

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-245
HOUSE BILL 780**

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

The General Assembly of North Carolina enacts:

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

"§ 143-138. North Carolina State Building Code.

...

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

(b1) ~~In addition, the~~The Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e). These provisions may include regulations requiring the installation of either battery-operated or electrical smoke detectors in every dwelling unit used as rental property, regardless of the date of construction of the rental property. For dwelling units used as rental property constructed prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance.

(b2) The Code may contain provisions requiring the installation of either battery-operated or electrical carbon monoxide detectors in every dwelling unit having a



fossil-fuel burning heater or appliance, fireplace, or an attached garage. Carbon monoxide detectors shall be those listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance. A carbon monoxide detector may be combined with smoke detectors if the combined detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke.

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

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

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

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

(b5) ~~Provided further, that no~~ No building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing.

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

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

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

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

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

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

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

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

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

"§ 42A-36. Mandatory evacuations.

If State or local authorities, acting pursuant to Article 36A of Chapter 14 or Article 1 of Chapter 166A of the General Statutes, order a mandatory evacuation of an area that includes the residential property subject to a vacation rental, the tenant under the vacation rental agreement, whether in possession of the property or not, shall comply with the evacuation

order. Upon compliance, the tenant shall be entitled to a refund from the landlord of the ~~prorated rent~~ rent, taxes, and any other payments made by the tenant pursuant to the vacation rental agreement as a condition of the tenant's right to occupy the property prorated for each night that the tenant is unable to occupy the property because of the mandatory evacuation order. The tenant shall not be entitled to a refund if: (i) prior to the tenant taking possession of the property, the tenant refused insurance offered by the landlord or real estate broker that would have compensated the tenant for losses or damages resulting from loss of use of the property due to a mandatory evacuation order; or (ii) the tenant purchased insurance offered by the landlord or real estate broker. The insurance offered shall be provided by an insurance company duly authorized by the North Carolina Department of Insurance, and the cost of the insurance shall not exceed eight percent (8%) of the total ~~rent amount~~ charged for the vacation rental to the tenant. tenant less the amount paid by the tenant for a security deposit."

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

In the General Assembly read three times and ratified this the 25th day of June, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 6:32 p.m. this 30th day of June, 2009