

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**SENATE DRS35305-LM-128B\* (03/13)**

Short Title: Housing Conditions/Inspections. (Public)

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Sponsors: Senator Boseman.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT REQUIRING CITIES AND COUNTIES TO HAVE PROBABLE CAUSE BEFORE INSPECTING RESIDENTIAL AND NONRESIDENTIAL STRUCTURES AND REQUIRING OWNERS AND LANDLORDS TO IMPROVE THE HABITABILITY OF DWELLING UNITS BY IMMEDIATELY REPAIRING CERTAIN UNSAFE CONDITIONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 42-42(a)(2) reads as rewritten:

"(2) Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition. However, the landlord shall immediately repair or remedy any imminently dangerous condition in the premise after acquiring actual knowledge or receiving notice of the condition. For purposes of this subdivision, the term 'imminently dangerous condition' means any of the following:

- a. Unsafe wiring.
- b. Unsafe flooring or steps.
- c. Unsafe ceilings or roofs.
- d. Unsafe chimneys or flues.
- e. Lack of potable water.
- f. Lack of operable locks on all doors leading to the outside.
- g. Broken windows or lack of operable locks on all windows on the ground level.
- h. Lack of operable heating facilities capable of heating living areas to 65 degrees Fahrenheit when it is 20 degrees Fahrenheit outside from November 1 through March 31.
- i. Lack of an operable toilet.
- j. Lack of an operable bathtub or shower.

- 1           k.     Rat infestation as a result of defects in the structure that make  
2                 the premises not impervious to rodents.  
3           l.     Excessive standing water, sewage, or flooding problems caused  
4                 by plumbing leaks or inadequate drainage that contribute to  
5                 mosquito infestation or mold."

6           **SECTION 2.** G.S. 153A-364 reads as rewritten:

7   "**§ 153A-364. Periodic inspections for hazardous or unlawful conditions.**

8       (a)   The inspection department ~~shall~~may make periodic inspections, subject to  
9   the board of commissioners' directions, for unsafe, unsanitary, or otherwise hazardous  
10  and unlawful conditions in residential and nonresidential buildings within its territorial  
11  jurisdiction. Except as provided in subsection (b) of this section, the inspection  
12  department shall make periodic inspections only when there is probable cause to believe  
13  that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a  
14  residential or nonresidential building. For purposes of this section, the term 'probable  
15  cause' means: (i) the landlord or owner has a substantial history of noncompliance with  
16  the county's ordinances on unsafe buildings; (ii) an occupant of the building has  
17  reported that substandard conditions exist within the building or an occupant has  
18  requested that the building be inspected; and (iii) the inspections department has actual  
19  knowledge of unsafe conditions within the building that was acquired as a result of  
20  routine business activities conducted by the inspection department. In conducting  
21  inspections authorized under this section, the inspection department shall not  
22  discriminate between single-family and multifamily buildings or between  
23  owner-occupied and tenant-occupied buildings. In addition, it shall make any necessary  
24  inspections when it has reason to believe that such conditions may exist in a particular  
25  building. In exercising these powers, each member of the inspection department has a  
26  right, upon presentation of proper credentials, to enter on any premises within the  
27  territorial jurisdiction of the department at any reasonable hour for the purposes of  
28  inspection or other enforcement action.

29       (b)   A county may require periodic inspections under subsection (a) of this section  
30  as part of a targeted effort to respond to blighted or potentially blighted conditions  
31  within a Community Development Block Grant geographic area that has been  
32  designated by the board of commissioners, the Department of Commerce, Division of  
33  Community Assistance, or the United States Department of Housing and Urban  
34  Development."

35       **SECTION 3.** G.S. 160A-424 reads as rewritten:

36   "**§ 160A-424. Periodic inspections.**

37       (a)   The inspection department ~~shall~~may make periodic inspections, subject to  
38  the council's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful  
39  conditions in residential and nonresidential buildings or structures within its territorial  
40  jurisdiction. Except as provided in subsection (b) of this section, the inspection  
41  department shall make periodic inspections only when there is probable cause to believe  
42  that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a  
43  residential or nonresidential building or structure. For purposes of this section, the term  
44  'probable cause' means: (i) the landlord or owner has a substantial history of

1 noncompliance with the city's ordinances on unsafe buildings or structures; (ii) an  
2 occupant of the building or structure has reported that substandard conditions exist  
3 within the building or structure or an occupant has requested that the building or  
4 structure be inspected; and (iii) the inspection department has actual knowledge of  
5 unsafe conditions within the building or structure that was acquired as a result of routine  
6 business activities conducted by the inspection department. In conducting inspections  
7 authorized under this section, the inspection department shall not discriminate between  
8 single-family and multifamily buildings or structures or between owner-occupied and  
9 tenant-occupied buildings or structures. In addition, it shall make inspections when it  
10 has reason to believe that such conditions may exist in a particular structure. In  
11 exercising this power, members of the department shall have a right to enter on any  
12 premises within the jurisdiction of the department at all reasonable hours for the  
13 purposes of inspection or other enforcement action, upon presentation of proper  
14 credentials.

15 (b) A city may require periodic inspections under subsection (a) of this section as  
16 part of a targeted effort to respond to blighted or potentially blighted conditions within a  
17 Community Development Block Grant geographic area that has been designated by the  
18 city council, the Department of Commerce, Division of Community Assistance, or the  
19 United States Department of Housing and Urban Development."

20 **SECTION 4.** G.S. 160A-443 reads as rewritten:

21 **"§ 160A-443. Ordinance authorized as to repair, closing, and demolition; order of**  
22 **public officer.**

23 Upon the adoption of an ordinance finding that dwelling conditions of the character  
24 described in G.S. 160A-441 exist within a city, the governing body of the city is hereby  
25 authorized to adopt and enforce ordinances relating to dwellings within the city's  
26 territorial jurisdiction that are unfit for human habitation. These ordinances shall include  
27 the following provisions:

28 ...

- 29 (2) That whenever a petition is filed with the public officer by a public  
30 authority or by at least five residents of the city charging that any  
31 dwelling is unfit for human ~~habitation~~ habitation, whenever the  
32 occupant of a dwelling requests that the dwelling be inspected, or  
33 whenever it appears to the public officer (on his own motion) that any  
34 dwelling is unfit for human habitation, the public officer shall, if his  
35 preliminary investigation discloses a basis for such charges, issue and  
36 cause to be served upon the owner of and parties in interest in such  
37 dwellings a complaint stating the charges in that respect and  
38 containing a notice that a hearing will be held before the public officer  
39 (or his designated agent) at a place within the county in which the  
40 property is located fixed not less than 10 days nor more than 30 days  
41 after the serving of the complaint; that the owner and parties in interest  
42 shall be given the right to file an answer to the complaint and to appear  
43 in person, or otherwise, and give testimony at the place and time fixed  
44 in the complaint; and that the rules of evidence prevailing in courts of

1 law or equity shall not be controlling in hearings before the public  
2 officer.

3 (3) That if, after notice and hearing, the public officer determines that the  
4 dwelling under consideration is unfit for human habitation, he shall  
5 state in writing his findings of fact in support of that determination and  
6 shall issue and cause to be served upon the owner thereof an order,

7 a. If the repair, alteration or improvement of the dwelling can be  
8 made at a reasonable cost in relation to the value of the  
9 dwelling (the ordinance of the city may fix a certain percentage  
10 of this value as being reasonable), requiring the ~~owner, within~~  
11 ~~the time specified,~~ owner to repair, alter or improve the  
12 ~~dwelling in order to render it fit for human habitation or to~~  
13 ~~vacate and close the dwelling as a human habitation; or within a~~  
14 reasonable time, which shall be fixed in the order, any  
15 ordinance violations that are not imminently dangerous to the  
16 occupant of the dwelling and to render the dwelling safe for  
17 human habitation. If any of the following imminently dangerous  
18 conditions are found to exist in the dwelling, the order shall  
19 require the owner to immediately repair or remedy the  
20 conditions:

- 21 1. Unsafe wiring.
- 22 2. Unsafe flooring or steps.
- 23 3. Unsafe ceilings or roofs.
- 24 4. Unsafe chimneys or flues.
- 25 5. Lack of potable water.
- 26 6. Lack of operable locks on all doors leading to the  
27 outside.
- 28 7. Broken windows or lack of operable locks on all  
29 windows on the ground level.
- 30 8. Lack of operable heating facilities capable of heating  
31 living areas to 65 degrees Fahrenheit when it is 20  
32 degrees Fahrenheit outside from November 1 through  
33 March 31.
- 34 9. Lack of an operable toilet.
- 35 10. Lack of an operable bathtub or shower.
- 36 11. Rat infestation as a result of defects in the structure that  
37 make the premises not impervious to rodents.
- 38 12. Excessive standing water, sewage, or flooding problems  
39 caused by plumbing leaks or inadequate drainage that  
40 contribute to mosquito infestation or mold.

41 b. If the repair, alteration or improvement of the dwelling cannot  
42 be made at a reasonable cost in relation to the value of the  
43 dwelling (the ordinance of the city may fix a certain percentage  
44 of this value as being reasonable), requiring the owner, within

1 the time specified in the order, to remove or demolish such  
2 dwelling. However, notwithstanding any other provision of law,  
3 if the dwelling is located in a historic district of the city and the  
4 Historic District Commission determines, after a public hearing  
5 as provided by ordinance, that the dwelling is of particular  
6 significance or value toward maintaining the character of the  
7 district, and the dwelling has not been condemned as unsafe, the  
8 order may require that the dwelling be vacated and closed  
9 consistent with G.S. 160A-400.14(a).

10 (4) That, if the owner fails to comply with an order to repair, alter or  
11 improve ~~or to vacate and close~~ the dwelling, the public officer may  
12 cause the dwelling to be repaired, altered or improved or to be vacated  
13 and closed; that the public officer may cause to be posted on the main  
14 entrance of any dwelling so closed, a placard with the following  
15 words: "This building is unfit for human habitation; the use or  
16 occupation of this building for human habitation is prohibited and  
17 unlawful." Occupation of a building so posted shall constitute a Class  
18 1 misdemeanor.

19 ...

20 (5a) If the governing body shall have adopted an ordinance, or the public  
21 officer shall have:

22 a. In a municipality located in counties which have a population in  
23 excess of 71,000 by the last federal census (including the  
24 entirety of any municipality located in more than one county at  
25 least one county of which has a population in excess of 71,000),  
26 other than municipalities with a population in excess of 190,000  
27 by the last federal census, issued an order, ordering a dwelling  
28 to be repaired or vacated and closed, as provided in ~~subdivision~~  
29 ~~(3)a., subdivisions (3)a. and (4) of this section,~~ and if the owner  
30 has vacated and closed such dwelling and kept such dwelling  
31 vacated and closed for a period of one year pursuant to the  
32 ordinance or order;

33 b. In a municipality with a population in excess of 190,000 by the  
34 last federal census, commenced proceedings under the  
35 substandard housing regulations regarding a dwelling to be  
36 repaired or vacated and closed, as provided in ~~subdivision~~  
37 ~~(3)a., subdivisions (3)a. and (4) of this section,~~ and if the owner  
38 has vacated and closed such dwelling and kept such dwelling  
39 vacated and closed for a period of one year pursuant to the  
40 ordinance or after such proceedings have commenced,

41 then if the governing body shall find that the owner has abandoned the  
42 intent and purpose to repair, alter or improve the dwelling in order to  
43 render it fit for human habitation and that the continuation of the  
44 dwelling in its vacated and closed status would be inimical to the

1 health, safety, morals and welfare of the municipality in that the  
2 dwelling would continue to deteriorate, would create a fire and safety  
3 hazard, would be a threat to children and vagrants, would attract  
4 persons intent on criminal activities, would cause or contribute to  
5 blight and the deterioration of property values in the area, and would  
6 render unavailable property and a dwelling which might otherwise  
7 have been made available to ease the persistent shortage of decent and  
8 affordable housing in this State, then in such circumstances, the  
9 governing body may, after the expiration of such one year period,  
10 enact an ordinance and serve such ordinance on the owner, setting  
11 forth the following:

- 12 a. If it is determined that the repair of the dwelling to render it fit  
13 for human habitation can be made at a cost not exceeding fifty  
14 percent (50%) of the then current value of the dwelling, the  
15 ordinance shall require that the owner either repair or demolish  
16 and remove the dwelling within 90 days; or  
17 b. If it is determined that the repair of the dwelling to render it fit  
18 for human habitation cannot be made at a cost not exceeding  
19 fifty percent (50%) of the then current value of the dwelling, the  
20 ordinance shall require the owner to demolish and remove the  
21 dwelling within 90 days.

22 This ordinance shall be recorded in the Office of the Register of  
23 Deeds in the county wherein the property or properties are located and  
24 shall be indexed in the name of the property owner in the grantor  
25 index. If the owner fails to comply with this ordinance, the public  
26 officer shall effectuate the purpose of the ordinance.

27 ~~This subdivision only applies to municipalities located in counties  
28 which have a population in excess of 71,000 by the last federal census  
29 (including the entirety of any municipality located in more than one  
30 county at least one county of which has a population in excess of  
31 71,000).~~

32 [This subdivision does not apply to the local government units  
33 listed in subdivision (5b) of this section.]

- 34 (5b) If the governing body shall have adopted an ordinance, or the public  
35 officer shall have:
- 36 a. In a municipality other than municipalities with a population in  
37 excess of 190,000 by the last federal census, issued an order,  
38 ordering a dwelling to be repaired or vacated and closed, as  
39 provided in ~~subdivision (3)a,~~ subdivisions (3)a. and (4) of this  
40 section, and if the owner has vacated and closed such dwelling  
41 and kept such dwelling vacated and closed for a period of one  
42 year pursuant to the ordinance or order;
- 43 b. In a municipality with a population in excess of 190,000 by the  
44 last federal census, commenced proceedings under the

1                   substandard housing regulations regarding a dwelling to be  
2                   repaired or vacated and closed, as provided in ~~subdivision~~  
3                   ~~(3)a.~~, subdivisions (3)a. and (4) of this section, and if the owner  
4                   has vacated and closed such dwelling and kept such dwelling  
5                   vacated and closed for a period of one year pursuant to the  
6                   ordinance or after such proceedings have commenced,

7                   then if the governing body shall find that the owner has abandoned the  
8                   intent and purpose to repair, alter or improve the dwelling in order to  
9                   render it fit for human habitation and that the continuation of the  
10                  dwelling in its vacated and closed status would be inimical to the  
11                  health, safety, morals and welfare of the municipality in that the  
12                  dwelling would continue to deteriorate, would create a fire and safety  
13                  hazard, would be a threat to children and vagrants, would attract  
14                  persons intent on criminal activities, would cause or contribute to  
15                  blight and the deterioration of property values in the area, and would  
16                  render unavailable property and a dwelling which might otherwise  
17                  have been made available to ease the persistent shortage of decent and  
18                  affordable housing in this State, then in such circumstances, the  
19                  governing body may, after the expiration of such one year period,  
20                  enact an ordinance and serve such ordinance on the owner, setting  
21                  forth the following:

- 22                  a.       If it is determined that the repair of the dwelling to render it fit  
23                  for human habitation can be made at a cost not exceeding fifty  
24                  percent (50%) of the then current value of the dwelling, the  
25                  ordinance shall require that the owner either repair or demolish  
26                  and remove the dwelling within 90 days; or  
27                  b.       If it is determined that the repair of the dwelling to render it fit  
28                  for human habitation cannot be made at a cost not exceeding  
29                  fifty percent (50%) of the then current value of the dwelling, the  
30                  ordinance shall require the owner to demolish and remove the  
31                  dwelling within 90 days.

32                  This ordinance shall be recorded in the Office of the Register of Deeds  
33                  in the county wherein the property or properties are located and shall  
34                  be indexed in the name of the property owner in the grantor index. If  
35                  the owner fails to comply with this ordinance, the public officer shall  
36                  effectuate the purpose of the ordinance.

37                  This subdivision applies to the Cities of Eden, Lumberton,  
38                  Roanoke Rapids, and Whiteville, to the municipalities in Lee County,  
39                  and the Towns of Bethel, Farmville, Newport, and Waynesville only.

40                  (6)       Liens. –

- 41                  a.       That the amount of the cost of repairs, alterations or  
42                  improvements, or vacating and closing, or removal or  
43                  demolition by the public officer shall be a lien against the real  
44                  property upon which the cost was incurred, which lien shall be

- 1 filed, have the same priority, and be collected as the lien for  
2 special assessment provided in Article 10 of this Chapter.
- 3 b. If the real property upon which the cost was incurred is located  
4 in an incorporated city, then the amount of the cost is also a lien  
5 on any other real property of the owner located within the city  
6 limits or within one mile thereof except for the owner's primary  
7 residence. The additional lien provided in this sub-subdivision  
8 is inferior to all prior liens and shall be collected as a money  
9 judgment.
- 10 c. If the dwelling is removed or demolished by the public officer,  
11 he shall sell the materials of the dwelling, and any personal  
12 property, fixtures or appurtenances found in or attached to the  
13 dwelling, and shall credit the proceeds of the sale against the  
14 cost of the removal or demolition and any balance remaining  
15 shall be deposited in the superior court by the public officer,  
16 shall be secured in a manner directed by the court, and shall be  
17 disbursed by the court to the persons found to be entitled thereto  
18 by final order or decree of the court. Nothing in this section  
19 shall be construed to impair or limit in any way the power of the  
20 city to define and declare nuisances and to cause their removal  
21 or abatement by summary proceedings, or otherwise.
- 22 (7) If any occupant fails to comply with an order to vacate a dwelling, the  
23 public officer may file a civil action in the name of the city to remove  
24 such occupant. The action to vacate the dwelling shall be in the nature  
25 of summary ejectment and shall be commenced by filing a complaint  
26 naming as parties-defendant any person occupying such dwelling. The  
27 clerk of superior court shall issue a summons requiring the defendant  
28 to appear before a magistrate at a certain time, date and place not to  
29 exceed 10 days from the issuance of the summons to answer the  
30 complaint. The summons and complaint shall be served as provided in  
31 G.S. 42-29. The summons shall be returned according to its tenor, and  
32 if on its return it appears to have been duly served, and if at the hearing  
33 the public officer produces a certified copy of an ordinance adopted by  
34 the governing body pursuant to subdivision (5) authorizing the officer  
35 to proceed to vacate the occupied dwelling, the magistrate shall enter  
36 judgment ordering that the premises be vacated and that all persons be  
37 removed. The judgment ordering that the dwelling be vacated shall be  
38 enforced in the same manner as the judgment for summary ejectment  
39 entered under G.S. 42-30. An appeal from any judgment entered  
40 hereunder by the magistrate may be taken as provided in G.S. 7A-228,  
41 and the execution of such judgment may be stayed as provided in  
42 G.S. 7A-227. An action to remove an occupant of a dwelling who is a  
43 tenant of the owner may not be in the nature of a summary ejectment  
44 proceeding pursuant to this paragraph unless such occupant was served



1 with notice at least 30 days before the filing of the summary ejectment  
2 proceeding that the governing body has ordered the public officer to  
3 proceed to exercise his duties under subdivisions (4) and (5) of this  
4 section to vacate and close or remove and demolish the dwelling.

5 (8) That whenever a determination is made pursuant to subdivision ~~(3)~~  
6 subdivisions (3) and (4) of this section that a dwelling must be vacated  
7 and closed, or removed or demolished, under the provisions of this  
8 section, notice of the order shall be given by first-class mail to any  
9 organization involved in providing or restoring dwellings for  
10 affordable housing that has filed a written request for such notices. A  
11 minimum period of 45 days from the mailing of such notice shall be  
12 given before removal or demolition by action of the public officer, to  
13 allow the opportunity for any organization to negotiate with the owner  
14 to make repairs, lease, or purchase the property for the purpose of  
15 providing affordable housing. The public officer or clerk shall certify  
16 the mailing of the notices, and the certification shall be conclusive in  
17 the absence of fraud. Only an organization that has filed a written  
18 request for such notices may raise the issue of failure to mail such  
19 notices, and the sole remedy shall be an order requiring the public  
20 officer to wait 45 days before causing removal or demolition."

21 **SECTION 5.** This act is effective when it becomes law.