

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 355*
Committee Substitute Favorable 4/16/01
Senate Commerce Committee Substitute Adopted 7/18/01

Short Title: State Building Code Changes-AB.

(Public)

Sponsors:

Referred to:

March 1, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE THAT THE DEPARTMENT OF INSURANCE IS NOT
3 LIABLE FOR COSTS INCURRED IN SATISFYING THE FISCAL NOTE
4 REQUIREMENT FOR CHANGES IN THE STATE BUILDING CODE; TO
5 UPDATE REFERENCES TO ORGANIZATIONS WHOSE STANDARDS MAY
6 BE USED IN ADOPTING CODE PROVISIONS; TO GIVE THE BUILDING
7 CODE COUNCIL EXPLICIT AUTHORITY TO USE STANDARDS OF
8 INTERNATIONAL AGENCIES; TO MAKE TECHNICAL CORRECTIONS IN
9 THE BUILDING CODE COUNCIL STATUTES; TO PROHIBIT MEMBERS OF
10 THE MANUFACTURED HOUSING AND HOME INSPECTOR LICENSING
11 BOARDS FROM SPONSORING OR PROVIDING CONTINUING EDUCATION
12 COURSES WHILE SERVING ON THE BOARD; TO AUTHORIZE THE
13 MANUFACTURED HOUSING BOARD TO ADOPT TEMPORARY RULES
14 REGARDING CONTINUING EDUCATION REQUIREMENTS; TO CLARIFY
15 THAT SALES MANAGERS OF A MANUFACTURED HOUSING RETAIL
16 DEALER SHALL BE LICENSED AS SALESPERSONS; TO ENSURE THAT
17 BUILDING INSPECTORS APPLY THE MANUFACTURED HOME
18 INSTALLATION STANDARDS; TO MAKE A TECHNICAL CORRECTION IN
19 THE FIREMEN'S RELIEF FUND LAW; AND TO AMEND THE BEACH PLAN
20 LAW REGARDING LOSS ADJUSTMENT EXPENSE REIMBURSEMENTS.

21 The General Assembly of North Carolina enacts:

PART I. BUILDING CODE AND BUILDING CODE COUNCIL.

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25 **SECTION 1.1.** G.S. 143-138(a), as rewritten by Section 1 of S.L. 2001-141,
26 reads as rewritten:

27 "(a) Preparation and Adoption. – The Building Code Council ~~is hereby~~
28 ~~empowered to~~ may prepare and adopt, in accordance with the provisions of this Article,

1 a North Carolina State Building Code. ~~Prior to~~ Before the adoption of ~~this~~ the Code, or
2 any part ~~thereof~~, of the Code, the Council shall hold at least one public hearing. A
3 notice of ~~such~~ the public hearing shall be published in the North Carolina Register at
4 least 15 days ~~prior to~~ before the date of the hearing. Notwithstanding G.S. 150B-2(8a)h.,
5 the North Carolina State Building Code as adopted by the Building Code Council is a
6 rule within the meaning of G.S. 150B-2(8a) and shall be adopted in accordance with the
7 procedural requirements of Article 2A of Chapter 150B of the General Statutes.

8 The Council shall request the Office of State Budget, Planning, and Management to
9 prepare a fiscal note for a proposed Code change that has a substantial economic
10 impact, as defined in G.S. 150B-21.4(b1), or that increases the cost of residential
11 housing by eighty dollars (\$80.00) or more per housing unit. The change can become
12 effective only in accordance with G.S. 143-138(d). Neither the Department of Insurance
13 nor the Council shall be required to expend any monies to pay for the preparation of any
14 fiscal note under this section by any person outside of the Department or Council unless
15 the Department or Council contracts with a third-party vendor to prepare the fiscal
16 note."

17 **SECTION 1.2.** G.S. 143-138(c) reads as rewritten:

18 "(c) Standards to Be Followed in Adopting the Code. – All regulations contained
19 in the North Carolina State Building Code shall have a reasonable and substantial
20 connection with the public health, safety, morals, or general welfare, and their
21 provisions shall be construed reasonably to those ends. Requirements of the Code shall
22 conform to good engineering practice. The Council may use as guidance, but is not
23 required to adopt, the requirements of the ~~National Building Code of the American~~
24 ~~Insurance Association, formerly the National Board of Fire Underwriters, the Southern~~
25 ~~International Building Code of the International Code Council, the Standard Building~~
26 ~~Code of the Southern Building Code Congress, Congress International, Inc., the~~
27 ~~Uniform Building Code of the Pacific Coast Building Officials Conference,~~
28 ~~International Conference of Building Officials, the Basic National Building Code of the~~
29 ~~Building Officials Conference of America, Inc., and Code Administrators, Inc., the~~
30 ~~National Electric Code, the Life Safety Code Code, the National Fuel Gas Code, and the~~
31 ~~Fire Prevention Code of the National Fire Protection Association, the American~~
32 ~~Standard Safety Code for Elevators, Dumbwaiters, Elevators and Escalators, and the~~
33 ~~Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers,~~
34 ~~Standards of the American Insurance Association for the Installation of Gas Piping and~~
35 ~~Gas Appliances in Buildings, and standards promulgated by the United States of~~
36 ~~America American National Standards Institute, formerly the American Standards~~
37 ~~Association, Underwriters' Laboratories, Inc., and similar national or international~~
38 agencies engaged in research concerning strength of materials, safe design, and other
39 factors bearing upon health and safety."

40 **SECTION 1.3.** G.S. 150B-21.5(d), as enacted by Section 5 of S.L.
41 2001-141, reads as rewritten:

42 "(d) State Building Code. – The Building Code Council is not required to publish
43 a notice of text in the North Carolina Register when it proposes to adopt a rule that

1 concerns the North Carolina State Building Code. The Building Code Council is
2 required to publish a notice of rule-making proceeding in the North Carolina Register
3 when it proposes to adopt a rule that concerns the North Carolina State Building Code.
4 The Building Code Council is required to submit to the Commission for review a rule
5 for which notice and hearing is not required under this subsection. In adopting a rule,
6 the Council shall comply with the procedural requirements of G.S. 150B-21.3."

7 **SECTION 1.4.** G.S. 150B-21.17(a), as rewritten by Section 6 of S.L.
8 2001-141, reads as rewritten:

9 "(a) Content. – The Codifier of Rules must publish the North Carolina Register.
10 The North Carolina Register must be published at least two times a month and must
11 contain the following:

- 12 (1) Temporary rules entered in the North Carolina Administrative Code.
- 13 (1a) Notices of rule-making proceedings, the text of proposed rules, and the
14 text of permanent rules approved by the Commission. This Except
15 with regard to notices of rule-making proceedings, this subdivision
16 does not apply to the North Carolina State Building Code.
- 17 (2) Notices of receipt of a petition for municipal incorporation, as required
18 by G.S. 120-165.
- 19 (3) Executive orders of the Governor.
- 20 (4) Final decision letters from the United States Attorney General
21 concerning changes in laws that affect voting in a jurisdiction subject
22 to section 5 of the Voting Rights Act of 1965, as required by G.S.
23 120-30.9H.
- 24 (5) Orders of the Tax Review Board issued under G.S. 105-241.2.
- 25 (6) Other information the Codifier determines to be helpful to the public."

26 **SECTION 1.5.** G.S. 143-138(d), as rewritten by Section 2 of S.L. 2001-141,
27 reads as rewritten:

28 "(d) Amendments of the Code. – The Building Code Council may revise and
29 amend the North Carolina State Building Code, either on its own motion or upon
30 application from any citizen, State agency, or political subdivision of the State. In
31 adopting any amendment, the Council shall comply with the same procedural
32 requirements and the same standards set forth above for adoption of the Code.

33 Handbooks providing explanatory material on Code provisions shall be provided no
34 later than January 1, 2000, and shall be updated with each ~~triennial~~ revision of the Code
35 or, in the discretion of the Council, more frequently. The Department may charge a
36 reasonable fee for the handbooks."

37 38 **PART II. MANUFACTURED HOUSING, CODE OFFICIALS, AND HOME** 39 **INSPECTOR BOARDS.** 40

41 **SECTION 2.1.** G.S. 143-143.9(9) reads as rewritten:

42 "(9) Manufactured home salesperson or salesperson. – Any person
43 employed by a manufactured home dealer to sell manufactured homes

1 to buyers. Manufactured home salesperson or salesperson also includes
2 sales managers, lot managers, general managers, or others who
3 manage or supervise salespersons."

4 **SECTION 2.2.** G.S. 143-143.11B(a) reads as rewritten:

5 "(a) The Board may establish programs and requirements of continuing education
6 for licensees, but shall not require licensees to complete more than eight credit hours of
7 continuing education. ~~Prior to~~ Before the renewal of a license, a licensee shall present
8 evidence to the Board that ~~he or she~~ the licensee has completed the required number of
9 continuing education hours in courses approved by the Board during the two months
10 immediately preceding the expiration of ~~his or her~~ the licensee's license. No member of
11 the Board shall provide or sponsor a continuing education course under this section
12 while that person is serving on the Board."

13 **SECTION 2.3.** G.S. 150B-21.1 is amended by adding a new subsection to
14 read:

15 "(a6) Notwithstanding the provisions of subsection (a) of this section, the
16 Manufactured Housing Board may adopt temporary rules regarding continuing
17 education course approval under G.S. 143-143.11B(c). After having the proposed
18 temporary rule published in the North Carolina Register and at least 30 days prior to
19 adopting a temporary rule pursuant to this subsection, the Board shall:

- 20 (1) Notify persons on its mailing list maintained pursuant to G.S. 150B-
21 21.2(d) and any other interested parties of its intent to adopt a
22 temporary rule;
23 (2) Accept oral and written comments on the proposed temporary rule;
24 and
25 (3) Hold at least one public hearing on the proposed temporary rule.

26 When the Board adopts a temporary rule pursuant to this subsection, the Board must
27 submit a reference to this subsection as the Board's statement of need to the Codifier of
28 Rules.

29 Notwithstanding any other provision of this Chapter, the Codifier of Rules shall
30 publish in the North Carolina Register a proposed temporary rule received from the
31 Board in accordance with this subsection."

32 **SECTION 2.4.** G.S. 143-151.8(2) reads as rewritten:

- 33 "(2) 'Code' means the North Carolina State Building Code and related local
34 building rules approved by the Building Code Council ~~heretofore or~~
35 ~~hereinafter~~ enacted, adopted or approved ~~pursuant to~~ under G.S.
36 143-138, ~~and~~ any resolution adopted by a federally recognized Indian
37 Tribe under G.S. 153A-350.1 in which the Tribe adopts the North
38 Carolina State Building Code and related local building ~~rules.~~ rules,
39 and the North Carolina Standard for the Installation of
40 Manufactured/Mobile Homes adopted by the Commissioner of
41 Insurance under G.S. 143-146(e)."

42 **SECTION 2.5.** G.S. 143-151.64(a) reads as rewritten:

1 (a) Requirements. – The Board may establish programs of continuing education
2 for licensees under this Article. A licensee subject to a program under this section shall
3 present evidence to the Board upon the license renewal following initial licensure, and
4 every renewal thereafter, that during the 12 months preceding the annual license
5 expiration date the ~~person~~ licensee has completed the required number of classroom
6 hours of instruction in courses approved by the Board. Annual continuing education
7 hour requirements shall be determined by the Board, but shall not be more than 12
8 credit hours. No member of the Board shall provide or sponsor a continuing education
9 course under this section while that person is serving on the Board."

11 **PART III. FIREMEN'S RELIEF FUND TECHNICAL CORRECTION.**

12 **SECTION 3.** G.S. 58-84-46 reads as rewritten:

14 **"§ 58-84-46. Certification to Commissioner.**

15 On or before October 31 of each year the clerk or finance officer of each ~~fire district~~
16 city or county that has a local board of trustees under G.S. 58-84-30 shall file a
17 certificate of eligibility with the Commissioner. The certificate shall contain information
18 prescribed by administrative rule adopted by the Commissioner. If the certificate is not
19 filed with the Commissioner on or before January 31 in the ensuing year:

- 20 (1) The ~~fire district~~ city or county that failed to file the certificate shall
21 forfeit the payment next due to be paid to its board of trustees.
- 22 (2) The Commissioner shall pay over that amount to the treasurer of the
23 North Carolina State Firemen's Association.
- 24 (3) That amount shall constitute a part of the Firemen's Relief Fund."

26 **PART IV. BEACH PLAN LOSS ADJUSTMENT REIMBURSEMENTS.**

27 **SECTION 4.1.** G.S. 58-45-35(e) reads as rewritten:

29 (e) Policies of windstorm and hail insurance provided for in subsection (b) of this
30 section are available only for risks in the beach and coastal areas for which essential
31 property insurance has been written by licensed insurers. Whenever such other essential
32 property insurance written by licensed insurers includes replacement cost coverage, the
33 Association shall also offer replacement cost coverage. In order to be eligible for a
34 policy of windstorm and hail insurance, the applicant shall provide the Association,
35 along with the premium payment for the windstorm and hail insurance, a certificate that
36 the essential property insurance is in force. The policy forms for windstorm and hail
37 insurance shall be filed by the Association with the Commissioner for ~~his~~ the
38 Commissioner's approval before they may be used. Catastrophic losses, as determined
39 by the Association and approved by the Commissioner, that are covered under the
40 windstorm and hail coverage in the beach and coastal areas shall be adjusted by the
41 licensed insurer that issued the essential property insurance and not by the Association.
42 ~~Expenses incurred by the licensed insurer in adjusting windstorm and hail losses shall~~

1 ~~be reimbursed by the Association. The Association shall reimburse the insurer for~~
2 reasonable expenses incurred by the insurer in adjusting windstorm and hail losses."

3 **SECTION 4.2.** 58-45-50 reads as rewritten:

4 "**§ 58-45-50. Appeal from acts of Association to Commissioner; appeal from**
5 **Commissioner to superior court.**

6 (a) Any person or any insurer who may be aggrieved by an act, ~~ruling~~ ruling, or
7 decision of the Association other than an act, ~~ruling~~ ruling, or decision relating to (i) the
8 cause or amount of a claimed ~~loss~~, loss or (ii) the reasonableness of expenses incurred
9 by an insurer in adjusting windstorm and hail losses, may, within 30 days after the
10 ruling, appeal to the Commissioner. Any hearings held by the Commissioner under the
11 appeal shall be in accordance with rules adopted by the Commissioner: Provided,
12 however, the Commissioner is authorized to appoint a member of the Commissioner's
13 staff as deputy commissioner for the purpose of hearing those appeals and a ruling
14 based upon the hearing shall have the same effect as if heard by the Commissioner. All
15 persons or insureds aggrieved by any order or decision of the Commissioner may appeal
16 as is provided in G.S. 58-2-75.

17 (b) No later than 10 days before each hearing, the appellant shall file with the
18 Commissioner or the Commissioner's designated hearing officer and shall serve on the
19 appellee a written statement of the appellant's case and any evidence that the appellant
20 intends to offer at the hearing. No later than five days before the hearing, the appellee
21 shall file with the Commissioner or the designated hearing officer and shall serve on the
22 appellant a written statement of the appellee's case and any evidence that the appellee
23 intends to offer at the hearing. Each hearing shall be recorded and may be transcribed. If
24 the matter is between an insurer and the Association, the cost of the recording and
25 transcribing shall be borne equally by the appellant and appellee; provided that upon
26 any final adjudication the prevailing party shall be reimbursed for his share of such
27 costs by the other party. If the matter is between an insured and the Association, the cost
28 of transcribing shall be borne equally by the appellant and appellee; provided that the
29 Commissioner may order the Association to pay recording or transcribing costs for
30 which the insured is financially unable to pay. Each party shall, on a date determined by
31 the Commissioner or the designated hearing officer, but not sooner than 15 days after
32 delivery of the completed transcript to the party, submit to the Commissioner or the
33 designated hearing officer and serve on the other party, a proposed order. The
34 Commissioner or the designated hearing officer shall then issue an order."

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36 **PART V. EFFECT OF HEADINGS, SEVERABILITY, AND EFFECTIVE DATE.**

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38 **SECTION 5.1.** The headings to the parts of this act are a convenience to the
39 reader and are for reference only. The headings do not expand, limit, or define the text
40 of this act.

41 **SECTION 5.2.** If any section or provision of this act is declared
42 unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the

1 validity of the act as a whole or any part other than the part so declared to be
2 unconstitutional, preempted, or otherwise invalid.

3 **SECTION 5.3.** This act is effective when it becomes law. Sections 1.1, 1.3,
4 1.4, and 1.5 apply to revisions made to the North Carolina State Building Code on or
5 after January 1, 2002.