

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 566
SENATE BILL 516

AN ACT TO CLARIFY LANDLORD EVICTION REMEDIES IN RESIDENTIAL TENANCIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 42 is amended by adding a new Article 2A. Ejectment of Residential Tenants, to read as follows:

"Article 2A.

"Ejectment of Residential Tenants.

"§ 42-25.1. **Manner of ejectment of residential tenants.** — It is the public policy of the State of North Carolina, in order to maintain the public peace, that a residential tenant shall be evicted, dispossessed or otherwise constructively or actually removed from his dwelling unit only in accordance with the procedure prescribed in Article 3 of this Chapter.

"§ 42-25.2. **Distress and distraint not permitted.** — It is the public policy of the State of North Carolina that distress and distraint are prohibited and that landlords of residential rental property shall have security interests or liens on the personal property of their residential tenants only in accordance with G.S. 44A-2(e).

"§ 42-25.3. **Contrary lease provisions.** — Any lease or contract provision contrary to this Article shall be void as against public policy.

"§ 42-25.4. **Remedies.** — (a) If any lessor, landlord, or agent removes or attempts to remove a tenant from a dwelling unit in any manner contrary to this Article, the tenant shall be entitled to recover possession or to terminate his lease and the lessor, landlord or agent shall be liable to the tenant for damages caused by the tenant's removal or attempted removal. Damages in any action brought by a tenant under this Article shall be limited to actual damages as in an action for trespass or conversion and shall not include punitive damages, treble damages or damages for emotional distress.

(b) If any lessor, landlord, or agent seizes possession of or interferes with a tenant's access to a tenant's or household member's personal property in any manner not in accordance with G.S. 44A-2(e), the tenant or household member shall be entitled to recover possession of his personal property or compensation for the value of the personal property, and, in any action brought by a tenant or household member under this Article, the landlord shall be liable to the tenant or household member for actual damages, but not including punitive damages, treble damages or damages for emotional distress.

(c) The remedies created by this Section are supplementary to all existing common law and statutory rights and remedies."

Sec. 2. G.S. 44A-2(e) is amended by deleting the first sentence and substituting therefor the following:

"Any lessor of a house, room, apartment, office, store or other demised premises has a lien on all furniture, household furnishings, trade fixtures, equipment and other personal property to which the tenant has legal title and which remains on the demised premises if (1) the tenant has vacated the premises for 21 or more days after the paid rental period has expired, and (2) the lessor has a lawful claim for damages against the tenant. If the tenant has vacated the premises for 21 or more days after the expiration of the paid rental period, or if the lessor has received a

judgment for possession of the premises which is executable and the tenant has vacated the premises, then all property remaining on the premises may be removed and placed in storage. If the total value of all property remaining on the premises is less than one hundred dollars (\$100.00), then it shall be deemed abandoned five days after the tenant has vacated the premises, and the lessor may remove it and may donate it to any charitable institution or organization. Provided, the lessor shall not have a lien if there is an agreement between the lessor or his agent and the tenant that the lessor shall not have a lien."

Sec. 3. This act shall become effective on October 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.