



Texas Apartment Association

**Providing exceptional advocacy, education and communication
for the Texas rental housing industry.**

Please Support Legislation Clarifying Residential Late Fees

Texas law is vague on what amount of residential late fees are legally permissible.

- ★ The law allows a landlord to charge late fees if notice of the fees is provided in the lease and the rent is unpaid for at least one day after it was originally due.
- ★ The amount of the late fee must be a “reasonable estimation of uncertain damages to the landlord that are incapable of precise calculation that result from the late payment of rent.” This standard has caused uncertainty as to how to properly interpret the law.
- ★ A landlord who charges an unreasonable late fee is liable for up to three times the amount of the late fee charged, a \$100 penalty and attorneys’ fees.

This statutory uncertainty has resulted in lawsuits against residential landlords, alleging that landlords have been charging unreasonable late fees.

- ★ While claims may be brought individually, some landlords have been hit with class action lawsuits, claiming their late fees are unreasonable and therefore illegal.
- ★ These lawsuits—whether class-action or individual—take significant time and resources on behalf of both the owner and the tenants, and result from a lack of clarity regarding what amount of a late fee is reasonable.

This legislation clarifies the amount of money a residential landlord may charge its tenant for late payment of rent.

- ★ Under this legislation, a residential landlord may charge the tenant an initial late fee of up to 8 percent of a tenant’s monthly rent, with an additional late fee charge of up to 2 percent for each additional day the rent is late.
- ★ The legislation leaves unchanged the requirements that (1) notice of late fees be included in the lease and that (2) the rent must be unpaid for at least one full day after it was originally due before a late fee may be charged.
- ★ The legislation leaves unchanged the penalties against a landlord for charging a late fee in violation of the law.
- ★ The Texas Apartment Association Lease, which is used by many rental property owners, provides that late fees can only accrue for 15 days per month.

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