

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 533
PROPOSED COMMITTEE SUBSTITUTE S533-PCS35265-TD-41

Short Title: Individually Metered Units/Tenant Charged.

(Public)

Sponsors:

Referred to:

April 12, 2011

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE UTILITIES COMMISSION TO ADOPT PROCEDURES THAT ALLOW A LESSOR OF A RESIDENTIAL BUILDING OR COMPLEX HAVING INDIVIDUALLY METERED UNITS FOR ELECTRIC SERVICE IN THE LESSOR'S NAME TO CHARGE FOR THE ACTUAL COSTS OF PROVIDING ELECTRIC SERVICE TO EACH TENANT WHEN THE LESSOR HAS A SEPARATE LEASE FOR EACH BEDROOM IN THE UNIT, AND TO MAKE OTHER CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 42-26(b) reads as rewritten:

"(b) An arrearage in costs owed by a tenant for water or sewer services pursuant to G.S. 62-110(g) or electric service pursuant to G.S. 62-110(g1) shall not be used as a basis for termination of a lease under this Chapter. Any payment to the landlord shall be applied first to the rent owed and then to charges for electric service, or water or sewer service, unless otherwise designated by the tenant."

SECTION 2. G.S. 42-42.1 reads as rewritten:

"§ 42-42.1. Water ~~Conservation~~ and electricity conservation.

(a) For the purpose of encouraging water and electricity conservation, pursuant to a written rental agreement, a landlord may charge for the cost of providing water or sewer service to tenants who occupy the same contiguous premises pursuant to ~~G.S. 62-110(g)~~ G.S. 62-110(g) or electric service pursuant to G.S. 62-110(g1).

(b) The landlord may not disconnect or terminate the tenant's electric service or water or sewer services due to the tenant's nonpayment of the amount due for electric service or water or sewer services."

SECTION 3. G.S. 42-51 reads as rewritten:

"§ 42-51. Permitted uses of the deposit.

Security deposits for residential dwelling units shall be permitted only for the tenant's possible nonpayment of rent and costs for water or sewer services provided pursuant to ~~G.S. 62-110(g)~~ G.S. 62-110(g) and electric service pursuant to G.S. 62-110(g1), damage to the premises, nonfulfillment of rental period, any unpaid bills that become a lien against the demised property due to the tenant's occupancy, costs of re-renting the premises after breach by the tenant, costs of removal and storage of tenant's property after a summary ejection proceeding or court costs in connection with terminating a tenancy. The security deposit shall



1 not exceed an amount equal to two weeks' rent if a tenancy is week to week, one and one-half
2 months' rent if a tenancy is month to month, and two months' rent for terms greater than month
3 to month. These deposits must be fully accounted for by the landlord as set forth in
4 G.S. 42-52."

5 **SECTION 4.** G.S. 62-110 is amended by adding a new subsection to read as
6 follows:

7 "**§ 62-110. Certificate of convenience and necessity.**

8 ...

9 (g1) In addition to the authority to issue a certificate of public convenience and necessity
10 and establish rates otherwise granted in this Chapter, the Commission may, consistent with the
11 public interest, adopt procedures that allow a lessor of a residential building or complex that
12 has individually metered units for electric service in the lessor's name to charge for the actual
13 costs of providing electric service to each tenant when the lessor has a separate lease for each
14 bedroom in the unit. The following provisions shall apply to the charges authorized under this
15 subsection:

- 16 (1) The lessor shall equally divide the actual amount of the individual electric
17 service bill for a unit among all the tenants in the unit and shall send one bill
18 to each tenant. The amount charged shall be prorated when a tenant has not
19 leased the unit for the same number of days as the other tenants in the unit
20 during the billing period. Each bill may include an administrative fee up to
21 the amount of the then-current administrative fee authorized by the
22 Commission in Rule 18-6 for water service and, when applicable, a late fee
23 in an amount determined by the Commission. The lessor shall not charge the
24 cost of electricity from any other unit or common area in a tenant's bill. The
25 lessor may, at the lessor's option, pay any portion of any bill sent to a tenant.
- 26 (2) A lessor who charges for electric service under this subsection is solely
27 responsible for the prompt payment of all bills rendered by the electric utility
28 providing service to the residential building or complex and is the customer
29 of the electric utility subject to all rules, regulations, tariffs, riders, and
30 service regulations associated with the provision of electric service to retail
31 customers of the utility.
- 32 (3) The lessor shall maintain records for a minimum of 36 months that
33 demonstrate how each tenant's allocated costs were calculated for electric
34 service. A tenant may inspect these records, including the actual per unit
35 public utility billings, during reasonable business hours and may obtain
36 copies of the records for a reasonable copying fee.
- 37 (4) Bills for electric service sent by the lessor to the tenant shall contain all of
38 the following information:
- 39 a. The bill charged by the electric supplier for the unit as a whole and
40 the amount of charges allocated to the tenant during the billing
41 period.
- 42 b. The name of the electric power supplier providing electric service to
43 the unit.
- 44 c. Beginning and ending dates for the usage period and, if provided by
45 the electric supplier, the date the meter was read for that usage
46 period.
- 47 d. The past-due date, which shall not be less than 25 days after the bill
48 is mailed to the tenant.
- 49 e. A local or toll-free telephone number and address that the tenant can
50 use to obtain more information about the bill.

- 1 f. The amount of any administrative fee and late fee approved by the
2 Commission and included in the bill.
- 3 g. A statement of the tenant's right to address questions about the bill to
4 the lessor and the tenant's right to file a complaint with, or otherwise
5 seek recourse from, the Commission if the tenant cannot resolve an
6 electric service billing dispute with the lessor.
- 7 (5) The Commission shall develop an application that a lessor must submit for
8 Commission approval to charge for electric service as provided in this
9 section. The form shall include all of the following:
- 10 a. A description of the lessor and the property to be served.
11 b. A description of the proposed billing method and billing statements.
12 c. The administrative fee and late payment fee, if any, proposed to be
13 charged by the lessor.
14 d. The name of and contact information for the lessor and the lessor's
15 agents.
16 e. The name of and contact information for the supplier of electric
17 service to the lessor's rental property.
18 f. A copy of the lease forms used by the lessor for tenants who are
19 billed for electric service pursuant to this subsection.
20 g. Any additional information that the Commission may require.
- 21 (6) The Commission shall approve or disapprove an application within 60 days
22 of the filing of a completed application with the Commission. If the
23 Commission has not issued an order disapproving a completed application
24 within 60 days, the application shall be deemed approved.
- 25 (7) A lessor who charges for electric service under this subsection shall not be
26 required to file annual reports pursuant to G.S. 62-36.
- 27 (8) The Commission shall adopt rules to implement the provisions of this
28 subsection."

29 **SECTION 5.** G.S. 143-151.42 reads as rewritten:

30 **"§ 143-151.42. Prohibition of master meters for electric and natural gas service.**

31 (a) From and after September 1, 1977, in order that each occupant of an apartment or
32 other individual dwelling unit may be responsible for his own conservation of electricity and
33 gas, it shall be unlawful for any new residential building, as hereinafter defined, to be served by
34 a master meter for electric service or natural gas service. Each individual dwelling unit shall
35 have individual electric service with a separate electric meter and, if it has natural gas,
36 individual natural gas service with a separate natural gas meter, which service and meters shall
37 be in the name of the tenant or other occupant of said apartment or other dwelling unit. No
38 electric supplier or natural gas supplier, whether regulated public utility or municipal
39 corporation or electric membership corporation supplying said utility service, shall connect any
40 residential building for electric service or natural gas service through a master meter, and said
41 electric or natural gas supplier shall serve each said apartment or dwelling unit by separate
42 service and separate meter and shall bill and charge each individual occupant of said separate
43 apartment or dwelling unit for said electric or natural gas service. A new residential building is
44 hereby defined for the purposes of this section as any building for which a building permit is
45 issued on or after September 1, 1977, which includes two or more apartments or other family
46 dwelling units. Provided, however, that any owner or builder of a multi-unit residential building
47 who desires to provide central heat or air conditioning or central hot water from a central
48 furnace, air conditioner or hot water heater which incorporates solar assistance or other designs
49 which accomplish greater energy conservation than separate heat, hot water, or air conditioning
50 for each dwelling unit, may apply to the North Carolina Utilities Commission for approval of
51 said central heat, air conditioning or hot water system, which may include a central meter for

1 electricity or gas used in said central system, and the Utilities Commission shall promptly
2 consider said application and approve it for such central meters if energy is conserved by said
3 design. This section shall apply to any dwelling unit normally rented or leased for a minimum
4 period of one month or longer, including apartments, condominiums and townhouses, but shall
5 not apply to hotels, motels, hotels or motels that have been converted into condominiums,
6 dormitories, rooming houses or nursing homes, or homes for the elderly.

7 (b) The provisions of this section requiring that service and meters for each individual
8 dwelling unit be in the name of the tenant or other occupant of the apartment or other dwelling
9 unit shall not apply in cases where the Utilities Commission has approved an application under
10 G.S. 62-110(g1)."

11 **SECTION 6.** This act becomes effective October 1, 2011, and applies to leases
12 entered into on or after that date.