

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 190*

Short Title: Bldg. Code/Local Civil Penalties.

(Public)

Sponsors: Representatives Fitch, Barnes, H. Hunter, McLaughlin; Colton, Luebke, Oldham, and Stamey.

Referred to: Judiciary III.

February 18, 1993

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY THAT LOCAL GOVERNMENTS HAVE THE AUTHORITY
2 TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF THE STATE
3 BUILDING CODE.
4

5 The General Assembly of North Carolina enacts:

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

7 "(h) Violations. – Any person who shall be adjudged to have violated this Article
8 or the North Carolina State Building Code, except for violations of occupancy limits
9 established by either, shall be guilty of a misdemeanor and shall upon conviction be
10 liable to a fine, not to exceed fifty dollars (\$50.00), for each offense. Each 30 days that
11 such violation continues shall constitute a separate and distinct offense. Violation of
12 occupancy limits established pursuant to the North Carolina State Building Code shall
13 be a misdemeanor subject to a one hundred dollar (\$100.00) fine for a first offense, a
14 two hundred fifty dollar (\$250.00) fine for a second offense, and a five hundred dollar
15 (\$500.00) fine and up to 30 days imprisonment for a third and any subsequent offenses.
16 Any violation incurred more than one year after another conviction for violation of the
17 occupancy limits shall be treated as a first offense for purposes of establishing and
18 imposing penalties. ~~In case any building or structure is erected, constructed or reconstructed,
19 or its purpose altered, so that it becomes in violation of the North Carolina State Building Code
20 or if the occupancy limits established pursuant to the North Carolina State Building Code are
21 exceeded, either the local enforcement officer or the State Commissioner of Insurance or other
22 State official with responsibility under G.S. 143-139 may, in addition to other remedies,
23 institute any appropriate action or proceedings including the civil remedies set out in G.S.
24 160A-175 and G.S. 153A-123, (i) to prevent such unlawful erection, construction or~~

1 ~~reconstruction or alteration of purpose, or overcrowding, (ii) to restrain, correct, or abate such~~
2 ~~violation, or (iii) to prevent the occupancy or use of said building, structure or land until such~~
3 ~~violation is corrected."~~

4 Sec. 2. G.S. 143-139 reads as rewritten:

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

6 (a) Procedural Requirements. – Subject to the provisions set forth herein, the
7 Building Code Council shall adopt such procedural requirements in the North Carolina
8 State Building Code as shall appear reasonably necessary for adequate enforcement of
9 the Code while safeguarding the rights of persons subject to the Code.

10 (b) General Building Regulations. – The Insurance Commissioner shall have
11 general supervision, through the Division of Engineering of the Department of
12 Insurance, of the administration and enforcement of all sections of the North Carolina
13 State Building Code pertaining to plumbing, electrical systems, general building
14 restrictions and regulations, heating and air conditioning, fire protection, and the
15 construction of buildings generally, except those sections of the Code, the enforcement
16 of which is specifically allocated to other agencies by subsections (c) and (d) below.
17 The Insurance Commissioner, by means of the Division of Engineering, shall exercise
18 his duties in the enforcement of the North Carolina State Building Code (including local
19 building codes which have superseded the State Building Code in a particular political
20 subdivision pursuant to G.S. 143-138(e)) in cooperation with local officials and local
21 inspectors duly appointed by the governing body of any municipality or board of county
22 commissioners pursuant to Part 5 of Article 19 of Chapter 160A of the General Statutes
23 or Part 4 of Article 18 of Chapter 153A of the General Statutes, or any other applicable
24 statutory authority.

25 (b1) Remedies. – In case any building or structure is maintained, erected,
26 constructed, or reconstructed or its purpose altered, so that it becomes in violation of
27 this Article or of the North Carolina State Building Code, either the local enforcement
28 officer or the State Commissioner of Insurance or other State official with responsibility
29 under this section may, in addition to other remedies, institute any appropriate action or
30 proceeding to: (i) prevent the unlawful maintenance, erection, construction, or
31 reconstruction or alteration of purpose, or overcrowding, (ii) restrain, correct, or abate
32 the violation, or (iii) prevent the occupancy or use of the building, structure, or land
33 until the violation is corrected. In addition to the civil remedies set out in G.S. 160A-
34 175 and G.S. 153A-123, a county, city, or other political subdivision authorized to
35 enforce the North Carolina State Building Code within its jurisdiction may, for the
36 purposes stated in (i) through (iii) of this subsection, levy a civil penalty for violation of
37 the North Carolina State Building Code, which penalty may be recovered in a civil
38 action in the nature of debt if the offender does not pay the penalty within a prescribed
39 period of time after the offender has been cited for the violation.

40 (c) Boilers. – The Bureau of Boiler Inspection of the Department of Labor shall
41 have general supervision of the administration and enforcement of those sections of the
42 North Carolina State Building Code which pertain to boilers of the types enumerated in
43 Article 7 of Chapter 95 of the General Statutes.

1 (d) Elevators. – The Department of Labor shall have general supervision of the
2 administration and enforcement of those sections of the North Carolina State Building
3 Code which pertain to elevators, moving stairways, and amusement devices such as
4 merry-go-rounds, roller coasters, Ferris wheels, etc."

5 Sec. 3. G.S. 143-138(e) reads as rewritten:

6 "(e) Effect upon Local Codes. – The North Carolina State Building Code shall
7 apply throughout the State, from the time of its adoption. However, any political
8 subdivision of the State may adopt a building code or building rules and regulations
9 governing construction or a fire prevention code within its jurisdiction. The territorial
10 jurisdiction of any municipality or county for this purpose, unless otherwise specified
11 by the General Assembly, shall be as follows: Municipal jurisdiction shall include all
12 areas within the corporate limits of the municipality and extraterritorial jurisdiction
13 areas established as provided in G.S. 160A-360 or a local act; county jurisdiction shall
14 include all other areas of the county. No such code or regulations, other than those
15 permitted by G.S. 160A-436, shall be effective until they have been officially approved
16 by the Building Code Council as providing adequate minimum standards to preserve
17 and protect health and safety, in accordance with the provisions of subsection (c) above.
18 While it remains effective, such approval shall be taken as conclusive evidence that a
19 local code or local regulations supersede the State Building Code in its particular
20 political subdivision. Whenever the Building Code Council adopts an amendment to
21 the State Building Code, it shall consider any previously approved local regulations
22 dealing with the same general matters, and it shall have authority to withdraw its
23 approval of any such local code or regulations unless the local governing body makes
24 such appropriate amendments to that local code or regulations as it may direct. In the
25 absence of approval by the Building Code Council, or in the event that approval is
26 withdrawn, local codes and regulations shall have no force and effect. Provided any
27 local regulations approved by the local governing body which are found by the Council
28 to be more stringent than the adopted statewide fire prevention code and which are
29 found to regulate only activities and conditions in buildings, structures, and premises
30 that pose dangers of fire, explosion or related hazards, and are not matters in conflict
31 with the State Building Code, shall be approved. Local governments may enforce the
32 State Building Code using civil remedies authorized under G.S. 143-139, 153A-123,
33 and 160A-175."

34 Sec. 4. G.S. 160A-175 is amended by adding the following new subsection
35 to read:

36 "(c1) An ordinance may provide for the recovery of a civil penalty by the city for
37 violation of the State Building Code as authorized under G.S. 143-139."

38 Sec. 5. G.S. 153A-123 is amended by adding the following new subsection
39 to read:

40 "(c1) An ordinance may provide for the recovery of a civil penalty by the county
41 for violation of the State Building Code as authorized under G.S. 143-139."

42 Sec. 6. This act is effective upon ratification and applies to violations
43 committed on or after that date.