



HOUSE BILL 1070: Property Rights and Protections.

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2023-2024 General Assembly

Committee:	House Judiciary 2. If favorable, re-refer to Appropriations. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	June 26, 2024
Introduced by:	Reps. Bradford, K. Hall, Biggs, Cunningham	Prepared by:	Susan Sitze
Analysis of:	PCS to First Edition H1070-CSSAa-54		Staff Attorney

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 1070 would do the following:*

- *Begin the small claims appeal period when a judgment is rendered.*
- *Require written findings of indigency in small claims appeals.*
- *Modify criteria for plaintiff's motion to dismiss summary ejectment appeal.*
- *Require the clerk to disburse certain payments made during summary ejectment appeal within five days of request.*
- *Increase punishment for willful and wanton damage to the residential real property of another.*
- *Prohibit fraudulent rental, lease, or advertisement for sale of residential real property.*

CURRENT LAW AND BILL ANALYSIS:

PART I. ESTABLISH THE SMALL CLAIMS APPEAL PERIOD BEGINNING WHEN A JUDGMENT IS RENDERED

A judgment in a small claim action is "rendered" in writing and signed by the magistrate. Currently, the appeal period in a small claim action begins when the judgment is "entered" by a magistrate.

Section 1(a) would authorize judgment in a small claim action to also be rendered electronically by the magistrate.

Section 1(b) would amend provisions prescribing the start time for the appeal period in a small claim action to refer to the time when a judgment is "rendered" rather than to the time when the judgment is "entered."

This part would become effective October 1, 2025, and apply to judgments rendered on or after that date.

PART II. REQUIRE WRITTEN FINDINGS OF INDIGENCY IN SMALL CLAIMS APPEALS, MODIFY CRITERIA FOR PLAINTIFF'S MOTION TO DISMISS SUMMARY EJECTMENT APPEAL, AND REQUIRE THE CLERK TO DISBURSE PAYMENTS WITHIN FIVE DAYS OF A REQUEST

Jeffrey Hudson
Director



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Section 2(a) would amend G.S. 7A-228, which provides the process to appeal a decision of the magistrate in small claims court as follows:

- Would provide that a judge, magistrate, or clerk authorizing a person to appeal a small claims judgment to district court as an indigent make written findings of criteria, information, or evidence used to determine indigency.
- Would modify the criteria for a plaintiff to file a motion to dismiss a defendant's appeal of a small claims summary ejectment judgment to allow the motion if the defendant fails to raise a defense in small claims court and either: (1) fails to file a motion, answer or counterclaim in the district court or (2) fails to comply with the appeal bond requirements for summary ejectment.
- Would require magistrate's judgments in summary ejectment proceedings to include an order to the clerk to compel payment within five days of request of (i) ongoing rental payments made during appeal and (ii) if the appeal has been resolved, any remaining undisbursed funds.

This part would become effective October 1, 2024, and apply to judgments rendered on or after that date.

PART III. INCREASE PUNISHMENT FOR WILLFUL AND WANTON DAMAGE TO THE RESIDENTIAL REAL PROPERTY OF ANOTHER

Section 3 would increase the penalty for willful and wanton injury to real property from a Class 1 misdemeanor to a Class I felony if the conduct results in damages valued at \$500 or more.

This part would become effective December 1, 2024, and apply to offenses committed on or after that date.

PART IV. PROHIBIT FRAUDULENT RENTAL, LEASE, OR ADVERTISEMENT FOR SALE OR LEASE OF RESIDENTIAL REAL PROPERTY

Section 4 would enact a new G.S. 14-117.8 as follows:

- Would create a Class H felony for renting or leasing residential real property to a person without lawful ownership in the property or leasehold interest in the property.
- Would create a Class I felony for advertising residential real property for rent, lease, or sale when the purported renter, lessor, or seller has no legal title or authority to rent, lease, or sell the property.

This section would become effective December 1, 2024, and apply to offenses committed on or after that date.

PART V. APPROPRIATION TO THE ADMINISTRATIVE OFFICE OF THE COURTS

Section 5 would appropriate \$10,000 to the Administrative Office of the Courts for policy implementation, education, and training on the procedures required by this act.

This part would become effective July 1, 2024.

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EFFECTIVE DATE: Except as provided above, the provisions of this act are effective when they become law.