

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 770
HOUSE BILL 949

AN ACT TO DEFINE THE RESPONSIBILITY FOR MAINTENANCE OF RESIDENTIAL
RENTAL UNITS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 42 of the General Statutes is hereby amended by adding thereto a new Article 5, to read as follows:

"ARTICLE 5.

"Residential Rental Agreements.

"§ 42-38. **Application.** — This Article determines the rights, obligations, and remedies under a rental agreement for a dwelling unit within this State.

"§ 42-39. **Exclusions.** — The provisions of this Article shall not apply to transient occupancy in a hotel, motel, or similar lodging subject to regulation by the State Board of Health.

"§ 42-40. **Definitions.** — For the purpose of this Article, the following definitions shall apply:

- (a) 'Action' includes recoupment, counterclaim, defense, setoff, and any other proceeding including an action for possession.
- (b) 'Premises' means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas, and facilities normally held out for the use of residential tenants who are using the dwelling unit as their primary residence.

"§ 42-41. **Mutuality of obligations.** — The tenant's obligation to pay rent under the rental agreement or assignment and to comply with G.S. 42-43 and the landlord's obligation to comply with G.S. 42-42(a) shall be mutually dependent.

"§ 42-42. **Landlord to provide fit premises.** — (a) The landlord shall:

- (1) comply with the current applicable building and housing codes, whether enacted before or after the effective date of this Article, to the extent required by the operation of such codes; no new requirement is imposed by this subdivision (a)(1) if a structure is exempt from a current building code;
- (2) make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;
- (3) keep all common areas of the premises in safe condition; and
- (4) maintain in good and safe working order and promptly repair all electrical, plumbing, sanitary, heating, ventilating, air conditioning, and other facilities and appliances supplied or required to be supplied by him provided that notification of needed repairs is made to the landlord in writing by the tenant except in emergency situations.

(b) The landlord is not released of his obligations under any part of this section by the tenant's explicit or implicit acceptance of the landlord's failure to provide premises complying with this section, whether done before the lease was made, when it was made, or after it was made, unless a governmental subdivision imposes an impediment to repair for a specific period of time not to exceed six months. Notwithstanding the provisions of this subsection, the landlord and tenant are not prohibited from making a subsequent written contract wherein the tenant agrees to perform specified work on the premises, provided that said contract is

supported by adequate consideration other than the letting of the premises and is not made with the purpose or effect of evading the landlord's obligations under this Article.

"§ 42-43. Tenant to maintain dwelling unit. — (a) The tenant shall:

- (1) keep that part of the premises which he occupies and uses as clean and safe as the conditions of the premises permit and cause no unsafe or unsanitary conditions in the common areas and remainder of the premises which he uses;
- (2) dispose of all ashes, rubbish, garbage, and other waste in a clean and safe manner;
- (3) keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;
- (4) not deliberately or negligently destroy, deface, damage, or remove any part of the premises or knowingly permit any person to do so;
- (5) comply with any and all obligations imposed upon the tenant by current applicable building and housing codes; and
- (6) be responsible for all damage, defacement, or removal of any property inside a dwelling unit in his exclusive control unless said damage, defacement or removal was due to ordinary wear and tear, acts of the landlord or his agent, defective products supplied or repairs authorized by the landlord, acts of third parties not invitees of the tenant, or natural forces.

(b) The landlord shall notify the tenant in writing of any breaches of the tenant's obligations under this section except in emergency situations.

"§ 42-44. General remedies and limitations. — (a) Any right or obligation declared by this Chapter is enforceable by civil action, in addition to other remedies of law and in equity.

(b) No party shall be entitled to double damages in actions brought under this Article 5.

(c) The tenant may not unilaterally withhold rent prior to a judicial determination of a right to do so. The tenant shall be entitled to remain in possession of the premises pending appeal by continuing to pay the contract rent as it becomes due; provided that, in such case, the provisions of G.S. 42-34(b) shall not apply.

(d) A violation of this Article shall not constitute negligence per se."

Sec. 2. Nothing in this Article shall apply to any dwelling furnished without charge or rent.

Sec. 3. This act shall become effective on October 1, 1977, and applies to rental agreements entered into, extended, or renewed automatically or by the parties after October 1, 1977.

In the General Assembly read three times and ratified, this the 28th day of June, 1977.