

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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**HOUSE BILL 749
Committee Substitute Favorable 4/21/09**

Short Title: Use of Cisterns in Construction/Renovation.

(Public)

Sponsors:

Referred to:

March 24, 2009

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE THE STATE BUILDING CODE TO PERMIT THE USE OF
3 CISTERNS TO PROVIDE WATER FOR FLUSHING TOILETS AND FOR OUTDOOR
4 IRRIGATION IN THE CONSTRUCTION OR RENOVATION OF RESIDENTIAL OR
5 COMMERCIAL BUILDINGS OR STRUCTURES AND TO PROHIBIT ANY STATE,
6 COUNTY, OR LOCAL BUILDING CODE OR REGULATION FROM PROHIBITING
7 THE USE OF CISTERNS FOR THESE USES.

8 The General Assembly of North Carolina enacts:

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

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

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

36 The Code may contain provisions requiring the installation of either battery-operated or
37 electrical carbon monoxide detectors in every dwelling unit having a fossil-fuel burning heater



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

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

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

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

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

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

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

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

45 Nothing in this Article shall extend to or be construed as being applicable to the regulation
46 of the design, construction, location, installation, or operation of (1) equipment for storing,
47 handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous
48 ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the
49 first stage pressure regulator to and including each liquefied petroleum gas utilization device
50 within a building or structure covered by the Code, or (2) equipment or facilities, other than
51 buildings, of a public utility, as defined in G.S. 62-3, or an electric or telephone membership

1 corporation, including without limitation poles, towers, and other structures supporting electric
2 or communication lines.

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

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

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

27 The Code may include rules pertaining to the construction or renovation of residential or
28 commercial buildings and structures that permit the use of cisterns to provide water for flushing
29 toilets and for outdoor irrigation. No State, county, or local building code or regulation shall
30 prohibit the use of cisterns to provide water for flushing toilets and for outdoor irrigation. As
31 used in this subsection, 'cistern' means a storage tank that is watertight; has smooth interior
32 surfaces and enclosed lids; is fabricated from nonreactive materials such as reinforced concrete,
33 galvanized steel, or plastic; is designed to collect rainfall from a catchment area; may be
34 installed indoors or outdoors; and is located underground, at ground level, or on elevated
35 stands."

36 **SECTION 2.** This act is effective when it becomes law and applies to any cistern,
37 as defined in G.S. 143-138, as amended by Section 1 of this act, installed on or after that date
38 that is used to provide water for flushing toilets or for outdoor irrigation.