

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 164*

Short Title: Bldg. Code/Local Civil Penalties.

(Public)

Sponsors: Senators Plexico and Martin of Guilford.

Referred to: Judiciary II.

February 16, 1993

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT LOCAL GOVERNMENTS HAVE THE AUTHORITY TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF THE STATE BUILDING CODE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-138(h) reads as rewritten:

"(h) Violations. - Any person who shall be adjudged to have violated this Article or the North Carolina State Building Code, except for violations of occupancy limits established by either, shall be guilty of a misdemeanor and shall upon conviction be liable to a fine, not to exceed fifty dollars (\$50.00), for each offense. Each 30 days that such violation continues shall constitute a separate and distinct offense. Violation of occupancy limits established pursuant to the North Carolina State Building Code shall be a misdemeanor subject to a one hundred dollar (\$100.00) fine for a first offense, a two hundred fifty dollar (\$250.00) fine for a second offense, and a five hundred dollar (\$500.00) fine and up to 30 days imprisonment for a third and any subsequent offenses. Any violation incurred more than one year after another conviction for violation of the occupancy limits shall be treated as a first offense for purposes of establishing and imposing penalties. ~~In case any building or structure is erected, constructed or reconstructed, or its purpose altered, so that it becomes in violation of the North Carolina State Building Code or if the occupancy limits established pursuant to the North Carolina State Building Code are exceeded, either the local enforcement officer or the State Commissioner of Insurance or other State official with responsibility under G.S. 143-139 may, in addition to other remedies, institute any appropriate action or proceedings including the civil remedies set out in G.S. 160A-175 and G.S. 153A-123, (i) to prevent such unlawful erection, construction or reconstruction or alteration of purpose, or overcrowding, (ii) to restrain, correct, or abate such~~

1 violation, or (iii) to prevent the occupancy or use of said building, structure or land until such
2 violation is corrected."

3 Sec. 2. G.S. 143-139 reads as rewritten:

4 "**§ 143-139. Enforcement of Building Code.**

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

9 (b) General Building Regulations. – The Insurance Commissioner 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 Building Code pertaining to plumbing, electrical systems, general building
13 restrictions and regulations, heating and air conditioning, fire protection, and the
14 construction of buildings generally, except those sections of the Code, the enforcement
15 of which is specifically allocated to other agencies by subsections (c) and (d) below.
16 The Insurance Commissioner, by means of the Division of Engineering, shall exercise
17 his duties in the enforcement of the North Carolina State Building Code (including local
18 building codes which have superseded the State Building Code in a particular political
19 subdivision pursuant to G.S. 143-138(e)) in cooperation with local officials and local
20 inspectors duly appointed by the governing body of any municipality or board of county
21 commissioners pursuant to Part 5 of Article 19 of Chapter 160A of the General Statutes
22 or Part 4 of Article 18 of Chapter 153A of the General Statutes, or any other applicable
23 statutory authority.

24 (b1) Remedies. – In case any building or structure is maintained, erected,
25 constructed, or reconstructed or its purpose altered, so that it becomes in violation of
26 this Article or of the North Carolina State Building Code, either the local enforcement
27 officer or the State Commissioner of Insurance or other State official with responsibility
28 under this section may, in addition to other remedies, institute any appropriate action or
29 proceeding to: (i) prevent the unlawful maintenance, erection, construction, or
30 reconstruction or alteration of purpose, or overcrowding, (ii) restrain, correct, or abate
31 the violation, or (iii) prevent the occupancy or use of the building, structure, or land
32 until the violation is corrected. In addition to the civil remedies set out in G.S. 160A-
33 175 and G.S. 153A-123, a county, city, or other political subdivision authorized to
34 enforce the North Carolina State Building Code within its jurisdiction may, for the
35 purposes stated in (i) through (iii) of this subsection, levy a civil penalty for violation of
36 the North Carolina State Building Code, which penalty may be recovered in a civil
37 action in the nature of debt if the offender does not pay the penalty within a prescribed
38 period of time after the offender has been cited for the violation.

39 (c) Boilers. – The Bureau of Boiler Inspection of the Department of Labor shall
40 have general supervision of the administration and enforcement of those sections of the
41 North Carolina State Building Code which pertain to boilers of the types enumerated in
42 Article 7 of Chapter 95 of the General Statutes.

43 (d) Elevators. – The Department of Labor shall have general supervision of the
44 administration and enforcement of those sections of the North Carolina State Building

1 Code which pertain to elevators, moving stairways, and amusement devices such as
2 merry-go-rounds, roller coasters, Ferris wheels, etc."

3 Sec. 3. G.S. 143-138(e) reads as rewritten:

4 "(e) Effect upon Local Codes. – The North Carolina State Building Code shall
5 apply throughout the State, from the time of its adoption. However, any political
6 subdivision of the State may adopt a building code or building rules and regulations
7 governing construction or a fire prevention code within its jurisdiction. The territorial
8 jurisdiction of any municipality or county for this purpose, unless otherwise specified
9 by the General Assembly, shall be as follows: Municipal jurisdiction shall include all
10 areas within the corporate limits of the municipality and extraterritorial jurisdiction
11 areas established as provided in G.S. 160A-360 or a local act; county jurisdiction shall
12 include all other areas of the county. No such code or regulations, other than those
13 permitted by G.S. 160A-436, shall be effective until they have been officially approved
14 by the Building Code Council as providing adequate minimum standards to preserve
15 and protect health and safety, in accordance with the provisions of subsection (c) above.
16 While it remains effective, such approval shall be taken as conclusive evidence that a
17 local code or local regulations supersede the State Building Code in its particular
18 political subdivision. Whenever the Building Code Council adopts an amendment to
19 the State Building Code, it shall consider any previously approved local regulations
20 dealing with the same general matters, and it shall have authority to withdraw its
21 approval of any such local code or regulations unless the local governing body makes
22 such appropriate amendments to that local code or regulations as it may direct. In the
23 absence of approval by the Building Code Council, or in the event that approval is
24 withdrawn, local codes and regulations shall have no force and effect. Provided any
25 local regulations approved by the local governing body which are found by the Council
26 to be more stringent than the adopted statewide fire prevention code and which are
27 found to regulate only activities and conditions in buildings, structures, and premises
28 that pose dangers of fire, explosion or related hazards, and are not matters in conflict
29 with the State Building Code, shall be approved. Local governments may enforce the
30 State Building Code using civil remedies authorized under G.S. 143-139, 153A-123,
31 and 160A-175."

32 Sec. 4. G.S. 160A-175 is amended by adding the following new subsection
33 to read:

34 "(c1) An ordinance may provide for the recovery of a civil penalty by the city for
35 violation of the State Building Code as authorized under G.S. 143-139."

36 Sec. 5. G.S. 153A-123 is amended by adding the following new subsection
37 to read:

38 "(c1) An ordinance may provide for the recovery of a civil penalty by the county
39 for violation of the State Building Code as authorized under G.S. 143-139."

40 Sec. 6. This act is effective upon ratification and applies to violations
41 committed on or after that date.