

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1240

Short Title: Vacation Rental Act Amendments.

(Public)

Sponsors: Representative Culpepper.

Referred to: Judiciary IV.

April 18, 2005

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE VACATION RENTAL HOME ACT CONCERNING
2 VACATION RENTAL AGREEMENTS.
3

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 42A-17(b) reads as rewritten:

6 "(b) Except as ~~otherwise provided in this subsection, G.S. 42A-36,~~ if, at the time
7 the tenant is to begin occupancy of the property, the landlord or real estate broker
8 cannot provide the property in a fit and habitable condition or substitute a reasonably
9 comparable property in such condition, the landlord and real estate broker shall refund
10 to the tenant all payments made by the tenant."

11 **SECTION 2.** G.S. 42A-19(a) reads as rewritten:

12 "(a) The grantee of residential property voluntarily transferred by a landlord who
13 has entered into a vacation rental agreement for the use of the property shall take his or
14 her title subject to the vacation rental agreement if the vacation rental is to end not later
15 than 180 days after the grantee's interest in the property is recorded in the office of the
16 register of deeds. If the vacation rental is to end more than 180 days after the recording
17 of the grantee's interest, the tenant shall have no right to enforce the terms of the
18 agreement unless the grantee has agreed in writing to honor ~~such~~ those terms, but the
19 tenant shall be entitled to a refund of payments made by him or her, as provided in
20 subsection (b) of this section.

21 Prior to entering into any contract of sale, the landlord shall disclose to the grantee
22 the time periods that the property is subject to a vacation rental agreement. Not later
23 than 10 days after ~~entering into the contract of sale~~ transfer of the property, the landlord
24 shall disclose to the grantee each tenant's name and address and shall provide the
25 grantee with a copy of each vacation rental agreement. Not later than 10 days after
26 transfer of the property, the grantee or the grantee's agent shall:

- 27 (1) Notify each tenant in writing of the property transfer, the grantee's
28 name and address, and the date the grantee's interest was recorded.

1 (2) Advise each tenant whether he or she has the right to occupy the
2 property subject to the terms of the vacation rental agreement and the
3 provisions of this section.

4 (3) Advise each tenant of whether he or she has the right to receive a
5 refund of any payments made by him or her.

6 However, if the grantee engages as his broker and rental agent for the property the
7 broker who procured the tenant's vacation rental agreement for the landlord, and if the
8 grantee elects not to honor the vacation rental agreements ending more than 180 days
9 after the grantee's interest in the property is recorded, the grantee shall have no
10 obligation under subdivisions (1), (2), and (3) of this subsection with regard to those
11 tenants whose vacation rental agreements must be honored under this section."

12 **SECTION 3.** G.S. 42A-36 reads as rewritten:

13 "**§ 42A-36. Mandatory evacuations.**

14 If State or local authorities, acting pursuant to Article 36A of Chapter 14 or Article 1
15 of Chapter 166A of the General Statutes, order a mandatory evacuation of an area that
16 includes the residential property subject to a vacation rental, the tenant ~~in possession of~~
17 ~~the property under the vacation rental agreement~~ shall comply with the evacuation
18 order. Upon compliance, the tenant shall be entitled to a refund from the landlord of the
19 prorated rent for each night that the tenant is unable to occupy the property because of
20 the mandatory evacuation order. The tenant shall not be entitled to a refund if: (i) prior
21 to the tenant taking possession of the property, the tenant refused insurance offered by
22 the landlord or real estate broker that would have compensated him or her for losses or
23 damages resulting from loss of use of the property due to a mandatory evacuation order;
24 or (ii) the tenant purchased insurance offered by the landlord or real estate broker. The
25 insurance offered shall be provided by an insurance company duly authorized by the
26 North Carolina Department of Insurance, and the cost of the insurance shall not exceed
27 eight percent (8%) of the total rent charged for the vacation rental to the tenant."

28 **SECTION 4.** This act is effective when it becomes law.