

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 984
Second Edition Engrossed 6/26/24

Short Title: Removal of Squatters from Private Property. (Public)

Sponsors: Representatives Bradford, Gillespie, Shepard, and Iler (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 1, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House

May 6, 2024

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE AN ALTERNATIVE REMEDY FOR THE EXPEDITED REMOVAL
3 OF UNAUTHORIZED PERSONS FROM PRIVATE PROPERTY BY A LAW
4 ENFORCEMENT AGENCY.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** Chapter 42 of the General Statutes is amended by adding a new
7 Article to read:

8 "Article 8.

9 "Expedited Removal of Unauthorized Persons from Residential Property.

10 "**§42-79. Definitions.**

11 The following definitions apply to this Article:

- 12 (1) Authorized representative. – A real estate broker or other person who has
13 written legal authority to act on behalf of a property owner.
14 (2) Contract for deed. – As defined in G.S. 47H-1.
15 (3) Law enforcement agency. – A county sheriff's office, a county police
16 department, or a municipal police department.
17 (4) Real estate broker. – As defined in G.S. 93A-2(a).
18 (5) Residential property. – As defined in G.S. 42A-4.
19 (6) Tenant. – As defined in G.S. 42-59.
20 (7) Unauthorized person. – A person or persons occupying residential property
21 who has no legal claim to the property, is not entitled to occupy it under a
22 valid rental agreement or contract for deed signed by the property owner or
23 the property owner's authorized representative, has not paid any rent or other
24 form of payment to the property owner or an authorized representative of the
25 property owner in connection with the occupancy of the property, and is not
26 otherwise authorized to occupy the property. This term does not include a
27 tenant who holds over after the lease term has expired under G.S. 42-26.

28 "**§ 42-80. Requirements for removal of unauthorized persons.**

29 A property owner or an authorized representative of the property owner may request from a
30 law enforcement agency with jurisdiction over where the residential property is located the
31 removal of an unauthorized person unlawfully occupying the residential property pursuant to this
32 Article if all of the following conditions are met:

- 33 (1) The requesting party is the property owner or the authorized representative of
34 the property owner.



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- 1 (2) The property that is being unlawfully occupied is residential property or
2 property used in connection with or appurtenant to residential property.
- 3 (3) An unauthorized person has entered the property after the property owner
4 acquired the property and is remaining or residing unlawfully on the
5 residential property of the property owner.
- 6 (4) The property was not offered or intended as an accommodation for the general
7 public at the time the unauthorized person entered.
- 8 (5) The property owner or the authorized representative of the property owner has
9 directed the unauthorized person to leave the residential property.
- 10 (6) The unauthorized person is not a tenant.
- 11 (7) There is no pending litigation between the property owner and the
12 unauthorized person related to the residential property.
- 13 (8) No other valid rental agreement or contract for deed has been entered into or
14 formed by the property owner or a former property owner and the
15 unauthorized person permitting the unauthorized person to occupy the
16 residential property.
- 17 (9) No rent or other form of payment has ever been demanded of or paid by the
18 unauthorized person to the property owner or to an authorized representative
19 of the property owner in connection with the occupancy of the residential
20 property.

21 **"§ 42-81. Expedited removal affidavit.**

22 (a) To request the immediate removal of an unauthorized person from residential
23 property, the property owner or an authorized representative of the property owner must appear
24 before the clerk of superior court in the county where the property is located and complete a
25 sworn affidavit on a form created pursuant to subsection (c) of this section. If the office of the
26 clerk of superior court is closed, the property owner or an authorized representative of the
27 property owner may complete the sworn affidavit before a magistrate in the county where the
28 property is located. The clerk of superior court or the magistrate shall sign the affidavit verifying
29 that the property owner or the authorized representative of the property owner appeared before
30 him or her and swore under oath or affirmation to the information contained therein. The property
31 owner shall pay to the clerk of court or the magistrate a fee of twenty-five dollars (\$25) for
32 completion of the sworn affidavit.

33 (b) The affidavit shall allege all of the following:

- 34 (1) The affiant is the property owner or the authorized representative of the
35 property owner.
- 36 (2) An unauthorized person has entered after the property owner acquired the
37 property and is remaining or residing unlawfully on residential property of the
38 property owner.
- 39 (3) The unauthorized person has been directed by the property owner or the
40 authorized representative of the property owner to leave the property, but the
41 unauthorized person remains on the property.
- 42 (4) The property was not offered or intended as an accommodation for the general
43 public at the time the unauthorized person entered the residential property.
- 44 (5) The unauthorized person is not a tenant pursuant to any valid lease authorized
45 by the property owner.
- 46 (6) The unauthorized person is not an owner or co-owner of the property and has
47 not been listed on the valid record title to the property.
- 48 (7) The property owner has not entered into a contract for deed, installment land
49 contract, rent-to-own agreement, lease with option to purchase, or any other
50 contract in which the property owner agreed to sell an interest in the residential
51 property to the unauthorized person.

1 (8) The property owner has never demanded nor received rent or other form of
2 payment directly from the unauthorized person in connection with the
3 occupancy of the residential property.

4 (9) There is no litigation related to the property pending between the property
5 owner and the unauthorized person.

6 (c) The Administrative Office of the Courts, in consultation with the North Carolina
7 Sheriffs' Association and the North Carolina Association of Chiefs of Police, shall develop a
8 form for the affidavit required by this section. In addition to the required allegations set forth in
9 subsection (b) of this section, the form shall require the property owner to provide the property
10 address and may include space for the property owner to provide information that may assist law
11 enforcement in identifying the unauthorized person. The form shall also include clear language
12 notifying the affiant that providing false information or statements on the affidavit is perjury
13 pursuant to G.S. 14-209 and punishable as a Class F felony. The form shall further notify the
14 affiant that any person removed from the residential property as a result of the affidavit may have
15 a cause of action against the affiant for any false information or statements provided on the
16 affidavit or wrongfully using the procedures provided in this Article.

17 **"§ 42-82. Removal of unauthorized persons.**

18 Upon completion of the affidavit before the clerk or the magistrate, the property owner or
19 authorized representative of the property owner shall provide the original affidavit to the law
20 enforcement agency with jurisdiction over where the residential property is located. Within 24
21 hours after receipt of the affidavit, the law enforcement agency shall remove the unauthorized
22 person from the residential property. If appropriate, the law enforcement agency may arrest any
23 person found in the property for trespass, outstanding warrants, or any other legal cause. The
24 property owner or the authorized representative of the property owner may request that the law
25 enforcement agency stand by to keep the peace while the property owner or authorized
26 representative of the owner changes the locks and removes the personal property of the
27 unauthorized person from the premises to or near the property line.

28 **"§ 42-83. Immunity from liability.**

29 No law enforcement agency, law enforcement officer, clerk of superior court, or magistrate
30 may be held liable to an unauthorized person or any other person or entity for compliance with
31 or actions taken in furtherance of the provisions of this Article, including for the loss or
32 destruction of or damage to personal property, provided that the acts or omissions are made in
33 good faith and do not constitute gross negligence, willful or wanton misconduct, or intentional
34 wrongdoing. The property owner or the authorized representative of the property owner is not
35 liable to an unauthorized person or any other person or entity for the loss or destruction of or
36 damage to any personal property that arises out of or in any way relates to the removal of an
37 unauthorized person pursuant to this Article unless the removal was wrongful.

38 **"§ 42-84. Remedy for wrongful removal.**

39 (a) A person may bring a civil cause of action against the affiant for wrongful removal
40 under this Article. A person harmed by a wrongful removal under this Article may be entitled to
41 recover possession of the property and may recover from the affiant actual costs and damages
42 incurred, statutory damages equal to triple the fair market rent of the residence, a civil penalty of
43 not less than four hundred dollars (\$400.00) nor more than four thousand dollars (\$4,000) as
44 determined by a court, court costs, and reasonable attorney fees.

45 (b) This Article does not limit the rights of a property owner or limit the authority of a
46 law enforcement officer to arrest an unauthorized person for trespassing, vandalism, theft, or
47 other crimes."

48 **SECTION 1.(b)** The Administrative Office of the Courts shall develop and make
49 available the affidavit form required by G.S. 42-81, as enacted in subsection (a) of this section,
50 no later than September 30, 2024.

- 1 **SECTION 1.(c)** Subsection (a) of this section becomes effective October 1, 2024.
2 The remainder of this section is effective when it becomes law.