

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 114
Commerce Committee Substitute Adopted 3/10/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S114-PCS55377-RQ-26

Short Title: Exempt Churches & Clubs LU/LA Elevators.

(Public)

Sponsors:

Referred to:

February 11, 2009

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

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.(a)** G.S. 143-138(b) reads as rewritten:

11 "(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the
12 Building Code Council, may include reasonable and suitable classifications of buildings and
13 structures, both as to use and occupancy; general building restrictions as to location, height, and
14 floor areas; rules for the lighting and ventilation of buildings and structures; requirements
15 concerning means of egress from buildings and structures; requirements concerning means of
16 ingress in buildings and structures; rules governing construction and precautions to be taken
17 during construction; rules as to permissible materials, loads, and stresses; rules governing
18 chimneys, heating appliances, elevators, and other facilities connected with the buildings and
19 structures; rules governing plumbing, heating, air conditioning for the purpose of comfort
20 cooling by the lowering of temperature, and electrical systems; and such other reasonable rules
21 pertaining to the construction of buildings and structures and the installation of particular
22 facilities therein as may be found reasonably necessary for the protection of the occupants of
23 the building or structure, its neighbors, and members of the public at large.

24 In addition, the Code may regulate activities and conditions in buildings, structures, and
25 premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code
26 provisions shall be considered the minimum standards necessary to preserve and protect public
27 health and safety, subject to approval by the Council of more stringent provisions proposed by
28 a municipality or county as provided in G.S. 143-138(e). These provisions may include
29 regulations requiring the installation of either battery-operated or electrical smoke detectors in
30 every dwelling unit used as rental property, regardless of the date of construction of the rental
31 property. For dwelling units used as rental property constructed prior to 1975, smoke detectors
32 shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing
33 laboratory approval, and shall be installed in accordance with either the standard of the



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1 National Fire Protection Association or the minimum protection designated in the
2 manufacturer's instructions, which the property owner shall retain or provide as proof of
3 compliance.

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

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

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

26 Provided further, that no building permit shall be required under the Code or any local
27 variance thereof approved under subsection (e) for any construction, installation, repair,
28 replacement, or alteration costing five thousand dollars (\$5,000) or less in any single family
29 residence or farm building unless the work involves: the addition, repair, or replacement of load
30 bearing structures; the addition (excluding replacement of same size and capacity) or change in
31 the design of plumbing; the addition, replacement or change in the design of heating, air
32 conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not
33 permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding
34 replacement of like grade of fire resistance) of roofing.

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

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

- 39 (1) Any rules governing boilers adopted by the Board of Boiler and Pressure
40 Vessels Rules,
- 41 (2) Any rules relating to the safe operation of elevators adopted by the
42 Commissioner of Labor, and
- 43 (3) Any rules relating to sanitation adopted by the Commission for Public
44 Health which the Building Code Council believes pertinent.

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

50 Nothing in this Article shall extend to or be construed as being applicable to the regulation
51 of the design, construction, location, installation, or operation of (1) equipment for storing,

1 handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous
2 ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the
3 first stage pressure regulator to and including each liquefied petroleum gas utilization device
4 within a building or structure covered by the Code, or (2) equipment or facilities, other than
5 buildings, of a public utility, as defined in G.S. 62-3, or an electric or telephone membership
6 corporation, including without limitation poles, towers, and other structures supporting electric
7 or communication lines.

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

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

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

32 **SECTION 1.(b)** G.S. 143-138 is amended by adding a new subsection to read:

33 "(c1) Exemptions for Private Clubs and Religious Organizations. – The North Carolina
34 State Building Code and the standards for the installation and maintenance of limited-use or
35 limited-access hydraulic elevators under this Article shall not apply to private clubs or
36 establishments exempted from coverage under Title II of the Civil Rights Act of 1964, 42
37 U.S.C. § 2000a, et seq., or to religious organizations or entities controlled by religious
38 organizations, including places of worship. A nonreligious organization or entity that leases
39 space from a religious organization or entity is not exempt under this subsection."

40 **SECTION 1.(c)** G.S. 143-138(e) reads as rewritten:

41 "(e) Effect upon Local Codes. – The Except as otherwise provided in this section, the
42 North Carolina State Building Code shall apply throughout the State, from the time of its
43 adoption. Approved rules shall become effective in accordance with G.S. 150B-21.3. However,
44 any political subdivision of the State may adopt a fire prevention code and floodplain
45 management regulations within its jurisdiction. The territorial jurisdiction of any municipality
46 or county for this purpose, unless otherwise specified by the General Assembly, shall be as
47 follows: Municipal jurisdiction shall include all areas within the corporate limits of the
48 municipality and extraterritorial jurisdiction areas established as provided in G.S. 160A-360 or
49 a local act; county jurisdiction shall include all other areas of the county. No such code or
50 regulations, other than floodplain management regulations and those permitted by
51 G.S. 160A-436, shall be effective until they have been officially approved by the Building

1 Code Council as providing adequate minimum standards to preserve and protect health and
2 safety, in accordance with the provisions of subsection (c) above. Local floodplain regulations
3 may regulate all types and uses of buildings or structures located in flood hazard areas
4 identified by local, State, and federal agencies, and include provisions governing substantial
5 improvements, substantial damage, cumulative substantial improvements, lowest floor
6 elevation, protection of mechanical and electrical systems, foundation construction, anchorage,
7 acceptable flood resistant materials, and other measures the political subdivision deems
8 necessary considering the characteristics of its flood hazards and vulnerability. In the absence
9 of approval by the Building Code Council, or in the event that approval is withdrawn, local fire
10 prevention codes and regulations shall have no force and effect. Provided any local regulations
11 approved by the local governing body which are found by the Council to be more stringent than
12 the adopted statewide fire prevention code and which are found to regulate only activities and
13 conditions in buildings, structures, and premises that pose dangers of fire, explosion or related
14 hazards, and are not matters in conflict with the State Building Code, shall be approved. Local
15 governments may enforce the fire prevention code of the State Building Code using civil
16 remedies authorized under G.S. 143-139, 153A-123, and 160A-175. If the Commissioner of
17 Insurance or other State official with responsibility for enforcement of the Code institutes a
18 civil action pursuant to G.S. 143-139, a local government may not institute a civil action under
19 G.S. 143-139, 153A-123, or 160A-175 based upon the same violation. Appeals from the
20 assessment or imposition of such civil remedies shall be as provided in G.S. 160A-434.

21 A local government may not adopt any ordinance in conflict with the exemption provided
22 by subsection (c1) of this section. No local ordinance or regulation shall be construed to limit
23 the exemption provided by subsection (c1) of this section."

24 **SECTION 2.** Nothing in this act shall be construed to limit the authority of the
25 North Carolina Department of Labor to perform safety inspections of hydraulic elevators.

26 **SECTION 3.** The Commissioner of Labor shall adopt rules pursuant to Article 14A
27 of Chapter 95 of the General Statutes (Elevator Act of North Carolina) to require, in any
28 building or structure having more than one elevator, the posting of a distinct number in plain
29 view in the passenger cabin of each elevator for the purpose of identification of the elevator to
30 facilitate extrication from any elevator that malfunctions while occupied.

31 **SECTION 4.** This act is effective when it becomes law.