

# LARRY J. RICHARDS

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To: Representative Mike Lefor  
Chairman, North Dakota House of Representative Committee on  
Industry, Business, and Labor  
From: Larry Richards, Attorney at Law

RE: Testimony Regarding House Bill No. 1442—Late Fees and Rental Agreements

Mr. Chairman and members of the committee I have reviewed this proposed bill and wanted to express my views on the practical consequences in the event the eight percent (8%) interest rate is adopted.

As an attorney, a great deal of my law practice currently involves landlord/tenant law. As a result, I have reviewed hundreds of leases in my twenty years of law practice. As such, it appears to me that the vast majority of leases incorporate a late fee of \$50.00 which is imposed after the fifth day after non-payment on the first day of the month. If this bill is enacted, landlords who rent out property for less than \$625.00 per month would be unable to impose the now-standard \$50.00 late fee. While most apartments now rent for in excess of that amount, there are several rental properties that would likely be impacted: 1.) trailer parks (which rents out lots); 2.) older properties and/or properties in less desirable locations; 3.) small efficiency apartments and sleeping rooms, and 4.) rural properties. I will leave it to you to decide if treating such classes of properties differently is in the best interests of our state.

I will note another potential consequence of the passage of an 8% limit on late fees. This is the practical effect of stigmatizing “8% interest and above” as being excessive or basically as being usurious. Such a stigma draws into question the permissible use and sometimes even required use by law of interests at or above that rate. For instance, under current North Dakota law, the interest rate at which post judgment interest is calculated at for a given year is 3% (plus rounding up to the next half percentage point) above the prime interest rate as it is on the first Monday in December of the prior calendar year. As a result, in recent years, North Dakota law has required the post judgment interest to be calculated at or above eight percent in the following recent years: 2020 (8%), 2019 (8.50%), 2008 (10.50%), 2007 (11.50%), and 2006 (10%). I would suggest that if such a stigma is attached to 8% interest that a review be undertaken of all such uses in North Dakota laws and that those statutes be adjusted accordingly.

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Finally, please note that, while I am an attorney, I present this testimony in my individual capacity. I do not present this testimony on behalf on any individual, corporation or other entity. I have not and will not receive any compensation for the presentation of this testimony.

Thank you for your time and consideration as well as your service to the State of North Dakota

Sincerely,

*/s/ Larry J. Richards*

Larry J. Richards  
Attorney at Law