NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

No Estimate Available (X)

FUNDS AFFECTED: General Fund () Highway Fund ()

Local Fund () Other Fund ()

"TO PROVIDE FOR THE FORFEITURE OF PROPERTY OWNED BY BILL SUMMARY: PERSONS PARTICIPATING IN NUISANCES ON THE PROPERTY INVOLVING SALE OR USE OF NARCOTIC DRUGS." Amends G.S. 19-2.1, concerning actions for abatement of nuisances, to add any county, municipality, police department, police chief or sheriff to list of those allowed to maintain such actions. No bond is required of the added persons or entities, and no action may be maintained against the public official or public entity for the official action. Adds new G.S. 19-16.1 specifying that in all actions brought under G.S. Chapter 19, Article 1, in which the nuisance consists of or includes the illegal possession or sale of narcotic drugs defined in G.S. 90-87(17), the real property on which the nuisance exists or is maintained is subject to forfeiture in accordance with specified provisions. On an order of forfeiture, title to the real property vests in the municipality or county in which the property is located. Provides for protecting of lien holders' interests and the rights of innocent tenants (under their lease or other applicable law) occupying separate units of the property who were not involved in the nuisance at the time the action was filed, and allows for filing of notice of lis pendens by plaintiff upon the filing of the action. Specifies that G.S. 19-7, dealing with cancellation of orders of abatement, does not apply to narcotic-drugs nuisance actions covered under act in which plaintiff seeks real property forfeiture pursuant to new G.S. 19-6.1.

EFFECTIVE DATE: December 1, 1995; applies to nuisances existing on or after that date.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Branch

FISCAL IMPACT

FY 95-96 **FY** 96-97 **FY** 97-98 **FY** 98-99 **FY** 99-00

EXPENDITURES NON-RECURRING

RECURRING NO ESTIMATE AVAILABLE

ASSUMPTIONS AND METHODOLOGY:

The Administrative Office of the Courts expects that more actions may be brought with the addition of county, municipality, police chief, and sheriff to the list of those under G.S. 19-2.1 who may initiate a civil action to abate a nuisance. However, they have no way of estimating the magnitude of the increase or the number of new abatement actions.

Proposed G.S. 19-6.1 provides, under certain circumstances, for the forfeiture of real property on which exists a nuisance consisting of or including the illegal possession or sale of narcotic drugs. If the plaintiff requests forfeiture as part of the relief sought, and the judgment in an abatement actions is against the defendant(s), forfeiture occurs either when the court finds that all owners had participated in or had prior knowledge of the nuisance, or when, after finding that not all owners had participated in or had prior knowledge of the nuisance, and after entering a judgment ordering that the nuisance is abated, the court finds, pursuant to a subsequent petition by plaintiff and hearing, that the nuisance has recurred or continued. With forfeiture a possible option, these matters are very likely to be contested, leading to more jury trials.

Counties and municipalities would have both the power and incentive to pursue these actions, given that they would receive the forfeited property. Therefore, the Administrative Office of the Courts would expect some increase in the number of abatement of nuisance hearings related to the sale or possession of narcotic drugs. The Administrative Office of the Courts would also expect that there would be court challenges to the law, given the severe consequences of the abatement action in these circumstances. However, no precise estimate is available due to the lack of any relevant data.

SOURCES OF DATA: Administrative Office of the Courts

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION (733-4910)

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