

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 791

Short Title: Eviction Post-Judgment Relief Agreements. (Public)

Sponsors: Representatives Longest, John, Morey, and Gill (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 19, 2023

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A SUMMARY EJECTMENT POST-JUDGMENT RELIEF AGREEMENT THAT ILLUSTRATES AN AGREEMENT BETWEEN A LANDLORD AND TENANT TO PERMIT THE TENANT TO REMAIN IN THE RENTAL UNIT UNDER CERTAIN TERMS AFTER A SUMMARY EJECTMENT JUDGMENT HAS BEEN ENTERED, TO REQUIRE THE LANDLORD TO FILE A MOTION FOR RELIEF FROM THE JUDGMENT AND A PROPOSED ORDER WITH THE COURT, AND TO DIRECT THE ADMINISTRATIVE OFFICE OF THE COURTS TO CREATE AND MAKE AVAILABLE A FORM MOTION AND ORDER REFLECTING A SUMMARY EJECTMENT POST-JUDGMENT RELIEF AGREEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 42 of the General Statutes is amended by adding a new section to read:

"§ 42-36.4. Post-judgment relief agreements.

(a) For purposes of this section, "post-judgment relief agreement" means a written agreement between a landlord and a tenant under which a tenant is authorized to retain or regain possession of the demised premises if the tenant fulfills the terms of the agreement after a landlord has obtained a judgment for possession of the premises in a summary ejectment action.

(b) After a tenant has fulfilled the terms of a post-judgment relief agreement, a landlord shall (i) not obtain or cause to be issued a writ of possession for the property based on the judgment for possession or judgment for money owed in the underlying summary ejectment action and (ii) file a motion for relief from the judgment in the underlying summary ejectment action accompanied by a proposed order within 30 days after the tenant has fulfilled the terms of the post-judgment relief agreement.

(c) A landlord must serve a copy of the motion and proposed order under subsection (b) of this section on each defendant in accordance with G.S. 1A-1, Rule 5. A motion filed pursuant to subsection (b) of this section shall constitute grounds under G.S. 1A-1, Rule 60(b)(5) for relief from the judgment. A proposed order under subsection (b) of this section shall (i) grant the moving party's motion in full, relieving the party from the judgment entered in the action, and (ii) dismiss with prejudice the moving party's claims in the action. The Administrative Office of the Courts shall develop and make available for the public a form motion and order to be used in accordance with this section.

(d) Within five business days after a landlord files a motion and proposed order pursuant to subsections (b) and (c) of this section, the chief district court judge or designee shall conduct an ex parte review of the motion and sign the proposed order if the motion and proposed order



1 comply with this section. The clerk of superior court shall mail a copy of the filed order to the
2 landlord and tenant in the stamped addressed envelopes provided by the landlord to the clerk of
3 superior court.

4 (e) If a landlord fails to file the motion and proposed order pursuant to this section, 30
5 days after making a written demand to the landlord from the tenant a tenant may file a motion to
6 enforce the provisions of this section and to hold the landlord liable for at least one of the
7 following:

8 (1) The tenant's attorneys' fees and costs incurred to enforce this provision.

9 (2) Monetary damages to the tenant in an amount equal to one month's rent
10 pursuant to the lease or agreement."

11 **SECTION 2.** This act becomes effective October 1, 2023.