



**67th Legislative Assembly, House Industry, Business, and Labor Committee
Public Hearing on House Bill 1440
February 2nd, 2021**

Good Morning. My name is Kelly Gorz and I am the Associate Director of High Plains Fair Housing Center, a private nonprofit with the mission to strengthen communities and ensure equal access to housing across North Dakota. On behalf of High Plains Fair Housing Center and myself, I would like to thank Chairman Lefor and the House Industry, Business, and Labor Committee for the opportunity to speak today in support of HB1440.

We urge you to issue a “Do Pass” for HB1440, relating to application of tenant payments to rent first. High Plains Fair Housing Center is a nonprofit that works to end housing discrimination based on federal and state protections. While not a differential treatment discrimination issue, this is an issue that we hear often on our intake line for North Dakota renters. We have noticed that it disproportionately affects certain populations such as people with disabilities, senior citizens on fixed incomes, New Americans, and those receiving public assistance in housing. Applying rent payments to punitive fees before a person’s rent balance creates an endless cycle of late fees that can lead to eviction for North Dakota tenants. This is especially true for those on fixed incomes or experiencing poverty. Applying tenant payments to fees before rent also presents a disparate impact to renters who are on housing assistance. If a person receiving housing assistance is evicted for any reason, they become ineligible for housing assistance and are then susceptible to homelessness. This results in a loss of federal dollars directly supporting housing programs and business in North Dakota.

According to the ND Housing Finance Agency, nearly 40% of ND renters are cost burdened, meaning that they are currently spending more than 30% of their monthly income on housing expenses. Some of these fees are in the hundreds of dollars and/or accrue daily. This adds a layer of vulnerability to eviction when a following month’s rent payment goes towards these fees first, creating a negative feedback loop, even for those who pay their rent on time going forward or experienced administrative errors. For example, we handled a case this past year where a client was given an eviction notice for nonpayment of rent, even though she had paid her rent amount in full every month.

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Nothing in this letter is legal advice, for legal advice please see an attorney.

When our client inquired as to why she was being evicted for nonpayment of rent, she was not given a balance sheet or anything to explain why this was happening to her. She was eventually given a balance sheet when an advocate intervened and requested it on her behalf. An audit of the balance sheet showed that one of the rent payments was not applied, which resulted in compounded late fees. Each month our client subsequently paid rent, her payment was applied to the late fees first, leaving rent balances showing as underpaid. In this case, the client had proved the landlord made an accounting error, they had not missed a payment yet still faced eviction.

Earlier this year, we worked with a different client who fell behind on her rent payments and was able to get financial assistance from a local church to catch up and stay in her housing. The church called her property management company and asked what the past due rent balance was so they could pay it on her behalf to keep the client housed. The property management company told them the past due rent balance but failed to tell them that an additional balance of late fees was also outstanding. Once the tenant paid her rent the next month, it was applied to the unknown late fees, thus the tenant remained behind and subsequently received further late fees. Since the tenant has disabilities, is on a fixed income, and receives housing assistance, this tenant feels this cycle will go on in perpetuity as she doesn't have the resources to catch up.

Additionally, it is crucial to do all that is possible to keep North Dakotans housed as we continue on through the COVID-19 pandemic. If a person has a positive COVID-19 test and needs to isolate at home, that is not possible if that person does not have a home in which to isolate. While the ND Rent Bridge program has helped roughly 1,457 North Dakotans through January 15th, many landlords do not participate in the program, leaving many North Dakotans without protection. Rates of eviction are still high across the state.

It is vital that rent payments are made as small business owners are at risk of losing their investment, we are not advocating for nonpayment of rent or being unable to evict someone who does not make rent payments. We are asking for a level of protection that makes it possible for those making rent payments to remain in their homes while continuing to make payments on associated fees. This bill does not prevent landlords from recuperating costs associated with their housing program. It does protect North Dakotans from practices that lead to a vicious cycle of debt that can end in homelessness and the inability to gain future housing opportunities.

Thank you for your time and consideration.