

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-502
HOUSE BILL 1061**

AN ACT TO CLARIFY THE PROCEDURE UNDER WHICH A LESSOR, IN ORDER TO ENCOURAGE WATER CONSERVATION, MAY ALLOCATE THE COST OF PROVIDING WATER AND SEWER SERVICE AS RENT ON A METERED USE BASIS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-110(g) reads as rewritten:

"(g) ~~In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, the Commission shall be authorized. For the purpose of encouraging water conservation, the Commission may, consistent with the public interest, to adopt procedures for the purpose of allowing resale of water and sewer service provided that allow a lessor, pursuant to a written rental agreement, to allocate the costs for providing water and sewer service on a metered use basis to persons who occupy the same contiguous premises (as such term shall be defined by the Commission) premises. A written rental agreement shall specify a monthly rent that shall be the sum of the base rent plus additional rent at a rate or charge which that does not exceed the actual purchase price of such the water and sewer service to the provider plus a reasonable administrative fee. The Commission shall issue rules to define contiguous premises and to implement the services authorized by this subsection and, this subsection. notwithstanding Notwithstanding any other provision of this Chapter, the Commission shall determine the extent to which such the services shall be regulated and, to the extent necessary to protect the public interest, regulate the terms, conditions, and rates charged that may be allocated for such the services. Nothing in this subsection shall be construed to alter the rights, obligations, or remedies of persons providing such water and sewer services and their customers under any other provision of law.~~"

SECTION 2. 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 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."

SECTION 3. G.S. 42-26 reads as rewritten:

"§ 42-26. Tenant holding over may be dispossessed in certain cases.

(a) Any tenant or lessee of any house or land, and the assigns under the tenant or legal representatives of such tenant or lessee, who holds over and continues in the possession of the demised premises, or any part thereof, without the permission of the landlord, and after demand made for its surrender, may be removed from such premises in the manner hereinafter prescribed in any of the following cases:

- (1) When a tenant in possession of real estate holds over after his term has expired.

- (2) When the tenant or lessee, or other person under him, has done or omitted any act by which, according to the stipulations of the lease, his estate has ceased.
- (3) When any tenant or lessee of lands or tenements, who is in arrear for rent or has agreed to cultivate the demised premises and to pay a part of the crop to be made thereon as rent, or who has given to the lessor a lien on such crop as a security for the rent, deserts the demised premises, and leaves them unoccupied and uncultivated.

(b) An arrearage in additional rent owed by a tenant for water and sewer services pursuant to G.S. 62-110(g) shall not be used as a basis for termination of a lease. Any partial payment of monthly rent shall be applied first to the base rent."

SECTION 4. G.S. 42-46 is amended by adding a new subsection to read:

"(d) A lessor shall not charge a late fee to a lessee because of the lessee's failure to pay additional rent for water and sewer services provided pursuant to G.S. 62-110(g)."

SECTION 5. 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, base rent and additional rent for water and sewer services provided pursuant to G.S. 62-110(g),~~ damage to the premises, nonfulfillment of rental period, any unpaid bills which 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. ~~Such~~ 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 6. G.S. 130A-315(d) reads as rewritten:

"(d) When a person that receives water from a public water system is authorized by the Utilities Commission, pursuant to G.S. 62-110(g), to install sub-meters and ~~resell water~~ allocate the costs for providing water service to persons who occupy the same contiguous premises, that person shall be regulated as a consecutive water system. The monitoring, analysis, and record-keeping requirements applicable to consecutive water systems under this section shall be satisfied by the monitoring, analysis, and record keeping performed by the supplying water system and submitted to the Department in compliance with this section. The supplying water system shall perform the same level of monitoring, analysis, and record keeping that the supplying system would perform if the person that receives the water had not been authorized to ~~resell water~~ allocate the costs for providing water service under G.S. 62-110(g), but the supplying water system shall not be required to perform additional monitoring, analysis, and record keeping. A supplying water system is not responsible for operation, maintenance, or repair of the consecutive water system."

SECTION 7. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 4th day of
December, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 7:26 p.m. this 19th day of December, 2001