

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 224
PROPOSED HOUSE COMMITTEE SUBSTITUTE S224-PCS45574-TU-34

Short Title: Landlord Recovery of Expenses/Rule 60 Motion. (Public)

Sponsors:

Referred to:

March 9, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW LANDLORDS TO RECOVER OUT-OF-POCKET EXPENSES IN
3 SUMMARY EJECTMENT CASES AND TO FILE A MOTION FOR RELIEF FROM
4 JUDGMENT WHEN A POST-JUDGMENT AGREEMENT HAS BEEN MADE WITH A
5 DEFENDANT.

6 Whereas, the General Assembly desires to reaffirm the ability of a landlord filing
7 summary ejectment proceedings to charge and recover from a tenant actual out-of-pocket
8 expenses incurred by the landlord; Now, therefore,
9 The General Assembly of North Carolina enacts:

10 SECTION 1.1.(a) G.S. 42-46(h)(3) reads as rewritten:

11 "(3) It is contrary to public policy for a landlord to put in a lease or claim any fee
12 for filing a complaint for summary ejectment and/or money owed other than
13 the ones expressly authorized by subsections (e) through (g) and (i) of this
14 section, and a reasonable attorney's fee as allowed by law."

15 SECTION 1.1.(b) G.S. 42-46 is amended by adding two new subsections to read:

16 "(i) Out-of-Pocket Expenses. – In addition to the late fees referenced in subsections (a)
17 and (b) of this section and the administrative fees of a landlord referenced in subsections (e)
18 through (g) of this section, a landlord is also permitted to charge and recover from a tenant the
19 following actual out-of-pocket expenses:

20 (1) Filing fees charged by the court.

21 (2) Costs for service of process pursuant to G.S. 1A-1, Rule 4 of the North
22 Carolina Rules of Civil Procedure.

23 (3) Reasonable attorneys' fees, pursuant to a written lease, not to exceed fifteen
24 percent (15%) of the amount owed by the tenant, or fifteen percent (15%) of
25 the monthly rent stated in the lease if the eviction is based on a default other
26 than the nonpayment of rent.

27 (j) The out-of-pocket expenses listed in subsection (i) of this section are allowed to be
28 included by the landlord in the amount required to cure a default."

29 SECTION 1.2. Article 3 of Chapter 42 of the General Statutes is amended by adding
30 a new section to read:

31 "**§ 42-36.1B. Judgments for possession satisfied after entry.**

32 Any landlord who enters into a post-judgment agreement with a defendant after obtaining a
33 judgment for possession pursuant to this Chapter permitting the defendant to retain or regain
34 possession of the demised premises shall submit to the clerk of superior court in which the
35 judgment was rendered a motion and proposed order for relief from the judgment in accordance
36 with G.S. 1A-1, Rule 60(d). The motion and order shall be submitted within 60 days after the



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1 defendant's satisfaction of any duties arising under the agreement. Upon the defendant's
2 satisfaction of the terms and conditions of the post-judgment agreement, the landlord may not
3 thereafter cause the issuance of an execution on such judgment."

4 **SECTION 2.** This act becomes effective October 1, 2018, and applies to actions
5 filed on or after that date.