

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 1012

Short Title: Safety Updates for Rental Properties. (Public)

Sponsors: Representatives Beasley and Belk (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Appropriations, Health and Human Services, if favorable, Rules, Calendar, and Operations of the House

April 29, 2019

A BILL TO BE ENTITLED

AN ACT AUTHORIZING LOCAL GOVERNMENTS TO DECLARE A DWELLING UNFIT FOR HUMAN HABITATION IF THERE IS HARMFUL FUNGAL GROWTH THEREIN, TO AUTHORIZE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH STATEWIDE PARAMETERS AND GUIDELINES FOR EXPOSURE TO FUNGAL GROWTH THAT MAY RESULT IN MEDICAL AILMENTS, AUTHORIZING LOCAL GOVERNMENTS TO EXPEND TAX AND NONTAX FUNDS FOR TESTING PURSUANT TO THE STATEWIDE PARAMETERS AND GUIDELINES, AND APPROPRIATING FUNDS FOR FUNGAL GROWTH TESTING BY LOCAL GOVERNMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-441 reads as rewritten:

"§ 160A-441. Exercise of police power authorized.

It is hereby found and declared that the existence and occupation of dwellings in this State that are unfit for human habitation are inimical to the welfare and dangerous and injurious to the health, safety and morals of the people of this State, and that a public necessity exists for the repair, closing or demolition of such dwellings. Whenever any city or county of this State finds that there exists in the city or county dwellings that are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, fungus growth that may result in medical ailments as a result of prolonged exposure, as determined by parameters and guidelines established by the Commission for Public Health, or due to other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of the city or county, power is hereby conferred upon the city or county to exercise its police powers to repair, close or demolish the dwellings in the manner herein provided. No ordinance enacted by the governing body of a county pursuant to this Part shall be applicable within the corporate limits of any city unless the city council of the city has by resolution expressly given its approval thereto.

In addition to the exercise of police power authorized herein, any city may by ordinance provide for the repair, closing or demolition of any abandoned structure which the city council finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities. Such ordinance, if adopted, may provide for the repair, closing or demolition of such structure pursuant to the same provisions



1 and procedures as are prescribed herein for the repair, closing or demolition of dwellings found
2 to be unfit for human habitation."

3 **SECTION 2.** G.S. 160A-444 reads as rewritten:

4 "**§ 160A-444. ~~Standards.~~Standards; dwelling unfit for human habitation; fungal growth**
5 **parameters and guidelines.**

6 (a) An ordinance adopted by a city under this Part shall provide that the public officer
7 may determine that a dwelling is unfit for human habitation if he finds that conditions exist in
8 the dwelling that render it dangerous or injurious to the health, safety or morals of the occupants
9 of the dwelling, the occupants of neighboring dwellings, or other residents of the city. Defective
10 conditions may include the following (without limiting the generality of the foregoing): defects
11 therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation,
12 light, or sanitary facilities; dilapidation; disrepair; structural defects; ~~uncleanliness.~~
13 uncleanliness; fungal growth that may result in medical ailments as a result of prolonged
14 exposure, as determined by parameters and guidelines established by the Commission for Public
15 Health (hereinafter "Commission"). The ordinances may provide additional standards to guide
16 the public officers, or his agents, in determining the fitness of a dwelling for human habitation.

17 (b) The Commission shall adopt rules establishing statewide parameters and guidelines
18 for exposure to fungal growth that may result in medical ailments. The Commission shall
19 consider the following in establishing statewide parameters and guidelines: (i) fungal species that
20 can cause respiratory and immune ailments from prolonged exposure, (ii) scientific and medical
21 research on harmful fungal growth exposure, (iii) scientific research on the accuracy and
22 cost-effectiveness of fungal growth testing regimes, (iv) the ability of counties and cities to
23 implement fungal growth testing in a timely manner, (v) the cost of remediating fungal growth,
24 and (vi) parameters and guidelines established by other states. Rules adopted by the Commission
25 to implement the provisions of this section are not subject to Article 2A of Chapter 150B of the
26 General Statutes. At least 30 days prior to adopting, amending, or repealing a rule implementing
27 the provisions of this section, the Commission shall do the following:

28 (1) Publish the proposed rule in the North Carolina Register.

29 (2) Submit the proposed rule and notice of public hearing to the Codifier of Rules,
30 and the Codifier of Rules shall publish the same on the Internet within five
31 business days.

32 (3) Notify those on the mailing list maintained in accordance with
33 G.S. 150B-21.2(d).

34 (4) Hold at least one public hearing on the proposed rule no less than five business
35 days after publication in the North Carolina Register.

36 (5) Accept written comments on the proposed rule for at least 15 business days
37 prior to adoption, amendment, or repeal of the proposed rule.

38 (c) The governing body of a county or city is authorized to expend tax or nontax funds
39 to conduct testing pursuant to the statewide parameters and guidelines established under
40 subsection (b) of this section. The governing body may also enter into contracts with and accept
41 loans and grants from the State or federal governments for the purpose of conducting testing
42 pursuant to the statewide parameters and guidelines."

43 **SECTION 3.** G.S. 42-42 reads as rewritten:

44 "**§ 42-42. Landlord to provide fit premises.**

45 (a) The landlord shall:

46 ...

47 (8) Within a reasonable period of time based upon the severity of the condition,
48 repair or remedy any imminently dangerous condition on the premises after
49 acquiring actual knowledge or receiving notice of the condition.
50 Notwithstanding the landlord's repair or remedy of any imminently dangerous
51 condition, the landlord may recover from the tenant the actual and reasonable

costs of repairs that are the fault of the tenant. For purposes of this subdivision, the term "imminently dangerous condition" means any of the following:

...

m. Fungal growth that may result in medical ailments for the tenant or another person authorized to live in the dwelling unit.

...."

SECTION 4. G.S. 42-43 reads as rewritten:

"§ 42-43. Tenant to maintain dwelling unit.

(a) The tenant shall:

...

(8) Notify the landlord of the presence of fungal growth that the tenant fears may result or suspects has resulted in medical ailments for the tenant or another person authorized to live in the dwelling unit.

...."

SECTION 5. G.S. 150B-1 reads as rewritten:

"§ 150B-1. Policy and scope.

...

(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(30) The Commission for Public Health with respect to developing fungal growth parameters and guidelines pursuant to G.S. 160A-444.

...."

SECTION 6. The governing body of a county or city exercising the authority granted by Part 6 of Article 19 of Chapter 160A of the General Statutes may adopt ordinances to implement the statewide parameters and guidelines established by the Commission for Public Health pursuant to G.S. 160A-444, as enacted in Section 2 of this act. The ordinances may include the manner and time period in which tenants shall notify the landlord of the presence of fungal growth in a dwelling unit, and a tenant's notification, if in accordance with the ordinance, shall be deemed notification under G.S. 42-43(a)(8), as enacted in Section 4 of this act. The ordinances may also prescribe what constitutes a "reasonable period of time" in which the landlord shall take action to remediate fungal growth in a dwelling unit, and the landlord's remedial action, if in accordance with the ordinance, shall be deemed to comply with G.S. 42-42(a)(8)m., as enacted in Section 3 of this act.

SECTION 7. There is appropriated from the General Fund to the Commission for Public Health the sum of ninety thousand dollars (\$90,000) for the 2019-2020 fiscal year in nonrecurring funds for the purpose of providing grants to counties and cities in the State to conduct fungal growth testing according to the parameters and guidelines and testing regimes established by the Commission for Public Health pursuant to G.S. 160A-444, as enacted in Section 2 of this act.

SECTION 8. This act is effective when it becomes law.