 5.(b) Part 5 of Article 19 of Chapter 160A is amended by adding a new section to read:

"§ 160A-413.6. Mutual aid contracts.

(a) Any two or more cities or counties may enter into contracts with each other to provide mutual aid and assistance in the administration and enforcement of State and local laws pertaining to the North Carolina State Building Code. Mutual aid contracts may include provisions addressing the scope of aid provided; for reimbursement or indemnification of the aiding party for loss or damage incurred by giving aid; for delegating authority to a designated official or employee to request aid or to send aid upon request; and any other provisions not inconsistent with law.

(b) Unless the mutual aid contract says otherwise, while working with the requesting city or county under the authority of this section, a Code enforcement official shall have the same jurisdiction, powers, rights, privileges and immunities (including those relating to the defense of civil actions and payment of judgments) as the Code enforcement officials of the requesting agency.

(c) Nothing in this section shall deprive any party to a mutual aid contract under this section of its discretion to send or decline to provide aid to another party to the contract under any circumstances, whether or not obligated by the contract to do so. In no case shall a party to a mutual aid contract or any of its officials or employees be held to answer in any civil or criminal action for declining to send aid whether or not obligated by contract to do so."

SECTION 5.(c) This section becomes effective July 1, 2018.

SECTION 6.(a) G.S. 153A-352 reads as rewritten:

"§ 153A-352. Duties and responsibilities.

...

(b1) In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code.

...

(g) If a specific building framing inspection as required by the North Carolina Building Code results in 20 or more separate violations of that Code, the inspector shall forward a copy of the inspection report to the Department of Insurance."

SECTION 6.(b) G.S. 160A-412 reads as rewritten:

"§ 160A-412. Duties and responsibilities.

...

(b1) In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code.

...

(g) If a specific building framing inspection as required by the North Carolina Building Code results in 20 or more separate violations of that Code, the inspector shall forward a copy of the inspection report to the Department of Insurance."

SECTION 6.(c) This section becomes effective July 1, 2018.

SECTION 7. G.S. 143-151.14 reads as rewritten:

"§ 143-151.14. Comity.

(a) The Board may, without requiring an examination, grant a standard certificate as a qualified Code-enforcement official for a particular type of position and level to any person who, at the time of application, is certified as a qualified Code-enforcement official in good standing by a similar board of another state, district or territory where standards are acceptable to the Board and not lower than those required by this ~~Article~~. Article for a similar type of position and level in this State.

(b) The Board may, without requiring an examination, grant a standard certificate as a qualified Code-enforcement official for a particular type of position and level to any person who, at the time of application, is certified as a qualified Code-enforcement official in good standing by the International Code Council where standards and examination are acceptable to the Board and not lower than those required by this Article for a type of position and level in this State.

(c) The certificates granted under subsections (a) and (b) of this section shall expire after three years unless within that time period the holder completes a short course, as prescribed by the Board relating to the State Building Code regulations and Code-enforcement administration.

(d) A fee of not more than twenty dollars (\$20.00), as determined by the Board, must be paid by ~~the any~~ applicant to the Board for the issuance of a certificate under ~~the provisions of~~ this section. The provisions of G.S. 143-151.16(b) relating to renewal fees and late renewals shall apply to every person granted a standard certificate in accordance with this section."

SECTION 8. G.S. 143-151.13A reads as rewritten:

"§ 143-151.13A. Professional development program for officials.

...

(d) As a condition of reactivating a standard or limited certificate, the Board may require the completion of professional development courses within one year after reemployment as an official as follows:

- (1) An individual who has been on inactive status for more than two years and who has not been continuously employed by a city or county inspection department during the period of inactive status shall complete professional development courses not to exceed ~~12~~six hours for each technical area in which the individual is certified.
- (2) An individual who has been on inactive status for more than two years and who has been continuously employed by a city or county inspection department during the period of inactive status shall complete professional development courses not to exceed ~~six~~three hours for each technical area in which the individual is certified.
- (3) An individual who has been on inactive status for two years or less shall complete professional development courses not to exceed ~~four~~two hours for each technical area in which the individual is certified.

...."

SECTION 9. G.S. 143-151.8(c) reads as rewritten:

"(c) For purposes of this Article, "willful misconduct, gross negligence, or gross incompetence" in addition to the meaning of those terms under other provisions of the General Statutes or at common law, shall include any of the following:

- (1) The enforcement of a Code requirement applicable to a certain area or set of circumstances in other areas or circumstances not specified in the requirement.
- (2) For an alternative design or construction method that has been appealed under G.S. 143-140.1 and found by the Department of Insurance to comply with the Code, to refuse to accept the decision by the Department to allow that alternative design or construction method under the conditions or circumstances set forth in the Department's decision for that appeal.

- (3) For an alternative construction method currently included in the Building Code, to refuse to allow the alternative method under the conditions or circumstances set forth in the Code for that alternative method.
- (4) The enforcement of a requirement that is more stringent than or otherwise exceeds the Code requirement.
- (5) To refuse to implement or adhere to an interpretation of the Building Code issued by the Building Code Council or the Department of Insurance.
- (6) The habitual failure to provide requested inspections in a timely manner.
- (7) Enforcement of a Code-official's preference in the method or manner of installation of heating ventilation and air-conditioning units, appliances, or equipment that is not required by the State Building Code and is in contradiction of a manufacturer's installation instructions or specifications."

SECTION 10. Except as otherwise provided, this act is effective October 1, 2018.