

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 111
SENATE BILL 295

AN ACT TO ENACT A RECOMMENDATION OF THE CHILD FATALITY TASK FORCE TO CLARIFY THE AUTHORITY OF THE BUILDING CODE COUNCIL TO ADOPT PROVISIONS REQUIRING THE INSTALLATION OF SMOKE DETECTORS IN ALL RESIDENTIAL RENTAL PROPERTY AND TO PROVIDE FOR MUTUAL OBLIGATIONS BETWEEN LANDLORDS AND TENANTS REGARDING THE INSTALLATION AND UPKEEP OF SMOKE DETECTORS.

The General Assembly of North Carolina enacts:

Section 1. 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 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.

In addition, 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.

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

Provided further, that nothing in this Article shall be construed to make any building rules applicable to farm buildings located outside the building-rules jurisdiction of any municipality.

Provided further, that 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.

Provided further, that 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

- (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 Health Services or the Department of Environment, Health, and Natural Resources which the Building Code Council believes pertinent.

In addition, 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.

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.

In addition, 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."

Sec. 2. G.S. 42-42(a) reads as rewritten:

"(a) The landlord shall:

- (1) Comply with the current applicable building and housing codes, whether enacted before or after October 1, 1977, to the extent required by the operation of such codes; no new requirement is imposed by this subdivision (a)(1) if a structure is exempt from a current building code;
- (2) Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;
- (3) Keep all common areas of the premises in safe condition; ~~and~~
- (4) Maintain in good and safe working order and promptly repair all electrical, plumbing, sanitary, heating, ventilating, air conditioning, and other facilities and appliances supplied or required to be supplied by him provided that notification of needed repairs is made to the landlord in writing by the tenant except in emergency ~~situations~~ situations; and
- (5) Provide operable smoke detectors, either battery-operated or electrical, having an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, that are installed in accordance with either the standards of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the landlord shall retain or provide as proof of compliance. The landlord must replace or repair the smoke detectors provided the landlord is notified of needed replacement or repairs in writing by the tenant. Unless the landlord and the tenant have a written agreement to the contrary, the landlord must place new batteries in a battery-operated smoke detector at the beginning of a tenancy and the tenant must replace the batteries as needed during the tenancy. Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord.

Sec. 3. G.S. 42-43(a) reads as rewritten:

"(a) The tenant shall:

- (1) Keep that part of the premises which he occupies and uses as clean and safe as the conditions of the premises permit and cause no unsafe or unsanitary conditions in the common areas and remainder of the premises which he uses;
- (2) Dispose of all ashes, rubbish, garbage, and other waste in a clean and safe manner;
- (3) Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;
- (4) Not deliberately or negligently destroy, deface, damage, or remove any part of the ~~premises~~ premises, nor render inoperable the smoke

detector provided by the landlord, or knowingly permit any person to do so;

- (5) Comply with any and all obligations imposed upon the tenant by current applicable building and housing codes; ~~and~~
- (6) Be responsible for all damage, defacement, or removal of any property inside a dwelling unit in his exclusive control unless said damage, defacement or removal was due to ordinary wear and tear, acts of the landlord or his agent, defective products supplied or repairs authorized by the landlord, acts of third parties not invitees of the tenant, or natural ~~fores-~~forces; and
- (7) Notify the landlord of the need for replacement of or repairs to a smoke detector. Nothing in this bill shall prohibit an individual landlord in a written agreement with the tenant from requiring the tenant to provide notice in writing of the need for replacement of or repairs to a smoke detector. Unless the landlord and the tenant have a written agreement to the contrary, the landlord must place new batteries in a battery-operated smoke detector at the beginning of a tenancy and the tenant must replace the batteries as needed during the tenancy. Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord."

Sec. 4. The amendment to G.S. 143-138(b) contained in Section 1 of this act shall not be construed to imply that the Building Code Council did not possess the authority contained in that amendment prior to the effective date of Section 1 of this act.

Sec. 5. Sections 2 and 3 of this act become effective January 1, 1996, and apply to residential rental agreements in effect on or after that date. The remainder of this act is effective upon ratification.

In the General Assembly read three times and ratified this the 29th day of May, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives