

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 610
HOUSE BILL 1019

AN ACT TO REGULATE RENTAL REFERRAL AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 66 of the General Statutes is amended by adding a new Article 23 as follows:

"ARTICLE 23.

"Rental Referral Agencies.

"§ 66-135. Definition. — For the purposes of this Article, a 'rental referral agency' is a person or business which offers to assist any person in locating residential rental property in return for any consideration from a prospective tenant.

"§ 66-136. Fees and deposits. — (a) A rental referral agency shall not charge or attempt to collect any fees or other consideration from any prospective tenant except where rental housing is in fact obtained by such person through the assistance of that agency. For the purposes of this Article, such housing is obtained when the prospective tenant has contracted to rent the property.

(b) Deposits to be applied toward fees may be required by a rental referral agency pursuant to a written contract which includes provisions stating:

- (1) the specifications of housing sought by the prospective tenant, including maximum rent, desired lease period, geographic area, number of bedrooms required, number of children to be housed, and number and type of pets;
- (2) that the deposit will be refunded within 10 days of the prospective tenant's request should the specified housing not be obtained through the agency's assistance within 30 days of the date of the contract;
- (3) that the rental referral agency will maintain a trust account or bond in compliance with G.S. 66-138, and identifying the depository institution or bonding company by name and address.

"§ 66-137. Representations of availability. — (a) A rental referral agency shall not make any representation that any property is available for rent unless availability has been verified by the agency within 48 hours prior to the representation. The availability of property described in media advertisements shall be verified within 48 hours prior to the appearance of the advertisement.

(b) Notations of the time and date of verification and the verifier's identity shall be recorded by the agency and made available for inspection by any person from whom the agency has received a deposit or a fee.

"§ 66-138. Bond or trust account required. — (a) Every rental referral agency before beginning business shall establish a trust account with a licensed and insured bank or savings institution located in the State of North Carolina. Each deposit to be applied towards a fee collected under G.S. 66-136(b) shall be placed in the trust account and shall be withdrawn only to refund the deposit to the applicant pursuant to G.S. 66-136(b)(2) or when a fee is earned by the agency as provided in G.S. 66-136(a).

(b) A rental referral agency may elect to post a bond in lieu of the trust account required by this section. The amount of the bond shall at no time be less than the amount that would be

required by this section to be held in trust. In no event, however, shall the bond be less than five thousand dollars (\$5,000). The rental referral agency shall file the bond with the clerk of the superior court of the county in which its principal place of business is located.

(c) Any person who is damaged by any violation of this Article, or by any breach by the rental referral agency of its contract, may bring an action for the remedies referred to and provided in G.S. 66-139 against the bond or trust account; provided that the aggregate liability of the surety or trustee shall not exceed the amount of the bond or trust account.

(d) Violation of subsections (a) or (b) of this section shall constitute a misdemeanor.

"§ 66-139. Remedies. — (a) Any person injured by a violation of this Article, or breach of any obligation created by this Article or contract subject thereto, may bring an action for recovery of damages, including reasonable attorneys' fees.

(b) The violation of any provision of this Article shall constitute an unfair act or practice under G.S. 75-1.1.

(c) The remedies provided herein shall be in addition to any other remedies provided by law or equity."

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 18th day of June, 1981.