

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

H

1

HOUSE BILL 1323

Short Title: Revise State Building Code/Council Procedures. (Public)

Sponsors: Representative McMahan.

Referred to: Ways and Means.

April 12, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE FOR THE ADOPTION OF A NORTH CAROLINA STATE
3 BUILDING CODE THAT IS MODELED ON THE INTERNATIONAL
4 BUILDING CODE FAMILY OF CODES AND TO CLARIFY THAT THE STATE
5 BUILDING CODE COUNCIL IS SUBJECT TO THE ADMINISTRATIVE
6 PROCEDURE ACT.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Notwithstanding Chapter 143 of the General Statutes or any
9 other law to the contrary, no amendments or modifications to the North Carolina State
10 Building Code shall be effective until January 1, 2003. The North Carolina Building
11 Code Council shall review and implement a State Building Code that is modeled on the
12 International Building Code Family of Codes, to become effective January 1, 2003. In
13 order to maintain consistency with other state building codes, the North Carolina
14 Building Code Council shall submit any recommended amendments or revisions to the
15 International Building Code Family of Codes to the International Code Council for
16 consideration to be added to the International Building Code Family of Codes.

17 **SECTION 2.** G.S. 143-138(a) reads as rewritten:

18 "**§ 143-138. North Carolina State Building Code.**

19 (a) Preparation and Adoption. – The Building Code Council is hereby
20 empowered to prepare and adopt, in accordance with the provisions of this Article, a
21 North Carolina State Building Code. ~~Prior to the adoption of this Code, or any part~~
22 ~~thereof, the Council shall hold at least one public hearing. A notice of such public~~
23 ~~hearing shall be given once a week for two successive calendar weeks in a newspaper~~
24 ~~published in Raleigh, said notice to be published the first time not less than 15 days~~
25 ~~prior to the date fixed for said hearing. The Council may hold such other public hearings~~
26 ~~and give such other notice as it may deem necessary. Notwithstanding G.S. 150B-~~
27 ~~2(8a)h., the North Carolina State Building Code as adopted by the Building Code~~
28 ~~Council is a rule within the meaning of G.S. 150B-2(8a), and shall be adopted in~~

1 accordance with the procedural requirements of Article 2A of Chapter 150B of the
2 General Statutes.

3 The Council shall request the Office of State Budget, Planning, and Management to
4 prepare a fiscal note for a proposed Code change that has a substantial economic
5 impact, as defined in G.S. 150B-21.4(b1), or that increases the cost of residential
6 housing by eighty dollars (\$80.00) or more per housing unit. ~~The Council shall not take~~
7 ~~final action on a proposed Code change that has a substantial economic impact or that~~
8 ~~increases the cost of residential housing by eighty dollars (\$80.00) or more per housing~~
9 ~~unit until at least 60 days after the fiscal note has been prepared.~~ The change can
10 become effective only in accordance with G.S. 143-138(d)."

11 **SECTION 3.** G.S. 143-138(d) reads as rewritten:

12 "(d) Amendments of the Code. – The Building Code Council may revise and
13 amend the North Carolina State Building Code, either on its own motion or upon
14 application from any citizen, State agency, or political subdivision of the State. In
15 adopting any amendment, the Council shall comply with the same procedural
16 requirements and the same standards set forth above for adoption of the Code. Code
17 revisions and amendments adopted by the Building Code Council on or after September
18 1, 1997, but prior to July 1, 1998, shall become effective January 1, 1999. Code
19 revisions and amendments adopted by the Building Code Council on or after July 1,
20 1998, but prior to July 1, 2001, shall become effective January 1, 2002. All future
21 revisions and amendments shall be adopted prior to July 1 every three years after July 1,
22 2001, to become effective the first day of January of the following ~~year.~~ year, subject to
23 G.S. 150B-21.3. A revision or amendment may be made effective on an earlier date if
24 determined by the Building Code Council to be necessary to address an imminent threat
25 to the public's health, safety, or welfare.

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

30 **SECTION 4.** G.S. 143-138(e) reads as rewritten:

31 "(e) Effect upon Local Codes. – The North Carolina State Building Code shall
32 apply throughout the State, from the time of its adoption. Amendments to the Code shall
33 become effective in accordance with subsection (d) of this section. However, any
34 political subdivision of the State may adopt a fire prevention code and floodplain
35 management regulations within its jurisdiction. The territorial jurisdiction of any
36 municipality or county for this purpose, unless otherwise specified by the General
37 Assembly, shall be as follows: Municipal jurisdiction shall include all areas within the
38 corporate limits of the municipality and extraterritorial jurisdiction areas established as
39 provided in G.S. 160A-360 or a local act; county jurisdiction shall include all other
40 areas of the county. No such code or regulations, other than floodplain management
41 regulations and those permitted by G.S. 160A-436, shall be effective until they have
42 been officially approved by the Building Code Council as providing adequate minimum
43 standards to preserve and protect health and safety, in accordance with the provisions of
44 subsection (c) above. Local floodplain regulations may regulate all types and uses of

1 buildings or structures located in flood hazard areas identified by local, State, and
 2 federal agencies, and include provisions governing substantial improvements,
 3 substantial damage, cumulative substantial improvements, lowest floor elevation,
 4 protection of mechanical and electrical systems, foundation construction, anchorage,
 5 acceptable flood resistant materials, and other measures the political subdivision deems
 6 necessary considering the characteristics of its flood hazards and vulnerability. In the
 7 absence of approval by the Building Code Council, or in the event that approval is
 8 withdrawn, local fire prevention codes and regulations shall have no force and effect.
 9 Provided any local regulations approved by the local governing body which are found
 10 by the Council to be more stringent than the adopted statewide fire prevention code and
 11 which are found to regulate only activities and conditions in buildings, structures, and
 12 premises that pose dangers of fire, explosion or related hazards, and are not matters in
 13 conflict with the State Building Code, shall be approved. Local governments may
 14 enforce the fire prevention code of the State Building Code using civil remedies
 15 authorized under G.S. 143-139, 153A-123, and 160A-175. If the Commissioner of
 16 Insurance or other State official with responsibility for enforcement of the Code
 17 institutes a civil action pursuant to G.S. 143-139, a local government may not institute a
 18 civil action under G.S. 143-139, 153A-123, or 160A-175 based upon the same violation.
 19 Appeals from the assessment or imposition of such civil remedies shall be as provided
 20 in G.S. 160A-434."

21 **SECTION 5.** G.S. 143-138(g) reads as rewritten:

22 "(g) Publication and Distribution of Code. – The Building Code Council shall
 23 cause to be printed, after adoption by the Council, the North Carolina State Building
 24 Code and each amendment thereto. It shall, at the State's expense, distribute copies of
 25 the Code and each amendment to State and local governmental officials, departments,
 26 agencies, and educational institutions, as is set out in the table below. (Those marked by
 27 an asterisk will receive copies only on written request to the Council.)

28 OFFICIAL OR AGENCY	29 NUMBER OF COPIES
30 State Departments and Officials	
31 Governor	1
32 Lieutenant Governor	1
33 Auditor	1
34 Treasurer	1
35 Secretary of State	1
36 Superintendent of Public Instruction	1
37 Attorney General (Library).....	1
38 Commissioner of Agriculture	1
39 Commissioner of Labor	1
40 Commissioner of Insurance	1
41 Department of Environment and Natural Resources.....	1
42 Department of Health and Human Services	1
43 Department of Juvenile Justice and Delinquency Prevention	1

1 Board of Transportation.....1
 2 Utilities Commission1
 3 Department of Administration.....1
 4 Clerk of the Supreme Court.....1
 5 Clerk of the Court of Appeals.....1
 6 Clerk of the Superior Court1 each
 7 Department of Cultural Resources [State
 8 Library]5
 9 Supreme Court Library2
 10 Legislative Library.....1
 11 Office of Administrative Hearings.....1

12 Schools
 13 All state-supported colleges and universities
 14 in the State of North Carolina.....1 each
 15 Local Officials
 16 Clerks of the Superior Courts1 each
 17 Chief Building Inspector of each incorporated
 18 municipality or county.....1
 19 In addition, the Building Code Council shall make additional copies available at
 20 such price as it shall deem reasonable to members of the general public."

21 **SECTION 6.** G.S. 150B-21.21 reads as rewritten:
 22 **"§ 150B-21.21. Publication of rules of North Carolina State Bar~~Bar~~, Building**
 23 **Code Council, and exempt agencies.**

24 (a) State Bar. – The North Carolina State Bar must submit a rule adopted or
 25 approved by it and entered in the minutes of the North Carolina Supreme Court to the
 26 Codifier of Rules for inclusion in the North Carolina Administrative Code. The State
 27 Bar must submit a rule within 30 days after it is entered in the minutes of the Supreme
 28 Court. The Codifier of Rules must compile, make available for public inspection, and
 29 publish a rule included in the North Carolina Administrative Code under this subsection
 30 in the same manner as other rules in the Code.

31 (a1) Building Code Council. – The Building Code Council shall publish the North
 32 Carolina State Building Code as provided in G.S. 143-138(g).

33 (b) Exempt Agencies. – Notwithstanding G.S. 150B-1, the North Carolina
 34 Utilities Commission must submit to the Codifier of Rules those rules of the Utilities
 35 Commission that are published from time to time in the publication titled "North
 36 Carolina Utilities Laws and Regulations." The Utilities Commission must submit a rule
 37 required to be included in the Code within 30 days after it is adopted.

38 Notwithstanding G.S. 150B-1, an agency other than the Utilities Commission that is
 39 exempted from this Article by that statute must submit a temporary or permanent rule
 40 adopted by it to the Codifier of Rules for inclusion in the North Carolina Administrative
 41 Code. These exempt agencies must submit a rule to the Codifier of Rules within 30 days
 42 after adopting the rule.

43 (c) Publication. – A rule submitted to the Codifier of Rules under this section
 44 must be in the physical form specified by the Codifier of Rules. The Codifier of Rules

1 must compile, make available for public inspection, and publish a rule submitted under
2 this section in the same manner as other rules in the North Carolina Administrative
3 Code. This subsection does not apply to the North Carolina State Building Code."

4 **SECTION 7.** G.S. 150B-38(a) reads as rewritten:

5 "(a) The provisions of this Article shall apply to the following agencies:

6 (1) Occupational licensing ~~agencies;~~ agencies.

7 (2) The State Banking Commission, the Commissioner of Banks, the
8 Savings Institutions Division of the Department of Commerce, and the
9 Credit Union Division of the Department of ~~Commerce;~~ and
10 Commerce.

11 (3) The Department of Insurance and the Commissioner of Insurance.

12 (4) The Department of Commerce in the administration of the provisions
13 of Part 16 of Article 10 of Chapter 143B of the General Statutes.

14 (5) The North Carolina State Building Code Council."

15 **SECTION 8.** This act is effective when it becomes law.