

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 754
Judiciary I Committee Substitute Adopted 5/12/16

Short Title: Prevent Squatting in Foreclosed Real Property.

(Public)

Sponsors:

Referred to:

April 27, 2016

A BILL TO BE ENTITLED

AN ACT TO ENHANCE CRIMINAL PENALTIES FOR PERSONS WHO FRAUDULENTLY RECORD LIENS AND FOR PERSONS WHO COMMIT A TRESPASS TO REAL PROPERTY BY REENTERING AFTER REMOVAL PURSUANT TO A VALID ORDER OR BY KNOWINGLY CREATING OR PRESENTING A FALSE DOCUMENT OF TITLE OR POSSESSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-118.6 reads as rewritten:

"§ 14-118.6. Filing false lien or encumbrance.

(a) It shall be unlawful for any person to present for filing or recording in a public record or a private record generally available to the public a false lien or encumbrance against the real or personal property of ~~a public officer, a public employee, or an immediate family member of the public officer or public employee on account of the performance of the public officer or public employee's official duties,~~ any person, knowing or having reason to know that the lien or encumbrance is false or contains a materially false, fictitious, or fraudulent statement or representation. ~~For purposes of this subsection, the term "immediate family member" means a spouse or a child.~~ Any person who violates this subsection shall be guilty of a Class I felony and shall also pay a fine of not less than one thousand dollars (\$1,000) for each violation.

...

(b1) When a lien or encumbrance is presented to a clerk of superior court for filing and the clerk of court has a reasonable suspicion that the lien or encumbrance is false as described in subsection (a) of this section, the clerk of court may refuse to file the lien or encumbrance. Neither the clerk of court nor the clerk's staff shall be liable for filing or the refusal to file a lien or encumbrance under this subsection. The clerk of superior court shall not file, index, or docket the document against the property of a public officer or public employee until ~~that document is approved for filing by the clerk of superior court by any~~ a judge of the judicial district having subject matter jurisdiction approves the filing of the document. If the judge determines that the filing is not false, the clerk shall index the claim of lien. A lien or encumbrance filed upon order of the court under this subsection shall have a priority interest as of the date and time of indexing by the clerk of superior court. If the court finds that there is no statutory or contractual basis for the proposed filing, the court shall enter an order that the proposed filing is null and void as a matter of law, and that it shall not be filed or indexed. The clerk of superior court shall serve the order and return the original denied filing to the person or entity that presented it. The person or entity shall have 30 days from the entry of the order to appeal the order. If the order is not appealed within the applicable time period, the clerk may destroy the filing.



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2 **SECTION 2.** G.S. 14-159.12 reads as rewritten:

3 "**§ 14-159.12. First degree trespass.**

4 (a) Offense. – A person commits the offense of first degree trespass if, without
5 authorization, he enters or remains:

6 (1) On premises of another so enclosed or secured as to demonstrate clearly an
7 intent to keep out intruders; or

8 (2) In a building of another.

9 (b) Except as otherwise provided in subsection ~~(e) or (d)~~(c), (d), or (f) of this section, first
10 degree trespass is a Class 2 misdemeanor.

11 ...

12 (f) A violation of subsection (a) of this section is a Class I felony, and shall include a fine
13 of not less than one thousand dollars (\$1,000) for each violation, if any of the following
14 circumstances exist:

15 (1) The offense occurs on real property where the person has reentered after having
16 previously been removed pursuant to the execution of a valid order or writ for
17 possession.

18 (2) The offense occurs under color of title where the person has knowingly created
19 or provided materially false evidence of an ownership or possessory interest."

20 **SECTION 3.** There is appropriated from the General Fund to the Governor's Crime
21 Commission of the Department of Public Safety the sum of twenty-five thousand dollars
22 (\$25,000) for the 2016-2017 fiscal year for a grant to the North Carolina Sheriffs' Association,
23 Inc., a nonprofit corporation, for the purpose of providing technical assistance and guidance on the
24 enforcement of the criminal penalties contained in this act.

25 **SECTION 4.** Section 1 and Section 2 of this act become effective December 1, 2016,
26 and apply to offenses committed on or after that date. The remainder of this act becomes effective
27 July 1, 2016.