

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

**BILL NUMBER:** SB 559

**SHORT TITLE:** Housing Authority Changes

**SPONSOR(S):** Senator Odom

**FISCAL IMPACT:**       **Expenditures:**       **Increase ( )**       **Decrease (**  
**)**  
                          **Revenues:**               **Increase ( )**       **Decrease (**  
**)**  
                          **No Impact (X)** Section 2  
                          **No Estimate Available (X)** Sections 1 and 3

**BILL SUMMARY:**

"TO INCREASE THE PENALTIES FOR A DRUG OFFENSE THAT OCCURS IN A DRUG-FREE PUBLIC HOUSING ZONE, TO PROVIDE THAT ACCEPTANCE OF RENT BY A HOUSING AUTHORITY IS NOT A WAIVER OF DEFAULT, AND TO AUTHORIZE HOUSING AUTHORITIES TO GOVERN ENTRY UPON HOUSING AUTHORITY."

**Section 1:** Adds new G.S. 90-95(e)(10) to make it a Class E felony for any person 21 years of age or older to manufacture, sell, or deliver a controlled substance, or possess it with intent to do so on property owned, leased, or managed by a housing authority or within 300 feet of such property, if the person is not a lawful resident of the property. Excepts the transfer of less than five grams of marijuana if no remuneration.

**Section 2:** Adds G.S. 157-29(d) to provide that if a housing authority receives or accepts rent, with or without knowledge of a prior default or failure by the tenant, it does not constitute a waiver of that default or failure unless the authority agrees in writing to the waiver.

**Section 3:** Adds G.S. 157-9(c) to permit the authority to adopt rules governing the lawful entry of guests and visitors to its properties, including visitors and guests of tenants. Requires the authority to make reasonable efforts to consult with tenants about proposed rules. Makes persons who remain on authority property in violation of such rules guilty of trespass.

**EFFECTIVE DATE(S):**

Section 1: December 1, 1995; applies to acts committed on or after that date.

Section 2: July 1, 1995; applies to rents received on or after that date.

Section 3: July 1, 1995; except that housing authorities may begin adopting rules on and after the date of ratification.

**PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:** Judicial Branch  
Department of Correction

**FISCAL IMPACT**

<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99
<u>FY</u> 99-00			

**EXPENDITURES**

**RECURRING** NO ESTIMATE AVAILABLE/NO IM

**NON-RECURRING**

**ASSUMPTIONS AND METHODOLOGY:**

**Section 1:** SB 559 amends G.S. 90-95(e) by adding a new subdivision, which provides that persons 21 years of age or older who commit an offense under G.S. 90-95(a)(1) (the manufacture, sale, or delivery of a controlled substance, or possession with intent to manufacture, sell, or deliver a controlled substance) on, or within 300 feet of property owned, leased, or managed by a housing authority when they themselves are not lawful residents, shall be punished as Class E felons.

The Administrative Office of the Courts would expect very few additional felony defendants as a result of this section of the proposed bill, since the defendants charged under these provisions would already be charged with an offense under G.S. 90-95(a)(1). Rather, the proposed bill would provide prosecutors with an additional offense to charge. Currently, most offenses under G.S. 90-95(a)(1) are punished as Class H or I felonies. Thus, there is a possibility of increased jury trials since defendants may want to avoid a Class E felony conviction, with its longer sentence and its contribution to a potential violent habitual offender status.

The Administrative Office of the Courts was unable to estimate the fiscal impact of Section 1 of the proposed bill for two reasons: (1) the number of non-residents who sell drugs in or near public housing is unknown, and (2) defendants' probable response, in terms of defense strategy, to facing a Class E instead of a Class H felony cannot be determined. The Administrative Office of the Courts assumes that a large proportion of defendants charged with this offense would request a jury trial given that any Class E felony conviction counts as one strike under the violent habitual felon statutes.

**Section 2:** SB 559 adds a new subsection to G.S. 157-29 that states that receipt or acceptance of rent by a housing authority does not constitute a waiver of a tenant's prior default or failure under a rental agreement, unless the authority expressly agrees to such a waiver in writing.

Section 2 affects the rights and liabilities of tenants and housing authorities regarding possible termination of or refusals to renew rental agreements. The Administrative Office of the Courts does not anticipate that this section would have a substantial impact on the Judicial Branch.

**Section 3:** SB 559 amends G.S. 157-9 so that the housing authority may adopt and enforce rules governing the lawful entry of guests and visitors to its properties, including guests and visitors of tenants, as long as the rules are not inconsistent with the Constitution or statutes of North Carolina or the United States. However, the authority must make reasonable efforts to consult with tenants or their representatives prior to adopting such rules. Persons who violate the rules would be subject to prosecution under the State's trespass laws.

The Administrative Office of the Courts is unable to estimate the extent to which violation of housing authority rules would lead to charges of trespassing.

**ASSUMPTIONS AND METHODOLOGY:** Department Of Correction

The North Carolina Sentencing and Policy Advisory Commission is unable to estimate, based on a lack of available data, the fiscal impact on the Department of Correction that would result from the proposed legislation.

**SOURCES OF DATA:** Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION (733-4910)**

**PREPARED BY:** Whitney A. Obrig  
Charles E. Perusse

**APPROVED BY:** Tom Covington **TomC**

**DATE:** May 1, 1995

**[FRD#003]**

**NEW VERSION - JULY 7, 1995**

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**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** SB 559 (6/30/95 Committee Substitute)

**SHORT TITLE:** Housing Authority Changes

**SPONSOR(S):** Senator Odom

<b>FISCAL IMPACT:</b> ) )	<b>Expenditures:</b>	<b>Increase ( )</b>	<b>Decrease ( )</b>
	<b>Revenues:</b>	<b>Increase ( )</b>	<b>Decrease ( )</b>
	<b>No Impact (X) Section 1</b> <b>No Estimate Available (X) Section 2</b>		

**BILL SUMMARY:**

"TO INCREASE THE PENALTIES FOR A DRUG OFFENSE THAT OCCURS IN A DRUG-FREE PUBLIC HOUSING ZONE, TO PROVIDE THAT ACCEPTANCE OF RENT BY A HOUSING AUTHORITY IS NOT A WAIVER OF DEFAULT, AND TO AUTHORIZE HOUSING AUTHORITIES TO GOVERN ENTRY UPON HOUSING AUTHORITY."

**Section 1:** Adds new G.S. 90-95(e)(10) to make it a Class E felony for any person 21 years of age or older to manufacture, sell, or deliver a controlled substance, or possess it with intent to do so on property owned, leased, or managed by a housing authority or within 300 feet of such property, if the person is not a lawful resident of the property. Excepts the transfer of less than five grams of marijuana if no remuneration.

**Section 2:** Adds G.S. 157-29(d) to provide that if a housing authority receives or accepts rent, with or without knowledge of a prior default or failure by the tenant, it does not constitute a waiver of that default or failure unless the authority agrees in writing to the waiver.

**Section 3:** Adds G.S. 157-9(c) to permit the authority to adopt rules governing the lawful entry of guests and visitors to its properties, including visitors and guests of tenants. Requires the authority to make reasonable efforts to consult with tenants about proposed rules. Makes persons who remain on authority property in violation of such rules guilty of trespass.

**AMENDMENTS/COMMITTEE SUBSTITUTES-MAY 4, 1995-DAILY BULLETIN #58**

Senate committee substitute replaces 1st edition. Modifies new G.S. 90-95(e)(10) by removing original provision which limited offense to persons 21 and older. Adds provision amending G.S. 14-159.12(a), to make entering or remaining on housing authority property in violation of rules adopted by housing authority pursuant to this act, first degree trespass. Makes trespass provision effective December 1, 1995, and amends title to incorporate reference to trespass provision.

**AMENDMENTS/COMMITTEE SUBSTITUTES-MAY 11, 1995-DAILY BULLETIN #62**

Senate action amends 2nd edition. Deletes provisions which would have increased penalties for drug-related offenses committed by non-residents on or near public housing authority property and defining first degree trespass to include entry on public housing authority property in violation of G.S. 157-9(c). Makes conforming change to title of bill. Changes effective date to July 1, 1995. Provides that act applies to rent received or accepted on or after effective date and that act shall not be construed to imply that acceptance or rent prior to July 1, 1995 constitutes waiver or default or failure.

**AMENDMENTS/COMMITTEE SUBSTITUTES-JUNE 30, 1995-DAILY BULLETIN #91**

House action amends 3rd edition. Amendment #1 clarifies that a housing authority's receipt or acceptance of rent within 120 days or less of a default by a tenant does not constitute a waiver of the default unless the authority so agrees in writing. Amendment #2 clarifies that a person who enters or remains on housing authority property in violation of authority rules may be subject to prosecution as applicable under G.S. 14-159.12 (first-degree trespass) or 14-159.13 (second-degree trespass). Amendment #3 changes the effective date from July 1, 1995 to July 15, 1995.

**EFFECTIVE DATE:**

Section 1: July 15, 1995, and applies to rent received or accepted on or after that date.

Section 2: July 15, 1995

**PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:** Judicial Branch  
Department of Correction

**FISCAL IMPACT**

<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99
<u>FY</u> 99-00			

**EXPENDITURES**  
**NON-RECURRING**

**RECURRING** NO ESTIMATE AVAILABLE/NO IM

**ASSUMPTIONS AND METHODOLOGY:**

**Section 1:** SB 559 adds a new subsection to G.S. 157-29 that states that receipt or acceptance of rent within 120 days or less by a housing authority does not constitute a waiver of a tenant's prior default or failure under a rental agreement, unless the authority expressly agrees to such a waiver in writing.

Section 1 affects the rights and liabilities of tenants and housing authorities regarding possible termination of or refusals to renew rental agreements. The Administrative Office of the Courts does not anticipate that this section would have a substantial impact on the Judicial Branch.

**Section 2:** SB 559 amends G.S. 157-9 so that the housing authority may adopt and enforce rules governing the lawful entry of guests and visitors to its properties, including guests and visitors of tenants, as long as the rules are not inconsistent with the Constitution of statutes of North Carolina or the United States. However, the authority must make reasonable efforts to consult with tenants or their representatives prior to adopting such rules. Persons who violate the rules would be subject to prosecution under the State's trespass laws (G.S. 14-159.12 or G.S. 14-159.13).

The Administrative Office of the Courts is unable to estimate the extent to which violation of housing authority rules would lead to charges of trespassing.

**ASSUMPTIONS AND METHODOLOGY:** Department Of Correction

The North Carolina Sentencing and Policy Advisory Commission is unable to estimate, based on a lack of available data, the fiscal impact on the Department of Correction that would result from the proposed legislation.

**SOURCES OF DATA:** Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION (733-4910)**

**PREPARED BY:** Whitney A. Obrig

**APPROVED BY:** Tom Covington **TomC**

**DATE:** July 6, 1995

**[FRD#003]**



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