

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 488

Short Title: Landlord/State Bar Notice of Lease Default. (Public)

Sponsors: Senators Stein, Vaughan, and Newton.

Referred to: Judiciary I.

April 4, 2011

1 A BILL TO BE ENTITLED
2 AN ACT REQUIRING LANDLORDS TO GIVE NOTICE TO THE NORTH CAROLINA
3 STATE BAR OF AN ATTORNEY'S DEFAULT ON A LEASE IN ORDER TO
4 PROTECT THE CONFIDENTIALITY OF THE ATTORNEY'S FILES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 42 of the General Statutes is amended by adding a new
7 section to read as follows:

8 **"§ 42-14.4. Notice to State Bar of attorney default on lease.**

9 (a) If a landlord has knowledge that a tenant is or may have been an attorney, the
10 landlord shall deliver notice to the North Carolina State Bar (hereinafter "State Bar") at least 30
11 days prior to the destruction or sale of any "potentially confidential materials" remaining in the
12 premises after the landlord obtains possession of the premises, whether by summary ejection
13 under Article 3 of this Chapter or by any other means, including the tenant vacating the
14 premises. For purposes of this section, the term "potentially confidential materials" means
15 client files, trust or operating account records, or other materials relating to client matters. The
16 landlord's notice to the State Bar shall contain the name of the attorney who is presumed to be
17 the tenant, the location of the potentially confidential materials, and a phone number, address,
18 or other means to contact the landlord. If the landlord removes the potentially confidential
19 materials from the premises, the landlord must store the potentially confidential materials in a
20 reasonably secure location in file cabinets, boxes, or other appropriate containers. The landlord
21 shall exercise reasonable care to maintain the potentially confidential materials intact and
22 undamaged by the landlord's actions.

23 (b) The State Bar or its designee may take possession of the materials, at its sole
24 expense, within the 30-day period provided for in subsection (a) of this section without the
25 necessity of a court order. Upon the request of the State Bar, the landlord shall cooperate with
26 and allow the State Bar to take possession of the potentially confidential materials, and the
27 landlord shall not be liable in any way to the tenant for his or her cooperation. However, if the
28 tenant elects to take possession of the potentially confidential materials prior to the State Bar
29 obtaining possession of them, and there is no court order to the contrary having been previously
30 delivered to the landlord, the landlord may deliver possession of the potentially confidential
31 materials to the tenant and shall promptly notify the State Bar of his or her actions. If neither
32 the State Bar nor its designee take possession of the potentially confidential materials within
33 the 30-day period provided for in subsection (a) of this section, the landlord may destroy or
34 discard the materials in a manner that will provide reasonable protection against access to the
35 potentially confidential materials by third parties, including shredding or delivering the
36 potentially confidential materials to a corporate document disposal service."



1 **SECTION 2.** G.S. 44A-2 is amended by adding a new subsection to read as
2 follows:

3 "(h) Any landlord of residential or nonresidential property, including any storage or
4 self-storage space, in which potentially confidential materials, as that term is defined in
5 G.S. 42-14.4(a), remains after the landlord has obtained possession of the property, must
6 provide notice to the North Carolina State Bar as required in G.S. 42-14.4. Potentially
7 confidential materials shall not be the subject of a lien under the provisions of this Article and
8 must be destroyed or safely discarded if the State Bar or its designee does not take possession
9 pursuant to G.S. 42-14.4."

10 **SECTION 3.** This act is effective when it becomes law.