

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS55150-LK-121 (3/26)

Short Title: Clarify Fees Charged to Residential Tenants.

(Public)

Sponsors: Senator Gulley.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY LATE AND ADMINISTRATIVE FEES CHARGED TO
RESIDENTIAL TENANTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 42-46 reads as rewritten:

"§ 42-46. Late fees.

(a) In all residential rental agreements in which a definite time for the payment of the rent is fixed, the parties may agree to a late fee not to exceed fifteen dollars (\$15.00) or five percent (5%) of the rental payment, whichever is greater, to be charged by the lessor inconsistent with the provisions of this subsection, to be chargeable only if any rental payment is five days or more than five days late.

(1) If the rent is due in monthly installments, a landlord may charge a late fee not to exceed fifteen dollars (\$15.00) or five percent (5%) of the monthly rent, whichever is greater.

(2) If the rent is due in weekly installments, a landlord may charge a late fee not to exceed four dollars (\$4.00) or one percent (1%) of the weekly rent, whichever is greater.

(3) If the rent is subsidized by the United States Department of Housing and Urban Development, by the United States Department of Agriculture, by a State agency, by a public housing authority, or by a local government, any late fee shall be calculated on the tenant's share of the contract rent only, and the rent subsidy shall not be included.

(b) A late fee under this section may be imposed only one time for each late rental payment. A late fee for a specific late rental payment may not be deducted from a subsequent rental payment so as to cause the subsequent rental payment to be in default.

(c) ~~Any provision of a residential rental agreement contrary to the provisions of this section is against the public policy of this State and therefore void and~~

1 ~~unenforceable.~~ In all residential rental agreements, no lease shall require any tenant to
2 pay any administrative fee or charge for any purpose not specifically authorized by this
3 section.

4 ~~(d) A lessor shall not charge a late fee to a lessee because of the lessee's failure to~~
5 ~~pay additional rent for water and sewer services provided pursuant to G.S. 62-110(g). In~~
6 ~~all actions for summary ejectment under G.S. 42-26, the court may allow qualified~~
7 ~~landlords to recover, in addition to claims for rent, late fees, damages, and court costs~~
8 ~~authorized by statute, a reasonable administrative fee for prosecuting successful claims~~
9 ~~as long as the following requirements are met:~~

10 (1) Landlords shall qualify for the administrative fee by proving, by the
11 preponderance of the evidence, to the court all of the following factors:

12 a. At the time of filing the complaint, the landlord owns or
13 manages no more than 50 dwelling units in the county where
14 the action is brought.

15 b. The tenant shall be personally served with the summons and
16 complaint at least two days prior to the trial in the small claims
17 court.

18 c. The landlord shall be the prevailing party on its claims for
19 summary ejectment, rent, or damages.

20 (2) The administrative fee awarded by the court shall be no greater than
21 fifty dollars (\$50.00) for any lease with a rental rate of five hundred
22 dollars (\$500.00) or more per month and no greater than twenty-five
23 dollars (\$25.00) for leases with a rental rate of less than five hundred
24 dollars (\$500.00) per month.

25 (e) Any provision of a residential rental agreement contrary to the provisions of
26 this section is against the public policy of this State and therefore void and
27 unenforceable. A landlord that puts any prohibited provision in a rental agreement has
28 committed an unfair trade practice, in violation of G.S. 75-1.1.

29 (f) A lessor shall not charge a late fee to a lessee because of the lessee's failure to
30 pay additional rent for water and sewer services provided pursuant to G.S. 62-110(g)."

31 **SECTION 2.** This act is effective when it becomes law.
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