

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

SESSION LAW 2011-252
SENATE BILL 533

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 ejectment proceeding or court costs in connection with terminating a tenancy. The security deposit shall not exceed an amount equal to two weeks' rent if a tenancy is week to week, one and one-half months' rent if a tenancy is month to month, and two months' rent for terms greater than month to month. These deposits must be fully accounted for by the landlord as set forth in G.S. 42-52."

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

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

...
(g1) In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, the Commission may, consistent with the public interest, adopt procedures that allow a lessor of a residential building or complex that has 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. The following provisions shall apply to the charges authorized under this subsection:



- (1) The lessor shall equally divide the actual amount of the individual electric service bill for a unit among all the tenants in the unit and shall send one bill to each tenant. The amount charged shall be prorated when a tenant has not leased the unit for the same number of days as the other tenants in the unit during the billing period. Each bill may include an administrative fee up to the amount of the then-current administrative fee authorized by the Commission in Rule 18-6 for water service and, when applicable, a late fee in an amount determined by the Commission. The lessor shall not charge the cost of electricity from any other unit or common area in a tenant's bill. The lessor may, at the lessor's option, pay any portion of any bill sent to a tenant.
- (2) A lessor who charges for electric service under this subsection is solely responsible for the prompt payment of all bills rendered by the electric utility providing service to the residential building or complex and is the customer of the electric utility subject to all rules, regulations, tariffs, riders, and service regulations associated with the provision of electric service to retail customers of the utility.
- (3) The lessor shall maintain records for a minimum of 36 months that demonstrate how each tenant's allocated costs were calculated for electric service. A tenant may inspect these records, including the actual per unit public utility billings, during reasonable business hours and may obtain copies of the records for a reasonable copying fee.
- (4) Bills for electric service sent by the lessor to the tenant shall contain all of the following information:
 - a. The bill charged by the electric supplier for the unit as a whole and the amount of charges allocated to the tenant during the billing period.
 - b. The name of the electric power supplier providing electric service to the unit.
 - c. Beginning and ending dates for the usage period and, if provided by the electric supplier, the date the meter was read for that usage period.
 - d. The past-due date, which shall not be less than 25 days after the bill is mailed to the tenant.
 - e. A local or toll-free telephone number and address that the tenant can use to obtain more information about the bill.
 - f. The amount of any administrative fee and late fee approved by the Commission and included in the bill.
 - g. A statement of the tenant's right to address questions about the bill to the lessor and the tenant's right to file a complaint with, or otherwise seek recourse from, the Commission if the tenant cannot resolve an electric service billing dispute with the lessor.
- (5) The Commission shall develop an application that a lessor must submit for Commission approval to charge for electric service as provided in this section. The form shall include all of the following:
 - a. A description of the lessor and the property to be served.
 - b. A description of the proposed billing method and billing statements.
 - c. The administrative fee and late payment fee, if any, proposed to be charged by the lessor.
 - d. The name of and contact information for the lessor and the lessor's agents.
 - e. The name of and contact information for the supplier of electric service to the lessor's rental property.
 - f. A copy of the lease forms used by the lessor for tenants who are billed for electric service pursuant to this subsection.
 - g. Any additional information that the Commission may require.
- (6) The Commission shall approve or disapprove an application within 60 days of the filing of a completed application with the Commission. If the Commission has not issued an order disapproving a completed application within 60 days, the application shall be deemed approved.

- (7) A lessor who charges for electric service under this subsection shall not be required to file annual reports pursuant to G.S. 62-36.
- (8) The Commission shall adopt rules to implement the provisions of this subsection."

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

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

(a) From and after September 1, 1977, in order that each occupant of an apartment or other individual dwelling unit may be responsible for his own conservation of electricity and gas, it shall be unlawful for any new residential building, as hereinafter defined, to be served by a master meter for electric service or natural gas service. Each individual dwelling unit shall have individual electric service with a separate electric meter and, if it has natural gas, individual natural gas service with a separate natural gas meter, which service and meters shall be in the name of the tenant or other occupant of said apartment or other dwelling unit. No electric supplier or natural gas supplier, whether regulated public utility or municipal corporation or electric membership corporation supplying said utility service, shall connect any residential building for electric service or natural gas service through a master meter, and said electric or natural gas supplier shall serve each said apartment or dwelling unit by separate service and separate meter and shall bill and charge each individual occupant of said separate apartment or dwelling unit for said electric or natural gas service. A new residential building is hereby defined for the purposes of this section as any building for which a building permit is issued on or after September 1, 1977, which includes two or more apartments or other family dwelling units. Provided, however, that any owner or builder of a multi-unit residential building who desires to provide central heat or air conditioning or central hot water from a central furnace, air conditioner or hot water heater which incorporates solar assistance or other designs which accomplish greater energy conservation than separate heat, hot water, or air conditioning for each dwelling unit, may apply to the North Carolina Utilities Commission for approval of said central heat, air conditioning or hot water system, which may include a central meter for electricity or gas used in said central system, and the Utilities Commission shall promptly consider said application and approve it for such central meters if energy is conserved by said design. This section shall apply to any dwelling unit normally rented or leased for a minimum period of one month or longer, including apartments, condominiums and townhouses, but shall not apply to hotels, motels, hotels or motels that have been converted into condominiums, dormitories, rooming houses or nursing homes, or homes for the elderly.

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

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

In the General Assembly read three times and ratified this the 16th day of June, 2011.

s/ Walter H. Dalton
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 1:40 p.m. this 23rd day of June, 2011