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HOUSE BILL 773
Committee Substitute Favorable 5/9/13
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Short Title: Local Gov'ts/Bldgs/Structures/Inspections.

(Public)

Sponsors:

Referred to:

April 11, 2013

A BILL TO BE ENTITLED

AN ACT REVISING THE CONDITIONS UNDER WHICH COUNTIES AND CITIES MAY
INSPECT BUILDINGS OR STRUCTURES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-364 reads as rewritten:

"§ 153A-364. ~~Periodic inspections~~ Inspections for hazardous or unlawful conditions.

(a) The inspection department may make ~~periodic~~ inspections, subject to the board of commissioners' directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its territorial jurisdiction. Except as provided in subsection (b) of this section, the inspection department may make ~~periodic~~ inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure. For purposes of this section, the term "reasonable cause" means any of the following: (i) the ~~landlord or owner~~ property has a history of more than two verified violations of the housing ordinances or codes within a 12-month period; (ii) there has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected; (iii) the inspection department has actual knowledge of an unsafe condition within the building; or (iv) violations of the local ordinances or codes are visible from the outside of the property. In conducting inspections authorized under this section, the inspection department shall not discriminate between single-family and multifamily ~~buildings.~~ buildings or between owner-occupied and tenant-occupied buildings. In exercising these powers, each member of the inspection department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law.

(b) A county may require ~~periodic~~ inspections as part of a targeted effort to respond to blighted or potentially blighted conditions within a geographic area that has been designated by the county commissioners. However, the total aggregate of targeted areas in the county shall not be greater than one square mile or five percent (5%) of the area within the county, whichever is greater. The targeted area designated by the county shall reflect the county's stated neighborhood revitalization strategy and address significant levels of disrepair. The county shall ~~not discriminate in its selection of areas or housing types to be targeted and shall~~ (i) provide notice to all owners and residents of properties in the affected area about the ~~periodic~~ inspections plan and information regarding a public hearing regarding the plan; (ii) hold a



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1 public hearing regarding the plan; and (iii) establish a plan to address the ability of low-income
2 residential property owners to comply with minimum housing code standards.

3 (c) In no event may a county do any of the following: (i) adopt or enforce any
4 ordinance that would require any owner or manager of rental property to obtain any permit or
5 permission from the county to lease or rent residential real ~~property, property, or to register~~
6 rental property, except for those individual rental units that have more than ~~three~~seven verified
7 violations of housing ordinances or codes in a rolling 12-month period or upon the property
8 being identified within the top ~~10%~~four percent (4%) of properties with crime or disorder
9 ~~problems~~problems, or an individual unit with two or more violations in a rolling 30-day period,
10 as set forth in a local ordinance; (ii) require that an owner or manager of residential rental
11 property enroll or participate in any governmental program as a condition of obtaining a
12 certificate of occupancy; ~~or (iii) except as provided in subsection (d) of this section,~~(iii) levy a
13 special fee or tax on residential rental property that is not also levied against other commercial
14 and residential ~~properties~~properties, except as authorized by act of the General Assembly; (iv)
15 require proof of registration under subdivision (i) of this subsection, when applicable, be posted
16 in the business office, common area, or other conspicuous place; or (v) provide that any
17 violation of a rental registration ordinance is punishable as a criminal offense.

18 (d) ~~A county may levy a fee for residential rental property registration under subsection~~
19 ~~(e) of this section for those rental units which have been found with more than two verified~~
20 ~~violations of housing ordinances or codes within the previous 12 months or upon the property~~
21 ~~being identified within the top 10% of properties with crime or disorder problems as set forth in~~
22 ~~a local ordinance. The fee shall be an amount that covers the cost of operating a residential~~
23 ~~registration program and shall not be used to supplant revenue in other areas. Counties using~~
24 ~~registration programs that charge registration fees for all residential rental properties as of June~~
25 ~~1, 2011, may continue levying a fee on all residential rental properties as follows:~~

- 26 (1) ~~For properties with 20 or more residential rental units, the fee shall be no~~
27 ~~more than fifty dollars (\$50.00) per year.~~
28 (2) ~~For properties with fewer than 20 but more than three residential rental units,~~
29 ~~the fee shall be no more than twenty five dollars (\$25.00) per year.~~
30 (3) ~~For properties with three or fewer residential rental units, the fee shall be no~~
31 ~~more than fifteen dollars (\$15.00) per year.~~

32 (e) For purposes of this section, the term "verified violation" means all of the following:

- 33 (1) The aggregate of all violations of housing ordinances or codes found in an
34 individual rental unit of residential real property during a 72-hour period.
35 (2) Any violations that have not been corrected by the owner or manager within
36 30 days of receipt of written notice from the county of the violations. If the
37 housing ordinance or code provides that any form of prohibited tenant
38 behavior constitutes a violation by the owner or manager of the rental
39 property, it shall be deemed a correction of the tenant-related violation if the
40 owner or manager, within 30 days of receipt of written notice of the
41 tenant-related violation, brings a summary ejectment action to have the
42 tenant evicted.

43 (f) If a property is identified by the county as being in the top four percent (4%) of
44 properties with crime or disorder problems, the county shall notify the landlord of any crimes,
45 disorders, or other violations that will be counted against the property to allow the landlord an
46 opportunity to attempt to correct the problems. In addition, the county and the county's sheriff
47 department shall assist the landlord in addressing any criminal activity, including testifying in
48 court in a summary ejectment action or other matter to aid in evicting a tenant who has been
49 charged with a crime. If the county or the county's sheriff department does not cooperate in
50 evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or

1 disorder problem as set forth in the local ordinance, and the property may not be included in the
2 top four percent (4%) of properties as a result of that tenant's behavior or activity.

3 (g) For purposes of this section, if an individual unit has a violation of G.S. 42-42(a)(8)
4 and that violation cannot be corrected or cured under this section, it shall be a verified
5 violation.

6 (h) If the county takes action against a unit under this section, the county shall provide
7 an independent review process whereby the unit owner may appeal the violation or crime or
8 disorder problems that the county has determined should be the responsibility of the owner.
9 The process shall include an independent decision maker who is not connected to the county
10 and due process for the unit owner."

11 **SECTION 2.** G.S. 160A-424 reads as rewritten:

12 **"§ 160A-424. ~~Periodic inspections.~~Inspections for hazardous or unlawful conditions.**

13 (a) The inspection department may make ~~periodic~~ inspections, subject to the council's
14 directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings
15 or structures within its territorial jurisdiction. Except as provided in subsection (b) of this
16 section, the inspection department may make ~~periodic~~ inspections only when there is
17 reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful
18 conditions may exist in a residential building or structure. For purposes of this section, the term
19 "reasonable cause" means any of the following: (i) the ~~landlord or owner~~ property has a history
20 of more than ~~two~~ seven verified violations of the housing ordinances or codes within a rolling
21 12-month period; (ii) there has been a complaint that substandard conditions exist within the
22 building or there has been a request that the building be inspected; (iii) the inspection
23 department has actual knowledge of an unsafe condition within the building; or (iv) violations
24 of the local ordinances or codes are visible from the outside of the property. In conducting
25 inspections authorized under this section, the inspection department shall not discriminate
26 between single-family and multifamily ~~buildings~~ buildings or between owner-occupied and
27 tenant-occupied buildings. In exercising this power, members of the department shall have a
28 right to enter on any premises within the jurisdiction of the department at all reasonable hours
29 for the purposes of inspection or other enforcement action, upon presentation of proper
30 credentials. Nothing in this section shall be construed to prohibit periodic inspections in
31 accordance with State fire prevention code or as otherwise required by State law.

32 (b) A city may require ~~periodic~~ inspections as part of a targeted effort to respond to
33 blighted or potentially blighted conditions within a geographic area that has been designated by
34 the city council. However, the total aggregate of targeted areas in the county shall not be
35 greater than one square mile or five percent (5%) of the area within the corporate limits of the
36 city, whichever is greater. The targeted area designated by the city shall reflect the city's stated
37 neighborhood revitalization strategy and address significant levels of disrepair. The
38 ~~municipality~~ city shall not discriminate in its selection of areas or housing types to be targeted
39 ~~and shall~~ (i) provide notice to all owners and residents of properties in the affected area about
40 the ~~periodic~~ inspections plan and information regarding a public hearing regarding the plan; (ii)
41 hold a public hearing regarding the plan; and (iii) establish a plan to address the ability of
42 low-income residential property owners to comply with minimum housing code standards.

43 (c) In no event may a city do any of the following: (i) adopt or enforce any ordinance
44 that would require any owner or manager of rental property to obtain any permit or permission
45 from the city to lease or rent residential real property, except for those ~~properties~~ individual
46 rental units that have more than three verified violations in a 12-month period or upon the
47 property being identified within the top ~~10%~~ four percent (4%) of properties with crime or
48 disorder ~~problems~~ problems, or an individual unit with two or more violations in a rolling
49 30-day period, as set forth in a local ordinance; (ii) require that an owner or manager of
50 residential rental property enroll or participate in any governmental program as a condition of
51 obtaining a certificate of occupancy; ~~or (iii) except as provided in subsection (d) of this~~

1 ~~section, (iii) levy a special fee or tax on residential rental property that is not also levied against~~
2 ~~other commercial and residential properties, except as authorized by act of the~~
3 ~~General Assembly; (iv) require proof of registration under subdivision (i) of this subsection,~~
4 ~~when applicable, be posted in the business office, common area, or other conspicuous place; or~~
5 ~~(v) provide that any violation of a rental registration ordinance is punishable as a criminal~~
6 ~~offense.~~

7 ~~(d) A city may levy a fee for residential rental property registration under subsection (e)~~
8 ~~of this section for those rental units which have been found with more than two verified~~
9 ~~violations of local ordinances within the previous 12 months or upon the property being~~
10 ~~identified within the top 10% of properties with crime or disorder problems as set forth in a~~
11 ~~local ordinance. The fee shall be an amount that covers the cost of operating a residential~~
12 ~~registration program and shall not be used to supplant revenue in other areas. Cities using~~
13 ~~registration programs that charge registration fees for all residential rental properties as of June~~
14 ~~1, 2011, may continue levying a fee on all residential rental properties as follows:~~

15 (1) ~~For properties with 20 or more residential rental units, the fee shall be no~~
16 ~~more than fifty dollars (\$50.00) per year.~~

17 (2) ~~For properties with fewer than 20 but more than three residential rental units,~~
18 ~~the fee shall be no more than twenty five dollars (\$25.00) per year.~~

19 (3) ~~For properties with three or fewer residential rental units, the fee shall be no~~
20 ~~more than fifteen dollars (\$15.00) per year.~~

21 (e) For purposes of this section, the term "verified violation" means all of the following:

22 (1) The aggregate of all violations of housing ordinances or codes found in an
23 individual rental unit of residential real property during a 72-hour period.

24 (2) Any violations that have not been corrected by the owner or manager within
25 30 days of receipt of written notice from the city of the violations. If the
26 housing ordinance or code provides that any form of prohibited tenant
27 behavior constitutes a violation by the owner or manager of the rental
28 property, it shall be deemed a correction of the tenant-related violation if the
29 owner or manager, within 30 days of receipt of written notice of the
30 tenant-related violation, brings a summary ejectment action to have the
31 tenant evicted.

32 (f) If a property is identified by the city as being in the top four percent (4%) of
33 properties with crime or disorder problems, the city shall notify the landlord of any crimes,
34 disorders, or other violations that will be counted against the property to allow the landlord an
35 opportunity to attempt to correct the problems. In addition, the city and the city's police
36 department or, if the city has no police department, the county sheriff's department shall assist
37 the landlord in addressing any criminal activity, including testifying in court in a summary
38 ejectment action or other matter to aid in evicting a tenant who has been charged with a crime.
39 If the city, the city's police department, or where applicable the county's sheriff department
40 does not cooperate in evicting a tenant, the tenant's behavior or activity at issue shall not be
41 counted as a crime or disorder problem as set forth in the local ordinance, and the property may
42 not be included in the top four percent (4%) of properties as a result of that tenant's behavior or
43 activity.

44 (g) For purposes of this section, if an individual unit has a violation of G.S. 42-42(a)(8)
45 and that violation cannot be corrected or cured under this section, it shall be a verified
46 violation.

47 (h) If the city takes action against a unit under this section, the city shall provide an
48 independent review process whereby the unit owner may appeal the violation or crime or
49 disorder problems that the city has determined should be the responsibility of the owner. The
50 process shall include an independent decision maker who is not connected to the city and due
51 process for the unit owner."

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SECTION 3. This act is effective when it becomes law.