

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1501

Short Title: Amend NCDOL Statutes. (Public)

Sponsors: Representatives Alexander, Glazier, Hill, Bell (Primary Sponsors);
Faison, Harrison, and Wainwright.

Referred to: Judiciary II.

April 17, 2007

A BILL TO BE ENTITLED

1
2 AN ACT TO MAKE CHANGES TO ARTICLE 19 OF CHAPTER 95 OF THE
3 GENERAL STATUTES AND TO DIRECT THE NORTH CAROLINA HOUSING
4 FINANCE AGENCY TO STUDY THE DEVELOPMENT OF A LOW-INTEREST
5 LOAN PROGRAM FOR AGRICULTURAL EMPLOYERS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 95-223 is amended by adding a new subdivision to read:

8 "(3a) "Director" means the Director of the Agricultural Safety and Health
9 Bureau, who is the agent designated by the Commissioner to assist in
10 the administration of this Article."

11 **SECTION 2.** G.S. 95-224 reads as rewritten:

12 **"§ 95-224. Scope.**

13 (a) The provisions of this Article shall apply to all operators and migrants except:

14 (1) Any person who, in the ordinary course of that person's business,
15 regularly provides housing on a commercial basis to the general
16 public; and who provides housing to migrants of the same character
17 and on the same or comparable terms and conditions as those provided
18 to the general public; or

19 (2) A housing unit owned by one or more of the occupants and occupied
20 solely by a family unit.

21 (b) The Commissioner shall have the following powers and duties:

22 (1) To delegate to the Director the powers, duties, and responsibilities
23 necessary to ensure safe and healthy migrant housing conditions.

24 (2) To supervise the Director.

25 (3) To issue preoccupancy certificates to certify that housing for migrant
26 workers has been found to be in compliance with this Article.

27 (4) To conduct post occupancy inspections of migrant housing in
28 accordance with the provisions of G.S. 95-226(g)."

1 **SECTION 3.** G.S. 95-225 is amended by adding a new subsection to read:

2 "(h) Each migrant shall be provided with a bed that shall include a mattress in
3 good repair with a clean cover. The Department inspector shall determine the condition
4 of the mattress and cover during the preoccupancy inspection. If the mattress or cover is
5 damaged beyond normal wear and tear during the migrant's occupancy of the housing,
6 the operator may charge the migrant the reasonable cost of replacing the mattress or
7 cover."

8 **SECTION 4.** G.S. 95-226 is amended by adding new subsections to read:

9 "(f) If an operator receives a preoccupancy inspection rating from the Department
10 of one hundred percent (100%) compliance for two consecutive years, in the third year
11 the operator shall have the right to conduct the preoccupancy inspection himself or
12 herself. Operators conducting their own inspections pursuant to this subsection shall, at
13 least 45 days prior to occupancy, register their migrant housing with the Department and
14 have the local health department inspect and approve the water and septic systems.

15 (g) In addition to any other applicable federal or State law or regulation, the
16 Department may only conduct a post occupancy inspection of operators:

17 (1) Who were subject to an annual preoccupancy inspection by the
18 Department and found not to be in one hundred percent (100%)
19 compliance at that inspection.

20 (2) Who were assessed a civil penalty by the Department during the
21 previous calendar year for violations of this Article or pursuant to
22 G.S. 95-136(a)(3).

23 (3) Who did not undergo a preoccupancy inspection, unless the operator
24 conducted a self-inspection pursuant to subsection (f) of this section.

25 (4) In response to a referral from a federal, State, county, or local
26 government official or any person with firsthand knowledge of an
27 alleged violation of this Article or of an alleged safety or health hazard
28 whom the Department deems to have provided a credible referral."

29 **SECTION 5.** G.S. 95-227 reads as rewritten:

30 "**§ 95-227. Enforcement.**

31 (a) For the purpose of enforcing the standards provided by this Article, the
32 provisions of G.S. 95-129, G.S. 95-130 and G.S. 95-136 through G.S. 95-142 shall
33 apply under this Article in a similar manner as they apply to places of employment
34 under OSHANC; however, G.S. 95-129(4), 95-130(2), and 95-130(6) do not apply to
35 migrant housing. For the purposes of this Article, the term:

36 (1) "Employer" in G.S. 95-129, G.S. 95-130 and G.S. 95-136 through
37 G.S. 95-142 shall be construed to mean an operator;

38 (2) "Employee" shall be construed to mean a migrant; and

39 (3) "Director" shall mean the agent designated by the Commissioner to
40 assist in the administration of this Article.

41 (b) The Commissioner may establish a new division to enforce this Article.

42 (c) The Department of Labor of North Carolina shall maintain a list of operators
43 and the physical address of their migrant housing units, number of beds, and the date of
44 the annual preoccupancy inspection and certification.

1 (d) The Department shall maintain a summary of any inspections filed annually
2 with the Division that enforces this Article, including the number and type of citations
3 issued and the violations found, if any.

4 (e) If the Department determines that housing provided to migrants is
5 uninhabitable, but is not reasonably expected to cause death or serious physical harm,
6 the migrants shall be allowed to remain in the housing for a reasonable period, not to
7 exceed 14 days, while the operator locates alternative housing or makes such repairs as
8 to render the housing habitable. No additional civil penalties arising from the condition
9 of that housing shall be levied against the operator during the 14-day period after the
10 housing has been determined to be uninhabitable in which the migrants are allowed to
11 remain in the housing. The alternative housing shall be provided at the same rate or less
12 than the rate paid by the migrants for the uninhabitable housing. If the Director
13 determines, after recommendation by an inspector, that housing provided to migrants
14 could reasonably be expected to cause death or serious physical harm immediately or
15 before the imminence of such danger can be eliminated, the migrants shall not be
16 allowed to stay in the housing, and alternative housing shall be provided by the operator
17 at the same rate or less than the rate paid by the migrants for the uninhabitable housing.

18 (f) The Commissioner shall report no later than May 1 of each year to the
19 Chairpersons of the Natural and Economic Resources Subcommittees of the House and
20 Senate Committees on Appropriations regarding the number of annual preoccupancy
21 certifications issued, the number of operators with one hundred percent (100%)
22 compliance at the preoccupancy inspection, the number of post occupancy inspections
23 conducted by the Department, the number and type of citations and fines issued, the
24 total number of migrant worker beds in the State, and the identification of operators
25 who fail to apply for or obtain permits to operate migrant housing pursuant to this
26 Article."

27 **SECTION 6.** The North Carolina Housing Finance Agency shall study (i)
28 the need for low-cost financing for the construction and rehabilitation of migrant
29 housing in North Carolina and (ii) the feasibility of a program to provide such financing
30 in the State. The Agency shall report its findings no later than July 1, 2008, to the Joint
31 Legislative Commission on Governmental Operations.

32 **SECTION 7.** This act is effective when it becomes law.