

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 114  
PROPOSED COMMITTEE SUBSTITUTE S114-PCS15094-RG-4

Short Title: Exempt Some Church Facility LU/LA Elevators.

(Public)

Sponsors:

Referred to:

February 11, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT EXEMPTING PLACES OF WORSHIP OWNED AND OPERATED BY  
3 RELIGIOUS INSTITUTIONS FROM CERTAIN PROVISIONS OF THE NORTH  
4 CAROLINA STATE BUILDING CODE RELATING TO LIMITED USE AND LIMITED  
5 ACCESS ELEVATORS AND TO REQUIRE THE ADOPTION OF RULES UNDER THE  
6 ELEVATOR SAFETY ACT OF NORTH CAROLINA PROVIDING FOR THE  
7 PROMINENT DISPLAY OF IDENTIFYING NUMBERS IN ELEVATORS TO  
8 FACILITATE THE EXTRICATION OF PASSENGERS FROM MALFUNCTIONING  
9 ELEVATORS.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** Findings. – The General Assembly finds that:

- 12 (1) The Americans With Disabilities Act (ADA) was enacted by Congress to  
13 provide that buildings afford physical access to all persons, including those  
14 with physical disabilities and limitations.
- 15 (2) The section of the ADA directly related to church facilities exempts  
16 "religious organizations or entities controlled by religious organizations,  
17 including places of worship." 42 U.S.C. § 12187.
- 18 (3) In some instances, churches face multiple and confusing accessibility  
19 standards required by local, State, and federal rules and guidelines and  
20 places of worship, especially smaller churches, mosques, synagogues,  
21 temples, and other similar bodies of worship, when under hardship, should  
22 be relieved of the burden of coverage under certain accessibility  
23 requirements of the ADA to the extent the coverage is not required by  
24 federal law.
- 25 (4) The State's policy of covering religious organizations under its accessibility  
26 laws and guidelines will not be subverted by allowing a limited exception for  
27 small congregations seeking to utilize otherwise safe limited use and limited  
28 access hydraulic elevators.

29 **SECTION 2.(a)** G.S. 143-138(b) reads as rewritten:

30 "(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the  
31 Building Code Council, may include reasonable and suitable classifications of buildings and  
32 structures, both as to use and occupancy; general building restrictions as to location, height, and  
33 floor areas; rules for the lighting and ventilation of buildings and structures; requirements  
34 concerning means of egress from buildings and structures; requirements concerning means of



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1 ingress in buildings and structures; rules governing construction and precautions to be taken  
2 during construction; rules as to permissible materials, loads, and stresses; rules governing  
3 chimneys, heating appliances, elevators, and other facilities connected with the buildings and  
4 structures; rules governing plumbing, heating, air conditioning for the purpose of comfort  
5 cooling by the lowering of temperature, and electrical systems; and such other reasonable rules  
6 pertaining to the construction of buildings and structures and the installation of particular  
7 facilities therein as may be found reasonably necessary for the protection of the occupants of  
8 the building or structure, its neighbors, and members of the public at large.

9 In addition, the Code may regulate activities and conditions in buildings, structures, and  
10 premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code  
11 provisions shall be considered the minimum standards necessary to preserve and protect public  
12 health and safety, subject to approval by the Council of more stringent provisions proposed by  
13 a municipality or county as provided in G.S. 143-138(e). These provisions may include  
14 regulations requiring the installation of either battery-operated or electrical smoke detectors in  
15 every dwelling unit used as rental property, regardless of the date of construction of the rental  
16 property. For dwelling units used as rental property constructed prior to 1975, smoke detectors  
17 shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing  
18 laboratory approval, and shall be installed in accordance with either the standard of the  
19 National Fire Protection Association or the minimum protection designated in the  
20 manufacturer's instructions, which the property owner shall retain or provide as proof of  
21 compliance.

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

34 ~~The Except as provided by subsection (c1) of this section, the~~ Code may contain provisions  
35 regulating every type of building or structure, wherever it might be situated in the State.

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

44 Provided further, that no building permit shall be required under the Code or any local  
45 variance thereof approved under subsection (e) for any construction, installation, repair,  
46 replacement, or alteration costing five thousand dollars (\$5,000) or less in any single family  
47 residence or farm building unless the work involves: the addition, repair, or replacement of load  
48 bearing structures; the addition (excluding replacement of same size and capacity) or change in  
49 the design of plumbing; the addition, replacement or change in the design of heating, air  
50 conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not

1 permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding  
2 replacement of like grade of fire resistance) of roofing.

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

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

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

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

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

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

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

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

51 **SECTION 2.(b)** G.S. 143-138 is amended by adding a new subsection to read:

1       "(c1) Place of Worship Exemption. – The North Carolina State Building Code and the  
2 standards under this Article do not apply to the installation and maintenance of limited use or  
3 limited access hydraulic elevators in a place of worship having less than 1,000 members in the  
4 body of worshipers to be served by the building or facility. For the purposes of this section, a  
5 'place of worship' is a building or facility owned and operated by a religious organization and  
6 used primarily for religious rituals or religious observance. A nonreligious entity that leases  
7 space from a religious organization is not exempt under this subsection."

8               **SECTION 2.(c)** G.S. 143-138(e) reads as rewritten:

9       "(e) Effect upon Local Codes. – ~~The~~Except as otherwise provided in this section, the  
10 North Carolina State Building Code shall apply throughout the State, from the time of its  
11 adoption. Approved rules shall become effective in accordance with G.S. 150B-21.3. However,  
12 any political subdivision of the State may adopt a fire prevention code and floodplain  
13 management regulations within its jurisdiction. The territorial jurisdiction of any municipality  
14 or county for this purpose, unless otherwise specified by the General Assembly, shall be as  
15 follows: Municipal jurisdiction shall include all areas within the corporate limits of the  
16 municipality and extraterritorial jurisdiction areas established as provided in G.S. 160A-360 or  
17 a local act; county jurisdiction shall include all other areas of the county. No such code or  
18 regulations, other than floodplain management regulations and those permitted by  
19 G.S. 160A-436, shall be effective until they have been officially approved by the Building  
20 Code Council as providing adequate minimum standards to preserve and protect health and  
21 safety, in accordance with the provisions of subsection (c) above. Local floodplain regulations  
22 may regulate all types and uses of buildings or structures located in flood hazard areas  
23 identified by local, State, and federal agencies, and include provisions governing substantial  
24 improvements, substantial damage, cumulative substantial improvements, lowest floor  
25 elevation, protection of mechanical and electrical systems, foundation construction, anchorage,  
26 acceptable flood resistant materials, and other measures the political subdivision deems  
27 necessary considering the characteristics of its flood hazards and vulnerability. In the absence  
28 of approval by the Building Code Council, or in the event that approval is withdrawn, local fire  
29 prevention codes and regulations shall have no force and effect. Provided any local regulations  
30 approved by the local governing body which are found by the Council to be more stringent than  
31 the adopted statewide fire prevention code and which are found to regulate only activities and  
32 conditions in buildings, structures, and premises that pose dangers of fire, explosion or related  
33 hazards, and are not matters in conflict with the State Building Code, shall be approved. Local  
34 governments may enforce the fire prevention code of the State Building Code using civil  
35 remedies authorized under G.S. 143-139, 153A-123, and 160A-175. If the Commissioner of  
36 Insurance or other State official with responsibility for enforcement of the Code institutes a  
37 civil action pursuant to G.S. 143-139, a local government may not institute a civil action under  
38 G.S. 143-139, 153A-123, or 160A-175 based upon the same violation. Appeals from the  
39 assessment or imposition of such civil remedies shall be as provided in G.S. 160A-434.

40       A local government may not adopt any ordinance in conflict with the exemption for places  
41 of worship provided by subsection (c1) of this section. No local ordinance or regulation shall be  
42 construed to limit the exception provided by subsection (c1) of this section."

43               **SECTION 3.** Nothing in this act shall be construed to limit the authority of the  
44 North Carolina Department of Labor to perform safety inspections of hydraulic elevators.

45               **SECTION 4.** The Commissioner of Labor shall adopt rules pursuant to Article 14A  
46 of Chapter 95 of the General Statutes (Elevator Act of North Carolina) to require, in any  
47 building or structure having more than one elevator, the posting of a distinct number in plain  
48 view in the passenger cabin of each elevator for the purpose of identification of the elevator to  
49 facilitate extrication from any elevator that malfunctions while occupied.

50               **SECTION 5.** This act is effective when it becomes law.