

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 865
Committee Substitute Favorable 6/17/21
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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 that pertain to boilers and elevators, which are administered and enforced by the State Department of Labor.

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

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

32 **"§ 143-151.14. Comity.**

33 ...

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

44 ...

45 (b1) The Board may, without requiring an examination, grant a standard private
46 commercial inspector certificate as a qualified private commercial inspector for a particular type
47 of position and level to any person who, at the time of application, is certified as a qualified
48 Code-enforcement official or, as the equivalent of a private commercial inspector, in good
49 standing by the International Code Council where standards and examination are acceptable to
50 the Board and not lower than those required by this Article for a type of position and level in this
51 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 a currently valid standard private commercial inspector certificate issued by the Board attesting to that person's qualifications to engage in private commercial inspection. 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 who qualifies under Article. 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) Notwithstanding subsection (a) of this section, the Board shall, upon application and without requiring an examination, issue a standard private commercial inspector certificate to any person who is currently certified as a Code enforcement official under this Article.

(f) If all of the following apply, the Board may upon application, issue a Level III standard private commercial inspector certificate to any person who is currently an architect licensed under Chapter 83A of the General Statutes or an engineer licensed under Chapter 89C

of the General Statutes that authorizes that architect or engineer to conduct any commercial inspection except a final fire inspection:

- (1) The licensed architect or engineer successfully completes any course work required by the Board for the type of Level III standard certificate applied for.
- (2) The licensed architect or engineer passes the examination required by the Board under subsection (a) of this section."

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 eligible to meet the annual continuing education requirements for architects under Chapter 83A of the General Statutes and for engineers under Chapter 89C of the General Statutes.

(b) The Board may require an individual who holds a certificate under 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 private commercial inspection 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, during the period of inactive status, has not been continuously employed by a city or county inspection department or by a person engaged in the business of private commercial inspections, 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, during the period of inactive status, has been continuously employed by a city or county inspection department or by a person engaged in the business of private commercial inspections, 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 the requirements under subsection (c) of this section. 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."

(f) Applications for renewal or reactivation of a certificate under this section shall be on a form provided by the Board."

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) 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 in accordance with this section. ~~to be paid by each applicant~~ The application fee for certification under this Article shall not exceed twenty dollars (\$20.00) for as a qualified Code-enforcement-official. Such fee shall not exceed twenty dollars (\$20.00) for each applicant-official and two hundred fifty dollars (\$250.00) for a private commercial inspector.

(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).~~ (\$10.00) for a Code-enforcement official and two hundred dollars (\$200.00) for a private commercial inspector. 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 or her 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 or her 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, 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~~ It is unlawful for any person to represent himself or herself 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~~ is 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~~ is 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 and liability insurance requirements to engage in private commercial inspections.

(a) No person shall engage in private commercial inspections unless that person is first registered with the Board, except that the holder of a certificate issued under G.S. 143-151.14A who is employed by a registrant under this section is exempt from the requirements of this section. To be registered, a person must submit and maintain an application for registration, on a form provided by the Board, that includes information required by either subsection (b) or (c) of this section, and proof of insurance as required by subsection (h) of this section. A person must submit an amendment to an application for registration to the Board to maintain registration information accuracy.

(b) For an individual, the application must include:

(1) Proof of certification under this Article.

(2) A listing of individuals who hold a certificate issued under G.S. 143-151.14A eligible to conduct private commercial inspections under the applicant's registration number.

(3) Any other information required by the Board.

(c) For a person other than an individual, the application must include:

(1) Proof of certification, pursuant to this Article, of an individual who shall be known as the "qualifier" or the "qualifying party" for the applicant.

(2) A listing of individuals who hold a certificate issued under G.S. 143-151.14A eligible to conduct private commercial inspections under the applicant's registration number.

(3) Any other information required by the Board.

(d) The Board must register and assign the person a registration number if it determines the application meets the requirements of subsection (a) of this section. If the Board denies an application or amendment, the Board shall notify the person in writing with an explanation for the denial and provide a reasonable opportunity to correct any deficiencies. If the Board denies the resubmitted application, the Board shall notify the person in writing, and the person may seek review as provided in G.S. 143-151.17(d).

(e) A registrant under subsection (c) of this section shall notify the Board if a qualifier ceases to be a qualifier for the registrant. The registration shall remain in full force and effect for a period of 90 days allowing for the registrant to amend its registration to meet the requirements of subsection (c) of this section. After 90 days, the registration shall be invalidated. To be reinstated a new application must be resubmitted pursuant to subsection (c) of this section.

(f) The Board shall keep current a record of the names and addresses of all registrants under this section 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 registrants under this section.

(g) The Board shall establish a schedule of fees to be paid for each application or amendment under this section. An application or amendment fee shall not exceed twenty dollars (\$20.00).

(h) A registrant under this section must maintain professional liability insurance, written by an insurer authorized to do business in this State, for all services performed while engaging in private commercial inspections. The minimum policy limits are, (i) one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the aggregate to inspect projects with construction costs of five million dollars (\$5,000,000) or less, or (ii) two million dollars (\$2,000,000) per occurrence and four million dollars (\$4,000,000) in the aggregate to inspect projects with construction costs of over five million dollars (\$5,000,000). Nothing in this subsection limits the ability of a contract for private commercial inspections to require additional insurance or higher policy limits. The registrant must secure a claims-made policy or coverage that covers a minimum of five years subsequent to the performance of private commercial inspections."

SECTION 2. G.S. 160D-102 reads as rewritten:

"§ 160D-102. Definitions.

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section shall have the following meanings indicated when used in this Chapter:

...

(26a) Private commercial inspection. – As defined in G.S. 143-151.8(a).

(26b) Private commercial inspector. – As defined in G.S. 143-151.8(a).

...."

SECTION 3.(a) G.S. 160D-403 reads as rewritten:

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

...

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

...

(g) Certificate of Occupancy. – A local government may, upon completion of work or activity undertaken pursuant to a development approval, make final inspections and issue a certificate of compliance or occupancy if staff finds that the completed work complies with all applicable State and local laws and with the terms of the approval. Except as provided in G.S. 160D-1105.2, a local government shall not conduct final inspections of work or activity on commercial buildings or structures to the extent the building permit holder has elected to utilize private commercial inspections for inspection of commercial buildings and structures for compliance with the North Carolina State Building Code pursuant to Article 11 of this Chapter. No building, structure, or use of land that is subject to a building permit required by Article 11 of this Chapter shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to G.S. 160D-1116 has been issued.

...."

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

"§ 160D-1102. Building code administration.

(a) A local government may create an inspection department and may appoint inspectors who may be given appropriate titles, such as building inspector, electrical inspector, plumbing inspector, housing inspector, zoning inspector, heating and air-conditioning inspector, fire

prevention inspector, or deputy or assistant inspector, or another title generally descriptive of the duties assigned. Every local government shall perform the duties and responsibilities set forth in G.S. 160D-1104 either by (i) creating its own inspection department, (ii) creating a joint inspection department in cooperation with one or more other units of local government, pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, (iii) contracting with another unit of local government for the 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-1104 and G.S. 160D-202.

(b) In the event that any local government fails to provide inspection services or ceases to provide inspection services, the Commissioner of Insurance shall arrange for the provision of inspection services, either through personnel employed by the department or through an arrangement with other units of government. In either event, the Commissioner has 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; however, the Commissioner may waive this requirement or permit assumption at an earlier date upon finding that an 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 qualified under Article 9C of Chapter 143 of the General Statutes to conduct inspections of commercial buildings and structures under this Article.

(c) A permit holder may contract with a private commercial inspector qualified under Article 9C of Chapter 143 of the General Statutes to conduct 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 inspections authorized; exceptions.

(a) 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, shall accept, without further responsibility to inspect, the work covered by 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 person submitting the signed inspection report is the same as designated on the permit application under G.S. 160D-1110 or notice of specific inspection submitted under G.S. 160D-1112(b), and the report contains both the registration number assigned that person under G.S. 143-151.19A and the private commercial inspector certificate number assigned the inspector under G.S. 143-151.14A.
- (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 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, as determined by the local government, and its receipt shall be promptly acknowledged by the local government or the Commissioner of Insurance, as applicable, through reciprocal means.
- (5) 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.
- (6) The permit holder and private commercial inspector certify the existence of a written contract that includes, 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 qualified 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)(4) 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 do 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.

Private commercial inspectors 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 a building permit in which the applicant elects to use a private commercial inspector under G.S. 160D-1110(c1), 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. Local governments required to begin inspecting commercial projects under this subsection may claim the costs of inspecting the project against the payment bond, the insurance policy, or the permit holder."

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 for negligence.

A private commercial inspector is not liable for negligence for any act or omission by the private commercial inspector in conducting a private commercial inspection or issuing a certificate of compliance with the State Building Code. The immunity established by this section does not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this section is waived to the extent covered by insurance."

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

3 **"§ 160D-1105.5. Uniform forms for private commercial inspection.**

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

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

8 (2) Notice of election to use a private commercial inspector that contains the
9 information required under G.S. 160D-1110(c1).

10 (3) Notice of specific inspection by a private commercial inspector pursuant to
11 G.S. 160D-1112(b).

12 (4) Certificate of compliance with the State Building Code under
13 G.S. 160D-1116.

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

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

17 **"§ 160D-1109. Failure to perform duties.**

18 ...

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

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

25 **"§ 160D-1110. Building permits.**

26 ...

27 (c1) Applicants for a building permit under this section who elect to use a private
28 commercial inspector to conduct inspections to determine compliance with the State Building
29 Code shall attach to the initial building permit application a notice of election to use a private
30 commercial inspector on the project. The notice of election may also be made by amendment to
31 the building permit application submitted prior to the issuance of the building permit. The notice
32 of election shall be on the form developed by the North Carolina Code Officials Qualification
33 Board in the Department of Insurance under G.S. 160D-1105.5 and contain the private
34 commercial inspector's contact information, including name, physical and mailing address, email
35 address, telephone number, and the registration number assigned under G.S. 143-151.19A.

36 (c2) The local government building permit fee schedule for projects where a permit
37 applicant initially elects the use a private commercial inspector under subsection (c1) of this
38 section shall be reduced by seventy-five percent (75%) and the remaining twenty-five percent
39 (25%) may be retained by the local government as an administrative cost.

40 (c3) Except for the final fire inspection as provided in G.S. 160D-1105.2, a local
41 government issuing a building permit for projects where an election is made for private
42 commercial inspection shall not conduct inspections on the project for compliance with the State
43 Building Code or otherwise interfere, directly or indirectly, with the private commercial
44 inspection process. The local government issuing the permit shall conduct the inspections on the
45 project necessary to determine compliance with any local law applicable to the construction of
46 commercial buildings or structures.

47 "

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

49 **"§ 160D-1112. Changes in work, work or permit; notice of private commercial inspection**
50 **for specific inspections.**

(a) After a building permit has been issued, no changes or deviations from the terms of the application, plans and specifications, or the permit, except where changes or deviations are clearly permissible under the State Building Code, shall be made until specific written approval of proposed changes or deviations has been obtained from the inspection department.

(b) After a building permit has been issued without an election to use a private commercial inspector, a permit holder may, by giving prior notice to the inspection department, use a private commercial inspector for any specific inspection or inspections other than a final fire inspection, to determine compliance with the State Building Code. The notice of specific inspection must indicate the inspection or inspections being performed by the private commercial inspector, be on the form developed by the North Carolina Code Officials Qualification Board in the Department of Insurance under G.S. 160D-1105.5, and contain the information required under G.S. 160D-1110(c1). A private commercial inspector must submit the inspection report of inspections conducted under this subsection within five days of completing the inspection. Use of a private commercial inspector under this subsection does not entitle the permit holder to refund of any building permit fee and the inspection department remains responsible for inspections other than those for which it receives a notice of specific inspection under this subsection."

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

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

(a) At the conclusion of all work done under a building permit, the appropriate ~~inspector~~ inspector, including a private commercial inspector to the extent applicable, shall make a final inspection, and, if the completed work complies with all applicable State and local laws and with the terms of the permit, the inspector shall issue a certificate of compliance. compliance provided that private commercial inspectors may only issue certificates of compliance with the State Building Code. Except as provided by subsection (b) of this section, no new building or part thereof may be occupied, no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or moved may be occupied, until the inspection department or the private commercial inspector, if applicable, has issued a certificate of compliance. Certificates of compliance issued by private commercial inspectors 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.

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

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

(a3) Where there have been one or more specific inspections by a private commercial inspector under G.S. 160D-1112(b), the local government is responsible for issuing a certificate of compliance under this section. Upon receipt of any private commercial inspection report submitted under G.S. 160D-1112(b) indicating that the inspected work complies with the State Building Code, the local government, its inspection department, and its inspectors are 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 any private commercial inspection under G.S. 160D-1112(b).

(b) A temporary certificate of occupancy may be issued by the local government permitting occupancy for a stated period of time of either the entire building or of specified

1 portions of the building if the local government inspector finds that the building may safely be
2 occupied prior to its final completion. A permit holder may request and be issued a temporary
3 certificate of occupancy if the conditions and requirements of the North Carolina State Building
4 Code are met. Only a local government may issue a certificate of occupancy or a temporary
5 certificate of occupancy. When a certificate of compliance has been issued by a private
6 commercial inspector, a certificate of occupancy may only be withheld for noncompliance with
7 matters ineligible for inspection by the private commercial inspector.

8 (b1) Upon issuing a certificate of occupancy or temporary certificate of occupancy under
9 this section for any commercial project in which a private commercial inspector has issued a
10 certificate of compliance, the local government or Commissioner of Insurance may rely on the
11 private commercial inspector's certificate of compliance that the completed work is in
12 compliance with the State Building Code, and the local government or Commissioner of
13 Insurance, its inspection departments, and its inspectors shall be discharged and released from
14 any liabilities, duties, and responsibilities imposed by this Article with respect to or in common
15 law from any claim arising out of or attributed to the certificate of compliance.

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

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

22 **SECTION 5.** Section 1 of this act becomes effective October 1, 2022, and subsection
23 (i) of that section applies to offenses committed on or after that date. Sections 2 and 3 of this act
24 become effective January 1, 2023, and apply to applications for building permits issued on or
25 after that date. The remainder of this act is effective when it becomes law.