

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 559

Judiciary I/Constitution Committee Substitute Adopted 5/4/95

Short Title: Housing Authority Changes.

(Public)

Sponsors:

Referred to:

April 3, 1995

A BILL TO BE ENTITLED

AN ACT 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, TO AUTHORIZE HOUSING AUTHORITIES TO GOVERN ENTRY UPON HOUSING AUTHORITY PROPERTY BY GUESTS AND VISITORS, AND TO MAKE IT A CRIME TO TRESPASS ON PUBLIC HOUSING AUTHORITY PROPERTY.

The General Assembly of North Carolina enacts:

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

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

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

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

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

7 "**§ 157-9. Powers of authority.**

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

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

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

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

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

24 (c) To the extent not inconsistent with the Constitution or statutes of this State or
25 the United States, an authority may adopt and enforce rules governing the lawful entry of
26 guests and visitors to its properties, including the visitors and guests of its tenants. Prior
27 to adopting such rules, an authority shall make reasonable efforts to consult with or
28 obtain comments from its tenants or their representatives. Persons who enter or remain
29 on the property of an authority in violation of such rules shall be subject to prosecution
30 under G.S. 14-159.12."

31 Sec. 4. G.S. 14-159.12(a) reads as rewritten:

32 "(a) Offense. – A person commits the offense of first degree trespass if, without
33 authorization, he enters or remains:

34 (1) On premises of another so enclosed or secured as to demonstrate
35 clearly an intent to keep out intruders; or

36 (2) In a building of another.

37 (3) On public housing authority property in violation of G.S. 157-
38 9(c)."

39 Sec. 5. Sections 1 and 4 of this act become effective December 1, 1995, and
40 apply to offenses committed on and after that date. Section 2 of this act becomes
41 effective July 1, 1995, and applies to rent received or accepted on or after that date.
42 However, enactment of Section 2 of this act shall not be construed to imply that the
43 acceptance of rent prior to July 1, 1995, constituted a waiver of default or failure.

- 1 Section 3 of this act becomes effective July 1, 1995, except that housing authorities may
- 2 begin adopting rules on and after the date of ratification.