



HOUSE BILL 865: Private Commercial Inspection System.

2021-2022 General Assembly

Committee:	House Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	September 23, 2021
Introduced by:	Reps. Brody, Hardister, Moffitt, Arp	Prepared by:	Billy R. Godwin and Howard Marsilio
Analysis of:	PCS to Second Edition H865-CSBDf-23		Staff Attorneys

OVERVIEW: *The PCS for House Bill 865 would authorize the North Carolina Code Officials Qualification Board (Q-Board) to certify, register, and regulate private inspectors to conduct inspections of commercial buildings and structures for compliance with the State Building Code (Code) and to issue certificates of compliance with the Code.*

The finance-related items include the following:

- *Authorizing the Board to establish maximum fees of \$250 for certification, \$200 for renewal, and \$20 for registration applications or amendments for private commercial inspectors (Section 1(g)).*
- *Requiring local government to reduce building permit fees by 75% when a permit applicant elects to use a private commercial inspector (Section 3(l)).*

CURRENT LAW: Article 11 of Chapter 160D of the General Statutes imposes a duty on local governments to enforce State and local laws relating to the construction of buildings and other structures and the installation of plumbing, electrical, heating, refrigeration, and air-conditioning systems. This duty includes the making of any necessary inspections required by the Code and the issuance or denial of certificates of compliance with the Code. Once all work under a building permit is concluded, the local government inspector conducts a final inspection and, if the completed work complies with all applicable State and local laws and with the building permit, issues a certificate of compliance. Only local government inspectors certified as a qualified Code-enforcement officials may conduct inspections for Code compliance. Code-enforcement officials are certified under and governed by the Q-Board, a 20 member administrative board, established under Article 9C of Chapter 143 of the General Statutes and located within the Department of Insurance.

BILL ANALYSIS:

Section 1, of the PCS, effective October 1, 2022, would:

- Define the terms "private commercial inspection" and "private commercial inspector."
- Authorize the Q-Board to:
 - Certify and register persons as a qualified private commercial inspector (PCI).
 - Require PCI applicants to pass an exam based on the Code and its administrative procedures.
 - Issue a PCI certificate to and exempt from the exam requirement:
 - Code-enforcement officials in this State and other states with equivalent standards.
 - Code-enforcement officials certified by the International Code Council.

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- Issue a Level III certificate to licensed North Carolina architects and engineers who complete course work and pass an exam.
- Issue a standard PCI certificates in building inspection, electrical inspection, mechanical inspection, plumbing inspection, and fire inspection.
- Limit a PCI inspection to only those areas in which the inspector is certified.
- Establish the continuing education and professional development requirements for PCIs and to adopt rules to implement those requirements.
- Charge a fee for initial PCI certification, for certification renewal, and for certification registration.
- Prohibit PCIs from inspecting any properties in which the inspector - or one with whom the inspector has a close familial, business, or associational relationship - has an ownership or direct financial interest in.
- Subject PCIs to the disciplinary provisions of the Q-Board and makes it a Class 1 misdemeanor to hold oneself out as a PCI without valid Q-Board certification.
- Require PCIs to register with the Q-Board and require the Q-Board to maintain a list of all registered PCIs on the Department of Insurance website.
 - Registrants may be either a certified individual or an entity that employs one or more certified individual "qualifiers" authorized to conduct inspections under the entity's registration without separate registration.
- Require a PCI registrant to maintain professional liability insurance with an insurer authorized to do business in this State.

Section 2, effective January 1, 2023, would apply the definitions of "private commercial inspection" and "private commercial inspectors" in Chapter 160D.

Section 3, effective January 1, 2023, would:

- Alleviate local governments from the duty of inspecting for Code compliance, those commercial buildings and structures being inspected by PCIs.
- Provide that where PCIs are used, all final inspections for Code compliance, other than final fire inspections, are conducted by the PCI.
- Prohibit local governments from adopting ordinances prohibiting inspections by PCIs.
- Allow local governments to hire PCIs to conduct inspections for that local government.
- Require local governments to accept and approve an inspection report signed by a PCI provided all of the following apply:
 - The inspection is limited to Code compliance.
 - The PCI submitting the inspection report is designated on the building permit application or amendment.
 - The PCI conducting the inspection is qualified to conduct that type of commercial inspection.
 - The inspection report contains the PCIs' assigned registration and certificate number.
 - A copy of each signed inspection report is provided to the local government.
 - A payment bond or proof of insurance coverage is provided to the local government.
 - The permit holder and PCI certify the existence of a execute a written contract containing certain enumerated terms.
 - The inspection report is on a form developed by the Q-Board.
- Discharge and release local governments from any claim arising out of inspections performed by PCIs.
- Prohibit PCIs from conducting final fire inspections.

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- Require permit holders using PCIs to either post a payment bond or provide coverage in favor of the local government in amount of one hundred twenty-five percent (125%) of the estimated cost to inspect the project.
- Where a PCI ceases inspecting or abandons a project, require the local government, upon written request of the permit holder, to assume responsibility for inspecting the project and allow the local government to claim the inspection costs against the bond, insurance, or directly against the PCI.
- Grant PCIs immunity from negligent acts or omissions in conducting an inspection or issuing a certificate of compliance with the Code unless the negligence was wanton or intentional. The immunity would be waived to the extent covered by insurance.
- Require the Q-Board to develop the following private commercial inspection forms and prohibit local governments from requiring information other than that contained on the form:
 - Inspection reports.
 - Notice of election to use a PCI.
 - Notice of specific inspection by a PCI.
 - Certificates of compliance with the Code issued by PCIs.
- Provide that election to use a PCI must be made when applying for building permit by attaching a notice of election to the permit application or to an application amendment prior to permit issuance.
 - The notice of election must be on the form developed by the Q-Board.
 - When a PCI is elected, the local government building permit fee is reduced by seventy-five percent (75%) with the remaining twenty-five percent (25%) for the local government's administrative costs.
- Provide that a permit holder not electing to use a PCI at the time of permit issuance, may use a PCI for one or more specific inspections by giving prior notice to the local government on the notice of specific inspection form developed by the Q-Board.
 - The notice must indicate the inspection(s) to be conducted by the PCI.
 - The PCI must submit the inspection report to the local government within five days.
 - The permittee is not entitled to refund of any inspection fees from the local government.
 - Certificates of compliance for areas subject to specific inspections would still be issued by the local government provided the PCI inspection report indicates Code compliance.
 - The local government is discharged and released from liability from claims arising out of any specific PCI inspection.
- Provide that local governments inspect for compliance with local government laws and conduct the final fire inspection.
- Require the PCI to issue certificates of compliance with the Code upon 60 days written notice to the local government with jurisdiction and provide a copy to the local government.
 - The PCI certificate of compliance must be on the form developed by the Q-Board.
- Provide that only local governments may issue certificates of occupancy.
 - Allow the local government to issue a certificate of occupancy in reliance on the certificate of compliance with the Code issued by a PCI and would discharge and release that local government from liability for claims arising out of that certificate of compliance.

Section 4, effective when the bill becomes law, would require the Department of Insurance to adopt temporary rules to implement the act no later than 90 days after it becomes law.

EFFECTIVE DATE: Except as otherwise noted above, the bill is effective when it becomes law.