

Chair Barta, Vice Chair Boehm, and members of the Committee:

On behalf of the ACLU of North Dakota, I submit testimony in support of Senate Bill 2236 relating to late fees on rents under a rental agreement.

According to the U.S. Census Bureau, approximately 35% of North Dakota's households are renter-occupied and approximately 40% of renter households are cost-burdened, meaning they spend at least 30% of their income on housing expenses. Rental housing plays a significant role in North Dakota's housing landscape, as does the reality that renters face weighty financial challenges across the state leading to housing instability and many living on the brink of eviction and contributing to ongoing issues of homelessness.

When cost burdened tenants are able to more easily make progress and catch up on rent on their own without assistance, they are more likely to stay housed. This reduces costly eviction proceedings for landlords and courts. Furthermore, the reduction in evictions avoids the ever-growing costs of turning over properties for new tenants and keeps occupancy rates up while leading to long-term stability in revenue flow.

Landlords should be compensated for late payments while late fees should not become an undue financial burden that traps tenants in a cycle of debt. Limiting late fees is essential to ensure penalties remain fair and proportional, which protects cost burdened tenants and those with low or fixed income.

While many property owners across the state are upstanding businessmen and women providing vital safe, decent, and affordable housing to our citizens, not all are good actors. Unfortunately, the business practices of some landlords charge punitive and excessive fees that often snowball, pushing financially struggling tenants into debt and increasing the risk of eviction and homelessness, and growing the reliance on and need for emergency services—including heavily subsidized financial assistance programs. A statewide standard for fees prevents landlords from imposing arbitrary or exploitative late fees.

Several industry organizations acknowledge or support late fee rent caps as a best practice in responsible property management. Key organizations supporting or providing guidance on rent cap practices include the National Apartment Association (NAA), Institute of Real Estate Management (IREM), and the National Multifamily Housing Council (NMHC).

While the NAA generally opposes excessive regulation, it does provide best practices and model lease agreements that include reasonable late fee structures. Likewise, the IREM promotes ethical property management practices, including fair late fee policies that balance landlord rights with tenant protections. While representing large apartment owners and operators, the NMHC generally favors market-driven policies, yet it does support fair housing initiatives that include reasonable late fee structures.

SB 2236 is a reasonable, balanced approach that protects both tenants and landlords by ensuring accountability without creating additional financial hardship for burdened tenants or notable revenue loss for landlords. We urge a "do pass" recommendation on SB 2236.

Submitted by:

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