

Squatters Beware: Navigating North Carolina's Expedited-Removal Law

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A common conundrum for law enforcement, judicial officials, and citizens is how to remove an occupant from residential property when the occupant is not a tenant. If the occupant is a tenant, even one holding over after the expiration of the lease, the law is clear that the property owner is required to evict the tenant, using the judicial procedure of summary ejectment if the tenant refuses to vacate the property. Self-help eviction, such as cutting off the utilities to the property or physically removing the tenant's property, is not an option for the removal of a tenant. A tenant who refuses to leave the property after the lease term has expired is not a trespasser.¹

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1. See Melanie Crenshaw, [As the Summary Ejectment Case Turns](https://civil.sog.unc.edu/as-the-summary-ejectment-case-turns/), ON THE CIVIL SIDE: A UNC SCH. OF GOV'T BLOG (Mar. 22, 2024), <https://civil.sog.unc.edu/as-the-summary-ejectment-case-turns/>.

When it is not clear whether the occupant is a tenant or a trespasser, law enforcement may hesitate to arrest the occupant for trespass, especially if the occupant argues that the property is their residence. Sometimes, a law enforcement officer may instruct the property owner to file a criminal complaint with the magistrate for the issuance of criminal charges for trespass or other applicable crimes. A magistrate who does find probable cause to issue the criminal charge may issue a criminal summons rather than a warrant for arrest. If a criminal summons is issued, there is no way for a magistrate to remove the occupant before the court date at a criminal session of district court. If a warrant for arrest is issued, the magistrate setting conditions for the occupant's pretrial release may order the occupant not to return to the property while the case is pending.

Sometimes, the officer may instruct the property owner to file an action for summary ejectment, only for the property owner to learn in small claims court that this remedy is not available in situations where there is no landlord-tenant relationship. While a property owner in this position could file an action in district court for civil trespass, there was until recently no expedited procedure for the removal of such unauthorized occupants. The legislature recently passed [S.L. 2025-88](#), which creates a procedure for the expedited removal of unauthorized persons from residential rental property. The Act to Create an Alternative Remedy for the Expedited Removal of Unauthorized Persons from Private Property by a Law Enforcement Agency is effective as of December 1, 2025.² This bulletin explores the procedure and what it means for judicial officials, property owners, and law enforcement agencies.

Key Definitions in the Act

The Act defines seven terms. These definitions are important to establish who can bring the action, who can be removed, and what type of property is at issue.

Residential property. "An apartment, condominium, single-family home, townhouse, cottage, or other property that is devoted to residential use or occupancy by one or more persons for a definite or indefinite period."³

Law enforcement agency. "A county sheriff's office, a county police department, or a municipal police department."⁴

Tenant. "Any natural person or entity who is a named party or signatory to a lease or rental agreement, and who occupies, resides in, or has a legal right to possess and use an individual rental unit."⁵

Real estate broker. "[A]ny person, partnership, corporation, limited liability company, association, or other business entity who for a compensation or valuable consideration or promise thereof lists or offers to list, sells or offers to sell, buys or offers to buy, auctions or offers to auction

2. [S.L. 2025-88](#), § 2 (adding new Article 22D to Chapter 14 of the North Carolina General Statutes [hereinafter G.S.], which includes new sections 14-159.50 to .56). The sections added by the Act have not been published on the General Assembly's website as of this bulletin's publication, but readers may access them via the cited session law.

3. [G.S. 42A-4](#), cited in G.S. 14-159.50(5).

4. G.S. 14-159.50(3).

5. [G.S. 42-59](#), cited in G.S. 14-159.50(6).

(specifically not including a mere crier of sales), or negotiates the purchase or sale or exchange of real estate, or who leases or offers to lease, or who sells or offers to sell leases of whatever character, or rents or offers to rent any real estate or the improvement thereon, for others.”⁶

Authorized representative. “A real estate broker or other person who has written legal authority to act on behalf of a property owner.”⁷

Unauthorized person. “A person or persons [sic] occupying residential property who has no legal claim to the property, is not entitled to occupy it under a valid rental agreement or contract for deed, has not paid any rent or other form of payment to the property owner or an authorized representative of the property owner in connection with the occupancy of the property, and is not otherwise authorized to occupy the property. This term does not include a tenant who holds over after the lease term has expired under [G.S. 42-26](#).”⁸

Contract for deed. “An agreement, whether denominated a ‘contract for deed,’ ‘installment land contract,’ ‘land contract,’ ‘bond for title,’ or any other title or description in which the seller agrees to sell an interest in property to the purchaser and the purchaser agrees to pay the purchase price in five or more payments exclusive of the down payment, if any, and the seller retains title to the property as security for the purchaser’s obligation under the agreement.”⁹

As the magistrate evaluates the complaint and hears the evidence, attention to these definitions is important for determining if the right party is bringing the action and if the proper party is being removed. For example, the definition of authorized representative requires written authority from the owner to act on their behalf. If the party before the magistrate lacks the written authority, then they do not satisfy the statutory definition.

Requirements for the Expedited Removal of an Unauthorized Person

The Administrative Office of the Courts has developed a form complaint that will be available starting December 1: [AOC-CVM-407](#), Complaint in Action for Expedited Removal of Unauthorized Persons from Residential Property. In the complaint, whether the plaintiff files an original complaint or the form complaint,

[t]he complainant in the proceeding shall allege at least the following:

1. The requesting party is the property owner or the authorized representative of the property owner.
2. The property that is being unlawfully occupied is residential property or property used in connection with or appurtenant to residential property.
3. An unauthorized person has entered the property after the property owner acquired the property and is remaining or residing unlawfully on the residential property of the property owner.
4. The property was not offered or intended as an accommodation for the general public at the time the unauthorized person entered.

6. [G.S. 93A-2](#), cited in G.S. 14-159.50(4).

7. G.S. 14-159.50(1).

8. *Id.* § 159.50(7).

9. [G.S. 47H-1](#), cited in G.S. 14-159.50(2).

5. The property owner or the authorized representative of the property owner has directed the unauthorized person to leave the residential property.
6. The unauthorized person is not a tenant of the owner of the property being unlawfully occupied.
7. The unauthorized person is not an owner of the property being unlawfully occupied.
8. There is no pending litigation between the property owner and the unauthorized person related to the residential property.
9. No other valid rental agreement or contract for deed has been entered into or formed by the property owner or a former property owner and the unauthorized person permitting the unauthorized person to occupy the residential property.
10. No rent or other form of payment has ever been demanded of or paid by the unauthorized person to the property owner or to an authorized representative of the property owner in connection with the occupancy of the residential property.¹⁰

The rest of this subsection examines each of these requirements in detail.

1. The Requesting Party

Allegation 1 establishes who has standing to bring the action. It must be brought in the name of either the owner or the authorized representative. The representative, whether a real estate broker or some other person, must have written legal authority to act on behalf of an owner. This may come in the form of a power of attorney, but the statute does not require one. For example, a real estate broker may have an agreement with the owner to manage the residential property that authorizes the broker to act on the owner's behalf. The magistrate should require the representative to provide the written authorization from the owner.

2. The Property

Allegation 2 defines the type of property to which this action applies, limiting it to residential property, structures used in connection with residential property, or structures attached to residential property, such as garages, sheds, or barns. It is important to note that this procedure applies only to residential property and is not appropriate for the removal of an unauthorized person from a commercial property.

3. Remaining or Residing Unlawfully

Allegation 3 addresses the timing and continuation of the unauthorized person's entry into the property. The requirement that the entry took place following the owner's acquisition of the property recognizes that there are some situations in which a new property owner may take property subject to agreements that are already in place—for example where someone purchases a property occupied by a tenant with a valid lease. The previous owner's tenant does not become an unauthorized person after the new owner's acquisition.

10. G.S. 14-159.51(1)–(10).

4. Exclusion of Public Accommodations

Allegation 4 indicates that this action is not available for the removal of an unauthorized person from a public accommodation, such as lodging for transient occupancy. A transient occupancy is defined as “the rental of an accommodation by an inn, hotel, motel, recreational vehicle park, campground, or similar lodging to the same guest or occupant for fewer than 90 consecutive days.”¹¹ When a transient occupant refuses to vacate the assigned room or space at the end of the stay, the occupant may be restrained from entering the room or space, and the person in charge of the accommodation may remove the occupant’s personal property.¹²

5. Demand to Vacate

Allegation 5 requires the owner or representative to direct the unauthorized person to leave the property prior to filing the complaint. It does not require that this demand to vacate take any particular form, so either a written or oral directive would satisfy this allegation. In the context of summary ejectment, to constitute a demand, the landlord must give the tenant a clear, unequivocal statement, either oral or written, that gives the tenant notice of the landlord’s intent to exercise the right to forfeiture of the lease.¹³ It is possible that the court would apply this standard to a directive requiring an unauthorized person to vacate.

6. Lack of Tenancy

Allegation 6 makes it clear that this proceeding is not a substitute for summary ejectment for the removal of a tenant. In situations where the parties have signed a lease agreement or there is clear evidence that the tenant is paying rent to the landlord, it is easy to discern that the procedure for the removal of an unauthorized person would not be the right course to remove an occupant. However, in complicated situations where it is unclear if the relationship between the parties is that of landlord-tenant or owner-guest, the magistrate will need more information to determine if the removal of an unauthorized person is appropriate.

For example, in *Bradley v. Tapia*, 277 N.C. App. 385 (2021) (unpublished), the court of appeals had to determine whether there was sufficient evidence of a landlord-tenant relationship between a boyfriend and a girlfriend who shared the boyfriend’s residence. In that case, there was evidence that the parties had agreed that the girlfriend would pay half of the mortgage and utilities in exchange for living in the property. When the girlfriend failed to vacate the property after the boyfriend gave her notice to terminate the lease (and after the parties had broken up), the boyfriend sued for summary ejectment and was granted an order of possession. The girlfriend argued that the parties had an implied partnership to flip the house, but the court of appeals disagreed and affirmed the district court’s order of possession, holding that the legal relationship between the parties was that of landlord-tenant, not a partnership. While an unpublished decision has limited precedential value, it is instructive of what evidence supports the conclusion that the parties are in a landlord-tenant relationship rather than just a romantic or business partnership.

Contrast *Bradley* with the decision in *Batts v. Batts*, 219 N.C. App. 650 (2012) (unpublished). *Batts* involved a brother, a sister, and a mobile home on the brother’s land. The sister purchased the mobile home as a residence for her and the parties’ mother. The brother allowed the sister

11. [G.S. 72-1\(c\)](#).

12. *Id.* [§ 1\(b\)](#).

13. See *Snipes v. Snipes*, 55 N.C. App. 498 (1982); see also *Stanley v. Harvey*, 90 N.C. App. 535 (1988).

to put the home on his land after receiving a hardship permit from the county. When the relationship between the siblings began to deteriorate, the brother requested that the sister remove the home from his property. When she refused, he filed an action for summary ejectment or, in the alternative, civil trespass. The trial court did not find evidence of a landlord-tenant relationship but did conclude that the sister was a trespasser and ordered her to vacate the property. The court of appeals affirmed the trial court's order, holding that it contained sufficient findings of fact to conclude that the sister was a trespasser.

7. Absence of Ownership

Allegation 7 further clarifies that this procedure is not a substitute for a partition proceeding where ownership of the property is in dispute. A partition of property under Chapter 46A of the General Statutes is by special proceeding. A party who claims an ownership interest in the property may petition to partition the property in superior court.¹⁴ The procedure to remove an unauthorized person from the property would not be appropriate where the occupant has an ownership interest in the property.

For example, a father dies, and his two adult children, daughter and son, inherit his home. At the time of his death, he was living in the home with his daughter. If the daughter and son cannot agree to an equitable division of the property, then either of them can petition for partition. The son would not be able use the expedited-removal procedure to remove the daughter from the residence if he no longer wanted her to reside in the property.

8. Absence of Pending Litigation

Allegation 8 precludes the use of this proceeding where there is pending litigation between the property owner and the unauthorized person related to the residential property at issue. The pending litigation could be a summary ejectment action where the owner or representative is alleging that the occupant is a tenant, or it could be a partition action between parties who claim an ownership interest in the property and are asking the court to determine their rights to the property.

Pending litigation is not defined or limited by the Act, so pending litigation for a domestic-violence protective order pursuant to Chapter 50B of the General Statutes could prevent a property owner from using this procedure. In such an action, the plaintiff can ask the court to award the plaintiff possession of the residence¹⁵ and to order the eviction of the defendant.¹⁶

Clearly, if there is an order of protection in place granting the occupant possession of the property, it would be inappropriate to grant a removal of that occupant as an unauthorized person when there is a court order authorizing the occupant to be in the property. Even if an order of protection has yet to be entered, if the litigation is pending and the possession of the residence is at issue, the property owner cannot circumvent that litigation by filing an action for the removal of the other party as an unauthorized person.

14. [G.S. 46A-21\(a\)](#).

15. [G.S. 50B-3\(2\)](#).

16. *Id.* § 3(5).

9. No Rental Agreement or Contract for Deed

Allegation 9 reiterates that the occupation of the property cannot have arisen under a rental agreement or a contract for deed. In other words, the occupant cannot be a tenant or a buyer of the property. A contract for deed under Chapter 47H of the General Statutes must be in writing, and the statute specifies the contents of the contract.¹⁷ The seller retains the title to the property being sold, and the purchaser typically has possession of the property. If the purchaser defaults and fails to cure the default after receiving notice of the default from the seller, either the parties may execute a mutual termination of the contract or the seller can file a civil action requesting that the court terminate the purchaser's rights to the property.¹⁸

10. No Rent or Payment

Allegation 10 limits the use of this action for removal to situations where there has not been an exchange of value between the occupant and the owner or representative. If the occupant has ever paid rent or another form of payment in exchange for the right to occupy the property, the owner is unable to seek an expedited removal under the Act. "[O]ther form of payment" is not defined by the statute and may include the exchange of goods or services—in other words, not strictly monetary compensation. For example, if an owner allows a person to occupy their residential property in exchange for the occupant making repairs to the property, the labor and cost of materials may be considered by the court as another form of payment.

How Is an Unauthorized Person Removed?

Commencement of the Process

The process begins when the owner files a complaint for the expedited removal of the unauthorized person either in the clerk's office or in the magistrate's office if the clerk's office is closed.¹⁹ The clerk or the magistrate issues a summons commencing the action.²⁰ The form Magistrate Summons Complaint in Action for Expedited Removal of Unauthorized Persons from Residential Property, [AOC-CVM-408](#), should be used for these actions. The Act is silent about the fees for this action. Since it does not expressly waive court costs, a fee should be collected. The Administrative Office of the Courts advises that the fee is the same charged for magistrates' court in [G.S. 7A-305\(a5\)](#).²¹ Since the complaint will be served by law enforcement, the civil process fee in [G.S. 7A-311\(a\)\(1\)](#) should also be collected.

Service of the Process

The party seeking the removal takes the summons and complaint to the sheriff's office for service. Service may be made personally upon the unauthorized person or by posting a copy of the summons and complaint on the front door of the property. The sheriff is required to serve the summons and complaint within twenty-four hours of receipt.²²

17. [G.S. 47H-2\(a\)-\(b\)](#).

18. *Id.* § 2(e).

19. G.S. 14-159.52(a).

20. *Id.*

21. Memorandum from the Admin. Off. of the Cts. to Trial Ct. Offs. (Nov. 14, 2025) (on file with author).

22. G.S. 14-159.52(a).

Service of the Process on Unknown Defendants

If the unauthorized person is unknown to the property owner, the Act allows the complaint and summons to be addressed to “John (and/or Jane) Doe and all Occupants.”²³ Similar provisions for proceeding against unknown defendants require the plaintiff to include a description of the defendant that is sufficient to identify the defendant.²⁴ Here, there is no such requirement. Absent a description, it is unclear how the sheriff would be able to serve a defendant personally with the summons and complaint or with subsequent orders of the court. But the Act does allow for service by posting on the property as an alternative to personal service.

Service by posting allows the court to exercise jurisdiction over the property. The exercise of jurisdiction by the court over property located in North Carolina is referred to as *in rem jurisdiction*. Chapter 1 of the General Statutes governs civil actions, including jurisdiction (that is, the court's authority over types of cases and over defendants). [G.S. 1-75.8\(1\)](#) allows the court to invoke in rem jurisdiction when the subject of the action is real property from which the defendant is being excluded, whether the defendant is known or unknown. This new procedure creates a mechanism for property owners to exclude defendants from real property and fits within the type of action covered by [G.S. 1-75.8](#).

Service by Publication Required or Not?

[G.S. 1-75.8](#) provides that a judgment in rem may affect the defendant's interests in a status or property only if the process has been served pursuant to [Rule 4\(k\) of the Rules of Civil Procedure](#). Service pursuant to [Rule 4\(k\)\(2\)](#) on unknown defendants would be by publication. On the other hand, subsection [G.S. 14-159.52\(a\)](#) allows for service on unknown defendants either in person or by posting on the front door of the property at issue. Contrary to [G.S. 1-75.8](#), service by publication on unknown defendants is not required by the Act.

Further, [G.S. 14-159.52\(a\)](#) provides that conflicts between the Act and the Rules of Civil Procedure, located in Chapter 1A of the General Statutes, are resolved in favor of the Act. However, the conflict over the requirements for service on unknown defendants is with Chapter 1, not Chapter 1A. For the court to exercise in rem jurisdiction over the property, service of the summons and complaint by publication on unknown defendants is required, which conflicts with the new law's allowance of service by posting. It is unclear how to resolve this conflict under the law.

Ultimately, the magistrate will need to determine whether they have subject-matter jurisdiction (meaning the authority to hear the type of case) and personal jurisdiction (the authority over the defendant to enter orders). The Act establishes that magistrates have subject-matter jurisdiction because it requires a hearing on the expedited removal to be held before a magistrate in the county where the property is located.²⁵ For unknown defendants, the question remains whether service by posting rather than by publication is sufficient to exercise in rem jurisdiction over the real property.

23. *Id.*

24. [G.S. 42-62\(b\)](#) (expedited eviction of drug traffickers and other criminals); [G.S. 1A-1, r. 4\(k\)\(2\)](#) (process).

25. [G.S. 14-159.52\(a\)](#).

The Hearing

A hearing is scheduled before a magistrate as soon as practicable but no more than forty-eight hours after service by the sheriff. The proper venue for the hearing is the county where the residential property is located.²⁶ Scheduling the hearing can be tricky since it is based on an act in the future (service) carried out by a law enforcement officer. If the judicial official issuing the summons knows when the sheriff receives or is likely to receive the summons and complaint, the judicial official can set the hearing for forty-eight hours (or seventy-two hours to account for the time the sheriff has to complete service) from that time. Knowing when the sheriff receives the summons and complaint is complicated by the Act's requiring the plaintiff to take the summons and complaint to the sheriff rather than requiring the sheriff to pick up the summons and complaint from the clerk's or magistrate's office.

The law requires the magistrate to enter an order for possession if the court finds for the property owner.²⁷ Thus, the owner or their authorized representative must establish the allegations in the complaint by providing *prima facie evidence* (evidence sufficient to establish a fact) in order for the court to make this finding. The burden of proof in a civil action is by a *preponderance of the evidence* (sometimes referred to as the *greater weight of the evidence*), meaning it is more probably true than not that the plaintiff is entitled to possession of the property. The magistrate will record the judgment on form [AOC-CVM-409](#), Judgment in Action for Expedited Removal of Unauthorized Persons from Residential Property.

Service of the Order

If the magistrate finds in favor of the property owner, then the magistrate must enter a written order granting the owner or representative possession and stating the time when the unauthorized person shall vacate the property. Once the order is served, the unauthorized person will have no more than four hours to vacate. If the unauthorized person is present in court, then the order is considered served when it is announced and signed by the magistrate. If the unauthorized person is not served in court, then the owner or representative must provide the sheriff a copy of the order. The sheriff must serve the order within twenty-four hours of receiving it, either by delivering it to the unauthorized person or by posting it on the front door of the property.

Appeal

Either party may appeal the magistrate's order to the district court for a new trial.

If the court finds for the property owner or the authorized representative of the property owner, the court shall determine the amount of the appeal bond that the unauthorized person shall be required to post should the unauthorized person seek to appeal the court order. The amount of the bond shall be a minimum of ten thousand dollars (\$10,000), but may be set at a higher amount based on an estimate of the rent that could reasonably be charged for a valid rental of the property during the time the unauthorized person is prosecuting the appeal and reasonable damages that

26. *Id.*

27. *Id.* § 159.52(b).

the property owner may suffer, including damage to property and damages arising from the inability of the property owner to reside in or rent the property during the unauthorized person's possession of the property.²⁸

It is unclear whether the purpose of the bond is to allow the unauthorized person to remain in the property or is a condition required to have the appeal heard. Violation of the court's order constitutes a criminal trespass,²⁹ seemingly making it unnecessary for the order to be enforced by a writ of execution. If no writ is required, staying the execution of the court's order does not appear to be the purpose of the bond. However, the requirement to consider a rent estimate for "the time the unauthorized person is prosecuting the appeal" suggests that the bond allows the unauthorized person to stay in the property pending the appeal. It is also unclear whether the appeal bond applies to the appeal to district court or to the appeal of the district court's order to the court of appeals.

The law is silent about the time to appeal the magistrate's judgment. In a summary ejectment action, a defendant has ten days to appeal the magistrate's judgment for a trial de novo in district court.³⁰ The law does not address expedited proceedings for the hearing in district court, such as those found in [G.S. 42-68](#) for the expedited eviction of drug traffickers or other criminals. Presumably, the clerk will follow the same procedure for calendaring an appeal to district court used for small claims actions, but there is no express authority in the Act to do so. Guidance from the Administrative Office of the Courts indicates that the appeal costs in [G.S. 7A-305\(b\)](#) apply.³¹

Comparisons with the Vacation Rental Act

Magistrates, especially those who preside in counties where tourism is a major industry, are familiar with expedited evictions from vacation rentals under the North Carolina Vacation Rental Act (VRA).³² The VRA provides for an expedited eviction from the vacation rental of a residential property when the rental period is thirty days or less.³³ Either the landlord or a real estate broker acting as the landlord's agent may file an action for an expedited eviction. The only issue adjudicated in an expedited-eviction proceeding under the VRA is the right to possession. If the landlord wants to pursue money owed or other claims, those claims are filed in a separate civil action. If the amount in controversy is less than \$10,000, and the other requirements for a small claims action in [G.S. 7A-210](#) are met, the case may still be brought in small claims, but it occurs in a separate filing.

28. *Id.* § 159.53.

29. *Id.* § 159.54.

30. [G.S. 7A-228](#).

31. Memorandum from the Admin. Off. of the Cts., *supra* note 21.

32. [G.S. 42A](#).

33. *Id.* § 23.

The procedures in the new law are similar to those for an expedited eviction under the VRA.

- Both acts involve only residential property.³⁴
- Either the owner or a real estate broker acting on behalf of the owner may file the complaint.³⁵
- If the magistrate finds for the plaintiff, the magistrate must enter an order for possession of the property and order the occupant or tenant to vacate the property.³⁶
- Either party has a right to appeal to district court for a trial de novo.³⁷
- A violation of the court's order for possession of the property is a criminal trespass.³⁸

However, there are some key differences.

First, the hearing for the expedited eviction from a vacation rental cannot take place sooner than twelve hours after service of the summons and complaint,³⁹ but the hearing for the expedited removal of an unauthorized person can happen as soon as practicable.⁴⁰ *As soon as practicable* is not defined in G.S. 14-159.52(a), but there is a limit of forty-eight hours after service. *Black's Law Dictionary* defines *practicable* as "reasonably capable of being accomplished; feasible in a particular situation."⁴¹ To avoid ambiguity, the summons should clearly state the date, time, and location of the hearing. One suggestion would be to set the hearing for a time that is forty-eight or seventy-two hours from the issuance of the summons since the magistrate cannot know when the sheriff will serve it.

Second, [G.S. 42A-24\(c\)](#) explicitly provides that the rules of evidence do not apply in the hearing, but G.S. 14-159.52 is silent about whether the rules of evidence apply.⁴² The rules of procedure for small claims actions provide that the rules of evidence applicable in the trial of civil actions generally are observed, but this proceeding has not been added to the types of cases in the definition of a small claims action.⁴³ Magistrates hearing expedited-removal actions may choose to observe the rules of evidence as they do in small claims actions.

Third, [G.S. 42A-24\(c\)](#) further provides that Sections 218–220 of [G.S. Chapter 7A](#) apply to expedited evictions from vacation rentals.⁴⁴ The proceeding for the expedited removal of unauthorized persons is not a small claims action as defined in [G.S. 7A-210](#), and G.S. 14-159.52 is silent on whether these subsections of Chapter 7A apply to the expedited removals of unauthorized persons, bringing into question whether the defendant's answer is necessary to treat the allegations as deemed denied. If those provisions of Chapter 7A apply to actions for the expedited removal of unauthorized persons, then a magistrate summons rather than a civil summons would be issued notifying the defendant that the defendant may file an answer but is

34. G.S. 14-159.51, [42A-3](#).

35. G.S. 14-159.51(1), [42A-24\(a\)–\(b\)](#).

36. G.S. 14-159.52(b), [42A-24\(d\)](#).

37. G.S. 14-159.53, [42A-25](#).

38. G.S. 14-159.54, [42A-26](#).

39. [G.S. 42A-24](#).

40. G.S. 14-159.52(a).

41. *Practicable*, BLACK'S LAW DICTIONARY (12th ed. 2024).

42. Compare [G.S. 42A-24\(c\)](#), with G.S. 14-159.52.

43. [G.S. 7A-222](#).

44. [G.S. 42A-24\(c\)](#). See generally [G.S. 7A-218](#) (defendant not required to file an answer); *id.* [§ 219](#) (no compulsory counterclaims); *id.* [§ 220](#) (no required pleadings other than the complaint).

not required to. If not, then this is a civil action, and the Rules of Civil Procedure apply. [Rule 4\(b\)](#) provides that a defendant in a civil action has thirty days to answer the complaint,⁴⁵ which seems contradictory to the goal of the law to provide an expedited procedure.

Fourth, after being served the order for possession, a tenant evicted from a vacation rental has two to eight hours to vacate.⁴⁶ An unauthorized person has four hours to vacate the residential property after being served the order for possession.⁴⁷

Finally, the new law requires an appeal bond of at least \$10,000,⁴⁸ while the VRA does not set a minimum for the appeal bond.⁴⁹

Other Provisions of the Expedited Removal of Unauthorized Persons Act

Violation of the Order

If the unauthorized person fails to remove personal property from the residential property within the time allowed by the magistrate's order for possession, the property owner or their authorized representative is allowed to remove it and place it near the property line. In essence, the owner can place the personal property on the curb, a type of self-help eviction that would not be allowed in the landlord-tenant context. Further, the unauthorized person's failure to vacate the property constitutes a criminal trespass under G.S. 14-159.13(a)(1).⁵⁰

In addition to a criminal charge for second-degree trespass for violation of the order to vacate, the circumstances of the unauthorized person's occupancy may implicate other crimes that could be charged, including first-degree trespass under G.S. 14-159.12(a)(2). The legislature's creation of the removal of unauthorized persons as a civil-law alternative to criminal prosecution does not preclude owners and law enforcement from also pursuing criminal charges against unauthorized persons.

For example, if the unauthorized person accessed the property by committing a breaking or entering, then a charge for misdemeanor or felony breaking or entering may be appropriate.⁵¹ If the entry or occupancy resulted in damage to the owner's real or personal property, then there may be sufficient evidence to charge injury to real or personal property.⁵² If the unauthorized person tried to claim an interest in the residential property by creating or providing materially false evidence, such as a fraudulent deed or lease, then probable cause for felony trespass may exist.⁵³ If the unauthorized person tried to use the fraudulent deed or lease to gain possession of the property and deprive the owner of the property, law enforcement may consider charging the unauthorized person with attempting to obtain or obtaining property by false pretenses.⁵⁴

45. [G.S. 1A-1, r. 4\(b\)](#).

46. [G.S. 42A-24\(d\)](#).

47. G.S. 14-159.52(b).

48. *Id.* § 159.53.

49. See [G.S. 42A-24\(d\)](#).

50. See G.S. 14-159.54.

51. See *id.* § 54.

52. See *id.* § 127 (injury to real property); *id.* § 160 (injury to personal property).

53. See *id.* § 159.12(f)(2).

54. See *id.* § 100. For cases involving obtaining property by false pretenses and occupying property after the filing of fraudulent deeds, see *State v. Everette*, 237 N.C. App. 35 (2014), and *State v. Pendergraft*, 238 N.C. App. 516 (2014), *aff'd per curiam*, 368 N.C. 314 (2015) (mem.).

Immunity from Liability

The Act protects law enforcement agencies, law enforcement officers, and magistrates from liability to an unauthorized person for actions taken in furtherance of the Act's provisions, provided the actions are done in good faith and do not constitute gross negligence, willful or wanton misconduct, or intentional wrongdoing. The Act further shields owners and representatives from liability to an unauthorized person for any personal property that is lost, destroyed, or damaged in any way that is related to the removal of the person pursuant to the Act, unless the removal was wrongful.⁵⁵

Remedy for Wrongful Removal

The Act creates a cause of action against the owner or representative for wrongful removal. "A person harmed by a wrongful removal under [the Act] may be entitled to recover possession of the property and may recover from the property owner or authorized representative damages limited to actual damages as in an action for trespass or conversion." Punitive damages; treble (triple) damages, such as those for unfair or deceptive trade practices; and damages for emotional distress are explicitly disallowed.⁵⁶

Final Thoughts

When an occupant's possession of residential property does not begin with a valid lease, the Act provides a procedure under civil law that may avoid a criminal-trespass charge for the occupant. Magistrates presiding over these expedited hearings will have to ensure that the process is not being used to handle disputes over ownership or to circumvent the summary ejectment procedures for tenants.

55. G.S. 14-159.55.

56. *Id.* § 159.56(a).