

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1088

Short Title: Landlord/Tenant Clarification.

(Public)

Sponsors: Representative S. Thompson.

Referred to: Commerce.

April 7, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A WRIT OF POSSESSION FOR DEMISED PREMISES SHALL EXPIRE UNDER CERTAIN CONDITIONS; AND TO PROHIBIT WAIVERS OF CERTAIN TENANT RIGHTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 42-26 reads as rewritten:

"§ 42-26. Tenant holding over may be dispossessed in certain cases.

(a) Except as provided in subsection (b) of this section, Any-any tenant or lessee of any house or land, and the assigns under the tenant or legal representatives of such tenant or lessee, who holds over and continues in the possession of the demised premises, or any part thereof, without the permission of the landlord, and after demand made for its surrender, may be removed from such premises in the manner hereinafter prescribed in any of the following cases:

- (1) When a tenant in possession of real estate holds over after his term has expired.
- (2) When the tenant or lessee, or other person under him, has done or omitted any act by which, according to the stipulations of the lease, his estate has ceased.
- (3) When any tenant or lessee of lands or tenements, who is in arrear for rent or has agreed to cultivate the demised premises and to pay a part of the crop to be made thereon as rent, or who has given to the lessor a lien on such crop as a security for the rent, deserts the demised premises, and leaves them unoccupied and uncultivated.

1 (b) A writ of possession for the demised premises granted pursuant to this section
2 shall expire 60 days after it is issued if the tenant tenders, and the landlord accepts, rent
3 after the date of the judgment for possession."

4 Sec. 2. G.S. 42-33 reads as rewritten:

5 **"§ 42-33. Rent and costs tendered by tenant.**

6 If, in any action brought to recover the possession of demised premises upon a
7 forfeiture for the nonpayment of rent, the tenant, before judgment given in such action,
8 pays or tenders the rent due and the costs of the action, all further proceedings in such
9 action shall cease. If the plaintiff further prosecutes his action, and the defendant pays
10 into court for the use of the plaintiff a sum equal to that which shall be found to be due,
11 and the costs, to the time of such payment, or to the time of a tender and refusal, if one
12 has occurred, the defendant shall recover from the plaintiff all subsequent costs; the
13 plaintiff shall be allowed to receive the sum paid into court for his use, and the
14 proceedings shall be stayed. Any waiver of the provisions of this section by a tenant or
15 a member of the tenant's household is void as contrary to public policy."

16 Sec. 3. This act shall become effective October 1, 1989, and shall apply to
17 actions brought on or after that date.