

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2009**

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**SENATE BILL 114**

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

Sponsors: Senator Hoyle.

Referred to: Commerce.

February 11, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT EXEMPTING PLACES OF WORSHIP OWNED AND OPERATED BY  
3 RELIGIOUS INSTITUTIONS FROM CERTAIN PROVISIONS OF THE NORTH  
4 CAROLINA STATE BUILDING CODE RELATING TO LIMITED USE AND LIMITED  
5 ACCESS ELEVATORS.

6 The General Assembly of North Carolina enacts:

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

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

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

26 "(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the  
27 Building Code Council, may include reasonable and suitable classifications of buildings and  
28 structures, both as to use and occupancy; general building restrictions as to location, height, and  
29 floor areas; rules for the lighting and ventilation of buildings and structures; requirements  
30 concerning means of egress from buildings and structures; requirements concerning means of  
31 ingress in buildings and structures; rules governing construction and precautions to be taken  
32 during construction; rules as to permissible materials, loads, and stresses; rules governing  
33 chimneys, heating appliances, elevators, and other facilities connected with the buildings and  
34 structures; rules governing plumbing, heating, air conditioning for the purpose of comfort  
35 cooling by the lowering of temperature, and electrical systems; and such other reasonable rules  
36 pertaining to the construction of buildings and structures and the installation of particular



1 facilities therein as may be found reasonably necessary for the protection of the occupants of  
2 the building or structure, its neighbors, and members of the public at large.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 "(c1) Place of Worship Exemption. – The North Carolina State Building Code and the  
47 standards under this Article do not apply to the installation and maintenance of limited use or  
48 limited access hydraulic elevators in a place of worship having less than 1,000 members in the  
49 body of worshipers to be served by the building or facility. For the purposes of this section, a  
50 'place of worship' is a place used primarily for religious rituals or religious observance within

1 any building or facility owned and operated by a religious organization. A nonreligious entity  
2 that leases space from a religious organization is not exempt under this subsection."

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

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

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

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

40 **SECTION 4.** This act is effective when it becomes law.