

NORTH CAROLINA GENERAL ASSEMBLY  
1969 SESSION

CHAPTER 868  
SENATE BILL 762

1 AN ACT TO AMEND ARTICLE 15 OF CHAPTER 160 OF THE GENERAL STATUTES  
2 RELATING TO UNFIT DWELLINGS TO PROVIDE FOR THE RECORDING AND  
3 PRIORITY OF LIENS AND TO PROVIDE A METHOD OF APPEALS FOR  
4 PROPERTY OWNERS.

5  
6 The General Assembly of North Carolina do enact:

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8 **Section 1.** G.S. 160-184(5) is hereby amended by adding at the end thereof the  
9 following new sentence: "Such ordinance shall be recorded in the office of the Register of  
10 Deeds in the County wherein the property or properties are located and shall be indexed in the  
11 name of the property owner in the grantor index."

12 **Sec. 2.** G.S. 160-184(6) is hereby amended by changing the period at the end of the  
13 first sentence thereof to a comma and by adding immediately after such comma the following:  
14 "which lien shall be filed, have the same priority and be collected as provided by Article 9 of  
15 Chapter 160 of the General Statutes."

16 **Sec. 3.** G.S. 160-186 is hereby amended by striking out the second sentence and  
17 inserting in lieu thereof the following: "Where service is made by publication, a notice of the  
18 pending proceedings shall be posted in a conspicuous place on the premises thereby affected."

19 **Sec. 4.** G.S. 160-186 is hereby further amended by striking out the last sentence  
20 thereof.

21 **Sec. 5.** G.S. 160-187 is hereby rewritten to read as follows: "G.S. 160-187.  
22 Remedies. (a) The governing body may provide for the creation and organization of a Housing  
23 Appeals Board to which appeals may be taken from any decision or order of the public officer,  
24 or may provide for such appeals to be heard and determined by its Zoning Board of  
25 Adjustment.

26 (b) The Housing Appeals Board, if created, shall consist of five members to serve for  
27 three-year staggered terms. It shall have power to elect its own officers, to fix the times and  
28 places for its meetings, to adopt necessary rules of procedure, and to adopt all other rules and  
29 regulations not inconsistent herewith which may be necessary for the proper discharge of its  
30 duties; and it shall keep an accurate record of all its proceedings.

31 (c) An appeal from any decision or order of the public officer may be taken by any  
32 person aggrieved thereby or by any officer, board or commission of the municipality. Any  
33 appeal from the public officer shall be taken within such 10 days from the rendering of the  
34 decision or service of the order, and shall be taken by filing with the public officer and with the  
35 Board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon  
36 the filing of any notice of appeal, the public officer shall forthwith transmit to the Board all the  
37 papers constituting the record upon which the decision appealed from was made. When an  
38 appeal is from a decision of the public officer refusing to allow the person aggrieved thereby to  
39 do any act, his decision shall remain in force until modified or reversed. When any appeal is  
40 from a decision of the public officer requiring the person aggrieved to do any act, the appeal  
41 shall have the effect of suspending the requirement until the hearing by the Board, unless the  
42 public officer certifies to the Board, after the notice of appeal is filed with him, that by reason  
43 of the facts stated in the certificate (a copy of which shall be furnished the appellant), a

suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the public officer, by the Board, or by a court of record upon petition made pursuant to subsection (f) of this Section.

(d) The Appeals Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the public officer, but the concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of the public officer. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(e) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(f) Any person aggrieved by an order issued by the public officer or a decision rendered by the Board may petition the superior court for an injunction restraining the public officer from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the public officer pending a final disposition of the cause; provided, however, that such petition shall be filed within thirty (30) days after issuance of the order or rendering of the decision. Hearings shall be had by the court on any such petition within twenty (20) days, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require; provided, however, that it shall not be necessary to file bond in any amount before obtaining a temporary injunction under this subsection.

(g) In case any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this Article or of any ordinance or code adopted under authority of this Article or any valid order or decision of the public officer or Board made pursuant to any ordinance or code adopted under authority of this Article, the public officer or Board may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration or use, to restrain, correct or abate such violation, to prevent the occupancy of the dwelling, or to prevent any illegal act, conduct or use in or about the premises of the dwelling."

**Sec. 6.** All laws and clauses of laws in conflict herewith are hereby repealed.

**Sec. 7.** This Act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1969.