

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 553

Short Title: Landlord-Tenant and HOA Changes.

(Public)

Sponsors: Senators Perry, Craven, and Moffitt (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 5, 2023

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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



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1 subdivision that solely provides written documentation or verification of a
2 person's disability or need for a service animal or support animal for a fee.

3 (2) Person with a disability. – As defined in G.S. 168A-3(7a).

4 (3) Service animal. – An animal trained to assist a person with a disability, as
5 described in G.S. 168-4.2.

6 (4) Support animal. – A companion animal that a health service professional has
7 determined provides a benefit for a person with a disability. The term also
8 includes an assistance animal, as defined in G.S. 14-163.1(a)(1). A support
9 animal shall not be required to be trained or registered under Chapter 168A of
10 the General Statutes.

11 (5) Therapeutic relationship. – The provision of medical care or services, program
12 care or services, or personal care services, in good faith, for and with personal
13 knowledge of a person's disability and that person's disability-related need for
14 a service animal or support animal by one of the following:

15 a. A physician or other medical professional.

16 b. A mental health service provider.

17 c. A nonmedical service agency or reliable third party who is in a
18 position to know about the person's disability.

19 The term does not include an entity that issues a certificate, license, or similar
20 document that purports to confirm, without conducting a meaningful
21 assessment of a person's disability or a person's disability-related need for a
22 service animal or support animal, that a person (i) has a disability or (ii) needs
23 a service animal or support animal.

24 (b) Based, in part, upon a tenant, applicant, or household member's (i) status as a person
25 with a disability or (ii) use of a service animal or a support animal, a landlord shall not do any of
26 the following:

27 (1) Terminate or fail to renew a tenancy.

28 (2) Refuse to enter into a rental agreement.

29 (3) Impose different terms, conditions, or privileges in the rental of a dwelling.

30 (4) Otherwise make unavailable a dwelling unit or otherwise retaliate in the rental
31 of a dwelling.

32 (c) A landlord may require that a person with a disability that is not observable or already
33 known who is seeking reasonable accommodation under this section provide written verification
34 from a health service professional of the following:

35 (1) The person is a person with a disability.

36 (2) A disability-related need exists for the person to use a service animal or
37 support animal.

38 (3) The support animal assists the person in managing the person's disability.

39 A person with a disability that moves from another state may provide written verification
40 from a health service professional licensed or certified in that state, if applicable.

41 (d) Any person who intentionally or knowingly does any of the following shall be liable
42 to the landlord in a private action:

43 (1) Misrepresents to a landlord that the person is a person with a disability or that
44 the person has a disability-related need for the use of a service animal or a
45 support animal.

46 (2) Makes a materially false statement to a health service professional for the
47 purpose of obtaining documentation or verification that the person has a
48 disability-related need for the use of a service animal or a support animal.

49 (3) Provides a document or verification to a landlord that misrepresents that an
50 animal is a service animal or a support animal.

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

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

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

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

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

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

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

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

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

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

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

35 **"§ 42-53. Pet deposits.**

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

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

40 **"§ 42-46. Authorized fees, costs, and expenses.**

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

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

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

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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.