



SENATE BILL 25: Zoning/Design & Aesthetic Controls

2013-2014 General Assembly

Committee:	Senate Commerce	Date:	April 23, 2015
Introduced by:	Sens. Gunn, Apodaca, Tarte	Prepared by:	Wendy Graf Ray
Analysis of:	First Edition		Committee Counsel

SUMMARY: Senate Bill 25 would prohibit cities and counties from adopting zoning ordinances that regulate building design elements of structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings.

[As introduced, this bill was identical to H36, as introduced by Reps. Dollar, Brawley, Jordan, Glazier, which is currently in House Local Government.]

CURRENT LAW: Municipalities (Chapter 160A) and counties (153A) may adopt zoning ordinances and subdivision regulation ordinances. Subdivision regulation ordinances may be as part of a unified development ordinance or as a separate subdivision ordinance to regulate the subdivision of land within the territorial jurisdiction of the county or city. A zoning ordinance may regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

Municipalities and counties may also create a "special appearance commission" pursuant to G.S. 160A-451, and confer upon that commission the authority to formulate and recommend the adoption of ordinances that will enhance the appearance of the municipality or county.

BILL ANALYSIS: Senate Bill 25 would prohibit cities and counties from adopting regulations controlling building design elements for one- and two-family dwellings.

The phrase "building design elements" means any of the following:

- Exterior building color.
- Type or style of exterior cladding materials.
- Style or materials of roof structure or porches.
- Exterior nonstructural architectural ornamentation.
- Location and architectural styling of windows or doors.
- Number, type and interior layout of rooms.

The phrase "building design elements" specifically excludes setback provisions, use of buffering or screening to minimize visual impacts or impact of light and noise, or regulations governing permitted uses of land.

Cities or counties could adopt ordinances regulating building design elements under the following circumstances:

- If the structures are located in historic districts, or if the structures are designated as historic landmarks.

O. Walker Reagan
Director



Research Division
(919) 733-2578

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- If regulation is directly and substantially related to applicable safety codes.
- Where regulations apply to manufactured housing, consistent with State and federal law.
- Where regulations are a condition of participation in the National Flood Insurance Program.

The provisions would not impact the enforcement or validity of restrictive covenants.

EFFECTIVE DATE: The act would be effective when it becomes law, and, because it clarifies and restates the intent of existing law, it would apply to ordinances adopted before, on, and after that date.