

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

H

D

HOUSE BILL 780  
Committee Substitute Favorable 4/16/09  
PROPOSED SENATE COMMITTEE SUBSTITUTE H780-PCS80466-RG-42

Short Title: Building Code/Exempt Equestrian Arenas. (Public)

Sponsors:

Referred to:

March 26, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THE NORTH CAROLINA BUILDING CODE EXEMPTION FOR  
3 FARM BUILDINGS TO INCLUDE EQUINE ARENAS USED FOR LESSONS  
4 OFFERED TO THE GENERAL PUBLIC, AND OTHER EQUINE ACTIVITIES, BUT  
5 NOT FOR SPECTATOR EVENTS, AND TO PROVIDE THAT IN THE CASE OF A  
6 MANDATORY EVACUATION A TENANT SUBJECT TO A VACATION RENTAL  
7 AGREEMENT IS ENTITLED TO A REFUND OF THE PRORATED RENT, TAXES,  
8 AND OTHER PAYMENTS MADE BY THE TENANT FOR THE OCCUPATION OF  
9 THE VACATION RENTAL UNIT.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** G.S. 143-138(b) reads as rewritten:  
12 **"§ 143-138. North Carolina State Building Code.**

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

27 (b1) ~~In addition, the~~The Code may regulate activities and conditions in buildings,  
28 structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire  
29 prevention code provisions shall be considered the minimum standards necessary to preserve  
30 and protect public health and safety, subject to approval by the Council of more stringent  
31 provisions proposed by a municipality or county as provided in G.S. 143-138(e). These  
32 provisions may include regulations requiring the installation of either battery-operated or  
33 electrical smoke detectors in every dwelling unit used as rental property, regardless of the date



1 of construction of the rental property. For dwelling units used as rental property constructed  
2 prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other  
3 equivalent national testing laboratory approval, and shall be installed in accordance with either  
4 the standard of the National Fire Protection Association or the minimum protection designated  
5 in the manufacturer's instructions, which the property owner shall retain or provide as proof of  
6 compliance.

7 (b2) The Code may contain provisions requiring the installation of either  
8 battery-operated or electrical carbon monoxide detectors in every dwelling unit having a  
9 fossil-fuel burning heater or appliance, fireplace, or an attached garage. Carbon monoxide  
10 detectors shall be those listed by a nationally recognized testing laboratory that is  
11 OSHA-approved to test and certify to American National Standards Institute/Underwriters  
12 Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance  
13 with either the standard of the National Fire Protection Association or the minimum protection  
14 designated in the manufacturer's instructions, which the property owner shall retain or provide  
15 as proof of compliance. A carbon monoxide detector may be combined with smoke detectors if  
16 the combined detector does both of the following: (i) complies with ANSI/UL2034 or  
17 ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii)  
18 emits an alarm in a manner that clearly differentiates between detecting the presence of carbon  
19 monoxide and the presence of smoke.

20 (b3) The Code may contain provisions regulating every type of building or structure,  
21 wherever it might be situated in the State.

22 (b4) ~~Provided further, that building~~ Building rules do not apply to (i) farm buildings that  
23 are located outside the building-rules jurisdiction of any municipality, or (ii) farm buildings that  
24 are located inside the building-rules jurisdiction of any municipality if the farm buildings are  
25 greenhouses. For the purposes of this subsection:

26 (1) A "farm building" shall include any structure used or associated with equine  
27 activities, including, but not limited to, the care, management, boarding, or  
28 training of horses and the instruction and training of riders. Structures that  
29 are associated with equine activities include, but are not limited to, free  
30 standing or attached sheds, barns, or other structures that are utilized to store  
31 any equipment, tools, commodities, or other items that are maintained or  
32 used in conjunction with equine activities. The specific types of equine  
33 activities, structures, and uses set forth in this subdivision are for illustrative  
34 purposes, and should not be construed to limit, in any manner, the types of  
35 activities, structures, or uses that may be considered under this subsection as  
36 exempted from building rules. A farm building that might otherwise qualify  
37 for exemption from building rules shall not be exempt if it is used for a  
38 spectator event and more than 10 members of the public are present at the  
39 farm building for the event.

40 (2) A "greenhouse" is a structure that has a glass or plastic roof, has one or more  
41 glass or plastic walls, has an area over ninety-five percent (95%) of which is  
42 used to grow or cultivate plants, is built in accordance with the National  
43 Greenhouse Manufacturers Association Structural Design manual, and is not  
44 used for retail sales. Additional provisions addressing distinct life safety  
45 hazards shall be approved by the local building-rules jurisdiction.

46 (b5) ~~Provided further, that no~~ No building permit shall be required under the Code or any  
47 local variance thereof approved under subsection (e) for any construction, installation, repair,  
48 replacement, or alteration costing five thousand dollars (\$5,000) or less in any single family  
49 residence or farm building unless the work involves: the addition, repair, or replacement of load  
50 bearing structures; the addition (excluding replacement of same size and capacity) or change in  
51 the design of plumbing; the addition, replacement or change in the design of heating, air

1 conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not  
2 permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding  
3 replacement of like grade of fire resistance) of roofing.

4 (b6) ~~Provided further, that no~~ No building permit shall be required under such Code from  
5 any State agency for the construction of any building or structure, the total cost of which is less  
6 than twenty thousand dollars (\$20,000), except public or institutional buildings.

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

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

14 (b7) ~~In addition, the~~ The Code may include references to such other rules of special  
15 types, such as those of the Medical Care Commission and the Department of Public Instruction  
16 as may be useful to persons using the Code. No rule issued by any agency other than the  
17 Building Code Council shall be construed as a part of the Code, nor supersede that Code, it  
18 being intended that they be presented with the Code for information only.

19 (b8) Nothing in this Article shall extend to or be construed as being applicable to the  
20 regulation of the design, construction, location, installation, or operation of (1) equipment for  
21 storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or  
22 anhydrous ammonia or other liquid fertilizers, except for liquefied petroleum gas from the  
23 outlet of the first stage pressure regulator to and including each liquefied petroleum gas  
24 utilization device within a building or structure covered by the Code, or (2) equipment or  
25 facilities, other than buildings, of a public utility, as defined in G.S. 62-3, or an electric or  
26 telephone membership corporation, including without limitation poles, towers, and other  
27 structures supporting electric or communication lines.

28 (b9) Nothing in this Article shall extend to or be construed as being applicable to the  
29 regulation of the design, construction, location, installation, or operation of industrial  
30 machinery. However, if during the building code inspection process, an electrical inspector has  
31 any concerns about the electrical safety of a piece of industrial machinery, the electrical  
32 inspector may refer that concern to the Occupational Safety and Health Division in the North  
33 Carolina Department of Labor but shall not withhold the certificate of occupancy nor mandate  
34 third-party testing of the industrial machinery based solely on this concern. For the purposes of  
35 this paragraph, "industrial machinery" means equipment and machinery used in a system of  
36 operations for the explicit purpose of producing a product. The term does not include  
37 equipment that is permanently attached to or a component part of a building and related to  
38 general building services such as ventilation, heating and cooling, plumbing, fire suppression or  
39 prevention, and general electrical transmission.

40 (b10) ~~In addition, the~~ The Code may contain rules concerning minimum efficiency  
41 requirements for replacement water heaters, which shall consider reasonable availability from  
42 manufacturers to meet installation space requirements and may contain rules concerning energy  
43 efficiency that require all hot water plumbing pipes that are larger than one-fourth of an inch to  
44 be insulated.

45 (b11) No State, county, or local building code or regulation shall prohibit the use of  
46 special locking mechanisms for seclusion rooms in the public schools approved under  
47 G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be constructed so  
48 that it will engage only when a key, knob, handle, button, or other similar device is being held  
49 in position by a person, and provided further that, if the mechanism is electrically or  
50 electronically controlled, it automatically disengages when the building's fire alarm is activated.

1 Upon release of the locking mechanism by a supervising adult, the door must be able to be  
2 opened readily."

3 **SECTION 2.** G.S. 42A-36 reads as rewritten:

4 "**§ 42A-36. Mandatory evacuations.**

5 If State or local authorities, acting pursuant to Article 36A of Chapter 14 or Article 1 of  
6 Chapter 166A of the General Statutes, order a mandatory evacuation of an area that includes  
7 the residential property subject to a vacation rental, the tenant under the vacation rental  
8 agreement, whether in possession of the property or not, shall comply with the evacuation  
9 order. Upon compliance, the tenant shall be entitled to a refund from the landlord of the  
10 ~~prorated rent~~ rent, taxes, and any other payments made by the tenant pursuant to the vacation  
11 rental agreement as a condition of the tenant's right to occupy the property prorated for each  
12 night that the tenant is unable to occupy the property because of the mandatory evacuation  
13 order. The tenant shall not be entitled to a refund if: (i) prior to the tenant taking possession of  
14 the property, the tenant refused insurance offered by the landlord or real estate broker that  
15 would have compensated the tenant for losses or damages resulting from loss of use of the  
16 property due to a mandatory evacuation order; or (ii) the tenant purchased insurance offered by  
17 the landlord or real estate broker. The insurance offered shall be provided by an insurance  
18 company duly authorized by the North Carolina Department of Insurance, and the cost of the  
19 insurance shall not exceed eight percent (8%) of the total ~~rent amount~~ charged for the vacation  
20 rental to the tenant less the amount paid by the tenant for a security deposit."

21 **SECTION 3.** This act is effective when it becomes law. Section 1 of this act  
22 applies to all farm buildings, including farm buildings where construction either began or was  
23 completed prior to the effective date of this act.