

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 405*
PROPOSED COMMITTEE SUBSTITUTE H405-PCS20321-RN-9

Short Title: Property Protection Act.

(Public)

Sponsors:

Referred to:

April 1, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT PROPERTY OWNERS FROM DAMAGES RESULTING FROM
3 INDIVIDUALS ACTING IN EXCESS OF THE SCOPE OF PERMISSIBLE ACCESS
4 AND CONDUCT GRANTED TO THEM.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 99A of the General Statutes reads as rewritten:

7 "Chapter 99A.

8 "**Civil Remedies for ~~Criminal Actions~~ Interference With Property.**

9 "**§ 99A-1. Recovery of damages for interference with property rights.**

10 Notwithstanding any other provisions of the General Statutes of North Carolina, when
11 personal property is wrongfully taken and carried away from the owner or person in lawful
12 possession of such property without his consent and with the intent to permanently deprive him
13 of the use, possession and enjoyment of said property, a right of action arises for recovery of
14 actual and punitive damages from any person who has or has had, possession of said property
15 knowing the property to be stolen.

16 An agent having possession, actual or constructive, of property lawfully owned by his
17 principal, shall have a right of action in behalf of his principal for any unlawful interference
18 with that possession by a third person.

19 In cases of bailments where the possession is in the bailee, a trespass committed during the
20 existence of the bailment shall give a right of action to the bailee for the interference with his
21 special property and a concurrent right of action to the bailor for the interference with his
22 general property.

23 Any abuse of, or damage done to, the personal property of another or one who is in
24 possession thereof, unlawfully, is a trespass for which damages may be recovered.

25 "**§ 99A-2. Recovery of damages for exceeding the scope of authorized access to property.**

26 (a) Any person who intentionally gains access to the nonpublic areas of another's
27 premises and engages in an act that exceeds the person's authority to enter those areas is liable
28 to the owner or operator of the premises for any damages sustained. For the purposes of this
29 section, "nonpublic areas" shall mean those areas not accessible to or not intended to be
30 accessed by the general public.

31 (b) For the purposes of this section, an act that exceeds a person's authority to enter the
32 nonpublic areas of another's premises is any of the following:

- 33 (1) An employee who enters the nonpublic areas of an employer's premises for a
34 reason other than a bona fide intent of seeking or holding employment or
35 doing business with the employer and thereafter without authorization
36 captures or removes the employer's data, paper, records, or any other



* H 4 0 5 - P C S 2 0 3 2 1 - R N - 9 *

- 1 documents and uses the information to breach the person's duty of loyalty to
2 the employer.
- 3 (2) An employee who intentionally enters the nonpublic areas of an employer's
4 premises for a reason other than a bona fide intent of seeking or holding
5 employment or doing business with the employer and thereafter without
6 authorization records images or sound occurring within an employer's
7 premises and uses the recording to breach the person's duty of loyalty to the
8 employer.
- 9 (3) Knowingly or intentionally placing on the employer's premises an
10 unattended camera or electronic surveillance device and using that device to
11 record images or data.
- 12 (4) Conspiring in organized retail theft, as defined in Article 16A of Chapter 14
13 of the General Statutes.
- 14 (5) An act that substantially interferes with the ownership or possession of real
15 property.
- 16 (c) Any person who intentionally directs, assists, compensates, or induces another
17 person to violate this section shall be jointly liable.
- 18 (d) A court may award to a party who prevails in an action brought pursuant to this
19 section one or more of the following remedies:
- 20 (1) Equitable relief.
- 21 (2) Compensatory damages as otherwise allowed by State or federal law.
- 22 (3) Costs and fees, including reasonable attorneys' fees.
- 23 (4) Exemplary damages as otherwise allowed by State or federal law in the
24 amount of five thousand dollars (\$5,000) for each day, or portion thereof,
25 that a defendant has acted in violation of subsection (a) of this section.
- 26 (e) Nothing in this section shall be construed to diminish the protections provided to
27 employees under Article 21 of Chapter 95 or Article 14 of Chapter 126 of the General Statutes,
28 nor may any party who is covered by these Articles be liable under this section.
- 29 (f) This section shall not apply to any governmental agency or law enforcement officer
30 engaged in a lawful investigation of the premises or the owner or operator of the premises.
- 31 (g) Nothing in this section shall be construed to limit any other remedy available at
32 common law or provided by the General Statutes."

33 **SECTION 2.** This act becomes effective January 1, 2016.