

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 911

Short Title: North Carolina Building Code/Council Changes. (Public)

Sponsors: Senator Clodfelter.

Referred to: Commerce.

March 26, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ADOPT THE INTERNATIONAL BUILDING CODE AS THE STATE
3 BUILDING CODE AND TO REORGANIZE THE STATE BUILDING CODE
4 COUNCIL.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 9 of Chapter 143 of the General Statutes reads as rewritten:

7 "Article 9.

8 "Building Code Council and Building Code.

9 "Part 1. Non-Residential Building Code Council and Building Code."

10 **"§ 143-136. Building Code Council created; membership.**

11 (a) Creation; Membership; Terms. – There is hereby created a Building Code Council,
12 which shall be composed of ~~17~~nine members appointed by the Governor, consisting of ~~two~~one
13 registered ~~architects, architect,~~ one licensed general contractor, ~~one licensed general contractor~~
14 ~~specializing in residential construction, one licensed general contractor specializing in coastal~~
15 ~~residential construction,~~ one registered engineer practicing structural engineering, one
16 registered engineer practicing mechanical engineering, one registered engineer practicing
17 electrical engineering, one licensed plumbing and heating contractor, one municipal or county
18 building inspector, ~~one licensed liquid petroleum gas dealer/contractor involved in the design~~
19 ~~of natural and liquid petroleum gas systems who has expertise and experience in natural and~~
20 ~~liquid petroleum gas piping, venting and appliances,~~ a representative of the public who is not a
21 member of the building construction industry, ~~a licensed electrical contractor, a registered~~
22 ~~engineer on the engineering staff of a State agency charged with approval of plans of~~
23 ~~State-owned buildings, a municipal elected official or city manager, a county commissioner or~~
24 ~~county manager,~~ and an active member of the North Carolina fire service with expertise in fire
25 safety. ~~In selecting the municipal and county members, preference should be given to members~~
26 ~~who qualify as either a registered architect, registered engineer, or licensed general contractor.~~
27 Of the members initially appointed by the Governor, three shall serve for terms of two years
28 each, three shall serve for terms of four years each, and three shall serve for terms of six years
29 each. Thereafter, all appointments shall be for terms of six years. The Governor may remove
30 appointive members at any time. Neither the architect nor any of the above named engineers
31 shall be engaged in the manufacture, promotion or sale of any building material, and any
32 member who shall, during his term, cease to meet the qualifications for original appointment
33 (through ceasing to be a practicing member of the profession indicated or otherwise) shall
34 thereby forfeit his membership on the Council. In making new appointments or filling
35 vacancies, the Governor shall ensure that minorities and women are represented on the Council.



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

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

10 ...

11 **"§ 143-138. North Carolina State Building Code.**

12 (a) Preparation and Adoption. – The Building Code Council may prepare and adopt, in
13 accordance with the provisions of this Article, a North Carolina State Building Code ~~Code for~~
14 nonresidential buildings, including multifamily residential buildings, but not including one- and
15 two-family dwellings and townhouses or other multiple single-family dwellings. ~~Before the~~
16 ~~adoption of the Code, or any part of the Code, the Council shall hold at least one public~~
17 ~~hearing. A notice of the public hearing shall be published in the North Carolina Register at least~~
18 ~~15 days before the date of the hearing.~~ The North Carolina State Building Code shall be
19 adopted with limited technical amendments from the most current edition of the International
20 Code Council's International Building Code. Notwithstanding G.S. 150B-2(8a)h., the North
21 Carolina State Building Code as adopted by the Building Code Council is a rule within the
22 meaning of G.S. 150B-2(8a) and shall be adopted in accordance with the procedural
23 requirements of Article 2A of Chapter 150B of the General Statutes.

24 The Building Code Council shall request the Office of State Budget and Management to
25 prepare a fiscal note for a proposed Code change that has a substantial economic impact, as
26 defined in G.S. 150B-21.4(b1), or that increases the cost of ~~residential housing by eighty~~
27 ~~dollars (\$80.00) or more per housing unit~~ multifamily residential buildings by eighty dollars
28 (\$80.00) or more per housing unit. The change can become effective only in accordance with
29 G.S. 143-138(d). Neither the Department of Insurance nor the Council shall be required to
30 expend any monies to pay for the preparation of any fiscal note under this section by any
31 person outside of the Department or Council unless the Department or Council contracts with a
32 third-party vendor to prepare the fiscal note.

33 (b) Contents of the Code. – The North Carolina State Building Code, as adopted by the
34 Building Code Council, may include reasonable and suitable classifications of buildings and
35 structures, both as to use and occupancy; general building restrictions as to location, height, and
36 floor areas; rules for the lighting and ventilation of buildings and structures; requirements
37 concerning means of egress from buildings and structures; requirements concerning means of
38 ingress in buildings and structures; rules governing construction and precautions to be taken
39 during construction; rules as to permissible materials, loads, and stresses; rules governing
40 chimneys, heating appliances, elevators, and other facilities connected with the buildings and
41 structures; rules governing plumbing, heating, air conditioning for the purpose of comfort
42 cooling by the lowering of temperature, and electrical systems; and such other reasonable rules
43 pertaining to the construction of buildings and structures and the installation of particular
44 facilities therein as may be found reasonably necessary for the protection of the occupants of
45 the building or structure, its neighbors, and members of the public at large.

46 In addition, the Code may regulate activities and conditions in buildings, structures, and
47 premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code
48 provisions shall be considered the minimum standards necessary to preserve and protect public
49 health and safety, subject to approval by the Council of more stringent provisions proposed by
50 a municipality or county as provided in G.S. 143-138(e). These provisions may include
51 regulations requiring the installation of either battery-operated or electrical smoke detectors in

1 every ~~dwelling~~ residential unit used as rental property, regardless of the date of construction of
2 the rental property. For dwelling units used as rental property constructed prior to 1975, smoke
3 detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national
4 testing laboratory approval, and shall be installed in accordance with either the standard of the
5 National Fire Protection Association or the minimum protection designated in the
6 manufacturer's instructions, which the property owner shall retain or provide as proof of
7 compliance. The North Carolina State Building Code shall contain the National Electric Code,
8 the North Carolina Rehab Code, and the following codes adopted by reference from the
9 International Code Council:

- 10 (1) The International Building Code.
- 11 (2) The International Plumbing Code.
- 12 (3) The International Mechanical Code.
- 13 (4) The International Fuel Gas Code.
- 14 (5) The International Energy Conservation Code.
- 15 (6) The International Fire Prevention Code.

16 The Code may contain provisions requiring the installation of either battery-operated or
17 electrical carbon monoxide detectors in every dwelling unit having a fossil-fuel burning heater
18 or appliance, fireplace, or an attached garage. Carbon monoxide detectors shall be those listed
19 by a nationally recognized testing laboratory that is OSHA-approved to test and certify to
20 American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or
21 ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire
22 Protection Association or the minimum protection designated in the manufacturer's
23 instructions, which the property owner shall retain or provide as proof of compliance. A carbon
24 monoxide detector may be combined with smoke detectors if the combined detector does both
25 of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide
26 alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly
27 differentiates between detecting the presence of carbon monoxide and the presence of smoke.

28 The Code may contain provisions regulating every type of building or structure, except for
29 one- and two-family dwellings and townhouses or other multiple single-family dwellings,
30 wherever it might be situated in the State.

31 Provided further, that building rules do not apply to (i) farm buildings that are located
32 outside the building-rules jurisdiction of any municipality, or (ii) farm buildings that are located
33 inside the building-rules jurisdiction of any municipality if the farm buildings are greenhouses.
34 A "greenhouse" is a structure that has a glass or plastic roof, has one or more glass or plastic
35 walls, has an area over ninety-five percent (95%) of which is used to grow or cultivate plants, is
36 built in accordance with the National Greenhouse Manufacturers Association Structural Design
37 manual, and is not used for retail sales. Additional provisions addressing distinct life safety
38 hazards shall be approved by the local building-rules jurisdiction.

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

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

51 For the information of users thereof, the Code shall include as appendices [the following:]

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

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

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

21 Nothing in this Article shall extend to or be construed as being applicable to the regulation
22 of the design, construction, location, installation, or operation of industrial machinery.
23 However, if during the building code inspection process, an electrical inspector has any
24 concerns about the electrical safety of a piece of industrial machinery, the electrical inspector
25 may refer that concern to the Occupational Safety and Health Division in the North Carolina
26 Department of Labor but shall not withhold the certificate of occupancy nor mandate
27 third-party testing of the industrial machinery based solely on this concern. For the purposes of
28 this paragraph, "industrial machinery" means equipment and machinery used in a system of
29 operations for the explicit purpose of producing a product. The term does not include
30 equipment that is permanently attached to or a component part of a building and related to
31 general building services such as ventilation, heating and cooling, plumbing, fire suppression or
32 prevention, and general electrical transmission.

33 In addition, the Code may contain rules concerning minimum efficiency requirements for
34 replacement water heaters, which shall consider reasonable availability from manufacturers to
35 meet installation space requirements and may contain rules concerning energy efficiency that
36 require all hot water plumbing pipes that are larger than one-fourth of an inch to be insulated.

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

45 (c) Standards to Be Followed in Adopting the Code. – All regulations contained in the
46 North Carolina State Building Code shall have a reasonable and substantial connection with the
47 public health, safety, morals, or general welfare, and their provisions shall be construed
48 reasonably to those ends. Requirements of the Code shall conform to good engineering
49 practice. The Council ~~may use as guidance, but is not required to adopt,~~ shall adopt the
50 requirements of the International Building Code of the International Code Council, ~~the~~
51 ~~Standard Building Code of the Southern Building Code Congress International, Inc., the~~

Uniform Building Code of the International Conference of Building Officials, the National Building Code of the Building Officials and Code Administrators, Inc., the National Electric Code, the Life Safety Code, the National Fuel Gas Code, the Fire Prevention Code of the National Fire Protection Association, the Safety Code for Elevators and Escalators, and the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, and standards promulgated by the American National Standards Institute, Standards Underwriters' Laboratories, Inc., and similar national or international agencies engaged in research concerning strength of materials, safe design, and other factors bearing upon health and safety. Council and the National Electric Code of the National Fire Protection Association.

(d) Amendments of the Code. – The Building Code Council ~~may~~ shall not revise and amend the North Carolina State Building Code, either on its own motion or upon application from any citizen, State agency, or political subdivision of the State. Code other than for the following purposes:

- (1) To conform the administrative procedures in Chapter 1 of the International Building Code to applicable North Carolina regulations.
- (2) To conform the International Building Code to the provisions of subsections (b) and (c) of this section.
- (3) To conform accessibility provisions in Chapter 11 of the International Building Code to the North Carolina State Building Code, Accessibility Code, 2002 Edition.
- (4) To protect the citizens of the State of North Carolina from onerous and burdensome code provisions adopted by the International Code Council that are not necessary or not cost-effective.

In adopting any amendment, the Council shall comply with the same procedural requirements and the same standards set forth above for adoption of the Code.

...

(g) Publication and Distribution of Code. – The Building Code Council shall cause to be printed, after adoption by the Council, the North Carolina State Building Code and each amendment thereto. Code, including the administrative section. It shall, at the State's expense, distribute copies of the Code and each amendment to State and local governmental officials, departments, agencies, and educational institutions, as is set out in the table below. (Those marked by an asterisk will receive copies only on written request to the Council.)

OFFICIAL OR AGENCY	NUMBER OF COPIES
State Departments and Officials	
Governor	1
Lieutenant Governor	1
Auditor	1
Treasurer	1
Secretary of State	1
Superintendent of Public Instruction.....	1
Attorney General (Library)	1
Commissioner of Agriculture.....	1
Commissioner of Labor.....	1
Commissioner of Insurance	1
Department of Environment and Natural Resources	1
Department of Health and Human Services.....	1
Office of Juvenile Justice	1
Board of Transportation	1
Utilities Commission.....	1
Department of Administration	1
Clerk of the Supreme Court	1

1 Clerk of the Court of Appeals 1
 2 Department of Cultural Resources [State Library] 1
 3 Supreme Court Library 1
 4 Legislative Library 1
 5 Office of Administrative Hearings..... 1
 6 Rules Review Commission 1
 7 Schools
 8 All state-supported colleges and universities
 9 in the State of North Carolina *1 each

10 Local Officials
 11 Clerks of the Superior Courts..... 1 each
 12 Chief Building Inspector of each incorporated
 13 municipality or county 1

14 In addition, the Building Code Council shall make additional copies available at such price
 15 as it shall deem reasonable to members of the general public. The proceeds from sales of the
 16 Building Code shall be credited to the Insurance Regulatory Fund under G.S. 58-6-25.

17 ...

18 Part 2. Residential Building Code Council and Building Code.

19 **"§ 143-138.5. Residential Building Code Council created; membership.**

20 (a) Creation; Membership; Terms. – There is hereby created a Residential Building
 21 Code Council, which shall be composed of seven members appointed by the Governor,
 22 consisting of one licensed electrical contractor, two licensed general contractors specializing in
 23 residential construction, one licensed general contractor specializing in coastal residential
 24 construction, one registered engineer practicing structural engineering, one municipal or county
 25 building inspector, and one plumbing, heating, or fire sprinkler contractor licensed under
 26 Article 2 of Chapter 87 of the General Statutes. In selecting the municipal and county members,
 27 preference should be given to members who qualify as a registered architect, a registered
 28 engineer, or licensed general contractor. Of the members initially appointed by the Governor,
 29 three shall serve for terms of two years each, two shall serve for terms of four years each, and
 30 two shall serve for terms of six years each. Thereafter, all appointments shall be for terms of six
 31 years. The Governor may remove appointive members at any time. No member shall be
 32 engaged in the manufacture, promotion, or sale of any building material, and any member who
 33 shall, during that member's term, cease to meet the qualifications for original appointment,
 34 through ceasing to be a practicing member of the profession indicated or otherwise, shall
 35 thereby forfeit that member's membership on the Council.

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

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

45 **"§ 143-138.7. Organization of Residential Building Code Council; rules; meetings; staff;**
 46 **fiscal affairs.**

47 (a) First Meeting; Organization; Rules. – Within 30 days after its appointment, the
 48 Residential Building Code Council shall meet on call of the Commissioner of Insurance. The
 49 Council shall elect from its appointive members a chair and any other officers it may choose for
 50 terms designated in its rules. The Council shall adopt rules not inconsistent herewith as it may
 51 deem necessary for the proper discharge of its duties. The chair may appoint members to any

1 committees the work of the Council requires. In addition, the chair shall establish and appoint
2 ad hoc code revision committees to consider and prepare revisions and amendments to the
3 Code volumes. Each ad hoc committee shall consist of members of the Council, licensed
4 contractors, design professionals most affected by the Code volume for which the ad hoc
5 committee is responsible, and members of the public. The subcommittees shall meet upon the
6 call of their respective chairs and shall report their recommendations to the Council.

7 (b) Meetings. – The Council shall meet regularly, at least once every six months, at
8 places and dates to be determined by the Council. Special meetings may be called by the chair
9 on the chair's own initiative and must be called by the chair at the request of four or more
10 members of the Council. All members shall be notified by the chair in writing of the time and
11 place of regular and special meetings at least seven days in advance of the meeting. Five
12 members shall constitute a quorum. All meetings shall be open to the public.

13 (c) Staff. – Personnel of the Department of Insurance shall serve as staff for the
14 Council. The staff shall have the following duties:

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

19 (2) Handling correspondence for the Council.

20 (3) Providing technical assistance to the public regarding interpretation of
21 Residential Building Code provisions.

22 (d) Fiscal Affairs of the Council. – All funds for the operations of Council and its staff
23 shall be appropriated to the Department of Insurance for the use of the Council. In addition, the
24 Council may impose a surcharge on all building permits, not to exceed ten dollars (\$10.00) to
25 be collected and remitted to the Council by permit issuing agencies for use by the Council and
26 its staff. All funds shall be held in a separate or special account on the books of the Department
27 of Insurance with a separate financial designation or code number to be assigned by the
28 Department of Administration or its agent. Expenditures for staff salaries and operating
29 expenses shall be made in the same manner as the expenditure of any other of Department of
30 Insurance funds. The Council may hire any additional personnel as may be necessary to handle
31 the work of the Residential Building Code Council within the limits of funds available to the
32 Council.

33 **"§ 143.138.9. North Carolina State Residential Building Code.**

34 (a) Preparation and Adoption. – The Residential Building Code Council may prepare
35 and adopt, in accordance with the provisions of this Article, a North Carolina State Residential
36 Building Code and Commentary for one- and two-family dwellings and townhouses or other
37 multiple single-family dwellings. The North Carolina State Residential Building Code shall
38 include, but not be limited to, the following codes:

39 (1) The North Carolina Residential Plumbing Code.

40 (2) The North Carolina Residential Mechanical Code.

41 (3) The North Carolina Residential Fuel Gas Code.

42 (4) The North Carolina Residential Energy Conservation Code.

43 (5) The North Carolina Residential Electrical Code.

44 (6) The North Carolina Rehab Code.

45 Notwithstanding G.S. 150B-2(8a)h., the North Carolina State Residential Building Code as
46 adopted by the Residential Building Code Council is a rule within the meaning of
47 G.S. 150B-2(8a) and shall be adopted in accordance with the procedural requirements of
48 Article 2A of Chapter 150B of the General Statutes.

49 The Council shall request the Office of State Budget and Management to prepare a fiscal
50 note for a proposed Code change that has a substantial economic impact, as defined in
51 G.S. 150B-21.4(b1), or that increases the cost of residential housing by eighty dollars (\$80.00)

1 or more per housing unit. The change may become effective only in accordance with
2 subsection (d) of this section. Neither the Department of Insurance nor the Council shall be
3 required to expend any monies to pay for the preparation of any fiscal note under this section
4 by any person outside of the Department or Council unless the Department or Council contracts
5 with a third-party vendor to prepare the fiscal note.

6 (b) Contents of the Code. – The North Carolina State Residential Building Code, as
7 adopted by the Residential Building Code Council, may include reasonable and suitable
8 classifications of buildings and structures as to both use and occupancy; general building
9 restrictions as to location, height, and floor areas; requirements concerning means of egress;
10 requirements concerning means of ingress; rules governing construction and precautions to be
11 taken during construction; rules as to permissible materials, loads, and stresses; rules governing
12 chimneys and other facilities connected with the buildings and structures; and any other
13 reasonable rules pertaining to the construction of buildings and structures and the installation of
14 particular facilities therein as may be found reasonably necessary for the protection of the
15 occupants of the building or structure.

16 In addition, the Code may regulate activities and conditions in buildings, structures, and
17 premises that pose dangers of fire, explosion, or related hazards. These Code provisions shall
18 be considered the minimum standards necessary to preserve and protect public health and
19 safety, subject to approval by the Council of more stringent provisions proposed by a
20 municipality or county as provided in subsection (e) of this section. These provisions may
21 include regulations requiring the installation of either battery-operated or electrical smoke
22 detectors in every dwelling unit used as rental property, regardless of the date of construction of
23 the rental property. When alterations, repairs, and additions requiring a building permit occur,
24 or when one or more sleeping rooms are added or created in existing dwellings, the individual
25 dwelling unit shall be equipped with smoke alarms located as required for new dwellings: the
26 smoke alarms shall be interconnected and hard-wired except interconnected and hard-wiring of
27 smoke alarms in existing areas shall not be required where the alterations or repairs do not
28 result in the removal of interior wall or ceiling finishes exposing the structure. Smoke alarms
29 are not required for work involving the exterior surfaces of dwellings, such as replacement of
30 roofing or siding, or the addition or replacement of windows and doors, or the addition of
31 porches or decks. Smoke detectors shall have an Underwriters' Laboratories, Inc., listing or
32 other equivalent national testing laboratory approval and shall be installed in accordance with
33 either the standard of the National Fire Protection Association or the minimum protection
34 designated in the manufacturer's instructions, which the property owner shall retain or provide
35 as proof of compliance.

36 The Code may contain provisions requiring the installation of either battery-operated or
37 electrical carbon monoxide detectors in every dwelling unit having a fossil-fuel burning heater
38 or appliance, fireplace, or an attached garage. Carbon monoxide detectors shall be those listed
39 by a nationally recognized testing laboratory that is OSHA-approved to test and certify to
40 American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or
41 ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire
42 Protection Association or the minimum protection designated in the manufacturer's
43 instructions, which the property owner shall retain or provide as proof of compliance. A carbon
44 monoxide detector may be combined with smoke detectors if the combined detector does both
45 of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide
46 alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly
47 differentiates between detecting the presence of carbon monoxide and the presence of smoke.

48 Provided further, that nothing in this Part shall be construed to make any building rules
49 applicable to farm buildings located outside the building-rules jurisdiction of any municipality.

50 Provided further, that no building permit shall be required under the Code or any local
51 variance thereof approved under subsection (e) of this section for any construction, installation,

1 repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any
2 single-family residence or farm building unless the work involves: (i) the addition, repair, or
3 replacement of load-bearing structures, (ii) the addition (excluding replacement of same size
4 and capacity) or change in the design of plumbing, (iii) the addition, replacement, or change in
5 the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment,
6 (iv) the use of materials not permitted by the North Carolina State Residential Building Code,
7 or (v) the addition (excluding replacement of like grade of fire resistance) of roofing.

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

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

16 (c) Standards to Be Followed in Adopting the Code. – All regulations contained in the
17 North Carolina Residential Building Code shall have a reasonable and substantial connection
18 with the public health, safety, morals, or general welfare, and their provisions shall be
19 construed reasonably to those ends. Requirements of the Code shall conform to good
20 engineering practice.

21 (d) Amendments of the Code. – The Residential Building Code Council may revise and
22 amend the North Carolina State Residential Building Code, either on its own motion or upon
23 any application from any citizen, State agency, or political subdivision of the State. In adopting
24 any amendment, the Council shall comply with the same procedural requirements and the same
25 standards set form above for adoption of the Code.

26 (e) Effect Upon Local Codes. – The North Carolina State Residential Building Code
27 shall apply throughout the State, from the time of its adoption. Approved rules shall become
28 effective in accordance with G.S. 150B-21.3. However, any political subdivision of the State
29 may adopt floodplain management regulations within its jurisdiction. The territorial jurisdiction
30 of any municipality or county for this purpose, unless otherwise specified by the General
31 Assembly, shall be as follows: Municipal jurisdiction shall include all areas within the
32 corporate limits of the municipality and extraterritorial jurisdiction areas established as
33 provided in G.S. 160A-360 or a local act; county jurisdiction shall include all other areas of the
34 county. Floodplain management regulations and those permitted by G.S. 160A-436 shall be
35 effective without the need to be officially approved by the Building Code Council. Local
36 floodplain regulations may regulate all types and uses of buildings or structures located in flood
37 hazard areas identified by local, State, and federal agencies and include provisions governing
38 substantial improvements, substantial damage, cumulative substantial improvements, lowest
39 floor elevation, protection of mechanical and electrical systems, foundation construction,
40 anchorage, acceptable flood resistant materials, and other measures the political subdivision
41 deems necessary considering the characteristics of its flood hazards and vulnerability. Local
42 fire prevention codes and regulations shall have no force and effect upon one- and two-family
43 dwelling units.

44 (f) Publication and Distribution of Code. – The Residential Building Code Council
45 shall cause to be printed, after adoption by the Council, the North Carolina State Residential
46 Building Code and each amendment thereto. It shall, at the State's expense, distribute copies of
47 the Code and each amendment to State and local governmental officials, departments, agencies,
48 and educational institutions, as is set out in the table below. (Those marked by an asterisk will
49 receive copies only on written request to the Council.)

50 OFFICIAL OR AGENCY

51 State Departments and Officials

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

25 Schools

26 All State-supported colleges and universities
 27 in the State of North Carolina *1 each

28 Local Officials

29 Clerks of the Superior Courts 1 each
 30 Chief Building Inspector of each incorporated
 31 municipality or county 1

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

34 (g) Violations. – Any person who shall be adjudged to have violated this Part or the
 35 North Carolina State Residential Building Code, except for violations of occupancy limits
 36 established by either, shall be guilty of a Class 3 misdemeanor and shall, upon conviction, only
 37 be liable to a fine, not to exceed fifty dollars (\$50.00), for each offense. Each 30 days that such
 38 violation continues shall constitute a separate and distinct offense. Violation of occupancy
 39 limits established pursuant to the North Carolina State Residential Building Code shall be a
 40 Class 3 misdemeanor. Any violation incurred more than one year after another conviction for
 41 violation of the occupancy limits shall be treated as a first offense for purposes of establishing
 42 and imposing penalties.

43 **"§ 143-138.11. Enforcement of the North Carolina State Residential Building Code.**

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

48 (b) General Building Regulations. – The Residential Building Code Council shall have
 49 general supervision, through its staff, of the administration and enforcement of all sections of
 50 the North Carolina State Residential Building Code pertaining to general building restrictions
 51 and regulations and the construction of buildings generally. The Residential Building Code

1 Council shall exercise its duties in the enforcement of the North Carolina State Residential
2 Building Code in cooperation with local officials and local inspectors duly appointed by the
3 governing body of any municipality or board of county commissioners pursuant to Part 5 of
4 Article 19 of Chapter 153A of the General Statutes, Part 4 of Article 18 of Chapter 153A of the
5 General Statutes, or any other applicable statutory authority.

6 Remedies. – In case any building or structure is maintained, erected, constructed, or
7 reconstructed or its purpose altered so that it becomes in violation of this Article or of the North
8 Carolina State Residential Building Code, either the local enforcement officer or the North
9 Carolina Residential Building Code Council or other State official with responsibility under
10 this section may, in addition to other remedies, institute any appropriate action or proceeding
11 to: (i) prevent the unlawful maintenance, erection, construction, or reconstruction or alteration
12 of purpose, or overcrowding, (ii) restrain, correct, or abate the violation, or (iii) prevent the
13 occupancy or use of the building, structure, or land until the violation is corrected. If the
14 Residential Building Code Council or other State official institutes an action or proceeding
15 under this section, a county, city, or other political subdivision may not institute a civil action
16 under this section based upon the same violation. Appeals from the imposition of any remedy
17 set forth herein, including the imposition of a civil penalty by a county, city, or other political
18 subdivision, shall be as provided in G.S. 160A-434.

19 **"§ 143-138.12. Introduction and instruction of the North Carolina State Residential**
20 **Building Code.**

21 Prior to the effective date of Code changes or amendments promulgated pursuant to
22 G.S. 143-138.9, the Residential Building Code Council shall provide for instructional classes
23 for the various trades affected by the Code. The Residential Building Code Council shall
24 develop the curriculum for each class but shall consult the affected licensing boards and trade
25 organizations. The curriculum shall include explanations of the rationale and need for each
26 Code amendment or revision. Classes may also be conducted by, on behalf of, or in cooperation
27 with licensing boards, trade associations, and professional societies. The Residential Building
28 Code Council and the Department of Insurance may charge fees sufficient to recover the costs
29 it incurs under this section. The Council shall ensure that courses are accessible to persons
30 throughout the State."

31 "Part 3. Enforcement; Hearing Procedures; Exemptions.

32 **"§ 143-139. Enforcement of Building Code.**

33 (a) Procedural Requirements. – Subject to the provisions set forth herein, the Building
34 Code Council and Residential Building Code Council shall adopt such procedural requirements
35 in the North Carolina State Building Code and the North Carolina Residential Building Code as
36 shall appear reasonably necessary for adequate enforcement of the Code while safeguarding the
37 rights of persons subject to the Code.

38 (b) General Building Regulations. – The Insurance Commissioner shall have general
39 supervision, through the Division of Engineering of the Department of Insurance, of the
40 administration and enforcement of all sections of the North Carolina State Building Code and
41 the North Carolina State Residential Building Code pertaining to plumbing, electrical systems,
42 general building restrictions and regulations, heating and air conditioning, fire protection, and
43 the construction of buildings generally, except those sections of the CodeCodes, the
44 enforcement of which is specifically allocated to other agencies by subsections (c) and (d)
45 below. The Insurance Commissioner, by means of the Division of Engineering, shall exercise
46 his duties in the enforcement of the North Carolina State Building Code and the North Carolina
47 State Residential Building Code (including local building codes which have superseded the
48 State Building Code in a particular political subdivision pursuant to G.S. 143-138(e)) in
49 cooperation with local officials and local inspectors duly appointed by the governing body of
50 any municipality or board of county commissioners pursuant to Part 5 of Article 19 of Chapter

1 160A of the General Statutes or Part 4 of Article 18 of Chapter 153A of the General Statutes, or
2 any other applicable statutory authority.

3 (b1) Remedies. – In case any building or structure is maintained, erected, constructed, or
4 reconstructed or its purpose altered, so that it becomes in violation of this Article or of the
5 North Carolina State Building Code or the North Carolina State Residential Building Code,
6 either the local enforcement officer or the State Commissioner of Insurance or other State
7 official with responsibility under this section may, in addition to other remedies, institute any
8 appropriate action or proceeding to: (i) prevent the unlawful maintenance, erection,
9 construction, or reconstruction or alteration of purpose, or overcrowding, (ii) restrain, correct,
10 or abate the violation, or (iii) prevent the occupancy or use of the building, structure, or land
11 until the violation is corrected. In addition to the civil remedies set out in G.S. 160A-175 and
12 G.S. 153A-123, a county, city, or other political subdivision authorized to enforce the North
13 Carolina State Building Code within its jurisdiction may, for the purposes stated in (i) through
14 (iii) of this subsection, levy a civil penalty for violation of the fire prevention code of the North
15 Carolina State Building Code, which penalty may be recovered in a civil action in the nature of
16 debt if the offender does not pay the penalty within a prescribed period of time after the
17 offender has been cited for the violation. If the Commissioner or other State official institutes
18 an action or proceeding under this section, a county, city, or other political subdivision may not
19 institute a civil action under this section based upon the same violation. Appeals from the
20 imposition of any remedy set forth herein, including the imposition of a civil penalty by a
21 county, city, or other political subdivision, shall be as provided in G.S. 160A-434.

22 (b2) Alternative Building Code Interpretations. – Interpretations of the North Carolina
23 State Building Code may also be obtained from the model code agency (if any) from which the
24 North Carolina State Building Code was adopted. Interpretations of the North Carolina State
25 Residential Building Code may be obtained from the staff of the Residential Building Code
26 Council. Interpretations from the model code agency shall have the same legal force and effect
27 as interpretations from the staff of the Division of Engineering of the Department of Insurance,
28 or the staff of the Residential Building Code Council, but nothing in this subsection shall be
29 construed to give any model code agency other than the Building Code Council and the
30 Residential Building Code Council any remedies or powers of enforcement set forth in this
31 Article. Formal and informal interpretations on matters related to the Codes provided by the
32 Department of Insurance Engineering Division and the staff of the Residential Building Code
33 Council shall be accepted by the code enforcement official.

34 ...

35 **"§ 143-141. Appeals to Building Code Council.**

36 (a) Method of Appeal. – Whenever any person desires to take an appeal to the Building
37 Code Council or the Residential Building Code Council from the decision of a State
38 enforcement agency relating to any matter under this Article or under the North Carolina State
39 Building Code or the North Carolina State Residential Building Code, he shall within 30 days
40 after such decision give written notice to the Building Code Council or the Residential Building
41 Code Council through the Division of Engineering of the Department of Insurance that he
42 desires to take an appeal. A copy of such notice shall be filed at the same time with the
43 enforcement agency from which the appeal is taken. The ~~chairman~~-chair of the Building Code
44 Council or the chair of the Residential Building Code Council shall fix a reasonable time and
45 place for a hearing, giving reasonable notice to the appellant and to the enforcement agency.
46 Such hearing shall be not later than the next regular meeting of the Council. The Building Code
47 Council or the Residential Building Code Council shall thereupon conduct a full and complete
48 hearing as to the matters in controversy, after which it shall within a reasonable time give a
49 written decision setting forth its findings of fact and its conclusions.

50 (b) Interpretations of the Code. – The Building Code Council or the Residential
51 Building Code Council shall have the duty, in hearing appeals, to give interpretations of such

1 provisions of the Building Code or the Residential Building Code as shall be pertinent to the
2 matter at issue. Where the Council finds that an enforcement agency was in error in its
3 interpretation of the Code, it shall remand the case to the agency with instructions to take such
4 action as it directs. Interpretations by the Council and local enforcement officials shall be based
5 on a reasonable construction of the Code provisions.

6 (b1) Resolving Interpretation Disputes. – When a dispute arises regarding the
7 interpretation of a provision of the North Carolina State Building Code or the North Carolina
8 State Residential Building Code between the Department of Insurance or the staff of the
9 Residential Building Code Council and the model code agency from which the Code was
10 adopted, the Building Code Council or the Residential Building Code Council may hear an
11 appeal and rule on it pursuant to subsection (b) of this section.

12 (c) Variations of the Code. – Where the Building Code Council or the Residential
13 Building Code Council finds on appeal that materials or methods of construction proposed to
14 be used are as good as those required by the Code, or meet the intent of the Code, it shall
15 remand the case to the enforcement agency with instructions to permit the use of such materials
16 or methods of construction. The Council shall thereupon immediately initiate procedures for
17 amending the Code as necessary to permit the use of such materials or methods of construction.

18 (d) Further Appeals to the Courts. – Whenever any person desires to take an appeal
19 from a decision of the Building Code Council or the Residential Building Code Council or
20 from the decision of an enforcement agency (with or without an appeal to the Building Code
21 Council or the Residential Building Code Council), he may take an appeal either to the Wake
22 County Superior Court or to the superior court of the county in which the proposed building is
23 to be situated, in accordance with the provisions of Chapter 150B of the General Statutes.

24 **"§ 143-142. Further duties of the Building Code Council and the Residential Building**
25 **Code Council.**

26 (a) Recommended Statutory Changes. – It shall be the duty of the Building Code
27 Council and the Residential Building Code Council to make a thorough study of the building
28 laws of the State, including both the statutes enacted by the General Assembly and the rules
29 and regulations adopted by State and local agencies. On the basis of such study, the Council
30 shall recommend to the 1959 and subsequent General Assemblies desirable statutory changes to
31 simplify and improve such laws.

32 (b) Recommend Changes in Enforcement Procedures. – It shall be the duty of the
33 Building Code Council and the Residential Building Code Council to make a thorough and
34 continuing study of the manner in which the building laws of the State are enforced by State,
35 local, and private agencies. On the basis of such studies, the ~~Council~~ Councils may recommend
36 to the General Assembly any statutory changes necessary to improve and simplify the
37 enforcement machinery. The ~~Council~~ Councils may also advise State agencies as to any
38 changes in administrative practices which could be made to improve the enforcement of
39 building laws without statutory changes.

40 ...

41 "Part 4. Miscellaneous Provisions.

42 **"§ 143-143.2. Electric wiring of houses, buildings, and structures.**

43 The electric wiring of houses or buildings for lighting or for other purposes shall conform
44 to the requirements of the State Building Code, which includes the National Electric ~~Code~~
45 Code, or the North Carolina State Residential Building Code and any amendments and
46 supplements thereto as adopted and approved by the State Building Code Council or the
47 Residential Building Code Council, and any other applicable State and local laws. In order to
48 protect the property of citizens from the dangers incident to defective electric wiring of
49 buildings, it shall be unlawful for any firm or corporation to allow any electric current for use
50 in any newly erected building to be turned on without first having had an inspection made of
51 the wiring by the appropriate official electrical inspector or inspection department and having

1 received from that inspector or department a certificate approving the wiring of such building.
2 It shall be unlawful for any person, firm, or corporation engaged in the business of selling
3 electricity to furnish initially any electric current for use in any building, unless said building
4 shall have first been inspected by the appropriate official electrical inspector or inspection
5 department and a certificate given as above provided. In the event that there is no legally
6 appointed inspector or inspection department with jurisdiction over the property involved, the
7 two preceding sentences shall have no force or effect. As used in this section, "building"
8 includes any structure.

9 **"§ 143-143.3. Temporary toilet facilities at construction sites.**

10 (a) Suitable toilet facilities shall be provided and maintained in a sanitary condition
11 during construction. An adequate number of facilities must be provided for the number of
12 employees at the construction site. There shall be at least one facility for every two contiguous
13 construction sites. Such facilities may be portable, enclosed, chemically treated, tank-tight
14 units. Portable toilets shall be enclosed, screened, and weatherproofed with internal latches.
15 Temporary toilet facilities need not be provided on-site for crews on a job site for no more than
16 one working day and having transportation readily available to nearby toilet facilities.

17 (b) It shall be the duty of the Building Code Council and the Residential Building Code
18 Council to establish standards to carry out the provisions of subsection (a) of this section not
19 inconsistent with the requirements for toilet facilities at construction sites established pursuant
20 to federal occupational safety and health rules."

21"

22 **SECTION 2.** This act becomes effective ~~October~~ January 1, 2010, and applies to
23 structures for which building permits are issued on or after that date.