

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 949*

Short Title: Streamline Building Code Adoption.-AB (Public)

Sponsors: Senators Clodfelter; and Hoyle.

Referred to: Commerce, Small Business and Entrepreneurship.

March 20, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO STREAMLINE BUILDING CODE ADOPTION FOR GENERAL AND
3 RESIDENTIAL CONSTRUCTION AND TO EXPEDITE DECISIONS OF THE
4 BUILDING CODE COUNCIL.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 9 of Chapter 143 of the General Statutes is amended
7 by:

- 8 (1) Designating G.S. 143-136 through G.S. 143-138.1 as:
9 "Part 1. Nonresidential Building Code Council and Building Code."
10 (2) Designating G.S. 143-139 through G.S. 143-143.5 as:
11 "Part 3. Enforcement; Hearing Procedures; Exemptions."

12 **SECTION 2.** G.S. 143-136 reads as rewritten:

13 "**§ 143-136. Building Code Council created; membership.**

14 (a) Creation; Membership; Terms. – There is hereby created a Building Code
15 Council, which shall be composed of ~~17~~ 10 members appointed by the Governor,
16 consisting of two registered architects, one licensed general contractor, ~~one licensed~~
17 ~~general contractor specializing in residential construction,~~ one licensed general
18 ~~contractor specializing in coastal residential construction,~~ one registered engineer
19 practicing structural engineering, one registered engineer practicing mechanical
20 engineering, one registered engineer practicing electrical engineering, one licensed
21 plumbing and heating contractor, one municipal or county building inspector, ~~one~~
22 ~~licensed liquid petroleum gas dealer/contractor involved in the design of natural and~~
23 ~~liquid petroleum gas systems who has expertise and experience in natural and liquid~~
24 ~~petroleum gas piping, venting and appliances,~~ a representative of the public who is not a
25 member of the building construction industry, ~~a licensed electrical contractor,~~ a
26 ~~registered engineer on the engineering staff of a State agency charged with approval of~~
27 ~~plans of State owned buildings,~~ a municipal elected official or city manager, a county
28 ~~commissioner or county manager,~~ and an active member of the North Carolina fire
29 service with expertise in fire safety. In selecting the municipal and county members,

1 preference should be given to members who qualify as either a registered architect,
2 registered engineer, or licensed general contractor. Of the members initially appointed
3 by the Governor, three shall serve for terms of two years each, three shall serve for
4 terms of four years each, and three shall serve for terms of six years each. Thereafter, all
5 appointments shall be for terms of six years. The Governor may remove appointive
6 members at any time. Neither the architect nor any of the above named engineers shall
7 be engaged in the manufacture, promotion or sale of any building material, and any
8 member who shall, during his term, cease to meet the qualifications for original
9 appointment (through ceasing to be a practicing member of the profession indicated or
10 otherwise) shall thereby forfeit his membership on the Council. In making new
11 appointments or filling vacancies, the Governor shall ensure that minorities and women
12 are represented on the Council.

13 The Governor may make appointments to fill the unexpired portions of any terms
14 vacated by reason of death, resignation, or removal from office. In making such
15 appointment, he shall preserve the composition of the Council required above.

16 (b) Compensation. – Members of the Building Code Council other than any who
17 are employees of the State shall receive seven dollars (\$7.00) per day, including
18 necessary time spent in traveling to and from their place of residence within the State to
19 any place of meeting or while traveling on official business of the Council. In addition,
20 all members shall receive mileage and subsistence according to State practice while
21 going to and from any place of meeting, or when on official business of the Council."

22 **SECTION 3.** G.S. 143-138(a) reads as rewritten:

23 "(a) Preparation and Adoption. – The Building Code Council may prepare and
24 adopt, in accordance with the provisions of this Article, a North Carolina State Building
25 ~~Code. Code for nonresidential buildings, including multifamily residential buildings but~~
26 not including one-family or two-family residential buildings. Before the adoption of the
27 Code, or any part of the Code, the Council shall hold at least one public hearing. A
28 notice of the public hearing shall be published in the North Carolina Register at least 15
29 days before the date of the hearing. Notwithstanding G.S. 150B-2(8a)h., the North
30 Carolina State Building Code as adopted by the Building Code Council is a rule within
31 the meaning of G.S. 150B-2(8a) and shall be adopted in accordance with the procedural
32 requirements of Article 2A of Chapter 150B of the General Statutes.

33 The Council shall request the Office of State Budget and Management to prepare a
34 fiscal note for a proposed Code change that has a substantial economic impact, as
35 defined in G.S. 150B-21.4(b1), or that increases the cost of residential housing by
36 eighty dollars (\$80.00) or more per housing unit. The change can become effective only
37 in accordance with G.S. 143-138(d). Neither the Department of Insurance nor the
38 Council shall be required to expend any monies to pay for the preparation of any fiscal
39 note under this section by any person outside of the Department or Council unless the
40 Department or Council contracts with a third-party vendor to prepare the fiscal note."

41 **SECTION 4.** G.S. 143-138(b) reads as rewritten:

42 "(b) Contents of the Code. – The North Carolina State Building Code, as adopted
43 by the Building Code Council, may include reasonable and suitable classifications of
44 buildings and structures, both as to use and occupancy; general building restrictions as

1 to location, height, and floor areas; rules for the lighting and ventilation of buildings and
2 structures; requirements concerning means of egress from buildings and structures;
3 requirements concerning means of ingress in buildings and structures; rules governing
4 construction and precautions to be taken during construction; rules as to permissible
5 materials, loads, and stresses; rules governing chimneys, heating appliances, elevators,
6 and other facilities connected with the buildings and structures; rules governing
7 plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering
8 of temperature, and electrical systems; and such other reasonable rules pertaining to the
9 construction of buildings and structures and the installation of particular facilities
10 therein as may be found reasonably necessary for the protection of the occupants of the
11 building or structure, its neighbors, and members of the public at large.

12 In addition, the Code may regulate activities and conditions in buildings, structures,
13 and premises that pose dangers of fire, explosion, or related hazards. Such fire
14 prevention code provisions shall be considered the minimum standards necessary to
15 preserve and protect public health and safety, subject to approval by the Council of
16 more stringent provisions proposed by a municipality or county as provided in
17 G.S. 143-138(e). These provisions may include regulations requiring the installation of
18 either battery-operated or electrical smoke detectors in every dwelling unit used as
19 rental property, regardless of the date of construction of the rental property. For
20 dwelling units used as rental property constructed prior to 1975, smoke detectors shall
21 have an Underwriters' Laboratories, Inc., listing or other equivalent national testing
22 laboratory approval, and shall be installed in accordance with either the standard of the
23 National Fire Protection Association or the minimum protection designated in the
24 manufacturer's instructions, which the property owner shall retain or provide as proof of
25 compliance.

26 The Code may contain provisions regulating every type of building or structure,
27 except for one-family or two-family residential construction, wherever it might be
28 situated in the State.

29 Provided further, that nothing in this Article shall be construed to make any building
30 rules applicable to farm buildings located outside the building-rules jurisdiction of any
31 municipality.

32 ~~Provided further, that no building permit shall be required under the Code or any~~
33 ~~local variance thereof approved under subsection (e) for any construction, installation,~~
34 ~~repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any~~
35 ~~single family residence or farm building unless the work involves: the addition, repair,~~
36 ~~or replacement of load bearing structures; the addition (excluding replacement of same~~
37 ~~size and capacity) or change in the design of plumbing; the addition, replacement or~~
38 ~~change in the design of heating, air conditioning, or electrical wiring, devices,~~
39 ~~appliances, or equipment, the use of materials not permitted by the North Carolina~~
40 ~~Uniform Residential Building Code; or the addition (excluding replacement of like~~
41 ~~grade of fire resistance) of roofing.~~

42 Provided further, that no building permit shall be required under such Code from any
43 State agency for the construction of any building or structure, the total cost of which is
44 less than twenty thousand dollars (\$20,000), except public or institutional buildings

1 For the information of users thereof, the Code shall include as appendices.

- 2 (1) Any rules governing boilers adopted by the Board of Boiler and
3 Pressure Vessels Rules,
- 4 (2) Any rules relating to the safe operation of elevators adopted by the
5 Commissioner of Labor, and
- 6 (3) Any rules relating to sanitation adopted by the Commission for Health
7 Services which the Building Code Council believes pertinent.

8 In addition, the Code may include references to such other rules of special types,
9 such as those of the Medical Care Commission and the Department of Public Instruction
10 as may be useful to persons using the Code. No rule issued by any agency other than the
11 Building Code Council shall be construed as a part of the Code, nor supersede that
12 Code, it being intended that they be presented with the Code for information only.

13 Nothing in this Article shall extend to or be construed as being applicable to the
14 regulation of the design, construction, location, installation, or operation of (1)
15 equipment for storing, handling, transporting, and utilizing liquefied petroleum gases
16 for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied
17 petroleum gas from the outlet of the first stage pressure regulator to and including each
18 liquefied petroleum gas utilization device within a building or structure covered by the
19 Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined
20 in G.S. 62-3, or an electric or telephone membership corporation, including without
21 limitation poles, towers, and other structures supporting electric or communication
22 lines.

23 In addition, the Code may contain rules concerning minimum efficiency
24 requirements for replacement water heaters, which shall consider reasonable availability
25 from manufacturers to meet installation space requirements.

26 No State, county, or local building code or regulation shall prohibit the use of special
27 locking mechanisms for seclusion rooms in the public schools approved under
28 G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be
29 constructed so that it will engage only when a key, knob, handle, button, or other similar
30 device is being held in position by a person, and provided further that, if the mechanism
31 is electrically or electronically controlled, it automatically disengages when the
32 building's fire alarm is activated. Upon release of the locking mechanism by a
33 supervising adult, the door must be able to be opened readily."

34 **SECTION 5.** G.S. 143-138 is amended by adding a new subsection to read:

35 "(i1) Notwithstanding references to residential buildings or occupancies in
36 subsection (i) of this section, this section does not apply to one-family and two-family
37 residential buildings."

38 **SECTION 6.** Article 9 of Chapter 143 of the General Statutes is amended by
39 adding a new Part to read:

40 "Part 2. Residential Building Code Council and Building Code.

41 "**§ 143-138.10. Residential Building Code Council created; membership.**

42 (a) Creation; Membership; Terms. – There is hereby created a Residential
43 Building Code Council, which shall be composed of seven members as follows:

- 1 (1) Two licensed general contractors specializing in residential
2 construction, appointed by the Governor.
- 3 (2) One licensed general contractor specializing in coastal residential
4 construction, appointed by the Governor.
- 5 (3) One registered engineer practicing structural engineering who is not
6 engaged in the manufacture, promotion, or sale of any building
7 material, appointed by the Governor.
- 8 (4) Three members appointed by the Commissioner of Insurance
9 consisting of three municipal or county building inspectors.

10 Of the members initially appointed by the Governor, two shall serve for terms of two
11 years each and two shall serve for terms of six years each. Of the members initially
12 appointed by the Commissioner, one shall serve for a term of two years and two shall
13 serve for terms of six years each. Thereafter, all appointments shall be for terms of six
14 years.

15 The Governor or Commissioner may remove their appointive members at any time.
16 Any member who, during that member's term, ceases to meet the qualifications for
17 original appointment through ceasing to be a practicing member of the profession
18 indicated or otherwise shall thereby forfeit that member's membership on the Council.

19 The Governor or Commissioner may make appointments to fill the unexpired
20 portions of any terms vacated by reason of death, resignation, or removal from office. In
21 making the appointment, the Governor or Commissioner shall preserve the composition
22 of the Council required in this subsection.

23 (b) Compensation. – Members of the Residential Building Code Council shall be
24 compensated pursuant to G.S. 138-6 as if they were State employees or officials.

25 **§ 143-138.11. Organization of Residential Building Code Council; rules;**
26 **meetings; staff; fiscal affairs.**

27 (a) First Meeting; Organization; Rules. – Within 30 days after its appointment,
28 the Residential Building Code Council shall meet on call of the Commissioner of
29 Insurance. The Council shall elect from its members a chair and any other officers for
30 terms designated in its rules. The Council shall adopt rules not inconsistent herewith for
31 the proper discharge of its duties. The chair may appoint members to any committees
32 the work of the Council requires. In addition, the chair shall establish and appoint ad
33 hoc code revision committees to consider and prepare revisions and amendments to the
34 Code volumes. Each ad hoc committee shall consist of members of the Council,
35 licensed contractors, design professionals most affected by the Code volume for which
36 the ad hoc committee is responsible, and members of the public. The committees shall
37 meet upon the call of their respective chairs and shall report their recommendations to
38 the Council.

39 (b) Meetings. – The Council shall meet regularly, at least once every six months,
40 at places and dates to be determined by the Council. Special meetings may be called by
41 the chair on the chair's initiative and shall be called by the chair when two or more
42 members of the Council request a meeting. All members shall be notified by the chair in
43 writing of the time and place of regular and special meetings at least seven days in

1 advance of the meetings. Seven members shall constitute a quorum. All meetings shall
2 be open to the public.

3 (c) Staff. – Personnel of the Division of Engineering of the Department of
4 Insurance shall serve as a staff for the Council. The staff shall have the following duties:

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

9 (2) Handling correspondence for the Council.

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

20 **"§ 143-138.12. North Carolina State Residential Building Code.**

21 (a) Preparation and Adoption. – The Residential Building Code Council may
22 prepare and adopt, in accordance with the provisions of this Article, a North Carolina
23 State Residential Building Code for one-family and two-family residential buildings.
24 Before the adoption of the Code, or any part of the Code, the Council shall hold at least
25 one public hearing. A notice of the public hearing shall be published in the North
26 Carolina Register at least 15 days before the date of the hearing. Notwithstanding
27 G.S. 150B-2(8a)h., the North Carolina State Residential Building Code as adopted by
28 the Residential Building Code Council is a rule within the meaning of G.S. 150B-2(8a)
29 and shall be adopted in accordance with the procedural requirements of Article 2A of
30 Chapter 150B of the General Statutes.

31 The Council shall request the Office of State Budget and Management to prepare a
32 fiscal note for a proposed Code change that has a substantial economic impact, as
33 defined in G.S. 150B-21.4(b1) or that increases the cost of residential housing by eighty
34 dollars (\$80.00) or more per housing unit. The change may become effective only in
35 accordance with subsection (d) of this section. Neither the Department of Insurance nor
36 the Council shall be required to expend any monies to pay for the preparation of any
37 fiscal note under this section by any person outside of the Department or Council unless
38 the Department or Council contracts with a third-party vendor to prepare the fiscal note.

39 (b) Contents of the Code. – The North Carolina State Residential Building Code,
40 as adopted by the Residential Building Code Council, may include reasonable and
41 suitable classifications of buildings and structures as to both use and occupancy; general
42 building restrictions as to location, height, and floor areas; requirements concerning
43 means of egress from buildings and structures; requirements concerning means of
44 egress in buildings and structures; rules governing construction and precautions to be

1 taken during construction; rules as to permissible materials, loads, and stresses; rules
2 governing chimneys and other facilities connected with the buildings and structures; and
3 any other reasonable rules pertaining to the construction of buildings and structures and
4 the installation of particular facilities therein as may be found necessary for the
5 protection of the occupants of the building or structure, its neighbors, and members of
6 the public at large.

7 The Code may contain provisions regulating every type of residential building or
8 structure, wherever it might be situated in the State.

9 Nothing in this Article shall be construed to make any building rule applicable to
10 farm buildings located outside the building-rules jurisdiction of any municipality.

11 No building permit shall be required under the Code or any local variance thereof
12 approved under subsection (e) of this section for any construction, installation, repair,
13 replacement, or alteration costing five thousand dollars (\$5,000) or less in any
14 single-family residence or farm building unless the work involves: (i) the addition,
15 repair, or replacement of load-bearing structures, (ii) the addition (excluding
16 replacement of same size and capacity) or change in the design of plumbing, (iii) the
17 addition, replacement, or change in the design of heating, air-conditioning, or electrical
18 wiring, devices, appliances, or equipment, (iv) the use of materials not permitted by the
19 North Carolina State Residential Building Code, or (v) the addition (excluding
20 replacement of like grade of fire resistance) of roofing.

21 No building permit shall be required under the Code from any State agency for the
22 construction of any building or structure the total cost of which is less than twenty
23 thousand dollars (\$20,000), except public or institutional buildings.

24 For the information of users of the Code, the Code shall include as appendices any
25 rule relating to sanitation adopted by the Commission for Health Services which the
26 Residential Building Code Council believes pertinent.

27 In addition, the Code may include references to other rules of special types, such as
28 those of the Medical Care Commission and the Department of Public Instruction, as
29 may be useful to persons using the Code. No rule issued by any other agency shall be
30 construed as a part of the Code, nor supersede that Code; it being intended that the rules
31 of other agencies be presented with the Code for information only.

32 Nothing in this Article shall extend to or be construed as being applicable to the
33 regulation of the design, construction, location, installation, or operation of (i)
34 equipment for storing, handling, transporting, and utilizing liquefied petroleum gases
35 for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied
36 petroleum gas from the outlet of the first stage pressure regulator to and including each
37 liquefied petroleum gas utilization device within a building or structure covered by the
38 Code or (ii) equipment or facilities, other than buildings of a public utility, as defined in
39 G.S. 62-3, or an electric or telephone membership corporation, including without
40 limitation poles, towers, and other structures supporting electric or communication
41 lines.

42 (c) Standards to Be Followed in Adopting the Code. – The Council shall adopt
43 the requirements of the International Building Code of the International Code Council.

1 (d) Amendments of the Code. – The Residential Building Code Council may
2 revise and amend the North Carolina State Residential Building Code, either on its own
3 motion or upon application from any citizen, State agency, or political subdivision of
4 the State. In adopting any amendment, the Council shall comply with the same
5 procedural requirements and the same standards set forth above for adoption of the
6 Code.

7 Handbooks providing explanatory material on Code provisions shall be provided no
8 later than 180 days following adoption of the Code and shall be updated with each
9 revision of the Code or, in the discretion of the Council, more frequently. The available
10 date of these handbooks shall be considered when an adoption date for the code has
11 been set by the Council. The Department may charge a reasonable fee for the
12 handbooks.

13 (e) Effect Upon Local Codes. – The North Carolina State Residential Building
14 Code shall apply throughout the State, from the time of its adoption. Approved rules
15 shall become effective in accordance with G.S. 150B-21.3. However, any political
16 subdivision of the State may adopt a fire prevention code and floodplain management
17 regulations within its jurisdiction. The territorial jurisdiction of any municipality or
18 county for this purpose, unless otherwise specified by the General Assembly, shall be as
19 follows: Municipal jurisdiction shall include all areas within the corporate limits of the
20 municipality and extraterritorial jurisdiction areas established as provided in
21 G.S. 160A-360 or a local act; county jurisdiction shall include all other areas of the
22 county. No such code or regulations, other than floodplain management regulations and
23 those permitted by G.S. 160A-436, shall be effective until they have been officially
24 approved by the Building Code Council as providing adequate minimum standards to
25 preserve and protect health and safety, in accordance with the provisions of subsection
26 (c) of this section. Local floodplain regulations may regulate all types and uses of
27 buildings or structures located in flood hazard areas identified by local, State, and
28 federal agencies and include provisions governing substantial improvements, substantial
29 damage, cumulative substantial improvements, lowest floor elevation, protection of
30 mechanical and electrical systems, foundation construction, anchorage, acceptable flood
31 resistant materials, and other measures the political subdivision deems necessary
32 considering the characteristics of its flood hazards and vulnerability. In the absence of
33 approval by the Residential Building Code Council, or in the event that approval is
34 withdrawn, local fire prevention codes and regulations shall have no force and effect.
35 Any local rule or regulation approved by the local governing body which is found by
36 the Council to be more stringent than the adopted statewide fire prevention code and
37 which is found to regulate only activities and conditions in buildings, structures, and
38 premises that pose dangers of fire, explosion, or related hazards, and is not a matter in
39 conflict with the State Residential Building Code, shall be approved.

40 (f) Publication and Distribution of Code. – The Residential Building Code
41 Council shall cause to be printed, after adoption by the Council, the North Carolina
42 State Residential Building Code and each amendment thereto. It shall, at the State's
43 expense, distribute copies of the Code and each amendment to State and local
44 governmental officials, departments, agencies, and educational institutions, as is set out

1 in the table below. (Those marked by an asterisk will receive copies only on written
2 request to the Council.)

3
4 OFFICIAL OR AGENCY NUMBER OF COPIES

5 State Departments and Officials

6	<u>Governor</u>	<u>1</u>
7	<u>Lieutenant Governor</u>	<u>1</u>
8	<u>Auditor</u>	<u>1</u>
9	<u>Treasurer</u>	<u>1</u>
10	<u>Secretary of State</u>	<u>1</u>
11	<u>Superintendent of Public Instruction</u>	<u>1</u>
12	<u>Attorney General (Library)</u>	<u>1</u>
13	<u>Commissioner of Agriculture</u>	<u>1</u>
14	<u>Commissioner of Labor</u>	<u>1</u>
15	<u>Commissioner of Insurance</u>	<u>1</u>
16	<u>Department of Environment and Natural Resources</u>	<u>1</u>
17	<u>Department of Health and Human Services</u>	<u>1</u>
18	<u>Department of Juvenile Justice and Delinquency Prevention</u>	<u>1</u>
19	<u>Board of Transportation</u>	<u>1</u>
20	<u>Utilities Commission</u>	<u>1</u>
21	<u>Department of Administration</u>	<u>1</u>
22	<u>Clerk of the Supreme Court</u>	<u>1</u>
23	<u>Clerk of the Court of Appeals</u>	<u>1</u>
24	<u>Clerk of the Superior Court</u>	<u>1</u>
25	<u>Department of Cultural Resources (State Library)</u>	<u>5</u>
26	<u>Supreme Court Library</u>	<u>2</u>
27	<u>Legislative Library</u>	<u>1</u>
28	<u>Office of Administrative Hearings</u>	<u>1</u>
29	<u>Rules Review Commission</u>	<u>1</u>

30 Schools

31	<u>All State-supported colleges and universities</u>	
32	<u>in the State of North Carolina</u>	<u>*1 each</u>

33 Local Officials

34	<u>Clerks of the Superior Courts</u>	<u>1 each</u>
35	<u>Chief Building Inspector of each incorporated</u>	
36	<u>municipality or county</u>	<u>1</u>

37 In addition, the Residential Building Code Council shall make additional copies
38 available at the price it deems reasonable to members of the general public.

39 (g) Violations. – Any person who violates this Article, except for violations of
40 occupancy limits established by either, shall be guilty of a Class 3 misdemeanor and,
41 upon conviction, shall only be punished by a fine not to exceed fifty dollars (\$50.00) for
42 each offense. Each 30 days that the violation continues shall constitute a separate and
43 distinct offense. Violation of occupancy limits established pursuant to this Article and
44 set forth in the North Carolina State Residential Building Code shall be a Class 3

1 misdemeanor. Any violation incurred more than one year after another conviction for
2 violation of the occupancy limits shall be treated as a first offense for purposes of
3 establishing and imposing penalties.

4 **"§ 143-138.13 Enforcement of the North Carolina State Residential Building Code.**

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

9 (b) General Building Regulations. – The Commissioner of Insurance shall have
10 general supervision, through the Division of Engineering of the Department of
11 Insurance, of the administration and enforcement of all sections of the North Carolina
12 State Residential Building Code pertaining to general building restrictions and
13 regulations and the construction of buildings generally. The Commissioner of Insurance,
14 by means of the Division of Engineering, shall exercise the Commissioner's duties in
15 the enforcement of the North Carolina State Residential Building Code (including local
16 building codes which have superseded the State Residential Building Code in a
17 particular political subdivision pursuant to G.S. 143-138.12(e)) in cooperation with
18 local officials and local inspectors duly appointed by the governing body of any
19 municipality or board of county commissioners pursuant to Part 5 of Article 19 of
20 Chapter 160A of the General Statutes, Part 4 of Article 18 of Chapter 153A of the
21 General Statutes, or any other applicable statutory authority.

22 (c) Remedies. – In case any building or structure is maintained, erected,
23 constructed, or reconstructed or its purpose altered so that it becomes in violation of this
24 Article or of the North Carolina State Residential Building Code, either the local
25 enforcement officer or the State Commissioner of Insurance or other State official with
26 responsibility under this section may, in addition to other remedies, institute any
27 appropriate action or proceeding to: (i) prevent the unlawful maintenance, erection,
28 construction, or reconstruction or alteration of purpose, or overcrowding, (ii) restrain,
29 correct, or abate the violation, or (iii) prevent the occupancy or use of the building,
30 structure, or land until the violation is corrected. In addition to the civil remedies set out
31 in G.S. 160A-175 and G.S. 153A-123, a county, city, or other political subdivision
32 authorized to enforce the North Carolina State Residential Building Code within its
33 jurisdiction may, for the purposes stated in (i) through (iii) of this subsection, levy a
34 civil penalty for violation of the fire prevention code of the North Carolina State
35 Residential Building Code, which penalty may be recovered in a civil action in the
36 nature of debt if the offender does not pay the penalty within a prescribed period of time
37 after the offender has been cited for the violation. If the Commissioner or other State
38 official institutes an action or proceeding under this section, a county, city, or other
39 political subdivision shall not institute a civil action under this section based upon the
40 same violation. Appeals from the imposition of any remedy set forth herein, including
41 the imposition of a civil penalty by a county, city, or other political subdivision, shall be
42 as provided in G.S. 160A-434.

43 **"§ 143-138.14. Introduction and instruction of the North Carolina State**
44 **Residential Building Code.**

1 Prior to the effective date of Code changes pursuant to G.S. 143-138.12, the
2 Residential Building Code Council and Department of Insurance shall provide for
3 instructional classes for the various trades affected by the Code. The Department of
4 Insurance shall develop the curriculum for each class but shall consult the affected
5 licensing boards and trade organizations. The curriculum shall include explanations of
6 the rationale and need for each Code amendment or revision. Classes may also be
7 conducted by, on behalf of, or in cooperation with licensing boards, trade associations,
8 and professional societies. The Department of Insurance may charge fees sufficient to
9 recover the costs it incurs under this section. The Council shall ensure that courses are
10 accessible to persons throughout the State."

11 **SECTION 7.** G.S. 143-141(a) reads as rewritten:

12 "(a) Method of Appeal. – Whenever any person desires to take an appeal to the
13 Building Code Council from the decision of a State enforcement agency relating to any
14 matter under this Article or under the North Carolina State Building Code, he shall
15 within 30 days after such decision give written notice to the Building Code Council
16 through the Division of Engineering of the Department of Insurance that he desires to
17 take an appeal. A copy of such notice shall be filed at the same time with the
18 enforcement agency from which the appeal is taken. The chairman of the Building Code
19 Council shall fix a reasonable time and place for a hearing, giving reasonable notice to
20 the appellant and to the enforcement agency. Such hearing shall be not later than the
21 next regular meeting of the Council. The Building Code Council shall thereupon
22 conduct a full and complete hearing as to the matters in ~~controversy, after which it shall~~
23 ~~within a reasonable time give~~ controversy. Within 30 business days after the completion
24 of the hearing, the Council shall issue a written decision setting forth its findings of fact
25 and its conclusions."

26 **SECTION 8.** The Building Code Council shall adopt rules or amend the
27 North Carolina State Building Code consistent with Sections 3 through 6 of this act on
28 or before October 1, 2008. The Department of Insurance shall adopt rules to implement
29 this act and shall make recommendations, including legislative proposals for statutory
30 revisions required to establish a separate State Building Code and Building Code
31 Council for one-family and two-family residential structures. The Department shall
32 report its recommendations to the General Assembly by March 1, 2008.

33 **SECTION 9.** Sections 1 through 6 of this act become effective October 1,
34 2008, and apply to permits issued and offenses committed on or after that date. The
35 remainder of this act is effective when it becomes law.