

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H.B. 551
Apr 3, 2023
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH30235-NK-54

Short Title: Landlord-Tenant and HOA Changes.

(Public)

Sponsors: Representative Bradford.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT COUNTIES AND CITIES FROM ADOPTING CERTAIN
3 ORDINANCES, RULES, AND REGULATIONS THAT WOULD PROHIBIT
4 LANDLORDS FROM REFUSING TO RENT TO TENANTS BECAUSE A TENANT'S
5 LAWFUL SOURCE OF INCOME TO PAY RENT INCLUDES FUNDING FROM A
6 FEDERAL HOUSING ASSISTANCE PROGRAM; TO REGULATE SUPPORT
7 ANIMALS AND SERVICE ANIMALS IN RESIDENTIAL TENANCIES; TO EXPAND
8 AUTHORIZED LITIGATION COSTS IN SUMMARY EJECTMENT MATTERS; TO
9 MAKE CLARIFYING CHANGES TO LANDLORD-TENANT LAW; AND TO ADJUST
10 THE APPLICABILITY OF HOMEOWNERS' ASSOCIATIONS' DECLARATION
11 AMENDMENTS TO HOMEOWNERS.

12 The General Assembly of North Carolina enacts:

13 **SECTION 1.** G.S. 42-14.1 reads as rewritten:

14 **"§ 42-14.1. ~~Rent control.~~Preemption of local regulations.**

15 (a) No county or city as defined by G.S. 160A-1 may enact, maintain, or enforce any
16 ordinance or resolution which regulates the amount of rent to be charged for privately owned,
17 single-family or multiple unit residential or commercial rental property. This section shall not be
18 construed as prohibiting any county or city, or any authority created by a county or city for that
19 purpose, from:

- 20 (1) Regulating in any way property belonging to that city, county, or
21 ~~authority;~~authority.
22 (2) Entering into agreements with private persons which regulate the amount of
23 rent charged for subsidized rental ~~properties;~~or properties.
24 (3) Enacting ordinances or resolutions restricting rent for properties assisted with
25 Community Development Block Grant Funds.

26 (b) No county or city as defined by G.S. 160A-1 may enact, maintain, or enforce any
27 ordinance or resolution which prohibits an owner, lessee, sublessee, assignee, managing agent,
28 or other person having the right to lease, sublease, or rent a housing accommodation from
29 refusing to lease or rent the housing accommodation to a person because the person's lawful
30 source of income to pay rent includes funding from a federal housing assistance program."

31 **SECTION 2.** Article 5 of Chapter 42 of the General Statutes is amended by adding
32 a new section to read:

33 **"§ 42-47. Support and service animals – nondiscrimination.**

34 (a) For the purposes of this section, the following definitions apply:

- 35 (1) Health service professional. – A person with a therapeutic relationship with a
36 person with a disability. The term does not include a person described in this



* D R H 3 0 2 3 5 - N K - 5 4 *

- subdivision that solely provides written documentation or verification of a person's disability or need for a service animal or support animal for a fee.
- (2) Person with a disability. – As defined in G.S. 168A-3(7a).
- (3) Service animal. – An animal trained to assist a person with a disability, as described in G.S. 168-4.2.
- (4) Support animal. – A companion animal that a health service professional has determined provides a benefit for a person with a disability. The term also includes an assistance animal, as defined in G.S. 14-163.1(a)(1). A support animal shall not be required to be trained or registered under Chapter 168A of the General Statutes.
- (5) Therapeutic relationship. – The provision of medical care or services, program care or services, or personal care services, in good faith, for and with personal knowledge of a person's disability and that person's disability-related need for a service animal or support animal by one of the following:
- a. A physician or other medical professional.
- b. A mental health service provider.
- c. A nonmedical service agency or reliable third party who is in a position to know about the person's disability.
- The term does not include an entity that issues a certificate, license, or similar document that purports to confirm, without conducting a meaningful assessment of a person's disability or a person's disability-related need for a service animal or support animal, that a person (i) has a disability or (ii) needs a service animal or support animal.
- (b) Based, in part, upon a tenant, applicant, or household member's (i) status as a person with a disability or (ii) use of a service animal or a support animal, a landlord shall not do any of the following:
- (1) Terminate or fail to renew a tenancy.
- (2) Refuse to enter into a rental agreement.
- (3) Impose different terms, conditions, or privileges in the rental of a dwelling.
- (4) Otherwise make unavailable a dwelling unit or otherwise retaliate in the rental of a dwelling.
- (c) A landlord may require that a person with a disability that is not observable or already known who is seeking reasonable accommodation under this section provide written verification from a health service professional of the following:
- (1) The person is a person with a disability.
- (2) A disability-related need exists for the person to use a service animal or support animal.
- (3) The support animal assists the person in managing the person's disability.
- A person with a disability that moves from another state may provide written verification from a health service professional licensed or certified in that state, if applicable.
- (d) Any person who intentionally or knowingly does any of the following shall be liable to the landlord in a private action:
- (1) Misrepresents to a landlord that the person is a person with a disability or that the person has a disability-related need for the use of a service animal or a support animal.
- (2) Makes a materially false statement to a health service professional for the purpose of obtaining documentation or verification that the person has a disability-related need for the use of a service animal or a support animal.
- (3) Provides a document or verification to a landlord that misrepresents that an animal is a service animal or a support animal.

(4) Fits an animal that is not a service animal or a support animal with an item that would cause a reasonable person to believe that the animal is a service animal or a support animal.

(5) Does any of the following as a health service professional:

a. Verifies a person's disability status and need for a service animal or a support animal without personal knowledge of the person's condition adequate to provide a reliable verification.

b. Charges a fee for providing a written verification for a person's disability status and need for a service animal or a support animal and provides no additional service to the person, unless the health service professional (i) has an ongoing relationship with a person with a disability or (ii) conducts a good-faith consultation with a person with a disability for the purpose of providing a diagnosis and treatment recommendation.

A landlord prevailing in a private action under this subsection shall be entitled to damages in an amount equal to the sum of any actual damages sustained by the landlord as a result of the acts or conduct. The court may also impose civil penalties in an amount not greater than one thousand dollars (\$1,000) but not less than five hundred dollars (\$500.00) for each violation described in this subsection.

(e) Nothing in this section shall prohibit a landlord from requiring that a person with a disability who uses a service animal or a support animal do the following:

(1) Comply with the terms of the rental agreement and other rules or regulations applicable to the dwelling unit on the same terms as other tenants.

(2) Pay for the cost of repairs that result from any damages to the dwelling unit that are caused by a service animal or a support animal in the same manner as a tenant who possesses an animal that is not a service animal or a support animal in a dwelling unit.

(3) Subject to applicable laws, sign an addendum or other agreement that sets forth the responsibilities of the owner of the service animal or support animal.

(f) Subject to any other federal, State, or local law, a landlord who permits a person with a disability to use a service animal or a support animal in a dwelling unit pursuant to this section shall not be liable for an injury to another person caused by a person's service animal or support animal."

SECTION 3. G.S. 42-53 reads as rewritten:

"§ 42-53. Pet deposits.

~~Notwithstanding the provisions of this section, the~~ With the exception of a service animal or support animal in accordance with G.S. 42-47, a landlord may charge a reasonable, nonrefundable fee for pets kept by the tenant on the premises."

SECTION 4. G.S. 42-46 reads as rewritten:

"§ 42-46. Authorized fees, costs, and expenses.

(a) Late Fee. – In all residential rental agreements in which a definite time for the payment of the rent is fixed, the parties may agree to a late fee not inconsistent with the provisions of this subsection, to be chargeable only if any rental payment is five calendar days or more late. If the rent:

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

(2) Is due in weekly installments, a landlord may charge a late fee not to exceed four dollars (\$4.00) or five percent (5%) of the weekly rent, whichever is greater.

- (3) Repealed by Session Laws 2009-279, s. 4, effective October 1, 2009, and applicable to leases entered into on or after that date.

...

(i) Out-of-Pocket Expenses and Litigation Costs. – In addition to the late fees referenced in subsections (a) and (b) of this section and the administrative fees of a landlord referenced in subsections (e) through (g) of this section, a landlord also is permitted to charge and recover from a tenant the following actual out-of-pocket expenses:

- (1) Filing fees charged by the court.
- (2) Costs for service of process pursuant to G.S. 1A-1, Rule 4 of the North Carolina Rules of Civil Procedure and G.S. 42-29.
- (3) Reasonable attorneys' fees actually paid or owed, pursuant to a written lease, not to exceed fifteen percent (15%) of the amount owed by the tenant, or fifteen percent (15%) of the monthly rent stated in the lease if the eviction is based on a default other than the nonpayment of rent.
- (4) Reasonable attorneys' fees actually paid or owed, pursuant to a written lease, not to exceed, for small claims hearings, fifteen percent (15%) of the amount owed by the tenant, or fifteen percent (15%) of the monthly rent stated in the lease if the eviction is based on a default other than the nonpayment of rent, and all actual reasonable attorneys' fees paid or owed for any appeals of summary ejectment matters.

...."

SECTION 5. Chapter 47C of the General Statutes is amended by adding a new section to read:

"§ 47C-2-117.1A. Declaration amendments applicability.

Amendments made to the declaration pursuant to G.S. 47C-2-117 shall only affect unit owners whose units are conveyed or transferred after the amendment takes effect. For amendments made while a unit owner owns a unit, the amendment has no effect until the unit is conveyed or transferred to another unit owner. A unit owner takes the unit subject to existing rules in the declaration at the time of conveyance or transfer of the unit."

SECTION 6. Chapter 47F of the General Statutes is amended by adding a new section to read:

"§ 47F-2-117.1. Declaration amendments applicability.

Amendments made to the declaration pursuant to G.S. 47F-2-117 shall only affect lot owners whose lots are conveyed or transferred after the amendment takes effect. For amendments made while a lot owner owns a lot, the amendment has no effect until the lot is conveyed or transferred to another lot owner. A lot owner takes the lot subject to existing rules in the declaration at the time of conveyance or transfer of the lot."

SECTION 7. Section 3 of this act becomes effective January 1, 2024, and applies to rental agreements or leases entered into on or after that date. Section 4 of this act is effective when it becomes law and is intended to apply retroactively to all pending controversies as of that date. The amendments contained in Section 4 of this act are intended to be clarifying of the General Assembly's intent under previous amendments to this statute. The remainder of this act is effective when it becomes law.