

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 114
Commerce Committee Substitute Adopted 3/10/09

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

(Public)

Sponsors:

Referred to:

February 11, 2009

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

The General Assembly of North Carolina enacts:

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

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

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

"(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and



1 structures; rules governing plumbing, heating, air conditioning for the purpose of comfort
2 cooling by the lowering of temperature, and electrical systems; and such other reasonable rules
3 pertaining to the construction of buildings and structures and the installation of particular
4 facilities therein as may be found reasonably necessary for the protection of the occupants of
5 the building or structure, its neighbors, and members of the public at large.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

50 "(c1) Place of Worship Exemption. – The North Carolina State Building Code and the
51 standards under this Article do not apply to the installation and maintenance of limited use or

1 limited access hydraulic elevators in a place of worship having less than 1,000 members in the
2 body of worshipers to be served by the building or facility. For the purposes of this section, a
3 'place of worship' is a building or facility owned and operated by a religious organization and
4 used primarily for religious rituals or religious observance. A nonreligious entity that leases
5 space from a religious organization is not exempt under this subsection."

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

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

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

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

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

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