

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 853
Committee Substitute Favorable 5/11/21
Committee Substitute #2 Favorable 8/19/21
Committee Substitute #3 Favorable 8/25/21

Short Title: Plan Review & Cert. of Occup. Scope Changes.

(Public)

Sponsors:

Referred to:

May 5, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO LIMIT THE SCOPE OF REQUIREMENTS FOR CERTIFICATES OF
3 OCCUPANCY FOR COMMERCIAL BUILDINGS, TO CLARIFY PROCEDURES FOR
4 ADMINISTRATIVE REVIEW BY LOCAL GOVERNMENTS OF APPLICATIONS FOR
5 DEVELOPMENT APPROVALS, AND TO APPROPRIATE FUNDS TO THE NORTH
6 CAROLINA BUILDING CODE COUNCIL TO CONDUCT CERTAIN COST-BENEFIT
7 ANALYSES.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 160D-403(g) reads as rewritten:

10 "(g) Certificate of Occupancy. –

11 (1) A local government may, upon completion of work or activity undertaken
12 pursuant to a development approval, make final inspections and issue a
13 certificate of compliance or occupancy if staff finds that the completed work
14 complies with all applicable State and local laws and with the terms of the
15 approval. No building, structure, or use of land that is subject to a building
16 permit required by Article 11 of this Chapter shall be occupied or used until a
17 certificate of occupancy or temporary certificate pursuant to G.S. 160D-1116
18 has been issued.

19 (2) When plans for commercial buildings are submitted under the seal of any
20 design professional licensed under Chapter 83A, 89A, or 89C of the General
21 Statutes and those plans are reviewed by the local government with
22 development approval authority or, if authorized by statute, by a private
23 engineering or architectural firm under contract with that local government to
24 review commercial plans, that local government shall not condition the
25 issuance of a certificate of occupancy on the imposition of any additional
26 requirement unless that additional requirement is required by an applicable
27 code. For purposes of this subdivision, "applicable code" has the same
28 meaning as in G.S. 160D-931."

29 **SECTION 2.** Article 4 of Chapter 160D of the General Statutes is amended by
30 adding a new section to read:

31 "**§ 160D-402.1. Administrative review of applications for development approvals.**

32 (a) Within 30 days of a local government's receipt of an application for development
33 approval, the local government shall complete an administrative review of the application and
34 any supporting documents and make an administrative decision that does one of the following:



- 1 (1) Notifies the developer in writing that the application is complete and no
2 further information is required for the local government to make a
3 development approval determination.
- 4 (2) Notifies the developer in writing that the application is deficient and provides
5 the developer with a deficiency list, in writing, that identifies all of the
6 following:
- 7 a. Each deficiency.
- 8 b. The specific law, ordinance, policy, or procedure used as the basis for
9 each deficiency.
- 10 c. A description of the action the local government would deem
11 corrective for each deficiency identified.
- 12 (b) The notice under subdivision (2) of subsection (a) of this section may include local
13 government recommendations pertaining to the development project but any recommendations
14 must be clearly designated as recommended or advisory only and shall not be required as a
15 condition for a development approval determination.
- 16 (c) Upon a developer's receipt of a notice of a deficient application and a deficiency list
17 under subdivision (2) of subsection (a) of this section, the developer may do any of the following:
- 18 (1) Correct the deficient application and resubmit a corrected application to the
19 local government.
- 20 (2) Submit a written explanation for each deficiency and request another
21 administrative review under this section that shall be completed by the local
22 government within 10 business days and takes into consideration the written
23 explanation.
- 24 (3) Appeal the administrative decision as provided in G.S. 160D-405.
- 25 (d) Within 10 business days of a local government's receipt of a corrected application
26 under subdivision (1) of subsection (c) of this section, the local government shall notify the
27 developer in writing whether the application (i) is complete and no further information is required
28 for the local government to make a development approval determination or (ii) does not correct
29 all the deficiencies identified in accordance with subdivision (2) of subsection (a) of this section.
30 If the developer amended or altered the application with respect to matters that are unrelated to
31 the deficiencies identified in accordance with subdivision (2) of subsection (a) of this section, the
32 local government shall consider the corrected application a new application to be processed in
33 accordance with subsection (a) of this section."

34 **SECTION 3.** If G.S. 143-138, as amended by Section 2 of House Bill 489 of the
35 2021 Regular Session of the General Assembly, becomes law, there is appropriated from the
36 General Fund of the State to the North Carolina Building Code Council the sum of twenty
37 thousand dollars (\$20,000) in nonrecurring funds for the 2021-2022 fiscal year to be used by the
38 North Carolina Building Code Council to implement the provisions of that section.

39 **SECTION 4.** Sections 1 and 2 of this act become effective January 1, 2022, and
40 apply to applications for development approvals submitted on or after that date. The remainder
41 of this act is effective when it becomes law.