

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 559

Judiciary I/Constitution Committee Substitute Adopted 5/4/95

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Short Title: Housing Authority Changes.

(Public)

Sponsors:

Referred to:

April 3, 1995

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT ACCEPTANCE OF RENT BY A HOUSING AUTHORITY IS NOT A WAIVER OF DEFAULT AND TO AUTHORIZE HOUSING AUTHORITIES TO GOVERN ENTRY UPON HOUSING AUTHORITY PROPERTY BY GUESTS AND VISITORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 157-29 is amended by adding a new subsection to read:

"(d) The receipt or acceptance of rent by an authority, with or without knowledge of a prior default or failure by the tenant under a rental agreement, shall not constitute a waiver of that default or failure unless the authority expressly agrees to such waiver in writing."

Sec. 2. G.S. 157-9 reads as rewritten:

"§ 157-9. Powers of authority.

(a) An authority shall constitute a public body and a body corporate and politic, exercising public powers, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Article, including the following powers in addition to others herein granted:

1 To investigate into living, dwelling and housing conditions and into the means and  
2 methods of improving such conditions; to determine where unsafe, or insanitary dwelling  
3 or housing conditions exist; to study and make recommendations concerning the plan of  
4 any city or municipality located within its boundaries in relation to the problem of  
5 clearing, replanning and reconstruction of areas in which unsafe or insanitary dwelling or  
6 housing conditions exist, and the providing of dwelling accommodations for persons of  
7 low income, and to cooperate with any city municipal or regional planning agency; to  
8 prepare, carry out and operate housing projects; to approve, assist, and cooperate with, as  
9 its instrumentality, a nonprofit corporation in providing financing by the issuance by such  
10 nonprofit corporation's obligations (which obligations shall not be or be deemed to be  
11 indebtedness of a housing authority) for one or more housing projects, pursuant to the  
12 United States Housing Act of 1937, as amended, and applicable regulations thereunder,  
13 specifically including, but not limited to, programs to make construction and other loans  
14 to developers or owners of residential housing, and to acquire, operate or manage such a  
15 housing project, and to administer federal housing assistance subsidy payments for such  
16 projects; to provide for the construction, reconstruction, improvement, alteration or repair  
17 of any housing project or any part thereof; to take over by purchase, lease or otherwise  
18 any housing project located within its boundaries undertaken by any government, or by  
19 any city or municipality located in whole or in part within its boundaries; to manage as  
20 agent of any city or municipality located in whole or in part within its boundaries any  
21 housing project constructed or owned by such city; to act as agent for the federal  
22 government in connection with the acquisition, construction, operation and/or  
23 management of a housing project or any part thereof; to arrange with any city or  
24 municipality located in whole or in part within its boundaries or with a government for  
25 the furnishing, planning, replanning, installing, opening or closing of streets, roads,  
26 roadways, alleys, sidewalks or other places or facilities or for the acquisition by such city,  
27 municipality, or government of property, options or property rights or for the furnishing  
28 of property or services in connection with a project; to arrange with the State, its  
29 subdivisions and agencies, and any county, city or municipality of the State, to the extent  
30 that it is within the scope of each of their respective functions, (i) to cause the services  
31 customarily provided by each of them to be rendered for the benefit of such housing  
32 authority and/or the occupants of any housing projects and (ii) to provide and maintain  
33 parks and sewage, water and other facilities adjacent to or in connection with housing  
34 projects and (iii) to change the city or municipality map, to plan, replan, zone or rezone  
35 any part of the city or municipality; to lease or rent any of the dwelling or other  
36 accommodations or any of the lands, buildings, structures or facilities embraced in any  
37 housing project and to establish and revise the rents or charges therefor; to enter upon any  
38 building or property in order to conduct investigations or to make surveys or soundings;  
39 to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or  
40 otherwise any property real or personal or any interest therein from any person, firm,  
41 corporation, city, municipality, or government; to acquire by eminent domain any real  
42 property, including improvements and fixtures thereon; to sell, exchange, transfer, assign,  
43 or pledge any property real or personal or any interest therein to any person, firm,

1 corporation, municipality, city, or government; to own, hold, clear and improve property;  
2 to insure or provide for the insurance of the property or operations of the authority  
3 against such risks as the authority may deem advisable; to procure insurance or  
4 guarantees from a federal government of the payment of any debts or parts thereof  
5 secured by mortgages made or held by the authority on any property included in any  
6 housing project; to borrow money upon its bonds, notes, debentures or other evidences of  
7 indebtedness and to secure the same by pledges of its revenues, and by mortgages upon  
8 property held or to be held by it, or in any other manner; in connection with any loan, to  
9 agree to limitations upon its right to dispose of any housing project or part thereof or to  
10 undertake additional housing projects; in connection with any loan by a government, to  
11 agree to limitations upon the exercise of any powers conferred upon the authority by this  
12 Article; to invest any funds held in reserves or sinking funds, or any funds not required  
13 for immediate disbursement, in property or securities in which savings banks may legally  
14 invest funds subject to their control; to sue and be sued; to have a seal and to alter the  
15 same at pleasure; to have perpetual succession; to make and execute contracts and other  
16 instruments necessary or convenient to the exercise of the powers of the authority; to  
17 make and from time to time amend and repeal bylaws, rules and regulations not  
18 inconsistent with this Article, to carry into effect the powers and purposes of the  
19 authority; to conduct examinations and investigations and to hear testimony and take  
20 proof under oath at public or private hearings on any matter material for its information;  
21 to issue subpoenas requiring the attendance of witnesses or the production of books and  
22 papers and to issue commissions for the examination of witnesses who are out of the  
23 State or unable to attend before the authority, or excused from attendance; and to make  
24 available to such agencies, boards or commissions as are charged with the duty of abating  
25 or requiring the correction of nuisances or like conditions, or of demolishing unsafe or  
26 insanitary structures within its territorial limits, its findings and recommendations with  
27 regard to any building or property where conditions exist which are dangerous to the  
28 public health, morals, safety or welfare. Any of the investigations or examinations  
29 provided for in this Article may be conducted by the authority or by a committee  
30 appointed by it, consisting of one or more commissioners, or by counsel, or by an officer  
31 or employee specially authorized by the authority to conduct it. Any commissioner,  
32 counsel for the authority, or any person designated by it to conduct an investigation or  
33 examination shall have power to administer oaths, take affidavits and issue subpoenas or  
34 commissions. An authority may exercise any or all of the powers herein conferred upon  
35 it, either generally or with respect to any specific housing project or projects, through or  
36 by an agent or agents which it may designate, including any corporation or corporations  
37 which are or shall be formed under the laws of this State, and for such purposes an  
38 authority may cause one or more corporations to be formed under the laws of this State or  
39 may acquire the capital stock of any corporation or corporations. Any corporate agent, (i)  
40 all of the stock of which shall be owned by the authority or its nominee or nominees or  
41 (ii) the board of directors of which shall be elected or appointed by the authority or is  
42 composed of the commissioners of the authority or (iii) which is otherwise subject to the  
43 control of the authority or the governmental entity which created the authority, may to the

1 extent permitted by law exercise any of the powers conferred upon the authority herein.  
2 In addition to all of the other powers herein conferred upon it, an authority may do all  
3 things necessary and convenient to carry out the powers expressly given in this Article.  
4 No provisions with respect to the acquisition, operation or disposition of property by  
5 other public bodies shall be applicable to an authority unless the legislature shall  
6 specifically so state.

7 (b) Notwithstanding anything to the contrary contained in this Article or in any  
8 other provision of law an authority may include in any contract let in connection with a  
9 project, stipulations requiring that the contractor and any subcontractors comply with  
10 requirements as to minimum wages and maximum hours of labor, and comply with any  
11 conditions which the federal government may have attached to its financial aid of the  
12 project.

13 (c) To the extent not inconsistent with the Constitution or statutes of this State or  
14 the United States, an authority may adopt and enforce rules governing the lawful entry of  
15 guests and visitors to its properties, including the visitors and guests of its tenants. Prior  
16 to adopting such rules, an authority shall make reasonable efforts to consult with or  
17 obtain comments from its tenants or their representatives. Persons who enter or remain  
18 on the property of an authority in violation of such rules shall be subject to prosecution  
19 under G.S. 14-159.12."

20 Sec. 3. Section 1 of this act becomes effective July 1, 1995, and applies to rent  
21 received or accepted on or after that date. However, Section 1 of this act shall not be  
22 construed to imply that the acceptance of rent prior to July 1, 1995, constituted a waiver  
23 of default or failure. The remainder of this act becomes effective July 1, 1995.