**Legality of Regulating Smoking in Rental Housing in North Carolina**

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**Privately Owned, Market-Rate Housing**1: There are no federal or state laws prohibiting private landlords from regulating smoking in the units they manage or own. Private landlords are free to put rules banning smoking in their leases.

**Privately Owned, Government-Subsidized Housing1:**  (*e.g*., Tenant-Based Section 8/Housing Choice Voucher, Project-Based Section 8, Rural Development Properties): There are no federal or state laws or regulations prohibiting private landlords that own or manage rental housing subsidized by the government from regulating smoking. Smoke-free policies can be implemented through leases and individual house rules. For Project-Based Section 8 housing, lease changes must be approved by the US Department of Housing and Urban Development (HUD).

In 2010, HUD issued a notice encouraging owners and managers participating in multi-unit housing rental assistance programs to implement smoke-free policies in some or all of their properties. (http://portal.hud.gov/hudportal/documents/huddoc?id=10-21hsgn.pdf)

**Public Housing:** Public Housing Authorities (PHAs) in North Carolina have the ability to regulate smoking on their properties, including within residential units. This ability is implicitly given by NCGS § 157-9, which describes the powers of PHAs to make rules and regulations in order to provide safe conditions for public housing residents. Furthermore, even though under NCGS §130A-498(b1)(1) local governmental bodies cannot enact smoking bans in private homes, NCGS § 157-9(a) states that provisions with respect to the operation of property by public bodies shall not apply to PHAs unless the legislature explicitly so states. Since there is no mention of PHAs in NCGS §130A-498, the prohibition against local governmental bodies regulating smoking in private residences does not apply to PHAs.

In 2009, HUD issued a notice strongly encouraging PHAs to implement non-smoking policies in some or all of their public housing units. (http://www.hud.gov/offices/pih/publications/notices/09/pih2009-21.pdf)

1Source: *Comparison of Smoke-Free Housing Policy Factors: Chart (2010)*. Warren Ortland, Public Health Law Center at William Mitchell College of Law. This chart may be accessed at the Tobacco Control Legal Consortium website, http://[www.publichealthlawcenter.org/topics/tobacco-control/smoking-regulation/housing](http://www.publichealthlawcenter.org/topics/tobacco-control/smoking-regulation/housing).