

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 847

Short Title: Clarify Fees Charged to Residential Tenants.

(Public)

Sponsors: Senator Gulley.

Referred to: Commerce.

April 3, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY LATE AND ADMINISTRATIVE FEES CHARGED TO
3 RESIDENTIAL TENANTS.

4 The General Assembly of North Carolina enacts:

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

6 "§ 42-46. Late fees.

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

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

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

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

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

26 (c) ~~Any provision of a residential rental agreement contrary to the provisions of~~
27 ~~this section is against the public policy of this State and therefore void and~~
28 ~~unenforceable.~~ In all residential rental agreements, no lease shall require any tenant to

1 pay any administrative fee or charge for any purpose not specifically authorized by this
2 section.

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

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

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

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

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

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

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

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

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