

March 18, 2009

S 661. CONTIGUOUS PREMISES/ALLOCATE COST FOR WATER. Filed 3/18/09.

AUTHORIZING LESSORS OF CONTIGUOUS PREMISES TO ALLOCATE THE COST FOR WATER AND SEWER SERVICE TO EACH TENANT USING EQUIPMENT THAT MEASURES HOT WATER USAGE.

Amends GS 62-110(g) by deleting that all charges for water or sewer service may be based on any partial measurement of water consumption if specifically authorized by the North Carolina Utilities Commission (Commission). Allows a lessor to allocate the cost of water and sewer service to a tenant using equipment that measures the tenant's hot water usage if the contiguous premises were built prior to 1989 and the lessor determines that the measurement of the tenant's total water usage is impractical or not economical. Each tenant is billed a percentage of the landlord's water and sewer costs for water usage in the dwelling units based upon the hot water used in the tenant's unit. This total water usage percentage allocated for each unit is equal to that dwelling unit's individual submetered hot water usage divided by all submetered hot water usage in all units. Provides specified conditions for lessor billing for water and sewer service including conditions specifying the type of equipment used to measure water usage, the maintaining of records, and the information that must be included in bills. Effective July 1, 2010.

Intro. by Clodfelter.

GS 62

May 13, 2009

S 661. ALLOCATE WATER COST/LANDLORD-TENANT CHANGES (NEW). Filed 3/18/09.

Senate committee substitute makes the following changes to 1st edition. Changes title to *AN ACT AUTHORIZING LESSOR OF CONTINUOUS PREMISES TO ALLOCATE THE COST FOR WATER AND SEWER SERVICE TO EACH TENANT USING EQUIPMENT THAT MEASURES HOT WATER USAGE, REQUIRING LANDLORDS TO IMPROVE THE HABITABILITY OF DWELLING UNITS BY PREPARING CERTAIN UNSAFE CONDITIONS, STAYING THE EXECUTION OF A JUDGMENT FOR SUMMARY EJECTMENT WHILE A MOTION FOR MODIFICATION OF THE UNDERTAKING IS PENDING, ESTABLISHING FEES FOR ADMINISTRATIVE SERVICES IN RESIDENTIAL TENANCIES, AND ESTABLISHING THE CIRCUMSTANCES UNDER WHICH A CITY MAY ORDER A DWELLING TO BE VACATED AND CLOSED.* Amends GS 42-34(b), GS 42-42(a), and GS 160A-443(3) as title indicates. Amends GS 42-42 to require a landlord, within a reasonable period of time based upon the severity of the condition, to repair or remedy any imminently dangerous condition on the premises after acquiring actual knowledge or receiving notice of the condition. Defines *imminently dangerous condition*. Also amends (1) GS 42-46 by adding new subsections authorizing landlords to charge complaint and court-related fees to the tenant under certain circumstances and (2) GS 42-52 and GS 42-55 setting forth a landlord's obligations to provide an accounting with respect to the security deposit and a tenant's remedies with respect to a failure to account. Amends GS 160A-443 authorizing any order of a public officer to require a property be vacated and closed only if the repairs, alterations, or improvements and the current state of the property present a significant threat of bodily harm. Makes a conforming change. All sections are effective October 1, 2009, except for the amendment to GS 42-34(b), which becomes effective July 1, 2010.

June 3, 2009

S 661. ALLOCATE WATER COST/LANDLORD-TENANT CHANGES. Filed 3/18/09. House committee substitute makes the following changes to 2nd edition. Deletes from proposed GS 62-110(g)(1a) that any bills for water and sewer service sent by the lessor to the tenant must contain any late fee that will be applied if the bill is not paid by the past-due date.

Provides in proposed GS 42-42(a)(8) that, notwithstanding the landlord's repair or remedy of any imminently dangerous condition, the landlord may recover from the tenant the actual and reasonable costs of repairs that are the fault of the tenant.

Amends GS 42-46 to make conforming, clarifying, and organizational changes regarding existing late fees authorized to be charged to tenants by landlords and the proposed fees established in new subsections (e) (complaint-filing fee), (f) (court-appearance fee), and (g) (second trial fee). Deletes from GS 42-46(g) that a landlord may charge attorneys' fees if

represented by counsel in a new trial following an appeal from a magistrate's judgment. Provides that a landlord (was, a landlord appearing pro se) may charge a second trial fee for a new trial following an appeal from the magistrate's judgment. Clarifies that the landlord must prove that the tenant was in default of the lease and the landlord prevailed (was, the landlord prevailed on the issue of nonpayment of rent) to qualify for the fee. Provides that the landlord's fee may not exceed 12% of the monthly rent in the lease (was, a pro se landlord's fee may not exceed 15% of the monthly rent in the lease).

Amends GS 42-52 to clarify that the statute's provisions apply upon termination of the tenancy and delivery of possession of the premises to the landlord (was, delivery of possession by the tenant).

Deletes in proposed amended GS 42-55 that, upon a finding by the court that the party against whom judgment is rendered was in willful noncompliance with Article 6 of GS Chapter 42 (Tenant Security Deposit Act), the court may award a \$2,000 civil penalty for each violation of Article 6 if an award of treble damages as provided in GS 75-16 would be less than \$2,000.

Provides in proposed amended GS 160A-443(3)a. that an order may require the property be vacated and closed only if continued occupancy during the time allowed for repair (was, if repairs, alterations, or improvements and the current state of the property) presents a significant threat of bodily harm. Instead, requires that the nature of the necessary repairs, alterations, or improvements, and the current state of the property be taken into account, as well as any additional risks due to the presence and capacity of minors or occupants with physical or mental disabilities (was, the public officer must consider those additional threats). Amends GS 160A-443(4) to prohibit a public officer from causing a dwelling to be repaired, altered, or improved or to be vacated and closed until the governing body orders by ordinance the public officer to proceed with respect to that particular property. Requires the ordinance to be recorded in the register of deeds office where the property is located and indexed in the name of the property owner in the grantor index. Makes other conforming changes to GS 160A-443.

June 22, 2009

S 661. ALLOCATE WATER COST/LANDLORD-TENANT CHANGES. Filed 3/18/09. House committee substitute makes the following changes to 3rd edition. Adds in proposed GS 42-46(e) that a landlord may charge a complaint filing fee of 5% of the monthly rent *or a maximum \$15 fee, whichever is greater*, under certain circumstances. Clarifies in GS 42-46(h)(3) that reasonable attorneys' fees as allowed by law may be provided for in a lease or be claimed by a landlord in regards to filing a complaint for summary ejectment and/or money owed. Deletes that any unauthorized fees are unenforceable on or after October 1, 2009. Deletes from GS 42-46(h)(4) that a landlord who collects or attempts to collect a fee in contravention of the statute is to be deemed in violation of Article 2 of GS Chapter 75.

Provides in proposed amended GS 42-52 that, upon termination of the tenancy (was, upon termination of the tenancy and delivery of the premises to the landlord), money held as security may be applied as permitted in GS 42-51, or if not applied, refunded to the tenant. Provides that, if the extent of the landlord's claim against the security deposit cannot be determined within 30 days, the landlord must provide interim accounting no later than 30 days after termination of the tenancy and delivery of possession of the premises to the landlord (was, after 30 days).

Provides in proposed amended GS 42-55 that, if a party is found by a court to be in willful noncompliance with Article 6 (Tenant Security Deposit Act) of GS Chapter 42, such willful noncompliance is against state public policy and the court may award attorneys' fees to be taxed as part of the costs of the court (was, the court must award treble damages as provided in GS 75-16 and award attorneys' fees as provided in GS 75-16.1).

Deletes from GS 160A-443(3)b. that a city ordinance may authorize a public officer to issue an order to vacate and close or remove or demolish a dwelling if there exists a significant threat of bodily harm considering the presence and capacity of minors under age 18 or occupants with physical or mental disabilities. Makes a conforming change.

Changes the effective date for proposed amendments to GS 62-110(g) from July 1, 2010, to October 1, 2010. Specifies that, for those amendments and the proposed amendments to GS 42-46, the act applies to leases entered into on or after October 1, 2010.

July 13, 2009

SL 2009-279 (S 661). ALLOCATE WATER COST/LANDLORD-TENANT CHANGES. AN ACT AUTHORIZING LESSORS OF CONTIGUOUS PREMISES TO ALLOCATE THE COST FOR WATER AND SEWER SERVICE TO EACH TENANT USING EQUIPMENT THAT MEASURES HOT WATER USAGE, REQUIRING LANDLORDS TO IMPROVE THE HABITABILITY OF DWELLING UNITS BY REPAIRING CERTAIN UNSAFE CONDITIONS, STAYING THE EXECUTION OF A JUDGMENT FOR SUMMARY EJECTMENT WHILE A MOTION FOR MODIFICATION OF THE UNDERTAKING IS PENDING, ESTABLISHING FEES FOR ADMINISTRATIVE SERVICES IN RESIDENTIAL TENANCIES, AND ESTABLISHING THE CIRCUMSTANCES UNDER WHICH A CITY MAY ORDER A DWELLING TO BE VACATED AND CLOSED. Summarized in *Daily Bulletin* 3/18/09, 5/13/09, 6/3/09, and 6/22/09. Enacted July 10, 2009. Effective October 1, 2009.