

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

S

1

SENATE BILL 1221*

Short Title: Water Conservation/Submeters.

(Public)

Sponsors: Senator Clodfelter.

Referred to: Agriculture/Environment/Natural Resources.

May 20, 2004

A BILL TO BE ENTITLED

AN ACT TO PROMOTE WATER CONSERVATION IN MULTIFAMILY RESIDENTIAL PROPERTIES BY AMENDING VARIOUS STATE LAWS REGARDING THE USE OF SUBMETERS IN CONSECUTIVE WATER SYSTEMS IN LIGHT OF CHANGES IN POLICY RELATED TO WATER TESTING REQUIREMENTS AND WATER CONSERVATION BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 42-3 reads as rewritten:

"§ 42-3. Term forfeited for nonpayment of rent.

In all verbal or written leases of real property of any kind in which is fixed a definite time for the payment of the rent reserved therein, there shall be implied a forfeiture of the term upon failure to pay the rent within 10 days after a demand is made by the lessor or his agent on said lessee for all past-due rent, and the lessor may forthwith enter and dispossess the tenant without having declared such forfeiture or reserved the right of reentry in the lease. Where a written lease ~~establishes a monthly rent that includes~~ authorizes allocation to the tenant of the cost of water and sewer services under G.S. 62-110(g), the terms "rent" and "rental payment", as used in this Chapter, mean base rent only. pursuant to G.S. 42-42.1, there shall be implied a forfeiture of the term upon failure by the tenant to pay for water and sewer services within 25 days after a bill is sent by the lessor or the lessor's agent to the lessee for the cost of water and sewer service."

SECTION 2. G.S. 42-26(b) is repealed.

SECTION 3. G.S. 43-33 reads as rewritten:

"§ 42-33. Rent and costs tendered by tenant.

If, in any action brought to recover the possession of demised premises upon a forfeiture for the nonpayment of ~~rent,~~ rent or nonpayment of the cost of water and sewer services, the tenant, before judgment given in such action, pays or tenders the ~~rent~~

1 ~~uerent~~, the costs due for water and sewer services, and the costs of the action, all
2 further proceedings in such action shall cease. If the plaintiff further prosecutes his
3 action, and the defendant pays into court for the use of the plaintiff a sum equal to that
4 which shall be found to be due, and the costs, to the time of such payment, or to the time
5 of a tender and refusal, if one has occurred, the defendant shall recover from the
6 plaintiff all subsequent costs; the plaintiff shall be allowed to receive the sum paid into
7 court for his use, and the proceedings shall be stayed."

8 **SECTION 4.** Article 5 of Chapter 42 of the General Statutes is amended by
9 adding a new section to read:

10 "**§ 42-42.1. Water Conservation.**

11 (a) For the purpose of encouraging water conservation, pursuant to a written
12 rental agreement, a landlord may allocate the cost of providing water and sewer service
13 to a tenant. The cost allocated to the tenant cannot exceed the actual price of the water
14 and sewer service paid by the landlord, plus a reasonable administrative fee. The
15 administrative fee cannot exceed three dollars and seventy-five cents (\$3.75) per month
16 per tenant. Allocation of the cost for water and sewer service by the landlord to the
17 tenant may be computed by using equipment that measures the tenant's actual use of hot
18 water, cold water, or both, and calculates the tenant's usage as a percentage of the total
19 water used on the premises.

20 (b) All equipment used to measure water usage must comply with guidelines
21 promulgated by the American Water Works Association.

22 (c) The landlord shall maintain records for a minimum of 12 months that
23 demonstrate how each tenant's allocated costs were calculated for water and sewer
24 service. Upon advanced written notice to the landlord, a tenant may inspect these
25 records during reasonable business hours and may obtain a copy of the records at a
26 reasonable cost, not to exceed twenty-five cents (25¢) per page.

27 (d) Bills for water and sewer service sent by the landlord to the tenant shall
28 contain all the following information:

29 (1) The amount of water and sewer services allocated to the tenant during
30 the billing period.

31 (2) Beginning and ending dates for the billing period.

32 (3) The due date for payment of the bill.

33 (4) The past due date which is the first date that a late fee can be imposed.

34 (5) Any late fee that will be applied if the bill is not paid by the past due
35 date.

36 (6) A telephone number and address that the tenant can use to obtain more
37 information about the bill.

38 (e) The landlord may not disconnect or terminate the tenant's water and sewer
39 services due to the tenant's nonpayment of the amount due for water and sewer
40 services."

41 **SECTION 5.** G.S. 42-46(d) reads as rewritten:

42 "~~(d) A lessor shall not charge a late fee to a lessee because of the lessee's failure to~~
43 ~~pay additional rent for water and sewer services provided pursuant to G.S. 62-110(g).If~~
44 ~~agreed to in a written rental agreement, a landlord may charge a tenant a fee not to~~

1 exceed five dollars (\$5.00) per month if payment has not been received by the landlord
2 within 25 days of billing for costs allocated to the tenant for water and sewer service."

3 **SECTION 6.** G.S. 42-51 reads as rewritten:

4 "**§ 42-51. Permitted uses of the deposit.**

5 Security deposits for residential dwelling units shall be permitted only for the
6 tenant's possible nonpayment of ~~base-rent and additional-rent~~costs for water and sewer
7 ~~services provided pursuant to G.S. 62-110(g),~~services, damage to the premises,
8 nonfulfillment of rental period, any unpaid bills ~~which-that~~ become a lien against the
9 demised property due to the tenant's occupancy, costs of re-renting the premises after
10 breach by the tenant, costs of removal and storage of tenant's property after a summary
11 ejectment proceeding or court costs in connection with terminating a tenancy. The
12 security deposit shall not exceed an amount equal to two weeks' rent if a tenancy is
13 week to week, one and one-half months' rent if a tenancy is month to month, and two
14 months' rent for terms greater than month to month. These deposits must be fully
15 accounted for by the landlord as set forth in G.S. 42-52."

16 **SECTION 7.** G.S. 62-110(g) reads as rewritten:

17 "(g) ~~For the purpose of encouraging water conservation, the Commission may,~~
18 ~~consistent with the public interest, adopt procedures that allow a lessor, pursuant to a~~
19 ~~written rental agreement, to allocate the costs for providing water and sewer service on~~
20 ~~a metered use basis to persons who occupy the same contiguous premises. A written~~
21 ~~rental agreement shall specify a monthly rent that shall be the sum of the base rent plus~~
22 ~~additional rent at a rate that does not exceed the actual purchase price of the water and~~
23 ~~sewer service to the provider plus a reasonable administrative fee. The Commission~~
24 ~~shall issue rules to define contiguous premises and to implement this subsection. In~~
25 ~~issuing the rule to define contiguous premises, the Commission shall consider~~
26 ~~contiguous premises where manufactured homes, as defined in G.S. 143-145(7), or~~
27 ~~spaces for manufactured homes are rented. Notwithstanding any other provision of this~~
28 ~~Chapter, the Commission shall determine the extent to which the services shall be~~
29 ~~regulated and, to the extent necessary to protect the public interest, regulate the terms,~~
30 ~~conditions, and rates that may be allocated for the services. Nothing in this subsection~~
31 ~~shall be construed to alter the rights, obligations, or remedies of persons providing water~~
32 ~~and sewer services and their customers under any other provision of law. The~~
33 Commission shall not have jurisdiction over the allocation of the costs of providing
34 water and sewer service by landlords to tenants pursuant to G.S. 42-42.1."

35 **SECTION 8.** G.S. 130A-315(d) reads as rewritten:

36 "(d) ~~When a person that receives water from a public water system is authorized~~
37 ~~by the Utilities Commission, pursuant to G.S. 62-110(g), to install sub-meters and to~~
38 ~~allocate the costs for providing water service to persons who occupy the same~~
39 ~~contiguous premises, and sewer service pursuant to G.S. 42-42.1, that person shall be~~
40 regulated as a consecutive water system. The monitoring, analysis, and record-keeping
41 requirements applicable to consecutive water systems under this section shall be
42 satisfied by the monitoring, analysis, and record keeping performed by the supplying
43 water system and submitted to the Department in compliance with this section. The
44 supplying water system shall perform the same level of monitoring, analysis, and record

1 keeping that the supplying system would perform if the person that receives the water
2 had not been authorized to allocate the costs for providing water service under
3 G.S. ~~62-110(g),42-42.1~~, but the supplying water system shall not be required to perform
4 additional monitoring, analysis, and record keeping. A supplying water system is not
5 responsible for operation, maintenance, or repair of the consecutive water system."

6 **SECTION 9.** This act becomes effective 1 July 2004.