



# HOUSE BILL 880: Landlord/Tenant Changes.

2019-2020 General Assembly

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<b>Committee:</b>	House Judiciary. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	April 29, 2019
<b>Introduced by:</b>	Reps. Hardister, Ross, Richardson, Hunter	<b>Prepared by:</b>	Brad Krehely
<b>Analysis of:</b>	PCS to First Edition H880-CSR-N-29		Committee Co-Counsel

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**OVERVIEW:** *The Proposed Committee Substitute (PCS) for House Bill 880 makes various changes to the landlord-tenant laws. The PCS does all of the following: (i) provides that a motion and order must be submitted to the clerk no more than 30 days after the agreement has been fulfilled (was 60 days) under G.S. 42-36.1B(a); (ii) clarifies that fees costs, and monetary damages in G.S. 42-36.1B(b)(2) and (3) are to be paid by the landlord to the tenant; (iii) adds Section 5.5; and (iv) modifies the effective date.*

**BILL ANALYSIS:** The PCS for House Bill 880 would do all of the following:

- Enacts G.S. 42-14.5 to provide that the criminal record of any prospective or current residential lessee, occupant, or guest will not make any future injury or damage arising from the lessee, occupant, or guest foreseeable by the lessor or the lessor's agent. The residential lessor or the lessor's agent would not be required to screen for or refuse to rent because of the criminal record of a prospective or current lessee, occupant, or guest. A residential lessor or the lessor's agent would not be prohibited from using a criminal background check as grounds for refusing to rent to any prospective or current lessee.
- Amends the statute governing collection of property when someone dies intestate (G.S. 28A-25-1) to provide that the public administrator or heir that has presented an affidavit must be entitled to remove or dispose of the decedent's personal property located in demised premises.
- Amends the statute governing collection of property by affidavit when decedent dies testate (G.S. 28A-25-1.1) to provide that the public administrator, a person named or designated as executor in the will, devisee, or an heir that has presented an affidavit must be entitled to remove or dispose of the decedent's personal property located in the demised premises.
- Amends G.S. 28A-25-2 to provide that a lessor or lessor's agent of the demised premises that, at the direction of an affiant authorized pursuant to G.S. 28A-25-1(d) or G.S. 28A-251.1(d), removes, throws away, or otherwise disposes of the personal property located in demised premises is discharged and released to the same extent as if the lessor dealt with a personal representative of the decedent.
- Amends G.S. 42-46 governing fees, costs, and expenses. A landlord would be allowed to charge a complaint-filing fee of no more than the greater of \$15.00 or 5% of the monthly rent if the tenant was in default of the lease, the landlord filed a summons and a complaint (currently: filed and served a complaint) for summary ejectment and/or money owed, the tenant cured the default or

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# House PCS 880

Page 2

claim, and the landlord dismissed the complaint prior to judgment. A landlord would be permitted to charge and recover from a tenant fees charged by the court for filing a complaint and a writ of possession and costs for service of the writ of possession.

- Current law allows the out-of-pocket expenses listed in the statute to be included by the landlord in the amount required to cure a default. The PCS for House Bill 880 would provide that in the event of a judgment in favor of the landlord, out-of-pocket expenses not included in the judgment are chargeable to the tenant and can be collected by the landlord in any post-judgment attempt to settle or collect amounts owed, so long as the expenses and collection are allowable under the terms of the lease or agreement. The landlord and tenant would not be prohibited from reaching an agreement to resolve a dispute involving an alleged default under a lease or agreement on terms agreeable to the parties, provided that such negotiated terms may not involve payment of any fees, costs or expenses not permitted by G.S. 42-46.
- Provides that a landlord who enters into an agreement with a defendant to retain or regain possession of the demised premises after obtaining a judgment for possession must submit a motion and proposed order for relief from the judgment in accordance with G.S. 1A-1, Rule 60(d) to the clerk of superior court in which the judgment was entered. This must be done no later than 30 days after the agreement has been fulfilled.
- Provides that a landlord may be held liable for one or more of the following for failing to file a motion and proposed order for relief:
  - A civil penalty of up to \$100.00.
  - The defendant's attorneys' fees and costs.
  - Monetary damages.
- Amends Rule 60 to address motions by a prevailing party.

**EFFECTIVE DATE:** Section 2 is effective when it becomes law and applies to decedents dying on or after that date. The remainder of the act is effective when it becomes law.