Article 23.

Rental Referral Agencies.

§ 66-142. Definition.

For the purposes of this Article, a "rental referral agency" is a person or business which offers to assist any person in locating residential rental property in return for any consideration from a prospective tenant. (1981, c. 610, s. 1.)

§ 66-143. Fees and deposits.

(a) A rental referral agency shall not charge or attempt to collect any fees or other consideration from any prospective tenant except where rental housing is in fact obtained by such person through the assistance of that agency. For the purposes of this Article, such housing is obtained when the prospective tenant has contracted to rent the property.

(b) Deposits to be applied toward fees may be required by a rental referral agency pursuant to a written contract which includes provisions stating:

(1) The specifications of housing sought by the prospective tenant, including maximum rent, desired lease period, geographic area, number of bedrooms required, number of children to be housed, and number and type of pets;

(2) That the deposit will be refunded within 10 days of the prospective tenant's request should the specified housing not be obtained through the agency's assistance within 30 days of the date of the contract;

(3) That the rental referral agency will maintain a trust account or bond in compliance with G.S. 66-145, and identifying the depository institution or bonding company by name and address.

(c) Notwithstanding subsections (a) and (b) of this section, a rental referral agency may charge or retain from any deposit a fee, not to exceed twenty dollars ($20.00), even if the prospective tenant fails to obtain rental housing through its assistance, provided that the following conditions are met:

(1) Any and all advertising for the rental referral agency discloses in a clear and conspicuous manner the agency's name, the fact that it is a "rental referral agency" using that term, and the fact that it charges a fee; and

(2) If a prospective tenant contacts the rental referral agency in response to an advertisement for a specific property listed by the agency and inquires about that property, the rental referral agency shall neither collect a fee nor obtain the prospective tenant's signature on a contract without first verifying that the advertised property remains available and disclosing to the prospective tenant whether or not it is still available.

(d) Prospective tenants shall apply in writing for a refund no sooner than 30 days after the date of the contract and no later than one year after the date of the contract. If the prospective tenant does not apply for a refund before one year has elapsed, the fee shall be deemed earned by the rental referral agency and may be removed from the trust account. (1981, c. 610, s. 1; 1991, c. 737, s. 1.)

§ 66-144. Representations of availability.

(a) A rental referral agency shall not make any representation that any property is available for rent unless availability has been verified by the agency within 48 hours prior to the representation. The availability of property described in media advertisements shall be verified

within eight hours before being submitted to the advertising medium and in no event earlier than 96 hours prior to publication of the advertisement.

(b) Notations of the time and date of verification and the verifier's identity shall be recorded by the agency and made available for inspection by any person from whom the agency has received a deposit or a fee. (1981, c. 610, s. 1; 1991, c. 737, s. 2.)

§ 66-145. Bond or trust account required.

(a) Every rental referral agency before beginning business shall establish a trust account with a licensed and insured bank or savings institution located in the State of North Carolina. Each deposit to be applied towards a fee collected under G.S. 66-143(b) shall be placed in the trust account and shall be withdrawn only to refund the deposit to the applicant pursuant to G.S. 66-143(b)(2) or when a fee is earned by the agency as provided in G.S. 66-143(a).

(b) A rental referral agency may elect to post a bond in lieu of the trust account required by this section. The amount of the bond shall at no time be less than the amount that would be required by this section to be held in trust. In no event, however, shall the bond be less than five thousand dollars ($5,000). The rental referral agency shall file the bond with the clerk of the superior court of the county in which its principal place of business is located.

(c) Any person who is damaged by any violation of this Article, or by any breach by the rental referral agency of its contract, may bring an action for the remedies referred to and provided in G.S. 66-146 against the bond or trust account; provided that the aggregate liability of the surety or trustee shall not exceed the amount of the bond or trust account.

(d) Violation of subsections (a) or (b) of this section shall constitute a Class 1 misdemeanor. (1981, c. 610, s. 1; 1993, c. 539, s. 524; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 66-146. Remedies.

(a) Any person injured by a violation of this Article, or breach of any obligation created by this Article or contract subject thereto, may bring an action for recovery of damages, including reasonable attorneys' fees.

(b) The violation of any provision of this Article shall constitute an unfair act or practice under G.S. 75-1.1.

(c) The remedies provided herein shall be in addition to any other remedies provided by law or equity. (1981, c. 610, s. 1.)

§§ 66-147 through 66-151. Reserved for future codification purposes.