

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL DRS35037-NO-21C

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

Sponsors: Senators Moffitt, Settle, and Lazzara (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 PRIVATE PROPERTY BY A LAW
4 ENFORCEMENT AGENCY.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 42 of the General Statutes is amended by adding a new Article
7 to read:

8 "Article 8.

9 "Expedited Removal of Unauthorized Persons from Residential Property.

10 "**§ 42-79. Definitions.**

11 The following definitions apply to this Article:

- 12 (1) Authorized representative. – A real estate broker or other person who has
13 written legal authority to act on behalf of a property owner.
14 (2) Contract for deed. – As defined in G.S. 47H-1.
15 (3) Law enforcement agency. – A county sheriff's office, a county police
16 department, or a municipal police department.
17 (4) Real estate broker. – As defined in G.S. 93A-2(a).
18 (5) Residential property. – As defined in G.S. 42A-4.
19 (6) Tenant. – As defined in G.S. 42-59.
20 (7) Unauthorized person. – A person or persons occupying residential property
21 who has no legal claim to the property, is not entitled to occupy it under a
22 valid rental agreement or contract for deed signed by the property owner or
23 the property owner's authorized representative, has not paid any rent or other
24 form of payment to the property owner or an authorized representative of the
25 property owner in connection with the occupancy of the property, and is not
26 otherwise authorized to occupy the property. This term does not include a
27 tenant who holds over after the lease term has expired under G.S. 42-26.

28 "**§ 42-80. Requirements for removal of unauthorized persons.**

29 A property owner or an authorized representative of the property owner may request from a
30 law enforcement agency with jurisdiction over where the residential property is located the
31 removal of an unauthorized person unlawfully occupying the residential property pursuant to this
32 Article if all of the following conditions are met:

- 33 (1) The requesting party is the property owner or the authorized representative of
34 the property owner.
35 (2) The property that is being unlawfully occupied is residential property or
36 property used in connection with or appurtenant to residential property.



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- 1 (3) An unauthorized person has entered the property after the property owner
2 acquired the property and is remaining or residing unlawfully on the
3 residential property of the property owner.
- 4 (4) The property was not offered or intended as an accommodation for the general
5 public at the time the unauthorized person entered.
- 6 (5) The property owner or the authorized representative of the property owner has
7 directed the unauthorized person to leave the residential property.
- 8 (6) The unauthorized person is not a tenant of the property being unlawfully
9 occupied.
- 10 (7) There is no pending litigation between the property owner and the
11 unauthorized person related to the residential property.
- 12 (8) No other valid rental agreement or contract for deed has been entered into or
13 formed by the property owner or a former property owner and the
14 unauthorized person permitting the unauthorized person to occupy the
15 residential property.
- 16 (9) No rent or other form of payment has ever been demanded of or paid by the
17 unauthorized person to the property owner or to an authorized representative
18 of the property owner in connection with the occupancy of the residential
19 property.

20 **"§ 42-81. Expedited removal affidavit.**

21 (a) To request the immediate removal of an unauthorized person from residential
22 property, the property owner or an authorized representative of the property owner must appear
23 before the clerk of superior court in the county where the property is located and complete a
24 sworn affidavit on a form created pursuant to subsection (c) of this section. If the office of the
25 clerk of superior court is closed, the property owner or an authorized representative of the
26 property owner may complete the sworn affidavit before a magistrate in the county where the
27 property is located. The clerk of superior court or the magistrate shall sign the affidavit verifying
28 that the property owner or the authorized representative of the property owner appeared before
29 him or her and swore under oath or affirmation to the information contained therein. The property
30 owner shall pay to the clerk of superior court or the magistrate a fee of twenty-five dollars
31 (\$25.00) for completion of the sworn affidavit.

32 (b) The affidavit shall allege that all of the conditions and requirements for removal of
33 an unauthorized person imposed by G.S. 42-80 are met.

34 (c) The Administrative Office of the Courts, in consultation with the North Carolina
35 Sheriffs' Association and the North Carolina Association of Chiefs of Police, shall develop a
36 form for the affidavit required by this section. In addition to the required allegations set forth in
37 subsection (b) of this section, the form shall require the property owner to provide the property
38 address and may include space for the property owner to provide information that may assist law
39 enforcement in identifying the unauthorized person. The form shall also include clear language
40 notifying the affiant that providing false information or statements on the affidavit is perjury
41 pursuant to G.S. 14-209 and punishable as a Class F felony. The form shall further notify the
42 affiant that any person removed from the residential property as a result of the affidavit may have
43 a cause of action against the affiant for any false information or statements provided on the
44 affidavit or wrongfully using the procedures provided in this Article.

45 **"§ 42-82. Removal of unauthorized persons.**

46 Upon completion of the affidavit before the clerk of superior court or the magistrate, the
47 property owner or authorized representative of the property owner shall provide the original
48 affidavit to the law enforcement agency with jurisdiction over where the residential property is
49 located. Within 24 hours after receipt of the affidavit, the law enforcement agency shall remove
50 the unauthorized person from the residential property. If appropriate, the law enforcement agency
51 may arrest any person found in the property for trespass, outstanding warrants, or any other legal

1 cause. The property owner or the authorized representative of the property owner may request
2 that the law enforcement agency stand by to keep the peace while the property owner or
3 authorized representative of the property owner changes the locks and removes the personal
4 property of the unauthorized person from the premises to or near the property line.

5 **"§ 42-83. Immunity from liability.**

6 No law enforcement agency, law enforcement officer, clerk of superior court, or magistrate
7 may be held liable to an unauthorized person or any other person or entity for compliance with
8 or actions taken in furtherance of the provisions of this Article, including for the loss or
9 destruction of or damage to personal property, provided that the acts or omissions are made in
10 good faith and do not constitute gross negligence, willful or wanton misconduct, or intentional
11 wrongdoing. The property owner or the authorized representative of the property owner is not
12 liable to an unauthorized person or any other person or entity for the loss or destruction of or
13 damage to any personal property that arises out of or in any way relates to the removal of an
14 unauthorized person pursuant to this Article unless the removal was wrongful.

15 **"§ 42-84. Remedy for wrongful removal.**

16 (a) A person may bring a civil cause of action against the affiant for wrongful removal
17 under this Article. A person harmed by a wrongful removal under this Article may be entitled to
18 recover possession of the property and may recover from the affiant actual costs and damages
19 incurred, statutory damages equal to triple the fair market rent of the residence, a civil penalty of
20 not less than four hundred dollars (\$400.00) nor more than four thousand dollars (\$4,000) as
21 determined by a court, court costs, and reasonable attorneys' fees.

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

25 **SECTION 2.** The Administrative Office of the Courts shall develop and make
26 available the affidavit form required by G.S. 42-81, as enacted in Section 1 of this act, no later
27 than September 30, 2025.

28 **SECTION 3.** G.S. 22-2 reads as rewritten:

29 **"§ 22-2. Contract for sale of land; leases.**

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

36 **SECTION 4.** Section 1 of this act becomes effective October 1, 2025. Section 3 of
37 this act becomes effective October 1, 2025, and applies to rental agreements and leases entered
38 into on or after that date. The remainder of this act is effective when it becomes law.