

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

3

HOUSE BILL 1064
Committee Substitute Favorable 4/29/97
Senate Judiciary Committee Substitute Adopted 7/31/97

Short Title: Housing Authority Amendments.

(Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW A HOUSING AUTHORITY TO TERMINATE OR FAIL TO
2 RENEW A LEASE IF A TENANT ENGAGES IN CRIMINAL ACTIVITY, TO
3 ALLOW CERTAIN SUMMARY EJECTMENT ACTIONS INITIATED BY A
4 HOUSING AUTHORITY TO BE HELD IN DISTRICT COURT INSTEAD OF IN
5 MAGISTRATE'S COURT, AND TO CLARIFY THAT A BOND IS NOT
6 REQUIRED BEFORE FILING AN ANSWER IN A SUMMARY EJECTMENT
7 PROCEEDING.
8

9 The General Assembly of North Carolina enacts:

10 Section 1. G.S. 157-29 reads as rewritten:

11 "**§ 157-29. Rentals and tenant selections. Rentals; tenant selections; and summary**
12 **ejectments.**

13 (a) It is hereby declared to be the policy of this State that each housing authority
14 shall manage and operate its housing projects in an efficient manner so as to enable it to
15 fix the cost of dwelling accommodations for persons of low income at the lowest possible
16 rates consistent with its providing decent, safe, and sanitary dwelling accommodations.
17 No housing authority may construct or operate its housing projects so as to provide
18 revenues for other activities of the city.

1 (b) In the operation or management of housing projects, or portions of projects, for
2 persons of low income, an authority shall at all times observe the following duties with
3 respect to rentals and tenant selection:

4 (1) It may rent or lease dwelling accommodations set aside for persons of
5 low income only to persons who lack the amount of income ~~which that~~
6 is necessary (as determined by the housing authority undertaking the
7 project) to enable them, without financial assistance, to live in decent,
8 safe, and sanitary dwellings, without overcrowding; and

9 (2) It may rent or lease dwelling accommodations to persons of low income
10 only at rentals within the financial reach of such persons.

11 (c) An authority may terminate or refuse to renew a rental agreement for a serious
12 or repeated violation of a material term of the rental agreement such as (i) failure to make
13 payments due under the rental agreement, if such payments were properly and promptly
14 calculated according to applicable HUD regulation, whether or not such failure was the
15 fault of the tenant, (ii) failure to fulfill the tenant obligations set forth in 24 C.F.R.
16 Section 966.4(f) or other applicable provisions of federal law as they may be amended
17 from time to time, or (iii) other good cause. Except in the case of failure to make
18 payments due under a rental agreement, fault on the part of a tenant may be considered in
19 determining whether good cause exists to terminate a rental agreement.

20 (d) The receipt or acceptance of rent by an authority, with or without knowledge of
21 a prior default or failure by the tenant under a rental agreement, shall not constitute a
22 waiver of that default or failure unless (i) the authority expressly agrees to such waiver in
23 writing, or (ii) within 120 days after obtaining knowledge of the default or failure, the
24 authority fails either to notify the tenant that a violation of the rental agreement has
25 occurred or to exercise one of the authority's remedies for such violation.

26 (e) In any summary ejectment action wherein a housing authority alleges that a
27 tenant's lease has been terminated because the tenant, a household member, or a guest has
28 engaged in a criminal activity that threatens the health and safety of others or the peaceful
29 enjoyment of the premises by others, or has engaged in activity involving illegal drugs, as
30 defined in 24 C.F.R. § 966.4, the housing authority may bring an action under Article 7
31 of Chapter 42 of the General Statutes."

32 Section 2. G.S. 1-112 reads as rewritten:

33 "**§ 1-112. Defense without bond.**

34 (a) The undertaking prescribed in ~~the preceding section G.S. 1-111~~ is not necessary
35 if an attorney practicing in the court where the action is pending certifies to the court in
36 writing that he has examined the case of the defendant and is of the opinion that the
37 plaintiff is not entitled to recover; and if the defendant also files an affidavit stating that
38 he is unable to give and is not worth the amount of the undertaking in any property
39 whatsoever.

40 (b) An undertaking shall not be required in any summary ejectment action brought
41 pursuant to Articles 3 or 7 of Chapter 42 of the General Statutes."

42 Section 3. This act becomes effective October 1, 1997, and applies to acts
43 committed on or after that date.