

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 530*

Short Title: Local Gov'ts/Inspect Bldgs & Structures. (Public)

Sponsors: Representatives Brawley, Brisson, Bumgardner, and Cotham (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Local Government, if favorable, Regulatory Reform.

April 2, 2015

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~~seven verified violations of the housing ordinances or codes within a rolling 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 at any one time shall not be greater than one square mile or five percent (5%) of the area within the county, whichever is greater. A targeted area designated by the county shall reflect the county's stated neighborhood revitalization strategy and shall consist of property that meets the definition of a "blighted area" or "blighted parcel" as those terms are defined in G.S. 160A-503(2) and G.S. 160A-503(2a), respectively, except that for purposes of this



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1 subsection the planning commission is not required to make a determination as to the property.
2 The county shall ~~not discriminate in its selection of areas or housing types to be targeted and~~
3 ~~shall~~ (i) provide notice to all owners and residents of properties in the affected area about the
4 ~~periodic~~ inspections plan and information regarding a public hearing regarding the plan; (ii)
5 hold a public hearing regarding the plan; and (iii) establish a plan to address the ability of
6 low-income residential property owners to comply with minimum housing code standards. A
7 residential building or structure that is subject to periodic inspections by the North Carolina
8 Housing Finance Agency (hereinafter "Agency") shall not be subject to ~~periodic~~ inspections
9 under this subsection if the Agency has issued a finding that the building or structure is in
10 compliance with federal standards established by the United States Department of Housing and
11 Urban Development to assess the physical condition of residential property. The owner or
12 manager of a residential building or structure subject to periodic inspections by the Agency
13 shall, within 10 days of receipt, submit to the inspection department a copy of the Compliance
14 Results Letter issued by the Agency showing that the residential building or structure is in
15 compliance with federal housing inspection standards. If the owner or manager fails to submit a
16 copy of the Compliance Results Letter as provided in this subsection, the residential building or
17 structure shall be subject to ~~periodic~~ inspections as provided in this subsection until the
18 Compliance Results Letter is submitted to the inspection department.

19 (c) In no event may a county do any of the following: (i) adopt or enforce any
20 ordinance that would require any owner or manager of rental property to obtain any permit or
21 permission from the county to lease or rent residential real ~~property, property~~ or to register
22 rental property with the county, except for those individual rental units that have either more
23 than ~~three~~ ~~seven~~ verified violations of housing ordinances or codes in a rolling 12-month period
24 or two or more verified violations in a rolling 30-day period, or upon the property being
25 identified within the top ~~10%~~ ~~four percent~~ (4%) of properties with crime or disorder problems
26 as set forth in a local ordinance; (ii) require that an owner or manager of residential rental
27 property enroll or participate in any governmental program as a condition of obtaining a
28 certificate of ~~occupancy~~; or (iii) except as provided in subsection (d) of this section, occupancy;
29 (iii) levy a special fee or tax on residential rental property that is not also levied against other
30 commercial and residential ~~properties, properties, unless expressly authorized by general law or~~
31 applicable only to an individual rental unit or property described in clause (i) of this subsection
32 and the fee does not exceed five hundred dollars (\$500.00) in any 12-month period in which the
33 unit or property is found to have verified violations; (iv) require proof of registration under
34 clause (i) of this subsection, when applicable, be posted in the business office, common area, or
35 other conspicuous place; (v) provide that any violation of a rental registration ordinance is
36 punishable as a criminal offense; or (vi) require any owner or manager of rental property to
37 submit to an inspection before receiving any utility service provided by the city. For purposes
38 of this section, the term "verified violation" means all of the following:

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

49 (d) ~~A county may levy a fee for residential rental property registration under subsection~~
50 ~~(c) of this section for those rental units which have been found with more than two verified~~
51 ~~violations of housing ordinances or codes within the previous 12 months or upon the property~~

1 being identified within the top 10% of properties with crime or disorder problems as set forth in
2 a local ordinance. The fee shall be an amount that covers the cost of operating a residential
3 registration program and shall not be used to supplant revenue in other areas. Counties using
4 registration programs that charge registration fees for all residential rental properties as of June
5 1, 2011, may continue levying a fee on all residential rental properties as follows:

- 6 (1) For properties with 20 or more residential rental units, the fee shall be no
7 more than fifty dollars (\$50.00) per year.
8 (2) For properties with fewer than 20 but more than three residential rental units,
9 the fee shall be no more than twenty five dollars (\$25.00) per year.
10 (3) For properties with three or fewer residential rental units, the fee shall be no
11 more than fifteen dollars (\$15.00) per year.

12 (e) If a property is identified by the county as being in the top four percent (4%) of
13 properties with crime or disorder problems, the county shall notify the landlord of any crimes,
14 disorders, or other violations that will be counted against the property to allow the landlord an
15 opportunity to attempt to correct the problems. In addition, the county and the county sheriff's
16 department shall assist the landlord in addressing any criminal activity, including testifying in
17 court in a summary ejectment action or other matter to aid in evicting a tenant who has been
18 charged with a crime. If the county or the county sheriff's department does not cooperate in
19 evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or
20 disorder problem as set forth in the local ordinance, and the property may not be included in the
21 top four percent (4%) of properties as a result of that tenant's behavior or activity.

22 (f) If the county takes action against an individual rental unit under this section, the
23 owner of the individual rental unit may appeal the decision to the housing appeals board, if
24 created under G.S. 160A-446, or the planning board, if created under G.S. 153A-321, or if
25 neither is created, the county manager or the county manager's designee. The board or manager
26 shall fix a reasonable time for hearing appeals, shall give due notice to the owner of the
27 individual rental unit, and shall render a decision within a reasonable time. The owner may
28 appear in person or by agent or attorney. The board or manager may reverse or affirm the
29 action, wholly or partly, or may modify the action appealed from, and may make any decision
30 and order that in the opinion of the board or manager ought to be made in the matter."

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

32 "**§ 160A-424. Periodic inspections. Inspections for hazardous or unlawful conditions.**

33 (a) The inspection department may make ~~periodic~~ inspections, subject to the council's
34 directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings
35 or structures within its territorial jurisdiction. Except as provided in subsection (b) of this
36 section, the inspection department may make ~~periodic~~ inspections only when there is
37 reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful
38 conditions may exist in a residential building or structure. For purposes of this section, the term
39 "reasonable cause" means any of the following: (i) the ~~landlord or owner~~ property has a history
40 of more than ~~two~~ seven verified violations of the housing ordinances or codes within a rolling
41 12-month period; (ii) there has been a complaint that substandard conditions exist within the
42 building or there has been a request that the building be inspected; (iii) the inspection
43 department has actual knowledge of an unsafe condition within the building; or (iv) violations
44 of the local ordinances or codes are visible from the outside of the property. In conducting
45 inspections authorized under this section, the inspection department shall not discriminate
46 between single-family and multifamily ~~buildings~~ buildings or between owner-occupied and
47 tenant-occupied buildings. In exercising this power, members of the department shall have a
48 right to enter on any premises within the jurisdiction of the department at all reasonable hours
49 for the purposes of inspection or other enforcement action, upon presentation of proper
50 credentials. Nothing in this section shall be construed to prohibit periodic inspections in
51 accordance with State fire prevention code or as otherwise required by State law.

1 (b) A city may require ~~periodic~~ inspections as part of a targeted effort to respond to
2 blighted or potentially blighted conditions within a geographic area that has been designated by
3 the city council. However, the total aggregate of targeted areas in the city at any one time shall
4 not be greater than one square mile or five percent (5%) of the area within the city, whichever
5 is greater. A targeted area designated by the city shall reflect the city's stated neighborhood
6 revitalization strategy and shall consist of property that meets the definition of a "blighted area"
7 or "blighted parcel" as those terms are defined in G.S. 160A-503(2) and G.S. 160A-503(2a),
8 respectively, except that for purposes of this subsection the planning commission is not
9 required to make a determination as to the property. The municipality shall not discriminate in
10 its selection of areas or housing types to be targeted and city shall (i) provide notice to all
11 owners and residents of properties in the affected area about the ~~periodic~~ inspections plan and
12 information regarding a public hearing regarding the plan; (ii) hold a public hearing regarding
13 the plan; and (iii) establish a plan to address the ability of low-income residential property
14 owners to comply with minimum housing code standards. A residential building or structure
15 that is subject to periodic inspections by the North Carolina Housing Finance Agency
16 (hereinafter "Agency") shall not be subject to ~~periodic~~ inspections under this subsection if the
17 Agency has issued a finding that the building or structure is in compliance with federal
18 standards established by the United States Department of Housing and Urban Development to
19 assess the physical condition of residential property. The owner or manager of a residential
20 building or structure subject to periodic inspections by the Agency shall, within 10 days of
21 receipt, submit to the inspection department a copy of the Compliance Results Letter issued by
22 the Agency showing that the residential building or structure is in compliance with federal
23 housing inspection standards. If the owner or manager fails to submit a copy of the Compliance
24 Results Letter as provided in this subsection, the residential building or structure shall be
25 subject to ~~periodic~~ inspections as provided in this subsection until the Compliance Results
26 Letter is submitted to the inspection department.

27 (c) In no event may a city do any of the following: (i) adopt or enforce any ordinance
28 that would require any owner or manager of rental property to obtain any permit or permission
29 from the city to lease or rent residential real ~~property, property~~ or to register rental property with
30 the city, except for those ~~properties~~ individual rental units that have either more than three
31 seven verified violations in a rolling 12-month period or two or more verified violations in a
32 rolling 30-day period, or upon the property being identified within the top ~~10%~~ four percent
33 (4%) of properties with crime or disorder problems as set forth in a local ordinance; (ii) require
34 that an owner or manager of residential rental property enroll or participate in any
35 governmental program as a condition of obtaining a certificate of occupancy; ~~or (iii) except as~~
36 provided in subsection (d) of this section, (iii) levy a special fee or tax on residential rental
37 property that is not also levied against other commercial and residential ~~properties~~ properties,
38 unless expressly authorized by general law or applicable only to an individual rental unit or
39 property described in subdivision (i) of this subsection and the fee does not exceed five
40 hundred dollars (\$500.00) in any 12-month period in which the unit or property is found to
41 have verified violations; (iv) require proof of registration under clause (i) of this subsection,
42 when applicable, be posted in the business office, common area, or other conspicuous place; (v)
43 provide that any violation of a rental registration ordinance is punishable as a criminal offense;
44 or (vi) require any owner or manager of rental property to submit to an inspection before
45 receiving any utility service provided by the county. For purposes of this section, the term
46 "verified violation" means all of the following:

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

49 (2) Any violations that have not been corrected by the owner or manager within
50 30 days of receipt of written notice from the city of the violations. If the
51 housing ordinance or code provides that any form of prohibited tenant

1 behavior constitutes a violation by the owner or manager of the rental
2 property, it shall be deemed a correction of the tenant-related violation if the
3 owner or manager, within 30 days of receipt of written notice of the
4 tenant-related violation, brings a summary ejectment action to have the
5 tenant evicted.

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

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15 ~~more than fifty dollars (\$50.00) per year.~~
16 (2) ~~For properties with fewer than 20 but more than three residential rental units,~~
17 ~~the fee shall be no more than twenty-five dollars (\$25.00) per year.~~
18 (3) ~~For properties with three or fewer residential rental units, the fee shall be no~~
19 ~~more than fifteen dollars (\$15.00) per year.~~

20 (e) If a property is identified by the city as being in the top four percent (4%) of
21 properties with crime or disorder problems, the city shall notify the landlord of any crimes,
22 disorders, or other violations that will be counted against the property to allow the landlord an
23 opportunity to attempt to correct the problems. In addition, the city and the city's police
24 department or, if the city has no police department, the county sheriff's department shall assist
25 the landlord in addressing any criminal activity, including testifying in court in a summary
26 ejectment action or other matter to aid in evicting a tenant who has been charged with a crime.
27 If the city, the city's police department, or where applicable the county sheriff's department,
28 does not cooperate in evicting a tenant, the tenant's behavior or activity at issue shall not be
29 counted as a crime or disorder problem as set forth in the local ordinance, and the property may
30 not be included in the top four percent (4%) of properties as a result of that tenant's behavior or
31 activity.

32 (f) If the city takes action against an individual rental unit under this section, the owner
33 of the individual rental unit may appeal the decision to the housing appeals board, if created
34 under G.S. 160A-446, or the planning board, if created under G.S. 160A-361, or if neither is
35 created, the city manager or the city manager's designee. The board or manager shall fix a
36 reasonable time for hearing appeals, shall give due notice to the owner of the individual rental
37 unit, and shall render a decision within a reasonable time. The owner may appear in person or
38 by agent or attorney. The board or manager may reverse or affirm the action, wholly or partly,
39 or may modify the action appealed from, and may make any decision and order that in the
40 opinion of the board or manager ought to be made in the matter."

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