

Chapter 42.
Landlord and Tenant.

Article 1.

General Provisions.

§ 42-1. Lessor and lessee not partners.

No lessor of property, merely by reason that he is to receive as rent or compensation for its use a share of the proceeds or net profits of the business in which it is employed, or any other uncertain consideration, shall be held a partner of the lessee. (1868-9, c. 156, s. 3; Code, s. 1744; Rev., s. 1982; C.S., s. 2341.)

§ 42-2. Attornment unnecessary on conveyance of reversions, etc.

Every conveyance of any rent, reversion, or remainder in lands, tenements or hereditaments, otherwise sufficient, shall be deemed complete without attornment by the holders of particular estates in said lands: Provided, no holder of a particular estate shall be prejudiced by any act done by him as holding under his grantor, without notice of such conveyance. (4 Anne, c. 16, s. 9; 1868-9, c. 156, s. 17; Code, s. 1764; Rev., s. 947; C.S., s. 2342.)

§ 42-3. Term forfeited for nonpayment of rent.

In all verbal or written leases of real property of any kind in which is fixed a definite time for the payment of the rent reserved therein, there shall be implied a forfeiture of the term upon failure to pay the rent within 10 days after a demand is made by the lessor or his agent on said lessee for all past-due rent, and the lessor may forthwith enter and dispossess the tenant without having declared such forfeiture or reserved the right of reentry in the lease. (1919, c. 34; C.S., s. 2343; 2001-502, s. 2; 2004-143, s. 1.)

§ 42-4. Recovery for use and occupation.

When any person occupies land of another by the permission of such other, without any express agreement for rent, or upon a parol lease which is void, the landlord may recover a reasonable compensation for such occupation, and if by such parol lease a certain rent was reserved, such reservation may be received as evidence of the value of the occupation. (1868-9, c. 156, s. 5; Code, s. 1746; Rev., s. 1986; C.S., s. 2344.)

§ 42-5. Rent apportioned, where lease terminated by death.

If a lease of land, in which rent is reserved, payable at the end of the year or other certain period of time, is determined by the death of any person during one of the periods in which the rent was growing due, the lessor or his personal representative may recover a part of the rent which becomes due after the death, proportionate to the part of the period elapsed before the death, subject to all just allowances; and if any security was given for such rent it shall be apportioned in like manner. (1868-9, c. 156, s. 6; Code, s. 1747; Rev., s. 1987; C.S., s. 2345.)

§ 42-6. Rents, annuities, etc., apportioned, where right to payment terminated by death.

In all cases where rents, rent charges, annuities, pensions, dividends, or any other payments of any description, are made payable at fixed periods to successive owners under any instrument, or by any will, and where the right of any owner to receive payment is terminable by a death or other uncertain event, and where such right so terminates during a period in which a payment is growing due, the payment becoming due next after such terminating event shall be apportioned among the successive owners according to the parts of such periods elapsing before and after the terminating event. (1868-9, c. 156, s. 7; Code, s. 1748; Rev., s. 1988; C.S., s. 2346.)

§ 42-7. In lieu of emblements, farm lessee holds out year, with rents apportioned.

When any lease for years of any land let for farming on which a rent is reserved determines during a current year of the tenancy, by the happening of any uncertain event determining the estate of the lessor, or by a sale of said land under any mortgage or deed of trust, the tenant in lieu of emblements shall continue his occupation to the end of such current year, and shall then give up such possession to the succeeding owner of the land, and shall pay to such succeeding owner a part of the rent accrued since the last payment became due, proportionate to the part of the period of payment elapsing after the termination of the estate of the lessor to the giving up such possession; and the tenant in such case shall be entitled to a reasonable compensation for the tillage and seed of any crop not gathered at the expiration of such current year from the person succeeding to the possession. (1868-9, c. 156, s. 8; Code, s. 1749; Rev., s. 1990; C.S., s. 2347; 1931, c. 173, s. 1.)

§ 42-8. Grantees of reversion and assigns of lease have reciprocal rights under covenants.

The grantee in every conveyance of reversion in lands, tenements or hereditaments has the like advantages and remedies by action or entry against the holders of particular estates in such real property, and their assigns, for nonpayment of rent, and for the nonperformance of other conditions and agreements contained in the instruments by the tenants of such particular estates, as the grantor or lessor or his heirs might have; and the holders of such particular estates, and their assigns, have the like advantages and remedies against the grantee of the reversion, or any part thereof, for any conditions and agreements contained in such instruments, as they might have had against the grantor or his lessors or his heirs. (32 Hen. VIII, c. 34; 1868-9, c. 156, s. 18; Code, s. 1765; Rev., s. 1989; C.S., s. 2348.)

§ 42-9. Agreement to rebuild, how construed in case of fire.

An agreement in a lease to repair a demised house shall not be construed to bind the contracting party to rebuild or repair in case the house shall be destroyed or damaged to more than one half of its value, by accidental fire not occurring from the want of ordinary diligence on his part. (1868-9, c. 156, s. 11; Code, s. 1752; Rev., s. 1985; C.S., s. 2349.)

§ 42-10. Tenant not liable for accidental damage.

A tenant for life, or years, or for a less term, shall not be liable for damage occurring on the demised premises accidentally, and notwithstanding reasonable diligence on his part, unless he so contract. (1868-9, c. 156, s. 10; Code, s. 1751; Rev., s. 1991; C.S., s. 2350.)

§ 42-11. Willful destruction by tenant misdemeanor.

If any tenant shall, during his term or after its expiration, willfully and unlawfully demolish, destroy, deface, injure or damage any tenement house, uninhabited house or other outhouse, belonging to his landlord or upon his premises by removing parts thereof or by burning, or in any other manner, or shall unlawfully and willfully burn, destroy, pull down, injure or remove any fence, wall or other inclosure or any part thereof, built or standing upon the premises of such landlord, or shall willfully and unlawfully cut down or destroy any timber, fruit, shade or ornamental tree belonging to said landlord, he shall be guilty of a Class 1 misdemeanor. (1883, c. 224; Code, s. 1761; Rev., s. 3686; C.S., s. 2351; 1993, c. 539, s. 402; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 42-12. Lessee may surrender, where building destroyed or damaged.

If a demised house, or other building, is destroyed during the term, or so much damaged that it cannot be made reasonably fit for the purpose for which it was hired, except at an expense exceeding one year's rent of the premises, and the damage or destruction occur without negligence on the part of the lessee or his agents or servants, and there is no agreement in the lease respecting repairs, or providing for such a case, and the use of the house damaged or destroyed was the main inducement to the hiring, the lessee may surrender his estate in the demised premises by a writing to that effect delivered or tendered to the landlord within 10 days from the damage or destruction, and by paying or tendering at the same time all rent in arrear, and a part of the rent growing due at the time of the damage or destruction, proportionate to the time between the last period of payment and the occurrence of the damage or destruction, and the lessee shall be thenceforth discharged from all rent accruing afterwards; but not from any other agreement in the lease. This section shall not apply if a contrary intention appear from the lease. (1868-9, c. 156, s. 12; Code, s. 1753; Rev., s. 1992; C.S., s. 2352.)

§ 42-13. Wrongful surrender to other than landlord misdemeanor.

Any tenant or lessee of lands who shall willfully, wrongfully and with intent to defraud the landlord or lessor, give up the possession of the rented or leased premises to any person other than his landlord or lessor, shall be guilty of a Class 1 misdemeanor. (1883, c. 138; Code, s. 1760; Rev., s. 3682; C.S., s. 2353; 1993, c. 539, s. 403; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 42-14. Notice to quit in certain tenancies.

A tenancy from year to year may be terminated by a notice to quit given one month or more before the end of the current year of the tenancy; a tenancy from month to month by a like notice of seven days; a tenancy from week to week, of two days. Provided, however, where the tenancy involves only the rental of a space for a manufactured home as defined in G.S. 143-143.9(6), a notice to quit must be given at least 60 days before the end of the current rental period, regardless of the term of the tenancy. (1868-9, c. 156, s. 9; Code, s. 1750; 1891, c. 227; Rev., s. 1984; C.S., s. 2354; 1985, c. 541; 2005-291, s. 1.)

§ 42-14.1. Rent control.

No county or city as defined by G.S. 160A-1 may enact, maintain, or enforce any ordinance or resolution which regulates the amount of rent to be charged for privately owned, single-family or

multiple unit residential or commercial rental property. This section shall not be construed as prohibiting any county or city, or any authority created by a county or city for that purpose, from:

- (1) Regulating in any way property belonging to that city, county, or authority;
- (2) Entering into agreements with private persons which regulate the amount of rent charged for subsidized rental properties; or
- (3) Enacting ordinances or resolutions restricting rent for properties assisted with Community Development Block Grant Funds. (1987, c. 458, s. 1.)

§ 42-14.2. Death, illness, or conviction of certain crimes not a material fact.

In offering real property for rent or lease it shall not be deemed a material fact that the real property was occupied previously by a person who died or had a serious illness while occupying the property or that a person convicted of any crime for which registration is required by Article 27A of Chapter 14 of the General Statutes occupies, occupied, or resides near the property; provided, however, that no landlord or lessor may knowingly make a false statement regarding any such fact. (1989, c. 592, s. 2; 1998-212, s. 17.16A(b).)

§ 42-14.3. Notice of conversion of manufactured home communities.

(a) In the event that an owner of a manufactured home community (defined as a parcel of land, whether undivided or subdivided, that has been designed to accommodate at least five manufactured homes) intends to convert the manufactured home community, or any part thereof, to another use that will require movement of the manufactured homes, the owner of the manufactured home community shall give each owner of a manufactured home and the North Carolina Housing Finance Agency notice of the intended conversion at least 180 days before the owner of a manufactured home is required to vacate and move the manufactured home, regardless of the term of the tenancy. Failure to give notice to each manufactured home owner as required by this section is a defense in an action for possession. The respective rights and obligations of the community owner and the owner of the manufactured home under their lease shall continue in effect during the notice period.

(b) Notwithstanding subsection (a) of this section, if a manufactured home community is being closed pursuant to a valid order of any unit of State or local government, the owner of the community shall be required to give notice of the closure of the community to each resident of the community and the North Carolina Housing Finance Agency within three business days of the date on which the order is issued. (2003-400, s. 5; 2008-107, s. 28.27(c).)

§ 42-14.4. Notice to State Bar of attorney default on lease.

(a) If a landlord has actual knowledge that a tenant is an attorney, the landlord shall deliver notice to the North Carolina State Bar (hereinafter "State Bar") at least 15 days prior to the destruction or discard of any "potentially confidential materials" remaining in the premises after the landlord obtains possession of the premises, whether by summary ejectment under Article 3 of this Chapter or by any other means, including the tenant vacating the premises. For purposes of this section, the term "potentially confidential materials" means client files, trust or operating account records, or other materials relating to client matters. For purposes of this section, the term "landlord" means any owner and any rental management company, rental agency, or any other person having the actual or

apparent authority of an agent to perform the duties imposed by this Article. The landlord's notice to the State Bar shall contain the name of the attorney who is presumed to be the tenant, the location of the potentially confidential materials, and a phone number, address, or other means to contact the landlord. During the 15-day period after notice, a landlord may move for storage purposes, but shall not throw away, dispose of, or sell, potentially confidential materials remaining in the premises.

(b) The State Bar or its designee may take possession of the materials, at its sole expense, within the 15-day period provided for in subsection (a) of this section without the necessity of a court order. Upon the request of the State Bar, the landlord shall cooperate with and allow the State Bar to take possession of the potentially confidential materials, and the landlord shall not be liable in any way to the tenant for his or her cooperation. However, if the tenant elects to take possession of the potentially confidential materials prior to the State Bar obtaining possession of them, and there is no court order to the contrary having been previously delivered to the landlord, the landlord may deliver possession of the potentially confidential materials to the tenant and shall promptly notify the State Bar of his or her actions. If neither the State Bar nor its designee takes possession of the potentially confidential materials within the 15-day period provided for in subsection (a) of this section, the landlord may destroy or discard the materials in accordance with the lease agreement with the defaulting tenant.

(c) A landlord that attempts in good faith to comply with the requirements of this section shall not be liable for losses to any person arising directly or indirectly out of the disposal of any potentially confidential materials. Failure to comply with this section shall not constitute an unfair trade practice under G.S. 75-1.1. (2012-76, s. 1.)