

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 806
Senate Judiciary Committee Substitute Adopted 6/16/20
Proposed Conference Committee Substitute H806-PCCS40694-TG-1

Short Title: HOA & Condo Pool Ltd. Immun./Open Gyms.

(Public)

Sponsors:

Referred to:

April 18, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE LIMITED IMMUNITY FROM COVID-19 RELATED CLAIMS
3 ARISING FROM THE REOPENING OF PRIVATELY OWNED COMMUNITY
4 SWIMMING POOLS IN ACCORDANCE WITH EXECUTIVE ORDERS ISSUED BY
5 THE GOVERNOR DURING THE COVID-19 STATE OF EMERGENCY, AND TO
6 AUTHORIZE INDOOR OR OUTDOOR EXERCISE AND FITNESS FACILITIES,
7 GYMS, HEALTH CLUBS, AND FITNESS CENTERS TO RESUME OPERATIONS.

8 The General Assembly of North Carolina enacts:

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10 **PART I. PRIVATE POOLS COVID-19 LIMITED LIABILITY**

11 **SECTION 1.(a)** Chapter 99E of the General Statutes is amended by adding a new
12 Article to read:

13 "Article 8.

14 "Private Pools COVID-19 Limited Liability.

15 **"§ 99E-70. Definitions.**

16 The following definitions apply in this Article:

17 (1) COVID-19. – The disease caused by the SARS-CoV-2 virus.

18 (2) Community pool. – A privately owned community swimming pool, including,
19 without limitation, a swimming pool owned or operated by a multiunit
20 apartment complex, homeowners association, or condominium unit owners
21 association.

22 **"§ 99E-71. Limited liability for reopening community pools.**

23 (a) Owners and operators of community pools and their agents shall not be liable in any
24 claim or action seeking damages for injury or death resulting from transmission of COVID-19
25 alleged to have resulted from the reopening of the community pool in accordance with applicable
26 executive orders of the Governor.

27 (b) The immunity provided by this section shall not apply to claims for injury or death
28 resulting from gross negligence, wanton conduct, or intentional wrongdoing.

29 **"§ 99E-72. Applicability.**

30 This Article applies to claims or actions arising no later than one year after the expiration or
31 rescission of Executive Order No. 116 issued March 10, 2020."

32 **SECTION 1.(b)** Section 1(a) is effective when it becomes law and applies to claims
33 arising on or after that date.

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35 **PART II. OPEN GYMS, HEALTH CLUBS, AND FITNESS CENTERS**



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1 **SECTION 2.(a)** Notwithstanding Executive Order No. 147, Extension of Phase 2
2 Order and New Measures to Save Lives in the COVID-19 Pandemic, issued by Governor Roy
3 A. Cooper on June 24, 2020, any indoor or outdoor (i) exercise and fitness facilities, (ii) gyms,
4 (iii) health clubs, and (iv) fitness centers, as referenced in Section 8 of Executive Order No. 147,
5 Easing Restrictions on Travel, Business Operations, and Mass Gatherings: Phase 2, issued on
6 May 20, 2020, may open and resume operations provided all of the following apply:

- 7 (1) The establishment was in existence on March 10, 2020, or had a valid
8 certificate of occupancy and business license issued by that date.
- 9 (2) Total indoor capacity is limited to forty percent (40%) of the authorized fire
10 capacity. Employees are excluded from the total indoor capacity.
- 11 (3) All employees answer a health questionnaire and have their temperature taken
12 daily prior to working. Any employee showing symptoms or with a fever is
13 not allowed to enter the establishment.
- 14 (4) All employees wear face masks, except when actively leading a group fitness
15 class or when outdoors and socially distanced. All members and visitors are
16 strongly encouraged to wear face masks.
- 17 (5) Contactless check-in is available, including propping open all entry doors
18 when possible, or facilities may review possible HVAC system upgrades to
19 promote improved air filtration and at a minimum provide MERV 11 level
20 filtration. Markings are on the ground to denote proper social distancing of at
21 least 6 feet in the check-in area.
- 22 (6) Sanitation spray bottles with disinfectant or disinfectant wipes that are
23 EPA-approved for SARS-CoV-2 (the virus that causes COVID-19) are
24 available throughout the establishment.
- 25 (7) Hand sanitizer stations are available throughout the establishment. All hand
26 sanitizer is comprised of at least sixty percent (60%) alcohol.
- 27 (8) Employees conduct frequent routine cleanings of high-touch equipment and
28 high-use areas while the establishment is open and conduct a deep clean of the
29 entire establishment after the close of business every day. For establishments
30 that are open 24 hours a day, a deep clean of the entire establishment must
31 occur at least once every 24 hours. Disinfectants that are EPA-approved for
32 SARS-CoV-2 (the virus that causes COVID-19) are used for all cleanings.
- 33 (9) For open space cardiovascular, weight training, and exercise areas, the
34 following practices must be maintained:
 - 35 a. Cardiovascular and weight training equipment is used in a manner to
36 ensure social distancing of at least 6 feet.
 - 37 b. Signage directs foot traffic for social distancing.
 - 38 c. Employees monitor the areas for social distancing and to ensure that
39 equipment is being cleaned with disinfectant or disinfectant wipes
40 after each user.
- 41 (10) For studio and group fitness classes, the following practices must be
42 maintained:
 - 43 a. Markings are on the ground at the entrances to classes to denote proper
44 social distancing of at least 6 feet apart.
 - 45 b. Participants must maintain social distancing of at least 6 feet during
46 the classes.
 - 47 c. Stations or equipment used during classes is arranged and used in a
48 manner to ensure social distancing of at least 6 feet.
 - 49 d. All doors to studio and group fitness classes must remain open when
50 possible, or facilities may review possible HVAC system upgrades to

- 1 promote improved air filtration and at a minimum provide MERV 11
- 2 level filtration.
- 3 e. All rooms and any equipment used must be thoroughly cleaned
- 4 between classes.
- 5 (11) On-premises child care is limited to fifty percent (50%) of its current allowed
- 6 occupancy.
- 7 (12) Social distancing of at least 6 feet is employed on all open courts and fields.
- 8 (13) All personal hygiene areas and amenity services are closed, except for toilets,
- 9 lavatories, and lockers where social distancing must be maintained.
- 10 (14) Water fountains are limited to filling water bottles only.
- 11 (15) Signage is posted to remind employees, members, and visitors of the social
- 12 distancing and sanitation requirements in place.
- 13 **SECTION 2.(b)** Section 2(a) is effective when it becomes law and expires when
- 14 Executive Order No. 147, issued on June 24, 2020, is repealed, replaced, or rescinded.
- 15 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
- 16 law.