



HOUSE BILL 893: Private Commercial Building Inspection.

2023-2024 General Assembly

Committee:		Date:	September 12, 2023
Introduced by:	Reps. Brody, B. Jones, Pyrtle, Hardister	Prepared by:	Howard Marsilio
Analysis of:	Third Edition		Staff Attorney

OVERVIEW: *House Bill 893 would enact laws for the creation and use of private commercial inspectors to conduct inspections of commercial building projects, and would amend various laws to expedite development review processes for certain multi-family and commercial development projects.*

CURRENT LAW/ BILL ANALYSIS:

SECTIONS 1-3:

Article 11 of Chapter 160D of the General Statutes imposes a duty on local governments to enforce State and local laws relating to the construction of buildings and other structures and the installation of plumbing, electrical, heating, refrigeration, and air-conditioning systems. This duty includes the making of any necessary inspections required by the North Carolina State Building Code (Code) and the issuance or denial of certificates of compliance with the Code. Once all work under a building permit is concluded, the local government inspector conducts a final inspection and, if the completed work complies with all applicable State and local laws and with the building permit, issues a certificate of compliance. Generally, only inspectors certified by the Q-Board as qualified Code-enforcement officials under Article 9C of Chapter 143 of the General Statutes may conduct inspections for a local government and those inspectors must either be employed by or under contract with the local government.

Sections 1-3 of the bill would allow a person certified and registered by the Q-Board as a private commercial inspector (PCI) to conduct inspections of commercial buildings and structures for compliance with the Code and to issue certificates of compliance with the Code. In particular:

Section 1, effective July 1, 2024, would:

- Define "private commercial inspection" and "private commercial inspector."
- Authorize the Q-Board to:
 - Certify and register persons as a qualified PCI in building inspections, electrical inspections, mechanical inspections, plumbing inspections, and fire inspections.
 - Require PCI applicants to pass an exam based on the Code and its administrative procedures.
 - Issue a PCI certificate to and exempt from the exam requirements:
 - A PCI certified by another state with equivalent standards.
 - A PCI certified by the International Code Council with equivalent standards.
 - Issue a Level I or Level II PCI certificate without examination, or issue Level III certificate with examination to:
 - Qualified Code-enforcement officials.
 - Licensed N.C. architects.
 - Issue a Level I, II, or III PCI certificate to licensed engineers without examination.

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- Establish the continuing education and professional development requirements for PCIs and to adopt rules to implement those requirements.
- Charge a fee for PCI certification, renewal, and registration.
- Prohibit PCIs from inspecting any properties in which the inspector - or one with whom the inspector has a close familial, business, or associational relationship - has an ownership or direct financial interest in.
- Subject PCIs to the disciplinary provisions of the Q-Board and makes it a Class 1 misdemeanor to hold oneself out as a PCI without valid Q-Board certification.
- Require PCIs to register with the Q-Board and require the Q-Board to maintain a list of all registered PCIs on the Department of Insurance website.

Section 2, effective July 1, 2024, would:

- Require local governments to reimburse inspection fees paid by permit holders for any inspections conducted by PCIs.
- Relieve local governments from the duty to inspect commercial buildings and structures being inspected by PCIs.

Section 3, effective July 1, 2024, would:

- Prohibit local government ordinances prohibiting inspections by PCIs.
- Allow local governments to hire PCIs to conduct inspections for that local government.
- Allow a local government Code-enforcement official with a PCI certificate to conduct private commercial inspections outside that local government's jurisdiction.
- Require local governments to accept and approve a PCI's signed inspection report provided:
 - The inspection is limited to Code compliance.
 - The PCI submitting the report is designated on the building permit application or amendment.
 - The PCI conducting the inspection:
 - Is qualified to conduct that type of commercial inspection.
 - If different than the PCI submitting the inspection report, is employed by or under contract with, the PCI submitting the report.
 - A copy of the report is provided to the local government.
 - A payment or security bond, letter of credit, or insurance policy is executed in favor of the local government for 125% of the estimated cost to inspect the project.
 - The permit holder and PCI execute a written contract containing certain enumerated terms.
 - The inspection report is on a form developed by the Q-Board.
- Release local governments from any claim arising out of inspections performed by PCIs.
- Clarify that local government can conduct acceptance testing or approve fire prevention systems for which a private commercial inspector has issued a certificate of compliance.
- Require local governments, upon written request of permit holders, to assume responsibility for inspection of projects where PCIs cease inspecting.
- Provide that where PCIs are used:
 - Building permit applicants must attach a Notice of Intent to use a PCI to their permit application on the form developed by the Q-Board.
 - Local governments may only inspect to determine compliance with local government laws.
- Allow permit holders using local government inspectors to utilize, for a given inspection, a PCIs upon giving 3 days notice.

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- Allow PCIs to issue certificates of compliance with the Code upon 60 days written notice to the local government with jurisdiction and require a copy be provided to the local government upon issuance.
- Provide that only local governments may issue certificates of occupancy.
- Allows local governments to issue a certificate of occupancy in reliance on the certificate of compliance with the Code issued by a PCI and discharges and releases that local government from liability for claims arising out of that certificate of compliance.

SECTION 4:

Article 11 of Chapter 160D is the primary body of law that outlines Code enforcement by local government in land development. Generally, a person cannot commence or proceed with construction or related activities without first securing relevant building permit(s) as required by North Carolina State Building Code and any other State or local laws applicable to the construction activity.

For the purposes of permit issuance and administration, generally, local governments and their inspection departments are responsible for plan review for building permit purposes.

Section 4, effective July 1, 2024, would:

- Require a local government to perform its plan review of, and issue building permit decisions based on, commercial and multifamily building plans that require the seal of an engineer or architect within certain timeframes.
- Provide alternative methods using third-party reviewers if the local government is unable to complete the review within the applicable timeframes.
- Provide a liability limitation for local governments when issuing permits based on plan reviews performed by a third-party reviewer at the election of a permit applicant under these new provisions.

SECTION 5:

Article 4 of Chapter 160D outlines general laws that relate to local government development regulations and their approval. Generally, a person cannot commence or proceed with construction or related development activities without first securing development approvals required by local ordinances and other State or local laws applicable to the development activity.

Section 5 would require that local governments concurrently review applications and processes notwithstanding that related development approvals have not yet been obtained.

SECTION 6:

Section 6 would require the Department of Insurance to begin rulemaking to implement Sections 1 through 4 no later than 90 days after this act becomes law, but no rules shall become effective prior to July 1, 2024.

EFFECTIVE DATE: Sections 1, 2, 3, and 4 of this act become effective July 1, 2024. The remainder of this act is effective when it becomes law.

Billy Godwin, Legislative Analyst, substantially contributed to this summary.