

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-26
HOUSE BILL 95

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

The General Assembly of North Carolina enacts:

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

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

The Council shall request the Office of State Budget and Management to prepare a fiscal note for a proposed Code change that has a substantial economic impact, as defined in G.S. 150B-21.4(b1). The Council shall not take final action on a proposed Code change that has a substantial economic impact until at least 60 days after the fiscal note has been prepared. The change can become effective only in accordance with G.S. 143-138(d)."

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

"(c) Standards to Be Followed in Adopting the Code. – All regulations contained in the North Carolina State Building Code shall have a reasonable and substantial connection with the public health, safety, morals, or general welfare, and their provisions shall be construed ~~liberally~~ reasonably to those ends. Requirements of the Code shall conform to good engineering ~~practice, as evidenced generally by the practice.~~ The Council may use as guidance, but is not required to adopt, the requirements of the National Building Code of the American Insurance Association, formerly the National Board of Fire Underwriters, the Southern Standard Building Code of the Southern Building Code Congress, the Uniform Building Code of the Pacific Coast Building Officials Conference, the Basic Building Code of the Building Officials Conference of America, Inc., the National Electric Code, the Life Safety Code and Fire Prevention Code of the National Fire Protection Association, the American Standard

Safety Code for Elevators, Dumbwaiters, and Escalators, the Boiler Code of the American Society of Mechanical Engineers, Standards of the American Insurance Association for the Installation of Gas Piping and Gas Appliances in Buildings, and standards promulgated by the United States of America Standards Institute, formerly the American Standards Association, Underwriters' Laboratories, Inc., and similar national agencies engaged in research concerning strength of materials, safe design, and other factors bearing upon health and safety."

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

"(d) Amendments of the Code. – The Building Code Council may ~~from time to time~~ revise and amend the North Carolina State Building Code, either on its own motion or upon application from any citizen, State agency, or political subdivision of the State. In adopting any amendment, the Council shall comply with the same procedural requirements and the same standards set forth above for adoption of the Code. Code revisions and amendments adopted by the Building Code Council on or after September 1, 1997, but prior to July 1, 1998, shall become effective January 1, 1999. Code revisions and amendments adopted by the Building Code Council on or after July 1, 1998, but prior to July 1, 2001, shall become effective January 1, 2002. All future revisions and amendments shall be adopted prior to July 1 every three years after July 1, 2001, to become effective the first day of January of the following year. A revision or amendment may be made effective on an earlier date if determined by the Building Code Council to be necessary to address an imminent threat to the public's health, safety, or welfare.

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

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

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

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

(b) Meetings. – The Council shall meet regularly, at least once every six months, at places and dates to be determined by the Council. Special meetings may be called by the chairman on his own initiative and must be called by him at the request of two or

more members of the Council. All members shall be notified by the chairman in writing of the time and place of regular and special meetings at least seven days in advance of such meeting. Seven members shall constitute a quorum. All meetings shall be open to the public.

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

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

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

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

"(e) Effect upon Local Codes. – The North Carolina State Building Code shall apply throughout the State, from the time of its adoption. However, any political subdivision of the State may adopt ~~a building code or building rules and regulations governing construction or a fire prevention code~~ within its jurisdiction. The territorial jurisdiction of any municipality or county for this purpose, unless otherwise specified by the General Assembly, shall be as follows: Municipal jurisdiction shall include all areas within the corporate limits of the municipality and extraterritorial jurisdiction areas established as provided in G.S. 160A-360 or a local act; county jurisdiction shall include all other areas of the county. No such code or regulations, other than those permitted by G.S. 160A-436, shall be effective until they have been officially approved by the Building Code Council as providing adequate minimum standards to preserve and protect health and safety, in accordance with the provisions of subsection (c) above. ~~While it remains effective, such approval shall be taken as conclusive evidence that a local code or local regulations supersede the State Building Code in its particular political subdivision. Whenever the Building Code Council adopts an amendment to the State Building Code, it shall consider any previously approved local regulations dealing with the same general matters, and it shall have authority to withdraw its approval of any such local code or regulations unless the local governing body makes such appropriate amendments to that local code or regulations as it may direct.~~ In the absence of approval by the Building Code Council, or in the event that approval is withdrawn, local codes and regulations shall have no force and effect. Provided any local regulations approved by the local governing body which are found by the Council

to be more stringent than the adopted statewide fire prevention code and which are found to regulate only activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion or related hazards, and are not matters in conflict with the State Building Code, shall be approved. Local governments may enforce the fire prevention code of the State Building Code using civil remedies authorized under G.S. 143-139, 153A-123, and 160A-175. If the Commissioner of Insurance or other State official with responsibility for enforcement of the Code institutes a civil action pursuant to G.S. 143-139, a local government may not institute a civil action under G.S. 143-139, 153A-123, or 160A-175 based upon the same violation. Appeals from the assessment or imposition of such civil remedies shall be as provided in G.S. 160A-434."

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

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

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

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

"(b) Interpretations of the Code. – The Building Code Council shall have the duty, in hearing appeals, to give interpretations of such provisions of the Building Code as shall be pertinent to the matter at issue. Where the Council finds that an enforcement agency was in error in its interpretation of the Code, it shall remand the case to the agency with instructions to take such action as it directs. Interpretations by the Council and local enforcement officials shall be based on a reasonable construction of the Code provisions."

Section 8. Sections 3 and 6 of this act become effective September 1, 1997. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of April, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 12:10 p.m. this 17th day of April, 1997