

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 559

Short Title: Housing Authority Changes.

(Public)

Sponsors: Senators Odom, Winner, Dannelly, and Blackmon.

Referred to: Judiciary I/Constitution

April 3, 1995

A BILL TO BE ENTITLED

1
2 AN ACT TO INCREASE THE PENALTIES FOR A DRUG OFFENSE THAT
3 OCCURS IN A DRUG-FREE PUBLIC HOUSING ZONE, TO PROVIDE THAT
4 ACCEPTANCE OF RENT BY A HOUSING AUTHORITY IS NOT A WAIVER OF
5 DEFAULT, AND TO AUTHORIZE HOUSING AUTHORITIES TO GOVERN
6 ENTRY UPON HOUSING AUTHORITY PROPERTY BY GUESTS AND
7 VISITORS.

8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 90-95(e) is amended by adding a new subdivision to read:

10 "(10) Any person 21 years of age or older who: (i) commits an offense under
11 G.S. 90-95(a)(1) on property owned, leased, or managed by a housing
12 authority as defined by G.S. 157-3 or within 300 feet of the boundary of
13 real property owned, leased, or managed by a housing authority, and (ii)
14 is not a lawful resident of the property owned, leased, or managed by
15 the housing authority shall be punished as a Class E felon. For purposes
16 of this subdivision, the transfer of less than five grams of marijuana for
17 no remuneration shall not constitute a delivery in violation of G.S. 90-
18 95(a)(1)."

19 Sec. 2. G.S. 157-29 is amended by adding a new subsection to read:

1 "(d) The receipt or acceptance of rent by an authority, with or without knowledge of
2 a prior default or failure by the tenant under a rental agreement, shall not constitute a
3 waiver of that default or failure unless the authority expressly agrees to such waiver in
4 writing."

5 Sec. 3. G.S. 157-9 reads as rewritten:

6 "**§ 157-9. Powers of authority.**

7 (a) An authority shall constitute a public body and a body corporate and politic,
8 exercising public powers, and having all the powers necessary or convenient to carry out
9 and effectuate the purposes and provisions of this Article, including the following powers
10 in addition to others herein granted:

11 To investigate into living, dwelling and housing conditions and into the means and
12 methods of improving such conditions; to determine where unsafe, or insanitary dwelling
13 or housing conditions exist; to study and make recommendations concerning the plan of
14 any city or municipality located within its boundaries in relation to the problem of
15 clearing, replanning and reconstruction of areas in which unsafe or insanitary dwelling or
16 housing conditions exist, and the providing of dwelling accommodations for persons of
17 low income, and to cooperate with any city municipal or regional planning agency; to
18 prepare, carry out and operate housing projects; to approve, assist, and cooperate with, as
19 its instrumentality, a nonprofit corporation in providing financing by the issuance by such
20 nonprofit corporation's obligations (which obligations shall not be or be deemed to be
21 indebtedness of a housing authority) for one or more housing projects, pursuant to the
22 United States Housing Act of 1937, as amended, and applicable regulations thereunder,
23 specifically including, but not limited to, programs to make construction and other loans
24 to developers or owners of residential housing, and to acquire, operate or manage such a
25 housing project, and to administer federal housing assistance subsidy payments for such
26 projects; to provide for the construction, reconstruction, improvement, alteration or repair
27 of any housing project or any part thereof; to take over by purchase, lease or otherwise
28 any housing project located within its boundaries undertaken by any government, or by
29 any city or municipality located in whole or in part within its boundaries; to manage as
30 agent of any city or municipality located in whole or in part within its boundaries any
31 housing project constructed or owned by such city; to act as agent for the federal
32 government in connection with the acquisition, construction, operation and/or
33 management of a housing project or any part thereof; to arrange with any city or
34 municipality located in whole or in part within its boundaries or with a government for
35 the furnishing, planning, replanning, installing, opening or closing of streets, roads,
36 roadways, alleys, sidewalks or other places or facilities or for the acquisition by such city,
37 municipality, or government of property, options or property rights or for the furnishing
38 of property or services in connection with a project; to arrange with the State, its
39 subdivisions and agencies, and any county, city or municipality of the State, to the extent
40 that it is within the scope of each of their respective functions, (i) to cause the services
41 customarily provided by each of them to be rendered for the benefit of such housing
42 authority and/or the occupants of any housing projects and (ii) to provide and maintain
43 parks and sewage, water and other facilities adjacent to or in connection with housing

1 projects and (iii) to change the city or municipality map, to plan, replan, zone or rezone
2 any part of the city or municipality; to lease or rent any of the dwelling or other
3 accommodations or any of the lands, buildings, structures or facilities embraced in any
4 housing project and to establish and revise the rents or charges therefor; to enter upon any
5 building or property in order to conduct investigations or to make surveys or soundings;
6 to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or
7 otherwise any property real or personal or any interest therein from any person, firm,
8 corporation, city, municipality, or government; to acquire by eminent domain any real
9 property, including improvements and fixtures thereon; to sell, exchange, transfer, assign,
10 or pledge any property real or personal or any interest therein to any person, firm,
11 corporation, municipality, city, or government; to own, hold, clear and improve property;
12 to insure or provide for the insurance of the property or operations of the authority
13 against such risks as the authority may deem advisable; to procure insurance or
14 guarantees from a federal government of the payment of any debts or parts thereof
15 secured by mortgages made or held by the authority on any property included in any
16 housing project; to borrow money upon its bonds, notes, debentures or other evidences of
17 indebtedness and to secure the same by pledges of its revenues, and by mortgages upon
18 property held or to be held by it, or in any other manner; in connection with any loan, to
19 agree to limitations upon its right to dispose of any housing project or part thereof or to
20 undertake additional housing projects; in connection with any loan by a government, to
21 agree to limitations upon the exercise of any powers conferred upon the authority by this
22 Article; to invest any funds held in reserves or sinking funds, or any funds not required
23 for immediate disbursement, in property or securities in which savings banks may legally
24 invest funds subject to their control; to sue and be sued; to have a seal and to alter the
25 same at pleasure; to have perpetual succession; to make and execute contracts and other
26 instruments necessary or convenient to the exercise of the powers of the authority; to
27 make and from time to time amend and repeal bylaws, rules and regulations not
28 inconsistent with this Article, to carry into effect the powers and purposes of the
29 authority; to conduct examinations and investigations and to hear testimony and take
30 proof under oath at public or private hearings on any matter material for its information;
31 to issue subpoenas requiring the attendance of witnesses or the production of books and
32 papers and to issue commissions for the examination of witnesses who are out of the
33 State or unable to attend before the authority, or excused from attendance; and to make
34 available to such agencies, boards or commissions as are charged with the duty of abating
35 or requiring the correction of nuisances or like conditions, or of demolishing unsafe or
36 insanitary structures within its territorial limits, its findings and recommendations with
37 regard to any building or property where conditions exist which are dangerous to the
38 public health, morals, safety or welfare. Any of the investigations or examinations
39 provided for in this Article may be conducted by the authority or by a committee
40 appointed by it, consisting of one or more commissioners, or by counsel, or by an officer
41 or employee specially authorized by the authority to conduct it. Any commissioner,
42 counsel for the authority, or any person designated by it to conduct an investigation or
43 examination shall have power to administer oaths, take affidavits and issue subpoenas or

1 commissions. An authority may exercise any or all of the powers herein conferred upon
2 it, either generally or with respect to any specific housing project or projects, through or
3 by an agent or agents which it may designate, including any corporation or corporations
4 which are or shall be formed under the laws of this State, and for such purposes an
5 authority may cause one or more corporations to be formed under the laws of this State or
6 may acquire the capital stock of any corporation or corporations. Any corporate agent, (i)
7 all of the stock of which shall be owned by the authority or its nominee or nominees or
8 (ii) the board of directors of which shall be elected or appointed by the authority or is
9 composed of the commissioners of the authority or (iii) which is otherwise subject to the
10 control of the authority or the governmental entity which created the authority, may to the
11 extent permitted by law exercise any of the powers conferred upon the authority herein.
12 In addition to all of the other powers herein conferred upon it, an authority may do all
13 things necessary and convenient to carry out the powers expressly given in this Article.
14 No provisions with respect to the acquisition, operation or disposition of property by
15 other public bodies shall be applicable to an authority unless the legislature shall
16 specifically so state.

17 (b) Notwithstanding anything to the contrary contained in this Article or in any
18 other provision of law an authority may include in any contract let in connection with a
19 project, stipulations requiring that the contractor and any subcontractors comply with
20 requirements as to minimum wages and maximum hours of labor, and comply with any
21 conditions which the federal government may have attached to its financial aid of the
22 project.

23 (c) To the extent not inconsistent with the Constitution or statutes of this State or
24 the United States, an authority may adopt and enforce rules governing the lawful entry of
25 guests and visitors to its properties, including the visitors and guests of its tenants. Prior
26 to adopting such rules, an authority shall make reasonable efforts to consult with or
27 obtain comments from its tenants or their representatives. Persons who enter or remain
28 on the property of an authority in violation of such rules shall be subject to prosecution
29 under the trespass laws of this State."

30 Sec. 4. Section 1 of this act becomes effective December 1, 1995, and applies
31 to offenses committed on and after that date. Section 2 of this act becomes effective July
32 1, 1995, and applies to rent received or accepted on or after that date. However,
33 enactment of Section 2 of this act shall not be construed to imply that the acceptance of
34 rent prior to July 1, 1995, constituted a waiver of default or failure. Section 3 of this act
35 becomes effective July 1, 1995, except that housing authorities may begin adopting rules
36 on and after the date of ratification.