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SENATE BILL DRS35117-MQ-32

Short Title: Short Term Rentals.

(Public)

Sponsors: Senator Sawyer (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE THE SAFE RENTAL OF CERTAIN PROPERTIES BY REQUIRING
3 COMPLIANCE WITH LOCAL ORDINANCES AND CODES AND ESTABLISHING A
4 MAXIMUM OCCUPANCY LIMITATION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 160D-1207 reads as rewritten:

7 "§ 160D-1207. Periodic inspections.

8 (a) Except as provided in subsection (b) of this section, the inspection department may
9 make periodic inspections only when there is reasonable cause to believe that unsafe, unsanitary,
10 or otherwise hazardous or unlawful conditions may exist in a residential building or structure.
11 However, when the inspection department determines that a safety hazard exists in one of the
12 dwelling units within a multifamily building, which in the opinion of the inspector poses an
13 immediate threat to the occupant, the inspection department may inspect, in the absence of a
14 specific complaint and actual knowledge of the unsafe condition, additional dwelling units in the
15 multifamily building to determine if that same safety hazard exists. For purposes of this section,
16 the term "reasonable cause" means any of the following: (i) the landlord or owner has a history
17 of more than two verified violations of the housing ordinances or codes within a 12-month period,
18 (ii) there has been a complaint that substandard conditions exist within the building or there has
19 been a request that the building be inspected, (iii) the inspection department has actual knowledge
20 of an unsafe condition within the building, or (iv) violations of the local ordinances or codes are
21 visible from the outside of the property. In conducting inspections authorized under this section,
22 the inspection department shall not discriminate between single-family and multifamily buildings
23 or between owner-occupied and tenant-occupied buildings. In exercising this power, members
24 of the department shall have a right to enter on any premises within the jurisdiction of the
25 department at all reasonable hours for the purposes of inspection or other enforcement action,
26 upon presentation of proper credentials. Nothing in this section shall be construed to prohibit
27 periodic inspections in accordance with State fire prevention code or as otherwise required by
28 State law.

29 (b) A local government may require periodic inspections as part of a targeted effort to
30 respond to blighted or potentially blighted conditions within a geographic area that has been
31 designated by the governing board. However, the total aggregate of targeted areas in the local
32 government jurisdiction at any one time shall not be greater than 1 square mile or five percent
33 (5%) of the area within the local government jurisdiction, whichever is greater. A targeted area
34 designated by the local government shall reflect the local government's stated neighborhood
35 revitalization strategy and shall consist of property that meets the definition of a "blighted area"
36 or "blighted parcel" as those terms are defined in G.S. 160A-503(2) and G.S. 160A-503(2a),



1 respectively, except that for purposes of this subsection, the planning board is not required to
2 make a determination as to the property. The local government shall not discriminate in its
3 selection of areas or housing types to be targeted and shall (i) provide notice to all owners and
4 residents of properties in the affected area about the periodic inspections plan and information
5 regarding a legislative hearing regarding the plan, (ii) hold a legislative hearing regarding the
6 plan, and (iii) establish a plan to address the ability of low-income residential property owners to
7 comply with minimum housing code standards.

8 (c) In no event may a local government do any of the following: (i) adopt or enforce any
9 ordinance that would require any owner or manager of rental property to obtain any permit or
10 permission under Article 11 or Article 12 of this Chapter from the local government to lease or
11 rent residential real property or to register rental property with the local government, except for
12 those individual properties that have more than four verified violations in a rolling 12-month
13 period or two or more verified violations in a rolling 30-day period, or upon the property being
14 identified within the top ten percent (10%) of properties with crime or disorder problems as set
15 forth in a local ordinance, (ii) require that an owner or manager of residential rental property
16 enroll or participate in any governmental program as a condition of obtaining a certificate of
17 occupancy, (iii) levy a special fee or tax on residential rental property that is not also levied
18 against other commercial and residential properties, unless expressly authorized by general law
19 or applicable only to an individual rental unit or property described in clause (i) of this subsection
20 and the fee does not exceed five hundred dollars (\$500.00) in any 12-month period in which the
21 unit or property is found to have verified violations, (iv) provide that any violation of a rental
22 registration ordinance is punishable as a criminal offense, or (v) require any owner or manager
23 of rental property to submit to an inspection before receiving any utility service provided by the
24 local government. Nothing in this subsection shall be deemed to prevent a local government from
25 enforcing ordinances related to maximum occupancy, as that term is defined in G.S. 42A-4, for
26 a vacation rental property that is subject to the provisions of Chapter 42A of the General Statutes.
27 For purposes of this section, the term "verified violation" means all of the following:

- 28 (1) The aggregate of all violations of housing ordinances or codes found in an
29 individual rental unit of residential real property during a 72-hour period.
- 30 (2) Any violations that have not been corrected by the owner or manager within
31 21 days of receipt of written notice from the local government of the
32 violations. Should the same violation occur more than two times in a 12-month
33 period, the owner or manager may not have the option of correcting the
34 violation. If the housing code provides that any form of prohibited tenant
35 behavior constitutes a violation by the owner or manager of the rental
36 property, it shall be deemed a correction of the tenant-related violation if the
37 owner or manager, within 30 days of receipt of written notice of the
38 tenant-related violation, brings a summary ejectment action to have the tenant
39 evicted.

40 (d) If a property is identified by the local government as being in the top ten percent
41 (10%) of properties with crime or disorder problems, the local government shall notify the
42 landlord of any crimes, disorders, or other violations that will be counted against the property to
43 allow the landlord an opportunity to attempt to correct the problems. In addition, the local
44 government and the county sheriff's office or city's police department shall assist the landlord in
45 addressing any criminal activity, which may include testifying in court in a summary ejectment
46 action or other matter to aid in evicting a tenant who has been charged with a crime. If the local
47 government or the county sheriff's office or city's police department does not cooperate in
48 evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or
49 disorder problem as set forth in the local ordinance, and the property may not be included in the
50 top ten percent (10%) of properties as a result of that tenant's behavior or activity.

1 (e) If the local government takes action against an individual rental unit under this
2 section, the owner of the individual rental unit may appeal the decision to the housing appeals
3 board or the zoning board of adjustment, if operating, or the planning board if created under
4 G.S. 160D-301, or if neither is created, the governing board. The board shall fix a reasonable
5 time for hearing appeals, shall give due notice to the owner of the individual rental unit, and shall
6 render a decision within a reasonable time. The owner may appear in person or by agent or
7 attorney. The board may reverse or affirm the action, wholly or partly, or may modify the action
8 appealed from, and may make any decision and order that in the opinion of the board ought to be
9 made in the matter."

10 **SECTION 2.** G.S. 42A-4 reads as rewritten:

11 **"§ 42A-4. Definitions.**

12 The following definitions apply in this Chapter:

- 13 (1) Advanced payments. – All payments made by a tenant in a vacation rental
14 agreement to a landlord or the landlord's real estate broker prior to occupancy
15 for the purpose of renting a vacation rental property for a future period of time
16 as specified in the vacation rental agreement.
- 17 (1a) Landlord. – An owner of residential property offered for lease as a vacation
18 rental with or without the assistance of a real estate broker.
- 19 (1b) Maximum occupancy. – The maximum number of persons allowed in a
20 vacation rental. The maximum occupancy is measured as an amount not
21 exceeding four persons per bedroom.

22"

23 **SECTION 3.** G.S. 42A-31 reads as rewritten:

24 **"§ 42A-31. Landlord to provide fit premises.**

25 A landlord of a residential property used for a vacation rental shall:

- 26 (1) Comply with all current applicable local ordinances and codes, including
27 building and housing codes, to the extent required by the operation of
28 the ordinances and codes. However, no new requirement is imposed if a
29 structure is exempt from a current building or housing code.
- 30 (1a) Comply with all applicable elevator safety requirements in G.S. 143-143.7.
- 31 (2) Make all repairs and do whatever is reasonably necessary to put and keep the
32 property in a fit and habitable condition.
- 33 (3) Keep all common areas of the property in safe condition.
- 34 (3a) Accurately represent the number of bedrooms and bathrooms on the property
35 and prohibit the rental of the property to a tenant if the maximum occupancy
36 will be exceeded. For the purposes of this subdivision, the number of
37 bedrooms and bathrooms on the property shall be determined by the most
38 recent tax records for the subject property.
- 39 (4) Maintain in good and safe working order and reasonably and promptly repair
40 all electrical, plumbing, sanitary, heating, ventilating, and other facilities and
41 major appliances supplied by him or her upon written notification from the
42 tenant that repairs are needed.
- 43 (5) Provide operable smoke detectors. The landlord shall replace or repair the
44 smoke detectors if the landlord is notified by the tenant in writing that
45 replacement or repair is needed. The landlord shall annually place new
46 batteries in a battery-operated smoke detector, and the tenant shall replace the
47 batteries as needed during the tenancy. Failure of the tenant to replace the
48 batteries as needed shall not be considered negligence on the part of the tenant
49 or landlord.
- 50 (6) Provide a minimum of one operable carbon monoxide alarm per rental unit
51 per level, either battery-operated or electrical, that is listed by a nationally

1 recognized testing laboratory that is OSHA-approved to test and certify to
2 American National Standards Institute/Underwriters Laboratories Standards
3 ANSI/UL2034 or ANSI/UL2075, and install the carbon monoxide alarms in
4 accordance with either the standards of the National Fire Protection
5 Association or the minimum protection designated in the manufacturer's
6 instructions, which the landlord shall retain or provide as proof of compliance.
7 A landlord that installs one carbon monoxide alarm per rental unit per level
8 shall be deemed to be in compliance with standards under this subdivision
9 covering the location and number of alarms. The landlord shall replace or
10 repair the carbon monoxide alarms within three days of receipt of notification
11 if the landlord is notified of needed replacement or repairs in writing by the
12 tenant. At least every six months, the landlord shall ensure that a carbon
13 monoxide alarm is operable and in good repair. Unless the landlord and the
14 tenant have a written agreement to the contrary, the landlord shall place new
15 batteries in a battery-operated carbon monoxide alarm annually and the tenant
16 shall replace the batteries as needed during the tenancy. Failure of the tenant
17 to replace the batteries as needed shall not be considered as negligence on the
18 part of the tenant or the landlord. A carbon monoxide alarm may be combined
19 with smoke alarms if the combined alarm does both of the following: (i)
20 complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms
21 and ANSI/UL217 for smoke alarms and (ii) emits an alarm in a manner that
22 clearly differentiates between detecting the presence of carbon monoxide and
23 the presence of smoke. This subdivision applies only to dwelling units having
24 a fossil-fuel burning heater, appliance, or fireplace and in any dwelling unit
25 having an attached garage. Any operable carbon monoxide detector installed
26 before January 1, 2015, shall be deemed to be in compliance with this
27 subdivision.

28 These duties shall not be waived; however, the landlord and tenant may make additional
29 covenants not inconsistent herewith in the vacation rental agreement."

30 **SECTION 4.** G.S. 42A-32 reads as rewritten:

31 **"§ 42A-32. Tenant to maintain dwelling unit.**

32 The tenant of a residential property used for a vacation rental shall:

- 33 (1) Keep that part of the property which he or she occupies and uses as clean and
34 safe as the conditions of the property permit and cause no unsafe or unsanitary
35 conditions in the common areas and remainder of the property that he or she
36 uses.
- 37 (2) Dispose of all ashes, rubbish, garbage, and other waste in a clean and safe
38 manner.
- 39 (3) Keep all plumbing fixtures in the property or used by the tenant as clean as
40 their condition permits.
- 41 (4) Not deliberately or negligently destroy, deface, damage, or remove any part
42 of the property or render inoperable the smoke detector provided by the
43 landlord or knowingly permit any person to do so.
- 44 (5) Comply with all obligations imposed upon the tenant by current applicable
45 local ordinances and codes, including building and housing codes.
- 46 (6) Be responsible for all damage, defacement, or removal of any property inside
47 the property that is in his or her exclusive control unless the damage,
48 defacement, or removal was due to ordinary wear and tear, acts of the landlord
49 or his or her agent, defective products supplied or repairs authorized by the
50 landlord, acts of third parties not invitees of the tenant, or natural forces.

- 1 (7) Notify the landlord of the need for replacement of or repairs to a smoke
2 detector. The landlord shall annually place new batteries in a battery-operated
3 smoke detector, and the tenant shall replace the batteries as needed during the
4 tenancy. Failure of the tenant to replace the batteries as needed shall not be
5 considered negligence on the part of the tenant or the landlord.

6 These duties shall not be waived; however, the landlord and tenant may make additional
7 covenants not inconsistent herewith in the vacation rental agreement."

8 **SECTION 5.** G.S. 42A-33 reads as rewritten:

9 "**§ 42A-33. Responsibilities and liability of real estate broker.**

10 (a) A real estate broker managing a vacation rental property on behalf of a landlord shall
11 do all of the following:

- 12 (1) Manage the property in accordance with the terms of the written agency
13 agreement signed by the landlord and real estate broker.
14 (2) Offer vacation rental property to the public for leasing in compliance with all
15 applicable federal and State laws, regulations, local ordinances and codes, and
16 ethical duties, including, but not limited to, those prohibiting discrimination
17 on the basis of race, color, religion, sex, national origin, handicapping
18 condition, or familial status.
19 (3) Notify the landlord regarding any necessary repairs to keep the property in a
20 fit and habitable or safe condition and follow the landlord's direction in
21 arranging for any such necessary repairs, including repairs to all electrical,
22 plumbing, sanitary, heating, ventilating, and other facilities and major
23 appliances supplied by the landlord upon written notification from the tenant
24 that repairs are needed.
25 (4) Verify that the landlord has installed operable smoke detectors and carbon
26 monoxide alarms.
27 (5) Verify that the landlord has annually placed new batteries in a
28 battery-operated smoke detector or carbon monoxide alarm. Failure of the
29 tenant to replace the batteries as needed shall not be considered negligence on
30 the part of the real estate broker.
31 (6) Verify that the number of bedrooms and bathrooms advertised for the vacation
32 rental property accurately reflects the most recent tax records for the subject
33 property.
34 (7) Prohibit the rental of the property to a tenant if the maximum occupancy
35 exceeds four persons per bedroom.

36 (b) A real estate broker or firm managing a vacation rental property on behalf of a
37 landlord client shall not become personally liable as a party in any civil action between the
38 landlord and tenant solely because the real estate broker or firm fails to identify the landlord of
39 the property in the vacation rental agreement."

40 **SECTION 6.** This act is effective when it becomes law.