



SENATE BILL 224: Landlord Recovery of Expenses.

2017-2018 General Assembly

Committee:		Date:	June 14, 2018
Introduced by:	Sens. J. Jackson, Britt, Lee	Prepared by:	Bill Patterson Staff Attorney
Analysis of:	Third Edition		

OVERVIEW: *Senate Bill 224 would permit landlords to collect certain out-of-pocket expenses incurred in proceedings in summary ejectment or for money owed.*

CURRENT LAW: A landlord can charge a tenant certain fees pursuant to a written lease if the landlord commences an action for eviction or for money owed after the tenant's default under the lease. The amount of the permitted fee depends on the stage at which the proceeding concludes, as follows:

- If the tenant cures the default and the landlord dismisses the complaint before judgment, the landlord can enforce a lease provision requiring the tenant to pay a fee not to exceed \$15 or 5% of the monthly rent, whichever is greater, referred to as a "complaint-filing fee." G.S. 42-46(e).
- If the landlord obtains a judgment, the landlord can enforce a lease provision requiring the tenant to pay an amount equal to 10% of the monthly rent, referred to as a "court-appearance fee." This fee must be refunded if the magistrate's judgment is vacated after a tenant's appeal. G.S. 42-46(f).
- If there is a new trial following an appeal from a magistrate's judgment, and the landlord prevails in the new trial, then the landlord can enforce a lease provision requiring the tenant to pay a fee not to exceed 12% of the monthly rent, referred to as a "second-trial fee." G.S. 42-46(g).

The landlord can collect only one of these fees in an action for summary ejectment or money owed. G.S. 42-46(h)(1).

It is contrary to public policy for a landlord to put in a written lease or claim any fee for filing a complaint for summary ejectment or money owed other than the foregoing fees and a reasonable attorney's fee as authorized by law. G.S. 42-46(h)(3).

BILL ANALYSIS: **Section 1.1.(a)** would provide that charging the fees authorized in Section 1.1.(b) of the bill is not contrary to public policy.

Section 1.1.(b) would authorize the landlord to charge and collect from the tenant the following actual out-of-pocket expenses:

- Filing fees charged by the court;
- Costs for service of process pursuant to Rule 4 of the Rules of Civil Procedure; and
- Reasonable attorney's fees, not to exceed 15% of the amount owed by the tenant or 15% of the monthly rent stated in the lease if the eviction is for a default other than the non-payment of rent.

EFFECTIVE DATE: This act is effective when it becomes law.

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Director



Legislative Analysis
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