

June 4, 2019

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 1012
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10576-LMa-32A

Short Title: Safety Updates for Rental Properties.

(Public)

Sponsors: Representatives Beasley and Belk (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING LOCAL GOVERNMENTS TO DECLARE A DWELLING UNFIT
3 FOR HUMAN HABITATION IF THERE IS HARMFUL FUNGAL GROWTH THEREIN,
4 TO AUTHORIZE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO
5 ESTABLISH STATEWIDE PARAMETERS AND GUIDELINES FOR EXPOSURE TO
6 FUNGAL GROWTH THAT MAY RESULT IN MEDICAL AILMENTS, AUTHORIZING
7 LOCAL GOVERNMENTS TO EXPEND TAX AND NONTAX FUNDS FOR TESTING
8 PURSUANT TO THE STATEWIDE PARAMETERS AND GUIDELINES, AND
9 APPROPRIATING FUNDS FOR FUNGAL GROWTH TESTING BY LOCAL
10 GOVERNMENTS.

11 The General Assembly of North Carolina enacts:

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

13 **"§ 160A-441. Exercise of police power authorized.**

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

29 In addition to the exercise of police power authorized herein, any city may by ordinance
30 provide for the repair, closing or demolition of any abandoned structure which the city council
31 finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions
32 creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by
33 vagrants as living quarters in the absence of sanitary facilities. Such ordinance, if adopted, may
34 provide for the repair, closing or demolition of such structure pursuant to the same provisions
35 and procedures as are prescribed herein for the repair, closing or demolition of dwellings found
36 to be unfit for human habitation."



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1 **SECTION 2.** G.S. 160A-444 reads as rewritten:
2 "**§ 160A-444. ~~Standards.~~Standards; dwelling unfit for human habitation; fungal growth**
3 **parameters and guidelines.**

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

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

- 26 (1) Publish the proposed rule in the North Carolina Register.
- 27 (2) Submit the proposed rule and notice of public hearing to the Codifier of Rules,
28 and the Codifier of Rules shall publish the same on the Internet within five
29 business days.
- 30 (3) Notify those on the mailing list maintained in accordance with
31 G.S. 150B-21.2(d).
- 32 (4) Hold at least one public hearing on the proposed rule no less than five business
33 days after publication in the North Carolina Register.
- 34 (5) Accept written comments on the proposed rule for at least 15 business days
35 prior to adoption, amendment, or repeal of the proposed rule.

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

41 **SECTION 3.** G.S. 42-42 reads as rewritten:
42 "**§ 42-42. Landlord to provide fit premises.**

43 (a) The landlord shall:

44 ...

- 45 (8) Within a reasonable period of time based upon the severity of the condition,
46 repair or remedy any imminently dangerous condition on the premises after
47 acquiring actual knowledge or receiving notice of the condition.
48 Notwithstanding the landlord's repair or remedy of any imminently dangerous
49 condition, the landlord may recover from the tenant the actual and reasonable
50 costs of repairs that are the fault of the tenant. For purposes of this subdivision,
51 the term "imminently dangerous condition" means any of the following:

1 ...

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

4"

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

6 **"§ 42-43. Tenant to maintain dwelling unit.**

7 (a) The tenant shall:

8 ...

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

12"

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

14 **"§ 150B-1. Policy and scope.**

15 ...

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

18 ...

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

21"

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

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

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