

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE BILL 773

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

Sponsors: Representatives W. Brawley, Moffitt, Hardister, and Brisson (Primary Sponsors).

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

Referred to: Government.

April 11, 2013

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

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

(b) A county may require ~~periodic~~ inspections as part of a targeted effort to respond to blighted or potentially blighted conditions within a geographic area that has been designated by the county commissioners. However, the targeted area must meet the requirements for a community development block grant, and the total aggregate of designated geographic areas in the county shall not be greater than one square mile. The county shall not discriminate ~~in its selection of areas or~~ between single-family and multifamily buildings or between owner-occupied and tenant-occupied buildings in its selection of housing types to be targeted and shall ~~inspect~~ inspect in the targeted area. The county shall (i) provide notice to all owners and



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1 residents of properties in the affected area about the ~~periodic~~ inspections plan and information  
2 regarding a public hearing regarding the plan; (ii) hold a public hearing regarding the plan; and  
3 (iii) establish a plan to address the ability of low-income residential property owners to comply  
4 with minimum housing code standards.

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

19 (d) ~~A county may levy a fee for residential rental property registration under subsection~~  
20 ~~(e) of this section for those rental units which have been found with more than two verified~~  
21 ~~violations of housing ordinances or codes within the previous 12 months or upon the property~~  
22 ~~being identified within the top 10% of properties with crime or disorder problems as set forth in~~  
23 ~~a local ordinance. The fee shall be an amount that covers the cost of operating a residential~~  
24 ~~registration program and shall not be used to supplant revenue in other areas. Counties using~~  
25 ~~registration programs that charge registration fees for all residential rental properties as of June~~  
26 ~~1, 2011, may continue levying a fee on all residential rental properties as follows:~~

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

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

- 34 (1) The aggregate of all violations of housing ordinances or codes found in an  
35 individual rental unit of residential real property during a 72-hour period.  
36 (2) Any violations that have not been corrected by the owner or manager within  
37 30 days of receipt of written notice from the county of the violations. If the  
38 housing ordinance or code provides that any form of prohibited tenant  
39 behavior constitutes a violation by the owner or manager of the rental  
40 property, it shall be deemed a correction of the tenant-related violation if the  
41 owner or manager, within 30 days of receipt of written notice of the  
42 tenant-related violation, brings a summary ejectment action to have the  
43 tenant evicted. If the court finds against the owner or manager in the  
44 summary ejectment action and does not evict the tenant, it shall be deemed a  
45 correction of the tenant-related violation if the owner or manager does not  
46 renew the tenant's lease at the end of the then-current term and does not lease  
47 to the tenant again.

48 (f) If a property is identified by the county as being in the top four percent (4%) of  
49 properties with crime or disorder problems, the county shall notify the landlord of any crimes,  
50 disorders, or other violations that will be counted against the property to allow the landlord an  
51 opportunity to attempt to correct the problems. In addition, the county and the county's sheriff

1 department shall assist the landlord in addressing any criminal activity, including testifying in  
2 court in a summary ejection action or other matter to aid in evicting a tenant who has been  
3 charged with a crime. If the county or the county's sheriff department does not cooperate in  
4 evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or  
5 disorder problem as set forth in the local ordinance and the property may not be included in the  
6 top four percent (4%) of properties as a result of that tenant's behavior or activity."

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

8 **"§ 160A-424. ~~Periodic inspections.~~Inspections for hazardous or unlawful conditions.**

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

28 (b) A city may require ~~periodic~~ inspections as part of a targeted effort to respond to  
29 blighted or potentially blighted conditions within a geographic area that has been designated by  
30 the city council. However, the targeted area must meet the requirements for a community  
31 development block grant and the total aggregate of targeted areas in the city shall not be greater  
32 than one square mile. The ~~municipality~~ city shall not discriminate ~~in its selection of areas~~  
33 ~~or between owner-occupied and tenant-occupied buildings in its selection of housing types to be~~  
34 inspected in the targeted and shall (i) area. The city shall (i) provide notice to all owners and  
35 residents of properties in the affected area about the ~~periodic~~ inspections plan and information  
36 regarding a public hearing regarding the plan; (ii) hold a public hearing regarding the plan; and  
37 (iii) establish a plan to address the ability of low-income residential property owners to comply  
38 with minimum housing code standards.

39 (c) In no event may a city do any of the following: (i) adopt or enforce any ordinance  
40 that would require any owner or manager of rental property to obtain any permit or permission  
41 from the city to lease or rent residential real property, except for those ~~properties~~ individual  
42 rental units that have more than three verified violations in a 12-month period or upon the  
43 property being identified within the top ~~10%~~ four percent (4%) of properties with crime or  
44 disorder problems as set forth in a local ordinance; (ii) require that an owner or manager of  
45 residential rental property enroll or participate in any governmental program as a condition of  
46 obtaining a certificate of occupancy; ~~or (iii) except as provided in subsection (d) of this~~  
47 ~~section, (iii)~~ levy a special fee or tax on residential rental property that is not also levied against  
48 other commercial and residential properties; (iv) require proof of registration under  
49 subdivision (i) of this subsection, when applicable, be posted in the business office, common  
50 area, or other conspicuous place; or (v) provide that any violation of a rental registration  
51 ordinance is punishable as a criminal offense.

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

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12 ~~the fee shall be no more than twenty five dollars (\$25.00) per year.~~

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

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

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

18           (2) Any violations that have not been corrected by the owner or manager within  
19 30 days of receipt of written notice from the city of the violations. If the  
20 housing ordinance or code provides that any form of prohibited tenant  
21 behavior constitutes a violation by the owner or manager of the rental  
22 property, it shall be deemed a correction of the tenant-related violation if the  
23 owner or manager, within 30 days of receipt of written notice of the  
24 tenant-related violation, brings a summary ejectment action to have the  
25 tenant evicted. If the court finds against the owner or manager in the  
26 summary ejectment action and does not evict the tenant, it shall be deemed a  
27 correction of the tenant-related violation if the owner or manager does not  
28 renew the tenant's lease at the end of the then-current term and does not lease  
29 to the tenant again.

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

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