



HOUSE BILL 853: Plan Review & Cert. of Occup. Scope Changes.

2021-2022 General Assembly

Committee:	House Local Government. If favorable, re-refer to Appropriations. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	August 25, 2021
Introduced by:	Reps. Brody, Moffitt, Zenger	Prepared by:	Jonathan Zator and Billy Godwin, Committee Counsels
Analysis of:	Third Edition		

OVERVIEW: *House Bill 853 would do the following:*

- *Limit the scope of requirements for certificates of occupancy for commercial buildings.*
- *Clarify procedures for administrative review by local governments when reviewing applications for development approvals.*
- *Appropriate funds to the North Carolina Building Code Council to conduct certain cost-benefit analyses.*

CURRENT LAW: Chapter 160D of the General Statutes contains the processes and procedures local governments utilize for development approvals under their planning and development regulations. A local government is a city or county (G.S. 160D-102(22)). A development approval is a written administrative or quasi-judicial approval required to commence development or undertake a specific activity and includes zoning, special use and building permits, plat and site plan approvals, and variances (G.S. 160D-102(13)).

No building subject to a building permit can be occupied or used until a certificate of occupancy has been issued by a local government (G.S. 160D-403(g)).

Local governments are responsible for reviewing applications for development approvals and deciding whether they are approved (G.S. 160D-403). Appeals of these administrative decisions are provided for in G.S. 160D-405. Administrative decisions are decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in Chapter 160D or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations (G.S. 160D-102(1)).

BILL ANALYSIS:

Section 1 would prohibit local governments, when reviewing commercial development plans submitted under the seal of any licensed design professional, from placing additional requirements as a condition of issuing a certificate of occupancy unless otherwise required by an applicable code.

Section 2 would provide for the administrative review of applications for development approvals.

Upon receiving an application, a local government would have 30 days to complete an administrative review of the application, make an administrative decision on whether the application is complete, and notify the developer in writing of the administrative decision. If the application is deficient, the developer would be given a list of deficiencies and allowed to (i) make corrections, (ii) submit an explanation for the alleged deficiencies and request a re-review, or (iii) appeal the administrative decision.

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If the local government is given a corrected application, the local government would have 10 business days to notify the developer in writing whether the application is complete or fails to correct all the deficiencies. However, if the developer changed the application with respect to matters that are unrelated to the deficiencies, the local government would consider such an application as a new application and restart the administrative review process.

Section 3 would appropriate \$20,000 to the North Carolina Building Council to be used to comply with the provisions of Section 2 of House Bill 489 of the 2021 Regular Session, if Section 2 of House Bill 489 becomes law.

EFFECTIVE DATE: Sections 1 and 2 of the act would become effective January 1, 2022 and apply to applications for development approvals submitted on or after that date. The remainder of the act would be effective when it becomes law.