

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10427-BDfz-13

Short Title: Building Code Regulatory Reform. (Public)

Sponsors: Representatives Brody, Riddell, Cunningham, and Potts (Primary Sponsors).

Referred to:

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

5 The General Assembly of North Carolina enacts:

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

8 "§ 160A-413.5. Alternate inspection method for component or element."

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

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

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

12 SECTION 1.(e) G.S. 160A-413.5, as enacted by Section 1 of this act, reads as  
13 rewritten:

14 "§ 160A-413.5. Alternate inspection method for component or element.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

23 **"§ 143-151.12. Powers.**

24 In addition to powers conferred upon the Board elsewhere in this Article, the Board shall  
25 have the power to:

26 (1) Adopt rules necessary to administer this Article;

27 (1a) Require State agencies, local inspection departments, and local governing  
28 bodies to submit reports and information about the employment, education,  
29 and training of Code-enforcement officials;

30 (2) Establish minimum standards for employment as a Code-enforcement official:  
31 (i) in probationary or temporary status, and (ii) in permanent positions;

32 (3) Certify persons as being qualified under the provisions of this Article to be  
33 Code-enforcement officials, including persons employed by a federally  
34 recognized Indian Tribe to perform inspections on tribal lands under  
35 G.S. 153A-350.1;

36 (4) Consult and cooperate with counties, municipalities, agencies of this State,  
37 other governmental agencies, and with universities, colleges, junior colleges,  
38 community colleges and other institutions concerning the development of  
39 Code-enforcement training schools and programs or courses of instruction;

40 (5) Establish minimum standards and levels of education or equivalent experience  
41 for all Code-enforcement instructors, teachers or professors;

42 (6) Conduct and encourage research by public and private agencies which shall  
43 be designed to improve education and training in the administration of Code  
44 enforcement;

45 (7) Adopt and amend bylaws, consistent with law, for its internal management  
46 and control; appoint such advisory committees as it may deem necessary; and  
47 enter into contracts and do such other things as may be necessary and  
48 incidental to the exercise of its authority pursuant to this Article; and,

49 (8) Make recommendations concerning any matters within its purview pursuant  
50 to this Article.

- 1           (9)    Establish within the Department of Insurance a marketplace pool of qualified  
 2           Code-enforcement officials available for the following purposes:  
 3           a.     When requested by the Insurance Commissioner, to assist in the  
 4           discharge of the Commissioner's duty under G.S. 143-139 to  
 5           supervise, administer, and enforce the North Carolina State Building  
 6           Code.  
 7           b.     When requested by local inspection departments, to assist in Code  
 8           enforcement."

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

10   **"§ 143-139. Enforcement of Building Code.**

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

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

- 27           (1)   ~~in cooperation~~ Cooperate with local officials and local inspectors duly  
 28           appointed by the governing body of any municipality or board of county  
 29           commissioners pursuant to Part 5 of Article 19 of Chapter 160A of the General  
 30           Statutes or Part 4 of Article 18 of Chapter 153A of the General Statutes, or  
 31           any other applicable statutory authority.  
 32           (2)   Timely assign a Code-enforcement official from the marketplace pool  
 33           established under G.S. 143-151.12(9)a. to conduct any inspection required by  
 34           the North Carolina State Building Code pertaining to plumbing, electrical  
 35           systems, general building restrictions and regulations, heating and air  
 36           conditioning, fire protection, or the general construction of buildings when the  
 37           Commissioner receives a written request from a permit holder containing  
 38           sufficient evidence that the permit holder has first requested an inspection by  
 39           the local inspection department and that inspection has not been, or will not  
 40           be, conducted within two business days.

41       ...

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

47       ...."

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

49   **"§ 58-2-40. Powers and duties of Commissioner.**

50       The Commissioner shall:

51       ...

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

5           ...."

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

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

10          "**§ 153A-354. Financial support; support; fee collection, accounting, and use limitation.**

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

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

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

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

24          "**§ 160A-414. Financial support; support; fee collection, accounting, and use limitation.**

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

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

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

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

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

46          **SECTION 5.(a)** Part 4 of Article 18 of Chapter 153A of the General Statutes is  
47 amended by adding a new section to read:

48          "**§ 153A-353.1. Mutual aid contracts.**

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

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

3 **"§ 160A-413.6. Mutual aid contracts.**

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

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

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

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

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

23 **"§ 153A-352. Duties and responsibilities.**

24 ...

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

31 ...

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

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

36 **"§ 160A-412. Duties and responsibilities.**

37 ...

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

44 ...

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

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

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

50 **"§ 143-151.14. Comity.**

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

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

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

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

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

20       "**§ 143-151.13A. Professional development program for officials.**

21       ...

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

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

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

35       (3) An individual who has been on inactive status for two years or less shall  
 36 complete professional development courses not to exceed ~~four~~two hours for  
 37 each technical area in which the individual is certified.

38       ...."

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

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

43       (1) The enforcement of a Code requirement applicable to a certain area or set of  
 44 circumstances in other areas or circumstances not specified in the requirement.

45       (2) For an alternative design or construction method that has been appealed under  
 46 G.S. 143-140.1 and found by the Department of Insurance to comply with the  
 47 Code, to refuse to accept the decision by the Department to allow that  
 48 alternative design or construction method under the conditions or  
 49 circumstances set forth in the Department's decision for that appeal.

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

**SECTION 10.** Except as otherwise provided, this act becomes effective October 1,

14 2018.