

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

2

HOUSE BILL 1240
Committee Substitute Favorable 5/25/05

Short Title: Vacation Rental Act Amendments.

(Public)

Sponsors:

Referred to:

April 18, 2005

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE VACATION RENTAL HOME ACT CONCERNING
2 VACATION RENTAL AGREEMENTS.
3

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 42A-17(b) reads as rewritten:

6 "(b) Except as ~~otherwise provided in this subsection, G.S. 42A-36,~~ if, at the time
7 the tenant is to begin occupancy of the property, the landlord or real estate broker
8 cannot provide the property in a fit and habitable condition or substitute a reasonably
9 comparable property in such condition, the landlord and real estate broker shall refund
10 to the tenant all payments made by the tenant."

11 **SECTION 2.** G.S. 42A-19(a) reads as rewritten:

12 "(a) The grantee of residential property voluntarily transferred by a landlord who
13 has entered into a vacation rental agreement for the use of the property shall take ~~his or~~
14 ~~her~~ title to the property subject to the vacation rental agreement if the vacation rental is
15 to end not later than 180 days after the grantee's interest in the property is recorded in
16 the office of the register of deeds. If the vacation rental is to end more than 180 days
17 after the recording of the grantee's interest, the tenant shall have no right to enforce the
18 terms of the agreement unless the grantee has agreed in writing to honor ~~such those~~
19 terms, but the tenant shall be entitled to a refund of payments made by him or her, as
20 provided in subsection (b) of this section.

21 Prior to entering into any contract of sale, the landlord shall disclose to the grantee
22 the time periods that the property is subject to a vacation rental agreement. Not later
23 than 10 days after ~~entering into the contract of sale transfer of the property,~~ the landlord
24 shall disclose to the grantee each tenant's name and address and shall provide the
25 grantee with a copy of each vacation rental agreement. In lieu of providing the grantee a
26 copy of each vacation rental agreement, where the landlord or the landlord's agent
27 utilizes a standard form vacation rental agreement, the landlord may provide the grantee
28 with a copy of the part of each vacation rental agreement that contains information
29 unique to the tenancy, the amount to be paid by the tenant, and the parties' signatures,

1 along with one copy of the rest of the standard form vacation rental agreement.
2 However, the landlord shall not be required to provide the grantee with copies of the
3 vacation rental agreements if in anticipation of acquiring the property the grantee has
4 engaged the landlord's rental agent to continue to manage the property after the transfer
5 and the landlord authorizes the rental agent to provide the information to the grantee and
6 the grantee approves. Not later than 10-20 days after transfer of the property, the grantee
7 or the grantee's agent shall:

8 (1) Notify each tenant in writing of the property transfer, the grantee's
9 name and address, and the date the grantee's interest was recorded.

10 (2) Advise each tenant whether he or she has the right to occupy the
11 property subject to the terms of the vacation rental agreement and the
12 provisions of this section.

13 (3) Advise each tenant of whether he or she has the right to receive a
14 refund of any payments made by him or her.

15 Notwithstanding any other provision of this section, if the grantee engages as the
16 grantee's broker and rental agent for the property the broker who procured the tenant's
17 vacation rental agreement for the landlord, the grantee shall have no obligation under
18 subdivisions (1), (2), and (3) of this subsection with regard to those tenants whose
19 vacation rental agreements must be honored under this section or with regard to those
20 tenants whose vacation rental agreements the grantee has agreed in writing to honor."

21 **SECTION 3.** G.S. 42A-36 reads as rewritten:

22 "**§ 42A-36. Mandatory evacuations.**

23 If State or local authorities, acting pursuant to Article 36A of Chapter 14 or Article 1
24 of Chapter 166A of the General Statutes, order a mandatory evacuation of an area that
25 includes the residential property subject to a vacation rental, the tenant ~~in possession of~~
26 ~~the property under the vacation rental agreement, whether in possession of the property~~
27 or not, shall comply with the evacuation order. Upon compliance, the tenant shall be
28 entitled to a refund from the landlord of the prorated rent for each night that the tenant is
29 unable to occupy the property because of the mandatory evacuation order. The tenant
30 shall not be entitled to a refund if: (i) prior to the tenant taking possession of the
31 property, the tenant refused insurance offered by the landlord or real estate broker that
32 would have compensated ~~him or her~~ the tenant for losses or damages resulting from loss
33 of use of the property due to a mandatory evacuation order; or (ii) the tenant purchased
34 insurance offered by the landlord or real estate broker. The insurance offered shall be
35 provided by an insurance company duly authorized by the North Carolina Department
36 of Insurance, and the cost of the insurance shall not exceed eight percent (8%) of the
37 total rent charged for the vacation rental to the tenant."

38 **SECTION 4.** This act becomes effective October 1, 2005, and applies to
39 vacation rental agreements entered into on or after that date.