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SENATE BILL DRS15441-NKa-143

Short Title: Expedited Removal of Unauthorized Persons. (Public)

Sponsors: Senators Moffitt, Sawyer, and Hanig (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE AN ALTERNATIVE REMEDY FOR THE EXPEDITED REMOVAL
3 OF UNAUTHORIZED PERSONS FROM RESIDENTIAL REAL PROPERTY BY THE
4 SHERIFF; TO INCREASE THE PUNISHMENT FOR WILLFUL AND WANTON
5 DAMAGE TO THE RESIDENTIAL REAL PROPERTY OF ANOTHER; TO PROHIBIT
6 THE FRAUDULENT RENTAL, LEASE, OR ADVERTISEMENT FOR SALE OR LEASE
7 OF RESIDENTIAL REAL PROPERTY; AND TO REQUIRE THAT ALL LEASE
8 AGREEMENTS BE IN WRITING.

9 The General Assembly of North Carolina enacts:

10
11 **PART I. ESTABLISH A REMEDY FOR THE EXPEDITED REMOVAL OF**
12 **UNAUTHORIZED PERSONS FROM RESIDENTIAL REAL PROPERTY**

13 **SECTION 1.(a)** Chapter 42 of the General Statutes is amended by adding a new
14 Article to read:

15 "Article 8.

16 "Expedited Removal of Unauthorized Persons from Residential Property.

17 "**§ 42-79. Requirements for removal of unauthorized persons.**

18 (a) A property owner or an authorized agent of the property owner may request from the
19 sheriff of the county where the residential property is located the removal of a person or persons
20 unlawfully occupying the residential property pursuant to this Article if all of the following
21 conditions are met:

- 22 (1) The requesting party is the property owner or the authorized agent of the
23 property owner.
24 (2) The property that is being occupied includes a residential dwelling.
25 (3) An unauthorized person or persons have unlawfully entered and remain on or
26 continue to reside in the residential property.
27 (4) The property owner or the authorized agent of the property owner has directed
28 the unauthorized person or persons to leave the residential property.
29 (5) The unauthorized person or persons are not residents as defined in G.S. 42-59.
30 (6) The unauthorized person or persons are not tenants as defined in G.S. 42-59.
31 (7) There is no pending litigation between the property owner and the
32 unauthorized person or persons related to the residential property.
33 (8) No other valid rental agreement has been entered into or formed by the
34 property owner and the unauthorized person or persons.

35 (b) For purposes of this Article, an "unauthorized person" means a person occupying
36 residential property who has no legal claim to the property and is not entitled to occupy it under



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1 a valid rental agreement and who is not otherwise authorized to occupy the property. It does not
2 mean a tenant who holds over after the lease term has expired under G.S. 42-26.

3 **"§ 42-80. Expedited removal complaint form.**

4 To request the immediate removal of an unauthorized person or persons from residential
5 property, the property owner or the authorized agent of the property owner must contact the
6 sheriff of the county where the residential property is located and file a complaint. The complaint
7 shall be in substantially the following form:

8 **"COMPLAINT TO REMOVE UNAUTHORIZED PERSONS FROM RESIDENTIAL REAL**
9 **PROPERTY**

10 I,, the owner or the authorized agent of the owner of the residential real property located
11 at, declare under the penalty of perjury all of the following (initial each):

12 I am the owner of the real property or the authorized agent of the owner of the real property.

13 I acquired the property on

14 The real property includes a residential dwelling.

15 An unauthorized person or persons have unlawfully entered and are remaining or residing
16 unlawfully on the property.

17 I have directed the unauthorized person or persons to leave the property, but they remain on
18 the property.

19 The unauthorized person or persons are not current tenants pursuant to any valid lease
20 authorized by the property owner, and any lease that may be produced by an unauthorized person
21 or persons is fraudulent.

22 The unauthorized person or persons sought to be removed are not owners or co-owners of
23 the property and have not been listed on the valid record title to the property.

24 There is no litigation related to the property pending between the property owner and any
25 unauthorized person or persons sought to be removed.

26 I understand that a person or persons removed from the property pursuant to this procedure
27 may bring a cause of action against me for any false statements made in this complaint, or for
28 wrongfully using this procedure, and that I may be held liable for actual damages, penalties,
29 costs, and reasonable attorney fees.

30 I am requesting the sheriff to immediately remove the unauthorized person or persons from
31 the residential property.

32 A copy of my valid government-issued identification is attached, or I am an agent of the
33 property owner, and documents evidencing my authority to act on the property owner's behalf
34 are attached.

35 **I HAVE READ EVERY STATEMENT MADE IN THIS COMPLAINT AND EACH**
36 **STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS**
37 **MADE IN THIS COMPLAINT ARE MADE UNDER PENALTY OF PERJURY.**

38 This _____ day of _____, _____.

39 _____
40 (Signature of Property Owner or Authorized Agent of Owner)"

41 **"§ 42-81. Verification of complaint and removal of unauthorized persons.**

42 Upon receipt of the complaint, the sheriff shall verify that the person submitting the complaint
43 is the record owner of the real property or the authorized agent of the property owner and appears
44 entitled to relief under this Article. If verified, the sheriff shall, within 24 hours, remove the
45 unauthorized person or persons from the residential property. If appropriate, the sheriff may
46 arrest any person found in the property for trespass, outstanding warrants, or any other legal
47 cause. The property owner or the authorized agent of the property owner may request that the
48 sheriff stand by to keep the peace while the property owner or agent of the owner changes the
49 locks and removes the personal property of the unauthorized person or persons from the premises
50 to or near the property line. The sheriff is not liable to the unauthorized person or persons or any
51 other party for loss, destruction, or damage of personal property. The property owner or the

1 authorized agent of the property owner is not liable to an unauthorized person or persons or any
2 other party for the loss, destruction, or damage to any personal property unless the removal was
3 wrongful.

4 **"§ 42-82. Remedy for wrongful removal.**

5 (a) A person may bring a civil cause of action for wrongful removal under this Article.
6 A person harmed by a wrongful removal under this Article may be entitled to recover possession
7 of the property and may recover actual costs and damages incurred, statutory damages equal to
8 triple the fair market rent of the residence, court costs, and reasonable attorney fees.

9 (b) This Article does not limit the rights of a property owner or limit the authority of a
10 law enforcement officer to arrest an unauthorized person or persons for trespassing, vandalism,
11 theft, or other crimes."

12 **SECTION 1.(b)** The Administrative Office of the Courts, in consultation with the
13 North Carolina Sheriffs' Association, shall develop the complaint form to implement the process
14 provided for in Section 1.1 of this act.

15 **SECTION 1.(c)** This section is effective when it becomes law.

16 **SECTION 2.(a)** There is appropriated from the General Fund to the Administrative
17 Office of the Courts the sum of ten thousand dollars (\$10,000) for the 2024-2025 fiscal year for
18 the purpose of developing the complaint form to implement the process provided for in Section
19 1.1 of this act.

20 **SECTION 2.(b)** This section becomes effective July 1, 2024.

21
22 **PART II. INCREASE PUNISHMENT FOR WILLFUL AND WANTON DAMAGE TO**
23 **THE RESIDENTIAL REAL PROPERTY OF ANOTHER**

24 **SECTION 3.1.** G.S. 14-127 reads as rewritten:

25 **"§ 14-127. Willful and wanton injury to real property.**

26 If any person shall willfully and wantonly damage, ~~injure~~ ~~injure~~, or destroy any real property
27 whatsoever, either of a public or private nature, ~~he shall be the person is~~ guilty of a Class 1
28 misdemeanor. Unless the conduct is covered under some other provision of law providing greater
29 punishment, if any person shall willfully and wantonly damage, injure, or destroy the residential
30 real property of another, and that damage, injury, or destruction results in damages valued at one
31 thousand dollars (\$1,000) or more, the person is guilty of a Class H felony."

32 **SECTION 3.2.** This Part becomes effective December 1, 2024, and applies to
33 offenses committed on or after that date.

34
35 **PART III. PROHIBIT FRAUDULENT RENTAL, LEASE, OR ADVERTISEMENT FOR**
36 **SALE OR LEASE OF RESIDENTIAL REAL PROPERTY**

37 **SECTION 4.1.** Article 20 of Chapter 14 of the General Statutes is amended by
38 adding a new section to read:

39 **"§ 14-117.8. Fraudulent advertisements and transactions involving residential real**
40 **property.**

41 (a) Offense Involving Fraudulent Rental or Lease. – It is unlawful to rent or lease
42 residential real property to another person knowing that the renter or lessor has no lawful
43 ownership in the property or leasehold interest in the property.

44 (b) Offense Involving Fraudulent Advertising. – It is unlawful to list or advertise
45 residential real property for rent, lease, or sale knowing that the purported renter, lessor, or seller
46 has no legal title or authority to rent, lease, or sell the property.

47 (c) Punishment. – Unless the conduct is covered under some other provision of law
48 providing greater punishment, a person who violates this section shall be punished as follows:

49 (1) A person who violates subsection (a) of this section is guilty of a Class C
50 felony.

(2) A person who violates subsection (b) of this section is guilty of a Class H felony."

SECTION 4.2. This Part becomes effective December 1, 2024, and applies to offenses committed on or after that date.

PART IV. REQUIRE ALL RESIDENTIAL LEASES AND CONTRACTS FOR LEASING LANDS TO BE IN WRITING

SECTION 5.1. G.S. 22-2 reads as rewritten:

"§ 22-2. Contract for sale of land; leases.

All contracts to sell or convey any lands, tenements or hereditaments, or any interest in or concerning them, and all leases and contracts for leasing land for the purpose of digging for gold or other minerals, or for mining generally, of whatever duration; and all other leases and contracts for leasing lands ~~exceeding in duration three years from the making thereof,~~ shall be void unless said contract, or some memorandum or note thereof, be put in writing and signed by the party to be charged therewith, or by some other person by him thereto lawfully authorized."

SECTION 5.2. This Part is effective when it becomes law and applies to rental agreements and leases entered into on or after that date.

PART V. EFFECTIVE DATE

SECTION 6. Except as otherwise provided in this act, this act is effective when it becomes law.