



# SENATE BILL 224: Landlord Recovery of Expenses/Rule 60 Motion.

2017-2018 General Assembly

<b>Committee:</b>		<b>Date:</b>	August 22, 2018
<b>Introduced by:</b>		<b>Prepared by:</b>	Bill Patterson Staff Attorney
<b>Analysis of:</b>	S.L. 2018-50		

**OVERVIEW:** *S.L. 2018-50 permits landlords to collect certain out-of-pocket expenses incurred in proceedings in summary ejectment or for money owed by tenants.*

*The act became effective on June 25, 2018.*

**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:** The act authorizes the landlord to charge and collect from the tenant the following additional actual out-of-pocket expenses and provides that charging the authorized amounts is not contrary to public policy:

- 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 became effective on June 25, 2018.

Karen Cochrane-Brown  
Director



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Legislative Analysis  
Division  
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