

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 771

Short Title: Landlord/Tenant/Electric & Gas Service. (Public)

Sponsors: Representatives Steen, Brawley, and Avila (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Public Utilities.

April 7, 2011

A BILL TO BE ENTITLED

AN ACT AUTHORIZING LANDLORDS AND TENANTS TO ENTER INTO RENTAL AGREEMENTS WHEREBY ELECTRIC AND NATURAL GAS SERVICE ARE IN THE LANDLORD'S NAME AND THE TENANTS SHALL REIMBURSE THE LANDLORD IN THE MONTHLY RENT, AND PROVIDING THAT LANDLORDS IN SUCH CIRCUMSTANCES SHALL NOT BE DEEMED A PUBLIC UTILITY OR A RESELLER OF UTILITIES SUBJECT TO REGULATION BY THE UTILITIES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-151.42 reads as rewritten:

"§ 143-151.42. Prohibition of master meters for electric and natural gas service.

(a) From and after September 1, 1977, in order that each occupant of an apartment or other individual dwelling unit may be responsible for his own conservation of electricity and gas, it shall be unlawful for any new residential building, as hereinafter defined, to be served by a master meter for electric service or natural gas service. Each individual dwelling unit shall have individual electric service with a separate electric meter and, if it has natural gas, individual natural gas service with a separate natural gas meter, which service and meters shall be in the name of the tenant or other occupant of said apartment or other dwelling unit. No electric supplier or natural gas supplier, whether regulated public utility or municipal corporation or electric membership corporation supplying said utility service, shall connect any residential building for electric service or natural gas service through a master meter, and said electric or natural gas supplier shall serve each said apartment or dwelling unit by separate service and separate meter and shall bill and charge each individual occupant of said separate apartment or dwelling unit for said electric or natural gas service. A new residential building is hereby defined for the purposes of this section as any building for which a building permit is issued on or after September 1, 1977, which includes two or more apartments or other family dwelling units. Provided, however, that any owner or builder of a multi-unit residential building who desires to provide central heat or air conditioning or central hot water from a central furnace, air conditioner or hot water heater which incorporates solar assistance or other designs which accomplish greater energy conservation than separate heat, hot water, or air conditioning for each dwelling unit, may apply to the North Carolina Utilities Commission for approval of said central heat, air conditioning or hot water system, which may include a central meter for electricity or gas used in said central system, and the Utilities Commission shall promptly consider said application and approve it for such central meters if energy is conserved by said design. This section shall apply to any dwelling unit normally rented or leased for a minimum period of one month or longer, including apartments, condominiums and townhouses, but shall



1 not apply to hotels, motels, hotels or motels that have been converted into condominiums,
2 dormitories, rooming houses or nursing homes, or homes for the elderly.

3 (b) The provisions of subsection (a) of this section shall not apply where a landlord and
4 tenant agree to any of the following in a rental agreement: (i) the separate electric meter and, if
5 the dwelling unit has natural gas, the separate natural gas meter shall be in the name of the
6 landlord; (ii) a specific monetary amount each month for electric service and, if the dwelling
7 unit has natural gas, the natural gas service shall be included in the monthly rent for the
8 dwelling unit; (iii) the tenant will reimburse the landlord for any monthly costs of electric
9 service and, if the dwelling unit has the natural gas, natural gas service where the costs of the
10 services exceed the amount provided in subdivision (ii) of this subsection; or (iv) in the case
11 where the landlord has separate rental agreements with two or more tenants residing in the
12 same dwelling unit, the costs of electric service and, if the dwelling unit has the natural gas,
13 natural gas service shall be calculated by equally dividing the cost of electric and gas service by
14 the total number of tenants in the dwelling unit. If the landlord and tenant have not entered into
15 a rental agreement under this subsection and the tenant has failed to obtain, in his or her own
16 name, electric service and, if the dwelling unit has natural gas, natural gas service, the landlord
17 may arrange for the immediate disconnection of electric and natural gas service to the dwelling
18 unit without notice to the tenant, and the landlord shall in no way be liable to the tenant for any
19 claims arising out of the disconnection of services. In addition, the landlord may, pursuant to a
20 written rental agreement, charge the tenant a monthly fee relating to the tenant's unauthorized
21 disconnection of, or the tenant's failure to obtain, electric service and, if the dwelling unit has
22 natural gas, natural gas service in the tenant's own name during the term of the lease, and the
23 landlord may charge the monthly fee until the tenant either secures the connection or
24 reconnection of electric or natural gas services in the tenant's own name or until the tenant
25 surrenders legal possession of the dwelling unit to the landlord. Any monies received or
26 otherwise retained by a landlord under this subsection shall in no way cause the landlord to be
27 deemed a reseller of utilities or a public utility, as that term is defined in G.S. 62-3(23). The
28 provisions of this subsection shall apply to any dwelling unit normally rented or leased for a
29 minimum period of one month or longer, including apartments, condominiums, and
30 townhouses, dwelling units rented or leased to businesses, dormitories, rooming houses,
31 nursing homes, or homes for the elderly. For purposes of this subsection, the term "dwelling
32 unit" means any residential home containing a living area and kitchen available for use by all of
33 the occupants of the home and one or more bathrooms, and the term "dormitories" includes
34 privately owned dwelling units primarily marketed to, or otherwise occupied by, students or
35 members of the United States Armed Forces."

36 **SECTION 2.** G.S. 62-3(23)d. reads as rewritten:

37 "d. The term "public utility," except as otherwise expressly provided in
38 this Chapter, shall not include a municipality, an authority organized
39 under the North Carolina Water and Sewer Authorities Act, electric
40 or telephone membership corporation; or any person not otherwise a
41 public utility who furnishes such service or commodity only to
42 himself, his employees or tenants when such service or commodity is
43 not resold to or used by others; provided, however, that any person
44 other than a nonprofit organization serving only its members, who
45 distributes or provides utility service to his employees or tenants by
46 individual meters or by other coin-operated devices with a charge for
47 metered or coin-operated utility service shall be a public utility
48 within the definition and meaning of this Chapter with respect to the
49 regulation of rates and provisions of service rendered through such
50 meter or coin-operated device imposing such separate metered utility
51 charge. However, the term "public utility" shall not include a

1 landlord acting pursuant to the provisions of G.S. 143-151.42(b), and
2 monies received or otherwise retained by a landlord under
3 G.S. 143-151.42(b) shall in no way cause the landlord to be deemed
4 a reseller of utilities. If any person conducting a public utility shall
5 also conduct any enterprise not a public utility, such enterprise is not
6 subject to the provisions of this Chapter. A water or sewer system
7 owned by a homeowners' association that provides water or sewer
8 service only to members or leaseholds of members is not subject to
9 the provisions of this Chapter."

10 **SECTION 3.** This act is effective when it becomes law.