

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 948
PROPOSED COMMITTEE SUBSTITUTE H948-PCS40738-BDf-36

Short Title: Building Code Regulatory Reform.

(Public)

Sponsors:

Referred to:

May 17, 2018

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 subsection (a) of this section, reads
13 as 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 approve,~~
16 accept, without further responsibility to inspect, a design or other proposal for a component or
17 element in the construction of buildings from a licensed architect or licensed engineer provided
18 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



* H 9 4 8 - P C S 4 0 7 3 8 - B D F - 3 6 *

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(b) reads as rewritten:

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19 (including local building codes which have superseded the State Building Code in a particular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

- 22 (1) Cooperate with local officials and local inspectors duly appointed by the
23 governing body of any municipality or board of county commissioners
24 pursuant to Part 5 of Article 19 of Chapter 160A of the General Statutes or
25 Part 4 of Article 18 of Chapter 153A of the General Statutes, or any other
26 applicable statutory authority.
27 (2) In accordance with G.S. 143-139.4, timely assign a Code-enforcement official
28 from the marketplace pool established under G.S. 143-151.12(9)a. to conduct
29 any plumbing, electrical systems, general building restrictions and
30 regulations, heating and air conditioning, fire protection, or general
31 construction inspection required by the North Carolina State Building Code."

32 **SECTION 2.(c)** Article 9 of Chapter 143 of the General Statutes is amended by
33 adding a new section to read:

34 "**§ 143-139.4. Certain building inspections by State.**

35 (a) When a permit holder had been informed by a local inspection department that any
36 inspection has not been, or will not be, conducted within two business days after first requested,
37 the permit holder may request in writing that the Commissioner assign personnel to conduct the
38 inspection.

39 (b) Any written request by a permit holder to the Commissioner to assign personnel to
40 conduct an inspection shall be submitted to the Commissioner, and such submission may be made
41 electronically or by facsimile. The submission shall be on a form adopted by the Commissioner,
42 which shall at a minimum contain all of the following:

- 43 (1) The permit holder's name and contact information and, if the requestor is
44 someone other than the permit holder, the name and contact information of
45 the requestor.
46 (2) A copy of the building permit for the property to be inspected.
47 (3) Documentation of the date and time of the initial request to the local inspection
48 department. Documentation shall include the type of inspection requested, the
49 address of the property to be inspected, and the individual or individuals to
50 whom this information and inspection request was directed, and the name of
51 the requestor.

1 (4) Documentation as to whether the local inspection department informed the
2 requestor that the local inspection department would be unable to conduct the
3 inspection within two business days, if applicable.

4 (5) Documentation as to whether the local inspection department has failed to
5 conduct the requested inspection within two business days of the initial
6 request to the local inspection department.

7 (c) Local inspection departments shall maintain a record of each inspection request. The
8 record shall include the date and time the request is received, the type of inspection requested,
9 the address of the property to be inspected, the person to whom the request was directed, and the
10 name of the requestor if the requestor is someone other than the permit holder. A local inspection
11 department may, upon receipt of an inspection request, inform the requestor that it will be unable
12 to conduct the inspection within the next two business days and such information shall be noted
13 in the record.

14 (d) Inspection requests received after 12:00 noon shall be deemed to have been received
15 on the next business day.

16 (e) Prior to making any assignment of Code-enforcement officials from the marketplace
17 pool established under G.S. 143-151.12(9)a., the Commissioner shall verify all of the following
18 to the Commissioner's satisfaction:

19 (1) That the permit holder desires the inspection to be completed.

20 (2) That the local inspection department received an inspection request for the
21 property.

22 (3) That the inspection has not yet been conducted and the reasons for the failure
23 to conduct the inspection.

24 (4) Any other information the Commissioner deems relevant to determining
25 whether to assign personnel to conduct the requested inspection.

26 (f) If the Commissioner assigns a Code-enforcement official from the marketplace pool
27 established under G.S. 143-151.12(9)a. to conduct the requested inspection, the Commissioner
28 shall notify the local inspection department and the local inspection department shall, prior to the
29 inspection, provide the Commissioner with information regarding any outstanding building
30 permits and previously conducted inspections on those outstanding building permits for that
31 property. The local inspection department may also provide the Commissioner with information
32 regarding other properties with outstanding building permits and inspections by the same permit
33 holder or requestor.

34 (g) The Commissioner shall provide a copy of the report of any inspection conducted by
35 a marketplace pool Code-enforcement official under G.S. 143-151.12(9)a. to the local inspection
36 department.

37 (h) For the requested services performed by a Code-enforcement official under this
38 section, the Commissioner shall charge the permit holder a fee as set by the Commissioner under
39 G.S. 58-2-40(1a). The fee shall be paid to the Commissioner no later than 30 days after
40 completion of the requested inspection.

41 (i) Any claim alleging negligence by a Code-enforcement official from the marketplace
42 pool established under G.S. 143-151.12(9)a. arising out of and in the course of the duty to
43 conduct an inspection under this section shall constitute a claim against this State and shall be
44 brought under and adjudicated according to and in compliance with the terms of Article 31 of
45 Chapter 143 of the General Statutes.

46 (j) Notwithstanding its issuance of a certificate of occupancy, a city or county, its
47 inspection department, and its inspectors shall be discharged and released from any liabilities,
48 duties, and responsibilities imposed under the General Statutes or in common law from any claim
49 arising out of or attributed to any inspection performed pursuant to this section by a marketplace
50 pool Code-enforcement official under G.S. 143-151.12(9)a.

51 (k) As used in this section, the following terms mean:

- 1 (1) Inspection. – An inspection required by the North Carolina State Building
 2 Code in any of the following categories:
 3 a. Plumbing.
 4 b. Electrical systems.
 5 c. General building restrictions and regulations.
 6 d. Heating and air conditioning.
 7 e. Fire protection.
 8 f. General construction inspection.
 9 (2) Local inspection department. – Any county, city, or joint agency performing
 10 State Building Code Inspections under Article 18 of Chapter 153A of the
 11 General Statutes or Article 19 of Chapter 160A of the General Statutes.
 12 (3) Requestor. – The permit holder, or an individual acting on behalf of the permit
 13 holder, who made an initial request for an inspection to a local inspection
 14 department."

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

16 "**§ 58-2-40. Powers and duties of Commissioner.**

17 The Commissioner shall:

18 ...

- 19 (1a) Have the power and authority to fix and collect reasonable fees for services
 20 performed by Code-enforcement officials under G.S. 143-151.12(9)a. The
 21 Commissioner may also collect reimbursement, at the rate established under
 22 G.S. 138-6, for mileage costs incurred by Code-enforcement officials going
 23 to and from inspections conducted under G.S. 143-151.12(9)a. The
 24 Commissioner shall have no power or authority to fix or collect fees incurred
 25 by local inspection departments under G.S. 143-151.12(9)b..

26 "

27 **SECTION 2.(e)** This section becomes effective August 1, 2018. The Commissioner
 28 of Insurance shall adopt temporary rules to implement this section. The Commissioner of
 29 Insurance shall adopt permanent rules to implement this section no later than August 1, 2019.
 30 Until the Commissioner of Insurance adopts permanent rules, the Commissioner may charge a
 31 fee not to exceed thirty dollars (\$30.00) per hour for inspections requested by a permit holder
 32 under G.S. 143-139.4 as enacted by this section. No temporary or permanent rule adopted by the
 33 Commissioner pursuant to this section shall authorize the Commissioner to include the travel
 34 time of a Code-enforcement official going to and from an inspection conducted under
 35 G.S. 143-151.12(9)a. in the hourly rate calculation.

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

37 "**§ 153A-354. Financial ~~support~~; support; fee collection, accounting, and use limitation.**

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

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

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

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

51 "**§ 160A-414. Financial ~~support~~; support; fee collection, accounting, and use limitation.**

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

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

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

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

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

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

24 "**§ 153A-353.1. Mutual aid contracts.**

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

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

29 "**§ 160A-413.6. Mutual aid contracts.**

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

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

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

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

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

49 "**§ 153A-352. Duties and responsibilities.**

50 ...

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

7 ...

8 (g) If a specific building framing inspection as required by the North Carolina Residential
9 Code for One- and Two-Family Dwellings results in 20 or more separate violations of that Code,
10 the inspector shall forward a copy of the inspection report to the Department of Insurance."

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

12 "**§ 160A-412. Duties and responsibilities.**

13 ...

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

20 ...

21 (g) If a specific building framing inspection as required by the North Carolina Residential
22 Code for One- and Two-Family Dwellings results in 20 or more separate violations of that Code,
23 the inspector shall forward a copy of the inspection report to the Department of Insurance."

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

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

26 "**§ 143-151.14. Comity.**

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

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

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

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

45 **SECTION 8.** G.S. 143-151.13A(d) reads as rewritten:

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

49 (1) An individual who has been on inactive status for more than two years and
50 who has not been continuously employed by a city or county inspection
51 department during the period of inactive status shall complete professional

1 development courses not to exceed ~~12~~six hours for each technical area in
2 which the individual is certified.

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

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

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

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

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

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

22 (3) For an alternative construction method currently included in the Building
23 Code, to refuse to allow the alternative method under the conditions or
24 circumstances set forth in the Code for that alternative method.

25 (4) The enforcement of a requirement that is more stringent than or otherwise
26 exceeds the Code requirement.

27 (5) To refuse to implement or adhere to an interpretation of the Building Code
28 issued by the Building Code Council or the Department of Insurance.

29 (6) The habitual failure to provide requested inspections in a timely manner.

30 (7) Enforcement of a Code official's preference in the method or manner of
31 installation of heating ventilation and air-conditioning units, appliances, or
32 equipment that is not required by the State Building Code and is in
33 contradiction of a manufacturer's installation instructions or specifications."

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

35 2018.