



2023-2024 General Assembly

HOUSE BILL 556: Tenancy in Common/E-Notary/Small Claims Changes, Secs. 8-9: Summary Ejectment and Small Claims Action Changes

Committee:		Date:	September 12, 2024
Introduced by:		Prepared by:	Kristen L. Harris
Analysis of:	Secs. 8-9 of S.L. 2024-47		Staff Attorney

OVERVIEW: Sections 8 and 9 of S.L. 2024-47 do the following:

- Clarify authorized litigation costs in summary ejectment matters.
- Provide that judgment in a small claim action can be rendered electronically by the magistrate.
- Begin the appeal period in a small claim action when a judgment is rendered by the magistrate.

This bill was vetoed by the Governor on July 3, 2024, and that veto was overridden by the General Assembly on September 9, 2024. Section 8 of this act became effective September 9, 2024, and the amendments contained in this section are intended to be clarifying of the General Assembly's intent under previous amendments to this statute. Section 9 of this act becomes effective October 1, 2024, and applies to judgments rendered on or after that date.

CURRENT LAW AND BILL ANALYSIS:

Section 8: Authorized Fees, Costs, and Expenses by Landlords

G.S. 42-46 authorizes certain fees, costs, and expenses that the landlord can charge to the tenant, including late fees for rent five or more days overdue and the following out-of-pocket expenses and litigation costs:

- Filing fees charged by the court.
- Costs for service of process.
- Reasonable attorneys' fees actually paid or owed, pursuant to a written lease, not to exceed 15% of the amount owed by the tenant, or 15% of the monthly rent stated in the lease if eviction is based on a default other than the nonpayment of rent.

Section 8 clarifies that late fees for past due rent can only be charged if the rental payment is five or more calendar days late, with the first day being the day after the rent was due. Additionally, for small claim action hearings, it allows landlords to charge reasonable attorneys' fees actually paid or owed, pursuant to a written lease, 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 based on a default other than the nonpayment of rent, and awards a landlord all actual reasonable attorneys' fees paid or owed for any summary ejectment appeal by a tenant determined by the court to be frivolous, unreasonable, without foundation, or in bad faith or solely for the purpose of delay.

Section 9: Small Claim Appeal Period

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Director



Legislative Analysis
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House Bill 556

Page 2

A judgment in a small claim action is "rendered" in writing and signed by the magistrate. The appeal period in a small claim action begins when the judgment is "entered" by a magistrate.

Section 9(a) authorizes judgment in a small claim action to also be rendered electronically by the magistrate.

Section 9(b) amends provisions prescribing the start time for the appeal period in a small claim action to refer to the time when a judgment is "rendered" rather than to the time when the judgment is "entered."

EFFECTIVE DATE: This bill was vetoed by the Governor on July 3, 2024, and that veto was overridden by the General Assembly on September 9, 2024. Section 8 of this act became effective September 9, 2024, and the amendments contained in this section are intended to be clarifying of the General Assembly's intent under previous amendments to this statute. Section 9 of this act becomes effective October 1, 2024, and applies to judgments rendered on or after that date.