

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 95

Short Title: Building Code Changes.

(Public)

Sponsors: Representatives Ives; Aldridge, Alexander, Allred, Bonner, Cansler, Capps, Davis, Easterling, Hall, McComas, Mitchell, Morris, Mosley, Rayfield, Sexton, Sherrill, Shubert, Smith, and Yongue.

Referred to: State Government, if favorable, Commerce Subcommittee on Business and Labor.

February 11, 1997

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH A THREE-YEAR CYCLE FOR BUILDING CODE
2 AMENDMENTS BEGINNING IN 1999 AND TO MAKE RELATED CHANGES
3 CONCERNING THE ADMINISTRATION AND ENFORCEMENT OF THE
4 STATE BUILDING CODE.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 143-138(a) reads as rewritten:

8 "(a) Preparation and Adoption. – The Building Code Council is hereby empowered
9 to prepare and adopt, in accordance with the provisions of this Article, a North Carolina
10 State Building Code. Prior to the adoption of this Code, or any part thereof, the Council
11 shall hold at least one public hearing. A notice of such public hearing shall be given once
12 a week for two successive calendar weeks in a newspaper published in Raleigh, said
13 notice to be published the first time not less than 15 days prior to the date fixed for said
14 hearing. The Council may hold such other public hearings and give such other notice as it
15 may deem necessary.

16 The Council shall request the Office of State Budget and Management to prepare a
17 fiscal note for a proposed Code change that has a substantial economic impact, as defined

1 in G.S. 150B-21.4(b1). The Council shall not take final action on a proposed Code
2 change that has a substantial economic impact until at least 60 days after the fiscal note
3 has been prepared. The change can become effective only in accordance with G.S. 143-
4 138(d)."

5 Section 2. G.S. 143-138(c) reads as rewritten:

6 "(c) Standards to Be Followed in Adopting the Code. – All regulations contained in
7 the North Carolina State Building Code shall have a reasonable and substantial
8 connection with the public health, safety, morals, or general welfare, and their provisions
9 shall be construed ~~liberally~~ reasonably to those ends. Requirements of the Code shall
10 conform to good engineering ~~practice, as evidenced generally by the practice.~~ The Council
11 may use as guidance, but is not required to adopt, the requirements of the National
12 Building Code of the American Insurance Association, formerly the National Board of
13 Fire Underwriters, the Southern Standard Building Code of the Southern Building Code
14 Congress, the Uniform Building Code of the Pacific Coast Building Officials Conference,
15 the Basic Building Code of the Building Officials Conference of America, Inc., the
16 National Electric Code, the Life Safety Code and Fire Prevention Code of the National
17 Fire Protection Association, the American Standard Safety Code for Elevators,
18 Dumbwaiters, and Escalators, the Boiler Code of the American Society of Mechanical
19 Engineers, Standards of the American Insurance Association for the Installation of Gas
20 Piping and Gas Appliances in Buildings, and standards promulgated by the United States
21 of America Standards Institute, formerly the American Standards Association,
22 Underwriters' Laboratories, Inc., and similar national agencies engaged in research
23 concerning strength of materials, safe design, and other factors bearing upon health and
24 safety."

25 Section 3. G.S. 143-138(d) reads as rewritten:

26 "(d) Amendments of the Code. – The Building Code Council may ~~from time to time~~
27 revise and amend the North Carolina State Building Code, either on its own motion or
28 upon application from any citizen, State agency, or political subdivision of the State. In
29 adopting any amendment, the Council shall comply with the same procedural
30 requirements and the same standards set forth above for adoption of the Code. Code
31 revisions and amendments adopted by the Building Code Council on or after September
32 1, 1997, but prior to July 1, 1998, shall become effective January 1, 1999. Code revisions
33 and amendments adopted by the Building Code Council on or after July 1, 1998, shall
34 become effective January 1, 2002, or each third anniversary thereafter. A revision or
35 amendment may be made effective on an earlier date if determined by the Building Code
36 Council to be necessary to address an imminent threat to the public's health, safety, or
37 welfare.

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

42 Section 4. G.S. 143-137 reads as rewritten:

43 "**§ 143-137. Organization of Council; rules; meetings; staff; fiscal affairs.**

1 (a) First Meeting; Organization; Rules. – Within 30 days after its appointment, the
2 Building Code Council shall meet on call of the Commissioner of Insurance. The
3 Council shall elect from its appointive members a chairman and such other officers as it
4 may choose, for such terms as it may designate in its rules. The Council shall adopt such
5 rules not inconsistent herewith as it may deem necessary for the proper discharge of its
6 duties. The chairman may appoint members to such committees as the work of the
7 Council may require. In addition, the chairman shall establish and appoint ad hoc code
8 revision committees to consider and prepare revisions and amendments to the Code
9 volumes. Each ad hoc committee shall consist of members of the Council, licensed
10 contractors, and design professionals most affected by the Code volume for which the ad
11 hoc committee is responsible, and members of the public. The subcommittees shall meet
12 upon the call of their respective chairs and shall report their recommendations to the
13 Council.

14 (b) Meetings. – The Council shall meet regularly, at least once every six months,
15 at places and dates to be determined by the Council. Special meetings may be called by
16 the chairman on his own initiative and must be called by him at the request of two or
17 more members of the Council. All members shall be notified by the chairman in writing
18 of the time and place of regular and special meetings at least seven days in advance of
19 such meeting. Seven members shall constitute a quorum. All meetings shall be open to
20 the public.

21 (c) Staff. – Personnel of the Division of Engineering of the Department of
22 Insurance shall serve as a staff for the Council. Such staff shall have the duties of

23 (1) Keeping an accurate and complete record of all meetings, hearings,
24 correspondence, laboratory studies, and technical work performed by or
25 for the Council, and making these records available for public
26 inspection at all reasonable times;

27 (2) Handling correspondence for the Council.

28 (d) Fiscal Affairs of the Council. – All funds for the operations of the Council and
29 its staff shall be appropriated to the Department of Insurance for the use of the Council.
30 All such funds shall be held in a separate or special account on the books of the
31 Department of Insurance, with a separate financial designation or code number to be
32 assigned by the Department of Administration or its agent. Expenditures for staff salaries
33 and operating expenses shall be made in the same manner as the expenditure of any other
34 Department of Insurance funds. The Department of Insurance may hire such additional
35 personnel as may be necessary to handle the work of the Building Code Council, within
36 the limits of funds appropriated for the Council and with the approval of the Council."

37 Section 5. G.S. 143-138(e) reads as rewritten:

38 "(e) Effect upon Local Codes. – The North Carolina State Building Code shall
39 apply throughout the State, from the time of its adoption. However, any political
40 subdivision of the State may adopt ~~a building code or building rules and regulations~~
41 ~~governing construction or a fire prevention code~~ within its jurisdiction. The territorial
42 jurisdiction of any municipality or county for this purpose, unless otherwise specified by
43 the General Assembly, shall be as follows: Municipal jurisdiction shall include all areas

1 within the corporate limits of the municipality and extraterritorial jurisdiction areas
2 established as provided in G.S. 160A-360 or a local act; county jurisdiction shall include
3 all other areas of the county. No such code or regulations, other than those permitted by
4 G.S. 160A-436, shall be effective until they have been officially approved by the
5 Building Code Council as providing adequate minimum standards to preserve and protect
6 health and safety, in accordance with the provisions of subsection (c) above. ~~While it~~
7 ~~remains effective, such approval shall be taken as conclusive evidence that a local code or local~~
8 ~~regulations supersede the State Building Code in its particular political subdivision. Whenever~~
9 ~~the Building Code Council adopts an amendment to the State Building Code, it shall consider~~
10 ~~any previously approved local regulations dealing with the same general matters, and it shall~~
11 ~~have authority to withdraw its approval of any such local code or regulations unless the local~~
12 ~~governing body makes such appropriate amendments to that local code or regulations as it may~~
13 ~~direct.~~—In the absence of approval by the Building Code Council, or in the event that
14 approval is withdrawn, local codes and regulations shall have no force and effect.
15 Provided any local regulations approved by the local governing body which are found by
16 the Council to be more stringent than the adopted statewide fire prevention code and
17 which are found to regulate only activities and conditions in buildings, structures, and
18 premises that pose dangers of fire, explosion or related hazards, and are not matters in
19 conflict with the State Building Code, shall be approved. Local governments may enforce
20 the fire prevention code of the State Building Code using civil remedies authorized under
21 G.S. 143-139, 153A-123, and 160A-175. If the Commissioner of Insurance or other State
22 official with responsibility for enforcement of the Code institutes a civil action pursuant
23 to G.S. 143-139, a local government may not institute a civil action under G.S. 143-139,
24 153A-123, or 160A-175 based upon the same violation. Appeals from the assessment or
25 imposition of such civil remedies shall be as provided in G.S. 160A-434."

26 Section 6. Article 9 of Chapter 143 of the General Statutes is amended by
27 adding the following new section:

28 "**§ 143-138.1. Introduction and instruction of the North Carolina Building Code.**

29 Prior to the effective date of Code changes each three years pursuant to G.S. 143-138,
30 the State Building Code Council and Department of Insurance shall provide for
31 instructional classes for the various trades affected by the Code. The Department of
32 Insurance shall develop the curriculum for each class but shall consult the affected
33 licensing boards and trade organizations. The curriculum shall include explanations of
34 the rationale and need for each Code amendment or revision. Classes may also be
35 conducted by, on behalf of, or in cooperation with licensing boards, trade associations,
36 and professional societies. The Department of Insurance may charge fees sufficient to
37 recover the costs it incurs under this section. The Council shall ensure that courses are
38 accessible to persons throughout the State."

39 Section 7. G.S. 143-141(b) reads as rewritten:

40 "(b) Interpretations of the Code. – The Building Code Council shall have the duty,
41 in hearing appeals, to give interpretations of such provisions of the Building Code as
42 shall be pertinent to the matter at issue. Where the Council finds that an enforcement
43 agency was in error in its interpretation of the Code, it shall remand the case to the

1 agency with instructions to take such action as it directs. Interpretations by the Council
2 and local enforcement officials shall be based on a reasonable construction of the Code
3 provisions."

4 Section 8. This act is effective when it becomes law.