

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 551
Committee Substitute Favorable 4/26/23

Short Title: Landlord-Tenant and HOA Changes.

(Public)

Sponsors:

Referred to:

April 4, 2023

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 authority;~~
21 (2) ~~Entering into agreements with private persons which regulate the amount of~~
22 ~~rent charged for subsidized rental properties; or~~
23 (3) ~~Enacting ordinances or resolutions restricting rent for properties assisted with~~
24 ~~Community Development Block Grant Funds.~~

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

30 (c) This section shall not be construed as prohibiting any county or city, or any authority
31 created by a county or city for that purpose, from:

- 32 (1) Regulating in any way property belonging to that city, county, or authority.
33 (2) Entering into agreements with private persons which regulate the amount of
34 rent charged for subsidized rental properties.
35 (3) Enacting ordinances or resolutions restricting rent for properties assisted with
36 Community Development Block Grant Funds.



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- 1 (4) Enacting ordinances or resolutions applicable to owners or operators that
2 receive funding or financial incentives from the county or city."
- 3 **SECTION 2.** Article 5 of Chapter 42 of the General Statutes is amended by adding
4 a new section to read:
- 5 **"§ 42-47. Support and service animals – nondiscrimination.**
- 6 (a) For the purposes of this section, the following definitions apply:
- 7 (1) Health service professional. – A person with a therapeutic relationship with a
8 person with a disability. The term does not include a person described in this
9 subdivision that solely provides written documentation or verification of a
10 person's disability or need for a service animal or support animal for a fee.
- 11 (2) Person with a disability. – As defined in G.S. 168A-3(7a).
- 12 (3) Service animal. – An animal trained to assist a person with a disability, as
13 described in G.S. 168-4.2.
- 14 (4) Support animal. – A companion animal that a health service professional has
15 determined provides a benefit for a person with a disability. The term also
16 includes an assistance animal, as defined in G.S. 14-163.1(a)(1). A support
17 animal shall not be required to be trained or registered under Chapter 168A of
18 the General Statutes.
- 19 (5) Therapeutic relationship. – The provision of medical care or services, program
20 care or services, or personal care services, in good faith, for and with personal
21 knowledge of a person's disability and that person's disability-related need for
22 a service animal or support animal by one of the following:
- 23 a. A physician or other medical professional.
- 24 b. A mental health service provider.
- 25 c. A nonmedical service agency or reliable third party who is in a
26 position to know about the person's disability.
- 27 The term does not include an entity that issues a certificate, license, or similar
28 document that purports to confirm, without conducting a meaningful
29 assessment of a person's disability or a person's disability-related need for a
30 service animal or support animal, that a person (i) has a disability or (ii) needs
31 a service animal or support animal.
- 32 (b) Based, in part, upon a tenant, applicant, or household member's (i) status as a person
33 with a disability or (ii) use of a service animal or a support animal, a landlord shall not do any of
34 the following:
- 35 (1) Terminate or fail to renew a tenancy.
- 36 (2) Refuse to enter into a rental agreement.
- 37 (3) Impose different terms, conditions, or privileges in the rental of a dwelling.
- 38 (4) Otherwise make unavailable a dwelling unit or otherwise retaliate in the rental
39 of a dwelling.
- 40 (c) A landlord may require that a person with a disability that is not observable or already
41 known who is seeking reasonable accommodation under this section provide written verification
42 from a health service professional of the following:
- 43 (1) The person is a person with a disability.
- 44 (2) A disability-related need exists for the person to use a service animal or
45 support animal.
- 46 (3) The support animal assists the person in managing the person's disability.
- 47 A person with a disability that moves from another state may provide written verification
48 from a health service professional licensed or certified in that state, if applicable.
- 49 (d) Any person who intentionally or knowingly does any of the following shall be liable
50 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~~.
late, with the first day being the day after the rent was due. 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.

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SECTION 5. G.S. 47C-2-117 is amended by adding a new subsection to read:

"(c1) An amendment to the declaration that prohibits or otherwise restricts the rental of a unit shall only be enforceable against an owner who acquires title to a unit after the date the amendment takes effect."

SECTION 6. G.S. 47F-2-117 is amended by adding a new subsection to read:

"(d1) An amendment to the declaration that prohibits or otherwise restricts the rental of a lot shall only be enforceable against an owner who acquires title to a lot after the date the amendment takes effect."

SECTION 7. Sections 3 and 4 of this act become effective January 1, 2024, and apply to rental agreements or leases entered into on or after 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.