

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 886

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

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

Referred to: Rules and Operations of the Senate

May 6, 2024

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

The General Assembly of North Carolina enacts:

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

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

"Article 8.

"Expedited Removal of Unauthorized Persons from Residential Property.

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

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

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

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



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

"§ 42-80. Expedited removal complaint form.

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

"COMPLAINT TO REMOVE UNAUTHORIZED PERSONS FROM RESIDENTIAL REAL PROPERTY

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

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

..... I acquired the property on

..... The real property includes a residential dwelling.

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

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

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

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

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

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

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

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

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

This _____ day of _____, _____.

(Signature of Property Owner or Authorized Agent of Owner)"

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

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

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

"§ 42-82. Remedy for wrongful removal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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