

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 865
PROPOSED COMMITTEE SUBSTITUTE H865-CSBGf-18 [v.5]
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Short Title: Private Commercial Inspection System.

(Public)

Sponsors:

Referred to:

May 5, 2021

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE INSPECTIONS BY PRIVATE INSPECTORS OF COMMERCIAL
BUILDINGS AND STRUCTURES FOR COMPLIANCE WITH THE NORTH
CAROLINA STATE BUILDING CODE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143-151.8(a) reads as rewritten:

"§ 143-151.8. Definitions.

(a) As used in this Article, unless the context otherwise requires:

...

(4a) "Private commercial inspection" means inspection by a private commercial inspector of the manner of construction, workmanship, and materials for the construction of commercial buildings and structures, including their components and elements, for compliance with the North Carolina State Building Code, except those sections of the Code which pertain to boilers and elevators which the State Department of Labor engages in the administration and enforcement of those sections.

(4b) "Private commercial inspector" means a person qualified through certification and registration pursuant to this Article to engage in the practice of private commercial inspections.

...."

SECTION 1.(b) 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;~~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;~~officials.

(2) Establish minimum standards for employment as a Code-enforcement official: (i) in probationary or temporary status, and (ii) in permanent ~~positions;~~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;~~G.S. 160D-1101.



- 1 (3a) Certify and register persons as being qualified under the provisions of this
2 Article to be private commercial inspectors for the purposes of conducting
3 private commercial inspections.
- 4 (4) Consult and cooperate with counties, municipalities, agencies of this State,
5 other governmental agencies, and with universities, colleges, junior colleges,
6 community colleges and other institutions concerning the development of
7 Code-enforcement or private commercial inspector training schools and
8 programs or courses of ~~instruction;~~ instruction.
- 9 (5) Establish minimum standards and levels of education or equivalent experience
10 for all Code-enforcement or private commercial inspector instructors, teachers
11 or ~~professors;~~ professors.
- 12 (5a) Ensure that the minimum standards for and education of private commercial
13 inspectors include specific instruction on the duties and responsibilities
14 imposed by law on a private commercial inspector.
- 15 (6) Conduct and encourage research by public and private agencies which shall
16 be designed to improve education and training in the administration of Code
17 ~~enforcement;~~ enforcement or private commercial inspection.
- 18 (7) Adopt and amend bylaws, consistent with law, for its internal management
19 and control; appoint such advisory committees as it may deem necessary; and
20 enter into contracts and do such other things as may be necessary and
21 incidental to the exercise of its authority pursuant to this ~~Article;~~ and, Article.
- 22 (8) Make recommendations concerning any matters within its purview pursuant
23 to this ~~Article;~~ [and] Article.
- 24 (9) Establish within the Department of Insurance a marketplace pool of qualified
25 Code-enforcement officials available for the following purposes:
- 26 a. When requested by the Insurance Commissioner, to assist in the
27 discharge of the Commissioner's duty under G.S. 143-139 to
28 supervise, administer, and enforce the North Carolina State Building
29 Code.
- 30 b. When requested by local inspection departments, to assist in Code
31 enforcement."

32 **SECTION 1.(c)** G.S. 143-151.14 reads as rewritten:

33 **"§ 143-151.14. Comity.**

34 ...

35 (a1) The Board may, without requiring an examination, grant a standard private
36 commercial inspector certificate as a qualified private commercial inspector for a particular type
37 of position and level to any person who, at the time of application, is certified as a qualified
38 Code-enforcement official or, as the equivalent of a private commercial inspector, in good
39 standing by a similar board of another state, district, or territory where standards are acceptable
40 to the Board and not lower than those required by this Article for a similar type of position and
41 level in this State. Any Code-enforcement official granted a certificate under this section and
42 registered under G.S. 143-151.19A may, unless prohibited by the terms of their employment as
43 a Code-enforcement official, engage in the practice of private commercial inspection throughout
44 the State.

45 ...

46 (b1) The Board may, without requiring an examination, grant a standard private
47 commercial inspector certificate as a qualified private commercial inspector for a particular type
48 of position and level to any person who, at the time of application, is certified as a qualified
49 Code-enforcement official or, as the equivalent of a private commercial inspector, in good
50 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)~~ (a), (a1), (b), and (b1) 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.

...."

SECTION 1.(d) Article 9C of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-151.14A. Required standards and certificates for private commercial inspectors.

(a) No person shall engage in private commercial inspection under this Article unless that person possesses one of the following types of private commercial inspector certificates, currently valid, issued by the Board attesting to that person's qualifications to engage in private commercial inspection: (i) a standard private commercial inspector certificate or (ii) a limited private commercial inspector certificate provided for in subsection (c) of this section. To obtain a standard private commercial inspector certificate, a person must pass an examination, as prescribed by the Board or by a contracting party under G.S. 143-151.16(d), that is based on the North Carolina State Building Code and administrative procedures required for Code enforcement or private commercial inspection. The Board may issue a standard private commercial inspector certificate of qualification to each person who successfully completes the examination. The private commercial inspector certificate authorizes that person, upon registration as provided in G.S. 143-151.19A, to engage in private commercial inspection and to practice as a qualified private commercial inspector in North Carolina. The private commercial inspector certificate of qualification shall bear the signatures of the chairman and secretary of the Board.

(b) The Board shall issue one or more standard private commercial inspector certificates to each private commercial inspector demonstrating the qualifications set forth in subsection (c) of this section. Standard private commercial inspector certificates are available for each of the following types of qualified private commercial inspectors:

- (1) Building inspector.
- (2) Electrical inspector.
- (3) Mechanical inspector.
- (4) Plumbing inspector.
- (5) Fire inspector.

(c) The holder of a standard private commercial inspector certificate may only conduct private commercial inspections within the inspection area and level described upon the certificate issued by the Board; however, for any area in which the private commercial inspector is not certified, that private commercial inspector may contract with a private commercial inspector who is certified in that area to conduct the necessary inspection. A private commercial inspector may qualify and hold one or more private commercial inspector certificates. These private commercial inspector certificates may be for different levels in different types of positions as defined in this section and in rules adopted by the Board.

(d) A private commercial inspector holding a certificate indicating a specified level of proficiency in a particular type of position may conduct a private commercial inspection calling for that type of qualification anywhere in the State. With respect to all types of private commercial inspectors, those with Level I, Level II, or Level III certificates shall be qualified to inspect and approve only those types and sizes of commercial buildings and structures as specified in rules adopted by the Board.

(e) A private commercial inspector holding a limited private commercial inspector certificate may conduct a private commercial inspection requiring a higher level private

commercial inspector certificate only upon issuance by the Board of a standard private commercial inspector certificate appropriate for that higher level private commercial inspection.

(f) Notwithstanding subsection (a) of this section, the Board shall, without requiring an examination, issue a standard private commercial inspector certificate to all of the following:

(1) Any person who is currently certified as a Code-enforcement official under this Article.

(2) An architect licensed under Chapter 83A of the General Statutes.

(3) An engineer licensed under Chapter 89C of the General Statutes.

(g) The private commercial inspector certificate issued to an architect or engineer under subsection (f) of this section shall be without regard to levels and shall authorize that architect or engineer to conduct any commercial inspection except a final fire inspection."

SECTION 1.(e) Article 9C of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-151.14B. Professional development program for private commercial inspectors.

(a) The Board may establish professional development requirements for private commercial inspectors as a condition of the renewal or reactivation of their certificates. The purposes of these professional development requirements are to assist private commercial inspectors in maintaining professional competence in their inspections and to assure the health, safety, and welfare of the citizens of North Carolina. A private commercial inspector subject to this section shall present evidence to the Board at each certificate renewal after initial certification, that during the 12 months before the certificate expiration date, the private commercial inspector has completed the required number of credit hours in courses approved by the Board. Annual continuing education hour requirements shall be determined by the Board but shall not be more than six credit hours. For licensed architects and engineers issued a standard private commercial inspector certificate under G.S. 143-151.14A, the Board shall develop a continuing education program providing that two of the required six hours of annual continuing education be in subjects specific to each of those individual professions.

(b) The Board may require an individual who earns a certificate under programs established in G.S. 143-151.14A to complete professional development courses, not to exceed six hours in each technical area of certification, within one year after that individual is first employed as a private commercial inspector or engages in private commercial inspection.

(c) 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 a private commercial inspector 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, private commercial inspector, or engaged in the business of private commercial inspections, during the period of inactive status shall complete professional development courses not to exceed 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, private commercial inspector, or engaged in the business of private commercial inspections, during the period of inactive status shall complete professional development courses not to exceed 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 two hours for each technical area in which the individual is certified.

(d) The Board may, for good cause shown, grant extensions of time to private commercial inspectors to comply with these requirements. A private commercial inspector who, after

obtaining an extension under this subsection, offers evidence satisfactory to the Board that the private commercial inspector has satisfactorily completed the required professional development courses is in compliance with this section.

(e) The Board may adopt rules to implement this section, including rules that govern:

(1) The content and subject matter of professional development courses.

(2) The criteria, standards, and procedures for the approval of courses, course sponsors, and course instructors.

(3) The methods of instruction.

(4) The computation of course credit.

(5) The ability to carry forward course credit from one year to another.

(6) The waiver of or variance from the professional development required for hardship or other reasons.

(7) The procedures for compliance and sanctions for noncompliance."

SECTION 1.(f) G.S. 143-151.15 reads as rewritten:

"§ 143-151.15. Return of certificate to Board; reissuance by Board.

(a) A certificate issued by the Board under this Article is valid as long as the person certified is ~~employed by any of the following:~~

(1) ~~Employed by the State of North Carolina or any political subdivision thereof as a Code-enforcement official, or is employed official.~~

(2) ~~Employed by a federally recognized Indian Tribe to perform inspections on tribal lands under G.S. 153A-350.1 G.S. 160D-1101 as a Code-enforcement official.~~

(3) ~~Employed by a private commercial inspector.~~

(4) ~~Is self-employed as a private commercial inspector.~~

(b) When the person certified leaves that employment ~~described under subsection (a) of this section~~ for any reason, ~~he that person~~ shall return the certificate to the Board. If the person subsequently obtains employment ~~as a Code-enforcement official in any governmental jurisdiction described above,~~ described under subsection (a) of this section, the Board may reissue the certificate to ~~him that person.~~

(c) The provisions of G.S. 143-151.16(b) relating to renewal fees and late renewals shall apply, if appropriate. The provisions of G.S. 143-151.16(c) shall not apply. This section does not affect the Board's powers under G.S. 143-151.17."

SECTION 1.(g) G.S. 143-151.16 reads as rewritten:

"§ 143-151.16. Certification fees; renewal of certificates; examination fees.

(a) The Board shall establish a schedule of fees to be paid by each applicant for certification as a qualified Code-enforcement ~~official official~~ or as a private commercial inspector. Such fee shall not exceed twenty dollars (\$20.00) for each applicant.

(b) A certificate, other than a probationary certificate, as a qualified Code-enforcement official ~~or as a private commercial inspector~~, issued pursuant to the provisions of this Article must be renewed annually on or before the first day of July. Each application for renewal must be accompanied by a renewal fee to be determined by the Board, but not to exceed ten dollars (\$10.00). The Board is authorized to charge an extra four dollar (\$4.00) late renewal fee for renewals made after the first day of July each year.

(c) Any person who fails to renew ~~his their~~ certificate for a period of two consecutive years may be required by the Board to take and pass the same examination as unlicensed applicants before allowing such person to renew ~~his their~~ certificate.

(d) The Board may contract with persons for the development and administration of the examinations required by ~~G.S. 143-151.13(a), G.S. 143-151.13(a)~~ and G.S. 143-151.14A(a) for course development related to the examinations, for review of a particular applicant's examination, and for other related services. The person with whom the Board contracts may charge applicants a reasonable fee for the costs associated with the development and

administration of the examinations, for course development related to the examinations, for review of the applicant's examinations, and for other related services. The fee shall be agreed to by the Board and the other contracting party. The amount of the fee under this subsection shall not exceed one hundred seventy-five dollars (\$175.00). Contracts for the development and administration of the examinations, for course development related to the examinations, and for review of examinations shall not be subject to Article 3, 3C, or 8 of Chapter 143 of the General Statutes or to Article 15 of Chapter 143B of the General Statutes. However, the Board shall: (i) submit all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all proposed contracts to be awarded by the Board under this subsection a standard clause which provides that the State Auditor and internal auditors of the Board may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. The Board shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 1.(h) G.S. 143-151.17 reads as rewritten:

"§ 143-151.17. Grounds for disciplinary actions; investigation; administrative procedures.

...

(a1) A private commercial inspector shall not inspect any property under this Article in which the inspector, or a person with whom the inspector has a close familial, business, or other associational relationship, has an ownership or direct financial interest. For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

(b) The Board may investigate the actions of any qualified Code-enforcement ~~official~~ official, private commercial inspector, or any applicant therefor, upon the verified complaint in writing of any person alleging a violation of subsection (a) of this section. The Board may suspend, revoke, or demote to a lower level any certificate of any qualified Code-enforcement ~~official~~ or private commercial inspector and refuse to grant a certificate to any applicant, whom it finds to have been guilty of one or more of the actions set out in subsection (a) as grounds for disciplinary action.

...

(e) The provisions of this section shall apply to Code-enforcement ~~officials~~ officials, private commercial inspectors, and applicants who are employed or seek to be employed by a federally recognized Indian Tribe to perform inspections on tribal lands under ~~G.S. 153A-350.1~~ G.S. 160D-1101."

SECTION 1.(i) G.S. 143-151.18 reads as rewritten:

"§ 143-151.18. Violations; penalty; injunction.

On and after July 1, 1979, it shall be unlawful for any person to represent ~~himself~~ themselves as a qualified Code-enforcement ~~official~~ or private commercial inspector who does not hold a currently valid certificate of qualification issued by the Board. Further, it shall be unlawful for any person to practice Code enforcement or conduct private commercial inspections except as allowed by any currently valid certificate issued to that person by the Board. Any person violating any of the provisions of this Article shall be guilty of a Class 1 misdemeanor. The Board is authorized to apply to any judge of the superior court for an injunction in order to prevent any violation or threatened violation of the provisions of this Article."

SECTION 1.(j) G.S. 143-151.19 reads as rewritten:

"§ 143-151.19. Administration.

...

(c) The Board shall keep current a record of the names and addresses of all qualified Code-enforcement officials and private commercial inspectors and any additional personal data

as the Board deems necessary. The Board annually shall publish a list of all currently certified Code-enforcement ~~officials~~officials and private commercial inspectors.

...
(e) The Board shall issue a duplicate certificate to practice as a qualified Code-enforcement official or private commercial inspector in place of one which has been lost, destroyed, or mutilated upon proper application and payment of a fee to be determined by the Board."

SECTION 1.(k) Article 9C of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-151.19A. Registration of private commercial inspectors; inspection procedure plan; qualified private commercial inspector designation.

(a) No person shall engage in private commercial inspection unless that person is first registered with the Board. To be registered, a person must submit an application for registration on a form provided by the Board that includes:

(1) Proof of certification pursuant to this Article.

(2) An inspection procedure plan that includes all of the following:

a. A statement as to whether the person intends to conduct private commercial inspections in all of the areas in which the person holds a certificate issued under G.S. 143-151.14A.

b. For any areas in which the person is not certified under G.S. 143-151.14A, a statement as to how that person intends to fulfill contractual obligations to conduct private commercial inspections in those areas for which the person is not certified.

c. A statement as to the person's experience level in each of the areas in which that person holds a certificate issued under G.S. 143-151.14A.

(3) Any other information required by the Board.

(b) The Board shall review the inspection procedure plan required by subsection (a) of this section and shall register and assign the person a registration number if it determines the plan is adequate and the person otherwise meets the requirements of this Article. If the Board denies an application for registration or the application is deficient, the Board shall notify the applicant in writing with an explanation for the denial and give the applicant a reasonable opportunity to correct any deficiencies and resubmit the application. If the Board denies the resubmitted application, the applicant shall be notified in writing and may seek review as provided in G.S. 143-151.17(d).

(c) The Board shall keep current a record of the names and addresses of all registered private commercial inspectors and maintain this record on the Department of Insurance's website. The Board may combine the records maintained and published under this subsection with those required in G.S. 143-151.19. The Board may request updates from registered private commercial inspectors registered under this section.

(d) A private commercial inspector may submit an amended registration or inspection procedure plan to the Board at any time.

(e) The Board shall establish a schedule of fees to be paid by each applicant for registration under this section. Such fee shall not exceed twenty dollars (\$20.00) for each applicant."

SECTION 2.(a) G.S. 160D-402(d) reads as rewritten:

"(d) Financial Support. – The local government may appropriate for the support of the staff any funds that it deems necessary. It shall have power to fix reasonable fees for support, administration, and implementation of programs authorized by this Chapter, and all such fees shall be used for no other purposes. When an inspection, for which the permit holder has paid a fee to the local government, is performed by a private commercial inspector, or by a marketplace pool Code-enforcement official upon request of the Insurance Commissioner under

1 G.S. 143-151.12(9)a., the local government shall promptly return to the permit holder the fee
2 collected by the local government for ~~such~~that inspection. This subsection applies to the
3 following types of inspection: plumbing, electrical systems, general building restrictions and
4 regulations, heating and air-conditioning, and the general construction of buildings."

5 **SECTION 2.(b)** G.S. 160D-403 reads as rewritten:

6 **"§ 160D-403. Administrative development approvals and determinations.**

7 ...

8 (e) Inspections. – Administrative staff may inspect work undertaken pursuant to a
9 development approval to assure that the work is being done in accordance with applicable State
10 and local laws and of the terms of the approval. In exercising this power, staff are authorized to
11 enter any premises within the jurisdiction of the local government at all reasonable hours for the
12 purposes of inspection or other enforcement action, upon presentation of proper credentials;
13 provided, however, that the appropriate consent has been given for inspection of areas not open
14 to the public or that an appropriate inspection warrant has been secured. This subsection shall not
15 apply to work for which a holder has elected to utilize private commercial inspections for
16 inspection of commercial buildings and structures for compliance with the North Carolina State
17 Building Code pursuant to Article 11 of this Chapter.

18 ...

19 (g) Certificate of Occupancy. – A local government may, upon completion of work or
20 activity undertaken pursuant to a development approval, make final inspections and issue a
21 certificate of compliance or occupancy if staff finds that the completed work complies with all
22 applicable State and local laws and with the terms of the approval. Except as provided in
23 G.S. 160D-1105.2, a local government shall not conduct final inspections of work or activity on
24 commercial buildings or structures for projects under G.S. 160D-1105.1. No building, structure,
25 or use of land that is subject to a building permit required by Article 11 of this Chapter shall be
26 occupied or used until a certificate of occupancy or temporary certificate pursuant to
27 ~~G.S. 160D-1114~~ G.S. 160D-1116 has been issued.

28"

29 **SECTION 3.(a)** G.S. 160D-1101 reads as rewritten:

30 **"§ 160D-1101. Definitions.**

31 As used in this Article, the following terms shall have their ordinary meaning and shall also
32 be read to include the following:

33 ...

34 (3a) Private commercial inspection. – Shall have the same meaning as in
35 G.S. 143-151.8(a)(4a).

36 (3b) Private commercial inspector. – Shall have the same meaning as in
37 G.S. 143-151.8(a)(4b).

38"

39 **SECTION 3.(b)** G.S. 160D-1102 reads as rewritten:

40 **"§ 160D-1102. Building code administration.**

41 (a) A local government may create an inspection department and may appoint inspectors
42 who may be given appropriate titles, such as building inspector, electrical inspector, plumbing
43 inspector, housing inspector, zoning inspector, heating and air-conditioning inspector, fire
44 prevention inspector, or deputy or assistant inspector, or such other titles as may be generally
45 descriptive of the duties assigned. Every local government shall perform the duties and
46 responsibilities set forth in ~~G.S. 160D-1105~~ G.S. 160D-1104 either by (i) creating its own
47 inspection department, (ii) creating a joint inspection department in cooperation with one or more
48 other units of local government, pursuant to G.S. 160D-1105 or Part 1 of Article 20 of Chapter
49 160A of the General Statutes, (iii) contracting with another unit of local government for the
50 provision of inspection services pursuant to Part 1 of Article 20 of Chapter 160A of the General

Statutes, or (iv) arranging for the county in which a city is located to perform inspection services within the city's jurisdiction as authorized by G.S. 160D-1105 and G.S. 160D-202.

(b) In the event that any local government fails to provide inspection services or ceases to provide such services, the Commissioner of Insurance shall arrange for the provision of such services, either through personnel employed by the department or through an arrangement with other units of government. In either event, the Commissioner shall have and may exercise within the local government's planning and development regulation jurisdiction all powers made available to the governing board with respect to building inspection under this Article and Part 1 of Article 20 of Chapter 160A of the General Statutes. Whenever the Commissioner has intervened in this manner, the local government may assume provision of inspection services only after giving the Commissioner two years' written notice of its intention to do so; provided, however, that the Commissioner may waive this requirement or permit assumption at an earlier date upon finding that such earlier assumption will not unduly interfere with arrangements made for the provision of those services.

(c) No local government shall adopt or enforce any ordinance prohibiting private commercial inspections by private commercial inspectors nor shall the Commissioner of Insurance prohibit private commercial inspections by private commercial inspectors when the Department of Insurance has intervened pursuant to subsection (b) of this section.

SECTION 3.(c) Article 11 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-1103.1. Qualifications of private commercial inspectors.

No private commercial inspections shall be conducted except by private commercial inspectors qualified under Article 9C of Chapter 143 of the General Statutes."

SECTION 3.(d) G.S. 160D-1104(b) reads as rewritten:

"§ 160D-1104. Duties and responsibilities.

...

(b) The duties and responsibilities set forth in subsection (a) of this section include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections in a timely ~~manner, manner except those inspections made by a private commercial inspector,~~ the issuance or denial of certificates of ~~compliance, compliance other than those certificates of compliance with the State Building Code issued or denied by a private commercial inspector,~~ the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The governing board has the authority to enact reasonable and appropriate provisions governing the enforcement of those laws."

SECTION 3.(e) G.S. 160D-1105 reads as rewritten:

"§ 160D-1105. Other arrangements for inspections.

(a) A local government may contract with an individual who is not a local government employee but who holds one of the applicable certificates as provided in G.S. 160D-1103 or with the employer of an individual who holds one of the applicable certificates as provided in G.S. 160D-1103.

(b) Notwithstanding any other provision of this Article, a local government may contract with a private commercial inspector certified and registered under Article 9C of Chapter 143 of the General Statutes to conduct inspections under this Article.

(c) A permit holder may contract with a private commercial inspector to conduct private commercial inspections, as provided in G.S. 160D-1105.1, of commercial buildings and structures for compliance with the State Building Code."

SECTION 3.(f) Article 11 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-1105.1. Private commercial inspection authorized; exceptions.

(a) Notwithstanding the requirements of this Article and except as provided in subsection (d) of this section, a local government and the Commissioner of Insurance, when the Department of Insurance has intervened pursuant to G.S. 160D-1102(b), shall accept and approve, without further responsibility to inspect, a signed inspection report evidencing the inspection of a commercial building or structure by a private commercial inspector provided all of the following apply:

- (1) The private commercial inspection is limited to inspection for compliance with the State Building Code.
- (2) The private commercial inspector submitting the signed inspection report is the same as designated on the permit application or permit amendment under G.S. 160D-1110(c1), and the report contains the registration number assigned that inspector under G.S. 143-151.19A(b).
- (3) The private commercial inspector conducting the inspection, or any inspector under contract with the private commercial inspector to conduct private commercial inspections for the project, is qualified under the provisions of Article 9C of Chapter 143 of the General Statutes to conduct that private commercial inspection at the time of the inspection.
- (4) The private commercial inspector conducting the inspection, if other than the private commercial inspector submitting the inspection report in subdivision (a)(1) of this section, is employed by or under contract to the private commercial inspector submitting the report.
- (5) The private commercial inspector provides the local government or the Commissioner of Insurance, as applicable, with a copy of each signed inspection report. The signed inspection report shall be provided by electronic or physical delivery, and its receipt shall be promptly acknowledged by the local government or the Commissioner of Insurance, as applicable, through reciprocal means.
- (6) Compliance with G.S. 160D-1105.3 through proof of either of the following:
 - a. A payment bond executed in favor of the local government.
 - b. Issuance coverage issued by a company approved by the Commissioner of Insurance.
- (7) The permit holder and private commercial inspector execute a written contract that shall include, at a minimum, all of the following:
 - a. A requirement that the private commercial inspector will be responsible for all required inspections on the commercial building or structure for compliance with the State Building Code.
 - b. The specific types of inspections to be conducted by the private commercial inspector or certified employees of the private commercial inspector.
 - c. The specific types of inspections, if any, to be conducted by those under contract with the private commercial inspector.
 - d. The reinspection process, including inspector compensation, when an inspection demonstrates noncompliance with the State Building Code.
 - e. The process, including private commercial inspector compensation, to deliver additional inspections required due to unforeseen circumstances, changes to orders, changes to the State Building Code, or any other event or occurrence necessitating additional inspections.
 - f. The principal private commercial inspector for the project.

(b) Upon issuing an inspection report receipt as required under subdivision (a)(5) of this section, the local government or Commissioner of Insurance, its inspection departments, and its inspectors shall be discharged and released from any liabilities, duties, and responsibilities

imposed by this Article with respect to or in common law from any claim arising out of or attributed to the inspection for which the inspection report was submitted pursuant to this section.

(c) The inspection report required by this section shall be on the form developed by the North Carolina Code Officials Qualification Board in the Department of Insurance under G.S. 160D-1105.5.

(d) The provisions of this section shall not apply to final fire inspections under G.S. 160D-1105.2."

SECTION 3.(g) Article 11 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-1105.2. Final fire inspections.

Notwithstanding any other provision of this Article, private commercial inspectors shall have no authority to conduct final fire inspections required by the State Building Code. The local government that issued the building permit shall perform the duty and responsibility of conducting the final fire inspection."

SECTION 3.(h) Article 11 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-1105.3. Private commercial inspection payment bond; insurance alternative.

(a) Prior to issuing or amending a building permit in which the applicant indicates an intent to use a private commercial inspector, the local government shall require the applicant to provide a payment bond or proof of insurance coverage in the amount of one hundred twenty-five percent (125%) of the local government's estimated cost to inspect the entire project itself. The purpose of the payment bond or insurance coverage is to provide a means of compensating the local government for the costs of any inspections it must conduct under subsection (b) of this section. The payment bond or insurance policy shall be executed in favor of the local government by one or more surety companies legally authorized to do business in the State of North Carolina and shall become effective upon the issuance of the building permit. A copy of any insurance policy used to satisfy this section shall be provided to the Commissioner of Insurance.

(b) If for any reason a private commercial inspector ceases inspecting or otherwise abandons a project, the local government issuing the permit shall, at the written request of the permit holder, be responsible for inspecting the project from the point in time of the last private commercial inspection.

(c) Local governments required to begin inspecting commercial projects under subsection (b) of this section may claim against the payment bond for the costs of inspecting the project or may seek payment from the permit holder for whom the local government conducted the inspections."

SECTION 3.(i) Article 11 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-1105.4. Limited immunity of private commercial inspectors.

Private commercial inspectors shall be immune from suit and liability for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission from a private commercial inspection or issuance of a certificate of compliance with the State Building Code unless the damage, loss, injury, or other liability was caused by the intentional or willful and wanton misconduct of the private commercial inspector."

SECTION 3.(j) Article 11 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-1105.5. Uniform forms for private commercial inspection.

(a) The North Carolina Code Officials Qualification Board in the Department of Insurance shall develop the following uniform forms used for private commercial inspections:

- (1) Inspection reports required under G.S. 160D-1105.1(a) that are specific to the type of inspection being conducted.

- 1 (2) Notice of intent to use a private commercial inspector that contains the
2 information required under G.S. 160D-1110(c1).
3 (3) Certificate of compliance with the State Building Code under
4 G.S. 160D-1116.

5 (b) No local government may require information on the forms developed under this
6 section other than that contained on the form."

7 **SECTION 3.(k)** G.S. 160D-1109 reads as rewritten:

8 **"§ 160D-1109. Failure to perform duties.**

9 ...

10 (c) A member of the inspection department shall not be in violation of this section when
11 the local government, its inspection department, or one of the inspectors issues an inspection
12 report receipt for or accepts an inspection report evidencing compliance with the applicable North
13 Carolina State Building Code from a private commercial inspector in accordance with this
14 Article."

15 **SECTION 3.(l)** G.S. 160D-1110 reads as rewritten:

16 **"§ 160D-1110. Building permits.**

17 ...

18 (c1) Applicants for a building permit or permit amendment under this section who opt to
19 use a private commercial inspector to conduct inspections to determine compliance with the State
20 Building Code shall attach as an addendum to their permit application or amendment a notice of
21 intent to use a private commercial inspector on the project. The notice of intent must contain the
22 private commercial inspector's contact information, including name, physical and mailing
23 address, email address, telephone number, and the registration number assigned to that inspector
24 under G.S. 143-151.19A(b). The local government permit fee schedule for projects to be
25 inspected by private commercial inspectors shall be reduced by eighty percent (80%), and the
26 remaining twenty percent (20%) may be retained by the local government as an administrative
27 cost. The notice of intent shall be on the form developed by the North Carolina Code Officials
28 Qualification Board in the Department of Insurance under G.S. 160D-1105.5.

29 (c2) Except for the final fire inspection as provided in G.S. 160D-1105.2, a local
30 government issuing a building permit for projects to be inspected by private commercial
31 inspectors shall not conduct inspections on the project for compliance with the State Building
32 Code or otherwise interfere, directly or indirectly, with the private commercial inspection
33 process. The local government issuing the permit shall conduct the inspections on the project
34 necessary to determine compliance with any local law applicable to the construction of
35 commercial buildings or structures.

36 "

37 **SECTION 3.(m)** G.S. 160D-1112 reads as rewritten:

38 **"§ 160D-1112. Changes in ~~work~~, work or permit.**

39 After a building permit has been issued, no changes or deviations from the terms of the
40 application, plans and specifications, or the permit, except where changes or deviations are
41 clearly permissible under the State Building Code, shall be made until specific written approval
42 of proposed changes or deviations has been obtained from the inspection department. A building
43 permit shall be amended to designate the use of or changes in the designated private commercial
44 inspector."

45 **SECTION 3.(n)** G.S. 160D-1116 reads as rewritten:

46 **"§ 160D-1116. Certificates of compliance; 60-day notice; temporary certificates of**
47 occupancy.

48 (a) At the conclusion of all work done under a building permit, the appropriate ~~inspector~~
49 inspector, including a private commercial inspector, if applicable, shall make a final inspection,
50 and, if the completed work complies with all applicable State and local laws and with the terms
51 of the permit, ~~the inspector shall issue a certificate of compliance.~~ compliance provided that

1 private commercial inspectors may only issue certificates of compliance with the State Building
2 Code. Except as provided by subsection (b) of this section, no new building or part thereof may
3 be occupied, no addition or enlargement of an existing building may be occupied, and no existing
4 building that has been altered or moved may be occupied, until the inspection department or the
5 private commercial inspector, if applicable, has issued a certificate of compliance. Certificates
6 of compliance issued by private commercial inspectors shall be on the form developed by the
7 North Carolina Code Officials Qualification Board in the Department of Insurance under
8 G.S. 160D-1105.5.

9 (a1) No less than 60 days from the date a private commercial inspector anticipates issuing
10 a certificate of compliance pursuant to subsection (a) of this section, the private commercial
11 inspector shall notify the applicable local government in writing by electronic mail, first-class
12 mail, or physical delivery of the date the inspector anticipates issuing a certificate of compliance
13 with the State Building Code.

14 (a2) Private commercial inspectors issuing a certificate of compliance with the State
15 Building Code shall provide the local government with a copy of that certificate by electronic
16 mail, first-class mail, or physical delivery, and its receipt shall be promptly acknowledged by the
17 local government through reciprocal means.

18 (b) A temporary certificate of occupancy may be issued by the local government
19 permitting occupancy for a stated period of time of either the entire building or of specified
20 portions of the building if the local government inspector finds that the building may safely be
21 occupied prior to its final completion. A permit holder may request and be issued a temporary
22 certificate of occupancy if the conditions and requirements of the North Carolina State Building
23 Code are met. Only a local government may issue a certificate of occupancy or a temporary
24 certificate of occupancy.

25 (b1) A certificate of occupancy shall not be withheld on any project for which a certificate
26 of compliance has been issued by a private commercial inspector under this Article.

27 (b2) Upon issuing a certificate of occupancy or temporary certificate of occupancy under
28 this section for any commercial project in which a private commercial inspector has issued a
29 certificate of compliance, the local government or Commissioner of Insurance may rely on the
30 private commercial inspector's certificate of compliance that the completed work is in
31 compliance with the State Building Code, and the local government or Commissioner of
32 Insurance, its inspection departments, and its inspectors shall be discharged and released from
33 any liabilities, duties, and responsibilities imposed by this Article with respect to or in common
34 law from any claim arising out of or attributed to the certificate of compliance.

35 (c) Any person who owns, leases, or controls a building and occupies or allows the
36 occupancy of the building or a part of the building before a certificate of compliance or temporary
37 certificate of occupancy has been issued pursuant to subsection (a) or (b) of this section is guilty
38 of a Class 1 misdemeanor."

39 **SECTION 4.** The North Carolina Department of Insurance shall adopt temporary
40 rules to implement this act no later than 90 days after this act becomes law.

41 **SECTION 5.** Section 1 of this act becomes effective October 1, 2021, and
42 subsection (i) of that section applies to offenses committed on or after that date. Sections 2
43 and 3 of this act become effective January 1, 2022, and apply to applications for building permits
44 issued on or after that date. The remainder of this act is effective when it becomes law.