

February 9, 2021

Jeremy Petron  
Lobbyist # 209  
North Dakota Apartment Association

Re: House Bill 1442

We (North Dakota Apartment Association), are neutral to HB 1442. The question comes down to whether the State should regulate late fees set by a private business. We believe a late fee should be enough to encourage residents to make on-time payments. NDAA does not advocate for exorbitant late fees. A landlord's preference would be for all rent to be paid on-time so that no late fees would need to be charged. When rent isn't paid on-time, it effects many individuals that are part of the apartment industry operating costs ecosystem, to include mortgage payments, staff payroll, vendor payments for building upkeep, snow removal, lawn care, house utilities, etc.

Amongst our members, we typically see late fees that are charged as a flat fee in the range of \$40.00 to \$100.00 per month on any outstanding rent amount. Some property owners charge a combination of a flat fee plus a daily rate (usually \$40 + \$2/day) to encourage rent payments to be remitted sooner than later. The practice of charging a percentage of the outstanding rent as a late fee is uncommon.

It can be argued that basing a late fee as a percentage of the amount of outstanding rent owed is a fair approach, because then this is directly correlated depending on the rent range from high-end to low-end, or just the remaining amount owed if only a partial amount of the rent is paid. And one would think that a late fee of 8% cap on outstanding rent portion would be a fair amount, but this could be a subjective amount in economic cycles of higher interest rates, and could likely need to be brought up for proposed amending in future legislative sessions.