

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

FILED SENATE
Apr 3, 2019
S.B. 638
PRINCIPAL CLERK

S

D

SENATE BILL DRS35240-BG-6A

Short Title: DOA/DOI Auth. Clar. for State-Owned Build. (Public)

Sponsors: Senators Edwards, Sawyer, and Horner (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE AUTHORITY OF THE DEPARTMENT OF INSURANCE AND
3 THE DEPARTMENT OF ADMINISTRATION TO INSPECT STATE-OWNED
4 BUILDINGS AND PROPERTIES, AND TO REQUIRE FIRE PROTECTION
5 INSPECTIONS BY THE DEPARTMENT OF INSURANCE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 58-31-13 reads as rewritten:
8 **"§ 58-31-13. Hazardous conditions in State-owned buildings.**

9 If the Commissioner determines that an undue hazard to life, safety, or property exists
10 because of a defect, condition or the use of a building owned by the State, the Commissioner
11 shall provide notification of the defect or condition in writing to the proper agency and to advise
12 the proper agency how to limit or prohibit use of the building until the hazard is abated. If the
13 Commissioner determines that an imminent undue hazard to life, safety, or property exists
14 because of a defect, condition, or the use of a building owned by the State, the Commissioner
15 may: (i) restrain, correct, or abate the violation or (ii) prevent the occupancy or use of the
16 building, structure, or land until the violation is corrected."

17 **SECTION 2.** G.S. 58-31-40 reads as rewritten:
18 **"§ 58-31-40. Commissioner to inspect-conduct fire protection inspections and plan review**
19 **for State property.**

20 (a) The Commissioner shall, as often as is required in the fire code adopted by the North
21 Carolina Building Code Council or more often if the Commissioner considers it necessary, visit,
22 inspect, and thoroughly examine every State property to analyze and determine its protection
23 from fire, including the property's occupants or contents. The Commissioner shall notify in
24 writing the agency or official in charge of the property-property, pursuant to the procedures under
25 G.S. 143-39(e1), of any ~~defect~~-defect, condition, or the use noted by the Commissioner or any
26 improvement considered by the Commissioner to be necessary, and a copy of that notice shall be
27 forwarded by the Commissioner to the Department of Administration. If the Commissioner
28 determines that an imminent undue hazard to life, safety, or property exists because of a defect,
29 condition, or the use of a building owned by the State, the Commissioner may: (i) restrain,
30 correct, or abate the violation or (ii) prevent the occupancy or use of the building, structure, or
31 land until the violation is corrected.

32 (b) No agency or other person authorized or directed by law to select a plan and erect a
33 building for the use of the State shall approve of the plan until it is submitted to and approved by
34 the Commissioner as to the safety of the proposed building from fire, including the property's
35 occupants or contents. No agency or person authorized or directed by law to select a plan or erect
36 a building comprising 20,000 square feet or more for the use of any county, city, or school district



1 shall receive and approve of the plan until it is submitted to and approved by the Commissioner
2 as to the safety of the proposed building from fire, including the property's occupants or
3 contents."

4 **SECTION 3.** G.S. 143-139 reads as rewritten:

5 **"§ 143-139. Enforcement of Building Code.**

6 ...

7 (e) State Buildings. – With respect to State buildings, the Department of Administration
8 shall have general supervision, through the Office of State Construction, of the administration
9 and enforcement of all sections of the North Carolina State Building Code pertaining to
10 plumbing, electrical systems, general building restrictions and regulations, heating and air
11 conditioning, ~~fire protection~~, and the construction of buildings generally, except those sections
12 of the Code the enforcement of which is specifically allocated to other agencies by subsections
13 ~~(e)~~ and ~~(d)~~ (c), (d), and (e1) of this section, and shall also exercise all remedies as provided in
14 subsection (b1) of this section. The Department of Administration shall be the only agency with
15 the authority to seek remedies pursuant to this section with respect to State buildings. Except as
16 provided herein, nothing in this subsection shall be construed to abrogate the authority of the
17 Commissioner of Insurance under subsection (e1) of this section, ~~G.S. 58-31-40~~ G.S. 58-31-13,
18 G.S. 58-31-40, or any other provision of law.

19 (e1) Fire Protection of State Buildings and Properties. – The State Commissioner of
20 Insurance shall have general authority to supervise, administer, and enforce all sections of the
21 North Carolina State Building Code pertaining to fire protection during the construction or
22 renovation of State property generally, and to review and approve plans pursuant to
23 G.S. 58-31-40, except those sections of the Code, the enforcement of which is specifically
24 allocated to other agencies by subsections (c) and (d) of this section.

25 (1) The State Commissioner of Insurance shall notify in writing the Department
26 of Administration of any defect or condition noted by the Commissioner or
27 any improvement considered by the Commissioner to be necessary to comply
28 with the sections of the North Carolina State Building Code pertaining to fire
29 protection.

30 (2) The Department of Administration, within 30 days of receipt of a notification
31 issued pursuant to subdivision (1) of this subsection, shall respond to the State
32 Commissioner of Insurance to indicate that any defect or condition noted by
33 the State Commissioner or any improvement considered by the State
34 Commissioner to be necessary has been addressed or completed, or to indicate
35 that the Department of Administration intends to work with the Commissioner
36 to formulate and implement a plan to address the defect or condition. Upon a
37 failure to respond to the State Commissioner of Insurance as required by this
38 subdivision, the Commissioner may institute any appropriate action pursuant
39 to subdivision (4) of this subsection.

40 (3) Notwithstanding subdivision (2) of this subsection, if the State Commissioner
41 of Insurance determines the defect or condition noted pursuant to subdivision
42 (1) of this subsection results in an imminent undue hazard to life, safety, or
43 property because of a defect, condition, or the use of a building or property
44 owned by the State, the Commissioner may institute any appropriate action
45 pursuant to subdivision (4) of this subsection.

46 (4) The State Commissioner of Insurance is authorized to exercise any of the
47 following remedies pursuant to this subsection: (i) prevent the unlawful
48 maintenance, erection, construction, reconstruction, or alteration of purpose,
49 (ii) restrain, correct, or abate the violation, or (iii) prevent the occupancy or
50 use of the building, structure, or land until the violation is corrected."

51 **SECTION 4.** G.S. 143-340 reads as rewritten:

1 "§ 143-340. Powers and duties of Secretary.

2 The Secretary of Administration has the following powers and duties:

3 ...

- 4 (20) To use at all times such means as, in ~~his~~ the Secretary's opinion, may be
5 effective in protecting all public buildings and grounds from fire. For the
6 purposes of this subdivision, the Secretary shall consult with and cooperate
7 with the State Commissioner of Insurance with regard to fire protection means
8 for buildings and properties owned by the State.

9"

10 **SECTION 5.** G.S. 143-341 reads as rewritten:

11 "§ 143-341. Powers and duties of Department.

12 The Department of Administration has the following powers and duties:

13 ...

- 14 (3) Architecture and Engineering:

15 a. To examine and approve all plans and specifications for the
16 construction or renovation ~~of~~ of all of the following:

- 17 1. All State buildings or buildings located on State lands, except
18 as provided for in G.S. 58-31-40(b), or those buildings over
19 which a local building code inspection department has and
20 exercises jurisdiction; and jurisdiction.

- 21 2. All community college buildings requiring the estimated
22 expenditure for construction or repair work for which public
23 bidding is required under G.S. 143-129 prior to the awarding
24 of a contract for such work; and to examine and approve all
25 changes in those plans and specifications made after the
26 contract for such work has been awarded.

27 ...

- 28 d. To supervise and inspect all work done and materials used in the
29 construction or renovation of all State ~~buildings~~ buildings, except as
30 provided for in G.S. 143-139(e1), and all community college buildings
31 whose plans and specifications must be examined and approved under
32 a.2. of this subdivision; to act as the appropriate official inspector or
33 inspection department for purposes of G.S. 143-143.2; and no such
34 work may be accepted by the State or by any State agency until it has
35 been approved by the ~~Department~~ Department and the State
36 Commissioner of Insurance for the purposes of fire protection for
37 buildings and properties owned by the State pursuant to
38 G.S. 143-139(e1).

39"

40 **SECTION 6.** G.S. 143-345.11 reads as rewritten:

41 "§ 143-345.11. Secretary's approval of plans for State buildings required.

42 (a) No agency or other person authorized or directed by law to select a plan and erect a
43 building for the use of the State or any State institution shall receive and approve of the plan until
44 it is submitted to and approved by the Secretary as to State construction ~~standards~~ standards and
45 to the State Commissioner of Insurance, pursuant to G.S. 58-31-40(b), for the purposes of fire
46 protection and at a minimum as to the safety of the proposed building from fire, including the
47 property's occupants or contents.

48 (b) Any plan submitted to the Commissioner of Insurance and approved prior to October
49 1, 2009 shall be deemed to have been approved jointly by the Commissioner of Insurance and
50 the Secretary.

1 (c) Except as provided in subsection (a) of this section, nothing in this section shall be
2 construed to abrogate the authority of the Commissioner of Insurance under ~~G.S. 58-31-40~~
3 G.S. 58-31-13, 58-31-40, 143-139(e1), or any other provision of law.

4 (d) The Secretary shall provide quarterly written reports on plans reviewed and approved
5 under this section to the Commissioner of Insurance. The reports shall be made in a form
6 approved by the Commissioner of Insurance and the Secretary."

7 **SECTION 7.** This act is effective when it becomes law.